

# Terms & Conditions

Brand capitalaccessgroup.com Is a company of **Nimera Financial Group**. (“Company”), whose registered office is located **1 Angel Lane London EC4R 3AB**, provides the Trader’s Room and the trading platform operations service under the terms of this public proposal (“Agreement”) to any individual (except for stateless persons; individuals under 18 years of age and citizens of countries in which the service is not offered by the Company) (“Client”).

Date of the latest update: 1 June 2023.

## 1. INTRODUCTION

1.1. This Agreement should be read carefully by the Client. The Agreement is an e-document and doesn’t require signing. The terms of this Agreement shall be considered accepted unconditionally by the Client upon the Company's receipt of an advance payment made by the Client in accordance with this Agreement.

1.2. The Agreement may be translated in all the official languages of the Company’s website. Such translation will only be intended to provide information. In case of any differences between English version of the Agreement and its translation, the English version will have priority.

1.3. As soon as the Company receives the Client's advance payment, every operation made by the Client in the Trader’s Room or on the trading platform shall be subject to the terms of the Agreement.

1.4. The Client and the Company enter into every operation in the Trader’s Room or on the trading platform as principals, and the Company does not act as an agent on the Client's behalf unless otherwise agreed. The Client shall be directly and fully responsible for fulfilling all of their obligations regarding their operations in the Trader’s Room or on the trading platform. If the Client acts on behalf of someone else, regardless of whether that individual is identified or not, the Company shall not view that individual as a client and shall not bear any responsibility to them unless otherwise specifically agreed.

1.5. The terms used in this Agreement are defined in Clause 2 (“Terms and Interpretation”).

## 2. TERMS AND INTERPRETATION

In this Agreement:

“Balance” shall mean the total financial result of all completed transactions and deposit/withdrawal operations on the trading account.

“Credit/Debit Card” shall mean a thin plastic card that contains identification information, with the help of which the cardholder can pay for purchases and services, as well as withdraw cash from the account.

“Credit/Debit Cardholder” shall mean the person whose information the card contains (first name, last name, signature) and who is authorized to maintain the card account.

“Client's External Account” shall mean the bank and/ or electronic account of the Client or the Client's Authorized Person.

Margin shall mean cash security to support open positions.

“Request” shall mean the Client's order to the Company to obtain a quote. Such a request shall not constitute an obligation to make a transaction.

“Fund Deposit” shall mean the deposit of funds transferred by the Client or the Client's Authorized person and credited to the Company Account for transfer to the Client's Account.

“Withdrawal Request” shall mean an instruction given via the Client's Trader's Room on the Company website to withdraw funds from the trading account and transfer them to the Client's External Account or the Account of the Client's Authorized Person, as specified in the instruction.

“Identification Information” shall mean, for an individual - the passport/ID information specified while the Client Registration.

“Client Account” shall mean any account opened by the Client at the Company including Transitory Accounts, trading accounts, partner accounts, Manager's accounts, Investor's accounts and other account types.

“Client Terminal” shall mean the program or third-party application which is connected with the Server. It is used by the Client to obtain information on financial markets (the extent is determined by the Company) in real-time, to perform technical analysis, make transactions, place/modify/delete orders, as well as to receive notices from the Company.

“Quote” shall mean the information on the current rate for a specific instrument, shown in the form of the Bid and Ask price.

“Rate” shall mean the value of the base currency in the terms of the quote currency.

“Trader's Room” shall mean the Client's personal page on the Company's website, accessed after entering the unique login and password. It is a secure storage area designed for the Client's identification, accounts maintenance, records of operations, and support.

“Inactive Trading Account” shall mean a Client's trading account which has not had an open position, pending order, or non-trading operation in 3 months period.

“Non-Trading Operation” shall mean any operation involving the deposit of funds, withdrawal from a Client's Account or the provision (return) of Credit.

“Trader's Room Number” shall mean the unique number assigned to each Client upon acceptance of this Agreement.

“Open Positions” shall mean aggregate risk disclosure, arising from buy or sell of financial instruments in accordance with Client instructions pending for subsequent counter-transaction to close/settle such market trades/disclosures.

“Written Notification” shall mean an electronic document (including faxes, emails, internal mail on the client terminal etc.) or an announcement on the Company's website.

“Processing Center” shall mean a legal entity or its department that supports the informational and technological interaction between payment participants.

“Business Day” shall mean a working day from Monday till Friday.

“Free Margin” shall mean free equity in transaction account, which can be used to open a new position.

“Server” shall mean all programs and technology used to make and carry out the Client's instructions, as well as presenting trading information in real time (the information is specified by the Company), with consideration of the mutual obligations of the Client and Company in correspondence with this Agreement.

