

Terms of Use

PLEASE READ THESE TERMS OF USE (“AGREEMENT” OR “TERMS OF USE”) CAREFULLY BEFORE USING THE SERVICES OFFERED BY XULU, INC. (“COMPANY”). THIS AGREEMENT SETS FORTH THE LEGALLY BINDING TERMS AND CONDITIONS FOR YOUR USE OF THE VARIOUS WEBSITES OWNED AND OPERATED BY COMPANY, INCLUDING, WITHOUT LIMITATION, THE WWW.FUTUREADVISOR.COM WEBSITE AND DOMAIN NAME (“SITES”), AND ANY OTHER FEATURES, CONTENT, OR APPLICATIONS OFFERED FROM TIME TO TIME IN CONNECTION THEREWITH (COLLECTIVELY, THE “SERVICE”). BY USING THE SITES OR SERVICE IN ANY MANNER, INCLUDING BUT NOT LIMITED TO VISITING OR BROWSING THE SITES, YOU AGREE TO BE BOUND BY THIS AGREEMENT. THIS AGREEMENT APPLIES TO ALL USERS OF THE SITES OR SERVICE, INCLUDING USERS WHO ARE ALSO CONTRIBUTORS OF CONTENT, INFORMATION, AND OTHER MATERIALS OR SERVICES ON THE SITES.

Acceptance of Terms:

The Service is offered subject to acceptance without modification of these Terms of Use and all other operating rules, policies and procedures that may be published from time to time on the Sites by Company. In addition, some services offered through the Service may be subject to additional terms and conditions promulgated by Company from time to time; your use of such services is subject to those additional terms and conditions, which are incorporated into these Terms of Use by this reference.

The Service is available only to individuals who are at least 18 years old. You represent and warrant that if you are an individual, you are at least 18 years old; that all registration information you submit is accurate and truthful; and that your use of the Service does not violate any applicable law or regulation. Company may, in its sole discretion, refuse to offer the Service to any person or entity and change its eligibility criteria at any time. This provision is void where prohibited by law and the right to access the Service is revoked in such jurisdictions. (In any case, this Web site is not marketed to children. Company does not knowingly collect person information from children under 13 years of age.)

Modification of Terms of Use.

Company reserves the right, at its sole discretion, to modify or replace any of the Terms of Use, or change, suspend, or discontinue the Service (including without limitation, the availability of any feature, database, or content) at any time by posting a notice on the Sites or by sending you an email. Company may also impose limits on certain features and services or restrict your access to parts or all of the Service without notice or liability. It is your responsibility to check the Terms of Use periodically for changes. Your continued use of the Service following the posting of any changes to the Terms of Use constitutes acceptance of those changes.

Should you become a FutureAdvisor client, your relationship with the Company will also be governed by the provisions of your investment advisory agreement. To the extent that there are conflicts between these Terms of Use and the investment advisory agreement, the provisions of the investment advisory agreement will take priority.

Privacy.

Company's current privacy policy is located at futureadvisor.com/main/privacy (the "Privacy Policy") and is incorporated into these Terms of Use by this reference. For inquiries in regard to the Privacy Policy, or to report a privacy-related problem, please contact help@futureadvisor.com

Registration.

As a condition to using certain aspects of the Service, you will be required to register with Company with a valid email address ("Company User ID") and select a password. You shall provide Company with accurate, complete, and updated registration information. Failure to do so shall constitute a breach of the Terms of Use, which may result in immediate termination of your Company account. You shall not (i) select or use as a Company User ID a name or email of another person with the intent to impersonate that person; (ii) use as a Company User ID a name subject to any rights of a person other than you without appropriate authorization; or (iii) use as a Company User ID a name that is otherwise offensive, vulgar or obscene. Company reserves the right to refuse registration of, or cancel a Company User ID in its sole discretion. You are solely responsible for activity that occurs on your account and shall be responsible for maintaining the confidentiality of your Company password. You shall never use another user's account without such other user's express permission. You will immediately notify Company in writing of any unauthorized use of your account, or other account related security breach of which you are aware.

Account Information from Third Party Sites.

Through the Service, you may direct Company to retrieve certain information maintained online by third-party financial institutions or providers with which you have a customer relationship, maintain accounts or engage in financial transactions ("Account Information"). You agree to provide your username, password, PIN and other log-in information and credentials necessary to access your account with such institutions or providers ("Access Information"), and you hereby grant Company permission to use the Access Information and Account Information for the purposes contemplated by this Agreement.

