

Affiliate Terms & Conditions

BACKGROUND

The purpose of the Formula Botanica Affiliate Programme is to reward Affiliates for any new students that they refer to Formula Botanica by properly advertising the Formula Botanica website domain that we specify (“**Site**”) through legitimate methods, in accordance with the terms and conditions of this Agreement.

By signing up to participate as a member of the Formula Botanica Affiliate Programme you agree to abide by the terms and conditions detailed in this Agreement.

AGREED TERMS

1 DEFINITIONS

All the definitions used in this section apply throughout this Agreement.

- 1.1 “**Connected Parties**”: means in relation to Formula Botanica, its subsidiaries and holding company or any other subsidiary of its holding company and all directors, officers, employees, agents and shareholders of those companies;
- 1.2 “**Formula Botanica**”, “**we**” “**us**” or “**our**”: means HERB & HEDGEROW LIMITED incorporated and registered in England and Wales with company number 07957310 and whose registered office is at Wadebridge House, 16 Wadebridge Square, Poundbury, Dorchester, Dorset DT1 3AQ, UNITED KINGDOM. Formula Botanica is a registered trademark and the trading name of Herb & Hedgerow Limited.
- 1.3 “**Portal**”: means our Affiliate-only Portal containing further information regarding the Programme and in which Affiliates can track their commission earned.
- 1.4 “**Programme**”: means the Formula Botanica Affiliate Programme as set out on the Site and the Portal and which is governed by the terms of this Agreement.
- 1.5 “**Link**”: means the HTML link provided by Formula Botanica to link the Affiliate’s website or marketing campaign (including but not limited to an email or social media campaign) (“**Affiliate Marketing**”) to the Site.
- 1.6 “**Affiliate**” or “**you**”: means the party who agrees to take part in the Programme.
- 1.7 “**Courses**”: means
International Organic Skincare Entrepreneur Program;
Skincare Expert Program;
Diploma in Organic Skincare Formulation;
Diploma in Organic Haircare Formulation;
Advanced Diploma in Organic Cosmetic Science;
Diploma in Beauty Brand Business Management;
Certificate in Natural Cosmetic Preservation;
Certificate in Cosmetic Stability Testing;
Certificate in Organic Anti-Ageing Skincare;
Certificate in Facial Masque Therapy;
Certificate in Chocolate Spa Products;
and we shall be entitled to update this list from time to time in order to add or remove courses and this list shall be deemed updated accordingly.

2 THE PROGRAMME

- 2.1 Formula Botanica is entitled to vary, amend or cancel the Programme without giving prior notice to the Affiliate. Formula Botanica may make any such change by publishing any revised terms on the Site.
- 2.2 The Programme is expressly a business-to-business relationship and both Formula Botanica and the Affiliate enter into it in a business capacity and not as a consumer.
- 2.3 The Programme does not entitle the Affiliate to represent themselves as an agent, partner or any other form of associate of Formula Botanica other than as an Affiliate as expressly provided for in this Agreement. Nothing in this Agreement authorises any party to make or enter into any commitments for or on behalf of any other party.

3 SUITABILITY FOR THE AFFILIATE PROGRAMME

- 3.1 Formula Botanica reserves the right to terminate this Agreement and the Affiliate's status at any time for any reason whatsoever at its sole discretion.
- 3.2 In particular if Formula Botanica deems that the Affiliate's Marketing is inappropriate for the Programme then this Agreement shall be terminated. The Affiliate's Marketing may be deemed inappropriate if in the view of Formula Botanica it contains or promotes:
 - 3.2.1 sexually explicit or violent material;
 - 3.2.2 discriminatory material based on race, gender, religion, national origin, physical or mental disability, sexual orientation or age;
 - 3.2.3 unlawful material, this shall include but not be limited to materials that may possibly violate another's intellectual property rights;
 - 3.2.4 information regarding illegal activity; or
 - 3.2.5 any other material that is deemed by Formula Botanica (at its sole discretion) to be unsuitable.
- 3.3 Upon agreeing to this Agreement you are automatically accepted on the Programme. Formula Botanica reserves the right to withdraw Affiliate status at any time after you have been accepted onto the Programme for any reason that Formula Botanica deems relevant. Acceptance into the Programme does not mean that Formula Botanica has specifically approved the Affiliate or the Affiliate's Marketing.

