

RECIPROCAL USE AND CHILDCARE PROGRAM AGREEMENT

This Reciprocal Use Agreement (the “Agreement”) is made and entered into as of the Effective Date (as hereinafter defined) by and between Killeen Independent School District, a political subdivision of the State of Texas (“KISD” or the “District”) and Armed Services YMCA of the USA, a non-profit corporation (“ASYMCA”). KISD and ASYMCA are referred to herein collectively as the “Parties” and individually as a “Party.” As used herein, the term “Effective Date” shall mean June 1, 2026.

RECITALS

WHEREAS, ASYMCA owns and operates a natatorium located at 100 West Mountain Lion Road, Harker Heights, Texas 76548 (the “ASYMCA Natatorium”);

WHEREAS, the District desires to utilize the ASYMCA Natatorium for its students, coaches, and other personnel, including but not limited to the District’s High School Swim Programs, Middle School Swim Programs, Third Grade Water Safety Programs and other District swim programs;

WHEREAS, the Parties desire that the ASYMCA Natatorium should be utilized by the District’s students, coaches, and other personnel under the terms and conditions set forth in this Agreement;

WHEREAS, KISD has a need for a before-school and after-school childcare program;

WHEREAS, ASYMCA is willing to operate a before-school and after-school childcare program utilizing the District’s elementary school facilities;

WHEREAS, the Parties desire that designated areas within the District’s elementary school facilities should be utilized by ASYMCA to operate a before-school and after-school childcare program under the terms and conditions set forth in this Agreement;

WHEREAS, each Party desires that its use of the other Party’s facilities should be without fee and in exchange for the other Party’s use of its facilities and for the other mutual covenants set forth herein and under the terms and conditions set forth in this Agreement;

NOW THEREFORE, in consideration of the mutual covenants herein expressed and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, KISD and ASYMCA agree as follows:

AGREEMENT

1. TERM AND TERMINATION

- 1.1. The term of this Agreement shall be for ten (10) years (“Term”), commencing on the Effective Date, and upon the expiration of such Term, the Agreement shall terminate and the Parties shall have no further obligations to one another. After the Initial Term, this Agreement shall be deemed renewed automatically each year for

an additional one-year period, subject to the below termination provision in Article 1.2.

- 1.2. Either Party may terminate this Agreement, without penalty, with or without cause, upon at least sixty (60) days written notice in advance of the start of the next academic year (as such date is established by KISD in its discretion and published on its website) with cancellation to take effect upon the completion of the then current academic year, including any summer programs/sessions of KISD and ASYMCA subject to this agreement. For purposes of this agreement, a new academic year begins, and the prior academic year ends, in August (as such date is established by KISD in its discretion). Upon the effective date of such termination, the parties shall have no further obligations to one another. Party may terminate this Agreement, without penalty, with or without cause, upon at least sixty (60) days written notice in advance of the start of the next academic year with cancellation applicable to the next academic year's program, and upon the effective date of such termination, the parties shall have no further obligations to one another. Either party may terminate this Agreement upon a material breach by the other party, after sending written notice of same to the breaching party and allowing a thirty (30) day cure period.

2. KISD USE OF ASYMCA NATATORIUM

- 2.1. Grant of License. Subject to the terms, conditions, and limitations contained in this Agreement, ASYMCA hereby grants to the District the exclusive and priority right to use the ASYMCA Natatorium as set forth herein during the term of this Agreement.

- 2.2. Use by KISD.

- 2.2.1. Natatorium. KISD shall have the exclusive first right of use of the ASYMCA Natatorium for the District's swim teams, swim classes, swim practices, competitions, and other District uses, including but not limited to the District's High School Swim Programs, Middle School Swim Programs, and Third Grade Water Safety Programs (collectively referred herein as "Swim Programs"). KISD shall have exclusive first right of use of eight (8) of the ASYMCA Natatorium's pool lanes (with two (2) lanes reserved for ASYMCA members) between the hours of 6:00 a.m. and 9:00 a.m. Central Time and 4:00 p.m. and 7:00 p.m. Central Time, Monday through Friday. In addition, on or before June 1 of each year, KISD will provide ASYMCA proposed schedules for use of the ASYMCA Natatorium by the District's High School Swim Programs. All other District programs will provide ASYMCA proposed schedules for their use of the ASYMCA Natatorium at least ninety (90) days prior to the commencement of the proposed use. The District's proposed schedules will be subject to ASYMCA's approval, which shall not be unreasonably withheld. If necessary, ASYMCA and the District will negotiate mutually agreed changes to the proposed schedules and

finalize High School Swim Program schedules by June 15 of each year and other program schedules within fourteen (14) days of their provision to ASYMCA. The District may request use of the Natatorium for a period in addition to the general and scheduled program uses provided for above by submitting a written request to ASYMCA at least ten (10) days before the time period of the requested use, subject to ASYMCA's approval within five (5) days of the request, which shall not be unreasonably withheld.

