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D04t

TEST USERS WITH API FUNCTIONALITY FORM
FOR M7 TRADING SYSTEM
(HUPX IntraDay Market Testing Environment)

Date (Version)	**17/12/2020**
Place	**Budapest**
Document number	**D04t**

Company name *Cégnév*	

This form will serve as front sheet to the bellow attached terms and conditions which will together form a binding agreement ("Agreement") between HUPX with its registered office at: H-1134 Budapest, Dévai u. 26-28., registration number: 01-10-045666; represented by: Dr Matyas Vajta, Chief Executive Officer and Kriszta Pekó, Head of Market Operation and you (as "Test user with API functionality") and apply to all dealings between HUPX and the Test user with API functionality. With this form, the potential HUPX IDM member or the potential ISV requests an API users for the testing of **IntraDay** trading activities on HUPX IDM market testing environment.

> **This form must be signed by an authorised signatory and returned by e-mail to membership@hupx.hu and by post to HUPX's address (H-1134 Budapest, Dévai utca 26-28.)**

Also, we ask you to indicate a contact person to which we will be sending the users' logins/passwords. This person will be responsible for disseminating login/password within your company to the authorized personnel.

1. Users

The user will enable you to connect to the test trading system of the HUPX IntraDay market (M7 Trading System testing environment) and perform testing of your Automated Trading Solution Software. A user is defined by a login and password which are unique.

Please state below your request for Test user with API functionality and their quality you request:

Test environment user	Quality
1	☐ **API user**

You can request the setup of 1 Test user with API functionality, with an one-off technical fee (as *"Test API fee"*) of **2000 € + VAT**. The Test user with API functionality account shall be valid **for 365 Calendar days**

- The Test API fee shall be paid in advance before the time of starting the service. Parties therefore hereby acknowledge that paragraph 58. (1a) a) of Act CXXVII. of 2007 on Value Added Tax is applicable to this Agreement.
- The Test API fee shall be paid via wire transfer to the following bank account of HUPX: HU28137890170707900300000000. Any costs or fee related to the wire transfer shall be borne by Test user with API functionality.
- The Test API fee shall be paid within fifteen (15) Business Days following the issuance of the invoice by HUPX.
- If Test user with API functionality completes testing of the ATS and decides to retrieve an Access to the production environment of HUPX IDM M7 / to become a certified ISV the non-utilised yearly amount of the Test API fee can be reduced from the API user per access fee for production environment / Listing fee for Certified ISV.

2. Contact

Notices or other communications shall be in writing including the form of e-mail. The contact will receive by e-mail the logins and passwords of Test user with API functionality requested to be created. Please note that this contact must be an authorized trader. Any change of address or contact person must be notified by e-mail to the other Party.

Surname	
Name	
E-mail address	
Phone number	

Authorized signatory

		Authorized Signature on behalf of
Place		
Date		
Name of signatory		

		Authorized Signature on behalf of
Place		
Date		
Name of signatory		

TERMS AND CONDITIONS

These terms and conditions (**the "Terms"**) and the front sheet attached to these Terms (**the "Front Sheet"**) form the binding agreement (**together the "Agreement"**) between HUPX with its registered office at: H-1134 Budapest, Dévai u. 26-28., registration number: 01-10-045666; represented by: Dr Matyas Vajta, Chief Executive Officer and Kriszta Pekó, Head of Market Operation and you (as "Test user with API functionality") and apply to all dealings between HUPX and the Test user with API functionality.

1. DEFINITIONS

"**Access**"	means the access to the test environment of the HUPX Intraday Market granted by HUPX to a Test user with API functionality;
"**Automated Trading**"	means trading in energy exchange products where a computer algorithm automatically determines individual parameters of orders such as whether to initiate an order, the timing, price or quantity of the order or how to manage the order after submission with limited or no human intervention;
"**Assignment**"	rights and obligations may not be transferred without the prior written consent of the other party except to Affiliate companies;
"**ATS Software**"	means a software solution that is being tested by Test user with API functionality;
"**Business Day**"	means any day on which HUPX is open for business;
"**Certified ISV**"	means an ISV that went through a successful testing of the ATS Software as set out in section 2 below;
"**Liability**"	means the failure to fulfil any of the obligations under the agreement. The breaching Party shall remedy any breach of this agreement without unnecessary delay. The Parties shall be liable to each other for damages that may arise out of or in connection with their breach of the agreement.
"**Limitation of liability**"	The Parties acknowledge that HUPX shall not be liable for any damages arising out or in connection with penalties or sanctions that may be imposed on Test user with API functionality by any administrative or public authority OR any justified claims by any Clients or public authority against Test user with API functionality due either breach of the agreement with the Clients related to this agreement OR breach of

the legal regulations applicable to Test user with API functionality OR causing a damage to Clients. The liability shall not exceed a total amount of the Test API fee charged by HUPX per year for any and all direct or indirect proven losses, damages, charges, fees or expenses, expected, arising out, or resulting from a breach of the agreement. In case of the breach of this agreement by fraud, gross negligence or wilful misconduct, the liability of the Parties shall be unlimited.;

