

Terms and Conditions

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IMPORTANT: PLEASE READ THE FOLLOWING CAREFULLY BEFORE AGREEING TO PARTICIPATE IN THE Shu Uemura USA AFFILIATE PROGRAM. YOUR PARTICIPATION IN THE Shu Uemura USA AFFILIATE PROGRAM IS CONDITIONED UPON YOUR ACCEPTANCE OF ALL THE TERMS AND CONDITIONS CONTAINED IN THIS AGREEMENT. BY SELECTING THE "ACCEPT" BUTTON AT THE BOTTOM OF THE ONLINE APPLICATION, YOU ARE ENTERING INTO A LEGAL AGREEMENT WITH Shu Uemura USA, FORMALLY INDICATING YOUR ACCEPTANCE OF THE TERMS AND CONDITIONS CONTAINED IN THIS AGREEMENT AND YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU DO NOT ACCEPT THE TERMS OF THIS AGREEMENT, DO NOT SELECT THE "ACCEPT " BUTTON AT THE BOTTOM OF THE ONLINE APPLICATION.

1.Introduction

This is the Agreement that will govern your participation in an Engagement through the Impact Radius with Us. Please read this Agreement and check the box on the previous page to digitally sign this Agreement. To print a copy of this Agreement, please use your browser's print command.

1.1. PUBLISHER AGREEMENT

This Publisher Agreement (this "Agreement") is made between you ("You") and us ("We" or "Us"). Neither Impact Radius nor any of its corporate affiliates are parties to this Agreement.

1.2. BACKGROUND

Both parties desire to establish the general terms and conditions which shall govern advertising and commission arrangements between You and Us resulting from our participation in the Impact Radius.

TERMS AND CONDITIONS

In consideration of the promises set forth below, each party agrees as follows:

2. Offers and Engagements

2.1. From time to time, We may post on the Impact Radius offers (each, an "Offer") to pay to other participants a specified commission in return for certain advertising services leading to a Qualifying Link (defined below).

2.2. If You accept one of our Offers, we will have entered into an "Engagement." Each Engagement shall have the same identification number as the original Offer that lead to the Engagement and shall be governed by the terms and conditions of this Agreement. However, in the event of any inconsistency between the terms of the specific Engagement and the terms of this Agreement, the terms of the Engagement shall govern.

2.3. At any time prior to You displaying a Qualifying Link on one of Your websites, Advertiser may, with or without notice (a) change, suspend or discontinue any aspect of an Offer or an Engagement or (b) remove, alter, or modify any graphic or banner ad that we have submitted for an Offer or an Engagement. You agree to promptly implement any request from Us to remove, alter or modify any such graphic or banner ad.

3. Your Responsibilities

3.1. You hereby agree to comply with all applicable laws.

3.2. You hereby agree that the position, prominence and nature of links on the Your site shall comply with any requirements specified in the Engagement, but otherwise will be in Your discretion.

3.2. You agree not to make any representations, warranties or other statements concerning Us, Our site, any of Our products or services, or Our site policies, except as expressly authorized by the Engagement.

3.3. You are responsible for notifying Us and Impact Radius of any malfunctioning of the URLs specified in the Engagement (the "Required URLs") or other problems with Your participation in the Engagement. We will respond promptly to all concerns upon receipt of Your notification.

4. Commissions

4.1. We agree to pay to You the commission specified in the Engagement if We sell to a visitor to Our site (a "Customer") a product or service that is the subject of the Engagement and if that Customer has accessed Our site and purchased the product or service via a Qualifying Link.

4.2. A "Qualifying Link" is a link from Your site to Our site using one of the Required URLs or any other URL provided by Us for use in the Impact Radius if it is the last link to Our site that the Customer uses during a Session where a sale of a product or a service to Customer occurs. A "Session" is the period of time beginning from a Customer's initial contact with Our site via a link from Your site and terminating when the Customer either returns to Our site via a link from a site other than Your site or the Engagement expires or is terminated.