- 2.2.2. Storage. KISD shall have the exclusive right to store materials and equipment related to swim team, swim classes, swim practices, competitions, and other District uses at the Natatorium during the term of this Agreement in a secure location. Without limitation, the District has placed lockable storage benches on the site, which benches and all contents remain the property of KISD.
- 2.2.3. Use of Parking Lot. Without limiting any forgoing provisions, KISD, including but not limited to its employees, students, contractors, guests, and invitees, shall have the non-exclusive, right of access to and use of the ASYMCA Natatorium parking lot (situated across Mountain Lion Road from the ASYMCA Natatorium) for KISD sponsored events and meetings. Any other use by ASYMCA, including but not limited to its employees, students, contractors, guests, and invitees, during such events shall be limited to any extent same interferes with KISD's use.
- 2.2.4. Concessions. KISD shall have the right, but not the obligation, to operate its own concessions during its use of the Natatorium as set forth herein, and the right to any and all proceeds from its operation of such concessions. KISD will assume responsibility and liability for any food items sold through concessions operated by KISD.
- 2.2.5. Exclusivity of KISD's Use of Natatorium. During the periods of time that KISD and ASYMCA have agreed pursuant to Section 2.1.1. that the District will have the exclusive first right of use of the ASYMCA Natatorium and/or its pool, the District's right to use the ASYMCA Natatorium and/or its pool shall be exclusive unless the District consents in writing to ASYMCA's request for another person's use during the District's use.
- 2.2.6. KISD Responsibilities Related to Use of Natatorium.
 - .1 Notwithstanding Section 2.5, KISD shall repair or replace, at KISD's sole expense, any damage to or destruction of ASYMCA's property or facilities arising from KISD's use of the Designated Areas other than normal wear and tear.
- 2.2.7. Prohibited Uses. KISD shall not use, nor permit any guest, invitee, or other person or entity to use, any portion of the ASYMCA's real

property, including but not limited to the Natatorium and related facilities, for any act or omission:

- .1 That is unlawful, hazardous, indecent, or obscene;
- .2 That constitutes a public or private nuisance;
- .3 That may disturb the quiet enjoyment of any other person at or near the vicinity of the property;
- .4 That violates any applicable law, ordinance, order, rule, regulation, and/or policy regarding the use of the property;
- .5 That introduces onto the property any weapon, firearm, firework, explosive, ammunition, illegal drug, or controlled substance (unless such controlled substance is prescribed by a physician and possessed by the person to whom it was prescribed).

2.3. KISD Daily Responsibilities. KISD's daily responsibilities during its operation of swim programs operated under this Agreement shall include, but not be limited to, the following.

2.3.1. KISD shall take primary responsibility for each student participating in a swim program upon the student's arrival at the Natatorium.

2.3.2. KISD shall abide by and enforce standard District school and ASYMCA rules including, without limitation, rules regarding behavior in the facilities and keeping the facilities clean. KISD shall also establish other rules for student behavior.

2.4. Staff. KISD shall have sole responsibility for the selection, training, supervision, and compensation of all staff working in any swim program conducted by the District under this Agreement

2.5. Operation and Maintenance.

2.5.1. ASYMCA shall be solely responsible for all maintenance and operation (and all related costs) of the entirety of the ASYMCA Natatorium property and facility, including but not limited to the swimming pool, during the Term of this Agreement. ASYMCA agrees and warrants that the ASYMCA Natatorium property and facility will be maintained in good working order and repair for acceptable use, except as provided by Section 2.2.6.1.

2.5.2. During periods of KISD use, ASYMCA shall provide staffing sufficient for all necessary supervision and maintenance, including but not limited to lifeguards and staff who are trained and responsible for ensuring the ASYMCA Natatorium is safe, clean, and in an acceptable condition for District uses.