By using the Service, you expressly authorize Company to access and use your Account Information maintained by identified third parties, on your behalf as your agent. You hereby authorize Company to use your Access Information to accomplish the foregoing and to configure the Service so that it is compatible with the third party sites for which you submit Account Information. For purposes of this Agreement, and solely to Company in providing the Service, you grant Company a limited power of attorney, and appoint Company as your attorney-in-fact and agent, to access third party sites, retrieve and use your Account Information with the full

power and authority to do and perform each thing necessary in connection with such activities, as you could do in person. YOU ACKNOWLEDGE AND AGREE THAT WHEN COMPANY ACCESSES AND RETRIEVES ACCOUNT INFORMATION FROM THIRD PARTY SITES, COMPANY IS ACTING AS YOUR AGENT, AND NOT AS THE AGENT OF OR ON BEHALF OF THE THIRD PARTY. You acknowledge and agree that the Service may not be sponsored or endorsed by the third party services accessible through the Service. You represent and warrant that neither the foregoing (or anything else in this Agreement) nor your use of the Services will violate any agreement or terms to which you are subject, including without limitation, those with respect to any third party site.

Disclaimer.

Company is a registered investment advisor that provides specific types of investment advisory services, which do not include financial planning to the extent that Company would prepare comprehensive financial plans. The Service is meant as an aid to assist you in selection of investment tools and related services, it is not intended to provide legal, tax or financial planning advice. Unless you become a FutureAdvisor client under the terms of an investment advisory agreement, you acknowledge and agree that you are responsible for your own investment research and investment decisions, that the Service is only one tool that you may use as part of a comprehensive investment analysis process that should involve many other tools and sources of information, that you should not rely on the Service, and that Company will not be liable for any decision made or action taken by you or others based upon information or materials obtained through use of the Service. Prior to the execution of a securities trade, you should always consult with your broker or other financial representative to verify securities pricing information. THE SERVICE IS NOT INTENDED TO PROVIDE LEGAL, TAX OR FINANCIAL PLANNING ADVICE. COMPANY IS NOT A FINANCIAL PLANNER, BROKER OR TAX ADVISOR.

The Service on the Company's 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, the information in the website may be subject to different interpretations as market conditions and other factors change. Users, unless you subscribe to a Service that provides updated information, you should take into account the time sensitivity of certain information or data when reviewing information obtained from the website at later times.

Fees and Payment.

Company reserves the right to require payment of fees for certain features of the Service. Should you elect to subscribe to such features, you shall pay all applicable fees, as described on the Sites in connection with such features. Company reserves the right to change its pricing and to institute new charges at any time, upon ten (10) days prior notice to you, which may be sent by email or posted on the Sites. Use of the Service by you following such notification constitutes your acceptance of any new or increased charges.

Online Alerts.

Through the Service, you may receive certain types of alerts. Account alerts may be turned on by default as part of the Service. They may then be customized, deactivated or reactivated by you. These alerts allow you to choose alert messages for your accounts. Company may add new alerts from time to time, or cease to provide certain alerts at any time in its sole discretion. Each alert has different options available, and you may be asked to select from among these options.

Electronic alerts will be sent to the email address you have provided as your primary email address. You are responsible for informing us of changes to your e-mail address. Because alerts are not encrypted, we will never include your password. However, alerts may include your Company User ID and/or information about your accounts. Depending upon which alerts you select, information such as an account balance or the due date for your credit card payment may be included. Anyone with access to your email will be able to view the content of these alerts. You may disable future alerts at any time.

You understand and agree that any alerts provided to you through the Service may be delayed or prevented by a variety of factors. Company does its best to provide alerts in a timely manner with accurate information. However, we neither guarantee the delivery nor the accuracy of any alert. You also agree that Company shall 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 an alert.

Third Party Sites.

The Service may permit you to link to other websites or resources on the Internet, and other websites or resources may contain links to the Sites. When you access third party websites, you do so at your own risk. These other websites are not under Company's control, and you acknowledge that Company is 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 Company or any association with its operators. You further acknowledge and agree that Company shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with the use of or reliance on any such Content, goods or services available on or through any such website or resource.

Rules and Conduct.

