

Memorandum of Understanding between Advance and the Kentucky High School Athletic Association

This Memorandum of Understanding (“MOU”) is made this ____ day of _____, 2023 by and between Advance NIL, LLC (“ADVANCE”) and the Kentucky High School Athletic Association (“KHSAA”) (collectively “Parties”), shall serve to govern this relationship until December 4th, 2024 unless earlier terminated as provided herein.

The Parties wish to partner in delivering education (“NIL Education”) to students and families who participate in KHSAA activities. The NIL Education shall include, but not be limited to, a mobile learning and internet-based application (the “App”), educational webinars and in-person group workshops, where appropriate, focusing on delivering education to the High School community on the topic of Name, Image and Likeness.

- A. To further the mutual goals of ADVANCE and the KHSAA, the responsibilities of ADVANCE shall be as follows:
1. ADVANCE shall use its expertise to provide the App customized for the families and students within the KHSAA.
 2. ADVANCE shall partner with KHSAA to deliver through the App any regulatory or educational information the leadership of KHSAA deems appropriate and timely for families and students to know.
 3. ADVANCE shall consult with KHSAA on the topic of name, image and likeness as KHSAA works to ensure knowledge and understanding of the industry for its member schools, administrators, staff and coaches.
 4. ADVANCE will provide complimentary access to the App to all High School athletic directors in the KHSAA (\$80/year per subscription value).
 5. ADVANCE will provide one (1) complimentary 45-60 minute webinar in January 2024 for all athletic directors and coaches (\$2,000 value). This session can be recorded and shared with those athletic directors and coaches who are unable to attend on the original date. Should KHSAA decide that they would like ADVANCE to conduct future sessions for athletic directors and coaches, those additional sessions shall be charged at a rate of \$1,000/session (50% discount).
 6. ADVANCE will provide one (1) complimentary 45-60 minute webinar in February 2024 for parents/guardians and student-athletes (\$2,000 value). This session can be recorded and shared with those who are unable to attend on the original date. Should KHSAA decide that they would like ADVANCE to conduct future sessions for parents/guardians and student-athletes, those additional sessions shall be charged at a rate of \$1,000/session (50% discount).
 7. Should KHSAA want to offer additional webinars throughout the year, ADVANCE recommends one webinar per quarter (for a total of 4 sessions throughout the Term), for coaches, student-athletes, and their parents, to provide life skills education, including NIL, and to answer their questions.

8. ADVANCE shall provide the App for \$64/year per subscription (20% discount) for all KHSAA families for the first two months after execution of this MOU.
 9. ADVANCE agrees to engage with KHSAA leadership in planning meetings, conferences and provide on-going support to the KHSAA, as needed.
- B. To further the mutual goals of the Parties, the responsibilities of the KHSAA shall be as follows:
1. KHSAA shall assume all responsibilities reasonably required to effectuate this agreement, including but not limited to, promoting ADVANCE as an NIL education resource for KHSAA and shall provide a link to the ADVANCE website for App downloading on the KHSAA website.
 2. KHSAA shall make reasonable efforts to promote the App to its membership.
 3. KHSAA agrees to make a social media post on all its platforms in the winter of 2023 and 2024, identifying ADVANCE as its partner in providing NIL education and resources.
- C. ADVANCE shall maintain the App content and provide KHSAA with sufficient time for KHSAA to review the App content and raise any questions regarding the content. However, ADVANCE has the final right to determine the App content.
- D. There shall be no up-front payments from either party to the other required as part of this agreement. ADVANCE shall assume all its expenses and shall maintain the right to set the pricing of the App.
- E. ADVANCE and KHSAA will use their best efforts to revisit the concept of App bundling and discounted App pricing as desired by the Parties.
- F. The following statements govern copyright rights associated with the App content:
1. The App may contain two different types of copyrighted materials: (a) pre-existing works owned by either party that are made available for use in the App ("Pre-Existing Works") and (b) new material created specifically for the KHSAA portion of the App ("New Material").
 2. ADVANCE shall be the sole owner of all copyrights and other intellectual property rights for any Pre-Existing Works it provides in the APP and the KHSAA shall be the sole owner of all copyrights and other intellectual property rights for any Pre-Existing Works it contributes to the App. The parties shall jointly own any jointly created New Material.
 3. ADVANCE hereby grants KHSAA a non-exclusive, unassignable, non-sublicensable, royalty-free license to distribute any educational content in a manner limited to, consistent with, and subject to the terms of this MOU.

