

A. Appointment and Referral Terms

1. Appointment of Referrer

1.1. Appointment of Referrer: HiFX appoints the Referrer to refer Potential Clients to HiFX in respect of the Services, on the terms of this agreement.

1.2. Non-exclusive: HiFX enters into this agreement on a non-exclusive basis. HiFX has the right to enter into agreements with other parties of its choosing, without reference to, or the need to obtain the consent of, the Referrer.

2. Commencement

2.1. Commencement Date: This agreement commences, and is effective, on and from the date of this agreement.

2.2. Referral Code: The Referrer's Unique Referral Code shall be assigned by HiFX to the Referrer upon commencement of this agreement.

3. Referral arrangements

3.1. Referrals: Referrals may be effected in one of three ways:

- (a) Inbound, whereby the Referrer shall provide HiFX's contact information to the Potential Client so that the Potential Client can contact HiFX directly;
- (b) Outbound, whereby the Referrer obtains a Potential Client's contact information and consent for HiFX to contact the Potential Client directly;
- (c) Web effected referral, pursuant to clause 3.2.

3.2. Web Effected Referral Procedure: Where a referral is being made as a click-through via a Referrer's website or FX Webtool the following procedures shall apply:

- (a) The first Qualifying Link registered on the HiFX, Currency Online or XE websites shall remain valid for 30 calendar days. Any subsequent click-throughs by a Potential Client to the HiFX, Currency Online or XE websites from any other Referrer's website within that 30 calendar day period shall not be recorded as a Qualifying Link.
- (b) Should a Potential Client register as a new Client within 30 days of the first Qualifying Link being registered on the HiFX client database, HiFX shall pay a Commission to the Referrer generated from any subsequent Qualifying Transactions.
- (c) If a Potential Client does not register as a new Client within 30 days of the first Qualifying Link being registered on the HiFX client database, any cookies linking that Potential Client to the Referrer shall be removed and any association between the Potential Client and the Referrer shall be extinguished.
- (d) If a Potential Client makes independent contact with HiFX and the Potential Client Data is entered into the HiFX client database without the Potential Client either quoting a Unique Referral Code nor referring to a Referrer, that Potential Client shall be deemed to have contacted HiFX of their own accord and no subsequent association between the Potential Client and any Referrer shall be permitted.
- (e) The determination of whether or not the Potential Client registers as a new Client within 30 days of the first Qualifying Link being registered on the HiFX client database, and the determination whether or not a new Client completes a Qualifying Transaction, shall be made by HiFX only, and shall be deemed conclusive either way.

4. Relationship with Client

4.1. HiFX's Client: If HiFX agrees to provide Services to a Potential Client, HiFX will enter into relevant contracts or documents relating to the Services with the Potential Client. HiFX will do so directly in its own capacity and name. HiFX has the right to manage the relationship with the Client in relation to the Services. The Referrer acknowledges that under no circumstances does it have authority to conduct any transaction with a Potential Client on behalf of HiFX.

4.2. No Obligation to Accept: HiFX is under no obligation to accept any application which resulted from a referral to it by the Referrer.

4.3. Client payments

- (a) HiFX will issue products to the Client and may also charge the Client for the provision of other Services. The Referrer acknowledges that it is not entitled to any portion of such amounts charged by HiFX.
- (b) The Referrer is not responsible in any way for non-payment of amounts due by the Client to HiFX.
- (c) The Referrer has no authority to receive payments, money or property of any kind in respect of transactions conducted between HiFX and the Client.

5. Remuneration

5.1. Payment: HiFX agrees to pay the Referrer Commission on each Qualifying Transaction in accordance with clause 5.3. Payment of Commission shall be made monthly no later than the 20th day of each month for Commissions earned in the prior calendar month. If the 20th of the month is not a business day then the payment may be made on the next business day.

5.2. Statement: No later than the 20th day of each month HiFX shall send to the Referrer by email a statement containing the following information:

- (a) A list of account numbers (being referred clients) that made Qualifying Transactions in the preceding month; The total Commission payable to the Referrer in respect of those transactions. Commission on currencies other than NZD shall be converted to NZD at the conversion rate applicable at the time of payment; or

5.3. How paid: HiFX may pay the Commission in NZD by crediting to the Referrer's nominated NZD bank Account.

5.4. Own Trading Excluded: The Referrer shall not be entitled to Commission generated from the Referrer's own foreign exchange trading activity.

