



February 28, 2008

The Honorable Board of Supervisors
County Administration Building
1221 Oak Street
Oakland, CA 94612

AGENCY ADMIN. & FINANCE
1000 San Leandro Blvd., Suite 300
San Leandro, CA 94577
Tel: (510) 618-3452
Fax: (510) 351-1367

Dear Board Members:

Subject: Approval of Standard Agreement with The Mind Body Awareness Project to Provide Mindfulness-Based Rehabilitation Classes at the Alameda County Juvenile Justice Center(ACJJC)

RECOMMENDATION:

Approve a Standard Agreement with The Mind Body Awareness Project (Principal: Gabriel Kram, Executive Director; Oakland, CA, Procurement Contract#2577) in the amount of \$50,000.00, for the period beginning July 1, 2007 and ending June 30, 2008, in order to provide Mindfulness-Based Rehabilitation Classes at the Alameda County Juvenile Justice Center (ACJJC).

SUMMARY/DISCUSSION/FINDINGS:

The Mind Body Awareness Project (MBA), founded in 2000 by author and activist Noah Levine, is a San Francisco-based non-profit organization dedicated to the health and well-being of incarcerated and at-risk youth. MBA works with youth both during and after incarceration, preparing them for successful re-entry into their families and communities. By offering an array of innovative mindfulness-based programs derived from a variety of cultures and practices, MBA is seeing positive results as youth learn to reduce stress, manage emotions, non-violently resolve conflict, and increase their self-esteem. The Alameda County Health Care Services Agency has agreed to provide funding for two years at \$50,000 per year. This contract being presented to you for approval will provide the funding for the first year.

MBA's classes are physically and emotionally safe experiential learning environments designed to train youth to understand the internal need states that are driving their behavior, empower them to make different choices, and to support them in these new choices. Through a sequence of mind and body exercises and discussion, the classes build youth's competence in experiencing and identifying their emotional states and mental attitudes, give them concrete tools for stress reduction and transforming negative emotions, and provide ethical orientation within a non-judgmental framework. By helping youth to experience the legitimate needs underlying their behavior, they are empowered to make the distinction between what they need, and how they express it, and to build self-esteem around their own intelligence and goodness. MBA's orientation is towards addressing practical concerns and challenges that the youth experience, such as difficulty sleeping, stress about court dates, difficulty managing anger, etc., so that the tools can be immediately applied to issues directly relevant to their quality of life.

SELECTION PROCESS:

The Mind Body Awareness Project (MBA) was selected as provider for the Alameda County Juvenile Justice Center because of its demonstrated effectiveness in serving youth and young adults involved with the Juvenile Justice system, and its excellent track record with at-risk and incarcerated youth. Additionally, there is increasing evidence that mindfulness practice with Adolescents increases the impact and effectiveness of mental health services. MBA has a strong working relationship with our behavioral health unit (the Guidance Clinic), and were selected based on demonstrated synergy with expanded mental health program at the Juvenile Justice Center, as well as Camp Sweeny. MBA has also successfully matched county funding dollar for dollar with local philanthropy for this project.

MBA is unique in its focus on youth's self-esteem, emotional competency and the teaching of self-care practices. MBA classes are pioneering because the curriculum examines the roots of behavior in interior awareness, while the consistent emphasis on attention provides tools youth can use to reduce stress, resolve conflict, monitor and manage anger, frustration, and other negative emotions constructively, and to maintain the attention necessary for classroom learning and problem-solving. MBA prioritizes diversity in its teaching staff, and works to insure that teachers are reflective of the racial and ethnic backgrounds of the youth MBA serves. MBA's rigorous teacher training requires them to complete additional training in practice areas they are unfamiliar with, in addition to training in communication, group facilitation, and therapeutic modalities. MBA teachers at the ACJJC have completed a minimum of 40 hours of MBA teacher training prior to teaching.

MBA currently offers these services/programs in Alameda, Marin, San Mateo, San Francisco and Santa Cruz counties, serving more than 360 at-risk and incarcerated youth monthly.

FINANCING:

Financing for this agreement is included in your Board's approved FY 07-08 final budget. There will be no increase in net county costs.

Sincerely,



David J. Kears, Director
Health Care Services Agency

cc: County Administrator
County Counsel
Auditor-Controller
Alex Briscoe

**COUNTY OF ALAMEDA
STANDARD SERVICES AGREEMENT**

This Agreement, dated as of March 18, 2008, is by and between the County of Alameda, hereinafter referred to as the "County", and The Mind Body Awareness Project, hereinafter referred to as the "Contractor".

WITNESSETH

Whereas, County desires to obtain Mindfulness-Based Rehabilitation Classes at the ACJJC which are more fully described in Exhibit A hereto ("Definition of Services"); and

Whereas, Contractor is professionally qualified to provide such services and is willing to provide same to County; and

Now, therefore it is agreed that County does hereby retain Contractor to provide Mindfulness-Based Rehabilitation Classes at the ACJJC, and Contractor accepts such engagement, on the General Terms and Conditions hereinafter specified in this Agreement, the Additional Provisions attached hereto, and the following described exhibits, all of which are incorporated into this Agreement by this reference:

- Exhibit A Definition of Services
- Exhibit B Payment Terms
- Exhibit C Insurance Requirements
- Exhibit D Debarment and Suspension Certification
- Exhibit E HIPAA requirements

The term of this Agreement shall be from July 1, 2007 through June 30, 2008

The compensation payable to Contractor hereunder shall not exceed *Fifty Thousand US Dollars Only* (\$50,000.00) for the term of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

COUNTY OF ALAMEDA

The Mind Body Awareness Project, Inc.

By: _____
Signature

By:  _____
Signature

Name: _____
(Printed)


Name: Gabriel Kram
(Printed)

Title: President of the Board of Supervisors

Title: Executive Director

Date: 3/4/08

Approved as to Form:

By:  _____
County Counsel Signature

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

GENERAL TERMS AND CONDITIONS

1. **INDEPENDENT CONTRACTOR:** No relationship of employer and employee is created by this Agreement; it being understood and agreed that Contractor is an independent contractor. Contractor is not the agent or employee of the County in any capacity whatsoever, and County shall not be liable for any acts or omissions by Contractor nor for any obligations or liabilities incurred by Contractor.

