

Agreement

THIS AGREEMENT is made and entered into this 7 day of November, 2019, (the "Effective Date") by and between Black Crow Media of Valdosta, Station WVGA-FM, News Talk 105.9, ("Black Crow") and, Maria Wells, "Maria's Fit Talk," a local health and fitness show ("Contractor").

WHEREAS, Contractor desires to broadcast its program, as further described herein (the "Program") on one or more Black Crow stations; and

WHEREAS, Black Crow desires to utilize its air time in this fashion, subject to the further terms and conditions hereof.

NOW, THEREFORE, in light of the foregoing, the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Services; Fees. Contractor will broadcast the Program on "Black Crow" on Thursday evenings, from 6:00pm until 7:00pm, at the rate of One-Hundred, Twenty-Five Dollars (\$125.00) per broadcast. Contractor agrees to pay Board Operator directly. Contractor will air a minimum of two shows per month in 2020, with the option to elect a third show, as long as the third show is scheduled in a timely manner. Contractor has the option to omit a scheduled broadcast, giving the station a minimum forty-eight hour notice, for log preparation.
2. Intellectual Property License. Contractor hereby grants to Black Crow a non-exclusive, irrevocable license to (i) broadcast the Program both over the radio and online throughout the Term; (ii) make all episodes of the Program broadcast during the Term available to the public through Black Crow's physical, electronic, and online archives, both during and after the Term; and (iii) to use the trademarks and service marks of Contractor, including but not limited to the name and logo of the Program, to promote the show and in any other manner in accord with the terms and conditions of this Agreement.
3. Non-competition Covenant. Contractor agrees that during the Term, and for a period of one (1) year thereafter, Contractor shall not broadcast the Program on any station which is in the same market as any Black Crow station on which the Program is broadcast. The term "market" as used herein, shall refer to the geographic area in which the station's signal is easily and regularly received without undue interference, but in no event a radius of less than One-Hundred (100) miles from the transmitter.
4. Term. This Agreement shall commence on the Effective Date and continue for a period of one year, unless earlier terminated as provided herein. This Agreement shall then automatically renew for additional one-year terms unless and until terminated as provided

herein. The period from the Effective Date through final termination is herein referred to as the "Term."

5. Termination. Either party may terminate this Agreement upon ten (10) days written notice to the other. Black Crow may terminate this Agreement immediately at any time upon Black Crow's determination that Contractor is not in compliance with any of its obligations, representations, or warranties hereunder.
6. Independent Contractor Representations and Warranties. Contractor represents and warrants that: (i) it will use its best efforts to perform its obligations hereunder in a timely and professional manner; (ii) it is, and shall remain, in compliance with all applicable laws and regulations (including but not limited to all Federal Communications Commission rules and regulations) and with all representations made to Black Crow; (iii) its performance of its obligations hereunder does not violate any agreement with any third party, including but not limited to any agreement regarding confidentiality, protection of trade secrets, prohibitions against engaging in competing business ventures or otherwise; and (iv) the content, materials and intellectual property supplied, utilized, and/or transferred to Black Crow hereunder do not infringe the trademark, copyright, patent, or other rights of any third party.
7. Confidentiality. Contractor acknowledges and agrees that in the course of performance hereunder, Contractor will be provided with or have access to certain confidential and proprietary information of Black Crow. Contractor agrees not to disclose Black Crow's Confidential Information to any third party, or to utilize Confidential Information for any purpose other than as may be reasonably necessary in the performance of Contractor's duties hereunder. The term Confidential Information includes each, every, and all written and verbal information or materials related to Black Crow, including without limitation, this Agreement, Black Crow's finances, contractual obligations, personnel or customer information, or any other information of Black Crow that is not generally available to the public, whether such information is furnished to Contractor by Black Crow or compiled by Contractor in connection with performance of the services hereunder. Contractor agrees that Black Crow shall be entitled, in addition to any other remedies and damages available at law or in equity, to specific performance of this Agreement and to injunctive relief to restrain violation of this Section 7 by Contractor. Pursuit of one remedy by Black Crow shall not preclude pursuit of any and all other remedies to which Black Crow may be entitled. In the event Contractor breaches its obligations under this Section 7, Black Crow shall be entitled to an accounting and repayment of all profits, compensation, commissions, remunerations or benefits which Contractor directly or indirectly has realized and/or could reasonably be expected to realize as a result of, growing out of or in connection with any such breach. Such remedy shall be in addition to, and not in limitation of, any injunctive relief or other rights or remedies to which Black Crow is or may be entitled to at law, in equity, or under this Agreement.

