



# ETX Affiliate Program

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## Terms and Conditions

May 2021

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Please read this document completely and carefully before enrolling in our on-line marketing affiliate program. You must agree with and accept all of the terms and conditions contained in these terms and conditions without modification before you may become an Affiliate. **IF AT ANYTIME YOU DO NOT AGREE TO BE BOUND BY THESE TERMS AND CONDITIONS, YOU MUST INFORM US IN WRITING IMMEDIATELY YOU MUST NOT USE OR ACCESS OUR SERVICES.** This is the most recent version of the terms and conditions, as released and posted as of May 2021. This version of the terms and conditions modifies, replaces and supersedes all prior versions.

## 1 PARTIES TO THIS AGREEMENT

- 1.1 The operator of the ETX Affiliate Program is **Monecor (London) Limited**, a limited liability company formed under the laws of England and Wales, having its registered office at Floor 6, 26 Finsbury Square, London EC2A 1DS, UK, and company number 00851820. As used in these terms and conditions, the terms "**we**", "**us**", "**our**" and "**ETX**" shall mean Monecor (London) Limited, and any of its designated and permitted successors and assigns.
- 1.2 As used in these terms and conditions, the terms "**you**", "**your**" and "**Affiliate**" shall mean the person that applies for ETX Affiliate Program membership in accordance with these terms and conditions as amended from time to time.
- 1.3 ETX and Affiliate are hereinafter referred to, individually, as a "**Party**" and, collectively, as the "**Parties**".

## 2 DEFINITIONS AND INTERPRETATION

- 2.1 For the purpose of this Agreement, unless the context otherwise requires, capitalised words and expressions shall have the meanings assigned to them in the defined terms that are set forth in bold in this clause 2.1, and throughout this Agreement:
  - 2.1.1 "**Abusive Client**" means a Client who demonstrates any kind of behaviour that we, in our sole discretion, deem a violation of the applicable Customer Agreement or terms of use;
  - 2.1.2 "**Act**" means the UK's Financial Services and Markets Act 2000 which provide for the provision of financial services, the exercise of regulated activities, the operation of markets and other related matters, as the same may be modified and amended from time to time;

- 2.1.3 **"Adware"** means advertising-supported software which automatically plays, displays, or downloads advertisements to a computer or mobile device;
- 2.1.4 **"Affiliate Account"** means the unique account created after successful registration with and acceptance in the ETX Affiliate Program;
- 2.1.5 **"Affiliate Application Form"** means the form which needs to be completed in order for you to apply to become an Affiliate;
- 2.1.6 **"Affiliate Network"** means the online community made up of persons that have successfully registered with and have been accepted in the ETX Affiliate Program;
- 2.1.7 **"Affiliate's Website"** means a website, which is privately labelled, owned and hosted by you, or which you are legally entitled to host and/or operate, and any related pages;
- 2.1.8 **"Agreement"** means these terms and conditions and any subsequent updates thereto, inclusive of all of its annexes, appendices, addenda, attachments, schedules and exhibits and amendments, entered into by and between you and ETX;
- 2.1.9 **"Anti-Money Laundering Legislation"** means, collectively, (a) Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive EU 2015/849 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing and amending Directives 2009/138/EC and 2013/36/EU ("**5<sup>th</sup> AMLD**"), (b) substantive money laundering offences in England and Wales created by the Proceeds of Crime Act 2002 ("**POCA**"), and (c) the regulatory framework under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 ("**MLR 2017**") as amended The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 ("**MLR 2019**") as the same may be in force from time to time and modified or amended from time to time;
- 2.1.10 **"Anti-Spam Legislation"** means, collectively, (a) General Data Protection Regulation ((EU) 2016/679) ("**UK GDPR**"), (b) Data Protection Act 2018 ("**DPA 2018**") (c) Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426) ("**PECR 2003**") as amended by the Privacy and Electronic Communications (EC Directive) (Amendment) Regulations 2011 (SI 2011/1208) ("**PECR 2011**") and (d) any other applicable local, state, federal and international laws, rules and regulations pertaining to the use of unsolicited electronic communications of the countries, jurisdictions in which either one of the Parties, the Prospective Clients or the Clients are incorporated, residing and/or located, as the same may be in force from time to time and modified or amended from time to time;

- 2.1.11 **“Applicable Laws and Regulations”** means, collectively, (a) MiFID II, (b) the Act, (c) the FCA Rules, (d) the Anti-Money Laundering Legislation, (e) the Anti-Spam Legislation, (f) the Personal Data Protection Legislation, and (g) any other rule or regulation of a relevant regulatory authority, the rules of any relevant investment exchange and/or any other relevant applicable local, state, federal and international laws, rules and regulations of the countries, jurisdictions in which either one of the Parties, the Prospective Clients or the Clients are incorporated, residing, located and/or doing business, as the same may be in force from time to time and modified or amended from time to time;
- 2.1.12 **“Banner”** and **“Text Link”** means the graphical artwork or text that will be used to direct Prospective Client to a Platform Website through Affiliate’s Website;
- 2.1.13 **“Business Day”** means a day, other than a Saturday, Sunday or public holiday in England, when banks in London are open for business;
- 2.1.14 **“Churning”** includes, but shall not be limited to, the practice of executing trades through a Client Account to generate commissions or rebates; determinations of what constitutes churning is in our sole discretion; trading for the sole purpose of generating rebates using a strategy like this will be prohibited from earning any commissions and/or rebates;
- 2.1.15 **“Client”** means any person (a) who has been or is identified as solicited by and introduced and/or referred to a Platform Website via your Tracker, (b) with whom ETX does not have a current or prior existing business or customer relationship, (c) for whom ETX has been able to complete the necessary customer due diligence in satisfaction of AML Legislation, (d) who has agreed to the Customer Agreement, and who has been accepted as a Client by ETX in accordance with the terms of this Agreement. For the purposes of this Agreement and the calculation of Compensation, a person will cease to be a Client 365 days after their Client Account is authorised;
- 2.1.16 **“Client Account”** means the uniquely assigned trading account that is created by us for a Client;
- 2.1.17 **“Confidential Information”** collectively includes all information relating to the business, plans, intellectual property and/or technology of ETX, including, but not limited to technical information including inventions, methods, plans, processes, specifications, characteristics, assays, raw data, scientific preclinical or clinical data, records, databases, formulations, clinical protocols, equipment design, know-how, experience, and trade secrets; developmental, marketing, sales, customer, supplier, consulting relationship information, operating, performance, and cost information; computer programming techniques whether in tangible or

intangible form, and all record bearing media containing or disclosing the foregoing information and techniques including, written business plans, patents and patent applications, grant applications, notes, and memoranda, whether in writing or presented, stored or maintained in or by electronic, magnetic, or other means, as well as all Software, documentation and all other materials containing information about ETX, IP Rights and/or Intellectual Property (including all copies and reproductions thereof), as well as any other information specifically identified, either verbally or in writing, as confidential, that is obtained under or in the course of business or activities relating to this Agreement by one party from the other; notwithstanding the foregoing, the term "Confidential Information" shall not include any information which: (a) can be demonstrated to have been in the public domain or was publicly known or available prior to the date of the disclosure by ETX; (b) can be demonstrated in writing to have been rightfully in the possession of Affiliate prior to the disclosure of such information by ETX; (c) becomes part of the public domain or publicly known or available by publication or otherwise, not due to any unauthorised act or omission on the part of Affiliate; or (d) is supplied to Affiliate by a third-party without binder of secrecy, so long as that such third-party has no obligation to ETX or any of its Affiliates to maintain such information in confidence;

2.1.18 "**Compensation Plan**" means either a CPA Plan or any other plan agreed by us in writing;

2.1.19 "**Compensation**" means the allowances, awards, benefits, bonuses, earnings, increments, premiums, profits, remunerations and/or other proceeds paid or payable to you by ETX under and/or pursuant to this Agreement based solely on system's data, in accordance with the Compensation Plan

2.1.20 "**CPA Plan**" means a cost per acquisition compensation arrangement whereby Affiliate's Compensation is based on a one-time payment in which Affiliate is paid for a depositing and trading Client who has been or is identified as solicited by and introduced and/or referred to a Platform Website via a Tracker; the payment amount will vary and will only be paid once for each Client; in case of a such a Client claiming a chargeback or a credit the Client will not be counted; Affiliates with whom a CPA Plan is agreed with will receive no Compensation for Duplicate Clients or Abusive Clients;

2.1.21 "**Customer Agreement**" means the terms of business between ETX and Client, to which such Client consented;

2.1.22 "**Deposit**" means the funds transferred by Clients to their Account with ETX;