Contractor shall have no claim under this Agreement or otherwise, for seniority, vacation time, vacation pay, sick leave, personal time off, overtime, health insurance medical care, hospital care, retirement benefits, social security, disability, Workers' Compensation, or unemployment insurance benefits, civil service protection, or employee benefits of any kind.

Contractor shall be solely liable for and obligated to pay directly all applicable payroll taxes (including federal and state income taxes) or contributions for unemployment insurance or old age pensions or annuities which are imposed by any governmental entity in connection with the labor used or which are measured by wages, salaries or other remuneration paid to its officers, agents or employees and agrees to indemnify and hold County harmless from any and all liability which County may incur because of Contractor's failure to pay such amounts.

In carrying out the work contemplated herein, Contractor shall comply with all applicable federal and state workers' compensation and liability laws and regulations with respect to the officers, agents and/or employees conducting and participating in the work; and agrees that such officers, agents, and/or employees will be considered as independent contractors and shall not be treated or considered in any way as officers, agents and/or employees of County.

Contractor does, by this Agreement, agree to perform his/her said work and functions at all times in strict accordance with currently approved methods and practices in his/her field and that the sole interest of County is to insure that said service shall be performed and rendered in a competent, efficient, timely and satisfactory manner and in accordance with the standards required by the County agency concerned.

Notwithstanding the foregoing, if the County determines that pursuant to state and federal law Contractor is an employee for purposes of income tax withholding, County may upon two week's notice to Contractor, withhold from payments to Contractor hereunder federal and state income taxes and pay said sums to the federal and state governments

2. **INDEMNIFICATION:** To the fullest extent permitted by law, Contractor shall hold harmless, defend and indemnify the County of Alameda, its Board of Supervisors, employees and agents from and against any and all claims, losses, damages, liabilities and expenses, including but not limited to attorneys' fees, arising out of or resulting from the performance of services under this Agreement, provided that any such claim, loss, damage, liability or expense is attributable to bodily injury, sickness, disease, death or to injury to or destruction of property, including the loss therefrom, or to any violation of federal, state or municipal law or regulation, which arises out of or is any way connected with the performance of this agreement (collectively "Liabilities") except where such Liabilities are caused solely by the negligence or willful misconduct of any indemnitee. The County may participate in the defense of any such claim without relieving Contractor of any obligation hereunder.

In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the Alameda County Employees' Retirement Association (ACERA) or California Public Employees' Retirement System (PERS) to be eligible for enrollment in ACERA and PERS as an employee of County, Contractor shall indemnify, defend, and hold harmless County for the payment of any employee and/or employer contributions for ACERA and PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of County.

3. **INSURANCE AND BOND:** Contractor shall at all times during the term of the Agreement with the County maintain in force those insurance policies and bonds as designated in the attached Exhibit C, and will comply with all those requirements as stated therein.
4. **PREVAILING WAGES:** Pursuant to Labor Code Sections 1770 et seq., Contractor shall pay to persons performing labor in and about Work provided for in Contract not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is performed, and not less than the general prevailing rate of per diem wages for legal holiday and overtime work in said locality, which per diem wages shall not be less than the stipulated rates contained in a schedule thereof which has been ascertained and determined by the Director of the State Department of Industrial Relations to be the general prevailing rate of per diem wages for each craft or type of workman or mechanic needed to execute this contract.
5. **WORKERS' COMPENSATION:** Contractor shall provide Workers' Compensation insurance, as applicable, at Contractor's own cost and expense and

further, neither the Contractor nor its carrier shall be entitled to recover from County any costs, settlements, or expenses of Workers' Compensation claims arising out of this Agreement.

6. CONFORMITY WITH LAW AND SAFETY:

- a. In performing services under this Agreement, Contractor shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal, and local governing bodies, having jurisdiction over the scope of services, including all applicable provisions of the California Occupational Safety and Health Act. Contractor shall indemnify and hold County harmless from any and all liability, fines, penalties and consequences from any of Contractor's failures to comply with such laws, ordinances, codes and regulations.
- b. Accidents: If a death, serious personal injury or substantial property damage occurs in connection with Contractor's performance of this Agreement, Contractor shall immediately notify the Alameda County Risk Manager's Office by telephone. Contractor shall promptly submit to County a written report, in such form as may be required by County of all accidents which occur in connection with this Agreement. This report must include the following information: (1) name and address of the injured or deceased person(s); (2) name and address of Contractor's sub-Contractor, if any; (3) name and address of Contractor's liability insurance carrier; and (4) a detailed description of the accident and whether any of County's equipment, tools, material, or staff were involved.
- c. Contractor further agrees to take all reasonable steps to preserve all physical evidence and information which may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and to grant to the County the opportunity to review and inspect such evidence, including the scene of the accident.

7. DEBARMENT AND SUSPENSION CERTIFICATION: (Applicable to all agreements funded in part or whole with federal funds and contracts over \$25,000).

- a. By signing this agreement and Exhibit D, Debarment and Suspension Certification, Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations, including but not limited to 7 Code of Federal Regulations (CFR) 3016.35, 28 CFR 66.35, 29 CFR 97.35, 34 CFR 80.35, 45 CFR 92.35 and Executive Order 12549.

- b. By signing this agreement, Contractor certifies to the best of its knowledge and belief, that it and its principals:
- (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
 - (2) Shall not knowingly enter into any covered transaction with a person who is proposed for debarment under federal regulations, debarred, suspended, declared ineligible, or voluntarily excluded from participation in such transaction.
8. PAYMENT: For services performed in accordance with this Agreement, payment shall be made to Contractor as provided in Exhibit B hereto.
9. TRAVEL EXPENSES: Contractor shall not be allowed or paid travel expenses unless set forth in this Agreement.
10. TAXES: Payment of all applicable federal, state, and local taxes shall be the sole responsibility of the Contractor.
11. OWNERSHIP OF DOCUMENTS: Contractor retains all copyright and other use rights in any and all proposals, plans, reports, and related documents respecting its proprietary curriculum, the design and delivery of its intervention, evaluation design and instruments, and retains copyright while allowing County and its assignees use rights of all reports of its performance of services under this contract, including use rights to reports of services performed by Contractor's Sub-contractors. Contractor hereby grants the County and any assignee of the County an express royalty – free license to retain and use all reports of its performance of services under this contract, including use rights to reports of services performed by Sub-contractors of the Contractor. Contractor agrees to defend, indemnify and hold the County harmless from any damage caused by a failure of the Contractor to obtain such rights from its Contractors and/or Sub-Contractors.