8. **Indemnification.** Contractor agrees to indemnify, defend, and hold harmless Black Crow, its parent and affiliates, and it and their officers, directors, employees, agents, and representatives (collectively, the "Indemnified Parties"), from and against any action brought against one or more of the Indemnified Parties, by any third party, with respect to any claim, demand, cause of action, debt, or liability, including reasonable attorneys' fees, to the extent that such action is based upon, or in any way related to, the services outlined in Exhibit A or the fees paid in association therewith.
9. **Insurance.** During the Term and for a period of at least three (3) years thereafter (which shall be extended in the event that Contractor has been notified of a potential claim hereunder until the claim has been either resolved or withdrawn), Contractor shall obtain and maintain in force a policy of broad form liability insurance which shall specifically include coverage for the risks assumed herein, naming Black Crow, its parent and affiliates, and it and their officers, directors, employees, agents, and representatives as additional insureds (the "Additional Insureds") in a minimum amount of Two Million and no/100 Dollars (\$2,000,000). Such policy of insurance shall be issued by an insurance company authorized to do business in the State of Florida and shall provide that the Additional Insureds shall receive written notice at least thirty (30) days prior to the effective date of any termination or cancellation. Contractor shall provide Black Crow with a certificate of insurance evidencing the required insurance coverage within thirty (30) days of the Effective Date. The limits of this policy do not limit Contractor's liability to the Additional Insureds in any respect.
10. **Limitation on Liability.** Contractor agrees that Black Crow's (including its parent and affiliates, and it and their officers, directors, employees, agents and representatives) entire liability, if any, for any claim(s) for damages relating to this Agreement which are made against Black Crow, whether based in contract, negligence, or otherwise, shall be limited to the amount paid by Black Crow to Contractor for the services. In no event will Black Crow be liable for any consequential, exemplary, incidental, indirect, or special damages, arising from or in any way related to, this Agreement or relating in whole or in part to Contractor's rights hereunder, even if Black Crow has been advised of the possibility of such damages.
11. **Independent Contractor.** Contractor is an independent contractor and nothing in this Agreement is intended nor shall be construed to create an employer/employee relationship, a joint venture relationship, or a partnership relationship.
12. **Acknowledgment.** Contractor acknowledges and agrees that (1) Contractor has read and understood this Agreement; (2) the terms of this Agreement are fair and reasonable, and not unduly restrictive; and (3) Contractor has had the opportunity to confer with legal and financial counsel of Contractor's choosing regarding this Agreement prior to executing same.

13. Survival. Upon termination or expiration of this Agreement, the provisions of paragraphs 2, 3, and 6 through 14 shall survive.

14. General Provisions.

- a. *Entire Agreement.* This Agreement (including the Exhibits) comprises the entire understanding between the parties with respect to, and supersedes any prior understanding or agreement, oral or written, relating to, the subject matter hereof. This Agreement may only be amended by a writing signed by both parties.
- b. *Notices.* All notices, requests, consents and other communication hereunder shall be in writing, shall be addressed to the receiving party's address as listed above or as a party may designate by notice hereunder, and shall be either (i) delivered by hand, (ii) made by e-mail or facsimile transmission, or (iii) sent by nationally recognized overnight courier. All notices, requests, consents and other communications hereunder shall be deemed to have been given (i) if by hand, at the time of delivery thereof to the receiving party at the address of such party set forth above, (ii) if made by e-mail or facsimile transmission, at the time that receipt thereof has been acknowledged by electronic confirmation or otherwise, or (iii) if sent by overnight courier, on the next business day following the day such mailing is made.
- c. *Assignability.* Black Crow may assign this Agreement to anyone without Contractor's consent. Contractor may not assign its obligations hereunder without the express written consent of Black Crow.
- d. **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.**
- e. *Attorneys' Fees.* In connection with any litigation or arbitration arising out of this Agreement, the prevailing party shall be entitled to recover all costs incurred, including reasonable attorneys' fees, whether incurred during settlement, at trial, in arbitration, on appeal, or in any bankruptcy proceeding.
- f. *Severability.* Any term or provision of this Agreement that is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction. If any provision of this Agreement is so broad as to be

unenforceable, such provision shall be interpreted to be only so broad as is enforceable.

- g. *Further Assurances.* The parties hereto shall at any and all times, upon request by the other party, or its legal representative, make, execute, and deliver any and all such other and further instruments as may be necessary or desirable for the purpose of giving full force and effect to the provisions of this Agreement, without charge therefore.
- h. *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.
- i. *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 this Agreement 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.
- j. *Binding Effect.* This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, heirs or legal representatives.
- k. *Counterparts; Headings.* This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.
- l. *Joint Drafting.* If an ambiguity or question of intent arises with respect to any provision of this Agreement, the Agreement will be construed as if drafted jointly by the Parties and no presumption or burden of proof will arise favoring or disfavoring either party by virtue of authorship of any of the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the Effective Date.

Black Crow Media of Valdosta

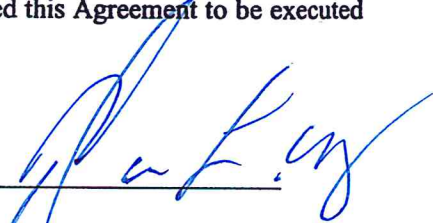
Signature: 
Kim Pelkowski

Print: Kim Pelkowski

Title: General Manager

Date: 11-7-19

Contractor

Signature: 

Print: Maria L. Wells

Title: Program, Owner

Date: Dec. 19, 2019