- 2.6. No Use Fee. ASYMCA shall not charge KISD any fee for the District's use of the ASYMCA Natatorium as set forth in this Agreement.
- 2.7. Criminal History Background Checks. ASYMCA shall conduct a national criminal history record information review on its employees or applicants for employment and any subcontractor who has or will have continuing duties related to this Agreement and those employees or applicants who have or will have direct contact with KISD students as provided by Texas Education Code §22.0834 and provide all necessary certifications to KISD as specified by that section. ASYMCA shall prevent persons from providing services to KISD or having contact with KISD students if the employee, applicant, or subcontractor has been convicted of a felony or misdemeanor offense that would prevent a person from being employed under Texas Education Code §22.085. In the event ASYMCA is unable to perform the statutorily required background check on any such person, ASYMCA shall provide or cause to be provided all necessary information or fingerprints to the District to allow it to conduct the check.
- 2.8. Insurance Coverage.
- 2.8.1. Throughout the Term of this Agreement, ASYMCA shall maintain, at its sole cost and expense, a policy or policies of comprehensive general liability insurance, or self-insurance, insuring ASYMCA and the District and the District's affiliates as additional insureds against any and all liability for injury or death of a person or persons and for damage to or destruction of real or personal property occasioned by or arising out of or in connection with the use or occupancy of the ASYMCA Natatorium by the District or arising out of or in connection with the condition of the ASYMCA Natatorium. Such liability insurance shall be in an amount not less than \$1,000,000 per person and \$2,000,000 per occurrence, and shall contain waivers of subrogation in favor of the District. Upon the District's request, ASYMCA shall promptly provide the District with a copy of each applicable insurance policy and certificates of insurance.
- 2.8.2. Throughout the Term of this Agreement, KISD shall maintain, at its sole cost and expense, a policy or policies of comprehensive general liability insurance, or self-insurance, insuring the District and the ASYMCA as an additional insured against any and all liability for injury or death of a person or persons and for damage to or destruction of real or personal property occasioned by or arising out of or in connection with the conduct of the KISD's students, coaches, and other personnel related to the swim programs and use of the ASYMCA Natatorium. Such liability insurance shall be in an amount not less than \$1,000,000 per person and \$2,000,000 per occurrence, and shall contain waivers of subrogation in favor of the ASYMCA. Upon the ASYMCA's request, the District shall promptly provide the ASYMCA with a copy of each applicable insurance policy and certificates of insurance.

2.9. INDEMNIFICATION. TO THE FULLEST EXTENT PERMITTED BY LAW, KISD SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS ASYMCA AND ITS BOARD MEMBERS, OFFICERS, EMPLOYEES, REPRESENTATIVES, AND AGENTS FROM AND AGAINST ALL SUITS, DEMANDS, CLAIMS, CAUSES OF ACTION, DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING LEGAL FEES, ATTORNEY FEES, AND COURT COSTS) DIRECTLY OR INDIRECTLY CAUSED BY, RESULTING FROM, OR ARISING OUT OF INJURY OR DEATH TO PERSONS OR DAMAGE TO OR DESTRUCTION OF REAL OR PERSONAL PROPERTY OCCASIONED BY OR ARISING OUT OF OR IN CONNECTION WITH KISD'S CONDUCT OF ITS STUDENTS, COACHES, AND OTHER PERSONNEL RELATED TO ITS USE OF THE ASYMCA NATATORIUM AND ANY SWIM PROGRAM PURSUANT TO THIS AGREEMENT, BUT NOT TO THE EXTENT SUCH LOSS, COSTS, DAMAGE, INJURY, CLAIM, DEMAND, SUIT, OR EXPENSE MAY BE ATTRIBUTABLE TO THE JOINT, CONCURRENT, COMPARATIVE, OR CONTRIBUTORY NEGLIGENCE OF ANY PARTY INDEMNIFIED HEREBY. THE LIABILITY OF KISD, ITS AGENTS, SERVANTS, EMPLOYEES, OR SUBCONTRACTORS HEREUNDER SHALL NOT BE LIMITED TO ANY MINIMUM INSURANCE LIMITS SET FORTH IN THIS AGREEMENT. ASYMCA MAY, AT ITS OPTION, PARTICIPATE IN THE DEFENSE OF SUCH CLAIM OR SUIT WITHOUT RELIEVING KISD OF ANY OBLIGATION HEREUNDER. SUCH OBLIGATION SHALL NOT BE CONSTRUED TO NEGATE, ABRIDGE, OR REDUCE ANY OTHER RIGHTS OR OBLIGATIONS OF INDEMNITY WHICH WOULD OTHERWISE EXIST AS TO ANY OTHER PARTY OR PERSON DESCRIBED IN THIS PARAGRAPH.