Contractor shall pay all royalties and license fees which may be due for any patented or copyrighted materials, methods or systems selected by the Contractor and incorporated into the work as set forth in Exhibit "A", and shall defend, indemnify and hold the County harmless from any claims for infringement of patent or copyright arising out of such selection. The County's rights under this Paragraph 11 shall not extend to any computer software used to create such Documents and Materials.

12. CONFLICT OF INTEREST; CONFIDENTIALITY: The Contractor covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of services required under this Agreement. Without limitation, Contractor represents to and agrees with the County that Contractor has no present, and will have no future, conflict of interest between providing the County services hereunder and any other person or entity (including but not limited to any federal or state wildlife, environmental or regulatory agency) which has any interest adverse or potentially adverse to the County, as determined in the reasonable judgment of the Board of Supervisors of the County.

The Contractor agrees that any information, whether proprietary or not, made known to or discovered by it during the performance of or in connection with this Agreement for the County will be kept confidential and not be disclosed to any other person. The Contractor agrees to immediately notify the County by notices provided in accordance with Paragraph 13 of this Agreement, if it is requested to disclose any information made known to or discovered by it during the performance of or in connection with this Agreement. These conflict of interest and future service provisions and limitations shall remain fully effective five (5) years after termination of services to the County hereunder.

13. NOTICES: All notices, requests, demands, or other communications under this Agreement shall be in writing. Notices shall be given for all purposes as follows:

Personal delivery: When personally delivered to the recipient, notices are effective on delivery.

First Class Mail: When mailed first class to the last address of the recipient known to the party giving notice, notice is effective three (3) mail delivery days after deposit in a United States Postal Service office or mailbox. Certified Mail: When mailed certified mail, return receipt requested, notice is effective on receipt, if delivery is confirmed by a return receipt.

Overnight Delivery: When delivered by overnight delivery (Federal Express/Airborne/United Parcel Service/DHL WorldWide Express) with charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service. Telex or facsimile transmission: When sent by telex or facsimile to the last telex or facsimile number of the recipient known to the party giving notice, notice is effective on receipt, provided that (a) a duplicate copy of the notice is promptly given by first-class or certified mail or by overnight delivery, or (b) the receiving party delivers a written confirmation of receipt. Any notice given by telex or facsimile shall be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

Addresses for purpose of giving notice are as follows:

To County: COUNTY OF ALAMEDA
Health Care Services Agency
1000 San Leandro Blvd., Suite 300
San Leandro, CA 94577
Attn: Vana Chavez

To Contractor: The Mind Body Awareness Project, Inc.
111 Fairmount Avenue, Suite 508
Oakland, CA 94611
Attn: Gabriel Kram

Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that said notice was refused, unclaimed, or deemed undeliverable by the postal authorities, messenger, or overnight delivery service.

Any party may change its address or telex or facsimile number by giving the other party notice of the change in any manner permitted by this Agreement.

14. **USE OF COUNTY PROPERTY:** Contractor shall not use County property (including equipment, instruments and supplies) or personnel for any purpose other than in the performance of his/her obligations under this Agreement.

15. **EQUAL EMPLOYMENT OPPORTUNITY PRACTICES PROVISIONS:** Contractor assures that he/she/it will comply with Title VII of the Civil Rights Act of 1964 and that no person shall, on the grounds of race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under this Agreement.
 - a. Contractor shall, in all solicitations or advertisements for applicants for employment placed as a result of this Agreement, state that it is an "Equal Opportunity Employer" or that all qualified applicants will receive consideration for employment without regard to their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.
 - b. Contractor shall, if requested to so do by the County, certify that it has not, in the performance of this Agreement, discriminated against applicants or employees because of their race, creed, color, disability, sex, sexual orientation, national origin, age, religion, Vietnam era Veteran's status, political affiliation, or any other non-merit factor.
 - c. If requested to do so by the County, Contractor shall provide the County with access to copies of all of its records pertaining or relating to its employment practices, except to the extent such records or portions of such records are confidential or privileged under state or federal law.
 - d. Contractor shall recruit vigorously and encourage minority - and women-owned businesses to bid its subcontracts.
 - e. Nothing contained in this Agreement shall be construed in any manner so as to require or permit any act, which is prohibited by law.
 - f. The Contractor shall include the provisions set forth in paragraphs A through E (above) in each of its subcontracts.

16. **DRUG-FREE WORKPLACE:** Contractor and Contractor's employees shall comply with the County's policy of maintaining a drug-free workplace. Neither Contractor nor Contractor's employees shall unlawfully manufacture, distribute, dispense, possess or use controlled substances, as defined in 21 U.S. Code § 812,

including, but not limited to, marijuana, heroin, cocaine, and amphetamines, at any County facility or work site. If Contractor or any employee of Contractor is convicted or pleads nolo contendere to a criminal drug statute violation occurring at a County facility or work site, the Contractor within five days thereafter shall notify the head of the County department/agency for which the contract services are performed. Violation of this provision shall constitute a material breach of this Agreement

17. **AUDITS; ACCESS TO RECORDS:** The Contractor shall make available to the County, its authorized agents, officers, or employees, for examination any and all ledgers, books of accounts, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to the expenditures and disbursements charged to the County, and shall furnish to the County, its authorized agents, officers or employees such other evidence or information as the County may require with regard to any such expenditure or disbursement charged by the Contractor.

