

# **FXTM Partners: Affiliate Program Agreement**

## 1. INTRODUCTION

- 1.1. This Affiliate Program Agreement (hereinafter "Agreement") is made between Pinnacle Services Ltd registered in the Marshall Islands with Reg. No. 68745, operating under the tradename "FXTM Partners", and the Affiliate.
- 1.2. FXTM Partners is the official and duly authorized partner of FXTM with regards to online marketing, advertising and promotion of FXTM Products and Services ([www.forextime.com](http://www.forextime.com), [www.forextime.com/eu](http://www.forextime.com/eu), [www.forextime.com/uk](http://www.forextime.com/uk)).
- 1.3. This Agreement governs the contractual relationship between the Affiliate and FXTM Partners, by which the Affiliate can, subject to the present terms and conditions, be remunerated for introducing Qualified Traders to FXTM by promoting FXTM's Products and Services (hereinafter "Services").

## 2. INTERPRETATION OF TERMS

- 2.1. For the purposes of the present Agreement, the following terms shall be interpreted as follows:

**"Active Trader"** shall mean any Trader who: (i) has been a Qualified Trader as per the provisions of this Agreement and (ii) opened or closed a position of at least 1 microlot within the last 30 (thirty) consecutive calendar days period, preceding the Hourly Review.

**"Account(s)"** shall mean any trading account the Trader runs with FXTM.

**"Affiliate"** shall mean whether an individual or a company, acting in the course of business and engaged in advertising and marketing activities (promotion of FXTM brand online, use of FXTM site as a portal for displaying promotional and advertising content, hosting of marketing material and direction of the web-traffic to the FXTM site, increase of the online profile of FXTM through search engine optimization and performance of any other similar (with the abovementioned) activity) who may, at any time under the terms of this Agreement, introduce prospective Clients/Qualifying Traders to FXTM for transactions in CFDs foreign currencies, commodities, futures and derivatives.

**"Affiliate Panel"** shall mean the secure account affiliate interface area (or backend) on FXTM Partners website where all affiliates login in order to view all their data, get affiliate links, view statistics, complete/update their payment profile and access promotional tools.

**"Affiliate Partner Link"** shall mean the unique link and/or personalized ID which is used to identify Affiliate activities and introduced Qualifying Traders.

**"Agreement/Contract"** shall mean this Affiliate Program Agreement.

**"Client"** shall mean any person, whether an individual and/or a company who has been or is been introduced by the Affiliate to the Company and with whom the Company enters into a Client Agreement.

**"Compensation"** shall have the meaning of section 5 herein and the compensation, charges and other rates applicable to this Agreement, determined and expressed within Appendix A herein.

**“CPA”** shall mean the fixed Cost per Acquisition available to an Affiliate per Qualified Trader, subject to fulfilment of the KPIs during the Qualifying Period.

**“Dormant and/or Inactive Account”** shall mean Affiliate’s account where the Affiliate has not introduced any Traders or where his/her introduced Traders have not transacted with FXTM for a period of six (6) consecutive months.

**“Force Majeure Event”** shall have the meaning as set out in Clause 12 herein.

**“FXTM” or “Company”** shall mean Exinity Limited (regulated by the FSC, Mauritius), or Forextime Ltd (regulated by CySEC, Cyprus), or Exinity UK Ltd (regulated by FCA, UK) and/or any of the brokers licensed to operate under the FXTM brand who are available within the FXTM’s official websites at [www.forextime.com](http://www.forextime.com) and [www.forextime.com/eu](http://www.forextime.com/eu) and [www.forextime.com/uk](http://www.forextime.com/uk) respectively.

**“FXTM Partners”** shall mean the company Pinnacle Services Ltd, operating under the trade name FXTM Partners.

**“FXTM Partners website”** shall mean [www.fxtmpartners.com](http://www.fxtmpartners.com).

**“FXTM website”** FXTM’s official websites [www.forextime.com](http://www.forextime.com) for Exinity Limited, and [www.forextime.com/eu](http://www.forextime.com/eu) for Forextime Ltd, and [www.forextime.com/uk](http://www.forextime.com/uk) for Exinity UK Ltd.

**“FXTM Products and Services”** shall mean all and any trading financial instruments offered by FXTM, including but not limited to CFDs in forex currencies, indices and commodities as these are available on FXTM’s websites.

**“Hourly Review”** shall mean the review and calculation performed by FXTM Partners on an hourly basis in order to determine the number of Active Traders under an Affiliate in order to determine the relevant Affiliate Level as per Table 1 of Appendix A below herein.

**“Intellectual Property Rights”** shall mean patents, rights on inventions, copyrights and related rights, moral rights, trademarks, trade names and domain names, website content, rights in design, and computer software, database right and other similar or equivalent rights whether registered or not.

**“KPIs”** shall mean the Key Performance Indicators based on the minimum amount of deposit(s) and volume traded by a Qualified Trader in his/her Account(s) as determined by each level within Table 1 of Appendix A below herein.

**“Level”** shall mean the category of CPA compensation based on the number of Active Traders.

**“Links”** shall mean any hypertext links (either a banner or text link) obtained from “My Banners” & “Referral Links” sections available within the Affiliate Panel that provide further access to the web page of [www.forextime.com](http://www.forextime.com), and/or of [www.forextime.com/eu](http://www.forextime.com/eu), and/or of [www.forextime.com/uk](http://www.forextime.com/uk) used to identify Affiliate activities, including introduced by the Affiliate Qualified and/or Active Traders.

