

Black Crow Terms of Service

1. ***Introduction.*** Welcome to the Black Crow family of online services. Your use of the Black Crow's online products, software, services, and web sites (referred to collectively as the "Services") is subject to the terms of a legal agreement between you and Black Crow. That agreement is comprised of these Terms of Service, the Black Crow Privacy Policy, and the additional Terms of Service ("Additional Terms") associated with each Service provided by Black Crow and applicable only to that Service. Collectively, this legal agreement is referred to as the "Terms." The term Black Crow, as used herein refers to Black Crow Media Group, LLC, its subsidiaries, affiliates, and related entities.
2. ***Services.*** The terms Services as used herein is defined in paragraph 1 and includes, without limitation, forums, shopping services, search services, email services, links, personalized content and branded programming which may be accessed through any medium or device now known or hereafter developed. You understand and agree that the Services may include advertisements and that these advertisements are necessary for Black Crow to provide the Services. You also understand and agree that the Services may include certain communications from Black Crow, such as service announcements and administrative messages.
3. ***Acceptance of Terms.***
 - a. In order to use the Services, you must first agree to the Terms. You may not use the Services if you do not accept the Terms. You can accept the Terms by:
 - i. Clicking to accept or agree to the Terms, where this option is made available to you in the user interface for any Service; or
 - ii. By actually using the Services. In this case, you understand and agree that Black Crow will treat your use of the Services as acceptance of the Terms from that point onwards.
 - b. You may not use the Services and may not accept the Terms if (a) you are not of legal age to form a binding contract with Black Crow, or (b) you are a person barred from receiving the Services under the laws of the United States or other countries including the country in which you are resident or from which you use the Services.
 - c. Before you continue, you should print off or save a local copy of these Terms for your records.
4. ***Changes to Terms.*** Black Crow may change the Terms from time to time. When these changes are made, Black Crow will post the revised Terms here and any revised Additional Terms within, or through, the affected Services. You understand and agree that if you use the Services after the date on which the applicable Terms have changed, your use constitutes acceptance of the updated Terms.
5. ***Prohibited Conduct.*** You agree that you will not:
 - a. Engage in any activity that interferes with or disrupts the Services or the servers and networks which are connected to the Services, or disobey any requirements, procedures, policies or regulations of networks connected to the Services.
 - b. Use the service for any fraudulent or illegal purpose, or to gather personally identifiable information without prior consent.
6. ***Termination.*** The Terms will continue to apply until terminated by either you or Black Crow. If you want to terminate your legal agreement with Black Crow, you may do so by (a) notifying Black Crow at any time and (b) closing your accounts for all of the Services which you use, where Black Crow has made this option available to you and (c) cease using all Services. Your notice should be sent, in writing, to Black Crow at terms@blackcrow.fm. Black Crow may terminate its

legal agreement with you at any time, in its sole discretion, and with or without notice, including if (i) you have breached any provision of the Terms; (ii) Black Crow is required to do so by law; or (iii) the Services are modified, eliminated, or no longer commercially viable.