You may not use the Service for any purpose that is prohibited by these Terms of Use. The Service is provided only for your own personal, non-commercial use. You are responsible for all of your activity in connection with the Service. For purposes of the Terms of Use, the term "Content" includes, without limitation, any advertisements, advice, suggestions, blogs or forum comments, information, data, text, photographs, software, scripts, graphics, and interactive features generated, provided, or otherwise made accessible by Company or its partners on or through the Service.

By way of example, and not as a limitation, you shall not (and shall not permit any third party to) either (a) take any action or (b) post any content on or through the Service, that:

- infringes any intellectual property or other proprietary right of any other person or entity;
- is unlawful, threatening, abusive, harassing, defamatory, libelous, deceptive, fraudulent, invasive of another's privacy, tortious, obscene, offensive, or profane;
- constitutes unauthorized or unsolicited advertising, junk or bulk e-mail ("spamming");
- involves commercial activities and/or sales without Company's prior written consent, such as contests, sweepstakes, barter, advertising, or pyramid schemes;
- contains software viruses or any other computer codes, files, or programs that are designed or intended to disrupt, damage, limit or interfere with the proper function of any software, hardware, or telecommunications equipment or to damage or obtain unauthorized access to any system, data, password or other information of Company or any third party; or
- impersonates any person or entity, including any employee or representative of Company.

Additionally, you shall not: (i) take any action that imposes or may impose (as determined by Company in its sole discretion) an unreasonable or disproportionately large load on Company's (or its third party providers') infrastructure; (ii) interfere or attempt to interfere with the proper working of the Service or any activities conducted on the Service; (iii) bypass any measures Company may use to prevent or restrict access to the Service (or other accounts, computer systems or networks connected to the Service); (iv) run Maillist, Listserv, any form of auto-responder or "spam" on the Service; or (v) use manual or automated software, devices, or other processes to "crawl" or "spider" any page of the Sites.

You shall 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 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 Service, (iii) copy, rent, lease, distribute, or otherwise transfer any or all of the rights that you receive hereunder, or (iv) use or access the Service in order to build a competitive product or service. You shall abide by all applicable local, state, national and international laws and regulations when using the Service.

Company reserves the right to remove any Content from the Sites or Service at any time, for any reason (including, but not limited to, upon receipt of claims or allegations from third parties or authorities relating to such Content or if Company is concerned that you may have violated the Terms of Use), or for no reason at all.

Company and Site Content.

You agree that the Service contains Content specifically provided by Company or its partners and that such Content is protected by copyrights, trademarks, service marks, patents, trade secrets or other proprietary rights and laws. You shall abide by all copyright notices, information, and restrictions contained in any Content accessed through the Service. You shall

not 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 third party 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.

You may, to the extent the Sites expressly authorize you to do so, download or copy the Content, and other items displayed on the Sites for download, for personal use only, provided that you maintain all copyright and other notices contained in such Content. You shall not 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 Company, or from the copyright holder identified in such Content's copyright notice.

Termination.

Company may terminate your access to all or any part of the Service at any time, with or without cause, with or without notice, effective immediately, which may result in the forfeiture and destruction of all information associated with your membership. If you wish to terminate your account, you may do so by following the instructions on the Sites. Any fees paid hereunder are non-refundable. All provisions of the Terms of Use which by their nature should survive termination shall survive termination, including, without limitation, ownership provisions, warranty disclaimers, indemnity and limitations of liability.

Warranty Disclaimer.

Company makes no representations concerning any Content contained in or accessed through the Sites, and Company will not be responsible or liable for the reliability, timeliness, quality, suitability, availability, accuracy, completeness, copyright compliance, legality or decency of any Content or material contained in or accessed through the Sites. You should independently verify all Content and other information that you access through the Service. By using the Service, you agree that Company 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 or otherwise as a result of your use of the Service. Your use of or reliance on any Content is at your own risk.