3. ASYMCA USE OF DISTRICT ELEMENTARY SCHOOL FACILITIES FOR OPERATION OF BEFORE-SCHOOL AND AFTER-SCHOOL CHILDCARE PROGRAM

3.1. Grant of License. Subject to the terms, conditions, and limitations contained in this Agreement, KISD hereby grants to ASYMCA a limited, non-exclusive right to use the District's elementary school facilities, excluding those campuses located on Fort Hood, for the purpose of operating childcare programs as set forth herein during the term of this Agreement.

3.2. No Use Fee. KISD shall not charge ASYMCA any fee for ASYMCA's use of the District's elementary school facilities for the purpose of operating childcare programs as set forth in this Agreement.

3.3. District Employee Discount. In consideration for the mutual covenants herein, all KISD employees shall be entitled to a discount on ASYMCA membership, childcare, camps, and all other programs, including but not limited to swim lessons, sports, and STEM classes, at a user rate that is the lesser of (1) the discounted rate charged to military veterans or (2) a rate that is discounted by 40% off of the regular rates charged to facility users. This discounted rate shall take effect beginning on

January 1, 2027 and remain in effect for the remainder of the Agreement after such effective date.

3.4. Use by ASYMCA.

3.4.1. Areas in Elementary School Facilities. ASYMCA shall have a limited, non-exclusive right to use particular spaces within the District's elementary school facilities, excluding those campuses located on Fort Hood, for the purpose of operating childcare programs. The particular spaces in each elementary school facility to be used by ASYMCA shall be as agreed to by ASYMCA and the Principal of each relevant elementary school. In the event the ASYMCA and the elementary school Principal are unable to agree, the Principal shall determine the particular space(s) to be used by ASYMCA, provided that the following areas of elementary school shall be included in the space made available to ASYMCA during the operating hours of the relevant ASYMCA-operated childcare program:

- .1 Outdoor play area
- .2 Indoor program area (which shall include space for table activities and interest centers)
- .3 Restroom facilities
- .4 Water fountains
- .5 Storage space (if available)
- .6 Telephone line access (with all associated costs to be paid by ASYMCA)
- .7 Flow area between the above-specified areas

The areas agreed upon or otherwise determined for ASYMCA's use pursuant to this Section may be referred to herein as "Designated Areas". KISD shall designate a space in each elementary school for the placement of equipment and/or supplies reasonably necessary for ASYMCA's operation of a childcare program in the Designated Areas within that elementary school.

3.4.2. KISD Reservation of Rights. ASYMCA shall have the first right of use of the Designated Areas for ASYMCA's Before and After School Care Programs. ASYMCA shall have exclusive first right of use of the designated areas between 5:30 AM – 7:45 AM Central Time and 2:15 PM – 6:30 PM Central Time, Monday through Friday. KISD reserves the right to use the Designated Areas, either for school purposes or for other childcare programs, and ASYMCA understands that this Agreement does not constitute an exclusive license to ASYMCA to use the Designated Areas. KISD must provide at least 2 business days' notice of its desire to exercise the right to use the Designated Areas and

must offer an alternate space that will accommodate the needs of ASYMCA to conduct its Before and/or After School Care Program in a manner that is safe and conducive to childcare operations.

3.4.3. ASYMCA Responsibilities Related to Designated Areas.

- .1 ASYMCA shall keep Designated Areas clean and in a neat and orderly condition.
- .2 Notwithstanding Section 3.5, ASYMCA shall repair or replace at ASYMCA's sole expense, any damage to or destruction of District property or facilities arising from ASYMCA's use of the Designated Areas other than normal wear and tear.
- .3 ASYMCA shall secure Designated Areas each day that it concludes its operation of a childcare program in the Designated Areas.
- .4 ASYMCA shall provide, at its sole cost and expense, moveable storage unit(s), custodial services, and building security for each Designated Area as necessary in the sole discretion of the District.