4.3. We shall have the sole right and responsibility for processing all orders made by Customers. You acknowledges that all agreements relating to sales to Customers shall be between Us and the Customer.

4.4. All determinations of Qualifying Links and whether a commission is payable will be made by Impact Radius and will be final and binding on both You and Us. Prices for the products will be set solely Us in Our discretion.

5. Ownership and Licenses

5.1. Each party owns and shall retain all right, title and interest in its names, logos, trademarks, service marks, trade dress, copyrights and proprietary technology, including, without limitation, those names, logos, trademarks, service marks, trade dress, copyrights and proprietary technology currently used or which may be developed and/or used by it in the future.

5.2. We grant to You a revocable, non-exclusive, worldwide license to use, reproduce and transmit the name, logos, trademarks, service marks, trade dress and proprietary technology, as designated in the Engagement or during the registration process in the Impact Radius, on Your site solely for the purpose of creating links from Your site(s) to Our site(s) during Engagements. Except as expressly set forth in this Agreement or permitted by applicable law, You may not copy, distribute, modify, reverse engineer, or create derivative works from the same. You may not sublicense, assign or transfer any such licenses for the use of the same, and any attempt at such sublicense, assignment or transfer is void.

5.3. You grant to Us a non-exclusive, worldwide, royalty-free license to use, reproduce and transmit any graphic or banner ad submitted by You solely for co-branding purposes or as a return link from Our site(s) to Your site(s). We will remove such graphic or banner ad upon Your request.

Shu Uemura USA does not allow any trademark term bidding within any and all pay for placement, paid inclusion and other search engines. These trademark terms include but are not limited to:

Shu Uemura USA
biotherm-usa.com
Shu Uemura USA coupon
Shu Uemura USA discount
biotherm-usa.com coupon
biotherm-usa.com discount

Any affiliates violating this policy may be terminated without notice and forfeit all outstanding and future commissions.

In addition, Affiliate may not claim to be Shu Uemura USA, in any pay-for-placement, paid inclusion or other search engines, and must clearly state the nature of the Affiliate relationship. Affiliates violating this policy may be terminated without notice and forfeit all commissions.

6. Termination

6.1. Either party may terminate any Engagement at any time by deleting their acceptance of the Engagement through the Impact Radius. Termination of an Engagement shall not terminate this Agreement or any other Engagement.

6.2. Either party may terminate this Agreement at any time, for any reason, provided that they provide at least five day's prior written notice of such termination to the other party and the Impact Radius. Termination of this Agreement shall also terminate any outstanding Engagements. However, all rights to payment, causes of action and any provisions which by their terms are intended to survive termination, shall survive termination of this Agreement.

7. Representations

7.1. Each party represents to the other that (a) it has the authority to enter into this Agreement and sufficient rights to grant any licenses granted hereby, and (b) any material which is provided to the other party and displayed on the other party's site will not (i) infringe on any third party's copyright, patent, trademark, trade secret or other proprietary rights or right of publicity or privacy; (ii) violate any applicable law, statute, ordinance or regulation; (iii) be defamatory or libelous; (iv) be lewd, pornographic or obscene; (v) violate any laws regarding unfair competition, antidiscrimination or false advertising; (vi) promote violence or contain hate speech; or (vii) contain viruses, trojan horses, worms, time bombs, cancelbots or other similar harmful or deleterious programming routines.

7.2. EXCEPT FOR THE ABOVE REPRESENTATIONS NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES TO THE OTHER PARTY, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

8. Cross-Indemnification

8.1. Each party hereby agrees to indemnify, defend and hold harmless the other party and its publishers, directors, officers, employees and agents, from and against any and all liability, claims, losses, damages, injuries or expenses (including reasonable attorneys' fees) brought by a third party, arising out of a breach, or alleged breach, of any of its representations or obligations herein.

