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## **Terms of Use and Basic Services and Premium Services Subscription Agreement of Xulu, Inc.**

Xulu, Inc., which does business under the name FutureAdvisor, (“we”, “us”, or “our”) provides investment advisory services. Xulu, Inc. is registered as an investment adviser with the U.S. Securities and Exchange Commission (the “SEC”) under the Investment Advisers Act of 1940 (the “Advisers Act”).

Please read this Terms of Use and Basic Services and Premium Services Subscription Agreement (the “Agreement”) carefully as it contains the legally binding terms and conditions that you are subject to. By accessing [www.FutureAdvisor.com](http://www.FutureAdvisor.com) (“our website” or FutureAdvisor.com), you agree to be bound by the terms of this Agreement.

### **1. Investment Advisor Relationship**

- A. By selecting the Basic Service, you agree that you are entering into a non-discretionary investment advisory relationship with us as more fully described in the Agreement.
- B. By selecting the Premium Service, you agree that you are entering into a discretionary investment advisory relationship with us as more fully described in the Agreement.
- C. You acknowledge that you have received our:
  - i. Form ADV Parts 2A and 2B
  - ii. Privacy Notice
- D. You understand and agree that if you were referred to FutureAdvisor by one of our existing clients that such client may have received a “refer-a-friend” credit from us. While the amount of the refer-a-friend credit is nominal, you understand and agree that this credit may have caused a conflict of interest if such existing client referred you to us solely because of this credit.

### **2. Description of the Services**

- A. Basic Service:
  - i. We provide investment recommendations to you through our automated Basic Service: we generate our investment recommendations through proprietary, automated, computer algorithms (the “Algorithms”) based on and in reliance on the information you provide to us regarding your investment objectives, financial condition, income, other investments, personal circumstances, and all other information requested of you when subscribing to the Basic Service (as more fully described below in Section 5, the “Client Information”).

- ii. The investment objective of the Basic Service is to help you maximize your returns through sensible investments and low fees given the length of your long-term investment horizon and risk tolerance. The investment strategy involves using long-term purchases (that is, securities held for at least one year).
- iii. The recommendations we provide and other information that appears on our website may be time sensitive, especially during times of significant market volatility and when there are time limits on the availability of a particular investment product. Thus, our recommendations and other information on our website may be subject to different interpretations as market conditions and other factors change. You agree to take into account the time sensitivity of recommendations and information.
- iv. The investment recommendations may include, but may not be limited to, recommendations to buy, sell, hold or otherwise gain exposure to equity securities that are exchange traded or that are offered by foreign issuers, commercial paper, mutual fund shares, ETFs, and U.S. Government securities, to consider a different broker, to move assets from one account to another, and related advisory information.
- v. You understand and agree that:
  - (1) we are providing you with the Basic Service free of charge and for your own individual and personal use and not for any other purpose;
  - (2) neither you or we intend for this Agreement to benefit any third party not expressly named as a third-party beneficiary under this Agreement;
  - (3) we will not place any transactions on your behalf;
  - (4) we do not provide ongoing supervision of your assets;
  - (5) you will determine whether to implement the recommendations made through the Basic Service and/or otherwise rely on information that appears on our website; and
  - (6) you are fully responsible for making your own investment decisions.

B. Premium Service:

- i. We generate our investment recommendations through proprietary, automated, computer algorithms (the “Algorithms”) based on and in reliance on the information you provide to us regarding your investment objectives, financial condition, income, other investments, personal circumstances, and all other information requested of you when subscribing to the Premium Service (as more fully described below in Section 5, the “Client Information”).
- ii. The investment objective of the Premium Service is to help you maximize your returns through sensible investments and low fees given the length of your long-term investment horizon and risk tolerance. The investment strategy involves purchasing securities with a long-term view.
- iii. The investment recommendations may include, but may not be limited to, recommendations to buy, sell, hold or otherwise gain exposure to equity securities that are exchange traded or that are offered by foreign issuers, commercial paper, mutual fund shares, ETFs, and U.S. Government securities, to consider a different broker, to move assets from one account to another, and related advisory information.
- iv. We assist you in the process of opening account(s) with or transferring account(s) to broker(s) (“Premium Account Brokers”) who permit you to grant and you in fact grant us a limited power of attorney over your account(s) (“Your Premium Accounts”), we place transactions on your behalf pursuant to the investment recommendations generated as described in B.i., above, as soon as reasonably practicable after receiving the recommendations, and we provide ongoing portfolio rebalancing of Your Premium Accounts based on material changes to the recommendations generated by the Algorithms and material changes you make to your Client Information;
- v. You understand and agree that:
  - (1) we are providing you with the Premium Service for your own individual and personal use and not for any other purpose;
  - (2) neither you or we intend for this Agreement to benefit any third party not expressly named as a third-party beneficiary under this Agreement;

- (3) we do not have custody of your assets, as “custody” is defined in Rule 206(4)-2 of the Investment Advisers Act of 1940, as amended;
- (4) you give the Premium Account Brokers written authorization to pay, in advance, the Subscription Fees (as described in Section 4, the “Subscription Fees”) to us directly out of Your Premium Account(s);
- (5) you will incur brokerage costs and may incur other costs pursuant to the terms of your agreements with the Premium Account Brokers; and
- (6) you may incur “transfer out” fees charged by other brokers when transferring your account(s) to a Premium Account Broker.

### **3. Scope of the Services and Risk Factors**

#### **A. Scope of the Basic Service:**

The Basic Service is meant as an aid to assist you in your selection of investment tools and related services. It is not intended to provide legal, tax or financial planning advice. You agree that you are responsible for your own investment research and investment decisions, that the Basic Service is only one of many tools that you may use as part of a comprehensive investment analysis process, that you should not and will not rely on the Basic Service as the primary basis of your investment decisions and, except as otherwise provided for herein, that we will not be liable for decisions/actions that you take or authorize third parties to take on your behalf based on information you receive from the Basic Service or information you otherwise see on our website.

#### **B. Scope of the Premium Service:**

The Premium Service is meant to be a component of your investment strategy and not your sole investment strategy. It is not intended to provide legal, tax or financial planning advice. You agree that the Premium Service is only one tool that you may use as part of a comprehensive investment strategy, that you will not rely solely on the Premium Service and, except as otherwise provided for herein, that we will not be liable for decisions/actions that you take or authorize third parties to take on your behalf based on information you see on our website.

#### **C. Risk Factors for the Basic Service and the Premium Service:**

In addition to the other important disclosures included throughout this Agreement, this subsection C contains some of the key risk factors that you must consider

when determining whether to become a FutureAdvisor client. The following list does not purport to be an exhaustive list and cannot be a complete list of all possible risk factors.

- i. At present, our recommendations are appropriate only for investors with medium-term and long-term investment horizons, *specifically two years or more*, before such investors plan to access assets that are invested pursuant to our recommendations.
- ii. Our recommendations provide for a cash component for those clients that need access to cash within two years. The amount allocated to this cash component is based on their age or life expectancy. Otherwise, our recommendations would result in your assets being fully invested in securities suitable for the length of your investment horizon. If you need access to the assets invested pursuant to our recommendations at any point prior to the end of the investment horizon, the prices at which these assets are liquidated may cause you to experience a material loss and will negatively compromise the ability of our recommendations to help you meet your long-term investment goals.
- iii. Investing in securities involves risk, including the risk that you could lose your entire investment.
- iv. While the Algorithms are designed to meet the stated investment objectives of the Basic Service and the Premium Service, there is no certainty that such investment objectives will be met through implementation of the recommendations.
- v. Past performance is no guarantee of future results.
- vi. Our recommendations are highly reliant on the accuracy of the information provided to us by our clients. If a client were to provide us with inaccurate information, this could materially impact the quality and applicability of our recommendations.
- vii. Our recommendations are highly reliant on the accurate performance of the Algorithms and the technology that generates these Algorithms. A malfunction or failure in either could cause you to experience losses, some or all of which could be significant.
- viii. The Algorithms employ a number of quantitative models that involve assumptions based upon a limited number of variables that may be extracted from complex financial markets or instruments that they intend to replicate. Any one or all of these assumptions, whether or not supported by past experience, could prove over time to be incorrect, which could result in major losses.

- ix. The recommendations we provide and other information that appears on our website may be time sensitive, especially during times of significant market volatility and when there are time limits on the availability of a particular investment product. Thus, our recommendations and other information on our website may be subject to different interpretations as market conditions and other factors change.
- x. While our recommendations include a component that seeks to achieve tax efficient asset placement, this component is only one of many that comprise an individual's comprehensive tax management plan and supplementary tax advice that is outside the scope of the services we provide may be necessary to minimize the impact of tax liabilities you could incur.
- xi. We rely on third parties – often to a material extent – for the provision of market statistics, certain of the Client Information, fund details, performance and related information and, for Premium Service clients, trade execution capabilities. Although we believe these third party service providers are generally reliable, there could be errors that are beyond our control in the information and/or services they provide and such errors could compromise the quality of our recommendations and otherwise compromise our ability to perform under this Agreement. Further, some or all of these agreements may allow the third party service provider to terminate the agreement for any reason or no reason at all with no advance notice to us. In such instances, our ability to perform under this Agreement could be materially compromised.