3.4.4. Prohibited Uses. ASYMCA shall not use, nor permit any guest, invitee, or other person or entity to use, any portion of the District's real property, including but not limited to the District's elementary school facilities, for any act or omission:

- .1 That is unlawful, hazardous, indecent, or obscene;
- .2 That constitutes a public or private nuisance;
- .3 That may disturb the quiet enjoyment of any other person at or near the vicinity of the property;
- .4 That violates any applicable law, ordinance, order, rule, regulation, and/or policy regarding the use of the property;
- .5 That introduces onto the property any weapon, firearm, firework, explosive, ammunition, illegal drug, or controlled substance (unless such controlled substance is prescribed by a physician and possessed by the person to whom it was prescribed).

3.5. Operation and Maintenance. KISD shall be solely responsible for all maintenance and operation (and all related costs) of the entirety of the KISD property and facilities, including but not limited to the Designated Areas for use by ASYMCA, during the Term of this Agreement. KISD agrees and warrants that the KISD property and facility will be maintained in good working order and repair for acceptable use, except as provided by Section 3.4.3.2.

3.6. Childcare Programs. ASYMCA shall sponsor, provide, and operate, and KISD shall allow and cooperate in ASYMCA's provision of, a before-school childcare program and an after-school childcare program at all KISD elementary school

facilities, excluding elementary school campuses located on Fort Hood, pursuant to the terms and conditions set forth herein.

- 3.6.1. Hours. ASYMCA shall operate the before-school childcare program each District school day between 6:00 a.m. Central Time and the time the elementary school hosting the program begins. ASYMCA shall operate the after-school program each District school day between the time the elementary school hosting the program is dismissed and 6:00 p.m. Central Time, provided, however, that if five (5) or more children in the program are present at 6:00 p.m. Central Time, then the program will remain open until 6:30 p.m. Central Time.
- 3.6.2. Childcare Programs During Holidays. ASYMCA shall operate its childcare programs on each District school day, including approved teacher work days, unless previously agreed in writing by the Parties. Childcare programs operated for participating children during District school holidays and during the District summer recess shall be operated from locations other than District elementary school facilities, unless the use of such facilities have previously been scheduled by the mutual agreement of the parties, including the relevant elementary school principal or designee. School year breaks, including but not limited to Fall Break, Thanksgiving Break, Christmas Break, and Spring Break programs are to be determined per the KISD school calendar. Locations will be communicated and agreed upon by September 1 of each year to allow ASYMCA sufficient time for advertising.
- 3.6.3. Childcare Programs During Summer Recess. ASYMCA shall use three (3) District elementary school facilities for the operation of a childcare program during the District's summer recess. The Parties will review the District's school calendar and mutually agree to the three (3) elementary school facilities to be used by January 31st of each year, to allow ASYMCA time to advertise in advance of the summer childcare program.
- 3.6.4. Childcare Program Costs. ASYMCA shall bear all costs and expenses arising from the initiation, sponsorship, provision, and operation of the childcare programs including, without limitation, costs and expenses related to necessary licenses, materials, and staff.
- 3.6.5. Childcare Program Fees. ASYMCA shall be responsible for the charging and collection of any fees for participation in the childcare programs and shall be responsible for the granting or denial of full or partial fee waivers.
- 3.6.6. Standards and Licensing.
 - .1 Each childcare program operated by ASYMCA under this Agreement, whether located in Designated Areas or elsewhere, shall be licensed by the Texas Health and Human Services Commission as a licensed daycare center. ASYMCA shall be

solely responsible to initiate and complete the application process for licensure, including any costs arising from that process.

- .2 The principal of each District elementary school in which ASYMCA operates a childcare program shall cooperate with ASYMCA in the licensing process by providing documents and information reasonably necessary to secure licensure.
- .3 ASYMCA shall adhere to all applicable laws, licensing requirements, and regulations in the operation of each childcare program at each location, whether located in Designated Areas or elsewhere, including but not limited to all criminal background check requirements.

3.6.7. Staff. ASYMCA shall have sole responsibility for the training, supervision, and compensation of all staff working in any childcare program operated by ASYMCA under this Agreement.