"Trader's Room Service" shall mean the service providing a Client with a personal account on the Company's website, designed for the Client's identification, maintenance of accounts, records of operations and support.

“Screenshot” shall mean a digital image taken by the Client or the Client's Authorized Person using the operating system or software in order to show what is displayed on the computer screen.

“Withdrawal” shall mean the withdrawal of funds from the Client's Account and their remittance to the Client or the Client's Authorized Person's bank details, as indicated by the Client in the “Withdrawal Request”.

“Company Account” shall mean the bank or/and electronic Account of the Company, and the Company Account in the Processing Center.

“Trading Platform” shall mean all programs and technology that present quotes in real-time, allow the placement/modification/deletion of orders and calculation of all mutual obligations of the Client and the Company.

“Trading Account” shall mean the unique personified register of all completed transactions, open positions, orders and no trading operations on the trading platform.

“Client's Authorized Person” shall mean: an individual over 18 years of age, citizen and/or tax resident of any country, except for those countries in which the Company does not offer the given service, authorized to perform or receive non-cash (bank and/or electronic) transfers on behalf of the Client, for the purpose of crediting funds to the Client's Account or withdrawing funds from the Client's Account.

“Force Majeure” shall mean lack of conformity of the terms and conditions of the Company and the terms and conditions of the counterparty, current market situation, possibilities of software or hardware of the Company or other situations which cannot be foreseen.

“Electronic Payment System” shall mean a payment system operating with electronic money (payment service provider).

### **3. SERVICE**

3.1. Subject to the Client fulfilling the obligations under this Agreement, the Company shall provide the Client with the ability to make transactions allowed by the capabilities of the Trader's Room.

3.2. The Company shall carry out execution of transactions of the Client. The Company is entitled to execute transactions requested by the Client even if the transaction is not beneficial for the Client. The Company is under no obligation, unless otherwise agreed in this Agreement, to monitor or advise the Client on the status of any transaction, to make margin calls, or to close out any of the Client's open positions. Unless otherwise specifically agreed, the Company is not obligated to make an attempt to execute the Client's order using quotes more favorable than those offered through the trading platform.

3.3. The Client shall not be entitled to ask the Company to provide investment or trading advice or any information intended to encourage the Client to make any particular transaction.

3.4. In the event that the Company does provide advice, information or recommendations to the Client, the Company shall not be responsible for the consequences or result received from using these recommendations or advice. The Client acknowledges that the Company shall not, in the absence of fraud, intentional failure to carry out its responsibilities or gross negligence, be liable for any losses, costs, expenses or damages suffered by the Client arising from any inaccuracy or mistake in any

information given to the Client including, but not limited to, information regarding any Client transactions. Though the Company has the right to void or close any transaction in the specific circumstances set out in this Agreement, any transaction the Client carries out following such an inaccuracy or mistake shall nonetheless remain valid and binding in all respects both on the side of the Company and of the Client.

3.5. The Company shall not support physical delivery of currency in the settlement of any trading operation. Profit or loss in the deposit currency is deposited to/withdrawn from the Client's trading account immediately after a position is closed.

3.6. The Company does not provide its service in the following countries: the USA, Canada, Iraq, Iran, Pakistan, UAE, Ukraine, Japan.

#### **4. CONFLICT OF INTEREST POLICY**

4.1. The Company, partners of the Company or other affiliated parties may have material interest, a legal relationship or arrangement concerning a specific transaction in the Trader's Room or on the trading platform or interests, relationships, or arrangements that may be in conflict with the interests of the Client. By way of example, the Company may:

- act as Principal concerning any instrument on the Company's own account by selling to or buying the instrument from the Client;
- combine the Client's transaction with that of another Client;
- buy or sell an instrument the Company recommended to the Client;
- advise and provide other services to partners or other clients of the Company who may have interests in investments or underlying assets which conflict with the Client's interests.

The Client consents to and grants the Company authority to deal with or for the Client in any manner which the Company considers appropriate, notwithstanding any conflict of interest or the existence of any material interest in any transaction in the Trader's Room or on the trading platform, without prior notification of the Client. The Company's employees are required to comply with a policy of impartiality and to disregard any material interests or conflicts of interest when advising the Client.

#### **5. TRADING ACCOUNT OPENING**

5.1. In order to open a trading account the Client should fill in the form on the Company's website.

5.2. The Company reserves the right at its absolute discretion to accept or reject the Client subject to all the data requested has been received by the Company in full.