- 2.1.23 **"Duplicate Client"** means a Client who has opened more than one account on a Platform Website;
- 2.1.24 **"Effective Date"** has the meaning given to it in clause 3.4;
- 2.1.25 **"Electronic Trading Platform"** means any trading platform operated by ETX from time-to-time;
- 2.1.26 **"ETX Affiliate Program"** means the on-line marketing affiliate program operated by ETX, its successors or assigns;
- 2.1.27 **"ETX Affiliates Website"** means the website at <https://www.etxcapital.com/en-za/become-an-affiliate>;
- 2.1.28 **"ETX Websites"** means the Platform Websites and ETX Affiliates Website;
- 2.1.29 **"FCA"** means the Financial Conduct Authority, 12 Endeavour Square, London E20 1JN, and its successors and assigns or any replacement body thereof;
- 2.1.30 **"FCA Rules"** means the Financial Conduct Authority's Handbook of Rules and Guidance as the same may be in force from time to time and modified or amended from time to time;
- 2.1.31 **"Financial Instrument"** means (a) a financial spread bet; (b) a contract for differences; (c) an options, future, swap, forward rate agreement and any other derivative contract relating to commodities, securities, currencies, interest rates or yields, or other derivative instruments, financial indices or financial measures which may be settled physically or in cash; (d) an option, future, swap, forward rate agreement and any other derivative contract relating to climatic variables, freight rates, emission allowances or inflation rates or other official economic statistics that must be settled in cash or may be settled in cash at the option of one of the parties (otherwise that by reason of a default or other termination event), as well as any other derivative contracts relating to assess, rights, obligations, indices and measures not otherwise mentioned in this definition, which have the characteristics of other derivative financial instruments, having regard to whether, inter alia, they are cleared and settled through recognised clearing houses or are subject to regular margin calls; and (e) such other investments instruments that may be offered for trading on or through the Platform Websites;
- 2.1.32 **"Fraud Traffic"** means Deposits or traffic generated towards a Platform Website or Electronic Trading Platform through illegal means, in violation of this Agreement, or in bad faith to defraud the system, regardless of whether or not it actually causes ETX any harm; Fraud Traffic includes, but shall not be limited to Spam, false

advertising and deposits generated on stolen credit cards, collusion, manipulation of the service, system or promotions, offers to share the Affiliate's Compensation directly or indirectly with Clients, 'carry trade'/'interest arbitrage', Churning, the use of specialised software programs that are designed to exploit possible price latencies on an Electronic Trading Platform or that allow for the use of technological and/or algorithmic trading pattern that are aimed at exploiting price latency arbitrage opportunities on an Electronic Trading Platform and any other form of 'arbitrage' and/or unauthorised use of any third party accounts, copyrights or trademarks;

2.1.33 "**Gross Revenue**" means with regard to Clients trading on any trading platform of ETX or its Related Parties: spread or commission revenue received from Clients as a result of closed trades in Client Accounts;

2.1.34 "**Intellectual Property**" means all intellectual property rights in any part of the world including patents (including supplementary protection certificates), utility models, rights to inventions, registered and unregistered trade and service marks, rights in business, domain and trade names, rights in trade dress or get-up, rights in goodwill, registered designs copyrights and neighbouring rights, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and (in each case) rights of a similar or corresponding character whether registered or unregistered and including all applications for and renewals or extensions of such rights, and in all applications and rights to apply for protection of any of the foregoing in any part of the world;

2.1.35 "**Marketing Materials**" means the Widgets, the Banners and/or Text Links and any other Promotional Materials that are located on our banner farm;

2.1.36 "**Meta Tags**" or "**Meta Elements**" means the HTML or XHTML <meta ... > elements used to provide structured metadata about a web page;

2.1.37 "**MiFID II**" means Markets in Financial Instruments Directive (2014/65/EU on 3 January 2018) and Markets in Financial Instruments Regulation (EU) No 600/2014, as the same may be in force from time to time and modified or amended from time to time;

2.1.38 "**Net Revenue**" means the Gross Revenue less any credits or promotional amounts given to the Client, transaction charges, processing charges, hedging costs, administration fees, charge backs, extraordinary costs and/or or any un-collectable revenue attributable to the Client;



- 2.1.39 **“Platform Website”** means any one of [www.ETXCapital.com](http://www.ETXCapital.com), [www.ETXCapital.net](http://www.ETXCapital.net) and all country specific websites, and ‘white label’ websites powered by ETX or its Related Parties;
- 2.1.41 **“Personal Data”** means includes any information relating (a) to an identified or (b) to a directly or indirectly identifiable, natural or legal person, including, but not exclusively, any data on ETX and/or Affiliate’s employees, directors, shareholders, customers, prospects, contacts and/or suppliers;
- 2.1.42 **“Personal Data Protection Legislation”** means, collectively, (a) General Data Protection Regulation (EU) 2016/679, and (b) the UK’s Data Protection Act 2018, as the same may be in force from time to time and modified or amended from time to time;
- 2.1.43 **“Press Release”** means any document or publication which is released or circulated to the public or news media and purports to communicate information regarding ETX, the ETX Website, the ETX Affiliate Program and/or the online services and/or products offered by ETX;
- 2.1.44 **“Pricing Data”** means pricing data generated by the pricing engine integrated in Electronic Trading Platforms and fed to the Electronic Trading Platforms on a real time/delayed/end of day/historical basis, specifying the market prices of the financial instruments traded on the Electronic Trading Platforms;
- 2.1.45 **“Prohibited Software”** means any software that gives Clients an unfair advantage; items that fall into this category shall include, but shall not be limited to specialised software programs that are designed to exploit possible price latencies on the Electronic Trading Platforms or that allow for the use of technological and/or algorithmic trading pattern that are aimed at exploiting price latency arbitrage opportunities on The Electronic Trading Platforms;
- 2.1.46 **“Prohibited Word”** means a name or word which ETX from time to time identifies as belonging to it or its Related Parties and for the purposes of this Agreement bars Affiliate from making use of any variation thereon (in any format or form) and includes ‘Monecor’, ‘ETX’ and any other name or word used to identify a Platform Website;
- 2.1.47 **“Promotional Material”** means any written or verbal communication with the public that relates in any way to the solicitation of Prospective Clients, including all written or verbal material generated by ETX and/or Affiliate; the term Promotional Material shall also include, but shall not be limited to, published written texts, compliance and procedures memoranda and manuals, training materials, advertisements, research reports, correspondence to prospective new Clients and

existing Clients, as well as market analyses, newsletters and generally anything written that assists in the solicitation process, whether prepared by ETX, Affiliate or any third-party, as well as all e-mails, all mailings, all Websites, including Affiliate's Website and all contents thereof, and links to websites and/or any scripts used, and generally anything written that assists in the customer solicitation/introduction/referral process;

2.1.48 "**Prospective Client**" means any person (a) who may have been or may be identified as solicited by and introduced and/or referred to ETX as a result of the marketing and customer referral services, and all related services, which Affiliate will be providing to ETX through Affiliate's Website, or otherwise; and (b) with whom ETX does not have a current or prior existing business and/or Client relationship; and (c) with whom ETX might consider entering into a Customer Agreement;

2.1.49 "**Referral Codes**" means unique offline alphanumeric codes that Clients may enter when opening a Client Account with ETX; when properly entered, the ETX system automatically logs the Referral Codes and records and identifies the Clients who enters the relevant Referral Code being solicited by and introduced and/or referred to the ETX Websites by Affiliate;

2.1.50 "**Related Party**" includes any person bearing a relationship with any Party to this Agreement, including, without limitation: family members; any person that any Party to this Agreement, directly or indirectly through one or more intermediaries, controls or that, directly or indirectly through one or more intermediaries, is controlled by or is under common control with such Party; for purposes of this definition, the term "control" (including, with correlative meaning, the terms "controlled by" and "under common control with"), as used with respect to any company or person in this Agreement, shall mean the possession, directly or indirectly through one or more intermediaries, of the power to direct or cause the direction of management policies of such company or person, whether through ownership of voting securities or otherwise;

2.1.51 "**Services**" means the marketing and customer referral services, and all related services, which Affiliate will be providing to ETX through Affiliate's Website(s);

2.1.52 "**Spam**" or "**Unsolicited Promotions**" means e-mails, text messages and/or other messages that are sent by Affiliate, directly or indirectly, including, but not limited to messages that are posted on newsgroups, chat boards, instant messaging systems, and other types of online forums or sent to mobile phones and which: (a) are directed at people who have not consented to receiving promotional messages from Affiliate; (b) contain false or misleading statements; (c) do not truthfully identify the source or the originating IP Address; (d) purport to be, but

are not, generated by ETX or one of its Related Parties; (e) do not provide the recipient with an option to easily 'opt-out' receiving future mailings or promotions; or (f) violate Applicable Laws and Regulations regarding unsolicited electronic communications;

2.1.53 "**Spyware**" means a type of malware which collects information about users without their knowledge;

2.1.54 "**Track Text Link**" means text that hyperlinks persons from a webpage to the ETX Websites;

2.1.55 "**Tracker**" means a unique tracking URL that ETX provides exclusively to Affiliate, during the term of this Agreement, through which ETX is capable of tracking Affiliate's marketing and customer referral efforts and calculates Affiliate's Compensation;

2.1.56 "**Tracking Code**" means one or more unique hyperlinks (URLs) to a Platform Website, through which Affiliate refers potential Clients from a web page; when the Client opens his/her Client Account, the system automatically logs the Tracking Code and records Affiliate as the Affiliate that has solicited, introduced and/or referred the Client in question to ETX;

2.1.57 "**Transaction**" means any opening or closing of a financial spread bet or any purchase or sale of a contract for difference;

2.1.58 "**UK**" means the United Kingdom;

2.1.59 "**Volume**" means the total amount of trades by a Client during each month; and

2.1.60 "**Widget**" means 'html' coding related to a Platform Website that lets Affiliate easily add functionality to Affiliate's Website; Widgets can display a wide variety of information, including news, trading updates, pro tips, promotions, and commercials.

