

## **Dear Visitor!**

Before you (hereinafter: „**User**”) start to use a software (hereinafter: „**Software**”), which has been developed by Everex Financial Solutions Ltd. (hereinafter: „**Company**”), it is necessary to read, understand, accept and completely agree with all provisions of the following Terms & Conditions, because with the purchase of the Software the User accepts all of the provisions below. Furthermore, with the purchase of the Software, the User agrees to be bound by Terms & Conditions, Risk Disclaimer and Privacy Policy (hereinafter jointly: „**Contract**”).

### **I. Provided Services**

#### **1. Purchase & Delivery & Installation Process**

After the User has purchased the Software via [www.everexfx.com](http://www.everexfx.com) (hereinafter: the „**Website**”) or any other third party’s website, the User will receive an e-mail containing a download link to the Software. The installation package contains an User’s Guide as well.

Products are sent electronically, especially via e-mail. Download link to the Software’s installation package is provided within one business day of the purchase.

The time of the purchase is the moment, when the Company gets a confirmation from the relevant payment system, after the User has paid the purchase price through the Website or any other third party’s website.

The User is permitted to use the Software on only one account. This account can function as a real account or a demo account. The type of the account can be changed anytime on the Website’s [Members Area](#).

The User’s use of the Software shall be licensed to one account. The license can not be assigned.

#### **ATTENTION!**

Only the User is liable for the accuracy, operation and maintenance of the specified e-mail address specified and given by the User.

The assignment of the license carries out a serious breach of a contract with all consequences, which have been specified in the IV.3. paragraph.

#### **2. Technical support**

The Company provides for the User technical support services related to the operation and installation of the Software.

E-mail support is available around the clock, and the Company makes serious efforts to respond to all inquiries in one business day. For more information: [Contact Us](#).

**ATTENTION!**

The Company provides technical support related to the operation of the Software only. The Company does not give any financial advice as technical support.

**3. Updates**

If an updated version of the Software has been developed by the Company, the User will get the new version via e-mail.

The User can easily download and install the updated version of the Software from the link, with the help of the received e-mail.

Updates are free of charge.

**ATTENTION!**

Updates only contribute the smooth operation and uninterrupted usage of the Software. The Company does not guarantee that updates contribute the possibility of getting more profit. The Company does not warrant the development of any updates.

**4. Newsletter**

The Company sends the Users newsletter via e-mail from time to time. In these letters the User can easily find the newest and/or special offers of the Company and occasionally some other relevant and useful information in connection with the Software and/or the Company.

**II. Liability & Limitation of Liability**

**1. Performance**

After the purchase of the Software, the Company delivers operable download links via e-mail within one business day of the purchase.

From this functioning links, what the User has received via e-mail, the User can download the Software and the User's Guide.

With the description, which can be found in the User's Guide, the User can install the Software.

After the installation the Software is operable.

**ATTENTION!**

The Company only assumes obligations, which have been specified in the Contract.

The Company can not be held liable, if the User can not install or use the Software because of his/her own fault or incomplete knowledge.

The Company warrants only that the Software meets the requirements specified in the User's Guide.

The Company does not undertake any money-back guarantee in connection with the Software (e.g. purchase of the Software, usage of the Software, functioning of the Software etc.).

The Software is not operable without any additional technical/system requirements (including, but not limited to Metatrade 4 trading platform, broker account, special system's requirements). For more information read carefully the [User's Guide, FAQ](#).

## **2. Default of the performance**

If a default occurs during the performance detailed above (as an example: the Company does not deliver the e-mail, the download link is not operable, User's Guide is not attached, functionality of the Software's technical features is limited, any other technical breakdowns) the User should notice the Company via e-mail about the problem as soon as it is possible.

If a default occurs in the interest of the User, or because of reason for which the User is liable, the Company shall send a respond to the User, which contains a rejection of the notification within three business days of the delivery of the notification.

If Company approves the notification, the Company shall solve the problem within a reasonable period of time, which is orientated to the size and the nature of the default.

In most of the cases, the Company resends the e-mail with an operable link and User's Guide. From the resent operable link the User can download and install an operable Software.

If the delivery via e-mail does not work again, the Company tries to deliver the necessary data on another way. In order to solve the problem the Company can ask for further information from the User.

If the default, which is occurred in the interest of the Company, can not be corrected within twenty business days of the approval of the notification, the User has the right to terminate the Contract with a written notification within three business days of the deadline.

In this case of the termination the Contract is terminated, when the Company recieved the notification mentioned above. Furthermore, only in this case of the termination, the User can requests the Company via e-mail to refund the price of the Software.

