

AGREEMENT FOR PROFESSIONAL SERVICES

THIS PROFESSIONAL SERVICES AGREEMENT ("**Agreement**") is made and entered into by and between CLOVER ENTERPRISES, INC ("Clover") and HEMET UNIFIED SCHOOL DISTRICT, ("**District**"), to be effective as of enter date ("July 1, 2020"). Enter Clover and District are sometimes referred to in this Agreement as "Party" or, collectively, as the "Parties".

RECITALS

- A. Clover is an athletic trainer engaged in the practice of athletic training.
- B. District owns and operates Hamilton High School, Tahquitz High School, Hemet High School and West Valley High School ("**School**").
- C. School, through the District, has requested athletic training services for student athletes participating in interscholastic athletics ("**Professional Services**").
- D. Clover is especially experienced and competent to provide to the District certain specialized services and advice in connection with the Professional Services ("**Consultant Services**").
- E. District desires CLOVER to provide Consultant Services, and Clover is willing to provide Consultant Services, in accordance with the terms and conditions contained in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the terms, conditions, representations and warranties herein contained, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. **ENGAGEMENT.** Under the terms and conditions set forth herein, District hereby engages Clover, and CLOVER hereby accepts such engagement from District to provide Consultant Services to the District regarding the School's need for Professional Services. CLOVER, through independently contracted athletic trainers shall provide Professional Services to the School. The Professional Services performed by athletic trainers shall ensure the physical safety of student athletes during practice and athletic events held at the School, designated sites contracted by the District, or off-site School commissioned venues. Professional Services provided by said athletic trainers may include, but not be limited to, the following:

- a. Attend practices and sporting events for boys' and girls' sports in the School's athletic programs;
- b. Travel to School's varsity football events;
- c. Assist the School's coaching staff in the selection of proper fitting athletic equipment, when asked to do so;
- d. Assist the School's athletic department in the ordering of proper athletic training supplies;
- e. Mark and inventory the School's athletic training supplies;
- f. Check that the School's coaching staff has appropriate first aid kits, ice, water and supplies for practice and games (home and away), and the access to AED unit assigned to interscholastic program and other locations on campus;

- g. Consult with the School's coaching staff on unsafe practice drills and procedures; advise the Schools' designated Assistant Principal regarding any perceived unsafe practice drills, facilities and/or procedures. Escalate such concern or information to the School's Principal or appropriate District representative as needed.
- h. Work with the School's athletic director to maintain current emergency card information for each student athlete;
- i. Obtain information on preexisting injuries and take appropriate precautions;
- j. Request immediate assistance in emergency situations, including, but not limited to dialing 911;
- k. Assist in coordination of attending physicians and ambulance coverage in emergency situations;
- l. Advise the School's athletic director and an athlete's parents or guardians of a proper professional referral for injuries incurred from participation in the School's athletic programs;
- m. Keep a detailed record of injuries sustained by student athletes and the treatment administered for such injuries;
- n. Inform parents and guardians of all injuries and progress. Suggest further care if necessary;
- o. Provide a qualified replacement, such as a coach with a valid First Aid/CPR/AED card, when Athletic Trainer is unable to attend an event or practice;
- p. Assist School with relaying "Acknowledgment of Risk" information to students and parents/guardians;
- q. Write down and practice an emergency action plan;
- r. Post current emergency phone numbers and emergency procedures; and
- s. Advise the School's coaching staff on current first aid procedures for injuries.

2. **DISTRICT OBLIGATIONS**. Under the conditions set forth herein, District agrees to the following:

a. **Facilities, Equipment and Supplies**. District shall provide suitable facilities, equipment and supplies, which shall meet the needs of student-athletes at the School, within reasonable and customary limits of the athletic training profession, safety of the student- athletes and available facilities. Equipment and supplies shall include an appropriate inventory of athletic training supplies and equipment to be available to meet student needs.

b. **Notice of Needs**. District shall provide CLOVER with four (4) weeks prior written notice of any change in the School's needs so CLOVER can secure appropriate staffing.

c. **Emergency Action Plan**. District shall provide CLOVER with a copy of the applicable written emergency action plan prior to the beginning of any Professional Services.

d. **Coordination with Athletic Trainer**. District shall coordinate with the athletic trainer provided by CLOVER as part of the Consultant Services in order to schedule Athletic Trainer's performance of Professional Services.

e. **Safety Compliance**. The District is subject to all relevant requirements, laws and regulations regarding student athlete safety and hereto agrees to cooperate in accordance with the terms and intent of this Agreement for implementation of relevant

law(s) and/or regulation(s) promulgated regarding student athlete safety. The District further agrees that it shall be in compliance, and shall remain in compliance with safety requirement, including but not limited to CIF 503H, AB 25, AB 2009 and AB 2127, and the laws and regulations promulgated subsequent hereto, as may be amended from time to time."

