

**AGREEMENT**

The following shall constitute an agreement (the “Agreement”) by and between Mile High Sports, LLC (the “Station”) of 975 Lincoln Street #201 Denver, CO 80203 which airs programming on AM 1340 KDCO in Denver, CO, and Ben Basham of 6805 Boysenberry Way Colorado Springs, CO 80918 (the “Client”). This agreement supersedes any prior agreement between the parties.

**Recitals**

Station and Client desire to enter into a mutually beneficial arrangement, all upon and subject to the terms and conditions hereof.

1. Services.

- (a) The Station will grant the right, in conjunction with a mutually agreed upon partner, to the Client to perform services in connection with the development, production, selling and airing of a radio program (the “Show”) airing on the Station.
- (b) The Client will have the right to sell advertising time in the Show, as well as any other inventory directly associated with the Show, including but not limited to show naming rights, live reads, segment sponsorships, etc.
- (c) The Client will have the right to sell Station inventory outside of the Show, pending availability and approval, at rates established on the Station’s internal rate card.
- (d) The Station will retain the rights to all inventory that extends across the station above and beyond the Show, including but not limited to studio naming rights, hotline and email inbox sponsorships, etc.
- (e) The Client will be responsible for covering all costs associated with air time, on-air talent and sales staff and materials related to the Show.
- (f) The Station will be responsible for covering all remaining costs associated with airing the Show, including but not limited to all station expenses, board operator, ad trafficking, production and logs. In addition, the Station will be responsible for all general station expenses, including but not limited to studio, transmitter, and internet equipment required for standard broadcasts.
- (g) The Station will generate billing invoice affidavits for ads and promotional content aired on or related to the Show. The Client will be solely responsible for collection of all payables associated with the Show. The Client may include other assets, not related to the Show, as part of marketing, advertising and sponsorship agreements with the Show. The Station is not responsible for the execution of non-radio components of any sponsorship agreements entered into by the Client.
- (h) The Show is defined as a radio program containing sports related content under a mutually agreed upon name. The Show will air Monday - Friday on the Station, typically between 9:00 a.m. and 11:00 a.m. unless pre-empted by play-by-play broadcasts or play-by-play partner broadcasts.
- (i) The Station will be responsible for producing thirty second (:30) promotional ads for the Show that will air on the Station. The Station agrees at a minimum to air a total of twenty-one (21) of the promotional announcements per week for the Show between the

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hours of 12:00 a.m. and 11:59 p.m., excluding during the Show. The Client will have the right to brand or tag sponsors in half of the promotional inventory, except in the case the Client takes full ownership of the show (see Section 5(a)).

- (j) Each hour of the show will follow the Station's standard clock, which consists of four segments. The segments will be separated by four commercial breaks. The four breaks will include up to a total of four minutes of inventory set aside for Station promotions. The remaining promotional time during the breaks shall contain 12 minutes of ad and promotional content. The Client will have the right to sell up to half of the promotional time within those breaks as well as half the "other" inventory as referenced in Section 1(b), except in the case the Client takes full ownership of the show (see Section 5(a)).
  - (k) At the start of each hour, the Show may be required to carry a one-minute national sports update or national commercial inventory as required by the Station's national programming contracts.
  - (l) The Station has the right to not air any ad or other promotional item based on Station's sole discretion including, but not limited to: Advertisers listed on the station's "protected list"; advertisers that are not FCC compliant (marijuana dispensaries and doctors, ads placed with intent to discriminate on the basis of race or ethnicity, etc.); ads or promotional items that could be considered attacking or defamatory towards the Station, its Clients or affiliated partners.
  - (m) During the Show, on-air talent is required to refer to the Station as "Mile High Sports AM 1340 and FM 104.7," "Mile High Sports Radio," "Mile High Sports," or other positioning or branding as reasonably required in the future.
  - (n) The Client is responsible for making sure all on-air talent follows FCC guidelines during the Show. Any fines incurred for on-air violations by the Client or scheduled guests of the client will be the responsibility of the Client. The Client will not be held liable for fines incurred for on-air violations by callers or station-scheduled guests. The Station further assures that all live programming is subject to a 15-second delay and that the station-provided board operator is responsible for monitoring all live programming for potential violations and operating the delay/dump in the event of possible violations.
  - (o) The Client will have access to the on-air studio during the hours of the Show. All production requirements outside of this timeframe will need to be coordinated at a mutually agreed upon time with the Station.
  - (p) The Client will receive a listing for the Show on the Station's website, which may be used to promote the Show and its sponsors.
  - (q) The Station has the right to provide the Show, either in its entirety or in shorter length audio clips, as an on-demand (podcast) product on its website, mobile app, and similar distribution channels.
2. Term. The term of this Agreement shall commence on **October 2, 2017 and continue until September 28, 2018 (52 weeks)**. All monies owed by the Client to the Station, as outlined in Paragraph 5, that are incurred during the term of this Agreement will still be applicable if collected or due beyond the conclusion of the term.
3. Ownership. Both parties agree that the Show is the exclusive property of the Client. All goodwill associated with the Show shall inure to the benefit of the Client, except that the

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Station may use same as samples of the Station's production expertise, and shall be entitled to the goodwill therein for such purposes. The Station will notify the Client of this use.