5.5. Breach: Commission shall not be paid if the Referrer is in breach of any provisions of this agreement. If Commission is paid on a Qualifying Transaction that is later to be determined to be as a result of a breach of this agreement by the Referrer, the Referrer shall immediately repay the Commission.

5.6. HiFX's Discretion: All determinations of completed Qualifying Transactions and whether a Commission is payable will be made by HiFX based on HiFX's own reports which shall be deemed conclusive and shall be payable at the complete discretion of HiFX.

6. Term and termination

6.1. Term: This agreement will continue unless terminated under this clause 6.

6.2. Termination by either party: A party may terminate this agreement:

- (a) on giving 28 days written notice to the other party; or
- (b) immediately by notice in writing if the other party has contravened an Applicable Law; or
- (c) immediately by notice in writing if the other party has breached a material term of this agreement and failed to remedy the breach within 7 days of being notified to do so or if the breach is not capable of remedy.

6.3. Effect of termination: If this agreement is terminated, then, in addition to any other rights, powers or remedies provided by law:

- (a) each party is released from its continuing obligations under this agreement, other than in relation to clauses 12, 13 14, 15, 16, 18 and 19 of this agreement; and
- (b) each party retains the rights it has against the other party in connection with any breach or claim that has arisen before termination.

A termination of this agreement under this clause will not affect any other rights the parties have against one another at law or in equity.

7. Client information

Subject to the terms of this agreement and the Applicable Law, HiFX may use any Client Information for its own purposes and without restriction.

B. TECHNICAL AND GENERAL TERMS RELATING TO WEB EFFECTED REFERRALS

8. Technical responsibilities

8.1. HiFX obligations and rights:

- (a) Following commencement of this agreement HiFX will provide the necessary HiFX Properties to the Referrer.
- (b) HiFX may at any time and at its sole discretion remove, alter, or modify the presentation of any FX WebTools without notice to the Referrer.

8.2. Referrer obligations relating to Web Effected Referrals:

- (a) The Referrer agrees to post the Qualifying Links as permitted by HiFX only on the website(s) designated by the Referrer and as approved by HiFX and the Referrer agrees not to make use of HiFX Properties on any of its printed advertising and marketing materials unless first approved by HiFX.

(b) The Referrer shall not distribute any email containing a Qualifying Link or HiFX Properties without HiFX's prior written approval of the contents and where such approval is granted, such emails shall only be sent to those recipients on the Referrer's registered database and which shall not be distributed using SPAM or mass email methods.

(c) The Referrer agrees to post the FX WebTools as permitted by HiFX only on the website(s) designated by the Referrer and as approved by HiFX.

(d) The Referrer shall not transmit any so-called Interstitials to Potential Clients from the time the Potential Client clicks on a Qualifying Link until such time as the Potential Client has fully exited HiFX's website.

8.3. Referrer obligations relating to other website matters:

(a) The Referrer shall ensure that all URL Marks should appear to website users as intended by HiFX and the Referrer shall not permit or assist any other party to modify, copy, disguise or obscure all or any part of any URL Mark, except as may be expressly and clearly permitted by this agreement or by HiFX otherwise.

(b) The Referrer agrees not to make any representations, warranties or other statements concerning HiFX, HiFX's website, any of HiFX's products or services, or HiFX's website policies.

(c) The Referrer is responsible for notifying HiFX of any malfunctioning URL Mark or other problems with the Referrer's participation.

(d) Without limiting the foregoing, the Referrer shall not "frame" users' access of HiFX's website in any manner, including without limitation, with advertisements, branding or other material.

(e) The Referrer's websites that use pop ups/unders for the purpose of aiding shoppers may not be used to set or overwrite a commission tracking cookie, deceive the shopper or redirect the shopper from the HiFX website at anytime for any purpose. Pop ups/unders must be free of any kind of link.

(f) The Referrer shall not, and shall not permit any companies with links on the Referrer's website(s) to, offer for sale any illegal goods or services, pornographic or adult-themed material, get rich quick schemes, gambling or any other goods or services that HiFX, in its sole discretion, may deem inappropriate.