3. CLOVER OBLIGATIONS. CLOVER and its independent contractors providing Professional Services pursuant to this Agreement, shall, within thirty (30) days of execution of this Agreement, be:

a. Qualified to provide District with Professional Services in a manner that is consistent with the standards of the profession. Such qualifications shall include National Athletic Trainers Association ("NATA") certified athletic trainers' designation or the equivalent. Professional Services provided by CLOVER through an independent contractor who holds an equivalent certification shall only be provided under the direct supervision of a NATA certified athletic trainer.

b. Appropriately staffed and use CLOVER's best efforts to consistently assign the same individual athletic trainers to the same School.

c. Certified in First Aid, CPR and AED.

d. Trained, through a college or university athletic training program, in the areas, including but not limited to concussion education and heat/acclimatization education.

e. Free of active tuberculosis as evidenced by the submission to an examination with the past sixty (60) days. This requirement shall be consistent with the requirements for school employees, as defined in California Education Code Section 49406.

f. CLOVER shall provide a written statement, in the form and with the content similar to Exhibit "A", that CLOVER has completed the criminal background check requirements of California Education Code Section 45125.1 and that none of its independent contractors that may come into contact with District student-athletes have been convicted of a violent felony listed in California Penal Code Section 667.5(c) or a serious felony listed in California Penal Code Section 1192.7(c).

4. COMPENSATION. As compensation for providing the Consultant Services pursuant to the provisions of this Agreement, District agrees to pay CLOVER those amounts computed in accordance with Exhibit "B" attached hereto and incorporated by this reference, and CLOVER hereby accepts such amounts as full compensation for the performance of Consultant Services by CLOVER hereunder.

5. TERM OF AGREEMENT. This Agreement shall commence on July 1, 2020 and terminate on May 30, 2021 (the "Initial Term"). The term of this Agreement may be extended for successive one-year periods ("Extension Terms") and, collectively with the Initial Term (the "Term"), upon notice by either Party of request for extension to the other no later than sixty (60) days prior to the expiration of the then-applicable Term as provided below. Both Parties must agree in writing to extend the Term.

6. TERMINATION.

6.1 **Termination For Cause.** This Agreement may be terminated by District at any time for cause upon seven (7) calendar days advance written notice to CLOVER. In the event of termination, payment for the aforementioned Consultant Services provided will be prorated to the actual date of termination of this Agreement, based upon a thirty (30) day month. A termination is for cause if CLOVER:

- (a) Habitually neglects the Consultant Services which he or she is required to perform hereunder;
- (b) Demonstrates behavior substantially incompatible with the goals, objectives or business interests of the District/School; or
- (c) Is insolvent

In any such case, District may terminate this Agreement by giving written notice of termination (which notice shall set forth in reasonable detail the circumstance or problem providing grounds for termination) to CLOVER, which termination shall be effective immediately upon receipt (except as provided below), and which termination shall be without prejudice to any other remedy to which District may be entitled either by law or in equity, or under the terms of this Agreement.

This Agreement may be terminated by CLOVER for cause, if District materially breaches any of the terms and conditions hereof. As used herein, "material breach" shall include, without limitation, the failure of District to pay any compensation due to CLOVER within thirty (30) days of the date the same has been quantified and is due and payable.

6.2 **Termination Without Cause.** Either Party to this Agreement may terminate the Agreement by providing the other Party sixty (60) days' written notice.

7. **CLOVER'S RIGHT TO SELL BUSINESS.** Nothing in this Agreement shall limit or preclude Clover's ability to sell or transfer ownership of Clover Enterprises, Inc., to a third-party entity.

8. **CERTIFICATIONS, REPRESENTATIONS and WARRANTIES.** Clover makes the following certifications, representations, and warranties for the benefit of the District, and Clover acknowledges and agrees that the District, in deciding to engage Clover pursuant to this Agreement, is relying upon the truth and validity of the following certifications, representations and warranties and their effectiveness through the term of this Agreement and the course of Clover's engagement hereunder:

a. Clover is qualified in all respects to provide to the district the Consultant Services contemplated by this Agreement and, to the extent required by any applicable laws, Clover has all such licenses and/or governmental approvals as would be required to carry out and perform such Consultant Services for the benefit of the District.

b. Clover, in providing the Consultant Services and in otherwise carrying out its obligations to the District under this Agreement, shall, at all times, comply with all applicable federal state and local laws, rules, regulations, ordinances and standards, as well as the standards and requirements imposed upon the District by federal and/or state agencies providing funding to the District and by the California Interscholastic Federation ("CIF").

