

## LOSS CONTROL SERVICES AGREEMENT

This **Loss Control Services Agreement** (“Agreement”) is made and entered into by and between **Saugus Union School District** (“Client”) and **Keenan & Associates** (“Keenan”), as of **May 15, 2017** (“Effective Date”).

### RECITALS

- A. Client maintains a liability insurance program (“Insurer”) to protect itself against claims and losses arising out of its day to day operations;
- B. Keenan is a specialty insurance services provider with expertise in providing insurance and loss control related services to California school districts, municipalities, health care providers and their related entities.
- C. Client desires Keenan to perform certain loss control services as a compliment to its Insurance program; and
- D. Keenan desires to provide such loss control services, subject to the terms and conditions described in this Agreement.

### AGREEMENT

The parties agree as follows:

#### 1. **TERM**

The term of this Agreement is from the **Effective Date** through **May 15, 2018** (“Termination Date”).

#### 2. **KEENAN’S RESPONSIBILITIES AND SCOPE OF SERVICES**

- A. Client elects and Keenan shall provide the loss control services (“Services”) described in Exhibit A, attached hereto and incorporated herein, during the term of this Agreement.
- B. The Services are intended to (i) promote safety awareness, (ii) assist in the identification of conditions which may pose a risk of bodily injury and/or property damage, and (iii) offer recommendations and/or suggestions to help mitigate Client’s risk of loss. Keenan does not represent that the Services will identify every potential risk or hazard inherent in Client’s business activities or existing on Client’s premises. We are confident that Keenan’s loss control services will help Client to promote a safer environment, but Keenan does not



represent, guaranty or promise that the Services will eliminate all risk of injury or property damage, or result in improved loss experience.

- C. In providing the Services, Keenan shall act in an advisory and consultative capacity. Client shall retain the right to determine whether to act on or implement the information, recommendations, and suggestions provided by Keenan, and the manner by which any such action or implementation shall be undertaken.
- D. The relationship of Keenan and Client shall be that of an independent contractor and Keenan shall at all times remain responsible for its own operational and personnel expenses. Under no circumstance shall any employee of one party look to the other party for any payment or the provision of any benefit, including without exception, workers' compensation coverage. Except as may be expressly set forth in or contemplated by this Agreement, neither party shall have the right to act on behalf of the other, or to bind the other to any contract or other obligation.
- E. Keenan shall not provide any legal, tax, or accounting service, advice, or opinion, and the Services shall not be interpreted as representing any such service, advice or opinion. Client shall consult its own attorney on all legal issues, and its own tax and accounting experts on all tax, accounting, and financial matters relating to its operations, including without limitation, the establishment and/or operation of the Plans.
- F. In providing its Services, Keenan shall comply with all applicable state and federal laws and regulations, and obtain and maintain all necessary licenses, registrations, and/or permits necessary for the performance of its duties under this Agreement.
- G. Keenan reserves the right to engage independent contractors and/or subcontractors to assist it in performing the Services. The use of such individuals shall not relieve either party of any of its duties under this Agreement.
- H. The Services provided to Client are non-exclusive and Keenan may provide the same or similar services to other clients who may be in the same industry, business, or service as Client.

### 3. **CLIENT'S DUTIES AND RESPONSIBILITIES**

- A. Client shall retain all authority and responsibility for the implementation of any suggestions or recommendation made by Keenan as part of the Services.
- B. Client shall provide Keenan with timely access to such information and individuals, including its outside advisors and consultants, as may be necessary for Keenan to perform the Services. Keenan shall not be responsible for any delay in its performance that results from the failure of Client, or any person acting on behalf of Client, to make available any information or individual in a timely manner.



C. All information provided to Keenan by Client, in anticipation of or in relation to the Services to be provided by Keenan, shall be complete and accurate, and Keenan may rely upon such information.

D. Keenan's Loss Control services are not intended to substitute for ongoing inspection and maintenance of Client's facilities. It shall remain Client's responsibility to perform and/or secure standard inspection, maintenance and repair services for its facilities and equipment, including without limitation, any service typically performed by a licensed or certified service professional (e.g., HVAC contractor, electrician, plumber, elevator service personnel, etc.).

#### 4. **COMPENSATION**

Keenan shall receive compensation for the services rendered under this Agreement as provided in the attached Exhibit B.

#### 5. **INSURANCE**

Keenan shall procure and maintain during the term of this Agreement the following insurance coverages, and shall provide certificates of insurance to Client upon Client's request.

