

**INTERNET FUNDRAISING AGREEMENT
BLAST ATHLETICS LLC
AND
ALVORD UNIFIED SCHOOL DISTRICT**

THIS INTERNET FUNDRAISING AGREEMENT (“**Agreement**”) is made and entered into effective as of _____, 2021 (“**Effective Date**”), by and between ALVORD UNIFIED SCHOOL DISTRICT, a public agency of the State of California (“**District**”), and BLAST ATHLETICS LLC, a Delaware limited liability company (“**Provider**”).

WHEREAS, Provider produces Internet-based fundraising (commonly known as “crowd funding”) to elementary, middle and high school sports teams, clubs, cheer and band (“**Teams**”), and

WHEREAS, the Board of Education (“**Board**”) of the District desires to contract with Provider to provide its crowd funding services and Provider desires to render such services pursuant to the terms of the Agreement.

OPERATIVE PROVISION

NOW, THEREFORE, in consideration of the above recitals and of the covenants and agreements contained herein, the parties hereto agree as follows:

1. **Term.** The term of this Agreement (“**Term**”) shall commence on the effective Date and terminate on _____, 20__, unless terminated earlier pursuant to **Section 11** hereof.

2. **Services.**

2.1 **Platform Housing.** Provider will supply and host a secure online platform (“**Platform**”) for the purposes of fundraising. This Platform is to be branded and populated by each of the District’s schools set forth in the attached Exhibit “A” (“**School**”). Through the Platform, each School Teams can receive donations online from potential donors. Teams can choose to enter the email addresses and/or cell phone numbers of these potential donors into the Platform. Provider will then send requests for donations to the entered contacts. This request contains a link that directs the recipient to the Teams webpage, which further explains the fundraiser and collects any donations.

2.2 **School Platform Advertisements.** Provider will allocate advertising space within the Platform for the Teams to sell to local advertisers. School will have the authority to approve, deny, or request revisions to uploaded advertisements before any advertisements appear on the School Platform.

2.3 **Revenue Sharing.** Donations and advertising revenue derived from the services as described in **Sections 2.1** and **2.2** above (“**Services**”) shall be shared between Provider and District in accordance with the revenue-sharing schedule set forth in **Section 5**.

2.4. Student Data to be Requested. In connection with its performance of the Services, Provider will request the following data from each Teams member:

- student name,
- date of birth,
- email address,
- school,
- telephone number,
- team(s) or club(s),
- profile photo, and
- the name, telephone number and email address of potential sponsors.

3. **District Responsibilities.**

3.1. Provide Data. School will provide and upload information of the School Teams and its members and non-advertisement material to be published on the School Platform (“**District Content**”), in compliance with all applicable federal law and the Family Educational Rights and Privacy Act of 2001 (20 U.S.C. §1232g) and its implementing regulations (34 C.F.R. 99) (hereinafter referred to collectively, as “FERPA”).

3.2. Precautions. District shall take reasonable precautions to secure usernames, passwords, and any other means of gaining access to the School Platform and hosted data.

3.3. Notification of Unauthorized Access. District will notify Provider promptly of any known or suspected unauthorized access. District will assist Provider in any efforts by Provider to investigate and respond to any unauthorized access.

4. **Provider Representations and Warranties.** Provider represents and warrants as follows:

4.1. Student Privacy and Online Protection Laws. Provider will comply with all applicable federal and state laws, regulations and rules pertaining to its performance of this Agreement, which may include, but are not necessarily limited to FERPA, the Children’s Online Privacy Protection Act (“COPPA”) (15 U.S.C. §6501-6508) and its implementing regulations (16 C.F.R. 312), the Protection of Pupil Rights Amendment (“PPRA”)(20 U.S.C. §1232h) and its implementing regulations (34 C.F.R. 98), California Education Code §49073.1 (AB1584), and the Student Online Personal Information Protection Act (“SOPIPA”), California Business and Professions Code §22584-22585). The foregoing laws and regulations are hereinafter referred to, collectively, as “**Student Privacy and Online Protection Laws**”

4.2 Authorized Use. The data shared under the Agreement will be used for no purpose other than which is required or specifically permitted by this Agreement or by the Student Privacy and Online Protection Laws.