The Contractor shall maintain full and adequate records in accordance with County requirements to show the actual costs incurred by the Contractor in the performance of this Agreement. If such books and records are not kept and maintained by Contractor within the County of Alameda, California, Contractor shall, upon request of the County, make such books and records available to the County for inspection at a location within County or Contractor shall pay to the County the reasonable, and necessary costs incurred by the County in inspecting Contractor's books and records, including, but not limited to, travel, lodging and subsistence costs. Contractor shall provide such assistance as may be reasonably required in the course of such inspection. The County further reserves the right to examine and reexamine said books, records and data during the three (3) year period following termination of this Agreement or completion of all work hereunder, as evidenced in writing by the County, and the Contractor shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any manner whatsoever for three (3) years after the County makes the final or last payment or within three (3) years after any pending issues between the County and Contractor with respect to this Agreement are closed, whichever is later.

18. **DOCUMENTS AND MATERIALS:** Contractor shall maintain and make available to County for its inspection and use during the term of this Agreement, all Documents and Materials, as defined in Paragraph 11 of this Agreement. Contractor's obligations under the preceding sentence shall continue for three (3) years following termination or expiration of this Agreement or the completion of all work hereunder (as evidenced in writing by County), and Contractor shall in no event dispose of, destroy, alter or mutilate said Documents and Materials, for three (3) years following the County's last payment to Contractor under this Agreement.

19. **TIME OF ESSENCE:** Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Agreement.
20. **TERMINATION:** The County has and reserves the right to suspend, terminate or abandon the execution of any work by the Contractor without cause at any time upon giving to the Contractor prior written notice. In the event that the County should abandon, terminate or suspend the Contractor's work, the Contractor shall be entitled to payment for services provided hereunder prior to the effective date of said suspension, termination or abandonment. Said payment shall be computed in accordance with Exhibit B hereto, provided that the maximum amount payable to Contractor for its Mindfulness-Based Rehabilitation Classes at the ACJJC shall not exceed \$50,000.00 payment for services provided hereunder prior to the effective date of said suspension, termination or abandonment.
21. **CHOICE OF LAW:** This Agreement shall be governed by the laws of the State of California.
22. **WAIVER:** No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right or remedy. No waiver of any breach, failure, right or remedy shall be deemed a waiver of any other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.
23. **ENTIRE AGREEMENT:** This Agreement, including all attachments, exhibits, and any other documents specifically incorporated into this Agreement, shall constitute the entire agreement between County and Contractor relating to the subject matter of this Agreement. As used herein, Agreement refers to and includes any documents incorporated herein by reference and any exhibits or attachments. This Agreement supersedes and merges all previous understandings, and all other agreements, written or oral, between the parties and sets forth the entire understanding of the parties regarding the subject matter thereof. The Agreement may not be modified except by a written document signed by both parties.
24. **HEADINGS** herein are for convenience of reference only and shall in no way affect interpretation of the Agreement.

25. **ADVERTISING OR PUBLICITY:** Contractor shall not use the name of County, its officers, directors, employees or agents, in advertising or publicity releases or otherwise without securing the prior written consent of County in each instance.
26. **MODIFICATION OF AGREEMENT:** This Agreement may be supplemented, amended or modified only by the mutual agreement of the parties. No supplement, amendment or modification of this Agreement shall be binding unless it is in writing and signed by authorized representatives of both parties.
27. **ASSURANCE OF PERFORMANCE:** If at any time County believes Contractor may not be adequately performing its obligations under this Agreement or that Contractor may fail to complete the Services as required by this Agreement, County may request from Contractor prompt written assurances of performance and a written plan acceptable to County, to correct the observed deficiencies in Contractor's performance. Contractor shall provide such written assurances and written plan within ten (10) calendar days of its receipt of County's request and shall thereafter diligently commence and fully perform such written plan. Contractor acknowledges and agrees that any failure to provide such written assurances and written plan within the required time is a material breach under this Agreement.
28. **SUBCONTRACTING/ASSIGNMENT:** Contractor shall not subcontract, assign or delegate any portion of this Agreement or any duties or obligations hereunder without the County's prior written approval.
 - a. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. Any agreement that violates this Section shall confer no rights on any party and shall be null and void.
 - b. Contractor shall use the subcontractors identified in Exhibit A and shall not substitute subcontractors without County's prior written approval.
 - c. Contractor shall remain fully responsible for compliance by its subcontractors with all the terms of this Agreement, regardless of the terms of any agreement between Contractor and its subcontractors.
29. **SURVIVAL:** The obligations of this Agreement, which by their nature would continue beyond the termination on expiration of the Agreement, including without limitation, the obligations regarding Indemnification (Paragraph 2), Ownership of Documents (Paragraph 11), and Conflict of Interest (Paragraph 12), shall survive termination or expiration.

30. **SEVERABILITY:** If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable, or invalid in whole or in part for any reason, the validity and enforceability of the remaining provisions, or portions of them, will not be affected, unless an essential purpose of this Agreement would be defeated by the loss of the illegal, unenforceable, or invalid provision.
31. **PATENT AND COPYRIGHT INDEMNITY:** Contractor represents that it knows of no allegations, claims, or threatened claims that the materials, services, hardware or software (“Contractor Products”) provided to County under this Agreement infringe any patent, copyright or other proprietary right. Contractor shall defend, indemnify and hold harmless County of, from and against all losses, claims, damages, liabilities, costs expenses and amounts (collectively, “Losses”) arising out of or in connection with an assertion that any Contractor Products or the use thereof, infringe any patent, copyright or other proprietary right of any third party. County will: (1) notify Contractor promptly of such claim, suit or assertion; (2) permit Contractor to defend, compromise, or settle the claim; and, (3) provide, on a reasonable basis, information to enable Contractor to do so. Contractor shall not agree without County’s prior written consent, to any settlement, which would require County to pay money or perform some affirmative act in order to continue using the Contractor Products.
- a. If Contractor is obligated to defend County pursuant to this Section 33 and fails to do so after reasonable notice from County, County may defend itself and/or settle such proceeding, and Contractor shall pay to County any and all losses, damages and expenses (including attorney’s fees and costs) incurred in relationship with County’s defense and/or settlement of such proceeding.
 - b. In the case of any such claim of infringement, Contractor shall either, at its option, (1) procure for County the right to continue using the Contractor Products; or (2) replace or modify the Contractor Products so that that they become non-infringing, but equivalent in functionality and performance.
 - c. Notwithstanding this Section 33, County retains the right and ability to defend itself, at its own expense, against any claims that Contractor Products infringe any patent, copyright, or other intellectual property right.
32. **OTHER AGENCIES:** Other tax supported agencies within the State of California who have not contracted for their own requirements may desire to participate in this contract. The Contractor is requested to service these agencies and will be given the opportunity to accept or reject the additional requirements. If the Contractor elects to supply other agencies, orders will be placed directly by the agency and payments made directly by the agency.