**“Non-Qualified Trader”** shall mean any Trader who is not a Qualified Trader.

**“Operative Agreements”** shall mean the agreements entered into by the Qualified Trader and FXTM that govern all trading activity of the Qualified Trader with FXTM. Operative Agreements consist of the Client Agreement, Policies and Terms of Business, as these may

be found in the Account Opening Agreements section on FXTM sites and as may be amended from time to time.

**“Promotional Material”** shall mean promotional, advertising, communication and educational materials that relates to the Company, its products and services or relates to the introduction of a Prospective Client and were provided to an Affiliate on the FXTM Partners website for the purpose of the present Agreement or made by the Affiliate based on prior Companies’ or FXTM Partner’s consent. Promotional materials include, but is not limited to, published written texts, images, SMS, training materials, logos, banners, promo links, trade names, trademarks, including, without limitation any promotional marketing giveaways and/or similar identifying material, audio and video material, computer-based material, web sites, display panels and similar.

**“Prospective Client”** shall mean any person, whether an individual or a company who has been or is been introduced by the Affiliate to the Company.

**“Qualified Trader”** shall mean any Trader who meets during the Qualifying Period the KPI requirements as per Appendix A below herein.

**“Qualifying Period”** shall mean a 30 (thirty) consecutive calendar days period as per Appendix A below herein, starting from the day of a Qualifying Trader’s first deposit in the Trader’s Account(s).

**“Trader”** shall mean an individual or a company, acting under the relevant capacity as a Client, who has registered through an Affiliate link, completed the FXTM registration procedure, has been approved by FXTM, has funded their Trader’s account and performed trading activity (i.e. opened or closed a position of at least 1 microlot) within the Qualifying Period.

**“Written Notice”** shall have the meaning set out in Clause 6 of this Agreement.

### 3. COMMENCEMENT

- 3.1. This Agreement shall bind the Affiliate and FXTM Partners on the day of approval of the Affiliate by FXTM Partners and shall continue unless and/or until terminated according to Clause 7 below herein.

## 4. AFFILIATE'S PARTICIPATION CONDITIONS

- 4.1 In order for an Affiliate to be considered by FXTM Partners for participation in the Affiliate Program, the Affiliate must complete and submit the online application/questionnaire within the private section of the Affiliate Panel at [www.fxtmpartners.com](http://www.fxtmpartners.com) and read and accept online the present Agreement.
- 4.2 The Affiliate as an individual hereto represents that he or she has the full right, power, and authority to enter into and be bound by the terms and conditions of this Agreement and to perform his or her obligations under this Agreement without the approval or consent of any other party. If the Affiliate is a company then the person agreeing to this Agreement on behalf of that company hereby represents and warrants that he or she is authorized and lawfully able to bind that company to this Agreement and that the company has the full right, power, and authority to enter into and be bound by the terms and conditions of this Agreement and to perform its obligations under this Agreement without the approval or consent of any other third party.
- 4.3 The Affiliate represents and warrants that it is qualified under any applicable regulatory requirements to offer FXTM Products and Services mentioned in this Agreement, that all actions to be performed by the Affiliate shall comply with the any applicable Laws and/or Regulations and/or Directives currently in effect in the Republic of Cyprus and/or in the United Kingdom and/or in the European Union and/or worldwide as amended from time to time and all laws, Regulations and Directives that shall come into force during the validity of this Agreement. The Affiliate hereby acknowledges that is solely responsible for being updated on all matters that are related to the applicable Regulations, Laws and Directives.
- 4.4 FXTM Partners shall evaluate the Affiliate's application in good faith and shall notify the Affiliate of FXTM's Partners acceptance or rejection in a timely manner. If the Affiliate's application is rejected, for any reason, the Affiliate may reapply only once the Affiliate has rectified the issues which lead to such rejection.
- 4.5 Once the Affiliate registers, provides contact e-mail address and creates password, the Affiliate shall be granted access to the secure Affiliate Panel. From this Affiliate Panel the Affiliate shall be able to access information with regards to the Affiliate's performance and commissions.
- 4.6 The Affiliate must provide shortly to FXTM Partners sufficient proof of identity documentation and where applicable proof of address, as these may be requested from time to time. FXTM Partners shall exercise due skill, care and diligence when entering into, managing or terminating any arrangement with an Affiliate and may provide the Affiliates with an appropriate and effective training in relation to the Services provided under this Agreement and the Affiliates shall be obliged to follow as per the Agreement.
- 4.7 The Affiliate must provide true and complete information to FXTM Partners, as these may be requested from time to time, about the Affiliate and/or Affiliate's activities, blog, website, social media profile and any other information directly and/or indirectly related to the terms of the present Agreement and notify FXTM Partners promptly in case of any changes.
- 4.8 The Affiliate upon the commencement of this Agreement, must provide immediately to FXTM Partners sufficient proof of ownership of Affiliate's blog, website and/or social media profile and/or as these may be requested from time to time.