c. Clover shall abide by the District's tobacco-free environment. Smoking or the use of any tobacco products are prohibited in buildings and vehicles, and on any property owned, leased or contracted for by the District.

d. Clover, and Clover's staff, shall at all times comply with the provisions and requirements of the Drug-Free Workplace Act of 1990 (Government Code Section 8350 et. seq.).

e. Clover shall at all times enforce appropriate discipline and good order for itself and among its independent contractors and shall not employ or work any unfit person or anyone not skilled in providing the Professional Services required under this Agreement. Any person in the employ of the Clover, or an agent thereof, whom District, in its sole discretion, may deem incompetent, unfit, intemperate, troublesome or otherwise undesirable shall be excluded from providing Professional Services under this Agreement.

f. Clover, and Clover's independent contractors, shall at all times follow the instructions and directions of District staff during a school campus emergency or during a school campus emergency practice drill, as to evacuation, assembly, emergency care, protection of persons and property, and ingress and egress to the campus. At any time, it becomes necessary for the athletic trainer to request emergency services while on District property, such services shall be requested by calling 9-1-1. Athletic trainer shall immediately notify the site administrator that 9-1-1 emergency services have been requested.

9. **CONFIDENTIALITY.**

a. Clover agrees not to use or further disclose any protected health information, as defined in 42 CFR Part 164, or individual health information as defined in 42 CFR Part 142 (collectively, "PHI"), concerning a student-athlete unless permitted by this Agreement and applicable federal and state privacy and security laws and regulations, including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). In addition, Clover will implement appropriate safeguards to prevent the use and disclosure of a student-athletes PHI beyond the scope of what is provided for by this Agreement and permitted under the law.

b. Clover agrees not to disclose any student information in a manner which would violate the Family Educational Rights and Privacy Act ("FERPA"). In addition, Clover will implement appropriate safeguards to prevent the use and disclosure of a student-athlete's educational records beyond the scope of what is provided for by this Agreement and permitted under the law.

c. Clover is subject to all relevant requirements contained in HIPAA, and the laws and regulations promulgated subsequent thereto. Clover hereto agrees to cooperate in accordance with the terms and intent of this Agreement for implementation of relevant law(s) and/or regulation(s) promulgated under HIPAA. Clover further agrees that it shall be in compliance and shall remain in compliance with the requirements of HIPAA, and the laws and regulations promulgated subsequent hereto, as may be amended from time to time.

10. **CHILD ABUSE REPORTING.** Clover shall establish a procedure acceptable to District to ensure that all independent contractors performing Professional Services under this Agreement report child abuse or neglect to a child protective agency as defined in California Penal Code Section 11166.

11. **NON-DISCRIMINATION.** Clover shall not discriminate against any person in the provision of Professional Services, or employment of persons on the basis of ethnic group identification, national

origin, religion, age, sex or gender, race, color, ancestry, sexual orientation, physical or mental disability, or any characteristic listed, or defined, in Section 11135 of the Government Code or any characteristic that is contained in the prohibition of hate crimes set forth in subdivision (1) of Section 422.6 of the California Penal Code, or any other status protected by law

12. **INDEMNITY.** Clover shall hold harmless and indemnify District, its successors and assigns, from and against all professional and non-professional liabilities, costs, damages, expenses and attorneys' fees resulting from or attributable to any and all acts and/or omissions of Clover arising out of Consultant Services rendered under this Agreement. It is specifically understood and agreed that Clover's indemnification hereunder applies to any acts which result in professional liability and acts which result in non-professional liability. Clover shall be solely responsible for payment of federal, state and local taxes or contributions imposed or required under the social security, worker's compensation, income tax law, any disability or unemployment laws, or retirement contribution of any sort concerning Clover or any employees or agents of Clover and shall hold harmless and indemnify the District from and against any such payments or liability for such payments.