## **ATTENTION!**

The User shall not receive a refund as his/her actions will be in direct violation of the Contract.

The Company refunds under no circumstances more than the price of the Software.

The Company refunds the price of the Software only in the case detailed above, in II.2. paragraph.

### **3. Limitation of liability**

#### **1. Third parties activity**

The Company shall not be liable to the User or to third parties for losses incurred directly or indirectly by causes reasonably beyond its control, including but not limited to, government restrictions or actions, natural disasters, several weather conditions, wars, strikes, terrorist attacks, exchange or market rulings, interruptions of data processing services or communications, disruptions in orderly trading on any market or exchange, unauthorized access or operator errors, broker restrictions, electrical power failures, strikes, labor disputes, riots, insurrections, civil disturbances, or shortages of labor or materials, fires, floods, storms, explosions, acts of God, orders of domestic or foreign courts or tribunals, non-performance of third parties.

The Company shall have no liability for and the User agrees to reimburse, indemnify and hold the Company, its affiliates and their partners, managing directors, officers and employees and any person controlled by or controlling the Company harmless from all losses, damages, expenses that result from: the User or the User's agents' misrepresentation, act or omission or alleged misrepresentation; any of the User's actions or the actions of the User's previous advisers; the failure by any person not controlled by the Company to perform any obligations to the User, and the User's failure to provide accurate information to the Company.

The Company does not investigate or substantiate any of the Website's visitor comments or claims. The Company does not take responsibility for the concreteness and/or accuracy of the contents, facts, which have been included in these comments or claims. Furthermore, the Company is not liable for any losses, damages, expenses, which have been arised directly or indirectly from these comments or claims.

The visitors of the Website may be transferred to online merchants or other third party or affiliate's sites through links, products or frames from the Website. The Company warns the User to read such sites' Terms and Conditions and/or Privacy Policies and/or Risk Disclaimers before using such sites in order to be aware of the terms and conditions of the User's use of such sites. These other sites are not under the control of the Company, are not monitored or reviewed by the Company, and the Company is not aware of the contents of such sites.

The Company may not be held liable for the contents of external links. The Company is not responsible for the accuracy, copyright compliance, legality, decency, or any other aspect of the contents or any transmissions received through such sites. The Company has no liability for such third party sites and the User's usage of them.

The Company under no circumstances takes responsibility for any damages, losses, expenses, which have been arised directly or indirectly by individuals or legal entities act or ommission, who somehow are in contractual relationship with the Company (as an example brokers, introducing brokers, any other partners). Especially if there is any technical breakdown during the operation of the Website or the web-hosting service used by the Company, the Company shall not be liable for any damages, losses, expenses, which have been arised indirectly or directly from these disfuncionalities.

## **2. Technical & System Requirements**

The Company shall not be liable for any damages, losses, expenses, which have been arised directly or indirectly from any technical disfunctionality of the Software.

These kind of limitation of functionality can have severel reason, including, but not limited to:

- the User's computer that does not meet the minimum technical requirements specified in User's Guide or FAQ;
- incorrect download and/or install process;
- broker restrictions;
- trade execution time and quality;
- missing historical data;
- loss of or fluctuations in heat, light, or air conditioning;
- unstable or no internet connection, internet or network restrictions;
- an interruption of communications systems or other hardware or software malfunction.

The Company under no circumstances express or imply any warranty, that the operation of the Software will be uninterrupted, timely, or error free.

## **3. Other provisions related to limitation of liability**

The Company does not give any kind of income/profit guarantee to the User in connection with using the Software.

The Software allows the User to change settings and input parameters according to the User's preferences. The Company does not take any responsibility for the User's personal manual settings or any of its consequences. Therefore, the User alone is responsible for his/her trading results.

The Company does not take responsibility for damages, losses, expenses arising indirectly or directly from using the Software and/or trading via the Software.

The Company shall not be liable to the User for any losses, damages, expenses incurred by the User for any reason, including but not limited to lost profits, trading losses and similar damages.

Under no circumstances shall the Company be liable to the User for direct, indirect, incidental, consequential, special or exemplary losses, damages, expenses, liabilities, demands, charges and claims of any kind or nature whatsoever, arising from or relating to the Contract, the Website, the Software or your use or misuse of the Software or any other services provided by the Company (exceptions are represented in Terms & Conditions I. and II.1. and II.2.).

### **ATTENTION!**

[Risk Disclaimer](#) is also an integral part of the documents, therefore, the User shall read, understand, acknowledge and accept it before purchasing the Software.