4.3 Employees. Provider will require all of its employees and agents to comply with all applicable provisions of the Student Privacy and Online Protection Laws with respect to the District Content and data shared under this Agreement. Provider agrees to require and maintain an appropriate confidentiality agreement from each employee or agent with access to this information pursuant to this Agreement.

4.4 Secure Environment. Provider will maintain all data obtained pursuant to this Agreement in a secure computer environment and not copy reproduces or transmit data obtained pursuant to this Agreement except as necessary to the performance of this Agreement and not prohibited by law. Provider will at all times have security measures in place, meeting or exceeding industry standard, to protect against loss misuse and alteration of the data under Provider's control. When the School Platform is accessed using a supported web browser, Secure Socket Layer ("SSL") or equivalent technology, it will protect information, using both server authentication and data encryption consistent with industry standards to help ensure that data is safe, secure and available only to authorized users. Provider will host the Service in a secure server environment that uses a firewall and other advanced technology in an effort to prevent interference or access from outside intruders. Use of the School Platform will require unique account identifiers, usernames and passwords that must be entered each time a client or user signs on. Provider's servers are located in the United States and shall remain so throughout the Term of this Agreement.

4.5 Disposition of Data. Provider shall dispose of all personally identifiable data obtained under this Agreement when it is no longer needed for the purpose for which it was obtained. Provider will transfer said data to the District or its designee, according to a schedule and procedure as the parties may reasonable agree Nothing in the Agreement authorizes Provider to maintain personally identifiable data obtained under the Agreement beyond the time period reasonably needed to complete the disposition. Disposition shall include (1) the shredding of any hard copies of any Pupil Records; (2) Erasing data from its servers; or (3) Otherwise modifying the personal information in those records to make it unreadable or indecipherable. Nothing in the Agreement authorizes Provider to maintain personally identifiable data beyond the time period reasonably needed to complete the disposition.

4.6 Data Breach Notification. If Provider becomes aware of any unauthorized access or use of student data, Provider shall provide notification to the District within a reasonable amount of time of the suspected incident. Provider shall promptly investigate the incident and provide District with detailed information regarding their findings, including the identity of affected users, the type of information obtained, a general description of the incident, and what Provider has done to protect those individuals from future breaches. At the request and with the assistance of the District, Provider shall notify the affected parent, legal guardian or eligible pupil of the unauthorized access.

4.7 Data is Property of District. All information, data, and other content transmitted by the District to the Provider, remain the sole property of the District unless transferred to a personal account as provided herein. The District retains exclusive control over student and staff data, including determining who may access data and how it may be

used for legitimate authorized purposes. Provider has established reasonable procedures by which a parent, legal guardian, or eligible student may review personally identifiable information in the pupil's records and correct erroneous information. Provider shall respond in a reasonably timely manner to the District's request for personally identifiable information in a pupil's records held by the Provider to view or correct as necessary. Upon creation of a user account on Provider's website, pupil's parent or legal guardian will have retained possession and control of their own pupil-generated content/data and may transfer it to a personal account.

4.8 Data Access. Provider may access District data solely to fulfill its obligations under this Agreement.

4.9. Third Party Access. Provider will not distribute District data or District Content to a third party without District's express written consent, unless required by law. Use of subcontractors and subcontractor access to data must be approved in writing by the District prior to access. Provider will ensure that approved subcontractors adhere to all provisions of this Agreement and sign an appropriate confidentiality agreement.

4.10 Third Party Request. Should a third party, including law enforcement and government entities, contact Provider with a request for District data or District Content, the Provider shall redirect the third party to request the data directly from the District. Provider shall notify the District in advance of compelled disclosure to a third party unless legally prohibited.

4.11. Applicability of COPPA. Provider warrants to District that all data collected directly from children and/or data resulting from tracking children's use of the service is subject to parental consent and will occur in strict conformity to the requirements of COPPA. Provider will obtain such parental consent, unless expressly agreed to otherwise by the parties. Provider may not sell or market student data, or use student data for sale or marketing purposes without express parental consent.