3.6.8. Student Eligibility and Participation.

- .1 Each District student participating in a childcare program operated by ASYMCA under this Agreement shall participate in the program operated at the District elementary school facility at which the student normally attends school, unless specifically designated otherwise and agreed upon by KISD and ASYMCA. KISD shall not be responsible for transporting participating students from one District facility to another District facility for the purpose of attending a childcare program operated by ASYMCA under this Agreement.
- .2 The number of students permitted to participate in the childcare program at each District elementary school facility may be limited by licensure restrictions or requirements.
- .3 Access to any childcare program operated by ASYMCA under this Agreement shall in no event be denied because of race, color, sex, religion, or national origin.
- .4 Each student's participation in any childcare program operated by ASYMCA under this Agreement shall be completely voluntary; neither the District nor ASYMCA shall coerce any parent or student to participate in the program.
- .5 Each student participating in this program will participate in accordance with the guidelines outlined in the Armed Services YMCA Killeen Before & After School Care Family Handbook.

3.6.9. ASYMCA Daily Responsibilities. ASYMCA's daily responsibilities during its operation of childcare programs operated under this Agreement shall include, but not be limited to, the following.

- .1 ASYMCA shall take sole responsibility for each student participating in a childcare program upon the student's arrival at the childcare program's location.
- .2 ASYMCA shall abide by and enforce standard District school rules including, without limitation, rules requiring walking in the halls and keeping the facilities clean. ASYMCA shall also establish other rules for student behavior.
- .3 ASYMCA shall take attendance each day of a childcare program's operation.
- .4 ASYMCA shall keep students participating in a childcare program within the Designated Areas or similar areas, unless students are accompanied by ASYMCA childcare program staff.

3.6.10. Promotion and Public Relations. ASYMCA shall be solely responsible for promoting and recruiting students to participate in the childcare programs it operates under this Agreement. KISD shall assist ASYMCA promotional and recruiting efforts by permitting ASYMCA communications on those topics to be distributed throughout the District's elementary schools, subject to the District's right to object to any material as it determines in its discretion. All such communications shall specify that the District is neither sponsoring nor operating the childcare programs and that the District is not responsible for the care or treatment of students participating in the childcare programs. ASYMCA shall contact parents of students as reasonably necessary pursuant to its promotional and recruiting efforts. ASYMCA shall hold conferences with the principal of each elementary school within which a childcare program is located to discuss the progress, success, and any problems of the childcare program.

3.7. Insurance. ASYMCA shall, at its sole cost and expense, procure and maintain in force for the duration of the term of this Agreement liability insurance against any claim for injury to persons (including death) or damage to real or personal property which may arise from, or in connection with, the use the District's elementary school facilities by ASYMCA and its agents, representatives, volunteers, employees, invitees, and all registrants in each childcare program operated by ASYMCA under this Agreement. Such liability insurance shall be in an amount not less than \$1,000,000 per person and \$2,000,000 per occurrence. Prior to the operation of any childcare program pursuant to this Agreement, ASYMCA shall furnish KISD with a valid current certificate of insurance evidencing the above required insurance issued by a company or companies with a rating of not less than B+ in the current Best Rating Guide. Each such policy shall include a clause whereby each underwriter agrees to waive its rights of subrogation against KISD. The limits of liability shown for each type of insurance coverage to be provided by ASYMCA as required herein shall not constitute a limitation of ASYMCA's liability for claims arising from this Agreement or otherwise.

- 3.8. INDEMNIFICATION. TO THE FULLEST EXTENT PERMITTED BY LAW, ASYMCA SHALL INDEMNIFY, DEFEND, AND HOLD HARMLESS KISD AND ITS TRUSTEES, OFFICERS, EMPLOYEES, REPRESENTATIVES, AND AGENTS FROM AND AGAINST ALL SUITS, DEMANDS, CLAIMS, CAUSES OF ACTION, DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING LEGAL FEES, ATTORNEY FEES, AND COURT COSTS) DIRECTLY OR INDIRECTLY CAUSED BY, RESULTING FROM, OR ARISING OUT OF INJURY OR DEATH TO PERSONS OR DAMAGE TO OR DESTRUCTION OF REAL OR PERSONAL PROPERTY OCCASIONED BY OR ARISING OUT OF OR IN CONNEUCTION WITH ASYMCA'S OPERATION OF ANY CHILDCARE PROGRAM PURSUANT TO THIS AGREEMENT, BUT NOT TO THE EXTENT SUCH LOSS, COSTS, DAMAGE, INJURY, CLAIM, DEMAND, SUIT, OR EXPENSE MAY BE ATTRIBUTABLE TO THE JOINT, CONCURRENT, COMPARATIVE, OR CONTRIBUTORY NEGLIGENCE OF ANY PARTY INDEMNIFIED HEREBY. THE LIABILITY OF ASYMCA, ITS AGENTS, SERVANTS, EMPLOYEES, OR SUBCONTRACTORS HEREUNDER SHALL NOT BE LIMITED TO ANY MINIMUM INSURANCE LIMITS SET FORTH IN THIS AGREEMENT. KISD MAY, AT ITS OPTION, PARTICIPATE IN THE DEFENSE OF SUCH CLAIM OR SUIT WITHOUT RELIEVING ASYMCA OF ANY OBLIGATION HEREUNDER. SUCH OBLIGATION SHALL NOT BE CONSTRUED TO NEGATE, ABRIDGE, OR REDUCE ANY OTHER RIGHTS OR OBLIGATIONS OF INDEMNITY WHICH WOULD OTHERWISE EXIST AS TO ANY OTHER PARTY OR PERSON DESCRIBED IN THIS PARAGRAPH.