- 4.9** The Affiliate acknowledges that it is aware of the contents and understands the FXTM Partners' and/or FXTM's Compliance and where applicable Anti Money Laundering Policies that could be found on FXTM's website, which may be modified from time to time, and agrees to operate in accordance with the policies and procedures contained therein.
- 4.10** The Affiliate shall always maintain in force all necessary registrations, authorizations, consents and licenses to be enabled to fulfil its obligations under this Agreement and fully comply with all applicable laws and regulations (including but not limited to financial services regulations, data protection, trademark, copyright and anti-spamming rules) applicable to the Affiliate or to the jurisdiction in which the Affiliate is resident or carry on business.
- 4.11** Whenever requested, the Affiliate shall supply details and evidence of its status and business and of the licensing and/or authorization requirements applicable to the Affiliate's activities at FXTM Partners' and/or the Company' request.
- 4.12** The Affiliate hereby confirms and understands that shall not be entitled to receive any type of compensation when this is linked to the Affiliate's trading activity with FXTM.
- 4.13** To promote and market the FXTM Products and Services the Affiliate must use only the Promotional Material provided directly from the FXTM Partners or FXTM.

In cases of Promotional Material being prepared by the Affiliate, the Affiliate shall provide these Promotional Materials to FXTM and/or FXTM Partners and shall obtain prior written approval before use of such Promotional Materials. From the moment when such Promotional Materials shall be prepared based on pre-approval as stated before, such Promotional Material shall become a property of FXTM and/or FXTM Partners. Promotional materials, the same as landing pages and other materials prepared by Affiliate in due course of this Agreement, must be used only after FXTM or FXTM Partner has granted written approval before they are launched, only for purposes of this Agreement and must contain the Affiliate's logo and a disclaimer that shall state the following:

"All materials are prepared by the Affiliate of FXTM and FXTM (Forextime Limited, or Exinity Limited, or Exinity UK Ltd) bears no responsibility regarding provided information and/or materials. All claims should be addressed to the Affiliate of FXTM. All rights of FXTM reserved and FXTM brand and logo could not be used without prior FXTM's written consent".

- 4.14** To perform the Services described in this Agreement, the Affiliate shall bear all establishment and operational costs and expenses for any marketing, advertising and any other promotional or other activities related to the said Services.
- 4.15** FXTM Partners holds the right to monitor the Affiliate's website, blog, social media profile and/or any other websites associated with the Affiliate as deemed necessary to make sure that:
- a) it is up-to-date and to notify the Affiliate of any changes that FXTM Partners consider that could enhance Affiliate's performance, instructions which the Affiliate is obliged to follow and/or comply with;
  - b) it contains relevant Promotional Materials;
  - c) it does not breach IP rights and other proprietary rights of FXTM Partners and FXTM;
  - d) content of the Promotional Material is clear, fair and not misleading;

- e) it is in compliance with the provisions of this Agreement;
- f) the Affiliate shall provide all necessary website raw data files, access to the account's dashboards and settings (social media and adwords) for the purposes of monitoring all activity upon FXTM or FXTM Partner's request. This shall include the accounts change history where necessary. Access shall be provided within 24 hours.

**4.16** Any Promotional Material developed or created by the Company and placed or used by the Affiliate, is owned by the Company and, except for the purpose of this Agreement, must not be used by the Affiliate solely or in conjunction with any third party, without the prior written consent of the Company. FXTM Partners reserve the right, at any time, to review the Affiliate's placement of Promotional Materials for the purpose of the present Agreement and approve its use of the Affiliate's Links. Further, FXTM Partners may require that the Affiliate changes the placement or use of such Promotional Material in order to comply with applicable FXTM requirements such as:

- a) The Affiliate's website and/or Social network should have a link directing Prospective Clients to the FXTM site;
- b) The Company's logo, brand name, banners or information could be provided to the Prospective Client only with the prior written approval of the Company;
- c) The Affiliate is obliged to place in an obvious location on the Affiliate's website its capacity as an Affiliate of the Company alongside with the name of the Company and Services to be provided;

**4.17** Throughout the period that this Agreement shall be in force, the Affiliate undertakes the responsibility to act in good faith at all times and must not make any false and/or misleading representations or statements with respect to FXTM Partners and/or the Affiliate Program and/or FXTM and/or FXTM Products and Services provided and/or engage in any other practice which may affect adversely the image, credibility or the reputation of FXTM Partners and/or FXTM.

**4.18** The Affiliate undertakes the strict responsibility not to take and/or assist and/or cause due to any act or omission the association directly and/or indirectly FXTM Partners and/or FXTM and/or FXTM Products and Services and/or including but not limited to, using any website for unlawful activities, or having any content on his or her website, that is defamatory, violent, pornographic, unlawful, threatening, obscene or racially, ethnically, or otherwise discriminatory or in breach of any third party rights and shall not link to any such material; or violates any intellectual property or other proprietary rights of any third party or has defamatory or harassing and deceitful or untruthful comments and statements about FXTM Partners or FXTM activities and business; or contains software downloads that potentially enable diversions of commission from other affiliates in this Affiliate Program.

**4.19** Without prejudice to the foregoing, FXTM Partners shall not be responsible and the Affiliate shall bear sole responsibility for its unlawful and/or illegal acts and/or omissions, including but not limited to the use of another person's copyrighted material or other intellectual property in violation of the applicable law or any third-party rights.