D. Risk Factors for the Premium Service:

- i. We place transactions on your behalf pursuant to the investment recommendations generated as described in 2.B.i., above, as soon as reasonably practicable after receiving the recommendations. However, for numerous reasons there could be material delays in the amount of time it takes us to place transactions. And any delays in our placing transactions on your behalf could reduce, perhaps materially, the profit you gain from the transaction or could cause a material loss.
- ii. We execute transactions on your behalf by placing “market orders”. A “market order” is an order to buy or sell an investment immediately at the best available current price. Because market orders are executed immediately (as opposed to an order that specifies a target price at which the security should be bought or sold and remains open for a longer period of time, during which the price of the security may or may not hit the target price) market orders bear inherent risks, particularly in times of high volatility and for investments that are thinly traded. This could result in your paying a higher purchase price or receiving a lower sale price when

we place market orders on your behalf. It could also result in higher execution fees charged by the brokers handling these transactions.

#### **4. Subscription Fees**

- A. At present, there is no Subscription Fee for the Basic Service. However, we may change the Subscription Fee at any time by giving you not less than five days' notice.
- B. The annual Subscription Fee for the Premium Service is 50 Basis Points (i.e. 0.50%) of the balance(s) in Your Premium Account(s), billed in four quarterly installments (the "Billing Period") of 12.5 Basis Points (i.e. 0.125%) (the "Quarterly Fee"). The Quarterly Fee is billed in advance on the first business day of each and every subsequent Billing Period and calculated based on the balance(s) in Your Premium Account(s) as of market close on the last business day of the preceding month.
- C. FutureAdvisor may charge Subscription Fees for the Premium Service that differ from those listed in Section 4.B. above at its sole and absolute discretion. From time to time, FutureAdvisor may run promotions where new or existing Premium Service clients may be eligible for reduced Subscription Fees for a period of time.
- D. The Subscription Fee is payable in advance as described above and is deducted, upon your written instruction to the Premium Account Broker(s) in accordance with the language set forth in the agreements you enter into with the Premium Account Broker(s) when enrolling in our Premium Service. We may, in our sole discretion, revise the frequency of the payment terms that apply at the time you subscribe to the Premium Service.
- E. For those clients who have more than one Premium Account, we calculate the amount of assets you have under management with us by aggregating the value in each of Your Premium Accounts. The Subscription Fee is billed to your largest taxable account. If you do not have any taxable accounts under our management, the Subscription Fee is billed to your largest tax sheltered account.



**5. Your Information**

- A. The information you provide us is the “Client Information”.
- B. You agree to provide us with the information that is requested in Asset Allocation and Financial Profile modules at FutureAdvisor.com in order to use the Basic Service and/or the Premium Service. We use this Client Information when creating your portfolio(s) on our website. And, for the Premium Service, we place transactions on your behalf based on the Client Information.
- C. You also agree that, for as long as you are a client of FutureAdvisor, you will ensure we have a valid e-mail address for you.
- D. You understand and agree that you are responsible for monitoring and updating your Client Information in the event of material changes (such as the addition of a new account to the portfolio, a change to your e-mail address, a life-change event, such as a change to your retirement horizon, etc.). You agree to promptly provide us with these updates by either updating your Client Information on our website or e-mailing us your updates at [help@FutureAdvisor.com](mailto:help@FutureAdvisor.com)
- E. You understand and agree that we base and rely on the completeness and accuracy of your Client Information in providing recommendations to you in connection with the Basic Service and placing transactions on your behalf in connection with the Premium Service.

**6. Your Account Information from Your Third Party Sites**

- A. Through the Basic Service, you may authorize us to access read-only information for the accounts you have with third party financial institutions, such as your brokerage firm (“Account Information”). Through the Premium Service, you agree to authorize us to access your Account Information. You understand and agree that to enable this feature you must enter on FutureAdvisor.com the User ID, Password and other login information and credentials (“Access Information”) necessary to access your Account Information. By enabling this feature you grant to us express permission to use the Access Information to access your Account Information in connection with the services we provide you through the Basic Service and/or the Premium Service. You represent and warrant that in providing us with your Access Information and Account Information you are not violating any agreement or terms that you are subject to.
- B. With respect to the Basic Service, you can disable this feature and our access to your Account Information at any time on the Financial Profile page when logged into our site. If you are a Premium Service client, you agree to notify us pursuant to the instructions in Section 26 prior to disabling our access to your Account Information.
- C. We do not store your Access Information. We have engaged Yodlee, Inc., a third party service provider, to serve as a conduit between the financial institutions

and us where your Account Information is housed. While we believe we have exercised reasonable care in our selection of Yodlee, you understand and agree that, with respect to the services provided by Yodlee, we make no representation or warranty of any kind, express or implied that the services provided by Yodlee will operate uninterrupted or will be error-free. By authorizing us to access your Account Information you are agreeing to the Yodlee, Inc. End User Terms incorporated herein by reference and available at:  
<https://www.futureadvisor.com/legal/yodlee-terms.pdf>.

## **7. ERISA Information**

- A. You acknowledge and agree that we are not acting as a fiduciary as defined under Section 3(21) of the Employee Retirement Income Security Act of 1974 (ERISA) in providing the Basic Service to the extent any of your portfolios are subject to ERISA and/or Section 4975 of the Internal Revenue Code of 1986 (Code), and that the Basic Service and any other information provided by us under this Agreement is not intended to serve, and will not serve, as a primary basis for your investment decisions with respect to any of the portfolios that are subject to ERISA and/or Section 4975 of the Code.
- B. With respect to the Basic Service, you acknowledge and agree that:
  - i. You have independently determined that your use of the Basic Service satisfies all requirements of ERISA, and will not be prohibited under any of the provisions of Section 406 of ERISA or Section 4975(c)(1) of the Code;
  - ii. You have requested and received all information from us that you, after due inquiry, considered relevant; and
  - iii. You have concluded that your use of the Basic Service constitutes an appropriate part of your overall investment program and will not be the primary basis for your investment decisions.
- C. You agree that you will notify us in the event that: (a) any assets included in your portfolio(s) are retirement or other employee benefit plan assets; (b) any additions to your portfolio(s) include retirement or employee benefit plan assets; or (c) any amendment to the organizing documents of your employee benefit plan or any related document affects the activities performed by us under the terms of this Agreement.
- D. In the event and to the extent your portfolio(s) or a portion of your portfolio(s) is/are subject to ERISA and/or Section 4975 of the Code (a "Retirement Account"), the following additional representations and responsibilities apply to you:
  - i. You shall notify us if any assets in the initial portfolio(s) or any additions to your portfolio(s) are subject to ERISA and/or Section 4975 of the Code; and

- ii. If you have selected the Premium Service then you acknowledge and agree that we may be a fiduciary as defined under Section 3(21) of ERISA in providing the Premium Service to your Retirement Account; and
- iii. In addition, if you have selected the Premium Service, you have independently determined that your retention of us satisfies all requirements of Section 404(a)(1) and 408(b)(2) of ERISA, specifically including the “prudent man” standards of Section 404(a)(1)(B) and the “diversification” standard of Section 404(a)(1)(C), and will not be prohibited under any of the provisions of Section 406 of ERISA or Section 4975(c)(1) of the Code. You have requested and received all information from us that you, after due inquiry, considered relevant to such determinations. In determining that the requirements of Section 404(a)(1) and 408(b)(2) are satisfied, you have taken into account that (1) there is a risk of a loss of the assets in your portfolio(s), (2) your portfolio(s) may be relatively illiquid, and (3) funds so invested may not be readily available for the payment of employee benefits, and (4) the compensation paid to us is reasonable. Taking into account these and all other factors relating to your retention of us, you have concluded that your retention of us constitutes an appropriate part of your overall investment program.

**8. Your General Representations and Warranties**

A. You represent and warrant to us that:

- i. *Your Client Information:* you have reported full and accurate Client Information on FutureAdvisor.com, or, as applicable, in any other communications you have with us. You understand and agree that you are solely responsible for providing true and accurate Client Information to us, whether reported directly or through a third party who you authorize to do so.
- ii. *Decision to Use Our Services:* you have made an independent assessment of the services we offer and have determined that the services are appropriate for you based on your Client Information.