2.2 In this Agreement unless expressed to the contrary or the context otherwise requires:

2.2.1 the masculine gender shall include the feminine and neuter and the singular number shall include the plural and vice versa;

2.2.2 references to this Agreement include references to this Agreement as validly varied from time to time;

2.2.3 reference to a clause is to a clause in this Agreement and reference to a paragraph in a schedule to this Agreement is to a paragraph in that schedule;

- 2.2.4 references to any party include (where applicable) its lawful successors, permitted assigns and transferees;
- 2.2.5 where reference is made to a number of days, such number shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a day other than a Business Day, in which case the last day shall be the next succeeding Business Day;
- 2.2.6 reference to days, months or years shall be a reference to calendar days, months or years, as the case may be, unless the contrary is expressly stated or clearly appears from the context;
- 2.2.7 references to a "**person**" include references to any natural person and to any corporate or other bodies that have a legal personality;
- 2.2.8 headings are inserted for convenience only and must be ignored in construing this Agreement;
- 2.2.9 the annexes, appendices, addenda, attachments, schedules and exhibits and the pre-amble form an integral part of this Agreement and shall be construed as having the same full force and effect as if they would be expressly set forth in the body of this Agreement.
- 2.2.10 the words "**company**", "**subsidiary**", and "**holding company**" have the meanings given to them in the Companies Act 2006 (UK); and
- 2.2.11 "**include**", "**includes**" and "**including**" shall be construed so that the examples that are given are not intended to be exclusive or limiting examples of the matters in question.

### **3 ACCEPTANCE OF THIS AGREEMENT**

- 3.1 You hereby acknowledge and agree that (a) by completing and submitting the Affiliate Application Form to ETX and clicking on the "**BECOME AN AFFILIATE**" button or similar buttons or links as may be designated by ETX on a Platform Website to show your approval of this Agreement, (b) by continuing to access or use a Platform Website, (c) by marketing to and referring potential new Clients to a Platform Website and/or (d) by accepting any Affiliate commissions and/or payments from ETX or any of its Clients, you are entering into a legally binding contract and you fully agree to abide by and to be bound by all the terms and conditions set out in this Agreement.
- 3.2 You hereby agree to the use of electronic communications in order to enter into contracts, place orders and other records and to the electronic delivery of notices, policies and records of transactions initiated or completed through the ETX Affiliate

Program. Furthermore, you hereby waive any rights or requirements under any laws or regulations in any jurisdiction which require an original (non-electronic) signature or delivery or retention of non-electronic records, to the extent permitted under applicable mandatory law.

3.3 ETX shall evaluate the Affiliate Application Form and shall inform you by e-mail whether the Affiliate Application Form is accepted or not. ETX reserves the right to refuse your application for any reason without being obliged to provide you with any explanation or justification.

3.4 Should ETX expressly accept you as an affiliate ETX will become a counterparty to this Agreement, and this Agreement will enter into effect between you and ETX as of the date on which ETX sends the above-mentioned confirmation e-mail (the “**Effective Date**”).

#### **4 YOUR REPRESENTATIONS AND WARRANTIES**

4.1 In addition to other representations and warranties you will give us in this Agreement, you represent and warrant that: (a) you are an individual or company who can form legally binding contracts under the laws applicable in your country of residence or incorporation; (b) if you are an individual, that you are above the age of 18, or otherwise above the legal age in your country of residence; (c) all of the information provided by you to ETX is correct and current; (d) you are the owner of each Affiliate Website and any content displayed thereon or contained therein and/or you are legally authorised to act on behalf of the owner the Affiliate Website for the purposes of this Agreement and the Services to be provided hereunder; (e) you have all necessary rights, powers, and authority to enter into this Agreement and to perform the acts required of you hereunder; (f) you have complied and will continue to comply with all Applicable Laws and Regulations in your performance of any acts hereunder, and (g) neither the Affiliate nor its shareholders and/or ultimate beneficial owners, its directors, officers, representatives and other persons who are performing services in connection with this Agreement is a country, territory, individual or entity named on the “Consolidated of Financial Sanctions Targets” or any successor or equivalent sanctions list published by Her Majesty’s Treasury of the United Kingdom, or any “Consolidated list of persons, groups and entities subject to EU financial sanctions or any successor or equivalent sanctions list published by the European Union.

4.2 In addition, to the extent that Affiliate’s Website is or includes a media player: (a) you represent and warrant that you have a valid license to use and distribute such media player (including all content therein without limitation) for the purposes of this Agreement and the Services to be provided hereunder; and (b) you shall ensure that

any media player that constitute Affiliate's Website or that are part thereof or included therein shall comply with the terms and conditions set forth herein.

- 4.3 You further represent and warrant that the Affiliate's Website and any materials displayed therein: (a) comply with all Applicable Laws and Regulations; (b) do not breach, and have not breached, any duty toward or rights of any person or entity including, without limitation, rights of intellectual property, publicity or privacy, or rights or duties under consumer protection, product liability, tort, or contract theories; (c) are not pornographic, hate-related or otherwise violent in content; and (d) are not knowingly targeted at persons under 18 years of age.
- 4.4 To the extent that the applicant to the ETX Affiliate Program is a corporation, a company, a joint venture, a partnership or any other corporate entity or association of individuals ("**Corporate Entity**"), you represent and warrant that you are legally authorised to bind such Corporate Entity and that your consent to the terms of this Agreement binds such Corporate Entity for any and all purposes and intents of this Agreement.

## **5 PERSONAL INFORMATION AND REGISTRATION**

- 5.1 You shall submit the following documents to ETX within ten (10) business days upon ETX's request:
- (i) If an individual: valid ID card/passport, proof of address, identity number and any other document as reasonably requested by ETX; or
  - (ii) If a company: certification of incorporation, memorandum and articles of association, tax identification number organisation structure chart, register of members, list of directors/partners, copy of ID/passport and proof of address (within 3 months of date) of the directors/partners, copy of ID/passport and proof of address (within 3 months of date) of the beneficial owner(s) of 25% or more of the share capital of the company and any other document(s) reasonably requested by ETX.

Where you fail to submit the requested supporting documents to ETX, ETX shall not pay out any Compensation due to you and any due Compensation shall be deemed as forfeited. Where ETX is prohibited by law and regulation to enter into any business relationship with you, you agree that ETX shall not be obliged to pay out any Compensation to you and shall be entitled to terminate this Agreement with immediate effect. Where ETX is prohibited by law and regulation to enter into any business relationship with you, you agree that ETX shall not be obliged to pay out any Compensation to you.

- 5.2 You must provide true and complete information to us about the nature of your marketing activities, and any other information that we may request from time to time.
- 5.3 By opening a Client Account with us, Clients will be subject to all of our rules, policies and operating procedures that govern their activity on a Platform Website. We reserve the right to refuse service to any Prospective Client and to close the Client Account of any Client, at any time, in our sole discretion. All data relating to the Clients that open a Client Account with ETX will remain our sole and exclusive property and by entering into this Agreement you acquire no right to such information, except as expressly stated herein.
- 5.4 The ETX Affiliate Program and the online services provided by ETX are available to and may only be used by persons who can form legally binding contracts under the laws applicable to their country of residence or incorporation. Without limiting the foregoing, the ETX Affiliate Program and the online services provided by ETX are not available to persons under the age of 18 or otherwise under legal age under the laws applicable to your country of residence.
- 5.5 Your performance of this Agreement will take effect when you receive your Trackers from us and when you start promoting a Platform Website. This Agreement will be continuous until terminated. Notwithstanding the foregoing, and during a period of ten (10) business days following your receipt from us of your Trackers, we reserve the right to reject your registration application to join the ETX Affiliate Program. In the event that we elect to reject your application subsequent to your receipt of the Trackers, we shall notify you of the same and we shall be entitled to render the Trackers inoperative. For the avoidance of doubt, if we do terminate the Agreement in such circumstances, no Compensation will be due to you.
- 5.6 You may not register or possess more than one Affiliate Account without our prior written consent.

## **6 TERRITORIAL SCOPE OF AGREEMENT**

- 6.1 This Agreement does not apply to Services in respect of Prospective Clients, or Clients, which are resident in a territory (a) in which such persons are not allowed to access or use the online services promoted by ETX, or (b) where ETX does not wish to promote its online services as notified to you by ETX from time to time.
- 6.2 This limitation may be changed by ETX unilaterally and at its sole discretion from time to time and it is your duty to consult the ETX Affiliates Website and/or to consult with ETX regularly regarding any changes in this regard.