5.3. The Company has the right to refuse the Client in opening and maintaining trading account, if the information stated in the registration form is not valid.

#### **6. PAYMENTS**

6.1. The Client may deposit funds to the Client account at anytim.

6.2. The Client shall hold full responsibility for the accuracy of payments executed. If the Company bank details change, the Client shall hold full responsibility for any payments carried out in accordance with the obsolete details from the moment the new details are published in Company.

## **7. CLIENT'S FUNDS AND INTEREST**

7.1. Client funds are held on Company accounts including segregated accounts opened in the Company's name for holding Client funds separate from the Company's funds.

7.2. The Client acknowledges and agrees that the Company will not pay interest to the Client on funds located on Client accounts. The Company reserves the right to establish when and how much interest it will pay on Client funds.

## **8. DEPOSIT/WITHDRAWAL POLICY**

8.1. The balance value of the Client's account is the amount of the Company's financial commitments to the Client at a particular time, unless additional terms are stipulated. The additional term may be participation of the Client in different campaigns arranged by the Company.

8.2. Withdrawal request should be executed by the Client in an electronic form specified in the Trader's Room internal interface. After creation of the request the withdrawal amount shall not had been deducted from the balance of the account until the moment of effecting payment. Payments made under the Client's requests are not subject to refund or appeal.

8.3. In order to deposit the trading account the Client uses the Trader's Room internal interface.

8.4. The Client agrees that in case of failure in the software operation, delay in deposit of funds to the Client account is possible.

8.5. The Client agrees to pay all extra costs (if necessary) including taxes, customs etc.

8.6. The Company and the Payment services provider guarantee only effecting payments in specified by the Client amount and do not bear any responsibility for payment of the abovementioned extra costs by the Client.

8.7. After pushing the button "Pay" and the payment confirmation the payment is deemed to be processed and made irrevocably.

8.8. After pushing the button "Pay" and the payment confirmation the Client agrees that: - by placing the request for funds deposit the Client confirms the payment and accepts the provisions of the Agreement;

- acknowledges all the risks connected with this service and accepts them;
- will not be able to call off the payment or to request its appeal;
- reached or exceeded lawful age;
- understands and accepts that the Client's payment processing is implemented by the Payment services provider.

8.9. The Company and the Payment services provider do not bear any responsibility for the refusal connected with non-receipt from an issuing bank of the permission to effect the payment using the Client's debit/credit card.

8.10. In case if the Client does not agree with the abovementioned terms or for other reasons, the Company hereby requests the Client to refuse effecting the payment in due time and if necessary to get in

touch with the Company's support department the contacts of which are specified on the Company's website.

8.11. If the Client obviously intends to use the account for effecting transactions between payment systems, the Company is entitled to decline the withdrawal request.

8.12. The account deposit via credit/debit cards of third parties is forbidden.

8.13. Official methods of deposit/withdrawal of funds are wallets/accounts of the Company in all the payment systems specified in the Trader's Room. All the risks connected with using payment systems are accepted by the Client since the payment systems are not the Company's partners. The company does not bear any responsibility for delay and/or non-arrival of funds to the account balance due to the fault of payment systems. If the Client is dissatisfied with a payment system work he should refer to the payment system's support service. The Client is obliged to inform the Company of such cases.

8.14. The Company does not bear responsibility for actions of third parties carrying out intermediary activities in the Client's deposit/withdrawal operations. In the Client's deposit operation, the Company starts bearing responsibility from the moment of receipt of the Client's funds to the Company's bank account and/or to the Company's account in the payment systems specified on the Company's website.

8.15. In case of revealing signs of fraudulent activities in financial transactions after deposit of funds to the Client's account balance, the Company is entitled to cancel the transaction and to freeze the account. In the Client's withdrawal operation the Company stops bearing responsibility after the moment of withdrawing funds from the Company's bank account and/or from the Company's account in the payment systems specified on the Company's website.

8.16. Withdrawal of funds from the Client account is made in accordance with the details which have been indicated by the Client when depositing.

8.17. The Client can withdraw funds from the Client account only after verification of the Trader's Room. For the purpose of the verification the Company is entitled to require the documents indicated in the Privacy Policy and the AML Policy of the Company.

8.18. The Client agrees that the withdrawal request can be declined and the funds will be returned to the Client account, if after the Company's request for the information identifying the Client (a copy of ID, a copy of used credit/debit card, other documents required by the Company according to the AML Policy) the Client does not provide the required information.

8.19. The Client bears whole responsibility for precision and accuracy of the details indicated in the withdrawal request.