B. Further, you acknowledge and agree that if you provide us with false or materially inaccurate information then the investment recommendations we provide pursuant to the Basic Service may not meet your needs and our ability to pursue the investment objective of the Premium Service on your behalf may be materially compromised.

- C. And you further represent and warrant that your use of the Basic Service, the Premium Service, or FutureAdvisor.com does not violate any applicable law or regulation.
- i. *Use of the Basic Service, the Premium Service and Our Website:* You will not use the Basic Service, the Premium Service or any other feature on FutureAdvisor.com for any purpose that is prohibited by this Agreement.
  - ii. *No Availability to a Third Party:* You will not directly or indirectly sublicense, resell, rent, lease, transfer, assign, time share or otherwise make the Basic Service and/or the Premium Service available to any third party in violation of this Agreement.
  - iii. *Changed Circumstances:* you will notify us promptly regarding any changes in your Client Information that could affect the recommendations we provide to you or our ability to communicate with you.
  - iv. *Eighteen Years of Age:* you are a natural person who is at least 18 years old and that your use of the Basic Service and/or the Premium Service does not violate any applicable law or regulation.
  - v. *Our Intellectual Property:* you will not, directly or indirectly: (i) decipher, decompile, disassemble, reverse engineer or otherwise attempt to derive any source code or underlying ideas or algorithms of any part of the Basic Service, except to the limited extent applicable laws specifically prohibit such restriction, (ii) modify, translate, or otherwise create derivative works of any part of the Basic Service or any other aspect of our website, (iii) copy, distribute, or otherwise transfer any or all of the rights that you receive under this Agreement, or (iv) use or access the Basic Service, the Premium Service, or our website in order to build a competitive product or service. You represent and warrant that you will abide by all applicable local, state, national and international laws and regulations when using the Basic Service and/or the Premium Service and our website.
- D. If you were referred to FutureAdvisor by a third-party solicitor, such as a broker-dealer or your credit union, you acknowledge that you have received from the solicitor a copy of FutureAdvisor's Form ADV Part 2 and the solicitor's written disclosure document that contains the following information:
- i. The name of the solicitor;
  - ii. The name of FutureAdvisor;

- iii. The nature of the relationship, including any affiliation, between the solicitor and FutureAdvisor;
- iv. A statement that the solicitor will be compensated for his solicitation services by FutureAdvisor;
- v. The terms of such compensation arrangement, including a description of the compensation paid or to be paid to the solicitor; and
- vi. The amount, if any, for the cost of obtaining this account that you will be charged in addition to the fee you are paying FutureAdvisor and the differential, if any, among clients with respect to the amount or level of advisory fees charged by FutureAdvisor if such differential is attributable to the existence of any arrangement pursuant to which FutureAdvisor has agreed to compensate the solicitor for soliciting clients for, or referring clients to, FutureAdvisor.

**9. Authorizations**

- A. Upon reasonable request, you agree to sign all documentation that is necessary for us to carry out our responsibilities under this Agreement; and
- B. You agree not to use another person's account with us unless you have their express authorization to do so.

**10. Protection of Your Account**

- A. Basic Service: You understand and agree that you are solely responsible for the activity that occurs in the account you create for purposes of the Basic Service ("Your Basic Service Account") and you are responsible for maintaining the confidentiality of the password you select for Your Basic Account. You further agree to notify us of any unauthorized use of Your Basic Service Account or any other security breach related to your use of the Basic Service or FutureAdvisor.com of which you are aware.
- B. Premium Service: You understand and agree that you are solely responsible for the activity that occurs in the account you create for purposes of the Premium Service ("Your Premium Service Account") and you are responsible for maintaining the confidentiality of the password you select for Your Premium Service Account and for the accuracy and completeness of any information you provide to us, including your Client Information. You further agree to notify us of any unauthorized use of Your Premium Service Account or any other security breach related to your use of the Premium Service or FutureAdvisor.com of which you are aware.

## **11. Termination and Refusal**

- A. You may terminate your access to our Basic Service and/or Premium Service and to any other password-protected portions of FutureAdvisor.com at any time simply by sending us an e-mail specifying that you wish to terminate your access. The termination will take effect promptly upon our receipt of your e-mail.
- B. We may, in our sole discretion, for any reason or no reason at all:
  - i. refuse your application to subscribe to the Basic Service, the Premium Service or otherwise access FutureAdvisor.com; or
  - ii. terminate your access to the Basic Service, the Premium Service and/or FutureAdvisor.com:
    - (1) by giving you not less than five days' written notice if you are not in breach of this Agreement; and
    - (2) immediately if you are in breach of this Agreement.
- C. If you or we terminate Your Premium Service Account as provided for in this Agreement, we will remit to you a pro-rated refund for the unused portion of your Subscription Fee promptly after the effective date of the termination. If you terminate Your Premium Service, or if we terminate access to Your Premium Service, intra-month, the amount of your pro-rated refund will be rounded to the end of the month in which termination occurs.
- D. You agree that all provisions of this Agreement which by their nature should survive termination shall survive termination.

## **12. Modifications**

- A. Except with respect to the termination provisions described in Section 11.A., above, and as otherwise provided for in this Agreement, we may, in our sole discretion, take any of the following actions after giving not less than five days' notice:
  - i. modify or replace any terms of this Agreement;
  - ii. change, suspend or discontinue the Basic Service and the Premium Service (including without limitation, the availability of any feature, database, or content); and,
  - iii. impose limits on certain features or restrict your access to parts of the Basic Service or Premium Service.
- B. If we suspend or discontinue the Premium Service as provided for in this Agreement, we will remit to you a pro-rated refund of your Subscription Fee for those days on which the Premium Service is suspended and, in the case of discontinuance, a pro-rated refund for the unused portion of your Subscription

Fee which, in the case of an intra-month discontinuance, will be rounded to the end of the month in which the discontinuance occurs.

- C. We may also, in our sole discretion and for any reason or no reason at all, remove from FutureAdvisor.com any “Content,” which, for purposes of this Agreement, includes but is not limited to recommendations (but excludes the specific investment recommendations that are generated based on your individual Client Information), suggestions, blogs or forum comments, links, information, data, text, photographs, software, scripts, graphics, and interactive features generated, provided or otherwise made accessible by us or by others who are outside our control.

### **13. Alerts**

- A. As part of the Basic Service and Premium Service, you are automatically signed up for various types of e-mail alerts. You can customize, modify or de-activate alerts at any time on the Account Settings page when logged into our site. However, we may still send you communications as provided for in Section 26 of this Agreement regardless of whether you have de-activated alerts. We may, in our sole discretion, modify the alerts that are available or stop providing them.
- B. Because alerts are not encrypted, we will never include your password in them. However, alerts may include your FutureAdvisor User ID and/or information about your portfolios. Anyone with access to your email will be able to view the content of these alerts.
- C. You understand that alerts may be delayed or prevented by a variety of factors. We will endeavor to provide alerts in a timely manner but we do not guarantee the delivery or accuracy of any alert. You agree that we will not be liable for any delays in delivery or failure to deliver any alert; for any errors in the content of an alert; or for any actions taken or not taken by you or any third party in reliance on or in response to an alert.

### **14. Links to Third Party Sites**

As a convenience to you, you may be able to link to other websites or resources on the Internet, and other websites or resources may contain links to FutureAdvisor.com. When you access third party websites, you do so at your own risk. These other websites are not under our control, and you acknowledge that we are not responsible or liable for the content, functions, accuracy, legality, appropriateness or any other aspect of such websites or resources. The inclusion of any such link does not imply endorsement by us or any association with the linked third party site, its sponsor, or any of the policies, activities, products, or services offered on the third party site or by any advertiser on the third party site.



## **15. Intellectual Property Protection**

- A. You agree that the Basic Service, the Premium Service and FutureAdvisor.com contain Content, as defined in Section 12, provided by us or by others and that such Content is or may be protected by copyrights, trademarks, service marks, patents, trade secrets or other proprietary rights and laws. You agree to abide by all copyright notices, information, and restrictions contained in any Content accessed through our website. You agree not to, directly or indirectly sell, license, rent, modify, distribute, copy, reproduce, transmit, publicly display, publicly perform, publish, adapt, edit, create derivative works from, or otherwise exploit any Content or any other submissions or other proprietary rights not owned by you (i) without the consent of the respective owners or other valid right, and (ii) in any way that violates any third party right.
- B. You may, to the extent our website or a website of a third party (where applicable) expressly authorizes you to do so, download or copy Content, and other items displayed on the applicable website for download, for personal use only, provided that you maintain all copyright and other notices contained in such Content. You agree not to store any significant portion of any Content in any form. Copying or storing of any Content for other than personal, noncommercial use is expressly prohibited without prior written permission from the copyright holder identified in such Content's copyright notice.