Risk Disclaimer contains important provisions related to the limitation of liability.

### **III. Usage of the Software**

1. The Software is for the User's personal use only. The Software is available for individuals only.

The User may only use the Software on his/her own personal account. The User shall not use the Software on third party accounts, or on Money Manager Accounts and PAMM accounts.

If the User would like to use the Software on a Money Manager Account, the User will need to purchase separate licenses for each individual trader. The User will also have to pay the vendor royalties for any income generated from Money Manager Accounts with the Software.

2. The User shall not permit others to use your license to operate the Software in any manner. If the User attempts to share his/her license (or login ability to the server) with any others, the Company shall irrevocably terminate the User's license to operate the Software without any refund.

One of the files needed to login to the Company's server contains a unique license number and the Company can easily detect, whether this license has been shared and whether unauthorized parties are trying to access the Company's server.

3. The User shall not distribute, copy, reproduce, exchange, modify, sell, or transmit anything from the Website.

4. The User shall not and shall not permit others to reverse engineer, decompile, disassemble, derive the source code of, modify, or create derivative works from the Software, or copy, distribute, publicly display or publicly perform the Software anyone who not authorized.

5. The User shall not use the Software to engage in or allow others to engage in any illegal activity.

6. The User shall not sell the Software or charge others for the use of the Software. The User shall not sell signals from this Software or broadcast its signals in any way whatsoever.

7. The User shall not use the Software to engage in any activity that will violate the rights of third parties, including without limitation through the use, public display, public performance, reproduction, distribution or modification of communications or materials that infringe copyrights, trademarks, publicity rights, privacy rights, other proprietary rights, of rights against defamation of third parties.

8. The User shall not share the Software on any forum or online community.

#### **IV. Breach of Contract & Termination of Contract**

1. The User hereby represents and warrants that the User will not violate any of the requirements of the Contract.

The Company hereby represents and warrants that the Company will not violate any of the requirements of the Contract.

2. Upon any breach by the User or by the Company legal consequences of breach of Contract are applicable according to Hungarian law.

If the User breaches any provision of the Contract, the Company reserves the right to assert a claim and/or initiate a lawsuit against the User and terminate the Contract.

3. This Contract is terminable at will by the Company with a written notice via e-mail with immediate effect in case of serious breach of a contract (including but not limited to assignment of the license, reproduction of the Software; reproduction of the Software's trades or the trading logic; usage of the Software's trades or trading logic as a basis of another Software; hacking or manipulating the Software or its code, changing the Software's code etc.). In these cases the Company terminates the Contract immediately and the Company cancels the User's membership immediately. The Company is not liable for any losses, damages, expenses, which have been arisen directly or indirectly from terminating the Contract and/or membership.

4. The Company has the right to terminate the Contract with a three month notice period without any reason with a notification via e-mail. The consequences are specified in IV.3.

5. All provisions of this Contract by which their nature extend beyond termination remain in effect until fulfilled and apply to respective successors and assigns (as an example: Privacy Policy, Terms & Conditions V.).

### **ATTENTION!**

The User does not have the right of withdrawal specified in the 4th paragraph of 17/1999. (II.5.) Hungarian government regulation about contracts between absents, because the Software, which has been shipped electronically, is a product, which can not be returned by its nature (5th paragraph c) of 17/1999. (II.5.) government regulation about contracts between absents).

In case of a serious breach of the Contract, termination of the defaulting act is not a necessary condition. A well-founded suspicion of a defaulting act can also establish a conventional reason for termination of the Contract with immediate effect.

### **V. Intellectual property & copyright**

1. All materials on the Website, including but not limited to design, images, software, and text are protected by copyright under applicable Hungarian law.
2. The User shall not use the materials, except as specified herein. The User agrees to follow the instructions on the Website, limiting the use of the materials. Any unauthorized use of the materials on the Website may violate copyright laws, trademark laws, the laws of privacy and publicity, and other applicable Hungarian sources of law.
3. By accepting this Contract, the User acknowledges that, the Company is the owner of all intellectual property rights in and to the Software including copyright, trademark, patent, trade secret and all proprietary rights that are existing throughout the world.
4. Reproduction or distribution of any material from the Website is only allowed with prior written extended permission from Company.

### **VI. Governing law & Jurisdiction**

1. This Contract shall be governed by, and construed in accordance with the laws of Hungary.
2. Questions not covered in this Contract shall be governed by the Hungarian Civil Code and other relevant sources of law in Hungary.