- 4.20** FXTM Partners reserves the right at its absolute discretion to terminate this Agreement and the Affiliate's participation in the Affiliate Program and/or detach a Trader from the Affiliate and/or to cancel all orders and annul all profits and/or remove and deduct any Promotional Material which might be offered from time to time from the Affiliate's account and/or the Trader's account, should the Affiliate and/or any of the Traders commit and/or FXTM Partners suspect any fraud in the use of and/or abuse of the FXTM Partners' Affiliate Program and/or any attempt of collusion and/or manipulation and/or arbitrage and/or other forms of deceitful or fraudulent trading and/or other activity and/or is acting outside of the scope of this Agreement and/or is in breach of the terms and conditions of this Agreement and /or breach of applicable laws, regulations and directives and/or breach the conditions set out in Appendix A and FXTM Partners shall not be liable to the Affiliate for any commissions resulting from such fraud, breach or abuse detected and/or suspected.
- 4.21** The Affiliate hereby acknowledges and accepts that it is prohibited to use the Promotional Material and/or any other information provided by FXTM Partners and/or FXTM in order to encourage users of its website and/or Prospective Clients of FXTM to entrust the Affiliate with funds for management and/or to offer in any way investment advisory services to Prospective Clients on behalf of FXTM. FXTM and/or FXTM Partners shall have the right to regularly verify and/or monitor that the Affiliate does not proceed to any of the actions as stated hereunder and the Affiliate agrees to such monitoring and provide all the necessary assets upon request within 48hours.
- 4.22** The Affiliate must not transmit to or in any way, whether directly or indirectly, expose FXTM Partners website, content, platform and any other of FXTM Partners Property to any computer virus or other similarly harmful or malicious material, virus or device.
- 4.23** The Affiliate must not cause or assist by any act or omission in the creation or design of any website, which explicitly or impliedly resembles the FXTM Partners site and/or the FXTM site and/or leads customers to believe the Affiliate is FXTM Partners or any other affiliated business.
- 4.24** The Affiliate shall promptly inform FXTM Partners of any information or acts of a third party that has become known to the Affiliate that could potentially harm FXTM Partners and/or FXTM and/or FXTM Products and Services and/or their reputation in any way and manner.
- 4.25** The Affiliate cannot use or register a domain name or utilize through any search engine activity within any territory, keywords, search terms or any other brand identifiers for its activities with the name of FXTM, FX TM, FX TIME, FOREXTIME, FOREX TIME or FXTM Partners or any other similar words or phrases which may cause confusion with the main brand of the Company and/or FXTM and/or FXTM Partners without the prior written consent of the Company or FXTM Partners. In addition, URL bidding is also prohibited, Affiliates must add brand terms as negatives and actively not target the brand through any media platforms settings where applicable. This includes, but not limited to, PPC, Social media (including videos), mobile networks and display networks.

FXTM and/or FXTM Partners reserves the right to request direct read only access to any paid search account for the purposes of monitoring keyword activity and the change history of an account at any time. Access shall be granted within 24 hours of such a request.

**4.26** The Affiliate hereby acknowledges and understands that he/she shall not introduce to the Company and FXTM Partners Prospective Clients and/or Traders from jurisdictions to which the Company and FXTM Partners do not offer services to, namely:

- a) Exinity Limited does not offer services to the USA, Mauritius, Japan, British Columbia, Quebec, Saskatchewan, Haiti, Suriname, the Democratic Republic of Korea, Puerto Rico, the Occupied Area of Cyprus, the Islamic Republic of Iran, Switzerland, Canada.

From 1st of November, 2020, Exinity Limited does not offer services for new Clients from Hong Kong.

- b) Forextime Ltd only provides services to Professional Clients.
- c) Exinity UK Ltd only provided services to clients residing in the United Kingdom.

As such, the Affiliate hereby consents and accepts that the Affiliate shall not be entitled to compensation in the circumstances where such Prospective Clients and/or Traders are introduced from the above-mentioned jurisdictions.

**4.27** Where an Affiliate acts outside the scope of this Agreement and/or in breach of any of the provisions of the Affiliate Program and or if any of the provisions of Clause 4.19 above herein applies, FXTM Partners and/or FXTM shall have the right to cease the cooperation and take all the necessary measures against the Affiliate, informing, at the same time, its Clients through FXTM Partners website and/or FXTM website, for such a termination.

Also, the Affiliate hereby acknowledges and accepts that in such a case, FXTM Partners and/or FXTM shall have the right to disclose the incident to CySEC in Cyprus, or the Financial Conduct Authority in the UK, or the Financial Services Commission in the Mauritius details including the address of the relevant Affiliate's website, and details of the Affiliate's identity or details of Affiliate's representatives that signed this Agreement (in case of a company) and that details of the Affiliate and/or its representatives may be published by the relevant Regulatory Authority in a warning list on the Regulatory Authorities website.

**4.28** FXTM Partners shall have the right to maintain registries and/or records with the Affiliates, their associated Clients and the activities being carried out under this Agreement and to provide such records and/or reports to FXTM on a monthly basis and/or as otherwise agreed between FXTM Partners and FXTM.

**4.29** The Affiliate should establish, implement and maintain a contingency plan for disaster and periodic testing of backup facilities, where this is necessary.

## **5. COMPENSATION**

**5.1** The Affiliate's compensation is calculated and awarded subject to the terms provided in Appendix A herein, as these may be amended from time to time at FXTM's Partners absolute and sole discretion by giving at least 3 (three) business days prior written notice by e-mail to the Affiliate or by announcement on any of the FXTM site or FXTM Partners site or within the Affiliate Panel.