4. LIMITATION OF LIABILITY

Notwithstanding any other provision of this Agreement, in no event shall either party be liable to the other party under any theory of tort, contract, strict liability, or other legal or equitable theory, whether by way of indemnity or otherwise, for any lost profits, exemplary, punitive, special, incidental, indirect, or consequential damages of the other Party; and, further, neither Party shall be liable under Sections 2.9 or 3.8, respectively, for any claim, liability, damages, loss, or legal theory to which said Party is otherwise immune under the laws and Constitution of the State of Texas.

5. NOTICES

All notices, demands, and requests and other communications required or permitted hereunder shall be in writing and shall be sent by certified mail, return receipt requested; or by courier; or by electronic communications, including email and facsimile and shall be deemed to be delivered (i) upon first attempted delivery if sent by mail or courier; and (ii) upon transmittal if sent by electronic communications. Notices shall be sent as follows:

If to ASYMCA:

ASYMCA of Killeen
Attn: Sheri Yerrington
Executive Director
110 Mountain Lion Rd

Harker Heights, TX 76548
Telephone: (254) 690-9622
Email: syerrington@asymca.org

With copy to:

Ashish S. Vazirani,
Chief Operating Officer, ASYMCA
Email: avazirani@asymca.org

If to KISD:

Killeen Independent School District
Attn: Scott Hequembourg,
Deputy Superintendent of Operations
200 N WS Young Drive
Killeen, Bell County, TX 76543
Telephone: (254) 336-2780
Email: scott.hequembourg@killeenisd.org

With copy to:

Adam Rich,
Assistant Superintendent for Facilities Services
Email: adam.rich@killeenisd.org

These addresses may be changed upon giving prior written notice in the manner set forth for notices herein.

6. GOVERNING LAW

This Agreement shall be governed by the laws of the State of Texas. The exclusive venue for any cause of action or claim arising out of this Agreement is in a state or federal court of competent jurisdiction in Bell County, Texas.

7. WAIVER

Waiver by either Party of a breach or violation of any provision of this Agreement is not a waiver of any subsequent breach.

8. TEXAS PUBLIC INFORMATION ACT

The Parties expressly acknowledge that this Agreement is subject to the Texas Public Information Act, Tex. Gov't Code Ann. §§ 552.001 *et seq.*, as amended (the "Act"). Each Party expressly understands and agrees that the other Party shall release any and all information necessary to comply with Texas law without the prior written consent of the other Party except as may be permitted or required under Section 552.305 of the Act or other applicable provisions that protect the rights of third parties.

9. NO PERSONAL LIABILITY; NO WAIVER OF IMMUNITY

Nothing in the Agreement shall be construed as creating any personal liability on the part of any officer, director, or employee of either Party, and the Parties expressly agree that the execution of the Agreement does not create any personal liability on the part of any officer, director, employee,

or agent of either Party. The Parties agree that no provision of this Agreement extends either Party's liability beyond the liability provided in the Texas Constitution and the laws of the State of Texas. Neither the execution of this Agreement nor any other conduct of either Party relating to this Agreement shall be considered a waiver by KISD of any right, defense, or immunity under the Texas Constitution or the laws of the State of Texas. The Parties do not agree to binding arbitration, nor does either Party waive its right to a jury trial.