## **7 MARKETING AND PROMOTION**

- 7.1 Subject to the terms and conditions of this Agreement, you will, at your own cost and expense, market to (using only the Marketing Materials in accordance with clause 11 below) and refer Potential Clients to a Platform Website. You agree that all marketing activities must be professional, proper and lawful under Applicable Laws and Regulations.
- 7.2 You shall not make any changes to any Widget, Special Link, Banner or Text Link, including, without limitation, changes to the content, appearance or functionality.
- 7.3 You shall ensure that any Widget, Banner or Text Link is placed on Affiliate's Website in such a manner that they have equal to, or greater prominence than, any other third party banner and/or text link.
- 7.4 You are solely responsible for (a) the content of Affiliate's Website, including all content and materials, maintenance and operation thereof, the proper implementation of specifications, and adherence to the terms of this Agreement, including compliance with the various policies set forth on the ETX Affiliates Website, and (b) for the manner of in which you conduct your marketing and/or customer referral activities.
- 7.5 ETX reserves the right to investigate, at its own discretion, any activity that may violate this Agreement, including but not limited to any use of a software application to access a Platform Website or an Electronic Trading Platform or any engagement in any activity prohibited by this Agreement. ETX is not responsible (a) for anything related to Affiliate's Website, and (b) for the manner of in which you conduct your marketing and/or customer referral activities including without limitation the receipt of queries from Potential Clients, users of Affiliate's Websites or the transmission of data between Affiliate's Website and the Platform Websites.
- 7.6 We may, in our sole discretion, with or without prior notice to you, use any available means to block or restrict certain Clients, sign ups, deposits or trading patterns so as to comply with Applicable Laws and Regulations, or to reduce the number of fraudulent, unprofitable transactions or for any reason whatsoever, including but not limited to daily or monthly purchase limits, address verification or negative and positive credit card databases.
- 7.7 We do not guarantee or warrant the success of such fraud prevention efforts.
- 7.8 You are solely responsible to manage tax implications related to the income you derive from your referral activities.



## 8 UNAUTHORISED ACTIVITIES

8.1 You represent and warrant that you will not place Promotional Material on any website, or use any media or medium, which contains materials that do not qualify for the ETX Affiliate Program, including, but not limited to, sites which conform to any of the following criteria:

(a) promote (including links to) sexually explicit materials, violence, or illegal activities;

(b) promote discrimination based on race, sex, religion, nationality, disability, sexual orientation, or age;

(c) designed to (or linked to other sites designed to) target persons under 18 years of age;

(d) manipulate keyword searches on portals and/or search engines that conflict with our search engine marketing protocols;

(e) misrepresent themselves as a Platform Website by co-opting the visual "look and feel" of or text from a Platform Website or otherwise violate our or our partners' Intellectual Property rights, including, without limitation, "scraping" text or images from Platform Websites or our Banners and/or Text Links, search marketing or all other online and offline campaigns;

(f) do not clearly make available an online privacy policy to visitors;

(g) are "under construction" or have broken URL's; or

(h) are otherwise considered offensive or inappropriate, in our sole discretion.

8.2 Furthermore, you shall not, and shall not authorise or encourage any third party to:

(a) directly or indirectly generate use of the online services offered by us through any automated, deceptive, fraudulent or other invalid means, including but not limited to through repeated manual clicks, the use of robots or other automated gaming tools and/or computer generated queries, and/or the unauthorised use of other search engine optimization services and/or software;

(b) edit, modify, filter, truncate or change the order of the information contained in any part of Platform Website), or remove, obscure or minimize any part of Platform Website in any way without authorisation from us;

(c) frame, minimize, remove or otherwise inhibit the full and complete display of any Web page accessed by a Prospective Client or Client after clicking on any part of a Platform Website;

- (d) redirect any Prospective Client or Client away from a Platform Website;
- (e) provide a version of any web page of a Platform Website that is different from the page an end user would access by going directly to the particular Platform Website; intersperse any content between Platform Website and the applicable landing page on the ETX Website; or otherwise provide anything other than a direct link from Affiliate's Website to a relevant landing page on a Platform Website, as approved by ETX in accordance with this Agreement; on any Web page or any Website that contains any pornographic, hate-related, violent, or illegal content;
- (f) directly or indirectly access, launch, and/or activate access to the online services offered by ETX through or from, or otherwise incorporate access to the online services offered by ETX or referrals in, any software application, Website, or other means other than Affiliate's Website, and then only to the extent expressly permitted by this Agreement;
- (g) "crawl", "spider", index or in any non-transitory manner store or cache information obtained from or pertaining to any Client who has been or is identified as solicited by and introduced and/or referred to a Platform Website via your Tracker, or any part, copy, or derivative thereto;
- (h) act in any way that violates any various policies posted on a Platform Website, as may be revised from time to time, or included in any other agreement between you and ETX (including, without limitation in this Agreement;
- (i) disseminate malware;
- (j) create a new account to enrol in the ETX Affiliate Program after ETX has terminated this Agreement with you as a result of your breach of this Agreement; or
- (k) engage in any action or practice that reflects poorly on ETX or otherwise disparages or devalues our reputation or goodwill.

8.3 In your marketing activities related to Platform Websites or the ETX Affiliate Program, you will not target any persons who are less than 18 years of age, regardless of the age of majority in the location where you are marketing.

8.4 You will not suggest or imply in any way, shape or manner that any Bonus Incentive, rebate, 'cash back' or other inducement offered by us are exclusive to you.

8.5 You will not utilise Prohibited Software or operate sites that offer or promote programs that use what we deem to be Prohibited Software. You will not use Spam, Unsolicited Promotions, Adware, Spyware or Prohibited Software in any marketing activities related in any way, shape or manner to a Platform Website or the ETX

Affiliate Program. Widgets, Banner Ads and Text Links may not be placed within Spam, Unsolicited Promotions, unauthorised newsgroup postings, chat rooms or through the use of "bots" or Prohibited Software.

- 8.6 In the event that a person who suffered damages or losses as a result of your marketing activities seeks compensation from us, all expenses, which we may incur in connection with your conduct, including but not limited to legal fees, shall be deducted from the Compensation you have earned.
- 8.7 You will not earn Compensation on traffic generated by unlawful or improper means. In the event that you violate this provision, you will forfeit all Compensation that you have earned and we reserve the right to terminate this Agreement with immediate effect, and the pursuit of all available civil or criminal remedies.

## 9 UNSOLICITED E-MAILING

- 9.1 Except as expressly otherwise provided for in this Agreement, and then only if and to the extent provided herein, you are prohibited from sending e-mails to promote ETX, a Platform Website, the ETX Affiliate Program and/or the online services offered by ETX or its partners.
- 9.2 Furthermore, you expressly acknowledge and agree that ETX does not participate in, support or indulge mass unsolicited e-mailing (i.e. spamming, desktop scrapes) to promote ETX, a Platform Website, the ETX Affiliate Program and/or the online services offered by ETX, and you expressly acknowledge and agree that you are expected to adhere to this policy as well.
- 9.3 In the event that you have your own "opt-in" e-mail address list ETX may, in certain circumstances and at its sole discretion, consider approving the sending of such e-mails as per your request. **SUCH REQUEST MUST BE SUBMITTED IN WRITING TO ETX ALONG WITH ALL REQUESTED INFORMATION. ETX DOES NOT UNDERTAKE TO APPROVE ANY OF SUCH REQUESTS, AND IN CASE WE DO APPROVE SUCH E-MAILING, SEPARATE APPROVAL WILL BE NEEDED FOR EACH SINGLE MAILING BATCH.**
- 9.4 You acknowledge and agree that any attempted participation or violation of any of the foregoing is a material breach of this Agreement and that we may pursue any and all applicable legal and equitable remedies against you, including an immediate suspension of your Affiliate Account with ETX and/or the immediate termination of this Agreement, without prior notice being required, and the pursuit of all available civil or criminal remedies.

## 10 PERSONAL DATA PROTECTION

- 10.1 You acknowledge the importance ETX places on protecting the privacy of its Prospective Clients and its Clients and you hereby expressly acknowledge, agree and undertake not to try to access or to access any "Personal Data" acquired from or about Prospective Clients or from existing Clients, on your own initiative without the express prior and written consent of, or express instructions in writing from, ETX.
- 10.2 In particular, in the event that "Personal Data" are collected by you, you shall provide the relevant data subjects with the information required by all Applicable Laws and Regulations pertaining to "Personal Data" protection and, when necessary, you shall obtain the prior written consent of all "data subjects" concerned.

## 11 APPROVED MARKETING MATERIALS

- 11.1 In your efforts to promote or market a Platform Website and the online services offered by ETX, you will only use the Widgets, the Banners and/or Text Links and any other Promotional Material that are located on our banner farm and that have been pre-provided by ETX under and pursuant to this Agreement (collectively the "**Marketing Materials**").
- 11.2 Generally, we will provide you, without charge, the Marketing Materials that you are allowed to use for the performance of your Services hereunder. As a member of the ETX Affiliate Program, you can create a unique link to a Platform Website by using the Marketing Materials located on our banner farm. However, customised Promotional Material provided to you will be at cost and deducted from the online Marketing Affiliate Compensation payable to you.
- 11.3 During the term of this Agreement, we shall grant you a terminable, non-exclusive, non-transferable right to use the Marketing Materials for the sole purpose of marketing to and referring potential Clients to a Platform Website.
- 11.4 We reserve the right to demand, in our sole discretion, that you post a disclaimer adjacent to any Marketing Materials which you display anywhere. We further reserve the right to determine the language of a reasonable disclaimer in our sole discretion.
- 11.5 You agree to use the entire code provided to you in connection with the Marketing Materials. You will not modify or alter the code for Widgets, Banner Ads, or Text Links, or otherwise modify any other Marketing Materials without our prior written consent.
- 11.6 Under no circumstance are you allowed to use the Marketing Materials and any other promotional materials provided by us in a manner that may potentially confuse or mislead a Client or Potential Client. Trackers and Tracking Codes are for your sole use and are not to be assigned to others without our prior written consent.