8.20. If the Company's security service suspects the Client of fraudulent activities or deception, the Company is entitled to block the Client's account without prior notification and possibility of further withdrawal of funds.

8.21. If there are no trading activities in the Client's bank account during 3 months, the Company is entitled to regard the Client's account as inactive and to transfer it to archive with preservation of funds in full measure or to refund the funds.

## **9. COMMUNICATIONS**

9.1. The Client shall issue requests for opening /closing positions through the Client terminal.

9.2. By accepting the terms of the Agreement, the Client also agrees to receive emails from the Company to the Client's personal email address indicated in the Trader's Room.

9.3. If the Client deems the Company to violate the terms of the Agreement, they have the right to make a claim.

9.3.1. In order to make a claim the Client uses the contacts indicated on the website.

9.3.2. If a dispute cannot be settled in accordance with the Agreement, the final decision on the claim is taken by the Company according to the prevailing market practices and legal ethics.

## **10. ORDER EXECUTION**

10.1. The time of processing the Client's orders is not fixed as it depends on the market conditions and the speed of order execution by the Company's partners.

10.2. When opening a position, the Client should deposit a Margin, the value of which depends on leverage available to Client or on the trading instrument, in which this position is opened.

10.3. When an order to open a position is received, trading account will be checked for Free Margin. In case the initial margin and/or hedged margin for a position to be opened exceeds free margin in trading account, Client will get a denial.

## **11. EVENTS OF DEFAULT**

11.1. Each of the following constitutes an instance of failure to fulfill obligations:

- Client's failure to provide any amount under this Agreement;
- Client's failure to fulfill any obligation due to the Company;
- Client's inability to pay debts when they fall due;
- if the Client dies or becomes legally incapable;
- any other circumstance where the Company reasonably believes that it is necessary or desirable to take any action set out in clause 11.2.

11.2. If an instance of failure to fulfill obligations occurs in relation to the Client's, the Company may, at its sole discretion, at any time and without prior written notice, take one or more of the following steps:

- close out all or any of the Client's open positions at the current quote;
- debit the Client's account for amounts owed to the Company;
- close any or all of the Client's accounts held within the Company;
- refuse to open new accounts under the Client's name.

## **12. REPRESENTATIONS AND WARRANTIES**

The Client shall represent and warrant that:

12.1.1. all information provided according to this Agreement in registration form on the Company's website is true, complete and accurate in all material respects;

12.1.2. the provided documents and their copies are authentic. The Client admits the right of the Company, if their originality is doubted, to apply to the law enforcement authorities of the document issuing country for the authentication validation;

12.1.3. the Client is duly authorized to enter into this Agreement, to issue instructions and requests and to fulfill their obligations in accordance with this Agreement;

12.1.4. all actions performed under this Agreement will not violate any law, ordinance, charter, by-law or rule applicable to the Client or in the jurisdiction in which the Client is resident, or any agreement by which the Client is bound or that concerns any of the Client's assets;

12.1.5. any trading systems used by the Client are not targeted at exploiting any weakness in the Company's software.

12.1.6. The Client will indemnify the Company for all liabilities, costs, claims, demands and expenses of any nature which the Company suffers or incurs as a direct or indirect result of any failure by the Client to fulfill any of the obligations under this Agreement.

12.1.7. Clients shall not give access passwords to the trading platform or the Trader's Room to third parties and agrees to keep them secure and confidential. All actions related to the fulfillment of this Agreement and/or the usage of logins and passwords are considered executed by the Client. The Company does not bear responsibility for the unauthorized use of registration data by third parties.

12.2. If the Client breaches clause 12.1.6. of this Agreement, the Company has the right to void any position or close out any or all of the Client's positions at the current price at any time, at its sole discretion.

### **13. GOVERNING LAW AND JURISDICTION**

13.1. This Agreement is governed by and shall be construed in accordance with the laws of the country in which the Company is registered. With respect to any proceedings, the Client irrevocably:

13.1.1. agrees that the courts of the country in which the Company is registered shall have exclusive jurisdiction to settle any proceedings;

13.1.2. submits to the courts of the country in which the Company is registered;

13.1.3. waives any objection which the Client may have at any time to the laying of any proceedings brought in any such court;

13.1.4. agrees not to claim that such proceedings have been brought in an inconvenient forum or that such court does not have jurisdiction over the Client.