13. **INSURANCE.** Clover, and Clover's independent contractors, at its/their sole cost and expense, shall secure and maintain in full force and effect throughout the term of this Agreement the following types of insurance coverage, with limits as shown, against any liability arising out of this Agreement in the conduct of Consultant and Professional Services:

a. **Workers' Compensation.** Clover certifies that Clover is aware of and will comply with California Labor Code Section 3700 requiring every employer, if applicable, to be insured against liability for workers' compensation or to undertake self-insurance for such liability. If applicable, a certificate evidencing such compliance shall be filed with District, which certificate shall provide that District shall be given thirty (30) days' written notice prior to cancellation of such coverage. If applicable, an endorsement waiving the right of subrogation against the District, its officers, agents, independent contractors and volunteers is required.

b. **Professional Liability Insurance, Sexual Misconduct Liability (including molestation and Website Media Content Liability).** Clover shall obtain Professional Liability insurance on a per occurrence basis with a single limit of One Million Dollars (\$1,000,000); Sexual Abuse Liability insurance on a per occurrence basis with a single limit of Twenty-Five Thousand Dollars (\$25,000). The limits of such insurance shall not limit the liability of Clover. Additional insured endorsements are required for commercial general and property damage policy coverage.

c. **Other Requirements and Acceptable Proof of Insurance.** Insurance companies must be licensed to provide insurance in the State of California and be acceptable to the District. Policy deductibles must be stated for each coverage. All certificates must provide that such insurance shall not be terminated or expire without thirty (30) day prior written notice to District.

d. **Endorsements.** Additional insured endorsements are required for Sexual Misconduct Liability. Additional insured endorsement provisions shall be as follows: San Jacinto Unified School District, its officers, agents, independent contractors and volunteers are added as additional insured under this policy with respect to any matter arising out of, or in any manner connected with the named insured's operations under this Agreement."

14. **INDEPENDENT CONTRACTOR.** It is expressly agreed by the Parties hereto, that Clover is not an employee of the District. The District will not provide Clover with any benefits or perquisites

analogous to those which the District would provide employees. Clover is, and shall at all times be deemed to be, an independent contractor, and shall be responsible for determining the sequence, method, details and manner in which it performs Consultant Services required under the terms of this Agreement. Nothing contained herein shall be construed as creating an employer/employee relationship or a principal/agent relationship between the District and Clover or any of Clover's employees, independent contractors, or agents. Clover exclusively assumes the responsibility for acts of its employees, independent contractors and/or agents when performing the Professional Services under this Agreement. Clover is not eligible for any benefits from the District or for any other items that are not set forth herein.

15. **GENERAL PROVISIONS:**

15.1 **Assignment.** Nothing contained in this Agreement, except for Professional Services provided by independent contractors, shall be construed to permit the assignment or delegation by Clover of any rights or obligations hereunder and such assignment is expressly prohibited.

15.2 **Entire Agreement.** This instrument contains the entire Agreement of the Parties and supersedes all prior agreements and understandings, whether written or oral, between the Parties with respect to the subject matter of this Agreement. It may not be changed orally but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification, extension or discharge is sought.

15.3 **Severability.** If any term, covenant, or condition of this Agreement or the application thereof to any person or circumstance shall be invalid or unenforceable, the remainder of this Agreement and the application of any term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and all other terms shall be valid and enforceable to the fullest extent permitted by the law.

15.4 **Notices.** Any and all notices between the Parties desired or required to be given under the terms of the within Agreement or by law shall be in writing and shall be deemed duly served when personally delivered to the other party, or, in lieu of such personal service, three (3) days following the date when deposited in the United States mail, postage prepaid, addressed to the other party.

CLOVER:

Clover Enterprises Inc.
6185 Magnolia Ave., Suite 331
Riverside, CA 92506
Phone: (909) 641-1711
E-mail: jimclover1@me.com

DISTRICT:

Hemet Unified School District
Atten: Deputy Superintendent Business Services
1791 W. Acacia Ave.
Hemet, CA 92545

15.5 **Arbitration.** Any controversy between Clover and the District involving the construction or application of any of the terms, provisions, or conditions of this Agreement, shall, on the written request of either Party served upon the other, be submitted to binding arbitration and shall be governed by the provisions of the California Arbitration Act. Any such arbitration proceeding shall be administered by the Inland Empire offices of Judicial Arbitration Mediation Services ("JAMS") and shall be determined by one of its panel arbitrators, whose decision shall be final and conclusive upon the Parties. Unless prohibited by applicable law, the cost of arbitration shall be borne equally by the Parties, except as otherwise provided in Section 14.6 below.

15.6 Attorney Fees. Should either Party commence an arbitration and/or legal action or proceeding against any other party hereto based upon the terms of the within Agreement, the prevailing party in such litigation shall be entitled to an award of attorney fees and costs.

15.7 Headings and References. The section headings contained in this Agreement are for convenience only and shall in no manner be construed as part of this Agreement. No amendments or additions to this Agreement shall be binding unless in writing signed by both Parties.

15.8 Venue - Governing Law. This Agreement shall be deemed to have been made and entered into in Riverside County, California. In all matters concerning the validity, interpretation, performance, effect or otherwise of this Agreement, the laws of the State of California shall govern and be applicable.