7. **Illegal Conduct.** Black Crow reserves the right, in its sole discretion, with or without notice, to investigate, and to involve and cooperate with law enforcement authorities, and to pursue a civil lawsuit or criminal prosecution for any alleged or actual illegal activities involving the Services.
8. **Intellectual Property.** You understand that all information to which you may have access as part of, or through your use of, the Services is the sole responsibility of the person from which such content originated. All such information is referred to as “Content.” All such Content, including but not limited to advertisements in the Services and sponsored Content within the Services, may be protected by intellectual property rights which are owned by the provider of the Content (or by other persons or entities). You may not modify, rent, lease, loan, sell, distribute, copy, or create derivative works based on this Content (either in whole or in part) unless you have been given written permission by the owners of that Content. You acknowledge and agree that Black Crow (or its licensors) own all legal right, title and interest in and to the Services and to the Content created by Black Crow, including any intellectual property rights which subsist in the Services (whether those rights happen to be registered or not, and wherever in the world those rights might exist.)
 - a. **Permission to Use Content.** For information on permission to use content from the Service, please contact Black Crow at (386) 255-9300 or terms@blackcrow.fm.
 - b. **Trademarks.** The trademarks, service marks, and trade names appearing on the Service are the common law or registered trademarks of Black Crow, its licensors, or others. No trademark, service mark, or trade name may be used without the express written permission of the owner.
9. **Contributions.** By submitting ideas, suggestions, documents, and/or proposals (“Contributions”) to Black Crow, you acknowledge and agree that:
 - a. Your Contributions do not contain confidential or proprietary information;
 - b. Black Crow is not under any obligation of confidentiality, express or implied, with respect to the Contributions;
 - c. Black Crow shall be entitled to use or disclose (or choose not to use or disclose) such Contributions for any purpose, in any way, in any media worldwide;
 - d. Black Crow may have something similar to the Contributions already under consideration or in development;
 - e. Your Contributions automatically become the property of Black Crow without any obligation of Black Crow to you; and
 - f. You are not entitled to any compensation or reimbursement of any kind from Black Crow under any circumstances.
10. **Links.**
 - a. **Outgoing.** The Services may include hyperlinks to other web sites or content or resources. Black Crow may have no control over any web sites or resources which are provided by companies or persons other than Black Crow. You acknowledge and agree that Black Crow is not responsible for the availability of any such external sites or resources, and does not endorse any advertising, products or other materials on or available from such web sites or resources. You acknowledge and agree that Black Crow is not liable for any loss or damage which may be incurred by you as a result of the availability of those external sites or resources, or as a result of any reliance placed by you on the completeness, accuracy, or existence of any advertising, products or other materials on, or available from, such web sites or resources.

- b. *Incoming.* You are free to establish a hypertext link to this site so long as the link does not state or imply any endorsement or sponsorship of you, your company, or your site by us. However, you may not frame any of the content of this site without the prior written permission of the Black Crow.

11. ***Third Parties.***

- a. *Targeted Advertising.* Some of the Services are supported by advertising revenue and may display advertisements and promotions. These advertisements or promotions may be targeted to the content of information stored on the Services, queries made by you through the Services, or other information.
- b. *Interactions with Third Parties.* Your correspondence or business dealings with, or participation in promotions of, advertisers found on or through the Services, including payment and delivery of related goods or services, and any other terms, conditions, warranties or representations associated with such dealings, are solely between you and such advertiser. You agree that Black Crow shall not be responsible or liable for any loss or damage of any sort incurred as the result of any such dealings or as the result of the presence of such advertisers on the Services.
- c. *Disputes with Third Parties.* If there is a dispute between members of this site, or between a member and any third party, you understand and agree that we are not liable and are under no obligation to become involved. In the event that you have a dispute with one or more other members or third parties, you release Black Crow, its officers, employees, agents, representatives and successors from any claims, demands and damages of every kind or nature, known or unknown, suspected or unsuspected, disclosed and undisclosed, arising out of or in any way related to such disputes and/or the Services.

12. ***Digital Millennium Copyright Act.*** Black Crow respects the intellectual property of others, and we ask our users to do the same. Black Crow may, in appropriate circumstances and at its discretion, disable and/or terminate the accounts of users who may be repeat infringers.

- a. *Notice.* If you believe that your work has been copied in a way that constitutes copyright infringement, please notify us pursuant to the following policy. Notification of claims for copyright infringement must be in writing and delivered to Heather Bond Vargas, Esquire, Cobb & Cole P.A., 150 Magnolia Avenue, Daytona Beach, Florida 32114. Phone number (386) 255-8171. Facsimile number (386) 255-0093. E-mail address: heather.vargas@cobbcole.com.

All notices must contain:

- (1) A physical or electronic signature on behalf of the copyright owner or claimant;
 - (2) Specific identification of the work allegedly being infringed;
 - (3) Specific identification of the allegedly infringing work that the complainant would like removed, including the location of the material;
 - (4) Complainant's contact information, including name, address, telephone number, and e-mail address;
 - (5) A statement that the complainant has a good faith belief that the use of the material is not authorized by the copyright owner or claimant; and
 - (6) A statement that the information in the notice is accurate, and under penalty of perjury, that the complainant is authorized to act on behalf of the owner or claimant of the copyright.
- b. You understand that the Services and the software embedded or supporting the Services may include security components that permit digital materials to be protected, and that use of these materials is subject to usage rules set by Black Crow and/or content providers who

provide content to the Services. You may not attempt to override or circumvent any of the usage rules embedded in the Services. You may not decompile or disassemble, reverse engineer, or otherwise attempt to discover any source code contained in the Services.