4 LEGITIMATE METHODS OF ADVERTISING

- 4.1 In order to receive commissions for referring new students to Formula Botanica, the Affiliate must engage in proper advertising. Affiliates found to be engaging in improper advertising shall have their Agreement terminated and their Affiliate status revoked. Formula Botanica shall be the sole and absolute arbiter of what constitutes proper advertising.
- 4.2 It will be the Affiliate's responsibility to ensure that all Links are correctly labelled as Affiliate Links. Formula Botanica will in no way be liable if the Affiliate does not properly label links according to all laws, rules and regulations applicable to the Affiliate or the Affiliate's business.
- 4.3 A non-exhaustive list of examples of improper advertising shall include:
 - 4.3.1 trying to mis-represent Formula Botanica's brand and/or trying to pass it off as your own your advertising must be clear on who you are;
 - 4.3.2 the forwarding of any URLs direct to the Site (this includes misspells of the Site's domain);
 - 4.3.3 forcing cookies through iframes;
 - 4.3.4 brand bidding (including misspells) for Pay Per Click (PPC) advertising;
 - 4.3.5 including your Link within Unsolicited Commercial Email (UCE) or SPAM;
 - 4.3.6 including any URL of Formula Botanica in search adverts; or
 - 4.3.7 including any Affiliate Links in Facebook groups or other social media communities run directly by Formula Botanica, including our Online Classroom, Skincare Entrepreneur

Mastermind, the Lab at Formula Botanica, the Formula Botanica Beauty Business Mastermind, the Diploma in Organic Haircare Formulation Study Group and any of our regional groups.

- 4.4 Affiliates are permitted to promote Formula Botanica through various social media communities, as a limited exception to Clause 4.3 above. However, Affiliates are not permitted to create groups or specific web pages in social communities whereby they purport or hold themselves out to be representatives of Formula Botanica.
- 4.5 Formula Botanica reserves the right to conclude that you have engaged in an improper method of advertising according to our standards, at our sole discretion. We may come to such a conclusion even if it is based upon our opinion or mere suspicion or belief and is without any duty on Formula Botanica to prove that our opinion or suspicion is well-founded and even if our opinion is proven not to be well-founded or if other companies have not deemed it to be an improper method of advertising.
- 4.6 Any Affiliate found to be adopting improper methods of advertising for the purpose of the Programme shall be deemed to have been in breach of this Agreement and shall have their Affiliate status revoked. Such an Affiliate will therefore immediately cease to be an Affiliate of Formula Botanica.
- 4.7 Any sales that have been generated through improper advertising will not qualify for commission or credit from Formula Botanica.
- 4.8 Any Affiliate found to be utilising these or any other improper methods of advertising may be required to pay back immediately upon demand any such commission that has been paid by Formula Botanica to them.

5 THE AFFILIATE LINK

- 5.1 Subject to the terms of this Clause 5, we will provide to you all Links, and any related banners, graphics, or text advertisements necessary to promote and offer Formula Botanica's Courses to your website's visitors and other audience. Before making changes to any such items please check with your partner manager. The Link may contain any picture, text, logo or graphic that may be attributed with Formula Botanica.
- 5.2 Formula Botanica reserves the right to change the content and or display of the Link from time to time in our sole discretion. The Link will connect your website with the area on our Site (the landing page) where your referral may apply for Formula Botanica Courses directly with us. The presence of the Link on your Affiliate Marketing will serve to identify you as a member of our Affiliate Programme.
- 5.3 Affiliate to note that there is no obligation to participate in every affiliate sales launch hosted by Formula Botanica.

6 THE PAYMENT OF COMMISSION

- 6.1 Once a potential student has arrived at our Site having followed the Link, their actions on our Site will be tracked for 160 days using a cookie ("**Tracking Period**"). You will earn commission on every order placed for our Courses during the Tracking Period. Formula Botanica shall not be responsible and shall have no liability for commissions missed due to the cookie being deleted or blocked or in any other way failing to track the referral from the Link.
- 6.2 Affiliates will only earn commission fees with respect to activity on our Site occurring directly through the Link that will appear on the Affiliate's Marketing. Affiliate acknowledges and agrees that no payments are due to it under this Agreement otherwise than as expressly set out in this Agreement.
- 6.3 Formula Botanica is under no obligation whatsoever to pay any commission to any Affiliate who does not strictly follow the terms of this Agreement.
- 6.4 Formula Botanica reserves the right to take legal action against any Affiliate that commits fraud, or conspiracy to defraud and to recover any commissions paid to an Affiliate which was earned as a

result of such fraud. For the purposes of this Agreement fraud shall include but not be limited to wittingly violating the terms of this Agreement.