- (1) Workers' Compensation. Workers' Compensation Insurance in conformance with the laws of the State of California and applicable federal laws.
- (2) Bodily Injury, Death and Property Damage Liability Insurance. General Liability Insurance (including motor vehicle operation) with a Two Million Dollar (\$2,000,000) limit of liability for each occurrence and a Two Million Dollar (\$2,000,000) aggregate limit of liability.
- (3) Professional Liability Insurance. Professional Liability Insurance with a Two Million Dollar (\$2,000,000) limit of liability for each occurrence and a Two Million Dollar (\$2,000,000) aggregate limit of liability.
- (4) Cyber Liability/Privacy Insurance. Cyber Liability Insurance with a Two Million Dollar (\$2,000,000) limit of liability for each occurrence and a Two Million Dollar (\$2,000,000) aggregate limit of liability.

#### 6. **INDEMNIFICATION**

If either party breaches this Agreement, then the breaching party shall defend, indemnify and hold harmless the non-breaching party, its officers, agents and employees against all claims, losses, demands, actions, liabilities, and costs (including, without limitation, reasonable attorneys' fees and expenses) arising from such breach. In addition, if Keenan (i) becomes the subject of a subpoena or is otherwise compelled to testify or (ii) becomes the subject of a claim, demand, action or liability brought or asserted by any individual or entity other than the Client ("Third-



Party Demand”) relating to the Services and such Third-Party Demand is not a direct result of Keenan’s negligence or willful misconduct, then Client shall defend, indemnify and hold Keenan harmless from all losses, payments, and expenses incurred by Keenan in resolving such Third-Party Demand.

## 7. **LIMITATION OF LIABILITY**

Notwithstanding anything to the contrary in this Agreement, in no event shall either party be liable for any punitive damages, fines, penalties, taxes or any indirect, incidental, or consequential damages incurred by the other party, its officers, employees, agents, contractors or consultants whether or not foreseeable and whether or not based in contract or tort claims or otherwise, arising out of or in connection with this Agreement even if advised of the possibility of such damage. Keenan’s liability under this Agreement shall further be limited to, and shall not exceed, the amount of its available insurance coverage, but not exceeding the limits of coverage outlined in Section 5.

## 8. **DISPUTE RESOLUTION**

- A. In the event of any dispute arising out of or relating to this Agreement, such dispute shall be resolved by submission to binding arbitration before Judicial Arbitration & Mediation Services ("JAMS") or ADR Services, at the claimant's choice, in Los Angeles County, California, before a retired judge or justice. If the parties are unable to agree on a retired judge or justice, the selected arbitration service (JAMS or ADR Services) will select the arbitrator.
- B. In any such arbitration, the parties shall be entitled to take discovery in accordance with the provisions of the California Code of Civil Procedure, but either party may request that the arbitrator limit the amount or scope of such discovery, and in determining whether to do so, the arbitrator shall balance the need for the discovery against the parties’ mutual desire to resolve disputes expeditiously and inexpensively.
- C. The prevailing party in any action, arbitration, or proceeding arising out of or to enforce any provision of this Agreement will be awarded reasonable attorneys’ fees and costs incurred in that action, arbitration, or proceeding, or in the enforcement of any judgment or award rendered.

## 9. **TERMINATION**

- A. This Agreement may be terminated upon the occurrence of any of the following events:
  - i. By either party upon the dissolution or insolvency of either party;

- ii. By either party following the filing of a bankruptcy petition by or against either party (if the petition is not dismissed within sixty (60) days in the case of an involuntary bankruptcy petition);
- iii. If the application of any law, rule, regulation, or court or administrative decision prohibits the continuation of this Agreement or would cause a penalty to either party if the Agreement is continued, and if the Agreement cannot be amended to conform to such law, rule, regulation, or court or administrative decision in a manner that would preserve the original intent of the parties with respect to their rights and duties under this Agreement; or
- iv. By the non-breaching party if a breach of this Agreement is not cured within sixty (60) days following receipt of written notice of the breach from the non-breaching party;
- v. Upon sixty (60) days prior written notice to the other party of its intent not to renew this Agreement.

B. In the event of termination pursuant to Section 9A above, Keenan shall be paid for the full value of all Services rendered through the date of termination.

#### 10. **SOLICITATION OF EMPLOYEES**

During the Term, and for a period of twelve (12) months following any termination or expiration of the Agreement, neither party shall solicit the employment or engagement of any employee or agent of the other party that interacted directly with the soliciting party; provided, however, the foregoing provision shall not prevent either party from soliciting for employment or employing an employee who responds to general solicitations or advertisements in periodicals including newspapers and trade publications, so long as such solicitations or advertisements are not specifically directed at the employee(s) of the other party.