13. ***Affiliate Sites.*** Some of the Services are provided by third party vendors to the Black Crow. To the extent that these Services are outside the Black Crow's control, you acknowledge and agree that these Services constitute third party Content and websites, subject to the provisions of paragraphs 11 and 12 hereof. You acknowledge that some of these Services and pages may bear a Black Crow brand and appear to be Black Crow pages.
14. ***Modification or Cessation of Services.*** You acknowledge and agree that the form and nature of the Services which Black Crow provides may change from time to time without prior notice to you. You acknowledge and agree that Black Crow may also stop, permanently or temporarily, providing the Services (or any features) to you or to users generally at Black Crow's sole discretion, without prior notice to you. You agree that Black Crow shall not be liable to you or to any third party for any modification, suspension, or discontinuance of the Services.
15. ***Reporting Violation of Terms of Services.*** Please report any violation of the Terms to Black Crow at terms@blackcrow.fm.
16. ***Indemnity.*** You agree to indemnify and hold Black Crow harmless from any claim or demand, including reasonable attorneys' fees and costs, made by any third party due to or arising out of Content you submit, post, transmit, or otherwise make available through the Service, your use of the service, your connection to the Service, your violation of the Terms, or your violation of any rights of another.
17. ***DISCLAIMER OF WARRANTIES.*** YOU EXPRESSLY UNDERSTAND AND AGREE THAT YOUR USE OF THE SERVICES IS AS AT YOUR SOLE RISK AND THAT THE SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE." IN PARTICULAR, BLACK CROW, ITS AFFILIATES, AND ITS LICENSORS, DO NOT REPRESENT OR WARRANT TO YOU THAT (a) YOUR USE OF THE SERVICES WILL MEET YOUR REQUIREMENTS; (b) YOUR USE OF THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, OR FREE FROM ERROR; (c) ANY INFORMATION OBTAINED BY YOU AS A RESULT OF YOUR USE OF THE SERVICES WILL BE ACCURATE OR RELIABLE; AND (d) THAT DEFECTS IN THE OPERATION OR FUNCTIONALITY OF ANY SOFTWARE PROVIDED TO YOU AS PART OF THE SERVICES WILL BE CORRECTED. ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES IS DONE AT YOUR OWN DISCRETION AND RISK AND YOU ARE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR OTHER DEVICE OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM BLACK CROW OR THROUGH OR FROM THE SERVICES SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THE TERMS. BLACK CROW FURTHER EXPRESSLY DISCLAIMS ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR CONDITIONS OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR LOSS OR DAMAGE CAUSED BY NEGLIGENCE, BREACH OF CONTRACT OR BREACH OF IMPLIED TERMS, OR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY,

ONLY THE LIMITATIONS WHICH ARE LAWFUL IN YOUR JURISDICTION WILL APPLY TO YOU AND OUR LIABILITY WILL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