15.9 State Audit. Pursuant to, and in accordance with, the provisions of Government Code Section 8546.7, or any amendments thereto, all books, records, and files of Clover and Athletic Trainer relating to the performance of this Agreement are subject to examination and audit by the State Auditor of the State of California, at the request of Clover, for a period of three (3) years after termination of this Agreement. Athletic Trainer agrees to preserve such books, records, and files for the audit period.

15.10 Partial Invalidity. The invalidity or unenforceability of any term or provision or any clause of this Agreement shall in no way impair or affect the validity or enforceability of any other provisions of this Agreement, which shall remain in full force and effect.

15.11 Counsel. Each of the Parties hereto has been advised to consult independent legal counsel of his/her or its own choosing relative to the subject matter of the Agreement, and neither is relying on any advice or statements of counsel for the other party hereto in entering into this Agreement. If either Party executes this Agreement and has not sought counsel relative thereto, that party affirmatively represents and warrants that he/she or it is not relying on counsel for the other Party to protect his/her or its legal interest's relative to the subject matter hereof.

15.12 Time of Essence. Time is of the essence with respect to all provisions of this Agreement.

15.13 Conflict of Interest. Clover covenants that it presently has no interest, including but not limited to, other projects or independent agreements, and shall not acquire any such interest, direct or indirect, which are, or which Clover believes to be, incompatible in any manner or degree with the performance of services required to be performed under this Agreement. Clover further covenants that in the performance of this Agreement, no person having any such interest shall be employed or retained by it under this Agreement.

15.14 Non-Waiver. The failure of either Party to insist upon strict performance of any of the terms, conditions, or covenants in this Agreement shall not be deemed a waiver of any right or remedy that either party may have and shall not be deemed a waiver of any right or remedy for a subsequent breach or default of the terms, conditions or covenants herein contained.

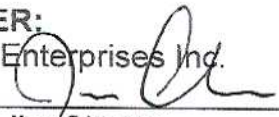
15.15 Counterparts. The Parties may execute this Agreement in two or more counterparts, which shall, in the aggregate, be signed by all the Parties; each counterpart shall be deemed an original instrument as against any Party who has signed it. The Parties further agree that signatures sent by

electronic mail, in .PDF format, shall be treated as original signatures to this Agreement

IN WITNESS WHEREOF, the Parties have hereto set their hands and seals as of the day, month and year first written above.

CLOVER:

Clover Enterprises Inc.

By:  _____

Name: Jim Clover

Its: President

Date: 7/2/2020

Employee Tax ID Number: 33-0797117

Hemet Unified School District

By: _____

Name: _____

Its: _____

Date: _____

EXHIBIT "A"

CLOVER FINGERPRINTING REQUIREMENTS

With respect to the Agreement dated July 1, 2020 by and between the Hemet Unified School District ("**District**") and the Clover Enterprises, Inc., ("**Clover**") for Consultant Services, Clover hereby certifies to the governing board that it has completed the background check requirements of California Education Code Section 45125.1 and that none of its independent contractors that may come in contact with District student-athletes have been convicted of a violent felony listed in California Penal Code Section 667.5(c) or a serious felony listed in California Penal Code Section 1192.7(c).



Jim Clover, M.Ed., ATC, PTA, CES

7/2/2020

Date

EXHIBIT "B"

CLOVER'S COMPENSATION

A. The DISTRICT agrees to make payment for the aforementioned professional services in the amount of sixty-eight thousand, two hundred, forty-four dollars and sixty-six cents (\$68,244.66) for each athletic trainer for each school to be paid in eleven (11) equal installments of six thousand, two hundred, four dollars and six cents (\$6,204.06) for each athletic trainer, the first (1st) day of each month commencing with August 1 (1st), 2020 and ending with June (30), 2021. Total of two hundred, seventy-two thousand, nine hundred, seventy-eight dollars and sixty-four cents (\$272,978.64). *The start and stop of the contract will depend on the starting of sports, not to exceed the 11 months.* Invoices are net 45 days. after 45 days, a 3% finance charge will be assessed.

B. Regular Athletic Program

During weeks when the School is either preparing for or conducting, interscholastic athletics, Clover shall be compensated for Consultant Services at a minimum of thirty-five (35) hours per week (Monday through Saturday), for the length of the contract.

C. Additional Services

District agrees to compensate Clover for Additional Services for day-long tournaments and matches, large multi-school track meets, etc. not included in Section .A., Section B., and Section C. (above), based on the rates below, which includes the cost of all Consultant Services, applicable taxes, and materials to be provided pursuant to this Agreement.

ATHLETIC PROGRAM	COMPENSATION RATE \$41.63 hr.
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