## **16. Disclaimers**

- A. We make no representations concerning any Content contained in or accessed through our website, and we will not be responsible or liable for the reliability, timeliness, quality, suitability, availability, accuracy, completeness, copyright compliance, legality or decency of any Content. You should independently verify all Content and other information that you access through our website. By accessing FutureAdvisor.com, you agree that we shall not be responsible for (1) any Content, (2) any person's reliance on any such Content, whether or not correct, current and complete, or (3) the consequences of any action that you or any other person takes or fails to take based on any Content. Your use of or reliance on any Content is at your own risk.
- B. The Content is provided "As Is" and "As Available" and is without warranty of any kind, express or implied, including, but not limited to, the implied warranties of title, non-infringement, merchantability and fitness for a particular purpose, and any warranties implied by any course of performance or usage of trade, all of which are expressly disclaimed.
- C. We and our directors, employees, agents, suppliers, partners and content providers do not represent and/or warrant that: (i) the Basic Service, the Premium Service and/or Content will be secure or available at any particular time or location; (ii) the use of the Basic Service, the Premium Service, and/or Content will be secure, timely, uninterrupted or error-free, or operate in a



combination with any other hardware, software, system or data; (iii) any defects or errors will be corrected; (iv) any Content or software available at or through FutureAdvisor.com is free of viruses or other harmful components; or (v) the results of using the Basic Service, the Premium Service or FutureAdvisor.com will meet your requirements or expectations. Your use of the Basic Service, the Premium Service and/or Content is solely at your own risk. The Basic Service, the Premium Service and/or the Content may be subject to limitations, delays, and other problems inherent in the use of the Internet and electronic communications, and we are not responsible for any delays, delivery failures, or other damage resulting from such problems.

- D. The foregoing warranty disclaimers will apply to the extent allowed by applicable law. Electronic Communications Privacy Act Notice (18 USC 2701-2711): Except as provided for in the Privacy Notice referenced in Section 1 of this Agreement: (i) we make no guarantee of confidentiality or privacy of any communication or information transmitted on FutureAdvisor.com or any other sites referenced to in or linked to this Agreement; and (ii) we will not be liable for the privacy of email addresses, registration and identification information, disk space, communications, confidential or trade-secret information, or any other Content stored on our equipment, transmitted over networks accessed by our website, or otherwise connected with your use of the Basic Service, Premium Service, and/or Content.

## **17. Risk Acknowledgement, Limitation of Liability and Indemnification**

- A. We will exercise good faith and diligence in the execution of our duties to you under this Agreement and will give you the benefit of our best judgment and efforts in making recommendations to you with respect to the Basic Service and Premium Service and placing transactions on your behalf with respect to the Premium Service. However, we make no guarantees regarding performance of your portfolios. There may be loss or depreciation of the value of any investment due to the fluctuation of market values or numerous other factors. In addition, we make no guarantee or representation that your investment objectives will be achieved and you agree we are not responsible and/or liable for any failure to achieve such investment objectives.
- B. We shall not be responsible or liable for any loss or damages incurred due to any act or omission of any custodian, broker-dealer, or other investment advisor whether appointed by you or chosen in good faith by us.
- C. With respect to our Premium Account clients, in the unlikely but possible event of a trade error that causes a Premium Account client to incur a loss, you agree that we will bear the actual cost of the trade error in an amount that is the lesser of the amount of the loss or up to, and not in excess of, the amount of the Subscription Fees paid to us by such Premium Account client during the twelve month period immediately preceding the date of the loss caused by the trade

error but only in those instances where the trade error results from our gross negligence or violation of applicable laws. We define “trade error” as:

- i. the purchase or sale of securities other than those identified by the Algorithm or in a quantity other than the quantity identified by the Algorithm;
- ii. the purchase or sale of securities for the wrong Premium Account; or
- iii. a purchase when it should have been a sale, or *vice versa*.

D. To the extent allowed by applicable law and except as otherwise provided for in 17.C. of this Agreement, neither we nor our affiliates and each of our, and our affiliates’ employees, contractors, directors, suppliers and representatives (each of the foregoing, including but not limited to FutureAdvisor, being the “Affiliated Parties”) are liable:

- i. for any action performed as well as any error in judgment and/or for any investment losses you incur; or
- ii. under contract, tort, strict liability, negligence or any other legal or equitable theory with respect to the Basic Service, the Premium Service and/or Content: (A) for any lost profits, data loss, cost of procurement of substitute goods or services, or special, indirect, incidental, punitive, or consequential damages or any kind whatsoever (however arising); or (B) for any damages or losses of any kind whatsoever arising from or in connection with any bugs, viruses, Trojan horses, or the like (regardless of the source).

E. You shall defend, indemnify, and hold harmless the Affiliated Parties from all liabilities, claims, and expenses, including, without limitation, judgments, fines, amounts paid or to be paid in settlements, and reasonable attorneys’ fees incurred or suffered by an Affiliated Party (i) in connection with the good faith performance of such Affiliated Party’s responsibilities to you under this Agreement; (ii) that arise from or relate to your use or misuse of, or access to, our website, the Basic Service, the Premium Service, Content, or otherwise from any content that you post to our website; (iii) that arise from or relate to your violation of this Agreement; or (iv) that arise from or relate to infringement by you, or any third party using the your account, of any intellectual property or other right of any person or entity. Notwithstanding the foregoing, an Affiliated Party will not be indemnified for losses resulting from his, her, or its gross negligence or violation of applicable laws. We reserve the right to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will assist and cooperate with us in asserting any available defenses. An Affiliated Party will, upon request and to the extent legally permissible, be advanced amounts in connection with your indemnification obligation; provided however, that if it is later determined that such party was not entitled to indemnification, then such party will promptly reimburse you for all advanced amounts. If you are a California resident, you

waive California Civil Code Section 1542, which says: “A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.” If you are a resident of another jurisdiction, you waive any comparable statute or doctrine.

## **18. International Use**

We make no representation that the Basic Service, the Premium Service or the Content is appropriate or available for use in locations outside of United States, or that accessing our website is legally permitted in countries or territories where the Basic Service, the Premium Service, and such Content may be illegal. If you access our website from other locations, you do so at your own risk and are responsible for compliance with local laws.

## **19. Dispute Resolution**

- A. A printed version of this Agreement and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to this Agreement to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form. You and we agree that any cause of action arising out of or related to the Basic Service, the Premium Service or your use of our website must commence within one (1) year after the cause of action arose; otherwise, such cause of action is permanently barred.
- B. This Agreement shall be governed by and construed in accordance with the laws of the State of California, excluding its conflicts of law rules. Any dispute arising from or relating to the subject matter of this Agreement shall be finally settled by arbitration in San Francisco, California, using the English language in accordance with the Arbitration Rules and Procedures of Judicial Arbitration and Mediation Services, Inc. (“JAMS”) then in effect, by one commercial arbitrator with substantial experience in resolving intellectual property and commercial contract disputes, who shall be selected from the appropriate list of JAMS arbitrators in accordance with the Arbitration Rules and Procedures of JAMS. You and we agree to require the arbitrator to complete the arbitration within nine (9) months from the date that the demand for arbitration is filed. The prevailing party in the arbitration shall be entitled to receive reimbursement of its reasonable expenses (including reasonable attorneys’ fees, expert witness fees and all other expenses) incurred in connection therewith. Judgment upon the award so rendered may be entered in a court having jurisdiction or application may be made to such court for judicial acceptance of any award and an order of enforcement, as the case may be. Notwithstanding the foregoing, each party shall have the right to institute an action in a court of proper jurisdiction for injunctive or other equitable relief pending a final decision by the arbitrator. For all purposes of this Agreement, the parties consent to exclusive jurisdiction and

venue in the United States Federal Courts located in the Northern District of California. Use of our website is not authorized in any jurisdiction that does not give effect to all provisions of the this Agreement, including without limitation, this section.

- C. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to seek to recover costs and attorneys' fees.
- D. Notwithstanding anything in this Agreement to the contrary, you acknowledge and agree that under no circumstances will we be obligated to remunerate or pay you for any liability and/or costs of any kind whatsoever beyond the amount of the Subscription Fees you have paid to us during the 12 months preceding the date on which such determination is made. Our entire liability to you, whether in contract, tort, or otherwise, will be capped at said amount of fees.

**20. Integration and Severability**

- A. This Agreement is the entire agreement between you and us with respect to the Basic Service, the Premium Service, and your use of our website, and supersedes all prior or contemporaneous communications and proposals (whether oral, written or electronic) between you and us. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect. The failure of either party to exercise in any respect any right provided for herein shall not be deemed a waiver of any further rights hereunder.