"**Force majeure**" means any not foreseeable event and situation beyond the reasonable control of the Parties, which cannot reasonably be avoided or overcome and which makes it impossible or illegal for any Party to fulfil, temporarily or definitively, their obligations hereunder in accordance with the terms of this agreement. If the fulfilment of an obligation under this agreement becomes affected by Force majeure, the Party shall not be held liable for the non-fulfilment of the obligations that are affected by the Force majeure for the period during which the impact of the relevant Force majeure persists. The Party whose obligations are affected by Force majeure shall inform the other Party in writing as soon as possible. If the Force majeure continues for a period of at least three (3) months or if it is obvious that it will continue for a period of at least three (3) months either Party can terminate the agreement with seven (7) calendar days' prior written notice.;

"**Governing law, dispute resolution**" the order is governed by Hungarian law without regard to principles of conflicts of laws. In case of a dispute between the Parties, if an amicable settlement fails, the dispute shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce in Budapest by three arbitrators appointed in accordance with the Rules.;

"**Intellectual property**" the Parties remain the exclusive owners of the Pre-existing Intellectual Property, no right, title or interest shall be assigned to the other Party. Pre-existing Intellectual Property means the intellectual property rights over all data, information including any Confidential Information, techniques, materials including any patents, patent rights, trademarks, copyrights, trade secret rights, and other intellectual property rights, know-how and methodologies belonging to a Disclosing Party prior to their signing of this agreement, as well as any enhancements or

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	additions a Disclosing Party may make during the course of performance of this agreement;
"**Market**", "**Market Data**"	Market means the intraday power market segment operated by HUPX while market data means any and all data regarding the Market provided to Test user with API functionality by HUPX under this agreement;
"**Market Rules**"	means any and all applicable rules, codes, regulations and requirements set out by HUPX regarding the Market;
"**Potential ISV**"	means an ISV who needs to perform the testing of its ATS in order to become a Certified ISV;
"**Potential HUPX IDM member**"	means a Market Participant who is not a member on HUPX IDM but intends to become after successfully completing the ATS testing;
"**Test user with API functionality**"	means a company testing an Automated Trading Services on the test environment of HUPX intraday power segment; either potential HUPX IDM member or potential Independent Software Provider for HUPX IDM ATS;
"**Third Party Intellectual Property Right Claim**"	means an intellectual property indemnity claim, a suit or action made against a Party by a third party that any of the services provided under this agreement infringes the intellectual property rights of the third party;
"**HUPX Member**"	means any company, organization or individual that has authorization to engage in trading on the Market.

2. OBLIGATIONS OF HUPX

2.1 Within 15 Business Days from entering into an agreement, HUPX shall provide Test user with API functionality an API access to the test environment of the Market. Upon the completion Test user with API functionality shall determine whether the ATS Software is compatible with HUPX's IT infrastructure and the Market.

2.2 If HUPX's IT infrastructure will be modified and/or upgraded in a way that can influence the compatibility of the ATS Software with HUPX's IT infrastructure and the Market, HUPX shall inform Test user with API functionality thereof as soon as reasonably possible but at least 20 Business Days in advance on a best effort basis. In such a case HUPX shall provide Test user with API functionality with an access to new test programme. The compliance of the ATS with the HUPX IT infrastructure and the Market is the sole responsibility of the Test user with API functionality at all times.

2.3 In case the ATS Software is incompatible with HUPX's modified and/or upgraded IT infrastructure and/or the Market, HUPX may upon its unilateral decision (i) suspend the Access until Test user with API functionality can evidence compatibility as a result of a successful repeated test programme, or (ii) withdraw the Access. HUPX shall inform Test user with API functionality on its above decision in writing.

3. OBLIGATIONS OF Test user with API functionality

3.1 Test user with API functionality shall pay the Test API fee specified in the Front Sheet to HUPX, which is a precondition to obtaining and maintaining the Access.

3.2 Test user with API functionality shall complete the testing set out in section 2.1 and 2.2 above within 365 Calendar Days after receipt of the Access, and cooperate with HUPX in this respect.