33. **SIGNATORY:** By signing this agreement, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement

[END OF GENERAL TERMS AND CONDITIONS]

**EXHIBIT A
DEFINITION OF SERVICES**

SCOPE OF WORK: Mindfulness-Based Rehabilitation Classes at the Alameda County Juvenile Justice Center (ACJJC)

Summary:

Under this contract, MBA Project, Inc. shall deliver mindfulness-based rehabilitation classes at the Alameda County Juvenile Justice Center.

On-going classes consist of an inquiry-based curriculum with the following core practice components: meditation (vipassana-based), mindful movement (yoga, tai chi), and council (group process).

Classes are offered to units within the Justice Center in coordination with the Probation Department, which oversees scheduling of affiliated programs.

Program Design:

MBA's proposed program design is for an intensive intervention in each living unit consisting of 3 classes per week.

- One team-taught 1.5 hour class that introduces the theme for the week
- Two hour-long follow-up classes that elaborate on the theme

In addition to weekly classes, MBA will be gathering pre- and post- intervention data.

Expected Outcomes for the classes are a measurable reduction in perceived stress of participants, a measurable increase in self-esteem, emotion regulation, stable concentration, and the ability to non-violently resolve conflict.

It is MBA's intention to normalize mindfulness-based rehabilitation techniques within the culture of the Justice Center by collaborating with both Guidance Center and Probation staff to reinforce these techniques.

In units where MBA is unable to implement the full intensive intervention due to scheduling restrictions, or other prohibitions beyond MBA's control, a more limited program design will be applied using the same curriculum components at lesser weekly frequency.

Scheduling:

Scheduling of MBA's classes within the Justice Center will occur in coordination with the Alameda County Probation Department. MBA will notify Shelley Neal, Manager of Health Services at the ACJJC, of current scheduling, as well as any modifications to the schedule.

Evaluation:

MBA shall design, with its evaluation consultants, an evaluation protocol appropriate to the Justice Center. Such an evaluation will measure perceived stress, mindfulness, self-concept/self-esteem, and occurrence of violent incidents. When the protocol is finalized, MBA will submit it to Alameda County, for review.

Specifics of Curriculum:

MBA's classes are physically and emotionally safe experiential learning environments designed to train youth to understand the internal need states that are driving their behavior, empower them to make different choices, and to support them in these new choices. Through a sequence of mind and body exercises and discussion, the classes build youth's competence in experiencing and identifying their emotional states and mental attitudes, give them concrete tools for stress reduction and transforming negative emotions, and provide ethical orientation within a non-judgmental framework. By helping youth to experience the legitimate needs underlying their behavior, they are empowered to make the distinction between what they need, and how they express it, and to build self-esteem around their own innate intelligence and goodness. MBA's orientation is towards addressing practical concerns and challenges that the youth experience, such as difficulty sleeping, stress about court dates, difficulty managing anger, etc., so that the tools can be immediately applied to issues directly relevant to their quality of life. MBA is unique in its focus on youths' self-esteem, emotional competency and the teaching of self-care practices. MBA classes are pioneering because the curriculum examines the roots of behavior in interior awareness, while the consistent emphasis on attention provides tools youth can use to reduce stress, resolve conflict, monitor and manage anger, frustration, and other negative emotions constructively, and to maintain the attention necessary for classroom learning and problem solving.

Background on MBA teachers:

MBA prioritizes diversity in its teaching staff, and works to insure that teachers are reflective of the racial and ethnic backgrounds of the youth MBA serves. MBA teachers come to the organization with strong practice foundations in meditation, yoga, or group process tools, as well as experience working with youth. MBA's rigorous teacher training requires them to complete additional training in practice areas they are unfamiliar with, in addition to training in communication, group facilitation, and therapeutic modalities. All MBA teachers at the ACJJC have completed a minimum of 40 hours of MBA teacher training prior to teaching.

Expected Outcomes:

MBA's organizational objectives are, specifically:

- (1) to reduce the psychological distress experienced by incarcerated teens. This is accomplished by providing youth with tools for self-transformation, resulting, on the one hand, increased well-being and reduced stress, and, on the other hand, an increased capacity for emotional self-regulation, self-control, and acceptance of experience.
- (2) to increase the number of internal assets youth possess.
- (3) To further refine MBA outcome evaluation methodologies to more reliably capture the impact of the program, and to contribute to the growing body of research on measuring and evaluating adolescent mindfulness.

Specific additional objectives for the Alameda County Initiative are:

- (1) to institutionalize a mindfulness-based rehabilitation paradigm within all living units of the Alameda County Juvenile Justice Center, and to normalize this paradigm to Probation staff so that it can be reinforced
- (2) to work closely with mental health staff to provide consistent therapeutic messaging and reciprocal support
- (3) to create an evaluation protocol that meets MBA's data capture needs as well as provides valuable information to the county

Reporting:

MBA will provide an annual report to Alameda County by August 1st of each fiscal year of funding, including the following information:

Program Description:

Program Evaluation:

Utilization and Data

Service Data - # of classes, # of youth served

Pre and post intervention data as it applies to stress, self esteem, emotion regulation, concentration and conflict resolution of participants

Narrative:

Analysis of Data

Service Delivery: Progress in achieving Program Design, challenges and opportunities

Interagency Collaboration: Challenges and Opportunities

Feedback from Partners and youth

Priorities for next year

Financials:

Actual capital and operational expenses

Identification of all funding sources

Attach copies of invoices relative to this \$50,000 annual contract

Expansion of MBA programming:

MBA is seeking to incrementally increase the availability of programming at the ACJJC. This effort depends on MBA securing additional funding for programming, as well as the cooperation of the Probation Department and other key stakeholders to allow MBA to implement such programming. At this time, MBA is offering weekly classes in 4 units: Units 2, 5, 8, and 11. Ratification of this document will secure 3-times-per-week intensive programming in Units 3 (which presently has no MBA classes) and Unit 5 (which presently has a once-per-week intervention). It is MBA's intention, as funding permits, to continue expanding programming for units with once-per-week classes towards 3-times-per-week classes, as well as to add new units. MBA is counting on the on-going support of the Alameda County as an advocate to help MBA achieve this objective.