- 5.2** Without prejudice to the foregoing, FXTM Partners has the right not to pay to the Affiliate the compensation as per Appendix A and/or annul any accrued payout and/or amend the terms of Appendix A and/or the terms of the present Agreement and/or terminate the Agreement and/or close any accounts with immediate effect if:
- a) FXTM Partners is of the reasonable opinion that any of the transactions entered into or executed by the Trader under the Operative Agreements, are being opened and closed just for the benefit of earning compensation for the Affiliate (often referred to as “churning”); or
  - b) Some form of abuse or market abuse or market manipulation may have taken place; or
  - c) The Affiliate is found in breach of any term of this Agreement.
- 5.3** In the event where a Trader participates in a bonus scheme and/or other promotion and/or contest of Exinity Ltd which offers a trading benefit (hereinafter “Trading Benefit”), FXTM Partners shall have the right to deduct up to 50% of the Trading Benefit payable to such Traders from any payment due to the Affiliate in accordance to this Affiliate Program.
- 5.4** For the purpose of satisfying the conditions of payment, each entity, namely Exinity Limited, Forextime Ltd and Exinity UK Ltd shall be considered as separate and distinct from the other.
- 5.5** Removal/Transfer of Traders:
- 5.5.1** Whereas a Trader has communicated to FXTM that he/she wishes to be removed and/or transferred and/or unlinked from an Affiliate, FXTM Partners shall, from the date of that communication, cease paying the Affiliate any compensation and the Affiliate shall have no further rights in respect of the unlinked Trader. Under no circumstances shall FXTM Partners be liable for any consequences of any such removal from an Affiliate and/or transfer to another Affiliate.
  - 5.5.2** In the event a Trader is transferred to another Affiliate during the Qualifying Period, FXTM Partners shall at their absolute discretion, determine whether any compensation regarding the Qualifying Period shall be paid and/or to whom Affiliate.
  - 5.5.3** It is understood that in the event of a transfer from one Affiliate to another, the Qualifying Period shall not run afresh.
  - 5.5.4** Any indication or suspicion of fraud, abuse, manipulation or deceitful or fraudulent activity relating to the removal and/or transfer of Trader(s) between Affiliates, shall entitle FXTM Partners, to take any action they deem fit and proper in their sole and absolute discretion, including but not limited to the annulment of any compensation and/or termination of this Agreement.

## **6. WRITTEN NOTICE**

- 6.1** Unless the contrary is specifically provided in this Agreement, any Written Notice under this Agreement may be made or given by any of the following means:
- a) email;

- b) published on the FXTM Partners site or within the Affiliate Panel.
- 6.2** Affiliate warrants herein that all contact information disclosed to the Company or FXTM Partners in accordance with this Agreement shall be true, correct and accurate. Any attempt by the Company or FXTM Partners to contact the Affiliate unsuccessfully due to incorrect communication data provided (e.g. postal address, email address or fax numbers) by the Affiliate, shall result to the immediate suspension and/or termination of the Agreement.
- 6.3** Any such Written Notice shall be deemed to have been served:
  - a) if sent by email, within one hour after emailing it;
  - b) if posted on the FXTM Partners site or within the Affiliate Panel, within one hour after it has been posted.
- 6.4** For the purposes of this clause, "business hours" mean between 10:00 and 17:00 GMT on a Business Day (Monday - Friday).

## **7. AMENDMENT AND TERMINATION**

- 7.1** The Affiliate acknowledges that FXTM Partners has the right to unilaterally modify the terms of this Agreement, Addendum and/or Appendices at any time and at its sole discretion, giving to the Affiliate at least 3(three) Business Days Written Notice and/or by posting the modification on FXTM Partners site and the Affiliate shall have an option to terminate the present Agreement by giving notice in writing.
- 7.2** The Affiliate may terminate this Agreement with immediate effect by giving Written Notice to FXTM Partners as per Clause 6 above herein.
- 7.3** FXTM Partners may terminate this Agreement with immediate effect by giving Written Notice to the Affiliate.
- 7.4** Upon termination of the Agreement, the Affiliate is obliged to return to FXTM Partners the promotional marketing giveaways and/or the Affiliate shall withdraw such Promotional Material upon termination of the said Agreement.
- 7.5** Termination of this Agreement shall have the effect of termination of the compensation arrangement as set out hereto with immediate effect. Any such termination shall not affect any existing legal rights and obligations under this Agreement which have arisen prior to termination.

## 8. LIMITATIONS OF LIABILITY AND INDEMNITY

- 8.1** FXTM Partners shall not be liable to the Affiliate with respect to any subject matter of this Agreement under any contract, negligence, tort, strict liability, or other legal or equitable principle for any indirect, incidental, consequential, special, general or exemplary damages (including without limitation, loss of revenue or goodwill, or anticipated profits or lost business) even if FXTM Partners have been advised of the possibility of such damages. Further, notwithstanding anything to the contrary contained in this agreement, in no event shall FXTM Partners' cumulative liability to the Affiliate arising out of or related to this agreement, whether based in contract, negligence, strict liability, tort or other legal or equitable theory, exceed the total commission fees paid to the Affiliate under this Agreement.
- 8.2** FXTM Partners make no express or implied representations or warranties regarding FXTM Partners service and website or the products or services provided therein, any implied warranties of FXTM Partners ability, fitness for a particular purpose, and non-infringement are expressly disclaimed and excluded. In addition, FXTM Partners make no representation that the operation of FXTM Partners site or the FXTM site shall be uninterrupted or error free, and we shall not be liable for the consequences of any interruptions or errors.
- 8.3** The Affiliate hereby agrees to indemnify and hold harmless FXTM Partners and/or FXTM, their subsidiaries and affiliates, directors, officers, employees, agents, shareholders, partners, members, and other owners, against any and all claims, actions, demands, liabilities, losses, damages, judgments, settlements, costs, and expenses (including reasonable attorneys' fees) (any or all of the foregoing hereinafter referred to as "Losses") insofar as such Losses (or actions in respect thereof) arise out of the breach of the Terms and Conditions of the present Agreement and/or are based on any claim of FXTM Partners' use of the affiliate trademarks infringes on any trademark, trade name, service mark, copyright, license, intellectual property, or other proprietary right of any third party, (ii) any misrepresentation of a representation or warranty or breach of a covenant and agreement made by the Affiliate herein, or (iii) any claim related to the Affiliate's site, including, without limitation, content therein not attributable to FXTM Partners.