9. Impact Radius Required Provisions

9.1. Each party jointly and severally agrees to indemnify, defend, and hold harmless Impact Radius and its publishers, officers, directors, employees and agents (collectively, "Impact Radius") from and against any and all liability, claims, losses, damages, injuries or expenses (including reasonable attorneys' fees) directly or indirectly arising from or relating to any Offer, Engagement, any other matter related to this Agreement or the subject matter hereof any dispute relating thereto.

9.2. The parties agree that Impact Radius may rely on any data, notice, instruction or request furnished to Impact Radius by either party which is reasonably believed by Impact Radius to be genuine and to have been sent or presented by a person reasonably believed by Impact Radius to be authorized to act on behalf of one of the parties. In the event of any dispute between the parties, the parties agree that to the extent the parties contact and involve Impact Radius, Impact Radius may consult with and use counsel of its own choice in connection with such dispute and the reasonable fees and disbursements of Impact Radius's counsel shall be within the costs and disbursements covered by the indemnity specified in Section 8.1 above.

9.3. The parties acknowledge and agree that this Agreement and the Engagements are only made possible due to Impact Radius and that the parties shall not, for the duration of this Agreement and for twenty-four (24) months thereafter, enter into any advertising, collaborations or other commercial arrangements with each other in connection with their sites on the World Wide Web except via the Impact Radius.

9.4. The parties acknowledge and agree that the nature of the Product is such that in its normal operation it may access and download elements of software data from resources which are external to the computer or device running the Product, such as Product enabled servers. The parties acknowledge that Impact Radius has not undertaken to provide such external resources or servers and specifically disclaims any representation or warranty as the availability, quality or performance of such resources or whether they may contain any defects which may affect the performance of the Product or either party's

computer. Impact Radius shall not be responsible for provision of any communications facilities or the costs associated with such communications.

9.5. The parties agree that Impact Radius is an intended third party beneficiary of this Agreement.

10. Limitation of Liability

10.1. In no event shall either party be liable to the other party for any direct, indirect, special, exemplary, consequential or incidental damages, even if informed of the possibility of such damages.

10.2. The parties agree that the Impact Radius and Impact Radius Corporation and its publishers, officers, directors, employees and agents shall not be liable to either party for any direct, indirect, special, exemplary, consequential or incidental damages, even if informed of the possibility of such damages.

11. General

11.1. Each party shall act as an independent contractor and shall have no authority to obligate or bind the other in any respect.

11.2. This Agreement has been made in and shall be construed and enforced in accordance with the laws of the state of New York. Any action to enforce this Agreement shall be brought in the federal or state courts located in that state. If you need to send official correspondence, send it via registered mail to Our headquarters to the attention of Our legal department.

11.3. By accepting any Offer through the Impact Radius, You agree that you will be deemed to have executed, and will be bound by, this Agreement.

11.4. The provisions of this Agreement are independent of and separable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable in whole or in part.

12. Spam

Partner understands that the use of unsolicited commercial e-mail ("spam") by affiliates is absolutely prohibited. Your participation in the Shu Uemura USA affiliate program constitutes your specific and unconditional agreement to abide this anti-spam policy. Proper e-mail solicitation, however, can be an important means of advertising your site and your relationship with Shu Uemura USA. The following rules represent best practices, which are permitted under this agreement:

If an "opt-In" system exists for your line of business and target market, you may use it. (Opt-In systems are those where the user specifically requests to be placed on a mailing list.)

Violation of this rule will result in the suspension or termination of your affiliate relationship with Shu Uemura USA including the forfeiture of any commissions from the date of the offending e-mailing.