**EXHIBIT B
PAYMENT TERMS**

I. Budget Related (See Attachment)

II. Terms and Conditions of Payment

A. Reimbursement:

1. The total amount of reimbursement under the terms of this Agreement shall not exceed **\$50,000.00**. Funds shall be used solely in support of the MBA, Inc. operational budget. Funds may not be used for any purpose other than those specified in Exhibit A of this Agreement, without prior written approval from HCSA of the Alameda County.

2. MBA shall invoice the County **monthly** based on actual expenses incurred, accompanied by appropriate documentation verifying actual expenses and reports, as delineated in Exhibit A of this Agreement. The last and final invoice shall reflect actual expenses, but not exceeding the remaining balance of the contract. After review, HCSA Finance Manager shall sign off on invoice for payment.

3. County shall process invoice submitted for reimbursement by contractor within ten (10) working days from receipt of invoice, submission of acceptable monthly status reports, as defined in Exhibit A of this Agreement and any other back up document, as requested.

4. Contractor shall claim no more than 10% of charges for administrative overhead costs.

B. Invoicing Procedures:

Contractor shall invoice the County monthly. Invoice, with original signature, must be accompanied by required monthly report, and documentation supporting actual expenditures. Invoice shall be sent to:

Alameda County Health Care Services Agency
1000 San Leandro Blvd., Suite 300
San Leandro, CA 94577
Attn: HCSA Finance Manager

Alameda Overall Budget 07-08
MBA Project, Inc.

	Base Salary	FTEs	Total	HCSA Support	CYTA Support	Other Support	Other/In-kind Support
I. PERSONNEL							
Project Director Staff:	60,000.00	0.3	18000	10000	5000	3000	
Instructor- Unit 3	40,285.00	0.35	14100	14100			
Instructor- Unit 5	40,285.00	0.35	14100	14100			
Instructor- Units 2,8,11	40,285.00	0.35	14100		14100		
Teacher Training	60,000.00	0.1	6000	2000	1000	3000	
Administrative Staff	34,000.00	0.1	3400	2000	1000	400	
Fringe Benefits (11%) salaries			2354	1320	660	374	
TOTAL PERSONNEL			72054	43520	21760	6774	
II. OTHER DIRECT COSTS							
Recruitment Costs			500		0	500	
Program Supplies			1000	308	150	542	
Marketing/Communications			600				600
Office Supplies			400	100	100	200	
Postage			100	25	25	50	
Printing/Publications			1200	400	200	600	
Travel/Conferences			0			0	
Meeting Expenses			500	150	100	250	
Project Space			1600	500	300	800	
Insurance			2000	600	400	1000	
Dues			200	50	17	133	
Phone			600	200	100	300	
SUBTOTAL			8700	2333	1392	4375	600
III. PURCHASED SERVICES							
Evaluation Consultant			2500	800	200	1500	
Contracts			2500	800	200	1500	
SUBTOTAL			9990.48	3347	1648	4995.24	
IV. INDIRECT COSTS (@12%)							
GRAND TOTAL			93244.48	50000	25000	17644.24	600

93244.24

QUESTIONNAIRE FOR DETERMINING THE WITHHOLDING STATUS

INSTRUCTIONS: This questionnaire is to be completed by the County department for services contracts and must be included as part of the contract package submitted to Human Resource Services Department (HRSD). Be sure to answer all of the questions in Sections I and II and to complete the certifications on page 2. Sections III and IV contain supplemental questions to be answered for contractors in certain service categories.

CONTRACTOR NAME: The Mind Body Awareness Project DEPT #: 465

TITLE/SERVICE: Mindfulness-Based Rehabilitation Classes at ACJJC

DEPT. CONTACT: Alex Briscoe/Vana Chavez PHONE: x57996

I. INFORMATION ABOUT THE CONTRACTOR YES NO

1. Is the contractor a corporation or partnership? (X) ()

2. Does the contractor have the right per the contract to hire others to do the work agreed to in the contract? (X) ()

If the answer to BOTH questions is YES, provide the employer ID number here: 91-2167480.

No other questions need to be answered. Withholding is not required.

If the answer to question 1 is NO and 2 is YES, provide the individual social security number here: _____

No other questions need to be answered. Withholding is not required.

If the answer to question 2 is NO, continue to Section II.

II. RELATIONSHIP OF THE PARTIES YES NO

1. Does the County have the right to control the way in which the work will be done, i.e., will the County be able to specify the sequence of steps or the processes to be followed if it chooses to do so? () ()

2. Is the contractor restricted from performing similar services for other businesses while he is working for the County? () ()

3. Will the contractor be working for more than 50% of the time for the County (50% = 20 hrs/wk; 80 hrs/mo)? () ()

4. Is the relationship between the County and the contractor intended to be ongoing? () ()

III. FOR CONSULTANTS, PROJECT MANAGERS, PROJECT COORDINATORS

- 1. Is the contractor being hired for a period of time rather than for a specific project? () ()
- 2. Will payment be based on a wage or salary (as opposed to a commission or lump sum)? () ()

IV. FOR PHYSICIANS, PSYCHIATRISTS, DENTISTS, PSYCHOLOGISTS

- 1. Will the agreement be with an individual who does not have an outside practice? () ()
 - 1.a. Will the contractor work more than an average of ten hours per week? () ()

IF THE ANSWER TO 1.a IS YES, ANSWER QUESTIONS 1.b.