11.7 Any breach of this clause 11 shall entitle ETX to terminate this Agreement with immediate effect and Affiliate will forfeit all Compensation payable.

## **12 COMMERCIAL USE ONLY**

12.1 The marketing opportunity set forth in this Agreement is for commercial use only and you and any Related Party to you may not sign up or make deposits to any Account, directly or indirectly, through your Tracker for your own personal use, to fraudulently increase the Affiliate Compensation payable to you or to otherwise defraud us.

12.2 Unless otherwise agreed upon in writing and beforehand by ETX, you are strictly forbidden to trade for yourself, either on an Electronic Trading Platform or on any other platform operated by us, either directly or indirectly through a Related Party. In no event are you to receive any Affiliate Compensation on Net Revenue generated on your own Client Account.

## **13 GOOD FAITH MARKETING**

13.1 We reserve the right to withhold or back out from Compensation and any other amounts generated by Fraud Traffic, regardless of whether you participated in or knew about any known, unknown, suspected or unsuspected Fraud Traffic.

13.2 In the event that we determine that you have knowingly participated in, or knowingly benefited from, Fraud Traffic with the intent to defraud us, we may immediately terminate this Agreement for cause and you will forfeit any and all Compensation not yet paid and we shall have the right to seek recovery of Compensation paid to you.

13.3 In the event that you violate any of the provisions set out above and, as a result thereof, cause damage or loss to ETX, or causes one, or more, of the Platform Websites (or our third party provider's websites) or servers to be interrupted from normal service, you will be held liable for damages and loss of business.

## **14 PRESS RELEASES AND PROMOTIONAL MATERIALS**

14.1 You may not issue or circulate any Press Release or any document with the characteristics of a Press Release with respect to ETX, a Platform Website, the online services offered by ETX, the ETX Affiliate Program or this Agreement, without first submitting the full content of any such document to ETX for review and having received our prior express written consent.

14.2 Any Promotional Material that you may use at any time, including in particular all content of your Website, must be reviewed and approved in writing by the ETX Compliance Department prior to publication or distribution to prospective or existing customers. In particular, all content of Affiliate's Website must be reviewed and

approved in writing by the ETX Compliance Department prior to publication on Affiliate's Website. You expressly acknowledge and agree that, upon request, ETX may inspect any research report or other sales literature and/or Promotional Material used or to be used by you. You may use such advertising and/or Promotional Material only upon the terms and conditions expressly stated by ETX beforehand and in writing from time to time in accordance with the terms set out in this Agreement. You may not modify or delete any such Promotional Material it uses without the prior, express and written consent of ETX.

- 14.3 In the event that ETX gives notice to you requesting that you modify or terminate an advertising campaign or change or remove certain content of your Website, you shall be obligated to terminate immediately such advertising campaign and/or, as the case may be, promptly change or remove the relevant content from your Website.
- 14.4 Except for the Marketing Materials, you may not create, publish, distribute, or allow any written material that references ETX in any way without our prior written consent.

## **15 REGULATORY MATTERS**

- 15.1 YOU HAVE INDEPENDENTLY EVALUATED THE LAWS IN YOUR LOCAL JURISDICTION WHICH APPLY TO YOUR ACTIVITIES HEREUNDER AND YOU REPRESENT AND WARRANT THAT YOU MAY PARTICIPATE IN THE ETX AFFILIATE PROGRAM WITHOUT VIOLATING ANY APPLICABLE RULES OR LAWS.**
- 15.2 Unless otherwise permitted by the FCA Rules or any other Applicable Laws and Regulations, nothing in this Agreement shall be taken to exclude or restrict our obligations under the FCA Rules or any other Applicable Laws and Regulations.
- 15.3 We shall be entitled to take any action as we consider necessary in our absolute discretion to ensure compliance with the FCA Rules or any other Applicable Laws and Regulations and such actions shall be binding on you and shall not render ETX or any of its directors, officers, employees or agents liable.
- 15.4 You agree that ETX shall treat each Client and Prospective Client, who has been or is identified as solicited by and introduced and/or referred to a Platform Website via your Tracker as its own and ETX will deal directly with all Clients and Prospective Clients.
- 15.5 ETX shall retain full ownership of all information, documents, data files, information and other materials, including, without limitation all Personal Data, pertaining to all Prospective Clients and Clients, who have been or are identified as solicited by and introduced and/or referred to a Platform Website via your Tracker.

15.6 You hereby expressly acknowledge and agree that upon reasonable written notice by ETX and at request, you will co-operate with the FCA and any other relevant regulator of ETX in relation to the matters covered by this Agreement.

## 16 NON-COMPETITION

16.1 You shall not market ETX, a Platform Website, ETX Affiliate Program and/or the online services offered by ETX, to Clients or Prospective Clients on any web page on which we promote a Platform Website, or in any other manner which results in you competing with us.

16.2 You understand that ETX shall at all times be entitled freely and without any limitations and/or exclusivity requirements being applicable (directly or indirectly): (a) at its sole discretion, to enter into all kinds of business arrangements with any third party (other than you), including, without limitation, online marketing affiliation agreements of a similar kind as this Agreement and to allow any third party (other than you) to participate in the ETX Affiliate Program and/or the Affiliate Network; (b) at its sole discretion, to accept, solicitations, introductions and/or referrals of suitable, prospective customers from any third party (other than you); and/or (c) at its sole discretion, to enter into marketing terms with other Affiliates on the same or different terms as those provided to you herein and that such Affiliates may be similar, and even competitive, to you; you understand that we may re-direct traffic and users from a Platform Website to any other web page that we deem appropriate in our sole discretion, without any additional compensation to you.

16.3 **Domain Ownership** – Without our prior express written consent, you may not acquire (by purchase, rent or lease) directly or indirectly any domain that includes a Prohibited Word. Should you already own or control, directly or indirectly, a domain containing a Prohibited Word ETX reserves the right to require that you immediately transfer ownership of the domain or make such modifications to the domain as ETX, in its sole discretion, reasonably requires.

16.4 **Search Engines** – You may not bid on any keywords or keyword phrases which include a Prohibited Word in any pay-per-click search engine (“PPC”) or use a Prohibited Word or any derivative of a Prohibited Word in URLs and directory names for the purpose of search engine optimization (“SEO”).

16.5 **Site Directs** – You may not set up any site redirects from any web page or network of websites so that the page goes directly to a Platform Website.

16.6 **Page Optimization** – You may not optimize any page of a website for keyword or keyword phrases that include Prohibited Word; this provision includes but is not limited to Meta Tags, headers and body content.

16.7 **Off-Site Links** – You may not buy or build off-site text links with anchor text for Prohibited Words.

## 17 **OUR INTELLECTUAL PROPERTY**

17.1 Once you have been accepted by ETX as a member of ETX Affiliate Program, you can create a unique link to a Platform Website using text or one of the Banners and/or Text Links located on our banner farm. Except if, and then only to the extent that, any of our Intellectual Property is included in Banners and/or Text Links or other Marketing Materials and/or Promotional Materials that you obtain through the ETX Affiliate Program or that you otherwise receive from us or our Related Parties, you have no right to display or otherwise use any of our Intellectual Property.

17.2 You may access and or use our Intellectual Property solely as part of the Special Links, Banners and/or Text Links connecting to Platform Website and then solely to promote ETX, a Platform Website, the ETX Affiliate Program and/or the online services offered by ETX. Any display of our Intellectual Property must be in good taste, and in a manner that preserves their value and in accordance with reasonable standards provided by ETX for such display. You must not use any of our Intellectual Property in any manner that may imply that you are an agency or branch of ETX.

17.3 You agree that ETX shall retain full ownership rights in and to its Intellectual Property and you agree to sign any document as reasonably required to effect the recording or protection of any such Intellectual Property. You agree not to make use of any Intellectual Property in any manner whatsoever, without the prior written and express approval of ETX and that any and all rights that might be acquired by the use of the Intellectual Property shall inure to the sole benefit of ETX. If you were to obtain any such right, title and/or interest in or to the Intellectual Property at any time, whether or not this Agreement is in effect, you shall immediately transfer those rights back to ETX upon first request. You acknowledge and agree that, in the event that permission to make use of any Intellectual Property is granted by ETX, as between the Parties or under or pursuant to this Agreement in accordance with the terms and conditions set forth herein, you shall be extended only a mere permissive right to use such Intellectual Property, as provided in the relevant license agreement and in accordance with the terms and conditions thereof, which permissive right is not coupled with any ownership interest.

17.4 You further agree not to use or register in any country any of our Intellectual Property or internet domain names resembling or confusingly similar to, or consisting in whole or in part of, those included in the Intellectual Property; whenever your attention is called by ETX to any such confusion or risk of confusion, you agree to take appropriate steps immediately to remedy or avoid such confusion or risk of confusion.