## 9. PERSONAL DATA AND RECORDING OF TELEPHONE CALLS

- 9.1** FXTM Partners may process, use, store or otherwise process personal information provided by the Affiliate.
- 9.2** By entering into this Agreement, the Affiliate hereby consents to the transmittal and/or processing of the Affiliate's personal data within and/or outside the European Economic Area.

- 9.3** The Affiliate agrees that FXTM Partners may pass information about the Affiliate which the Affiliate has provided to FXTM and/or to third parties in order to assist the Company and FXTM Partners to process and/or analyze the relevant information as a part of fulfilling the Company's or FXTM Partners' obligations under this Agreement. Should the Affiliate be unwilling for the Company and/or FXTM Partners to transmit and/or process Affiliate's personal data and/or such personal data to be used for such purposes, the Affiliate shall give FXTM Partners Written Notice as per Clause 6 above herein.
- 9.4** Such personal data may also be used for marketing purposes, or to conduct research for FXTM Partners or the Company or other companies in its group that may use the personal data to bring to the attention of the Affiliate products and services that may be of interest to the Affiliate. If the Affiliate does not wish the Affiliate's personal data to be held for such purposes, the Affiliate shall give FXTM Partners Written Notice.
- 9.5** Telephone conversations and/or electronic communications between the Affiliate and the FXTM Partners and/or FXTM shall be recorded and/or monitored and/or processed by FXTM Partners and/or FXTM. The Affiliate by entering into this Agreement expressly consents to FXTM Partners to record and/or process these telephone conversations and/or electronic communications. All instructions received by telephone shall be binding as if received in writing.

Any recordings shall be and remain the sole property of the FXTM Partners and/or FXTM and shall be accepted by the Affiliate as conclusive evidence of the instructions or conversations so recorded. The Affiliate agrees that FXTM Partners and/or FXTM may deliver copies of transcripts of such recordings to any court, regulatory or government authority. A copy of the records kept in accordance with this Clause shall be provided to the Affiliate upon request and shall be kept for a period of five years and, where requested by any competent authority, for a period of up to seven years from the date of creation of the record.

## **10. CONSENT TO DIRECT CONTACT**

- 10.1** The Affiliate expressly invites FXTM Partners and the Company, for the purposes of administering the terms of this Agreement or otherwise marketing FXTM Products and Services, from time to time, to make direct contact with the Affiliate by telephone, fax or otherwise.
- 10.2** The Affiliate consents to such communications and acknowledges that such communication would not be considered by the Affiliate as being a breach of any of the Affiliate's rights under any relevant data protection and/or privacy regulations.

## 11. CONFIDENTIALITY

- 11.1** All confidential information, including, but not limited to, any business, technical, financial, and customer information disclosed by FXTM Partners and/or FXTM acquired by the Affiliate during negotiation or the effective term of this Agreement, shall remain the sole property of FXTM Partners. Without prejudice to the foregoing, information of confidential nature shall be treated as such provided that such information is not already in the public domain. Information of a confidential nature shall only be disclosed to any person other than an associated entity of FXTM Partners, in the following circumstances:
- a) where required by law or if requested by any regulatory authority or exchange having control or jurisdiction over FXTM Partners or the Affiliate;
  - b) to investigate or prevent fraud or other illegal activity;
  - c) if it is in the public interest to disclose such information;
  - d) as provided in the Operative Agreements of the Company and FXTM Partners;

## 12. PROPRIETARY RIGHTS

- 12.1** FXTM Partners grants to the Affiliate, for the duration of this Agreement, a nonexclusive, non-transferable, revocable right to access the FXTM Partners 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 shall extend exclusively to Promotional Material, for the sole purpose of introducing Traders and/or promoting and/or advertising FXTM Products and Services.
- 12.2** It is hereto understood that the Affiliate shall not modify or change the Link or Promotional Materials or any other materials provided by FXTM Partners or /and FXTM howsoever.
- 12.3** The Affiliate shall not use any FXTM Partners or FXTM Promotional Materials or proprietary materials or other intellectual property in any manner that is disparaging, misleading, obscene, or in any way detrimental to FXTM Partners and/or FXTM.
- 12.4** FXTM Partners reserve all of their rights in the materials provided and all of its other proprietary rights.
- 12.5** FXTM Partners shall be entitled to revoke this license to use the Link or the Promotional Materials at any time and at its sole discretion.
- 12.6** Any inappropriate use of the Link, text, banners, trademarks, trade names, service marks and other intellectual property or other advertisements not expressly approved of in writing or provided by FXTM Partners may cause immediate termination of this Agreement.
- 12.7** In the event of termination of this Agreement for any reason, the Affiliate shall promptly surrender, and deliver to FXTM Partners any proprietary and/or Promotional Materials.
- 12.8** The Affiliate agrees to indemnify the Company and FXTM Partners and keep the indemnified at all times against all or any costs, claims, damages or expenses incurred, or for which they may become liable, with respect to any proprietary materials and/or intellectual property infringement claim or other claim relating to the provision of services supplied by the Affiliate to FXTM Partners during the course of this Agreement.