4. Property Materials. The Station acknowledges that all materials given to the Station by the Client in connection with the Station performance hereunder are proprietary and confidential and may only be used in connection with the Show as approved by the Client.
5. Compensation.
  - (a) The Client will pay the Station a fee in the amount of \$500 per week from October 2, 2017 until October 29, 2017 (four weeks) for the ability to air the Show. That fee will be \$250 per week, so long as a mutually agreed upon partner(s) is currently under contract for the remaining compensation owed to the station.
  - (b) The Client will pay the Station a fee in the amount of \$600 per week from October 30, 2017 until September 28, 2018 (48 weeks) for the ability to air the Show. That fee will be \$300 per week, so long as a mutually agreed upon partner(s) is currently under contract for the remaining compensation owed to the station.
  - (c) The station will produce billing invoice affidavits for the Client's sponsors, as referenced in Section 1(g), and will hold all monies directly collected from the Client's sponsors until the above compensation is received.
  - (d) All monies associated with the Client's sponsors collected by the Station in excess of the aforementioned compensation will be paid by the Station to the Client according to the Station's standard payment schedule, typically the 15<sup>nd</sup> and 30<sup>th</sup> of each month.
  - (e) The Station bills on a Standard Broadcast Calendar monthly basis and all compensation is due NET 30 from date of invoice. The Station has the right to withhold performance of duties associated with the Show and/or require payment in advance due to an outstanding balance, as outlined above, by the Client.
6. Warrants and Representations:
  - (a) The Client is the sole creator of the Show, and it is original and not based on any pre-existing work of art, except for pre-existing material embodied therein, and/or materials supplied by the Client.
  - (b) The Client warrants and represents that it has full right and authority to enter into and perform under this Agreement and to grant the exclusive rights set forth herein to the Station, that the Client has not and will not grant any rights to any third party in derogation of the Station's rights herein.
  - (c) The Station warrants and represents that the Client's fee payments to the Station as provided herein shall constitute payment in full for all such rights and no compensation shall be due any third party in respect of same.
  - (d) The Client further warrants that the Station shall have the exclusive right to develop and produce the necessary elements of the Show set forth in this Agreement during the term hereof and the Station shall not grant any such right to any third party during the term unless at the direction and expense of the Client.

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7. Further Assurances: The Station shall execute any documents and take such further actions as may be reasonably required to carry out the provisions hereof.
8. Independent Contractor: It is expressly understood that the Client is acting as an independent contractor with respect to the Station, and not as a partner, joint venturer, employee or agent, and it is expressly understood that the Client shall not be deemed to act for the Station in any manner.
9. Indemnity: The Client (individually, an "Indemnitor") shall and hereby does indemnify and hold harmless the other and such other's owners, officers, directors, agents and employees (individually, an "Indemnitee") from and against any and all claims, liabilities, losses, damages, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) incurred by an Indemnitee and, directly or indirectly, arising out of or as a result of (a) any breach of this Agreement by the Indemnitor, or (b) any act or omission by the Indemnitor (or any owner, officer, director, agent, employee, or representative of the Indemnitor) in performing any of its obligations under this Agreement.

The Station (individually, an "Indemnitor") shall and hereby does indemnify and hold harmless the other and such other's owners, officers, directors, agents and employees (individually, an "Indemnitee") from and against any and all claims, liabilities, losses, damages, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) incurred by an Indemnitee and, directly or indirectly, arising out of or as a result of (a) any breach of the Agreement by the Indemnitor, or (b) any act or omission by the Indemnitor (or any owner, officer, director, agent, employee, or representative of the Indemnitor) in performing any of its obligation under this Agreement.

10. Termination: Without prejudice to any other rights the Station may have pursuant to this Agreement or otherwise, the Station has the right to terminate this Agreement at any time so long as at least thirty (30) days written notice is provided to the Client. Furthermore, the Client has the right to terminate this Agreement at any time so long as at least thirty (30) days written notice is provided to the Station. If the Client has payments owed to the Station that are beyond 61 days from the date of invoice, the Station does not have to provide thirty (30) days written notice and can cancel the Agreement at any time. Furthermore, the Station reserves the right to cancel this Agreement at any time should the Client demonstrate actions the Station deems, at its sole discretion, grossly negligent to the Station as a whole, or if the Station is sold.
11. Force Majeure: If the Station is unable to provide to the Client any of the benefits to be provided hereunder because of any technical or mechanical difficulty, strike, labor dispute, boycott, riot, war, national emergency, acts of terrorism, disaster, governmental restriction, act of God, or any other cause beyond the reasonable control of the Station, the performance of such benefit shall be excused or postponed at the Station's option, and such performance is excused. Delivery of the Show by the Client shall similarly be subject to such Force Majeure and/or any other cause beyond the Client reasonable control.
12. Construction: This Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement. As used herein, the word "including" shall mean including without limitation.
13. Entire Agreement: This Agreement contains the entire understanding between the parties. Any modification of this Agreement must be in writing signed by both parties hereto to be effective. The failure, at any time, or from time to time, to require performance of any

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obligations or covenants under this Agreement will in no manner affect such party's right to enforce any provision of covenant of this agreement at a subsequent time and a waiver of any right arising out of any breach will not be construed as a waiver of any right arising out of any subsequent breach.

14. Binding Arbitration: This Agreement shall be governed by the laws of the state of Colorado without regard to its conflict of law provisions, which might indicate the applicability of any other state's laws. Any and all controversies or claims arising out of or relating to this Agreement, or the breach thereof, or the interpretation thereof, shall be settled by binding arbitration in Colorado, by filing a claim in accordance with the then effective Commercial Arbitration Rules of the American Arbitration Association, and judgment on the award rendered pursuant to such arbitration may be entered in any court having jurisdiction thereof.
15. Headings: The section headings contained in this Agreement are for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.
16. Confidentiality: The terms of this Agreement shall be kept confidential by the parties and shall not be disclosed to third parties except upon written consent of the other party or as required by law.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the date first above written.

An authorized officer of:  
Mile High Sports Radio, LLC

Ben Basham

Printed: \_\_\_\_\_

Printed: \_\_\_\_\_

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_