- 6.5 Qualifying commission payments will be made to the Affiliate after a minimum 60 day period from the date of order to allow for refunds (“**Minimum Period**”) (subject to receipt of your invoice in accordance with clause 6.11 if applicable) and you will be able to track when payments have been made within the Portal. Commission is payable on a receipts basis so if Formula Botanica receives no revenue on any sale, no commission is payable.
- 6.6 In the case of Courses purchased with a payment plan, commission payments will only be made after Formula Botanica has received payment in full for the sale.
- 6.7 Affiliate payments require a minimum of £400 commission due to the Affiliate to trigger a payment (“**Payment Threshold**”). If your balance within the account shows less than this amount we will roll this over each month until you achieve the Payment Threshold. You can access your account balance within your affiliate centre.
- 6.8 Payments will only be made via PayPal and a valid email address is required. Please verify this email address as if the commission payment fails due to incorrect PayPal account information, you may lose your commission. It is the sole responsibility of an Affiliate to make sure that their contact details are up to date and accurate on the Formula Botanica system in order to facilitate the payment reaching them. Any paypal charges incurred will be debited from the commission due before payment is made.
- 6.9 Formula Botanica will not pay commission for Courses that an Affiliate purchases for themselves through the Link.
- 6.10 The rates of commission payable to the Affiliate from time to time shall be published in the Formula Botanica Affiliate Brochure. The Affiliate Brochure may be amended or varied by Formula Botanica at any time without reference to the Affiliate. Any revised rates of commission payment shall take effect from the day that the amended Affiliate Brochure is communicated to Affiliates by e-mail.
- 6.11 All sums payable under this Agreement are exclusive of VAT and if VAT is chargeable it shall be paid in addition. We may require you to send us an invoice for the commission payable in accordance with this clause 6, together with any applicable VAT. Further details regarding invoicing procedures can be found in the Portal.
- 6.12 The Affiliate will have the facility to track relevant statistics and commission due via the Portal.

7 FORMULA BOTANICA’S OBLIGATIONS

- 7.1 Formula Botanica agrees to:
 - 7.1.1 provide the Link and all other information necessary to the Affiliate to enable the Affiliate to carry out its obligations under this Agreement;
 - 7.1.2 process all orders for Formula Botanica Courses placed by a referral following the Link,
 - 7.1.3 track the number and amount of relevant sales generated through the Link;
 - 7.1.4 provide information to you regarding commission payments through the Portal;
 - 7.1.5 carry out payment processing, cancellation requests, returns and all other related customer service activities for Formula Botanica for the purpose of its business; and
 - 7.1.6 pay you earned commission in accordance with Clause 6 of this Agreement.

8 THE AFFILIATE’S OBLIGATIONS

- 8.1 The Affiliate shall use all reasonable commercial efforts to market and promote the Site (via the Link) and Courses available for sale on it so as to generate the maximum number of referrals and orders.
- 8.2 The Affiliate shall provide Formula Botanica with:
 - (a) all co-operation in relation to this Agreement; and

(b) all access to such information as may be required by Formula Botanica as is necessary for the proper performance of the Formula Botanica's obligations under this Agreement.

8.3 The Affiliate agrees to be solely responsible for the following:

- 8.3.1 the content of the Affiliate's Marketing or any other site that the Affiliate may be connected to;
- 8.3.2 any misrepresentation of Formula Botanica or its Courses;
- 8.3.3 ensuring that your website and your products and services that you offer from your website comply with all applicable laws and regulations;
- 8.3.4 obtaining permission to use another party's copyrighted or any other proprietary material;
- 8.3.5 the development, operation and maintenance of the Affiliate's Marketing and for all materials that appear within such marketing. For the purposes of this Agreement this shall include but not be limited to, the technical operation of your website and all related equipment, the accuracy and propriety of materials posted on your website and ensuring that materials posted on your website do not violate or infringe upon the rights of any third party and are not libellous or otherwise unlawful or illegal. Formula Botanica hereby disclaim all liability for all such matters;
- 8.3.6 complying with all applicable laws and regulations in force from time to time, which shall include, but not be limited to, the EU Cosmetics Regulation (EC) No 1223/2009 (as amended) and any data protection legislation from time to time in force in the UK including the Data Protection Act 2018 and the General Data Protection Regulation ((EU) 2016/679) as retained in UK law; and
- 8.3.7 the payment of all tax and national insurance payable on any commission payments made to you by Formula Botanica.

8.4 The Affiliate shall indemnify and hold harmless Formula Botanica and its Connected Parties from and against any and all claims, actions, demands, liabilities, losses (direct and indirect), damages, judgments, settlements, expenses and costs (including legal and other professional costs) suffered or incurred by Formula Botanica arising out of or in connection with:

- 8.4.1 breach by the Affiliate of the terms of this Agreement; or
- 8.4.2 the Affiliate's Marketing or the marketing or sale of products or services on the Affiliate's website.

9 THE LICENCE

9.1 The Affiliate acknowledges and agrees that Formula Botanica and its licensors own all intellectual property rights in the Site and the Courses. Except as expressly stated herein, this Agreement does not grant the Affiliate any rights to, or in, patents, copyrights, database rights, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences belonging to Formula Botanica. All such rights are reserved to the Formula Botanica.