3. The User agrees that the courts of Hungary shall have exclusive jurisdiction to determine any proceedings.

4. The User submits to the jurisdiction of Hungarian courts. The User shall not bring any proceedings in any other court.

5. The Company makes no representation or warranty regarding its compliance with local laws in foreign jurisdictions, or regarding the appropriateness of the Website's content or its compliance with such local laws.

## **VII. Avantgate System**

1. If the User purchases the Software (either from the Website or any third party's website), the payment is made through the Avantgate System ([www.avantgate.com](http://www.avantgate.com)) operated by Avantgate.

2. Avantgate has separate Terms and Conditions and Privacy Policy. With the purchase of the Software the User accepts the Contract and Avantgate's Terms and Conditions and Privacy Policy as well. Therefore the User enters into two binding legal agreements with one purchase, one agreement with Avantgate and one with the Company.

3. The User enters into the Contract with the purchase without reference of the access path (Website, Avantgate, third parties website etc.).

4. The User and the Company explicitly agreed that the Company does not take any responsibility for obligations undertaken by Avantgate in its Terms and Conditions and Privacy Policy or in any other form. The Company is not obliged to do Avantgate's duty.

5. To avoid doubt the User confirms that, the User does not have revocation right because the Software could not be returned because of its nature. Furthermore that Software is a downloadable product so the right of termination also terminates with downloading the Software. Refund is possible only in the case of the situation detailed in Section II.2.

6. Company does not take any liability related the the operation of the Avantgate System or any content of the Avantgate's website. If the Avantgate System does not work properly (problems with payment, with delivery, extra fees, charges etc) only Avantage is liable for that.

7. The Company also excludes its liability in connection with the proper operation of the payment systems, which are available through the Avantgate System. If these payment systems does not work

properly, only the owner of the system could be liable for that. If the payment system websites have agreements, policies, terms of use etc. the Company could not be liable for the obligations in these documents. The Company especially excludes its liability related to refund or refund policies.

8. The owner of the PayPal Payment Gateway undertakes a 45 days money-back guarantee for the Users, so called PayPal Buyer Protection Policy. But regard to the PayPal Buyer Protection Policy the Company does not undertake this guarantee for the Software. According to the PayPal Buyer Protect Policy if the Company has accurately described an item, but the User is just not happy with it, that doesn't qualify this kind of protection. Furthermore according to the PayPal Buyer Protection Policy, claims can only be made for physical goods that can be posted and are not prohibited. The digital or electronic downloads, software licenses and other non-physical goods are not covered by this Paypal Buyer Protect Policy. The Paypal Buyer Protect Policy is not applicable for the Software. The User hereby expressly accepts and admits that, the owner of PayPal Payment Gateway and/or the Company does not undertake a money-back guarantee in connection with the Software.

9. If there is any discrepancy between Avantgate's Terms and Conditions, Privacy Policy and the Contract, the Contract will prevail.

### **ATTENTION!**

Before the purchase, please read carefully the Contract and Avantgate's or any other third's parties agreements (Terms and Conditions, Privacy Policy etc).

### **VIII. Miscellaneous**

1. The Company is a professional software developing company, and although the Company may provide information to the Users, provided information does represent any kind of investment advice or trading recommendation. The Company offers professional trading Softwares only.

2. The Contract is a binding legal agreement between the User as an individual and the Company for the purchase and use of the Software. The Company and the User enter into the Contract, when the User purchases the Software. With the purchase of the Software the User approves that, the Company can start to perform, right after the purchase. The User understands and agrees to accept this Contract is, legally, the same as manually signing this Contract. The Company does not file the Contract. The language of the Contract is English.

3. In this Contract the Company excludes or restrictes its liability for breach of contract or for in case of a tort in several provisions (especially in Risk Disclaimer, Terms & Conditions I.1.2.3. & II.1.2.3. & IV. &

VI. 5. & VII. 5.9). Therefore the purchase price of the Software, which has been specified by the Company, is a reduced price. It is only the 75% of the total amount of the purchase price. In case of a refund the Company shall refund only this reduced purchase price, which has been paid by the User, as well.

4. By installing or downloading the Software the User represents and warrants that he or she is 18 years or older, and is capable entering into a binding legal agreement and has read, understood, and agreed to be bound by all provisions of this Contract.

5. The User hereby declares that he/she is legally permitted to purchase and use the Company's products. The Company can not be held responsible for any damages or lawsuit against the User due to such regulations.

6. The User accepts that no fiduciary relationship is formed and no fiduciary duty is formed between the User and the Company by virtue of the User's purchase.