- 12.9** Except as permitted herein, the Affiliate shall not and is not authorized to (i) use the "Forextime" and/or "FXTM" trademark, name or any of FXTM's and/or FXTM Partner's other intellectual property (or any variations or misspellings thereof or other term or terms confusingly similar to any of the foregoing) (all of the foregoing, including without limitation, the "links" and the "licensed materials" of FXTM and/or FXTM Partners, without FXTM Partners' express prior written permission; (ii) use of FXTM's and or FXTM's Partner's IP address in a domain or website name, in any bids for keywords or google AdWords (or similar programs at other search engines), in any search engine advertising (paid or otherwise), in any metatags, google AdWords (or similar programs at other search engines), key words, advertising, search terms, code, or otherwise; (iii) cause or create or act in any way that causes or creates or could cause or create any "initial interest confusion" over the use of FXTM's and or FXTM's Partner's IP on the internet or in any search engine advertising.

Such a use of FXTM's and or FXTM's Partner's IP rights in any manner, other than as expressly permitted herein (in addition to being a breach of this agreement) shall constitute unlawful infringement of FXTM's and or FXTM's Partner's trademarks, copyrights or other intellectual property rights, and may subject the Affiliate to claims for damages (including without limitation, treble damages for knowing or willful infringement), and the obligation to pay any legal fees and costs in connection with any action or proceeding in which FXTM Partners and/or FXTM seek to enforce their rights under this agreement or with regard to any of our intellectual property rights.

- 12.10** The Affiliates is hereby deprived from any right to use "Forex Time" and/or "FXTM" as the part of or a sole word while registering domain names or as the part of or a sole word while taking nickname in any social network and/or from any other unauthorized usage of "Forex Time" and/or "FXTM" for personal needs and not related to this Agreement. Also, it is prohibited without FXTM written approval to use FXTM's registered trademarks, trade names, service mark, copyright, license, intellectual property, and other proprietary information.

### 13. FORCE MAJEURE

- 13.1** FXTM Partners shall not be liable for the non-performance or improper performance of its obligations under this Agreement, should the Company or FXTM Partners be prevented from or unable to do so due to a Force Majeure event, including, without limitation any Government actions, the outbreak of war or hostilities, the threat of war, military actions, rebellion, acts of terrorism, national emergency, riot, strike, civil disturbance/disorder, sabotage, requisition, or any other international calamity or political crisis; Act of God, earthquake, hurricane, typhoon, flood, fire, epidemic or other natural disaster; Labor disputes not including disputes involving the Company's workforce; discontinuance or suspension of the operation of any Market; failure of communication for any reason with Market makers, mal-functioning and/or non-operation of any computer transaction system due to defectiveness or failure of the mechanic equipment, fault or stoppage in communication lines, any other problems in connection, breakdown or unavailability of access to the internet or the Platform(s); Any other extreme event beyond the reasonable control of the Company which may suddenly or drastically affect the prices in the Underlying Asset / Market as well as any other event, act and/or circumstances that shall have direct effect in the regulated markets and which, including, without limitation, any illegitimate actions against, not reasonably within the FXTM Partners' reasonable control, and the effect of that event(s) is such that FXTM Partner is not in a position to take any reasonable action to prevent.
- 13.2** If FXTM Partners determine in their reasonable opinion that a Force Majeure Event exists (without prejudice to any other rights under this Agreement) FXTM Partners may without prior Written Notice and at any time take or omit to take all such actions as FXTM Partners deem to be reasonably appropriate in these circumstances.

### 14. DISPUTE RESOLUTION

- 14.1** The parties further agree that they shall use the following procedure to identify and resolve Disputes between them:
- a) either party may identify a Dispute by sending a Dispute Notice to the other party as per Clause 6 above herein;
  - b) on or following the Dispute Date, the parties shall consult in good faith in an attempt to resolve the Dispute in a timely manner, including, without limitation, by exchanging any relevant information and by identifying and using any Agreed Process which can be applied to the subject of the Dispute or, where no such Agreed Process exists or the parties agree that such Agreed Process would be unsuitable, determining and applying a resolution method for the Dispute; and
  - c) with respect to any Dispute that is not resolved within five Joint Business Days of the Dispute Date, refer issues internally to appropriately senior members of staff of such party or of its Affiliate, adviser or agent in addition to actions under (b) immediately above (including actions under any Agreed Process identified and used under (b) immediately above) and to the extent such referral has not occurred as a result of action under (b) immediately above (including any Agreed Process);