 - 1.b. Will the County provide more than 20% of the contractor's income? () ()
- 2. If the answer to either question 1.a, or if required, question 1.b is NO, the entire answer is NO.

A "yes" answer to any of the questions in Section II, or, if applicable, Sections III or IV constitutes justification for paying the contractor through the payroll system as an "employee for withholding purposes."

CERTIFICATIONS:

I hereby certify that the answers to the above questions accurately reflect the anticipated working relationship for this contract.



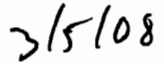
 Contractor



 Agency/Department Head or Designee



 Date



 Date

HRSD APPROVAL REQUIRED FOR ALL STANDARD SERVICES AGREEMENTS:

Signature: _____ Date: _____

Title: _____

CERTIFICATE OF INSURANCE

ISSUE DATE
02/14/2008

PRODUCER

CALENDER-ROBINSON CO., INC.
785 MARKET ST. #750
SAN FRANCISCO, CA 94103
(415) 978-3800
FAX (415) 978-3825

Cert# 47661

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

COMPANY
A N.I.A.C.

COMPANY
B STATE COMPENSATION INSURANCE FUND

COMPANY
C

COMPANY
D

INSURED

MIND BODY AWARENESS PROJECT

111 FAIRMONT AVENUE
OAKLAND, CA 94611

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR. <input type="checkbox"/> OWNER'S & CONTRACTOR'S PROT.	2007-20589-NPO	MAY 11 07	MAY 11 08	GENERAL AGGREGATE \$ 2,000,000
	PRODUCTS-COMP/OP AGG. \$ 2,000,000				
	PERSONAL & ADV INJURY \$ 1,000,000				
	EACH OCCURRENCE \$ 1,000,000				
	FIRE DAMAGE(Any One Fire) \$ 100,000				
	MED. EXPENSE(Any One Person) \$ 10,000				
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT \$
					BODILY INJURY (Per Person) \$
					BODILY INJURY (Per Accident) \$
					PROPERTY DAMAGE \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$
					OTHER THAN AUTO ONLY: \$
					EACH ACCIDENT \$
	EXCESS LIABILITY <input type="checkbox"/> UMBRELLA FORM <input type="checkbox"/> OTHER THAN UMBRELLA FORM				AGGREGATE \$
					EACH OCCURRENCE \$
					AGGREGATE \$
B	WORKER'S COMPENSATION AND EMPLOYERS' LIABILITY THE PROPRIETOR/ PARTNERS/EXECUTIVE OFFICERS ARE: <input type="checkbox"/> INCL <input type="checkbox"/> EXCL	1871984-2008	FEB 13 08	FEB 13 09	STATUTORY LIMITS
	EACH ACCIDENT \$ 1,000,000				
	DISEASE-POLICY LIMIT \$ 1,000,000				
	DISEASE-EACH EMPLOYEE \$ 1,000,000				
	OTHER				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS
RE: FUNDING AGREEMENT

CERTIFICATE HOLDER IS INCLUDED AS ADDITIONAL INSURED AS PER THE ATTACHED ENDORSEMENT

CERTIFICATE HOLDER

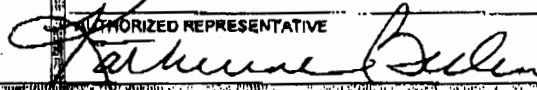
COUNTY OF ALAMEDA, ITS BOARD OF SUPERVISORS,
THE INDIVIDUAL MEMBERS THEREOF & ALL COUNTY
OFFICERS, AGENTS, EMPLOYEES & REPRESENTATIVES
RISK MGMT. UNIT
125 - 12TH STREET - 3RD FL
OAKLAND, CA 94607

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

10-DAY NOTICE OF CANCELLATION APPLIES FOR NON-PAYMENT OF PREMIUM

AUTHORIZED REPRESENTATIVE



ATTN: SOCIMA MOLINA

Named Insured: Mind Body Awareness Project

Policy: 2007-29589-NPO

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

Any person or organization that you are required to add as an additional insured on this policy, under a written contract or agreement currently in effect, or becoming effective during the term of this policy, and for which a certificate of insurance naming such person or organization as additional insured has been issued, but only with respect to their liability arising out of their requirements for certain performance placed upon you, as a nonprofit organization, in consideration for funding or financial contributions you receive from them. The additional insured status will not be afforded with respect to liability arising out of or related to your activities as a real estate manager for that person or organization.

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- A. In the performance of your on-going operations; or
- B. In connection with your premises owned by or rented to you

THE EXPIRATION DATE LISTED HEREON APPLIES IF THE PREMIUM HAS BEEN PAID.

EVIDENCE OF INSURANCE - STATE OF CALIFORNIA

GABRIEL KRAM
PO BOX 639
FOREST KNOLLS CA 94933

NAIC Number: 21687
Policy Number: 96 17857-93-11
Effective Date: 01-25-2008
Expiration Date: 06-13-2008

Year: 1999 Make: VOLKSWAGEN Vehicle I.D. No: WVWBF31J7XW274691
Model: GOLF GL TDI

MID-CENTURY INSURANCE COMPANY, LOS ANGELES, CALIFORNIA, an authorized California Insurer, in compliance with the California Financial Responsibility Act, certifies that it has issued a policy in an amount not less than that required by the California Financial Responsibility Law for the described motor vehicle.

Agent Name: Samuel Levin
Phone No: (415) 387-7727

**KEEP WITH
VEHICLE**

25-7040 3-07

READ REVERSE SIDE CAREFULLY.

A7040701

EXHIBIT D

COUNTY OF ALAMEDA DEBARMENT AND SUSPENSION CERTIFICATION

(Applicable to all agreements funded in part or whole with federal funds and contracts over \$25,000).

The contractor, under penalty of perjury, certifies that, except as noted below, contractor, its principals, and any named and unnamed subcontractor:

- Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
- Has not been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years;
- Does not have a proposed debarment pending; and
- Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.