**21. Assignment**

- A. This Agreement is personal to you, and is not assignable, transferable or sublicensable by you except with our prior written consent.
- B. We will not assign this Agreement, as the term "assign" has the meaning given the term "assignment" in Section 202(a)(1) of the Advisers Act and Rule 202(a)(1)-1 thereunder, without your consent. If, after 30 days of receiving notice of an assignment from us you do not terminate your Basic Service or Premium Service as provided for in Section 11, above, you will be deemed to have consented to our assignment of this Agreement.

**22. Miscellaneous**

- A. We shall not be liable for any failure to perform our obligations under this Agreement where such failure results from any cause beyond our reasonable control, including, without limitation, mechanical, electronic or communications failure or degradation (including “line-noise” interference).
- B. No agency, partnership, joint venture, or employment relationship is created as a result of this Agreement and neither party has any authority of any kind to bind the other in any respect.
- C. All notices under this Agreement will be in writing and will be deemed to have been duly given when either posted on our website or sent to you via your e-mail address.
- D. Throughout this Agreement, the use of “or” and “and/or” shall be deemed to be accurate unless the content suggests otherwise.

**23. Copyright and Trademark Notices**

Unless otherwise indicated, the Terms of Use and all Content provided by Company are copyright © 2014 Xulu, Inc. All rights reserved.

**24. Other Clients**

- A. You understand and agree that we act as an investment adviser for other clients and will continue to do so. Since we are engaged in the business of providing investment recommendations, we and our personnel may make recommendations and take action for other clients and their accounts that may differ from the recommendations we give to you or the action we take on your behalf.
- B. In addition, our personnel may take actions for their own accounts that differ from the recommendations we give you or actions we take on your behalf.

**25. Counterparts**

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute the same instrument. This Agreement may be signed electronically, including through secure means that do not include a manual signature.

**26. Communications and Notices**

- A. If we have a notice or communication that is specific to you, we will e-mail you at the e-mail address you provided us (and have agreed to keep current) under the terms of this Agreement.
- B. If we have a notice or communication that is not specific to you we will post this notice or communication at the top of the page after you sign in at [www.futureadvisor.com](http://www.futureadvisor.com). You agree that you are responsible for checking for any notices we may post on our website.
- C. If you have a notification for us or need to contact us for any other reason, you agree to contact us at [help@futureadvisor.com](mailto:help@futureadvisor.com).

**27. Effective Date: November 17, 2014**

**ITEM 1: COVER PAGE**

FutureAdvisor

580 Market St., Suite 500  
San Francisco, CA 94104

[www.futureadvisor.com](http://www.futureadvisor.com)

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**FORM ADV PART 2A  
FIRM BROCHURE  
September 2014**

This brochure provides information about the qualifications and business practices of FutureAdvisor. If you have any questions about the contents of this brochure, please contact FutureAdvisor at 800-975-7199 or by email at [compliance@futureadvisor.com](mailto:compliance@futureadvisor.com). The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission or by any state securities authority.

Additional information about FutureAdvisor is available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

## **ITEM 2: MATERIAL CHANGES**

The material changes to this Brochure since FutureAdvisor's previous Brochure dated May 2014 are as follows:

- Updated our assets under management in Item 4; and
- Updated the pricing disclosures related to our Premium Service in Item 5.



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#### **ITEM 4: ADVISORY BUSINESS**

Xulu, Inc. is an investment advisor registered with U.S. Securities and Exchange Commission, which operates an Internet-based investment advisory business under the name FutureAdvisor. Xulu, Inc. has been in business since 2010. Its principal owners are Bo Lu, Jon Xu, Sequoia Capital U.S. Venture 2010 Fund, LP, and Canvas Venture Fund, L.P.

FutureAdvisor offers investment advice and portfolio optimization services to individuals through a secured Web site: FutureAdvisor.com. FutureAdvisor's goal is to provide you with an Internet-based investment management service where you can receive investment advice for all of your portfolio holdings in one user-friendly Web site.

FutureAdvisor offers you an opportunity to consider ways to optimize your holdings to help you meet your overall investment goals. Neither FutureAdvisor nor anyone else can predict or assure a specific level of return on your investments, as investing in the markets always involves a risk of loss, particularly in volatile market conditions.

FutureAdvisor offers investment advisory service that we believe will give you an excellent opportunity to assess where you are with your investments and to receive ongoing investment recommendations to manage those assets.

FutureAdvisor offers two levels of service: investment recommendations furnished to the client so that the client can take appropriate action (our Basic Service), or ongoing investment management services (our Premium Service).

##### *Basic Service*

For clients using the Basic Service, FutureAdvisor provides all analysis services through proprietary, automated computer algorithms on our Web site. This automated service provides analyses and recommendations based on the financial and other information provided by the client. Basic Service clients do not receive ongoing supervisory services for their accounts.

Basic Service investment recommendations may include, but may not be limited to, recommendations to buy, sell, hold or otherwise gain exposure to equity securities that are exchange traded or that are offered by foreign issuers, commercial paper, mutual fund shares, ETFs, and U.S. Government securities, to consider a different broker, to move assets from one account to another, and related advisory information.

### *Premium Service*

Clients may also choose to use FutureAdvisor's Premium Service which provides investment management over specific accounts for a fee.

The Premium Service is offered on a discretionary basis only. Like the Basic Service, the Premium Service provides analysis services through our proprietary, automated computer algorithms on our Web site. This automated service provides analyses and recommendations based on the financial and other information provided by the client. As part of the Premium Service enrollment process, clients authorize FutureAdvisor to place trades on their behalf using the recommendations generated through FutureAdvisor's proprietary algorithms based on the personal and financial information provided by the client. Also as part of the Premium Service, FutureAdvisor will perform ongoing portfolio rebalancing based on material changes to the recommendations generated by our proprietary algorithms and material changes to Premium Service clients' circumstances insofar as our Premium Service clients affirmatively communicate these changes to us.

Premium Service client accounts (the "Premium Service Accounts") must be held at a full-service broker-dealer that allows FutureAdvisor to place trades on behalf of our Premium Service clients ("Premium Account Broker"). For Premium Service clients whose accounts are not currently held at a Premium Account Broker, FutureAdvisor will assist clients in transferring assets into new accounts that are with a Premium Account Broker.

When determining which full-service broker-dealers that FutureAdvisor will seek to engage as a Premium Account Broker, we will consider only those full-service broker-dealers that are "qualified custodians" as defined by the SEC. Please see Item 12 for a further discussion of FutureAdvisor's brokerage practices.

As of close of U.S. markets on September 25, 2014, FutureAdvisor manages approximately \$232,124,148.27 on a discretionary basis and \$0 on a non-discretionary basis.

### *Accurate Client Information*

Please Note: Each of the services provided by FutureAdvisor requires clients to provide accurate and complete information in order for us to generate recommendations geared toward our each of our client's personal circumstances. If a client were to provide us with inaccurate information, this could materially impact the quality and applicability of our recommendations.

## **ITEM 5: FEES AND COMPENSATION**

### *Basic Service*

At present, FutureAdvisor's Basic Service is provided at no charge. Details about the features of the Basic Service can be found at [www.futureadvisor.com/pricing](http://www.futureadvisor.com/pricing).

### *Premium Service*

Premium Service clients are billed 50 basis points (i.e., 0.50%) of the total assets under management in advance on a quarterly basis at the rate of 12.5 basis points (i.e. 0.125%) per quarter (the "Quarterly Fee"). The Quarterly Fee is calculated based on the applicable Premium Service Client's total assets under management on the first day of the first full month of service and then in three-month intervals after that based on such Premium Service Client's total assets under management with us on the first day of each month that starts the three-month interval. Some Premium Service clients are billed a fixed fee (the "Legacy Client Fee") in advance on a monthly basis. At FutureAdvisor's sole discretion, the Legacy Client Fee clients were offered the opportunity to retain their applicable legacy pricing rates rather than migrate to the pricing rates based on such Premium Service clients' assets under management with us. FutureAdvisor may charge fees that differ from those on its standard fee schedule at its sole discretion. From time to time, FutureAdvisor will run promotions where new or existing Premium Service Clients can receive some compensation or reduced fees for a period of time. Such promotions may run indefinitely or for a limited period of time.

The amount of assets each of our Premium Service clients have under management with us is calculated based on the aggregate the value of the accounts over which such Premium Service clients have granted us a limited power of attorney, as further described in this Brochure.

The fees are payable in advance and is deducted, upon each client's written instruction to his or her Premium Account Broker(s). We may, in our sole discretion, revise the frequency of the payment intervals that apply at the time a client subscribes to the Premium Service.

Each Premium Service client will incur brokerage costs and may incur other costs pursuant to the terms of their relationship with the Premium Service Broker that custodies the client's Premium Service Accounts. In addition, Premium Service clients may incur "transfer out" fees charged by other brokers when these clients transfer their accounts to a Premium Account Broker. FutureAdvisor is not involved in any way with the establishment of a Premium Account Broker's fee structures and receives no remuneration from any Premium Account Broker or from brokers who may charge our Premium Service clients exit fees. Please see Item 12 for a further discussion of FutureAdvisor's brokerage practices.