7. This Contract constitutes the entire agreement (including Terms & Conditions, Risk Disclaimer, Privacy Policy) with respect to the User's purchase of the Software and access to and use of the Website.

8. If any provision of this Contract is deemed unlawful, void or unenforceable, then that provision shall be deemed severable from the remaining provisions and shall not affect the validity and enforceability of the remaining provisions. Some provisions because of its nature remain valid and enforceable, even after the termination of this Agreement (including but not limited to Risk Disclaimer). Hereby the Company and the User expressly waives from the right of avoidance.

9. The purchase price of the Software includes VAT. The User only shall pay the purchase price, therefore, the User does not have to pay any applicable charges, taxes for the Company or for Hungary. The Company only agrees to pay charges and taxes, which have been arisen in context of Hungarian laws.

10. By purchasing the Software and agreeing to the provisions set forth herein, the User agrees to receive all communications from the Company via e-mail. All communications sent by the Company by any means shall be deemed to have been received by the User on the day, on which the Company has sent it. These communications will include, but not necessarily be limited to, confirmations of transactions, purchase statements, financial statements and other basic communications. The User agrees to advise the Company promptly of any changes to the User's e-mail address. Communications, notifications via e-mail or in some special cases via an other electronical way, have to be deemed as written notifications. The Company uses the e-mail address and other availabilities, which have been specified by the User.

11. The Company uses English as an official language. The Company's documents (including but not limited to the Contract, the User's Guide) are only available in English.

12. This Terms & Conditions, the Risk Disclaimer and the Privacy Policy are intended parts of the Contract.

13. This Contract the Company and the User enter into a contract electronically. With the purchase of the Software, the User agrees to be bound by Terms & Conditions, Risk Disclaimer and Privacy Policy (jointly: „Contract”), so the Contract comes into being with the purchase. The Company does not save every Contract, but the Contract is available anytime on the Website. If a problem occurs during the contracting or during the ingestion of data, the User can correct the mistakes anytime at the Members Area. To avoid any doubt, Parties explicitly confirms that the provisions of the Hungarian Civil Code in connection with electronic contracts shall not apply to this Agreement, because it is concluded by exchange of electronic mail or by equivalent individual communications.

14. Information on the Website are available for Users and for non-users too. Any offers that can be found on the Website from the Company are expressly not for individuals in countries in which the provision of the included content is prohibited. According to these facts each User and non-user is responsible to inform themselves about and comply with any applicable laws and regulations before visiting the Website and/or purchasing the Software.

15. Interpretation of terms:

In this Contract:

„**Avantgate**” shall mean a system used by the Company, through which payments will be made.

„**Contract**” shall mean jointly the Terms & Conditions, Risk Disclaimer and Privacy Policy.

„**Company**” shall mean Everex Financial Solutions Limited Liability Company (short company name: Everex Financial Solutions Ltd.; registered office: H-3300 Eger, Temesvári street 5.; place of business: H-3530 Miskolc, Széchenyi street 70., 1st floor 70; Company registry number: 10-09-034191, EU tax number: HU24693402; managing director: Mr. Daniel Repka).

„**FAQ**” shall mean the site of frequently asked questions, which is available directly on the Website.

„**Money Manager Account**” shall mean an account, on which trusteeship activities are carried out.

„**PAMM**” shall mean a percent allocation management module/percent allocation money management. It is a software application, which is used predominantly by forex brokers to allow their clients to attach money to a specific trader managing one or more accounts appointed on the basis of a limited power of attorney.

„**User**” shall mean a person, who has purchased the Software. In some provisions, where it can be implicitly applicable, User also shall mean a visitor, who only interacts with the Website, but has not bought the Software (as an example: Privacy Policy).

„**User’s Guide**” shall mean a book of instruction, which contains the minimum technical/system requirements and explains, the installation process.

„**Website**” shall mean the website of Everex Financial Solutions Ltd., which is available on [www.everexfx.com](http://www.everexfx.com).

#### **ATTENTION!**

The Company reserves the right to modify the Contract at any time for any reason (new technologies, relevant sources of law, business practices, visitor’s need etc.) or for no reason at all, in its sole discretion. The User is entitled to terminate the Contract with a written notification within fifteen days of the modification date with an immediate effect. The modifications enter into force after fifteen days from the modification date. In case of a termination, the Company assumes no obligation to refund the price of the Software. The Company, therefore, requests the User to inform himself/herself about the applicable Contract at each point in time. With the purchase of the Software the User agrees to be bound by these provisions until cancelling his/her membership and terminating the Contract.

*This page has been modified on the 4th March, 2015.*