#### 11. **PROPRIETARY INTERESTS**

Keenan shall retain the copyright and the sole right of ownership to the form and format of any report, tool, schedule, exhibit, assessment, analysis, or other deliverable, that is created or developed by Keenan in performing the Services and provided to Client by Keenan in any media whatsoever. Client shall, however, remain the owner of the content of any such deliverable and any Client data or information that was provided to Keenan for the performance of the Services. Any deliverable created by Keenan for Client shall be used for Client's internal purposes and shall not be used, without the written consent of Keenan, for Client's commercial gain, nor shall it be distributed to or shared by Client with any third person, except as may be necessary to accomplish the intent and purpose of this Agreement.



## 12. MARKETING

Keenan may use Client's name in its representative client list. Keenan shall obtain Client's written consent before using Client's name for any other purpose.

## 13. OTHER RELATIONSHIPS

- A. Keenan or its affiliates may provide Client or others with other services or insurance coverage not provided in this Agreement and may receive compensation related to such other services which may include, without limitation, loss control services, joint powers administration, insurance brokerage services, securing reinsurance, claims administration, investigative services, financial processing and other related services.
- B. Keenan and/or its affiliate may provide services for other entities that also provide services to and/or contract with Client's insurance program (e.g., insurers and reinsurers and/or other coverage providers) and to the extent that such services are provided, Keenan will be separately compensated for those services.
- C. The Services provided to Client are non-exclusive and Keenan reserves the right to provide the same or similar services to other clients who may be in the same industry, business, or service as Client.

## 14. CONFIDENTIALITY

- A. As a result of their relationship under this Agreement each party may gain access to confidential information concerning the other. For purposes of this Agreement, the term "Confidential Information" includes, without limitation, i) any information or data about a party's business operations, clients, employees, marketing plans, method of operation, trade secrets, and financial performance; ii) information about Clients employees, such as name, address, social security number, compensation, and medical history, and iii) any other information about a party that is not available to the general public. Neither party shall, without the written consent of the other release, disclose, or disseminate the other party's Confidential Information except as is necessary for the performance of the Services.
- B. In the event that either party becomes the subject of a subpoena or court order compelling the disclosure of the other party's Confidential information, that party shall immediately notify the other so that the party whose Confidential Information is being sought can take such action as may be necessary to prevent or limit the release of its Confidential Information.
- C. Neither party shall be deemed to be in breach of this Section 14 if it has notified the other before it releases the Confidential Information pursuant to a subpoena or court order, and the party whose Confidential Information was requested fails to provide, before the deadline for disclosure, a copy of court order quashing the subpoena or otherwise limiting the original demand for the Confidential Information.



## 15. GENERAL

- A. This Agreement, its recitals and all attached exhibits constitute the entire understanding of the parties related to the subject matter of the Agreement, and supersede all prior and collateral statements, presentations, communications, reports, agreements or understandings, if any, related to such matter(s).
- B. The obligations set forth in this Agreement other than Keenan's obligation to perform the Services and Client's responsibility to pay for the Services shall survive the expiration or termination of this Agreement. Nothing in this Section 15.B. shall, however, be interpreted as relieving Client of its obligation to pay for any Services rendered by Keenan prior to the termination date of this Agreement.
- C. This Agreement is made for the benefit of the parties and is not intended to confer any third party benefit or right. The enforcement of any remedy for a breach of this Agreement may only be pursued by the parties to this Agreement.
- D. No modification or amendment to this Agreement shall be binding unless in writing and signed by authorized representatives from both parties. Any waiver or delay by a party in enforcing this Agreement shall not deprive that party of the right to take appropriate action at a later time or due to another breach. This Agreement shall be interpreted as if written jointly by the parties.
- E. Any provision determined by a court of competent jurisdiction to be partially or wholly invalid or unenforceable shall be severed from this Agreement and replaced by a valid and enforceable provision that most closely expresses the intention of the invalid or unenforceable provision. The severance of any such provision shall not affect the validity of the remaining provisions of this Agreement.
- F. Neither party shall be liable or deemed to be in default for any delay or failure in performance under this Agreement resulting, directly or indirectly, from acts of God, civil or military authority, acts of public enemy, war, accidents, fires, explosions, earthquakes, floods, power outages, failure of computer systems, machinery or supplies, vandalism, strikes, or other work interruptions, or any similar or other cause that is beyond the reasonable control of either party. Each party shall make a good faith effort to perform under this Agreement in the event of any such circumstances, and shall resume full performance of its contract duties once the cause of the delay has abated.
- G. All notices hereunder shall be in writing and shall be sent to the parties at the addresses as set forth below, or to such other individual or address as a party may later designate. Notices shall be sent via personal delivery, courier service, United States mail (postage pre-paid, return receipt requested), express mail service, electronic mail, or fax. Notice shall be



effective when delivered, or if refused, when delivery is attempted. Notices delivered during non-working hours shall be deemed to be effective as of the next business day.