### *Negotiability of Fees*

Except as otherwise noted below, fees are generally not negotiable. In the event of a change to FutureAdvisor's pricing model, FutureAdvisor may, in its sole discretion, offer existing Premium Service clients the opportunity to retain the

pricing rates that apply to such Premium Service clients at the time of the change rather than migrate to new pricing rates. In addition, as described in Item 14, a part of FutureAdvisor's business model is to engage third-party solicitors, such as broker-dealers and/or credit unions. With respect to large or otherwise strategic third-party solicitors, FutureAdvisor and such third-party solicitors may agree on a modified and perhaps more favorable fee structure for individuals referred to FutureAdvisor by such third-party solicitors.

#### *Account Termination*

If a client wishes to terminate an existing relationship with FutureAdvisor, he or she can do so at any time by emailing [vip@futureadvisor.com](mailto:vip@futureadvisor.com). The termination will take effect promptly upon our receipt of the e-mail from the client.

FutureAdvisor may terminate a client's access to the Basic Service or the Premium Service if we believe a client is in breach of the FutureAdvisor Terms of Use and Subscription Agreement. We may also terminate a client's access to the Basic Service or the Premium Service in our sole discretion for no reason at all upon five days' advance notice to the client whose access is being terminated.

If we or a client terminates access to the Premium Service, FutureAdvisor will remit a pro-rated refund for unused portion of the subscription fee to each client whose access to the Premium Service is terminated. For those terminations that occur intra-month, the amount of the pro-rated refund will be rounded to the end of the month in which termination occurs.

### **ITEM 6: PERFORMANCE-BASED FEES AND SIDE-BY-SIDE MANAGEMENT**

FutureAdvisor does not charge performance-based advisory fees. In addition, FutureAdvisor has no arrangements by which separate types of accounts are managed on a side-by-side management basis.

### **ITEM 7: TYPES OF CLIENTS**

FutureAdvisor offers its advisory services to individuals.

### **ITEM 8: METHOD OF ANALYSIS, INVESTMENT STRATEGIES AND RISK OF LOSS**

Types of Investments: FutureAdvisor offers investment advice on the following types of investments: equity securities that are exchanged traded or that are offered by foreign issuers; commercial paper; mutual fund shares; ETFs; and U.S. government securities.

Strategy: The investment strategy of the Basic Service and the Premium Service is to help clients maximize their returns through sensible investments and low fees, given the length of each individual client's long-term investment horizon and risk

tolerance. The investment strategy involves using long term purchases (that is, securities held for at least one year).

At present, the Basic Service and the Premium Service are appropriate only for clients who have long-term investment horizons, *specifically ten years of more*, before they plan to access assets that are invested pursuant to our recommendations.

Method of Analysis: When analyzing investments for client accounts, FutureAdvisor uses a number of sources of information including charting, fundamental analysis, and technical data.

Sources of Information: FutureAdvisor's main sources of information for client account recommendations and transactions include fundamental data about mutual funds and ETFs provided by Lipper Inc., a subsidiary of Thomson Reuters, and from Xignite Inc. FutureAdvisor pays a subscription cost for these data services from Lipper Inc. and Xignite Inc.

#### *Risks Disclosures:*

Investing in any type of securities involves a risk of loss and is appropriate for those who are able to bear the economic risk of loss. Prices of securities can be volatile and a variety of factors can adversely affect the value of and return on any investments. The recommendations provided by FutureAdvisor are not intended to comprise any client's complete investment program. FutureAdvisor does not make any assurance that our recommendations can result in profitable investing or avoidance of loss.

Our recommendations are highly reliant on the accuracy of the information provided to us by our clients. If a client were to provide us with inaccurate information, this could materially impact the quality and applicability of our recommendations.

Our recommendations are highly reliant on the accurate performance of our algorithms and the technology that generates these algorithms. A malfunction or failure in either could cause you to experience losses, some or all of which could be significant.

The recommendations we provide and other information that appears on our website may be time sensitive, especially during times of significant market volatility and when there are time limits on the availability of a particular investment product. Thus, our recommendations and other information on our website may be subject to different interpretations as market conditions and other factors change.

We rely on third parties – often to a material extent – for the provision of market statistics, certain of the Client Information, fund details, performance and related information and, for Premium Service clients, trade execution capabilities.

Although we believe these third party service providers are generally reliable, there could be errors that are beyond our control in the information and/or services they provide and such errors could compromise the quality of our recommendations and otherwise compromise our ability to perform under this Agreement. Further, some or all of these agreements may allow the third party service provider to terminate the agreement for any reason or no reason at all with no advance notice to the us. In such instances, our ability to perform under this Agreement could be materially compromised.

While our recommendations include a component that seeks to achieve tax efficient asset placement, this component is only one of many that comprise an individual's comprehensive tax management plan and supplementary tax advice that is outside the scope of the services we provide may be necessary to minimize the impact of tax liabilities you could incur.

Our recommendations do not provide for a cash component. Rather, our recommendations would result in our clients' assets being fully invested in securities during a long-term investment horizon of at least ten years. If a client needed to access the assets invested pursuant to our recommendations at any point prior to the end of at least a ten-year investment horizon, the prices at which these assets are liquidated could cause the client to experience a material loss and will negatively compromise the ability of our recommendations to help meet the client's long-term investment goals.

Our algorithms employ a number of quantitative models that involve assumptions based upon a limited number of variables that may be extracted from complex financial markets or instruments that they intend to replicate. Any one or all of these assumptions, whether or not supported by past experience, could prove over time to be incorrect, which could result in major losses.

#### *Risk Disclosures Specific to Premium Service Clients:*

With respect to each of our Premium Service clients, we execute transactions on each client's behalf as soon as reasonably practical after generating each recommendation. However, for numerous reasons there could be material delays in the amount of time it takes us to execute each transaction. Any delays in our executing transactions could reduce, perhaps materially, any profit earned by such clients or could cause a material loss.

We execute transactions by placing "market orders". A "market order" is an order to buy or sell an investment immediately at the best available current price. Because market orders are executed immediately (as opposed to an order that specifies a target price at which the security should be bought or sold and remains open for a longer period of time, during which the price of the security may or may not hit the target price) market orders bear inherent risks, particularly in times of high volatility and for investments that are thinly traded. This could result in our clients paying a higher purchase price or receiving a lower sale price

when we place market orders on their behalf. It could also result in higher execution fees charged by the brokers handling these transactions.

***FutureAdvisor makes no guarantee or representation that investment recommendations will be successful. Past performance is no guarantee of future results.***

#### **ITEM 9: DISCIPLINARY INFORMATION**

There are no adverse events affecting FutureAdvisor that would be material to a client's decision to use FutureAdvisor's investment advisory services.

- A. There have been no criminal or civil actions in a domestic, foreign or military court of competent jurisdiction involving either FutureAdvisor or a management person.
- B. There have been no administrative proceedings before the SEC, any other federal regulatory agency, any state regulatory agency, or any foreign financial regulatory authority involving either FutureAdvisor or a management person
- C. There have been no self-regulatory organization (SRO) proceedings involving either FutureAdvisor or a management person.

#### **ITEM 10: OTHER FINANCIAL INDUSTRY ACTIVITIES AND AFFILIATIONS**

- A. Neither FutureAdvisor nor its management persons are registered or have pending registrations as a broker-dealer or a registered representative of a broker-dealer.
- B. Neither FutureAdvisor nor its management persons are registered or have pending registrations as a futures commission merchant, commodity pool operator, a commodity-trading adviser, or as an associated person of the foregoing list.
- C. Neither FutureAdvisor nor its management persons have relationships with other entities in the financial services industry that materially affect FutureAdvisor's advisory business or its clients.
- D. FutureAdvisor does not recommend or select other investment advisers.

#### **ITEM 11: CODE OF ETHICS, PARTICIPATION OR INTEREST IN CLIENT TRANSACTIONS AND PERSONAL TRADING**

FutureAdvisor has adopted a formal Code of Ethics that is consistent with the requirements of Rule 204A-1 under the Investment Advisers Act of 1940.



FutureAdvisor requires its employees to represent that they will comply with the FutureAdvisor's Code of Ethics to help to avoid actual and potential conflicts of interest and comply with applicable provisions of laws. A copy of FutureAdvisor's Code of Ethics is available to clients upon request. FutureAdvisor's employees may invest in the same mutual funds, ETFs, or other securities that FutureAdvisor recommends to our clients.

## **ITEM 12: BROKERAGE PRACTICES**

### *Basic Service*

FutureAdvisor does not select broker-dealers for its Basic Service clients. FutureAdvisor may suggest broker-dealers to clients in situations when FutureAdvisor's automated computer algorithms find that another broker may be able to provide services better suited to a particular client.