(g) The Referrer shall not distribute emails containing HiFX Properties using SPAM or mass email methods.

9. Intellectual property

9.1. Ownership: The Referrer acknowledges that HiFX is the exclusive owner of the HiFX Properties, and any HiFX Properties created subsequent to the signing of this agreement which incorporate all or any part of HiFX Properties.

9.2. Licence Only: Except as expressly set forth herein, HiFX does not grant the Referrer any right in the HiFX Properties except for a revocable, non-exclusive, non-transferable licence, without right of sub-licence, to use and reproduce the URL Mark on the Referrer's website solely for the purpose of creating Qualifying Links.

9.3. Other Uses Prohibited: Except as expressly set forth in this agreement or permitted by applicable law, the Referrer may not copy, distribute, modify, reverse engineer, or create derivative works from the HiFX Properties.

9.4. Domain Names: The Referrer shall not at any time register or use a domain name that is derived, in whole or in part, from HiFX Properties.

9.5. Trade Marks: Except and only to the extent specifically set forth in this agreement, the Referrer shall not acquire any right under this agreement to use the Trade Marks:

- (a) in any advertising, publicity, or promotion;
- (b) to express or to imply any endorsement of the Referrer's products or services; or
- (c) in any other way.

9.6. No Use in Search Engines: The Referrer shall not at any time use HiFX Properties in cost per click, pay per click, paid listings, paid online advertising or any other capacity within search engines or web directories, including the use of trade marked names and common misspellings of such trade marks.

9.7. Use of FX WebTools: The Referrer agrees that:

(a) While the FX WebTools contain information obtained from reliable sources and prepared in good faith and with all reasonable care, HiFX makes no warranty, express or implied, concerning the suitability, completeness, quality or exactness of the information and models provided.

(b) Neither HiFX, nor any of its providers of information, have any liability to the Referrer, nor any other third party, for the accuracy of the information or models contained in its FX WebTools, or for any errors or omissions therein, nor will HiFX or any of its providers of information have any liability for the use, interpretation or

implementation of the information or models contained therein by any person.

(c) By providing the FX WebTools to the Referrer, HiFX undertakes no obligation to update the FX WebTools or such information contained therein. Any such forecasts, opinions or strategies contained are based on assumptions, market conditions and available information at the time of writing and provision of the materials and may change without notice.

(d) This information contained in and provided by the FX WebTools has been prepared for distribution over the internet and without taking into account the investment objectives, financial situation and particular needs of any particular person.

(e) FX WebTools are supplied as is and will not be subject to manipulation or editing. This includes that all references to HiFX and its related websites and companies must remain in place and visible.

10. Warranties and undertakings

10.1. Mutual undertakings: Each party must:

- (a) notify the other immediately if it becomes aware of:
 - (i) a breach of the provisions of any Authorisation obtained by it which is necessary for the performance of its obligations under this agreement;
 - (ii) a breach by it of any of its representations or warranties under this agreement;
 - (iii) any change or proposed change in the way in which it conducts its business which would be likely to materially adversely affect its ability to perform its obligations under this agreement;
- (b) comply with all Applicable Laws, Rules and Regulations in effect during the term of this agreement in relation to its obligations under this agreement, its own business operations and the operation of its website;
- (c) co-operate with investigations by Authorities in relation to the subject matter of this agreement;
- (d) act honestly and fairly in its dealings with the other party and the Clients and Potential Clients in relation to the subject matter of this agreement;
- (e) ensure that it does not act in a way which is misleading or deceptive or potentially misleading or deceptive in its dealings with the other party or the Clients and Potential Clients in relation to the subject matter of this agreement; and
- (f) subject to any Applicable Law or duty of confidentiality, provide to the other party such information as that other party requests in relation to the subject matter of this agreement in order to enable it to meet any regulatory requirements or respond to requests from regulators.

10.2. Undertakings by the Referrer: The Referrer must not:

- (a) provide any financial product advice (whether general or personal) in respect of the Services to any Client or Potential Client; or
- (b) refer to HiFX Potential Clients whose contact information was obtained by the Referrer as a result of the Referrer acting as an employee, representative, contractor or of otherwise being involved in any capacity with, a third party.