G. The following statements govern trademark rights associated with the App:

1. The parties anticipate that both parties' trademarks, trade dress and other proprietary material may be used in the creation, production, marketing and distribution of the App content, subject to the terms contained herein ("Promotional Materials"). Prior to the dissemination of any Promotional Materials, KHSAA shall provide a true and correct copy of the material or use to ADVANCE with reasonable time for ADVANCE to review and approve the material. Absent such approval, the Promotional Materials shall not be utilized or disseminated in any way.
 2. KHSAA acknowledges that the trademarks and trade dress of ADVANCE ("the ADVANCE Marks") are the sole property of ADVANCE. KHSAA agrees that, in carrying out its obligations under this MOU, it shall do nothing inconsistent with ADVANCE's ownership of the ADVANCE Marks. KHSAA shall not use such marks without the prior written permission of ADVANCE.
 3. ADVANCE acknowledges that the trademarks and trade dress of KHSAA ("the KHSAA Marks") are the sole property of KHSAA. ADVANCE agrees that, in carrying out its obligations under this MOU, it shall do nothing inconsistent with KHSAA's ownership of the KHSAA Marks.
 4. Each party acknowledges and agrees that the other has the right to monitor and control the use of its proprietary marks to ensure that the use of those marks and any products or services offered thereunder, including any promotional materials associated therewith, conform to standards of quality acceptable to the mark owner. Each party agrees to comply promptly with the requests of the other regarding appropriate uses of the owner's proprietary marks. KHSAA shall not make any use of ADVANCE's Marks absent the prior approval of ADVANCE.
 5. The trademark licenses granted herein shall continue in effect only during the term of this MOU.
 6. Upon termination of this MOU and the licenses granted herein, KHSAA shall immediately remove any and all ADVANCE Marks from all promotional and other materials and cease all use. Further, ADVANCE shall immediately remove any and all KHSAA Marks from all promotional and other materials and shall cease all use.
- H. Each party represents and warrants that it has the capability and the necessary resources to comply with its obligations as set forth in this MOU, and that it has not entered into any agreement with any third party that conflicts with its obligations under this MOU. Further, each party represents and warrants that its contributions to the App

do not infringe any patent, copyright, or trade secret of or otherwise violate the rights of any third party.

- I. This MOU shall commence with the date of this letter written above and shall continue until terminated at the sole discretion of either party on sixty (60) days written notice to the other party. Upon termination, all rights for either party to use Pre-existing Works of the other shall cease.
- J. Each party shall retain the right, both during the term of this MOU and thereafter, to create and market its own education programs, either alone or in conjunction with one or more third parties.
- K. All notices required to be sent to either party shall be in writing and sent by registered or certified mail, postage prepaid, return receipt requested, to the addresses set forth in the MOU. The parties may change their addresses by notices in writing to the other parties. No waiver by any party of a breach or default hereunder shall be deemed a waiver by such party of a subsequent breach or default of a like or similar nature. All rights and obligations created by this MOU which, by necessary implication, continue after its expiration or termination, shall survive such expiration or termination.
- L. This MOU represents the entire understanding of the parties hereto with respect to the subject matter hereof and supersedes all previous representations, understandings, or agreements, written or oral, between the parties with respect to the subject matter hereof. This MOU cannot be modified except by written instrument signed by the parties hereto.

Julian Tackett
Commissioner
Kentucky High School Athletic Association

Luke Fedlam
Managing Partner
ADVANCE NIL, LLC

Date: _____

Date: _____

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2280 Executive Drive
Lexington, KY 40505

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