9.2 Formula Botanica grants to the Affiliate a non-exclusive, non-transferable, revocable right to access the Site through the Link solely in accordance with the terms of this Agreement. This license shall be used solely in connection with the Link, and it will extend to the use of our logos, trade names, trademarks and similar identifying material relating to Formula Botanica ("**Licensed Materials**") and which Formula Botanica shall provide to the Affiliate, for the sole purpose of establishing the Link to our Site so referrals can purchase Courses.

9.3 Affiliates are not permitted to modify or change the Link (save for legitimate shortening of the Link via bitly or other link shortening tool) or any other Licensed Materials provided by Formula Botanica in any way, without our prior written consent.

9.4 Other than establishing the Link, the Affiliate shall not make any other use of any of the Licensed Materials without first obtaining the prior written consent of Formula Botanica. Affiliates shall not

use the Licenced Materials in any manner that is inappropriate or that is in any way detrimental to the Formula Botanica brand or any other brands.

- 9.5 Formula Botanica reserves all of its rights in the materials provided and all of its other proprietary rights. Formula Botanica shall be entitled to revoke this licence to use the Link or the Licenced Materials at any time and at its sole discretion.
- 9.6 Any inappropriate use of the Link, text, banners or other advertisements not expressly approved of in writing or provided by Formula Botanica may be cause for immediate termination of this Agreement.

10 DURATION AND TERMINATION

- 10.1 The term of this Agreement will commence upon the Affiliate's sign up to the Programme and shall continue until it is terminated in accordance with the terms of this Agreement.
- 10.2 In accordance with clause 3.1, Formula Botanica shall have the right to terminate this Agreement at any time for any reason whatsoever at its sole discretion and shall notify the Affiliate of such decision accordingly.
- 10.3 The Affiliate can terminate this Agreement at any time upon giving Formula Botanica 14 days' notice by email.
- 10.4 Upon the termination of this Agreement, any outstanding commission which is due and payable to the Affiliate (and which was not generated by breaching the terms of this Agreement) will be paid out in the following payment round, save that payments due that are still within the Minimum Period, will be made shortly after the Minimum Period has expired.
- 10.5 The licences described in Clause 9 and all other benefits shall automatically and immediately terminate upon the termination of this Agreement.
- 10.6 The accrued rights of the parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination, shall not be affected or prejudiced.

11 MODIFICATION

Formula Botanica reserves the right to modify or otherwise change the terms of this Agreement at any time as it sees fit. Formula Botanica shall make such modifications by way of circulating an updated Agreement to its Affiliates. Affiliate's only remedy in the event of revised terms of this Agreement being published shall be to terminate this Agreement. An Affiliate shall otherwise be deemed to have accepted any modification to this Agreement as published from time to time.

12 LIMITATION OF LIABILITY

- 12.1 This Clause 12 sets out the entire financial liability of Formula Botanica (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Affiliate:
- (a) arising under or in connection with this Agreement; and
 - (b) in respect of any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.
- 12.2 Except as expressly and specifically provided in this Agreement, all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Agreement.
- 12.3 Nothing in this Agreement excludes the liability of Formula Botanica:
- (a) for death or personal injury caused by the Formula Botanica's negligence; or
 - (b) for fraud or fraudulent misrepresentation.
- 12.4 Subject to Clause 12.3:

- (a) Formula Botanica shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation (whether innocent or negligent), restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss costs, damages, charges or expenses however arising under this agreement; and
- (b) Formula Botanica's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be limited to the amount paid under this Agreement by Formula Botanica to the Affiliate during the 12 months preceding the date on which the claim arose.

13 CONFIDENTIALITY

- 13.1 Each party undertakes that it shall not at any time during this Agreement, and for a period of two years after termination of this Agreement, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by Clause 13.2.
- 13.2 Each party may disclose the other party's confidential information:
 - 13.2.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement; and
 - 13.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 13.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Agreement.
- 13.4 This Clause 13 shall survive termination of this Agreement, however arising.

14 FORCE MAJEURE

Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for six months, the party not affected may terminate this Agreement by giving 30 days' written notice to the affected party.

15 WAIVER

No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

16 SEVERANCE

If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

17 ENTIRE AGREEMENT

- 17.1 This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

17.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this Agreement.

18 ASSIGNMENT

18.1 The Affiliate shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under this Agreement without the prior written consent of Formula Botanica.

18.2 Formula Botanica may at any time assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under this Agreement.

19 THIRD PARTY RIGHTS

A person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

20 NOTICES

Any notice given to a party under or in connection with this Agreement shall be sent by email to the address specified by the other party for this purpose. Any notice shall be deemed to have been received at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause, business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

21 GOVERNING LAW AND JURISDICTION

21.1 This Agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.

21.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).