11. Relationship of parties

HiFX and the Referrer are independent contractors and are not agent and principal of each other, joint venturers or partners and are not acting on behalf of each other. There is no employment relationship between them. Neither party has the authority to incur any liability on behalf of, or bind to any contract, arrangement, undertaking or obligation, the other. Neither party will hold itself out or do or permit the doing of any act nor making of any statement which would lead another person to believe that anything other than an independent contractor relationship exists between the parties.

12. Indemnity

12.1. Each of HiFX and the Referrer (**the Indemnifier**) agree to indemnify the other party and keep the other party (**the Indemnified Party**) indemnified against any liability, loss, cost, claim, action, damage, tax or stamp duty (including fines or penalties), charge or expense suffered, paid or incurred by the Indemnified Party (including reasonable legal fees) or for which the Indemnified Party is liable to the extent that it arises from the negligence, fraud or wilful misconduct of the Indemnifier, provided that the Indemnifier will not be liable under this clause to the extent that any such liability, loss, cost, tax or stamp duty (including fines and penalties), charge or expense arises from the negligence, fraud or wilful misconduct of the Indemnified Party.

12.2. The certificate of HiFX as to the amounts due under this clause 12 shall, except for manifest error, be conclusive.

13. Exclusion of Liability

13.1 Notwithstanding any other provision of this agreement, neither party shall be liable for indirect, special, consequential or similar damages or losses, including but not limited to loss of profit or revenues or other financial or economic losses of any kind and whether or not the party has been advised of the potential for such damages.

13.2 A party's total aggregate liability to the other party in respect of all claims made under or in respect of this agreement, whether in tort (including negligence), in contract or otherwise is limited, to the fullest extent permitted by law, to an amount equal to the commission paid or payable by HiFX to the Referrer over the 12 months preceding the notification of the claim(s) by the claimant.

14. Tax

14.1. Taxes, duties or levies: The Referrer shall be solely responsible for the payment of all taxes, duties or levies which may be payable in a country in respect of the Commission. HiFX will make no deductions from payments to the Referrer on account of tax or any other imposition except as required by law. The Referrer will indemnify HiFX against all tax payments, penalty payments or interest on these tax payments or penalty payments, required to be made by HiFX in relation to this agreement (excluding GST as defined in clause 14.2).

14.2. GST: If any goods and services tax (GST) is payable by HiFX on any taxable supply made under this agreement by the Referrer, the amount of the GST will be added to the Commission only where the Referrer notifies HiFX of its valid GST number and supplies a valid GST invoice. If the Referrer has not notified HiFX accordingly, then Commission will be paid inclusive of GST if any.

15. Confidential Information

Both parties shall keep confidential the terms of this agreement and all information concerning the other's business or clients gained as a result of performing this agreement and each party agrees to ensure that its employees, agents and contractors will not disclose any Confidential Information of the other party without the other party's prior written consent, except to the extent that such disclosure is required by law.

16. Announcements, advertisements and use of name

Except as required by law, the Referrer may not make or send a public announcement or communication or place any advertisement concerning the subject matter of this agreement or use the name of HiFX unless it has first obtained the written consent of HiFX.

17. Notices

17.1. Any written notice required to be given pursuant to this agreement shall (without limitation) be deemed validly given if posted, delivered by hand, or sent by email to the intended recipient's nominated address as set out on the cover page of this agreement (or to such other address as the intended recipient shall notify to the other party by written notice from time to time).

18. Miscellaneous

18.1. Assignment:

(a) HiFX may assign, delegate or otherwise transfer its rights, duties and obligations under this agreement;

(b) This agreement and the rights, duties and obligations of the Referrer owing are personal to the Referrer and may not be assigned, delegated or otherwise transferred, whether by operation of law or otherwise, without the prior written consent of HiFX;

(c) Any attempt at assignment, delegation or other transfer by the Referrer in violation of this clause 18.1 shall be void and shall constitute a material breach of this agreement.

18.2. Remedies cumulative: The rights and remedies provided in this agreement are in addition to other rights and remedies given by law independently of this agreement.