4.12. Advertisements. Provider will ensure that all advertisements placed on the Platform are school appropriate. Provider shall not place any advertisements on the Platform that involve alcohol, tobacco, drugs, gambling, erotic behavior and/or depictions, anything that could reasonably be deemed inappropriate for minors, or anything that violates any criminal or civil law.

4.13. Availability. Provider will make every reasonable effort, no less than industry standard, to provide continuous access to the Platform twenty-four (24) hours per day, seven (7) days per week, subject only to reasonably required outages for routine preventive maintenance and events outside the control of Provider that could not reasonably have been anticipated, such as general Internet outages and equipment failures not within Provider's environment. District will be notified at least thirty (30) days in advance if scheduled outages are required for preventive maintenance. Should any unanticipated interruption of service occur, District will be notified as quickly as possible and Provider will estimate to the best of its ability the expected duration of the outage.

4.14. Accessibility. Provider will ensure that at all times during the Term the Platform will be accessible to persons with disabilities in compliance with the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, any applicable rules and regulations promulgated thereunder, and any Office of Civil Rights guidance letters applicable to public educational entities, which, collectively as of the Effective Date and for purposes of this Agreement, require accessibility consistent with the Web Content Accessibility Guidelines (WCAG) 2.0 Level AA offered by the World Wide Web Consortium (W3C).

4.15. General Representations. Provider warrants that (i) Provider has the full power, rights, and authority to enter into and perform this Agreement and to grant the rights granted to District herein; (ii) The Services and the Platform, and the use thereof by District and its employees, students, and agents as authorized under this Agreement, will not violate or infringe upon the rights of any third party, including without limitation, any patent rights, trademark rights, trade secret rights or other proprietary rights of any kind; and (iii) The Services and the School Platform will conform to the performance standards and specifications set forth in the documentation thereto out sales presentations, and the criteria set forth in any applicable statement of work, and the functionality of the School Platform will not be decreased.

5. Financial Provisions.

5.1. Donation Percentages. Donations collected online through the Services by the Provider are subject to the following revenue-sharing schedule. Revenue-sharing percentages in the schedule below are applied to gross revenues/donations. No fees will be charged to, or deducted from the below percentage of the District. Donors may be responsible for certain fees as indicated below.

5.1.1 Initial Donations – 82% to District, 18% to Provider

5.1.2 Recurring Donations – 90% to District, 10% to Provider, Donor pays merchant services fees. Donors must select “recurring donations” at the time of their Initial Donation.

5.1.3 Email Advertisement Sale by District – 82% to District, 18% to Provider.

5.1.4 Email Advertisement Sale by Provider – 25% to District, 75% to Provider.

5.1.5 Fundraiser Participation Buy-Out - 95% to District, 5% to Provider

5.2. Payouts. Payouts are scheduled with WePay Bank, by the District, in the form of a check or direct deposit.

5.3. Right to Audit. The District reserves the right to audit and inspect the Provider’s compliance with this Agreement and applicable law.

6. **Insurance.**

6.1. Provider shall, at Provider's expense, procure and maintain for the duration of this Agreement general liability, workers' compensation, cyber liability, and other insurance to protect against claims in connections with the performance of the Services or this Agreement by Provider and Provider's subcontractors, officers, employees, agents, or representatives.

6.2. The general liability insurance shall have a per-occurrence limit of not less than Two Million Dollars (\$2,000,000). All such insurance will be equivalent to coverage offered by a commercial general liability form, including, without implied limitation, personal injury and contractual liability coverage for the performance by Provider of the indemnity provisions set forth in this Agreement.

6.3. The cyber liability insurance shall have a coverage limit of not less than One Million Dollars (\$1,000,000) per occurrence to cover damages sustained by a third party from the unauthorized access to or theft of data, the unauthorized disclosure or use of personally identifiable information, Business Interruption, Cyber Extortion, and Denial of Services. The cyber liability policy shall cover consumer notification expenses, credit monitoring cost and any other liability, loss or expense of any nature whatsoever arising out of, or related to the unauthorized access to or theft of data, and the unauthorized disclosure or use of personally identifiable information.