13. Linking Requirements

When you become an Affiliate Site in our Affiliate Program, we will provide you with Links that will allow Users to your Web site to be transported directly when they click on the Link to Products on our Web site. As an Affiliate, you may display these Links on your Web site subject to the terms and conditions contained herein. All Links are subject to our approval and we will provide you with the information that you need to enable you to make appropriate Links to our Web site from your Web site. By accepting the terms of this Agreement, you agree that you shall cooperate fully with Shu Uemura USA to maintain such Link or Links. You further agree that (a) such Link or Links shall be displayed prominently throughout your Web site as you see fit and with our consent, (b) no Link or Links shall be modified, expanded or reduced in any way without our consent and (c) no Link or Links on your Web site shall in any way modify the look, feel and/or functionality of our Web site. We reserve the right to monitor your Web site at any and at all times to make certain that you are in compliance with the terms and conditions of this Agreement. You shall be fully responsible for all content, links and activities conducted on your Web site. We disclaim all liabilities related to such matters. You agree to indemnify Shu Uemura USA and hold us harmless (as well as our employees, officers, agents, directors and affiliated entities) from all liability claims, damages and expenses (including, without limitation, attorneys' fees) relating to the development, operation, maintenance, activities, contents and links of your Web site.

In accordance with the Impact Radius Terms and Conditions, You agree that You shall not:

Place or use any Link of Shu Uemura USA except with the intention of delivering valid sales, leads, applications, accounts, clicks or other specified compensable actions; Inflate the number of applications, accounts, clicks or other specified compensable actions or any impressions of the Shu Uemura USA web site, by any method or using any hidden frames, java pop ups, Web bot, robot, automatic redirecting of users, autospawning of browsers, or any other technique or means of generating automated click-throughs, requiring visitors to click on Shu Uemura USA's Link before entering any area of Your Site(s), by placing or including Promotions or links on pages of Your Site that automatically reload or go to another page without interaction from the user (for example, G pull or server push technology, METATAG reload, or refresh command on page html) or on any page that is not generally accessible to all Web users (for example, pop-up windows and hidden frames); Affiliates using any of the aforementioned techniques or methods to establish a click, and/or place a cookie on a users computer will be terminated without notice and forfeit all outstanding and future commissions.

14. Keyword Bidding Policy

You are not allowed to bid on our Shu Uemura USA trademark names, renditions thereof and their derivatives. We police keyword bidding on the below terms regularly, and in order to remain in compliance with our terms of service, we'd like to remind you of the following restrictions on keyword bidding:

Publishers are prohibited from bidding on Shu Uemura USA and any variations including misspellings, alternate spellings, alternate spacing, or any phrases that include these terms.

Affiliates may not use our brand name or domain name, or any variation, similar terms or misspelling of our brand name, as the display domain in any search advertisement.

Affiliates may not use our brand name or domain name, or any variation, similar terms or misspelling of our brand name in PPC ad copy without prior approval.

You may not register any domain name that contains our brand name, misspellings of our brand name or variations of our brand name.

You are prohibited from Direct Linking.

Failure to comply so will result in a temporary suspension from our Affiliate Program. Once you are placed on temporary suspension, you will be out

of the Shu Uemura USA Affiliate Program for 14 days and ineligible to receive any commissions on the Shu Uemura USA sales you generate during this term. After the 14 day term, you will have the opportunity to opt back in to the Shu Uemura USA Affiliate Program if you have complied with the above request. A second violation of this policy will result in permanent termination from our Affiliate Program.

We understand that these keywords may drive traffic to your site and are prepared to work with you to find alternative ways to maximize the partnership. We appreciate your understanding in this matter.

15. Agreement Modification

We may modify any of the terms and conditions contained in this Agreement, at any time and in our sole discretion, by posting a change notice or new agreement on our site. Notice of any change to this Agreement delivered by e-mail, to your address on our records, or the posting of a new agreement on our Web site is considered sufficient notice for notifying you of a modification to the terms and conditions of this Agreement. Modifications may include, but are not limited to, changes in the scope of available Referral Fees, the Commission schedule, payment procedures and Affiliate Program rules.

All such modifications shall take effect 48 hours after we serve notice as provided above, unless we indicate otherwise. If a modification is unacceptable to you, your sole recourse is to terminate this Agreement. Your continued participation in the Affiliate Program following our posting of a change will constitute binding acceptance by you of such change.