18.3. Variation: HiFX may vary the terms of this agreement from time to time by giving notice to the Referrer in accordance with clause 17 or by informing the Referrer of the variation by telephone or by posting details on the HiFX, Currency Online or XE websites or on www.affiliatecurrencytools.com or www.currencywebtools.com. The variations shall

be binding on HiFX and the Referrer from the date of the notice. Any such variation will not be retrospective or affect any rights or obligations that may already exist under this agreement;

18.4. Waiver: The failure or omission by a party to require compliance with any clause of this agreement shall not operate as a waiver by that party of any rights, express or implied, arising under this agreement.

18.5. Counterparts: This agreement may consist of a number of copies, each signed by one or more parties to the agreement. If there are a number of signed copies they are treated as making up the one document and the date on which the last counterpart is executed is the date of the agreement.

18.6. Severability: This agreement, so far as possible, must be construed to give validity to all of its provisions. Any provision found to be prohibited by law will be ineffective so far as it is prohibited without invalidating any other part of this agreement.

18.7. Entire agreement: This agreement constitutes the entire agreement of the parties about its subject matter and supersedes any previous understandings or agreements about the subject matter.

18.8. Sub-Contract: The Referrer may not sub-contract any of its rights under this agreement without HiFX's prior written consent.

18.9. Force majeure: Notwithstanding any other provision of this agreement, non-performance by either of the parties or any of its obligations (other than to pay money) under this agreement shall be excused, without liability for non-performance, during the time and to the extent that such performance is prevented, wholly or substantially, by force majeure.

19. Governing law and jurisdiction

19.1. This agreement is governed by and shall be construed in accordance with the law of New Zealand. The Parties submit to the non-exclusive jurisdiction of the Courts of New Zealand in respect of all matters relating to this agreement.

20. Interpretation

20.1. Definitions

These meanings apply unless the contrary intention appears.

Applicable Law means all legislative requirements (including applicable provisions of laws and regulations of Australia and New Zealand), including all relevant rules of Authorities, exchanges, trade and clearing associations and self-regulatory organisations in Australia and/or New Zealand, all applicable procedures, standards and codes of practice.

Authorisations means:

(a) an authorisation, licence, consent, declaration, exemption, class order, notarisation or waiver, however it is described; and

(b) in relation to anything that could be prohibited or restricted by law if an Authority acts in any way within a specified period, the expiry of that period without that action being taken, including any renewal or amendment.

Authority means any government, government department or other body, or agency or any governmental, semi-governmental, judicial or semi-judicial body, department, commission, authority, tribunal or agency or entity.

Business Day means a day other than a Saturday, Sunday or public holiday in New Zealand.

Client means a person who enters into an agreement for the provision of the Services by HiFX, where that person was referred to HiFX by the Referrer.

Client Information means any information, including personal information, concerning Clients obtained as a direct result of that Client being, becoming or remaining a Client.

Commission means the commission paid by HiFX to the Referrer as specified in this agreement.

Confidential Information means all confidential information of a party, including:

(a) any information or data to which the receiving party gains access or which becomes known to the receiving party by reason of or incidental to its entry into or performance pursuant to this agreement;

(b) any information designated as confidential by the disclosing party;

(c) technology and intellectual property owned by or licensed to the party; and

(d) information relating to the financial, strategic, customers', suppliers', research and development, operational, legal or marketing affairs of the party, including, information about the party's financial planning services, technology, and intellectual property rights,

but excluding information which is in the public domain (other than through breach of this agreement) or that was already known to the recipient at the time of disclosure by the disclosing party (unless such knowledge arose from disclosure of information in breach of an obligation of confidentiality).

Force Majeure means any act of God, fire, earthquake, storm, flood or landslide, strike, lock-out, work stoppage or other labour hindrance, explosion, public mains, electrical supply failure, or unavoidable accident requirement or restriction of, or failure to act by, any government, semi-governmental or judicial entity and any other similar cause beyond the reasonable control of the party claiming the benefit of clause 18.10 in which that party is unable to overcome by the exercise of reasonable diligence and at a reasonable cost but does not include any event which the party affected could have prevented or overcome by exercising a standard of reasonable care, any fluctuation in foreign exchange rates or government restrictions on foreign remittances of funds.