7. **Indemnity.** Provider shall indemnify, defend, and hold harmless District and its Board of Education members, officers, employees, and agents from any and all actions, causes of action, claims, demands, costs, liabilities, losses, assessments, fines, penalties, expenses (including reasonable attorneys' fees and other defense costs) and damages arising out of, or in connection with, the alleged errors, omissions, or negligence of Provider or Provider's officers, agents, contractors or employees in the performance of this Agreement. This indemnity shall survive termination of this Agreement.

8. **Arbitration.** Any controversy or claim relating to this Agreement (whether contract, tort, or both), or the breach of this Agreement, will be arbitrated by and in accordance with the then existing arbitration rules of JAMS Mediation, Arbitration, and ADR Services at their office in Orange, CA. The proceedings will be tried by an arbitrator that is agreed upon by both parties. If the parties fail to agree on an arbitrator, the parties will notify JAMS Mediation, Arbitration, and ADR Services and an arbitrator will be appointed.

9. **Delivery of Notices.** All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

PROVIDER

Blast Athletics LLC
14151 Newport Avenue #200
Tustin, CA 92780
Attn: Brittany Simmons

DISTRICT

Alvord Unified School District
9 KPC Parkway
Corona, CA 92879
Attn: Dusty Nevatt

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

10. **Conflicts of Interest.** Provider shall not engage in any activity that conflicts with, or has the appearance of conflicting with, the District. Notwithstanding any other provision contained herein, District shall have the right to immediately terminate this Agreement in the event it is determined by District's Designee or the Superintendent of the District that a real or apparent conflict of interest exists that cannot be resolved. Provider agrees to furnish to District upon request, a valid copy of the most recently adopted partnership agreement or by laws of the corporation and also a complete and accurate list of the members of Provider's governing board of directors, or Trustees or Partners as applicable, and to timely update said information as charges in such governance occur. Provider shall avoid any actual or potential conflict of interest on behalf of itself or its employees providing Services hereunder, including, but not limited to employment with District.
11. **Termination.** Except as provided in this Agreement, this Agreement may be terminated by either party for any good faith reason, during the Term of the Agreement by giving thirty (30) days written notice to the other party.
12. **Licensing.** Provider shall, during the term of this Agreement, obtain and maintain all licenses, certificates, permits and approvals of whatever nature that is legally required to provide the services.
13. **Intellectual Property of Provider.** The Services and all technology underlying them are expressly owned and operated by Provider. Unless otherwise noted, the design and content features on the Services, including without limitation: illustrations, product layout and design, icons, navigational buttons, images, artwork, graphics, photography, text, data, audio sound, software, APIs, URLs, and the like, are owned by Provider. The Services, as a whole and in part, are protected by copyright, trademark, service mark, trade name, and other intellectual property and proprietary rights, and all other applicable rights are reserved. Any trademarks, logos, and service marks ("Marks") displayed on the Platform are registered trademarks of their respective owners, are the property of their respective owners, and/or are protected by U.S. and international trademark laws and/or common law. Nothing contained on the Services should be construed as granting, by

implication, estoppel, or otherwise, any license or right to use the Marks without the trademark owner's express written consent.