If the notice relates to a legal matter or dispute, a copy shall be sent to:

**Keenan and Associates**  
**2355 Crenshaw Blvd., Ste. 200**  
**Torrance, CA 90501**  
**Attn: Legal Department**

This Agreement may be executed in counterparts and by fax signatures and each shall be deemed to be an original. Each person signing this Agreement on behalf of a party represents and warrants that he or she has the necessary authority to bind such party and that this Agreement is binding on and enforceable against such party.

<u>Saugus Union School District</u>		<u>Keenan &amp; Associates</u>	
<u>Signature:</u>		<u>Signature:</u>	
<u>By:</u>	Nick Heinlein	<u>By:</u>	Tara Schilling
<u>Title:</u>	Assistant Superintendent of Business	<u>Title:</u>	Senior Vice President
<u>Address:</u>	24930 Avenue Stanford	<u>Address:</u>	2355 Crenshaw Blvd., Ste. 200
	Santa Clarita, CA 91355		Torrance, CA 90501
<u>Telephone:</u>	(661) 294-5300	<u>Telephone:</u>	310-212-0363
<u>Email:</u>	nheinlein@saugusUSD.org	<u>Email:</u>	klocke@keenan.com
<u>Attention:</u>	Nick Heinlein	<u>Attention:</u>	Kylie Locke



## EXHIBIT A

### Keenan's Services\*

Keenan will conduct a Threat and Physical Security (TaPS) Assessment for the Saugus Union School District at the following sites:

- Bridgeport Elementary School
- Cedar creek Elementary School
- Emblem Elementary School
- James Foster Elementary School
- Helmers Elementary School
- Highlands Elementary School
- Mountainview Elementary School
- North Park Elementary School
- Plum Canyon Elementary School
- Rio Vista Elementary School
- Rosedell Elementary School
- Santa Clarita Elementary School
- Skyblue Mesa Elementary School
- Tesoro del Valle Elementary School
- West Creek Elementary School

The purpose of the TaPS Assessment is to identify potential security deficiencies and vulnerabilities to property loss, damage, violence, terrorist attacks or disruption of business.

Examples of items assessed during a typical TaPS inspection may include, but are not limited to:

- Exterior lighting
- Utility enclosures
- Landscape and vegetation
- Natural visibility
- Access control
- Perimeter fencing and gates
- Key control
- Money handling procedures
- Doors and locks
- Parking lot security
- Signage
- Alarm systems
- Mechanical surveillance



- Organized security
- Housekeeping
- Visible identification

Keenan TaPS Assessment findings and recommendations are detailed in a comprehensive written report. Keenan TaPS Assessment reports are provided via email in a PDF format. A printed version of the report can also be provided upon request.

Keenan TaPS Assessments are conducted in accordance with California Government Code 6254 (aa) and are considered confidential information.

\*The goal of Keenan's loss control services is to (i) promote safety awareness, (ii) assist in the identification of conditions which may pose a risk of injury, and (iii) provide recommendations and/or suggestions to help mitigate the risks identified. While we are confident that Keenan's loss control services will help you to create a safer environment, we do not suggest that we will be able to identify all risk exposures or that following our recommendations will eliminate all risk of injury or result in improved loss experience.



## EXHIBIT B

### FEE SUMMARY

Keenan will provide the above described Threat and Physical Security (TaPS) Assessment for the Saugus Union School District for a fee of \$17,736.00.

Fee is based on the following sites to be assessed:

- Bridgeport Elementary School
- Cedarcreek Elementary School
- Emblem Elementary School
- James Foster Elementary School
- Helmers Elementary School
- Highlands Elementary School
- Mountainview Elementary School
- North Park Elementary School
- Plum Canyon Elementary School
- Rio Vista Elementary School
- Rosedell Elementary School
- Santa Clarita Elementary School
- Skyblue Mesa Elementary School
- Tesoro del Valle Elementary School
- West Creek Elementary School

An invoice will be generated at the conclusion of the project.

#### Fee includes:

- ◆ Professional Time
- ◆ Preparation and Scheduling
- ◆ Travel Time
- ◆ Follow Up Analytical Report
- ◆ Clerical Support/Word Processing
- ◆ All Expenses Associated with Program

Payment for Services shall be due upon receipt of Keenan's invoice. Any balance not paid within thirty (30) days following the date on the invoice shall be deemed late. Interest on any late payment shall accrue, as of the date of Keenan's original invoice, at the rate of 1½ percent per month, or the maximum interest rate permitted by applicable law, whichever is lower. Keenan has the right to suspend performance of its Services if any balance remains unpaid for more than sixty (60) days from the date of the invoice.