## 15. MISCELLANEOUS

- 15.1 In the event that a situation arises that is not covered under this Agreement, FXTM Partners shall resolve the matter on the basis of good faith and fairness and, where appropriate, by taking such action as is consistent with market practice.
- 15.2 No single or partial exercise of, or failure, or delay in exercising any right, power, or remedy (under these terms or at law) by FXTM Partners shall constitute a waiver by FXTM Partners of, or impair or preclude any exercise or further exercise of, that or any other right, power or remedy arising under this Agreement or at law.
- 15.3 Any liability of the Affiliate to FXTM Partners under this Agreement may in whole or in part be released, compounded, compromised or postponed by FXTM Partners in their absolute discretion without affecting any rights in respect of that or any liability not so waived, released, compounded, compromised or postponed. A waiver by FXTM Partners of a breach of any of the terms of this Agreement or of default under these terms does not constitute a waiver of any other breach or default and shall not affect the other terms. A waiver by FXTM Partners of a breach of any of the terms of this Agreement or a default under these terms shall not prevent FXTM Partners from subsequently requiring compliance with the waived obligation.
- 15.4 The rights and remedies provided to FXTM Partners under this Agreement are cumulative and are not exclusive of any rights or remedies provided by law.
- 15.5 Nothing in this Agreement creates any partnership, joint venture, agency, franchise, sales representative, or employment relationship between the Affiliate and FXTM Partners.
- 15.6 The Affiliate shall not represent itself as agent of FXTM Partners or the Company and the Affiliate shall have no authority or power to bind FXTM Partners or the Company or to contract in the name of or create a liability against any of these.
- 15.7 The Affiliate agrees to inform FXTM Partners about all facts and circumstances, he/she becomes aware of, that may result in undesired consequences (risks) for the Company or FXTM Partners.
- 15.8 FXTM Partners may assign the benefit and burden of this Agreement to a third party in whole or in part, provided that such assignee agrees to abide by the terms of this Agreement. Such assignment shall come into effect 5 (five) Business Days following the day the Affiliate is deemed to have received Written Notice of the assignment in accordance with this Agreement.
- 15.9 The Affiliate may not assign, charge or otherwise transfer or purport to assign, charge or otherwise transfer the Affiliate's rights or obligations under this Agreement without prior written consent of FXTM Partners and any purported assignment, charge or transfer in violation of this term shall be void.
- 15.10 If any term of this Agreement (or any part of the term) shall be held by a court of competent jurisdiction to be unenforceable for any reason then such term shall, to that extent, be deemed severable and not form part of this Agreement, but the enforceability of the remainder of this Agreement shall not be affected.
- 15.11 No variations of this Agreement are effective unless made in writing, signed by both Parties or their authorized agents.

- 15.12** FXTM Partners, under the terms and conditions of this Agreement and in accordance with its internal policies and procedures, reserves the right in its absolute discretion, to create a dormant accounts policy and close the Affiliate's account after the period of six (6) consecutive months of inactivity in the following cases:
- a) where remaining pending commissions balance or wallet balance of Affiliate's account is greater than 1 USD and his/her account is deemed Dormant and/or Inactive Account;
  - b) where an Affiliate's Dormant and/or Inactivate Account(s) has a zero pending commissions balance;
  - c) where remaining pending commissions balance or wallet balance of Affiliate's account is up to 1 USD and his/her account is deemed Dormant and/or Inactive Account.
- 15.13** In case Affiliate has a Dormant and/or Inactive Account with a pending commissions balance or wallet balance and FXTM Partners decide to close the Affiliate's Account in accordance with Clause 15.12.a), FXTM Partners will provide a written notice to the Affiliate with a notice period of 30 calendar days, during which the Affiliate has the right to withdraw the pending balance from his/her Affiliate Account. After the notice period the Affiliate's Account will be closed and FXTM Partners reserve the right to use the remaining Affiliate's Account pending commission balance or wallet balance at its own discretion and waive any and/or all payments and/or fees at its own and absolute discretion.
- 15.14** In case Affiliate has a Dormant and/or Inactive Account with zero pending commissions balance and FXTM Partners decide to close the Affiliate's Account in accordance with Clause 15.12.b), FXTM Partners will provide a written notice to the Affiliate with a notice period of 3 business days, after which his/her Account will be closed.
- 15.15** In case Affiliate has a Dormant and/or Inactive Account with remaining pending commissions balance or wallet balance up to 1 USD and FXTM Partners decide to close the Affiliate's Account in accordance with Clause 15.12.c), FXTM Partners will provide a written notice to the Affiliate with a notice period of 3 business days, after which his/her Account will be closed. FXTM Partners shall have the right to deduct this remaining balance and use it for charity purposes at its absolute discretion.
- 15.16** This Agreement shall be governed by and construed in accordance with the laws of Marshall Islands. With respect to any proceedings, the Affiliate irrevocably:
- a) agrees that the courts of Marshall Islands shall have exclusive jurisdiction to determine any proceedings,
  - b) waives any objection which the Affiliate may have at any time to bring any proceedings in any such court, and
  - c) agrees not to claim that such proceedings have been brought in an inconvenient forum or that such court does not have jurisdiction over the Affiliate.

- 15.17** This Agreement and any Addendums and Appendices referred to in it, constitute the entire agreement between Parties and supersede all other agreements or arrangements, whether written or oral, express or implied, between Parties or either of them.
- 15.18** The heading and titles contained in this Agreement are included for convenience only and shall not limit or otherwise affect the terms of this Agreement.
- 15.19** Where this Agreement is issued in a language other than English, the English language version shall take precedence in the event of any conflict.