- 17.5 You shall give ETX promptly notice of any known or presumed infringements of any right, title and/or interest in or to its Intellectual Property or any unauthorised use of its Intellectual Property by others, and you shall render ETX full cooperation for the protection of its Intellectual Property; ETX shall retain all rights to bring all actions and proceedings in connection with infringement or unauthorised use of its Intellectual Property at its sole discretion; if ETX decides to enforce its rights in any Intellectual Property against an infringer, all costs incurred and recoveries made shall be for the account of ETX.
- 17.6 You shall not, directly or indirectly, at any time during the term of this Agreement (as defined hereafter), and any time thereafter, do or cause to be done any act or thing disputing, attacking, impairing, diluting, or in any way tending to impair or dilute right, title and/or interest in or to any Intellectual Property or the validity of any license granted by it.
- 17.7 You agree that ETX may use your name and logo in presentations, marketing materials, customer lists, financial reports, Website listings of customers, search results pages, and referral pages.

## **18 SOCIAL NETWORKING SITES OR SERVICES**

- 18.1 On any social networking site or service you may not hold yourself out to be or to represent ETX or any of agents, employees or representatives.
- 18.2 Additionally, you may not create, establish or otherwise maintain any page on Facebook, LinkedIn, Instagram, TikTok, MySpace, Twitter or any other social networking site/service or blog domain or use a profile name or display name which contains Prohibited Words or does or could mislead others to believe that you do or may represent ETX or any of agents, employees or representatives.

## **19 REPORTS AND PAYMENTS**

- 19.1 In return for the performance of your Services pursuant to this Agreement, ETX shall pay you, depending on the Compensation Plan agreed by us, for each Client who has been or is identified as solicited by and introduced and/or referred to a Platform Website via your Tracker, the amounts and/or percentages agreed by us.
- 19.2 We will track and report the trading activity of Clients who have been or are identified as solicited by and introduced and/or referred to a Platform Website via your Tracker for purposes of calculating your Compensation. The form, content and frequency of these reports may vary from time to time at our sole discretion. At your request, you will receive at least a monthly report with your Compensation indicating the total amount of monthly Net Revenue collected from Clients who have been or are

identified as solicited by and introduced and/or referred to a Platform Website via your Trackers during the course of that month per Tracker. As we deem appropriate, and at our sole discretion, we may distribute reports more frequently than monthly.

- 19.3 Your Compensation will be paid and sent out to you within twenty (20) calendar days after the close of each calendar month, except that, if the total amount due to you is less than United States Dollars one hundred and fifty (USD\$150), the balance will be carried over and added to your Compensation for the next month, until the total amount is more than United States Dollars one hundred and fifty (USD\$150).
- 19.4 In the event of any trading activity that is deemed suspicious by us, in your Affiliate Account or in multiple Affiliate Accounts, then we may delay payment of your Compensation to you in order to verify the relevant transactions. In the event that we determine the activity to constitute Fraud Traffic, we shall be entitled to terminate this Agreement and to recalculate or withhold your Compensation accordingly and in our sole discretion.
- 19.5 All payments will be due and payable in United States Dollars only. Payment will be credited to your Affiliate Account, which you have registered when signing up to the ETX Affiliate Program. At our sole discretion, and as we deem appropriate, we may accommodate other methods of payment. Any charges incurred with payments hereunder will be covered by you and deducted from your Compensation.
- 19.6 You understand and agree that Prospective Clients, in order to be identified as solicited by and introduced and/or referred to a Platform Website via your Tracker, must link through a Tracking Code or enter a Referral Code when they sign up in order for you to receive Compensation in relation to such Prospective Clients. In no event are we liable for your failure to use the right Trackers, for Prospective Clients' failure to properly enter Referral Codes, or for system malfunctions that cause Trackers, Referral Codes or hyperlinks to be deleted, corrupted or unusable.
- 19.7 Deposit of payment, acceptance of payment transfer or acceptance of other payment by you will be deemed full and final settlement of Compensation due for the month indicated. Hence, if you disagree with the reports or amount payable, do NOT accept payment for such amount and immediately send us written notice of your dispute. Dispute notices must be in writing and be received within five (5) Business Days of payment being made, or your right to dispute such report or payment will be deemed waived and you shall be deemed to have waived any and all rights in relation to such report or such payment and further to have waived any claims of restitution and/or unjust enrichment.
- 19.8 Compensation in relation to new Clients will be dispatched only following our verification and investigations concerning all new Clients. In the event of any Client

failing to provide ETX with documents sufficient to establish the Client's identity to ETX's reasonable satisfaction and as may be required from time to time to satisfy regulatory compliance requirements, ETX shall without prejudice to its other rights and remedies, reserves the right to hold back payment of the Compensation in relation to that Client or transaction or, in the event the Compensation have been paid to you, 'claw back' the Compensation from amounts not yet paid to you.

19.9 Notwithstanding anything to the contrary in this Agreement, in the event that a Client (including any authorised person or attorney acting on the Client's behalf):

- (i) challenges or objects to a transaction or complains about the price traded or the calculation of spread or commission in relation to the transaction; or
- (ii) is subject to an investigation by any legal or regulatory authorities (or by ETX acting in good faith), in relation to suspected illegal or irregular account activity including, without limitation, suspected fraud or market abuse, or acting in concert with you or others to defraud ETX or its partners; or
- (iii) initiates a 'charge back' (reversal) of credit or debit card transactions through the card provider,

ETX, without prejudice to its other rights and remedies, reserves the right to hold back payment of the Compensation in relation to that transaction or, in the event the Compensation have been paid to you, 'claw back' the Compensation from amounts not yet paid to you. Amounts held back or clawed back shall be paid to you if the transaction stands, or when all relevant investigations have been completed and the Client has provided us with all the sufficient documents to establish the Client's identity and is reasonably determined to not have acted unlawfully or irregularly. In the event any transaction is amended or voided the amount payable to you shall be adjusted appropriately. However, in the event of a 'charge back', or if it is reasonably determined by us that the Client has indeed acted unlawfully or irregularly with your knowledge, you shall be solely liable in respect of all of ETX's losses arising from the Client's activities, and ETX shall be entitled to set-off and deduct from any sums due to you sufficient funds to recover ETX's losses in full.

19.10 If ETX exercises any of its rights under the Customer Agreement in relation to a Client including but not limited to voiding a trade placed by the Client, ETX reserves its right to hold back payment of the Compensation in relation to that Client or, in the event the Compensation have been paid to you, 'claw back' the Compensation from amounts not yet paid to you.

- 19.11 In the event that the Net Revenue is a negative amount during any given month, such negative amount shall be carried forward and deducted from the Net Revenue amount of the next month. In the event that the cumulative Net Revenue is a negative amount for three (3) consecutive calendar months, we shall be entitled to terminate this Agreement with immediate effect by giving notice to you in writing.
- 19.12 In the event that this Agreement is terminated for any reason, other than for cause, we shall pay you any earned balance of Compensation that is due and payable to you at the time of termination of this Agreement, within approximately sixty (60) days after the end of the calendar month in which the Agreement is terminated by you (following receipt of your written notice, including by email, to terminate the Agreement) or by us. You are solely responsible for providing and maintaining accurate address and other contact information as well as payment information associated with your Affiliate Account.
- 19.13 You agree to pay all applicable taxes or charges imposed by any government entity in connection with your participation in the ETX Affiliate Program. ETX may change its pricing and/or payment structure at any time; we may convert any Compensation Plan hereunder from a Revenue Share Plan to a CPA Plan or vice versa or to any other Compensation Plan that we may operate from time to time, at any time, on notice to you.
- 19.14 Payment shall be calculated solely based on records maintained by ETX. No other measurements or statistics of any kind shall be accepted by ETX or have any effect under this Agreement. Furthermore, for the purposes of calculating your Compensation in respect of the trades executed by Clients who have been or are identified as solicited by and introduced and/or referred to a Platform Website via your Trackers, the following shall apply: (a) no Compensation will be paid in respect of trades carried out in a Client Account in respect of which charge backs and refunds have been effectuated; and (b) no Compensation will be paid in respect of trades in a Client Account, which we determine, at our sole discretion, to be the subject of Fraud Traffic; any and all fraud detection, prevention and remediation costs and all losses and damages incurred in relation to such a Client Account will be deducted from the Compensation otherwise payable to you.
- 19.15 From time to time we may be holding funds, payments and other amounts due to you in connection with the ETX Affiliate Program. You acknowledge and agree that we may, without further notice to you, contribute to a charitable organization selected by us all funds, payments and other amounts related to the ETX Affiliate Program that are held by us and that are due to you (if any), but which we are unable to pay or deliver to you because your Affiliate Account is Inactive. For the purposes of this clause “**Inactive**” shall mean that (a) for a period of 365 days or more you have not logged

into your Affiliate Account or accepted funds, payments or other amounts that we have attempted to pay or deliver to you, and (b) we have been unable to reach you, or we have not received adequate payment instructions from you, after contacting you at the last address shown our records.