If there are any exceptions to this certification, insert the exceptions in the following space.

Exceptions will not necessary result in denial of award, but will be considered in determining contractor responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

Notes: Providing false information may result in criminal prosecution or administrative sanctions. The above certification is part of the Standard Services Agreement. Signing this Standard Services Agreement on the signature portion thereof shall also constitute signature of this Certification.

CONTRACTOR: The Mind Body Awareness Project, Inc.

PRINCIPAL: Gabriel Kram TITLE: Executive Director


SIGNATURE:  DATE: 3/4/08

Exhibit E

Business Associate Provisions relating to HIPAA Effective 4/24/2003

Definitions

Capitalized terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms are defined in 45 Code of Federal Regulations Parts 160 and 164 (the "HIPAA Privacy Rule"). In the event of an inconsistency between the provisions of this Agreement and the mandatory provisions of the HIPAA Privacy Rule, as amended, the Privacy Rule shall control. Where provisions of this Agreement are different than those mandated in the HIPAA Privacy Rule, but are nonetheless permitted by the Privacy Rule, the provisions of this Agreement shall control. All regulatory references in this Agreement are to HIPAA Privacy Rule unless otherwise specified.

- (a) *Business Associate*. "Business Associate" shall mean the Contractor, The Mind Body Awareness Project, Inc.
- (b) *Covered Entity*. "Covered Entity" shall mean that any part of the County of Alameda Health Care Services Agency, a County of Alameda "hybrid entity", is subject to the Standards for Privacy of Individually Identifiable Health Information set forth in 45 Code of Federal Regulations Part 160 and Part 164, Subparts A and E ("County").
- (c) *Individual*. "Individual" shall have the same meaning as the term "individual" in Section 164.501 and shall include a person who qualifies as a personal representative in accordance with Section 164.502(g).
- (d) *Privacy Rule*. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 Code of Federal Regulations Part 160 and Part 164, Subparts A and E.
- (e) *Protected Health Information*. "Protected Health Information" (PHI) shall have the same meaning as the term "protected health information" in Section 164.501 and is limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- (f) *Required By Law*. "Required by law" shall have the same meaning as the term "required by law" in section 164.501.
- (g) *Secretary*. "Secretary" shall mean the Secretary of the United States Department of Health and Human Services or his or her designee.

Obligations and Activities of Business Associate

- (a) Business Associate acknowledges and agrees that all PHI that is created or received by Covered Entity and disclosed or made available in any form, including paper record, oral communication, audio recording and electronic display by Covered Entity or its operating units to Business Associate or is created or received by Business Associate on Covered Entity's behalf shall be subject to this Agreement.
- (b) Business Associate agrees to not use or further disclose Protected Health Information other than as permitted or required by the Agreement or as Required by Law.
- (c) Business Associate agrees to use appropriate administrative, physical and technical safeguards to prevent the use or disclosure of the Protected Health Information other than as provided for by this Agreement.
- (d) Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement. Mitigation includes, but is not limited to, the taking of

Exhibit E

Business Associate Provisions relating to HIPAA Effective 4/24/2003

reasonable steps to ensure that the actions or omissions of employees of Business Associate do not cause Business Associate to breach the terms of this Agreement.

- (e) Business Associate agrees to report to Covered Entity any use or disclosure of the Protected Health Information, of which it becomes aware, that is not directly related to Business Associate's performance of the Scope of Work set forth in Exhibit A of this Agreement. This includes the reporting of any security incident, of which it becomes aware, affecting the electronic protected health information.
- (f) Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information. Business Associate shall not subcontract with respect to this agreement without the advanced consent of Covered Entity.
- (g) Business Associate agrees to make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.
- (h) To the extent Business Associate is required to make PHI available to an Individual pursuant to Sections 164.524 and/or 164.526, Business Associate shall do so solely by way of coordination with Covered Entity.
- (i) Business Associate agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.
- (j) Business Associate agrees to provide to Covered Entity or an Individual, in the time and manner designated by Covered Entity, information collected in accordance with Section (h) of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with Section 164.528.

Permitted Uses and Disclosures by Business Associate

- (k) Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in Exhibit A of this Agreement, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity.
- (l) Business Associate may use and disclose PHI as permitted in Section 164.504.

Business Associate Obligations upon Termination or Expiration of Agreement

- (m) Covered Entity has the right to terminate this Agreement as set forth in Exhibit D (Additional provisions) and as otherwise permitted by applicable state and federal law. In the event of termination for any reason, or upon the expiration of this Agreement, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.

Exhibit E

Business Associate Provisions relating to HIPAA
Effective 4/24/2003

- (n) In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

Miscellaneous

- (o) *Regulatory References.* A reference in this Agreement to a section in the Privacy Rule means the section as in effect or as amended, and for which compliance is required.
- (p) *Amendment.* The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act, Public Law 104-191.
- (q) *Survival.* In addition to the provisions with respect to survival as set forth in Exhibit D (Additional provisions), the following shall apply. The respective rights and obligations of Business Associate with respect to PHI in the event of termination, cancellation or expiration of this Agreement shall survive said termination, cancellation or expiration of this Agreement, and shall continue to bind Business Associate, its agents, employees, contractors and successors as set forth herein.
- (r) *Third Parties.* Except as expressly provided herein or expressly stated in the Privacy Rule, the parties to this Agreement do not intend to create any rights in any third parties.
- (s) *Preemption.* The provisions of this Agreement are intended to establish the minimum requirements regarding Business Associate's use and disclosure of PHI under the HIPAA Privacy Rule. The use and disclosure of individually identified health information is also covered by applicable California law. To the extent that California law is more stringent with respect to the protection of such information, applicable California law shall govern Business Associate's use and disclosure of confidential information related to the performance of this Agreement.
- (t) *Interpretation.* Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy Rule.

CONTRACTOR: The Mind Body Awareness Project, Inc.

By: 

Signature
Gabriel Kram

Printed Name
Executive Director

Title

Address: 111 Fairmount Avenue
Oakland, CA 94611

Tax Payer I.D.# 91-2167480