### *Premium Service*

FutureAdvisor seeks to establish custodial and brokerage arrangements with broker-dealers that are "qualified custodians" (as that term is defined by the SEC) to meet the custodial and brokerage needs of Premium Service clients. When determining which broker-dealers to choose, we first determine which broker-dealers have an investment management platform that allows us to execute trades on behalf of our Premium Service clients and then assess such broker-dealers using the following factors:

- Financial strength and reputation of the broker-dealer;
- Whether the broker-dealer has a trading platform that supports the administrative requirements for trading and record keeping;
- The amount of experience the broker-dealer has in handling the transaction, brokerage, custodial and record-keeping needs of an internet based investment adviser;
- Whether the broker-dealer's securities pricing and transaction and custodial costs are reasonable;
- The level of responsiveness that we believe the broker-dealer will bring to FutureAdvisor's execution needs for its client accounts;
- The extent to which the broker-dealer has access to securities that FutureAdvisor selects for client account transactions;
- The broker-dealer's block trading capabilities; and

- The accuracy of trades and trade confirmations and, in the event that errors occur, a rapid and fair error correction process.

#### *Soft Dollars*

Currently, FutureAdvisor does not generate “soft dollar” credits through commissions on client accounts.

#### *Brokerage for Client Referrals*

FutureAdvisor does not consider the possibility of receiving client referrals from a particular broker-dealer when selecting or recommending that clients use the broker-dealer.

### **ITEM 13: REVIEW OF ACCOUNTS**

#### *Basic Service*

Accounts of clients using FutureAdvisor’s Basic Service are reviewed through automated computer algorithms when clients choose to have a review conducted. The review is self-service. FutureAdvisor does not otherwise conduct reviews of these accounts.

#### *Premium Service*

FutureAdvisor continually reviews the accounts of its Premium Service clients. Triggering factors may include but are not limited to overall market movement, a significant change to one or more of the securities owned by a particular client, or changes in clients’ life circumstance if clients report them to FutureAdvisor.

FutureAdvisor conducts the reviews through its automated computer algorithms and by our investment advisor professional monitoring the accounts. Since FutureAdvisor is based upon the principles of algorithmic asset management, the algorithm is the primary continual review process. During these reviews, FutureAdvisor considers each client’s individual goals (as clients report them via the FutureAdvisor website) and their portfolio composition (for clients who give FutureAdvisor access to review).

The investment professional who conducts client reviews is Bo Lu, a co-founder of FutureAdvisor. Generally, these reviews do not produce regular reports for the client unless the client specifically requests and FutureAdvisor agrees to provide these reports.

### **ITEM 14: CLIENT REFERRALS AND OTHER COMPENSATION**

FutureAdvisor may conduct campaigns through advertising networks (such as Google AdWords/AdSense, Microsoft AdCenter) and compensate such advertising networks accordingly.

In addition, at certain times FutureAdvisor may offer a refer-a-friend credit that rewards existing clients for referring new clients to the service. While the amount of the refer-a-friend bonus is nominal, in this instance, potential clients must understand this refer-a-friend credit may cause a conflict of interest if existing clients make this referral solely because of the credit.

In addition, FutureAdvisor has entered into and may continue to enter into agreements with third-party solicitors who are in a position to refer clients to FutureAdvisor. Where such referrals result in a new Premium Service client for FutureAdvisor, FutureAdvisor will compensate the third-party solicitor according to the terms negotiated with such solicitor.

#### **ITEM 15: CUSTODY**

FutureAdvisor does not have custody of client assets. Premium Service assets are held in the name of the Premium Service client and are held in the custody of a Premium Service Broker, which is a qualified custodian as defined by the SEC. As part of the Premium Service enrollment process clients authorize the Premium Service Broker with whom they have an account to deduct FutureAdvisor's subscription fee directly from their Premium Service Account. Clients will be reminded through account materials that they should review statements from the Premium Account Broker to make sure that amount of fees deducted are correct based on the Premium Service Agreement between clients and FutureAdvisor.

#### **ITEM 16: INVESTMENT DISCRETION**

FutureAdvisor requires a limited power of attorney (or other type of permission required by the Premium Account Broker) to act on a discretionary basis for its Premium Service clients, allowing FutureAdvisor to execute trades on behalf of these clients. Premium Service clients complete the applicable documentation required by the Premium Account Broker as part of the Premium Service enrollment process.

#### **ITEM 17: VOTING CLIENT SECURITIES**

FutureAdvisor does not have the authority to vote client securities for Premium Service clients.

#### **ITEM 18: FINANCIAL INFORMATION**

- A. FutureAdvisor does not require or solicit payment of more than \$1,200 in fees per client, six months or more in advance.
- B. FutureAdvisor has no financial condition that is reasonably likely to impair FutureAdvisor's ability to meet contractual commitments to its clients.
- C. FutureAdvisor has not been subject to a bankruptcy petition.

**ITEM 1: COVER PAGE**

FutureAdvisor

580 Market St., Suite 500  
San Francisco, CA 94104

[www.futureadvisor.com](http://www.futureadvisor.com)

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**FORM ADV PART 2B  
INVESTMENT ADVISOR BROCHURE SUPPLEMENT  
September 2014**

This brochure supplement provides information about Mr. Bo Lu and Mr. Simon Moore and supplements the FutureAdvisor Form ADV Part 2A brochure. You should have received a copy of that brochure. Please contact FutureAdvisor at 800-975-7199 or by email at [compliance@futureadvisor.com](mailto:compliance@futureadvisor.com) if you did not receive FutureAdvisor's brochure or if you have any questions about the contents of this brochure supplement.

Additional information about Bo Lu and Simon Moore is available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

**BO LU**

**ITEM 2: EDUCATIONAL BACKGROUND AND BUSINESS EXPERIENCE**

Year Born: 1983

Formal education after high school:

University of Illinois at Urbana-Champaign, BS, Computer Science - 2004

Business background for the past five years:

Xulu, Inc. d/b/a FutureAdvisor, Chief Executive Officer and Chief Compliance Officer – 5/2010 to present

Microsoft Corporation, Program Manager – 10/2004 to 4/2010

**ITEM 3: DISCIPLINARY INFORMATION**

Bo Lu has not been involved in any activities requiring disciplinary disclosure.

**ITEM 4: OTHER BUSINESS ACTIVITIES**

Bo Lu is not involved in other business activities requiring disclosure.

**ITEM 5: ADDITIONAL COMPENSATION**

Bo Lu does not receive additional compensation other than a regular salary from FutureAdvisor.

**ITEM 6: SUPERVISION**

Bo Lu serves as the Chief Executive Officer of FutureAdvisor and as such is not subject to additional supervision. Bo may be reached by email at [bo@futureadvisor.com](mailto:bo@futureadvisor.com).

**SIMON MOORE, CFA**

**ITEM 2: EDUCATIONAL BACKGROUND AND BUSINESS EXPERIENCE**

Year Born: 1978

Formal education after high school:

University of Oxford, B.A. Politics Philosophy and Economics – 2000

Chartered Financial Analyst Designation – 2004

Kellogg School of Management, Northwestern University, MBA – 2006

Business background for the past five years:

Xulu, Inc. d/b/a FutureAdvisor, Chief Investment Officer – 12/2013 to Present

Microsoft Corporation, Senior Product Planner and Program Manager – 2009-2013

**ITEM 3: DISCIPLINARY INFORMATION**

Simon Moore has not been involved in any activities requiring disciplinary disclosure.

**ITEM 4: OTHER BUSINESS ACTIVITIES**

Simon Moore is not involved in other business activities requiring disclosure.

**ITEM 5: ADDITIONAL COMPENSATION**

Simon Moore does not receive additional compensation other than a regular salary from FutureAdvisor.

**ITEM 6: SUPERVISION**

Simon Moore serves as the Chief Investment Officer at FutureAdvisor and is responsible for recommendations given to clients. Simon may be reached by email at [simon@futureadvisor.com](mailto:simon@futureadvisor.com). Simon is supervised by Bo pursuant to FutureAdvisor's policies and procedures. Bo may be reached by email at [bo@futureadvisor.com](mailto:bo@futureadvisor.com).

## **BRIAN PEREZ**

### **ITEM 2: EDUCATIONAL BACKGROUND AND BUSINESS EXPERIENCE**

Year Born: 1976

Formal education after high school:

University of Notre Dame, B.BA, Finance - 1998

Business background for the past five years:

Xulu, Inc. d/b/a FutureAdvisor, Director of Activation – 5/2014 to present

Fisher Investments, LLC, Vice President – Firm Culture –1999 to 2012

### **ITEM 3: DISCIPLINARY INFORMATION**

Brian Perez has not been involved in any activities requiring disciplinary disclosure.