- 19.16 Where appropriate and in accordance with Applicable Laws and Regulations, you shall make full and accurate disclosure to each Client in respect of inducements and fees under this Agreement including, but not limited to, the amount of any Compensation payable to you in respect of revenue including, but not limited to, spread, fees, charges, commissions or costs charged to the Client relation to trading; where the aforementioned disclosure is not appropriate you shall make full and accurate disclosure of the fee methodology to each Client in respect of the inducements and fees under this Agreement

## 20 TERM AND TERMINATION

- 20.1 This Agreement shall commence with effect from the Effective Date and shall continue for an indefinite period unless terminated in accordance with this Agreement. Either Party may terminate this Agreement at any time by giving seven (7) calendar days' notice in writing (including email).
- 20.2 Either Party may terminate this Agreement forthwith for cause, at any time, by giving written notice to the other Party (the "**Party in Default**") if: (a) the Party in Default goes into administration or liquidation or becomes insolvent or is wound up or resolves to do so or a petition seeking an administration or winding-up order is issued in relation to the Party in Default (or an analogous event occurs under the law of any jurisdiction) and/or if any step is taken by any person for the dissolution of the Party in Default, or for the appointment of a receiver, administrator or judicial manager or other similar officer over any part of any Party's undertaking, business or assets unless that Party demonstrates, to the reasonable satisfaction of the Party seeking to terminate, that it will be able to defend the proceeding successfully; or (b) if the Party in Default is unable to pay its debts as they fall due, or takes any step with a view to rescheduling or deferral of any material part of its indebtedness, or proposes or makes an arrangement or composition with or for the benefit of its creditors; or (c) if the Party in Default commits any material breach of this Agreement including but not limited to breach of representations and warranties; or (d) if the Party in Default ceases doing business as a going concern.
- 20.3 Furthermore, we may terminate this Agreement forthwith for cause, upon written notice to you, if: (a) in the event you become Inactive; (b) in the event you cease, in our reasonable opinion, to be fit and proper to provide the Services to ETX, if you no longer hold the necessary authorisation, license or consent to enable you to perform

your obligations under this Agreement or if you are prevented for any reason from carrying out your activities and/or obligations hereunder; (c) you commit a breach of clause 11 (Approved Marketing Materials) or you fail to use or misuse the approved Marketing Materials; and (d) in the event of any change in applicable law or government regulations or court order or threatened court order or proceedings or threat of proceedings that materially impairs the ability of ETX or of any Related Party of ETX to provide a Platform Website, the ETX Affiliate Program, the online services offered by ETX, the licenses or access described in this Agreement.

## **21 CONSEQUENCES OF TERMINATION**

- 21.1 The following will apply upon the effective date of termination: (a) you will cease all promotional activity related to us and all rights and licenses given to you under this Agreement will terminate immediately, except as expressly stated herein; and (b) you will return all Confidential Information related to ETX and cease use of any of Intellectual Property, Marketing Materials and/or Promotional Materials, Banner Ads, Text Links and other materials related to ETX, a Platform Website, the ETX Affiliate Program and/or the online services offered by ETX.
- 21.2 ETX may, at its sole discretion, leave open, redirect or deactivate any Trackers, without any obligation to pay you in respect of new Clients who come in or would have come in on those Trackers.
- 21.3 Subject and without prejudice to the provisions of the next following paragraph, in the event that this Agreement is terminated for any reason, other than for cause, ETX shall pay you any earned balance of your Compensation that is due and payable to you at the time of termination of this Agreement, within approximately sixty (60) days after the end of the calendar month in which the Agreement is terminated by you (following receipt of your written notice, including by email, to terminate the Agreement) or by ETX. You are solely responsible for providing and maintaining accurate address and other contact information as well as payment information associated with your Affiliate Account with ETX.
- 21.4 In the event that your Affiliate Account is closed for any reason, ETX reserves the right to extend the closure to all your activity related to ETX, the ETX Website, the ETX Affiliate Program and/or the online services offered by ETX, including, but not limited to, withholding Compensation without prior notice. If any such closure occurs, ETX reserves the right to dispose of any remaining funds in your Affiliate Account in sole discretion. If ETX suspects Fraud Traffic, ETX may withhold payment of Compensation for up to one hundred and eighty (180) calendar days, from the original due date, to ensure that the payment is correct and that any fraud has been reversed out.

21.5 Upon termination of this Agreement you shall not have the right to receive any further Compensation, except for such Compensation due and payable until the termination of this Agreement.

## 22 NO WARRANTIES

22.1 WE DO NOT WARRANT THAT OUR SYSTEMS, NETWORKS, SOFTWARE OR HARDWARE (OR ANY SYSTEMS, NETWORKS, SOFTWARE OR HARDWARE PROVIDED TO US BY THIRD PARTIES) WILL BE ERROR-FREE OR UNINTERRUPTED. WE MAKE NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE QUALITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR SUITABILITY OF OUR SYSTEMS, NETWORKS), SOFTWARE OR HARDWARE (OR ANY SYSTEMS, NETWORKS, SOFTWARE OR HARDWARE PROVIDED TO US BY THIRD PARTIES). YOU AGREE THAT WE (AND OUR PROVIDERS AND/OR UNDERLYING VENDORS) ARE NOT REQUIRED TO MAINTAIN REDUNDANT SYSTEMS, NETWORKS, AND SOFTWARE OR HARDWARE.

## 23 LIABILITY LIMITATIONS

23.1 OUR OBLIGATIONS UNDER THIS AGREEMENT DO NOT CONSTITUTE PERSONAL OBLIGATIONS OF THE DIRECTORS, OFFICERS, SHAREHOLDERS, PARTNERS, MEMBERS EMPLOYEES, AGENTS, SERVICE PROVIDERS AND/OR LEGAL REPRESENTATIVES OF ETX, AFFILIATES AND/OR ANY OF THEM. IN NO EVENT SHALL ETX'S LIABILITY HEREUNDER EXCEED THE TOTAL AMOUNT OF COMPENSATION GENERATED HEREUNDER IN THE THREE (3) MONTHS PRECEDING THE EVENT GIVING RISE TO THE CLAIM. EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF THE LIMITED REMEDIES PROVIDED HEREIN FAIL OF THEIR ESSENTIAL PURPOSE.

23.3 WE SHALL ONLY BE LIABLE FOR GROSS NEGLIGENCE OR WILFUL MISCONDUCT. LIABILITY HEREUNDER IS LIMITED TO DIRECT DAMAGES, AND IN NO EVENT WILL WE BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE LOSS, INJURY OR DAMAGE OF ANY KIND (REGARDLESS OF WHETHER ANY SUCH DAMAGES WERE FORESEEABLE OR WHETHER EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS).

## 24 INDEMNIFICATION

24.1 You will defend, indemnify and hold ETX and its Related Parties and all of the directors, officers, shareholders, partners, members employees, agents, service providers and/or legal representatives of ETX and its Related Parties and/or any of them, harmless from and against any and all liabilities, losses, damages and costs, including reasonable attorneys' fees, arising from or connected to your breach of this Agreement or the performance of your duties under this Agreement.

## 25 NOTICES

- 25.1 You must ensure that at all times ETX is able to communicate with you by telephone or email.
- 25.2 Except as specified otherwise in this Agreement, all notices, declarations, demands, requests, and other communications required under, or otherwise referred to in, this Agreement shall be in writing and shall be sufficient for all purposes if personally delivered or if sent by prepaid "overnight delivery" via DHL/FEDEX/UPS or any other internationally recognised air courier or if sent by facsimile with a confirmation copy sent by air mail, or if sent by e-mail, and in any case addressed to the respective Parties at their address set forth above or at such other address as such Party may hereafter designate by notice to each of the other Parties as herein provided.
- 25.3 If personally delivered in the form specified herein, notices, declarations, demands, requests, and other communications under this Agreement shall be deemed to have been given and received and shall be effective when personally delivered.
- 25.4 If sent by e-mail in the form herein specified, notices, declarations, demands, requests, and other communications under this Agreement shall be deemed to have been given and received and shall be effective when received in fully legible form by the Party to which the notice is addressed, which shall be deemed to occur upon completion of the e-mail transmission unless: (a) such transmission is made on a day which is not a Business Day or on a Business Day but outside regular business hours, in which case the notice shall be deemed received at 9:00 A.M. on the next succeeding Business Day; or (b) the Party to which the notice is addressed then notifies the other Party by return mail, telex or facsimile that the copy received is illegible in whole or in part.
- 25.5 If sent by prepaid "overnight delivery" via DHL/FEDEX/UPS or any other internationally recognised air courier in the form specified therein, notices, declarations, demands, requests, and other communications under this Agreement shall be deemed to have been given and received and shall be effective four (4) calendar days after deposit with such air courier or when actually received, whichever first occurs.
- 25.6 The Parties agree that the delivery of any summons and complaint, and other process, which may be served in any suit, action or other proceeding, may be made by mailing via certified or registered mail or by hand-delivering such summons, complaint or other process to the other Party at the address of such Party specified hereinabove.
- 25.7 Rejection or other refusal to accept, or the inability to deliver a notice, summons, complaint or other process referred to hereinabove, because of changed address of which no proper notice was given, shall not affect the effectiveness or the date of



delivery for any notice sent in accordance with the foregoing provisions. Each such notice, request or other communication shall be deemed as sufficiently given, served, sent and received for all purposes, at such time that it is delivered to the address (with return receipt, the delivery receipt, the affidavit of the messenger or the answer back being deemed conclusive (but not exclusive) evidence of such delivery) or at such time as delivery is refused by addressee upon presentation.