3.3 Test user with API functionality shall inform HUPX immediately of any errors, or malfunctions to the Automated Trading Services that are relevant to the overall stability of HUPX.

3.4 If the ATS Software will be modified and/or upgraded in a way that can influence the compatibility of the ATS Software with HUPX's IT infrastructure and the Market, Test user with API functionality shall inform HUPX thereof at least 30 Business Days in advance. Upon the completion of testing by Test user with API functionality HUPX shall determine whether the modified and/or upgraded ATS Software is compatible with HUPX's IT infrastructure and the Market.

4. TECHNICAL SERVICES

4.1 HUPX shall provide Test user with API functionality read and write API access to the test environment of M7 in order to enable Test user with API functionality to comply with its obligations set out in this agreement, especially to test its software and conduct the test programme in accordance with section 2.1

4.2 Upon the request of Test user with API functionality, HUPX shall provide read-only access to the production environment of M7 system for 3000 EUR + VAT / calendar year, in line with the read-only user fee listed in Fee Schedule. In exchange for it Test

user with API functionality is entitled to use the production data for backtesting of algorithms, simulation of the ATS Software.

4.3   Upon the request of Test user with API functionality, HUPX shall provide access to its historical IDM Market Data (through SFTP) exclusively for purposes laid out in the relevant section.

4.4   HUPX shall reasonably assist Test user with API functionality in case of any technical issue that occurs with HUPX infrastructure.

Any kind of data provided by HUPX shall only be used for Test user with API functionality internal and demonstration purposes. HUPX data shall not be published or distributed by Test user with API functionality in whatsoever form other than specified in this section.

5.   CONFIDENTIALITY

5.1   In particular, the following information is to be considered as Confidential Information: information concerning the Parties' rights and obligations related to the agreement and information about prices, particularly trade secret or any other market data, information about the Parties' activities, structure, profit/loss, know-how, as well as information subject to special secrecy procedures in accordance with the applicable law particularly secret information, personal data, banking secrets.

5.2   Without prior consent from the Disclosing Party the Receiving Party expressly undertakes to:

not disclose, convey or transfer the Confidential Information of the Disclosing Party in any form whatsoever to any other third party; not use the Confidential Information of the Disclosing Party in any way or for any purpose other than the fulfilment of this agreement; not incorporate Confidential Information of the Disclosing Party into data, documents, databases, or any other instrument other than necessary for providing the Automated Trading Services; neither copy nor reproduce Confidential Information of the Disclosing Party in any form whatsoever except as may be strictly necessary for providing the Automated Trading Services.

5.3   The Receiving Party expressly undertakes to:

-    immediately notify the Disclosing Party in writing (including e-mail) in the event of any unauthorized use or disclosure of its Confidential Information of the Disclosing Party when it becomes aware of and take all reasonable steps to mitigate any harmful effects the Disclosing Party may sustain or incur as a result of such a breach of this Confidentiality clause;
-    immediately (and in any event within ten Business Days) return or destroy all Confidential Information of the Disclosing Party in any tangible form whatsoever at the first written request by the Disclosing Party, provided this is practicable, lawful and reasonable;
-    indemnify the Disclosing Party.

5.4   Notwithstanding the above section, the Receiving Party may disclose Confidential Information in the following specific cases:

-    if it can prove that the information was known to it prior to the disclosure, through

no breach of a confidentiality obligation;
- if it can be evidenced that the Confidential Information has come into the public domain through no fault of the Receiving Party;
- if the information is obtained in a manner independent of this agreement.

5.5   The Receiving Party shall not use the Confidential Information for purposes other than strictly related to the provision of the Automated Trading Services.

5.6   In case of a breach of any of its confidentiality obligations, the Disclosing Party shall be entitled to cease immediately the disclosure of any further Confidential Information. The breaching Party shall further be liable.

5.7   Parties agree that common public relations, advertising and related communications concerning the agreement (e.g. press releases) are subject to the written prior approval (including e-mails) of the other Party.

6.   ENTRY INTO FORCE, TERMINATION

6.1   This Agreement enters into force when duly signed by both Parties.
6.2   The Parties shall be entitled to terminate this Agreement with immediate effect in the event
6.2.1   of breach by the other Party if it fails to cure such breach within thirty (30) days after receiving a written notice of such breach describing such breach in reasonable detail;
6.6.2   of insolvency (petition for bankruptcy), liquidation or the appointment of an examiner or other insolvency official with respect to a Party;
6.6.3   of a regulatory modification requiring amendments to the Agreement and the Parties failing to agree on such amendment in due course.