14. **Jurisdiction.** This Agreement and the terms hereunder shall be governed in accordance with the laws of the State of California without regard to conflict of law principles. District agrees that this Agreement is executed in Orange County, California, and that venue for any action brought to enforce any of the terms and provisions of this Agreement shall be proper only in the Superior Court for the State of California in and for the County of Orange, or if in Federal Court, including bankruptcy court, in the Central District of California.
15. **Entire Agreement.** This Agreement constitutes the entire and only contract between the parties with respect to the subject matter hereof, and includes all changes, addenda, and other modifications to date, and supersedes any prior proposals, quotations, representations, understandings, correspondence or agreements and cannot be modified, altered, amended, or changed, except by an instrument in writing signed by each of the parties hereto. In the event of a conflict between this Agreement and any terms of service, terms of use, or privacy policy of Provider, the terms of this Agreement shall control.
16. **Severability.** Should any provision of this Agreement be found by a court of competent jurisdiction to be invalid, the remaining provisions shall be enforced as in full force and effect. Should any word, phrase, or provision be bound by a court of competent jurisdiction to be invalid, Provider and District agree that only those words, phrases or provisions that create the conflict with applicable law shall be stricken and the remainder of the words, phrases or provisions of the affected Section and of this Agreement shall remain in full force and effect.
17. **Modification.** No change or modification of this Agreement shall be deemed valid unless set forth in writing and signed by both parties. If any actual or physical deletions or changes appear on the face of the Agreement, they shall be void and of no effect.
18. **Construction of Agreement.** This Agreement will be liberally construed to effectuate the intention of the parties with respect to the transaction described herein. In determining the meaning of, or resolving any ambiguity with respect to, any word, phrase or provision of this Agreement, neither this Agreement nor any uncertainty or ambiguity herein will be construed or resolve against either party (including the party primarily responsible for drafting and preparation of this Agreement) under any rule of construction or otherwise, it being expressly understood and agreed that the parties have participated equally or have had equal opportunity to participate in the drafting hereof.
19. **Waiver.** No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a party shall give the other party any contractual rights by custom, estoppel, or otherwise.

20. **Headings.** The headings of sections of this Agreement have been inserted for convenience of reference only and shall not affect the interpretation of any of the provisions of Agreement.
21. **Attorneys' Fees.** In the event of any action or proceeding to enforce or construe any of the provisions of this Agreement, the prevailing party in any such action or proceeding shall be entitled to attorneys' fees and costs.
22. **Further Assurances.** Each of the parties shall execute and deliver any and all additional papers, documents, and other assurances, and shall do any and all acts and things reasonably necessary in connection with the performance of their obligations hereunder and to carry out the intent and agreements of the parties hereto.
23. **Assignment.** Provider shall not assign this Agreement or any interests therein without the prior written approval of the District. Any such attempt to assign or sublet this Agreement without District approval shall be invalid.
24. **No Third-Party Benefit.** It is expressly understood and agreed that this Agreement is entered into solely for the mutual benefit of the parties hereto and that no benefits, rights, duties, or obligations are intended or created by this Agreement as to third parties not a signatory hereto.
25. **Authority.** Provider has all requisite power and authority to conduct its business and to execute, deliver and perform the Agreement. Each party warrants that the persons who have signed this Agreement have the legal power, right and authority to make this Agreement and bind each respective party.
26. **Incorporation of Exhibits.** Any and all exhibits attached and referred to in this Agreement are incorporated herein as though fully set forth in this Agreement. In the event that the provisions of any exhibit conflict with the terms of this Agreement, the terms of this Agreement shall control.
27. **Counterparts.** This Agreement may be executed in any number of counterparts each of which shall be an original, but all of which shall constitute one and the same instrument.
28. **Education Code §17604.** In accordance with Education Code §17604, this Agreement is not valid or an enforceable obligation against the District unless and until it has been approved or ratified by the governing board, the approval or ratification to be evidenced by a motion of the board duly passed and adopted.
29. **APPROVED SIGNATURE.** THIS AGREEMENT IS NOT VALID OR AN ENFORCEABLE OBLIGATION AGAINST THE DISTRICT UNTIL SIGNED BY THE SUPERINTENDENT OR THE SUPERINTENDENTS' APPROVED DESIGNEE.

WITNESS WHEREOF, the parties have executed this Agreement as of the effective date

BLAST ATHLETICS LLC,
A Delaware Limited Liability Company

ALVORD UNIFIED SCHOOL
DISTRICT

Signature

Signature

Thomas Powell_____

Print Name

CEO_____

Title

Print Name

Title

EXHIBIT “A”

Participating District Schools

**Hillcrest High School
La Sierra High School
Norte Vista High School
Arizona Middle School
Loma Vista Middle School
Villegas Middle School
Wells Middle School**