### **ITEM 4: OTHER BUSINESS ACTIVITIES**

Brian Perez is not involved in other business activities requiring disclosure.

### **ITEM 5: ADDITIONAL COMPENSATION**

Brian Perez does not receive additional compensation other than a regular salary from FutureAdvisor.

### **ITEM 6: SUPERVISION**

Brian Perez serves as the Director of Activation at FutureAdvisor. Brian may be reached by email at [bperez@futureadvisor.com](mailto:bperez@futureadvisor.com). Brian is supervised by Bo Lu pursuant to FutureAdvisor's policies and procedures. Bo may be reached by email at [bo@futureadvisor.com](mailto:bo@futureadvisor.com).

## **WILLIAM TUHACEK**

### **ITEM 2: EDUCATIONAL BACKGROUND AND BUSINESS EXPERIENCE**

Year Born: 1982

Formal education after high school:

University of Southern California, BA, International Relations/Business -  
2004

Business background for the past five years:

Xulu, Inc. d/b/a FutureAdvisor, Financial Advisor – 6/2014 to present

United States Marine Corps, IT Department Manager – 1/2010 to 4/2014

Fisher Investments, Investment Counselor – 10/2008 to 1/2010

### **ITEM 3: DISCIPLINARY INFORMATION**

William Tuhacek has not been involved in any activities requiring disciplinary disclosure.

### **ITEM 4: OTHER BUSINESS ACTIVITIES**

William Tuhacek is not involved in other business activities requiring disclosure.

### **ITEM 5: ADDITIONAL COMPENSATION**

William Tuhacek does not receive additional compensation other than a regular salary from FutureAdvisor.

### **ITEM 6: SUPERVISION**

William Tuhacek serves as a Financial Advisor of FutureAdvisor. William may be reached by email at [william@futureadvisor.com](mailto:william@futureadvisor.com). William is supervised by Brian Perez pursuant to FutureAdvisor's policies and procedures. Brian may be reached by email at [bperez@futureadvisor.com](mailto:bperez@futureadvisor.com).



## **GARY HALL**

### **ITEM 2: EDUCATIONAL BACKGROUND AND BUSINESS EXPERIENCE**

Year Born: 1979

Formal education after high school:

Oregon State University, BS, General Science - 2003

Business background for the past five years:

Xulu, Inc. d/b/a FutureAdvisor, Portfolio Manager – 6/2014 to present

Fisher Investments, Research Analyst – 4/2007 to 6/2014

### **ITEM 3: DISCIPLINARY INFORMATION**

Gary Hall has not been involved in any activities requiring disciplinary disclosure.

### **ITEM 4: OTHER BUSINESS ACTIVITIES**

Gary Hall is not involved in other business activities requiring disclosure.

### **ITEM 5: ADDITIONAL COMPENSATION**

Gary Hall does not receive additional compensation other than a regular salary from FutureAdvisor.

### **ITEM 6: SUPERVISION**

Gary Hall serves as a Portfolio Manager at FutureAdvisor. Gary may be reached by email at [gary@futureadvisor.com](mailto:gary@futureadvisor.com). Gary is supervised by Bo Lu pursuant to FutureAdvisor's policies and procedures. Bo may be reached by email at [bo@futureadvisor.com](mailto:bo@futureadvisor.com).

## **SEAN BORELLA**

### **ITEM 2: EDUCATIONAL BACKGROUND AND BUSINESS EXPERIENCE**

Year Born: 1991

Formal education after high school:

California State University, BS, Business Administration – 2013

Business background for the past five years:

Xulu, Inc. d/b/a FutureAdvisor, Client Service Specialist – 6/2014 to present

Hewins Financial Advisors, LLC, Associate Consultant – 6/2013 to 6/2014

Franklin Templeton Investments, GBA Intern – 6/2012 to 1/2013

Stifel Nicolaus, Private Client Group Intern – 9/2012 to 12/2012

Northwestern Mutual, Financial Rep Intern – 10/2011 to 5/2012

### **ITEM 3: DISCIPLINARY INFORMATION**

Sean Borella has not been involved in any activities requiring disciplinary disclosure.

### **ITEM 4: OTHER BUSINESS ACTIVITIES**

Sean Borella is not involved in other business activities requiring disclosure.

### **ITEM 5: ADDITIONAL COMPENSATION**

Sean Borella does not receive additional compensation other than a regular salary from FutureAdvisor.

### **ITEM 6: SUPERVISION**

Sean Borella serves as a Client Service Specialist at FutureAdvisor. Sean may be reached by email at sean@futureadvisor.com. Sean is supervised by Brian Perez pursuant to FutureAdvisor's policies and procedures. Brian may be reached by email at bperez@futureadvisor.com.

## **PATRICK CLARK**

### **ITEM 2: EDUCATIONAL BACKGROUND AND BUSINESS EXPERIENCE**

Year Born: 1981

Formal education after high school:  
Santa Clara University, BS, Finance - 2003

Business background for the past five years:

Xulu, Inc. d/b/a FutureAdvisor, Financial Advisor – 8/2014 to present

Fisher Investments, Client Services Training Manager – 2003 to 8/2014

### **ITEM 3: DISCIPLINARY INFORMATION**

Patrick Clark has not been involved in any activities requiring disciplinary disclosure.

### **ITEM 4: OTHER BUSINESS ACTIVITIES**

Patrick Clark is not involved in other business activities requiring disclosure.

### **ITEM 5: ADDITIONAL COMPENSATION**

Patrick Clark does not receive additional compensation other than a regular salary from FutureAdvisor.

### **ITEM 6: SUPERVISION**

Patrick Clark serves as a Financial Advisor at FutureAdvisor. Patrick may be reached by email at [patrick@futureadvisor.com](mailto:patrick@futureadvisor.com). Patrick is supervised by Brian Perez pursuant to FutureAdvisor's policies and procedures. Brian may be reached by email at [bperez@futureadvisor.com](mailto:bperez@futureadvisor.com).

**MAYA SWANSON**

**ITEM 2: EDUCATIONAL BACKGROUND AND BUSINESS EXPERIENCE**

Year Born: 1989

Formal education after high school:

Dominican University of California, MS, Counseling Psychology – 2014

University of California, BA - 2010

Business background for the past five years:

Xulu, Inc. d/b/a FutureAdvisor, Client Service Specialist– 9/2014 to present

Morgan Stanley Global Wealth Mgmt Financial Advisor Associate – 2/2013 to 9/2014

**ITEM 3: DISCIPLINARY INFORMATION**

Maya Swanson has not been involved in any activities requiring disciplinary disclosure.

**ITEM 4: OTHER BUSINESS ACTIVITIES**

Maya Swanson is not involved in other business activities requiring disclosure.

**ITEM 5: ADDITIONAL COMPENSATION**

Maya Swanson does not receive additional compensation other than a regular salary from FutureAdvisor.

**ITEM 6: SUPERVISION**

Maya Swanson serves as a Client Service Specialist at FutureAdvisor. Maya may be reached by email at [maya@futureadvisor.com](mailto:maya@futureadvisor.com). Maya is supervised by Brian Perez pursuant to FutureAdvisor's policies and procedures. Brian may be reached by email at [bperez@futureadvisor.com](mailto:bperez@futureadvisor.com).

## **Privacy Notice of Xulu, Inc.**

This Privacy Notice sets forth the policies of Xulu, Inc., doing business as FutureAdvisor, with respect to nonpublic personal information (“Information”) that may be transmitted to us regarding our clients, prospective clients, and former clients. In connection with the services we provide at [www.futureadvisor.com](http://www.futureadvisor.com), we receive Information from the following sources:

- Information we may receive from you under the terms of our Terms of Use and Subscription Agreement, client questionnaires, or other forms of communications;
- Information you may provide to us through our website;
- Information about your transactions with us; and
- Information from third parties with whom you have given us permission to liaise on your behalf.

The examples contained within this notice are illustrations only and are not intended to be exclusive. We do not disclose any Information about our clients, prospective clients or former clients to anyone, other than to our affiliates, attorneys and other of our third party service providers in order to provide the services offered on our website and except as otherwise permitted by law. We will, however, release Information about you if you direct us to do so or if compelled to do so by law. And to the extent we provide your Information to our third party services providers as described above, we will take reasonable steps to seek to require such third parties to treat with confidentiality your Information.

We seek to carefully safeguard your Information and, to that end, restrict access to Information about you to those employees and other persons who need to know the information to enable us to provide services to you. We maintain physical, electronic and procedural safeguards to protect our Investors’ Information.

We reserve the right to, and may at any time, change the terms and conditions with respect to this Privacy Notice. You are bound by any such revisions and should therefore periodically visit this page to review the then current terms and conditions to which you are bound.