10. NO THIRD-PARTY BENEFICIARIES

This Agreement is made for the sole benefit of the Parties and their respective successors and permitted assigns, if any. Nothing in this Agreement will create or be deemed to create a relationship between the Parties to this Agreement and any third person, including a relationship in the nature of a third-party beneficiary or fiduciary.

11. INDEPENDENT PARTIES

This Agreement is not intended to create and shall not constitute an employment relationship, co-ownership, partnership, or joint venture between the Parties. ASYMCA shall have and retain the exclusive right of control over employment, firing, discipline, compensation, insurance, and benefits of its employees in accordance with the applicable laws of the State of Texas. KISD shall have and retain the exclusive right of control over employment, firing, discipline, compensation, insurance, and benefits of its employees in accordance with the applicable laws of the State of Texas. Neither Party shall have the right to bind the other Party by contract or otherwise except as expressly set forth in this Agreement. Nothing contained herein shall establish an agency, employee-employer relationship, partnership, joint enterprise, joint employer, or joint venture relationship by or between the Parties.

12. ENTIRE AGREEMENT AND MODIFICATION

This Agreement contains the entire agreement between the Parties and supersedes all prior agreements between the Parties with respect to the subject matter contained herein. For clarification and without limiting the forgoing, this Agreement supersedes in all respects those agreements entered by the Parties respectively on November 18, 2025 related to a District childcare program and April 8, 2014 related to the District's natatorium use ("Prior Agreements"). Moreover, to any extent either of the Prior Agreements remained in effect prior to the execution of the present Agreement, such Prior Agreements are hereby terminated in all respects, and the Parties' only obligations to one another are set forth under the current Agreement. Any amendments or modifications concerning this Agreement shall have no force and effect unless in writing and executed by both Parties.

13. NO ASSIGNMENT

Neither KISD nor ASYMCA shall assign all or any portion of this Agreement without the prior written consent of the other Party. Any attempted assignment without prior written consent shall be voidable.

14. ISRAEL/TERRORIST ORGANIZATION/ANTI-BOYCOTT/DISCRIMINATION

Pursuant to Texas Government Code Chapter 2271, ASYMCA represents and warrants to the KISD that ASYMCA does not boycott Israel and will not boycott Israel during the term of this Agreement. ASYMCA verifies and affirms that it is not a foreign terrorist organization as identified on the list prepared and maintained by the Texas Comptroller of Public Accounts. If ASYMCA has misrepresented its inclusion on the Comptroller's list such omission or misrepresentation will void this Agreement. ASYMCA represents and warrants to the KISD that ASYMCA does not boycott energy companies as contemplated by Chapter 809 of the Government Code and will not boycott energy companies during the term of this Agreement. ASYMCA represents and warrants to the KISD that ASYMCA does not discriminate against firearm and ammunition companies and trade associations as contemplated by Chapter 2274 of the Government Code and will not so discriminate during the term of this Agreement.

15. FORCE MAJEURE

In the event that performance by either ASYMCA or KISD of any of the obligations under the terms of this Agreement shall be interrupted or delayed by an act of God, act of war, riot or civil commotion, act of State, strike, fire, flood, or by the occurrence of any other event beyond the reasonable control of the obligated Party, that Party shall be excused from the performance of such obligation for such period of time as is reasonably necessary after such occurrence abates for the effects thereof to have dissipated.

16. FORM 1295

Prior to the Parties executing this Agreement, ASYMCA will file an appropriate Form 1295 with the Texas Ethics Commission.

17. COUNTERPARTS; ELECTRONIC SIGNATURES AND TRANSMISSION

The Parties agree that this Agreement may be executed in identical counterparts, each of which shall be deemed an original for all purposes, but all of which shall constitute one document; provided each of the Parties hereto executes at least one counterpart. A facsimile or other electronic signature may be used to execute a Party's counterpart to the Agreement and the other Party shall accept such signature as an original. The Parties consent to the transmission of copies of this Agreement and any documents related to this Agreement by electronic means.

EXECUTED as of the Effective Date.

**ARMED SERVICES YMCA of the USA,
a Nonprofit Corporation**

By: 
William D. French, VADM (Ret), USN
President and CEO

Date: 6 January 2026

**KILLEEN INDEPENDENT SCHOOL
DISTRICT**

By: _____

President, Board of Trustees

Date: _____