## 26 BRIBERY AND CORRUPTION COMPLIANCE

26.1 You shall:

26.1.1 comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including without limitation the UK's Bribery Act 2010 ("**Relevant Requirements**");

26.1.2 not engage in any activity, practice or conduct which would constitute an offence under the Relevant Requirements if such activity, practice or conduct had been carried out in the UK;

26.1.3 promptly report to us any request or demand for any undue financial or other advantage of any kind received by the Introducer in connection with the performance of this Agreement; and

26.1.4 procure the observance and performance of the Relevant Requirements by its directors, officers, employees, representatives and professional advisers or other persons who are performing services in connection with this Agreement.

## 27 DISPUTE RESOLUTION

27.1 In the event of any dispute arising out of or in relation to this Agreement, the Parties must first use their respective best endeavours to consult and negotiate with each other, in good faith and, recognizing their mutual interests, attempt to reach a just and equitable settlement of the dispute satisfactory to both Parties.

27.2 To such end the Parties must within seven (7) Business Days of a dispute arising convene a meeting between persons nominated by each Party (the "**Appointed Persons**") and other relevant members of management to attempt to resolve the dispute.

27.3 If the Appointed Persons agree upon a resolution or disposition of the dispute, they will sign a statement setting out the terms of the resolution or disposition and the Parties will ensure that the resolution or disposition is fully and promptly carried out.

27.4 If the Appointed Persons do not reach such a settlement within a further period of fourteen (14) working days, the affected Party is free to proceed to seek redress in the court.

27.5 Nothing in this Clause 27 shall prevent either Party from applying to court for interim or injunctive relief and each party acknowledges that a breach of the provisions of this Agreement may cause the other Party irreparable injury and damage and, therefore, any such breach may be enjoined through injunctive proceedings, in addition to any other rights and remedies that may be available to either Party as per applicable law or in equity.

## **28 FORCE MAJEURE**

28.1 ETX shall not be in breach of this Agreement and shall not be liable or have responsibility of any kind for any loss or damage incurred by you as a result of any total or partial failure, interruption or delay in the performance of this Agreement occasioned by any act of God, fire, pandemic, war, civil commotion, labour dispute, act of government, state, governmental or supranational body or authority, or any investment exchange and/or clearing house, inability to communicate with market makers for whatever reason, failure of any computer dealing system, any other breakdown or failure of transmission in communication facilities of whatever nature, between ETX and you or any other third party whatsoever, or any other reason (whether or not similar in kind to any of the above) beyond reasonable control (a "Force Majeure Event").

28.2 You acknowledge and agree that ETX may in its reasonable opinion, determine that a Force Majeure Event exists or is about to occur; as the case may be, ETX will inform you as soon as reasonably practicable if it so determines.

28.3 If ETX determines that a Force Majeure Event exists or is about to occur then it may (without prejudice to any other rights under this Agreement and at its sole discretion) take such action as it deems necessary or appropriate in the circumstances, having regard to you and your customers, and neither ETX, nor any of its directors, officers, employees, agents or advisers will be liable for any failure, hindrance or delay in performing its obligations under this Agreement or for taking or omitting to take any action pursuant to this subparagraph.

## **29 SEVERANCE**

29.1 Each part of this Agreement is a distinct undertaking. In the event that any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not

affect any other provision or part of a provision of this Agreement, which shall remain in full force and effect and shall in no way be affected or invalidated.

- 29.2 With respect to the provisions of this Agreement, which are held to be invalid or unenforceable, in whole or in part, the Parties will negotiate in good faith with the intention to replace the void provision with a valid one that in its economic effect complies best with the void provision in a manner consistent with their joint intention as expressed herein, and this Agreement shall, to the fullest extent lawful, be reformed and construed as if such invalid or illegal or unenforceable provision, or part of a provision, had never been contained herein, and such provision or part reformed so that it would be valid, legal and enforceable to the maximum extent possible.
- 30 Without limiting the foregoing, if any provision (or part of provision) contained in this Agreement shall, for any reason, be held to be excessively broad as to duration, activity or subject, it shall be construed by limiting and reducing it, so as to be enforceable to the fullest extent compatible with then existing Applicable Laws and Regulations, statutes, ordinances, and other applicable regulations.

## 31 GENERAL TERMS

- 31.1 **Controlling Language** – The Agreement and all other agreements and/or documents executed on the basis of this Agreement shall be written and interpreted in English. In the event that this Agreement has been translated into a language other than English, it is the English version that will be prevailing and controlling in the event of any discrepancy.
- 31.2 **Amendments** – ETX reserves the right to amend, alter, delete or add to any of the provisions of this Agreement (“**Changes**”), at any time and at its sole discretion, without giving any advance or prior notice, subject to the terms and conditions set out in this Agreement, and it is your duty to consult and/or to check regularly this Agreement on the ETX Websites regarding any Changes. You hereby acknowledge and agree that (a) by continuing to access or use the ETX Websites, (b) by continuing to market to and referring potential new Clients to the ETX Websites, and/or (c) by accepting any commissions from ETX, you confirm your irrevocable acceptance of this Agreement (and any modifications thereto), subject to your continued compliance with the terms and conditions of this Agreement.
- 31.3 **Waiver** – All waivers by ETX must be express and in writing. No failure on the part of any Party to exercise, and no delay on its part in exercising, any right or remedy under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. The failure of a Party at any time to require performance of any provision of this Agreement shall not in any way affect the validity

of this Agreement or any part thereof, nor the right of that Party to require performance of that provision or any other provision of this Agreement in the future.

- 31.4 **Remedies** – All remedies available to either Party for breach of this Agreement are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
- 31.5 **Assignment** – The terms, conditions and obligations of this Agreement shall inure to the benefit of and be binding upon the Parties and their respective, Affiliates, successors and assigns. ETX shall be entitled to assign its rights and benefits under this Agreement, without any prior consent being required, to any Affiliate or subsidiary belonging to the ETX group of companies. You may not without our prior written consent transfer this Agreement or any interest or obligation in or under this Agreement and any purported transfer without such consent shall be null and void. Following such consent to the transfer of any interest or obligation under this Agreement, you shall remain responsible for the performance of all of the transferee's obligations under this Agreement.
- 31.6 **Third Party Rights** – This Agreement is being entered into solely for the benefit of the Parties hereto and their successors and permitted assigns and intended and/or designated Affiliates. It may not be relied upon by any other person as the basis for any claim or dispute against one or both Parties, or as evidence of the rights or obligations of one or both Parties hereto with respect to such other person.
- 31.7 **No Partnership or Joint Venture** – Neither this Agreement nor the performance of any services by either Party hereunder will be construed to create a joint venture or partnership between the Parties. For all purposes of this Agreement and notwithstanding any provision of this Agreement to the contrary, you are an independent third-party and is not a partner, joint venture partner, or representative agent of ETX. You will not bind nor attempt to bind ETX any agreement or contract. As an independent third-party, you are solely responsible for all taxes, withholdings, and other statutory or contractual obligations of any sort.
- 31.8 **Entire Agreement** – This Agreement (together with its annexes, appendices, addenda, attachments, schedules and exhibits and/or amendments) represents the entire agreement concerning the ETX Affiliate Program between you and us and it cancels and supersedes all previous arrangements or agreements between the Parties hereto with respect to the subject matter hereof, superseding any other communications or understandings between the Parties hereto. **YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT AND AGREE TO ALL ITS TERMS AND CONDITIONS AND ARE**

**NOT RELYING ON ANY REPRESENTATION, GUARANTEE OR STATEMENT OTHER THAN AS SET FORTH IN THIS AGREEMENT.**

- 31.9 **Counterparts** – This Agreement may be executed in any number of counterparts, each of which when executed and delivered is an original, but all of the counterparts together constitute the same document. All counterparts shall collectively constitute a single agreement and it shall not be necessary in any proof of this Agreement to produce or account for more than one counterpart.
- 31.10 **Survival** – The provisions of Clauses 2 (DEFINITIONS AND INTERPRETATION), 15 (REGULATORY MATTERS), 16 (NON-COMPETITION), 22 (NO WARRANTIES), 23 (LIABILITY LIMITATIONS), 24 (INDEMNIFICATION), 27 (DISPUTE RESOLUTION), 29 (SEVERANCE), 31 (GENERAL TERMS), 32 (GOVERNING LAW AND JURISDICTION) of this Agreement shall survive the expiration of the term and/or the termination of this Agreement for any reason.

**32 GOVERNING LAW AND JURISDICTION**

- 32.1 This Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales and, subject to the dispute resolution provisions set forth hereinafter, you irrevocably agree for exclusive benefit that the courts of England, located in the Greater London Area, are to have jurisdiction to settle any disputes which may arise out of or in connection with this Agreement.
- 32.2 Nothing contained in this Clause 32 shall, however, limit right to take proceedings against you or any Client in any other court of competent jurisdiction, nor shall the taking of proceedings in one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.