THE SERVICE (INCLUDING, WITHOUT LIMITATION, ANY 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. COMPANY, AND ITS DIRECTORS, EMPLOYEES, AGENTS, SUPPLIERS, PARTNERS AND CONTENT PROVIDERS DO NOT WARRANT THAT: (A) THE SERVICE WILL BE SECURE OR AVAILABLE AT ANY PARTICULAR TIME OR LOCATION; (B) THE USE OF THE SERVICE WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE, OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE,

SOFTWARE, SYSTEM OR DATA; (B) ANY DEFECTS OR ERRORS WILL BE CORRECTED; (C) ANY CONTENT OR SOFTWARE AVAILABLE AT OR THROUGH THE SERVICE IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS; OR (D) THE RESULTS OF USING THE SERVICE WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS. YOUR USE OF THE SERVICE IS SOLELY AT YOUR OWN RISK. THE SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS, AND COMPANY IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU. ELECTRONIC COMMUNICATIONS PRIVACY ACT NOTICE (18 USC 2701-2711): COMPANY MAKES NO GUARANTY OF CONFIDENTIALITY OR PRIVACY OF ANY COMMUNICATION OR INFORMATION TRANSMITTED ON THE SITES OR ANY WEBSITE LINKED TO THE SITES. Company 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 Company's equipment, transmitted over networks accessed by the Sites, or otherwise connected with your use of the Service.

Indemnification.

You shall defend, indemnify, and hold harmless Company, its affiliates and each of its, and its affiliates employees, contractors, directors, suppliers and representatives from all liabilities, claims, and expenses, including reasonable attorneys' fees, that arise from or relate to (i) your use or misuse of, or access to, the Sites, Service, Content, or otherwise from any content that you post to the Sites, (ii) your violation of the Terms of Use, or (iii) infringement by you, or any third party using the your account, of any intellectual property or other right of any person or entity. Company reserves 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 Company in asserting any available defenses.

Limitation of Liability.

IN NO EVENT SHALL COMPANY, NOR ITS DIRECTORS, EMPLOYEES, AGENTS, PARTNERS, SUPPLIERS OR CONTENT PROVIDERS, BE LIABLE UNDER CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE OR ANY OTHER LEGAL OR EQUITABLE THEORY WITH RESPECT TO THE SERVICE (INCLUDING, WITHOUT LIMITATION, ANY CONTENT) (I) FOR ANY LOST PROFITS, DATA LOSS, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER (HOWEVER ARISING), (II) FOR ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE (REGARDLESS OF THE SOURCE), (III) FOR YOUR RELIANCE ON THE SERVICE OR (IV) FOR ANY DIRECT DAMAGES IN EXCESS OF (IN THE AGGREGATE) ONE-HUNDRED U.S. DOLLARS (\$100.00). SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO

THE ABOVE LIMITATIONS AND EXCLUSIONS MAY NOT APPLY TO YOU.

International Use.

Company makes no representation that the Content is appropriate or available for use in locations outside of United States, and accessing the Service is prohibited from countries or territories where such Content is illegal. If you access the Service from other locations, you do so at your own initiative and are responsible for compliance with local laws.

Dispute Resolution.

A printed version of the Terms of Use and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to the Terms of Use 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 Company agree that any cause of action arising out of or related to the Service must commence within one (1) year after the cause of action arose; otherwise, such cause of action is permanently barred.

The Terms of Use shall be governed by and construed in accordance with the laws of the State of Washington, 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 Seattle Washington, 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. 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 Western District of Washington. Use of the Service is not authorized in any jurisdiction that does not give effect to all provisions of the Terms of Use, including without limitation, this section.

Integration and Severability.

The Terms of Use are the entire agreement between you and Company with respect to the Service and use of the Sites, and supersede all prior or contemporaneous communications and proposals (whether oral, written or electronic) between you and Company with respect to the Sites. If any provision of the Terms of Use is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that the Terms of Use will otherwise remain in full force and effect and enforceable. 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.

Miscellaneous.

Company shall not be liable for any failure to perform its obligations hereunder where such failure results from any cause beyond Company's reasonable control, including, without limitation, mechanical, electronic or communications failure or degradation (including "line-noise" interference). The Terms of Use are personal to you, and are not assignable, transferable or sublicensable by you except with Company's prior written consent. Company may assign, transfer or delegate any of its rights and obligations hereunder without consent. No agency, partnership, joint venture, or employment relationship is created as a result of the Terms of Use and neither party has any authority of any kind to bind the other in any respect. In any action or proceeding to enforce rights under the Terms of Use, the prevailing party will be entitled to recover costs and attorneys' fees. All notices under the Terms of Use will be in writing and will be deemed to have been duly given when received, if personally delivered or sent by certified or registered mail, return receipt requested; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; or the day after it is sent, if sent for next day delivery by recognized overnight delivery service.

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Contact.

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