FX WebTools means Currency Calculators, Currency Charts, Single Price Windows and Currency Tables or any other online tools as provided by HiFX to the Referrer.

HiFX means the party identified as HiFX in the Details, together with each of its related body corporates and/or any of their representatives.

HiFX Properties means collectively the URL Mark, the Trade Marks, FX WebTools, HiFX, Currency Online and XE's websites and any other related website and HiFX, Currency Online and XE merchandise, marketing, market data or promotional materials.

Interstitials shall mean an application that:

- (a) through accidental or direct intent causes the overwriting of the Referrer's commission tracking cookies through any other means than a customer initiated click on a Qualifying Link on a web page or email;
- (b) intercepts searches to redirect traffic through an installed software, thereby causing pop ups, and/or commission tracking cookies to be put in place, or other commission tracking cookies to be overwritten where a user would under normal circumstances have arrived at the same destination through the results given by the search (search engines being, but not limited to, Google, MSN, Yahoo, Overture, AltaVista, Hotbot, LookSmart and similar search or directory engines);
- (c) sets commission tracking cookies through loading of the HiFX website in IFrames, hidden links and automatic pop ups that open the HiFX website;
- (d) targets text on web sites, other than those web sites 100% owned by the application owner, for the purpose of contextual marketing;
- (e) removes, replaces or blocks the visibility of the Referrer's banners with any other banners, other than those that are on web sites 100% owned by the owner of the application;

and includes, but is not limited to, ParasiteWare(TM), "Parasitic Marketing," "Shopping Assistance Application," "Toolbar Installations/Add ons" "Shopping Wallets" or "Deceptive Pop Ups/Unders".

New Client means an individual or an entity who has completed the HiFX account application process by way of submission of a hard-copy, emailed or online Client application form which makes reference to the Referrer's Unique Referral Code, or by way of registration as a New Client within 35 days of the Potential Client linking to the HiFX, Currency Online or XE websites via a Qualifying Link.

NZD means New Zealand Dollar.

NZD Currency Account means the Referrer's own NZD currency account held with HiFX into which all Commission payments shall be paid and from which all Commission payments shall be disbursed.

Potential Client means any individual linking to the HiFX, Currency Online or XE websites via a Qualifying Link or any individual who contacts HiFX as a result of a verbal or written recommendation by the Referrer or after receiving hardcopy or electronic information about HiFX and/or a copy of a Client Application form from the Referrer.

Potential Client Data means any such information about the Potential Client provided by the Potential Client to HiFX or information obtained via a HTTP Cookie tracked via a Qualifying Link including, but not limited to, the Potential Client's name(s), address and other such identifying information.

Profits means profit generated by HiFX after deduction of bank and third party charges including but not limited to transaction costs, charges for movement of funds, bank and brokerage charges and interest charges.

Qualifying Link means the first cookie registered on the Currency Online or HiFX website having come from the Referrer's website via a click through by a Potential Client on any HiFX URL Mark.

Qualifying Transaction means a settled foreign exchange transaction between HiFX and a Client.

Services means the dealing, advisory and/or market-making services that HiFX is authorised to provide in respect of all financial products and/or any other services that

HiFX offers from time to time.

Trade Marks includes, but is not limited to, HiFX's exclusive ownership of the URL Mark, any trade marks, trade names, service marks and logos and any other trade marks incorporating all or any part of the Trade Marks in all cases relating to all the HiFX, Currency Online and XE brands.

Unique Referral Code means the unique referral code allocated by HiFX to the Referrer upon the signing of this agreement.

20.2. References to certain general terms

In this agreement, unless the context requires otherwise:

- (a) a reference to:
 - (i) a clause is to a clause in these Terms;
 - (ii) a document includes any variation or replacement of it;
 - (iii) a law includes regulations and other instruments made under it, authorisations, rulings, judgments, orders or decrees of any Government Agency and any consolidations, amendments, re-enactments or replacements (as the case may be) of any of them;
 - (iv) the singular includes the plural and vice versa;
 - (v) the word "include" or "including" means "including but not limited to" or "including without limitation";
- (b) headings are for convenience only and do not affect the interpretation of this agreement;
- (c) where a word or phrase is defined, its other grammatical forms have corresponding meaning.