18. **LIMITATION OF LIABILITY.** YOU EXPRESSLY UNDERSTAND AND AGREE THAT BLACK CROW, ITS AFFILIATES, AND ITS LICENSORS SHALL NOT BE LIABLE TO YOU FOR:
- a. ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES WHICH MAY BE INCURRED BY YOU, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY. THIS SHALL INCLUDE, BUT NOT BE LIMITED TO, ANY LOSS OF PROFIT (WHETHER INCURRED DIRECTLY OR INDIRECTLY), ANY LOSS OF GOOD WILL OR BUSINESS REPUTATION, ANY LOSS OF DATA SUFFERED, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR OTHER INTANGIBLE LOSS;
 - b. ANY LOSS OR DAMAGE WHICH MAY BE INCURRED BY YOU, INCLUDING BUT NOT LIMITED TO LOSS OR DAMAGE AS A RESULT OF (i) ANY RELIANCE PLACED BY YOU ON THE COMPLETENESS, ACCURACY OR EXISTENCE OF ANY ADVERTISING, OR AS A RESULT OF ANY RELATIONSHIP OR TRANSACTION BETWEEN YOU AND ANY ADVERTISER OR SPONSOR WHOSE ADVERTISING APPEARS ON THE SERVICES; (ii) ANY CHANGE WHICH BLACK CROW MAY MAKE TO THE SERVICES, OR FOR ANY PERMANENT OR TEMPORARY CESSATION IN THE PROVISION OF THE SERVICES (OR ANY FEATURES WITHIN THE SERVICES); (iii) THE DELETION OF, CORRUPTION OF, OR FAILURE TO STORE, ANY CONTENT OR OTHER COMMUNICATIONS DATA MAINTAINED OR TRANSMITTED BY OR THROUGH YOUR USE OF THE SERVICES; OR (iv) YOUR FAILURE TO KEEP YOUR PASSWORD OR ACCOUNT DETAILS SECURE AND CONFIDENTIAL.
 - c. THE LIMITATIONS ON BLACK CROW'S LIABILITY TO YOU SHALL APPLY WHETHER OR NOT BLACK CROW HAS BEEN ADVISED OF OR SHOULD HAVE BEEN AWARE OF THE POSSIBILITY OF ANY SUCH LOSSES ARISING.
19. **Third Party Beneficiaries.** You acknowledge and agree that each member of the group of companies of which Black Crow is the parent is a party to these Terms and that such other companies shall be entitled to directly enforce, and rely upon, any provision of the Terms which confers a benefit on (or rights in favor of) them. Other than this, no other person or company shall be a third party beneficiary to the Terms.
20. **Acknowledgment.** You acknowledge and agree that (1) you have read and understood these Terms of Service; (2) these Terms are fair and reasonable, and not unduly restrictive; and (3) that you have had the opportunity to confer with legal and financial counsel of your choosing regarding these Terms.
21. **Survival.** In the event of termination of this Agreement, the provisions regarding Intellectual Property, Contributions, Dealings with Third Parties, Indemnity, Disclaimer of Warranties, Limitation of Liability, Acknowledgment, Survival, and General Provisions shall survive.
22. **General Provisions.**
- a. **Notices.** Black Crow may provide you with notices, including those regarding changes to these Terms, by email, regular mail, or postings on or through the Services.
 - b. **Waiver.** Any waiver by Black Crow of any breach of, or failure to comply with, any provision of these Terms by you shall be in writing and shall not be construed as, or

constitute, a continuing waiver of such provision, or a waiver of any other breach of, or failure to comply with, any other provision of these Terms.

- c. ***Governing Law; Jurisdiction; Venue.*** This Agreement shall be construed and enforced in accordance with the laws of the State of Florida, without regard to its principles of conflicts of laws. Each party hereby irrevocably and unconditionally consents to submit to the exclusive jurisdiction of the courts of the State of Florida located in Volusia County or the appropriate federal court having subject matter jurisdiction of the dispute and encompassing Volusia County Florida, (the "Florida Courts") for any litigation arising out of or relating to these Terms and the transactions contemplated hereby (and agrees not to commence any litigation relating thereto except in such courts), waives any objection to the laying of venue of any such litigation in the Florida Courts and agrees not to plead or claim in any Florida Court that such litigation brought therein has been brought in an inconvenient forum.
- d. ***Severability.*** Should any one or more of the provisions of these Terms be determined to be illegal or unenforceable, all other provisions shall be given effect separately from the provision or provisions determined to be illegal or unenforceable and shall not be affected thereby
- e. ***WAIVER OF JURY TRIAL. BY EXECUTING THIS AGREEMENT, THE PARTIES HERETO KNOWINGLY AND WILLINGLY WAIVE ANY RIGHT THEY HAVE UNDER APPLICABLE LAW TO A TRIAL BY JURY IN ANY DISPUTE ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT OR THE ISSUES RAISED BY ANY SUCH DISPUTE.***