13.2. The Client irrevocably waives to the fullest extent permitted by applicable laws of the country in which the Company is registered, with respect to the Client and the Client's revenues and assets (regardless of their use or intended use), all immunity (on the grounds of sovereignty or other similar grounds) from (a) suit, (b) jurisdiction of any courts, (c) relief by way of injunction, order for specific performance or for recovery of property, (d) attachment of assets (whether before or after judgement) and (e) execution or enforcement of any judgement to which the Client or the Client's revenues or assets



might otherwise be entitled in any proceedings in the courts of any jurisdiction and irrevocably agrees to the extent permissible by the law of the country in which the Company is registered not claim any such immunity in any proceedings. The Client consents to satisfying all requirements and court orders in connection with such proceedings, particularly, but not limited to, those regarding any of the Client's assets.

#### **14. FORCE MAJEURE**

14.1. The Company may, having just cause, determine that a Force Majeure event (uncontrollable circumstances) exists, in which case the Company will, in due course, take reasonable steps to inform the Client. Force Majeure circumstances include without limitation:

14.1.1. any act, event or occurrence (including, without limitation, any strike, riot or civil commotion, terrorism, war, act of God, accident, fire, flood, storm, interruption of power supply, communication equipment or supplier failure, hardware or software failure, civil unrest, government sanction, blockage, embargo, lockouts) which, in the Company's reasonable opinion, prevents the Company from maintaining market stability in one or more of the instruments;

14.1.2. the suspension, liquidation or closure of any market or the absence of any event on which the Company bases its quotes, or the imposition of limits or special or unusual terms on trading on any such market or on any such event.

14.2. If the Company determines with just cause that a Force Majeure event exists (without infringing any other rights under the Regulations), the Company may at any time and without giving prior written notification take any of the following steps:

14.2.1. increase requirements;

14.2.2. close out any or all open positions at prices the Company considers in good faith to be appropriate;

14.2.3. suspend or modify the application of any or all terms of this Agreement to the extent that the Force Majeure event makes it impossible or impractical for the Company to comply with them;

14.2.4. take or not take action concerning the Company, the Client and other clients as the Company deems to be reasonably appropriate in the circumstances.

14.3. The Company does not bear responsibility for not fulfilling (improperly fulfilling) its obligations when prevented from doing so by uncontrollable circumstances.

#### **15. MISCELLANEOUS**

15.1. The Company has the right to suspend service to the Client at any time for any justified reason (notification of the Client is not required).

15.2. In the event that a situation arises that is not covered under this Agreement, the Company will resolve the matter on the basis of good faith and fairness and, when appropriate, by taking action consistent with market practice.

15.3. No single or partial exercise or failure or delay in exercising any right, power or privilege (under the Agreement or at law) by the Company shall constitute a waiver by the Company of, or impair or preclude any exercise or further exercise of that or any other right, power or remedy arising under this Agreement or applicable law.

15.4. The Company may in whole or in part release the Client from liability stemming from the latter's violation of the conditions of this Agreement during the period of it being in force or, alternatively, may reach a compromise decision. In this case, all violations, regardless of how long ago they were committed and in connection with which the Company may file a grievance with the Client at any time, are taken into consideration. The above stated conditions do not prevent the Company from exercising its other rights in accordance with this Agreement.

15.5. The rights and remedies provided to the Company under this Agreement are cumulative and are not exclusive of any rights or remedies provided under the law of the country where the Company has a registered office.

15.6. The Company may transfer its rights and obligations to a third party in whole or in part, provided that the assignee agrees to abide by the terms of this Agreement. Such assignment shall come into effect 3 business days following the day the Client is deemed to have received notice of the assignment in accordance with this Agreement.

15.7. If any term of this Agreement (or any part of any term) shall be held by a court of competent jurisdiction where the Company is registered to be unenforceable for any reason, then such term shall be deemed severable and not form part of this Agreement but the remainder of this Agreement shall continue to be valid and enforceable.

## **16. AMENDMENT AND TERMINATION**

The Client acknowledges that the Company shall have the right to amend:

16.1. any part of the Regulations at anytime;

16.2. the value of a spread, swap and dividend without prior notification of the Client. In exceptional trading conditions the Client recognizes the right of the Company to make changes to this Agreement immediately, without prior notification;

16.3. The Client acknowledges that the Company may introduce new products and services without prior notification.

16.4. The Client may suspend or terminate this Agreement by giving the Company written notification.

16.5. The Company retains the right to refuse a Client the opportunity to use the Trader's Room without explanation.

16.6. Termination of this Agreement will not abrogate any obligations held by either the Client or the Company regarding any outstanding transaction or any legal rights or obligations which may already have arisen under this Agreement, particularly relating to any open positions and deposit/withdrawal operations made on the Client's account.

16.7. Upon termination of this Agreement, the available funds on the Client Account, calculated and payable upon closing out of all open positions on the account, will be transferred to Client requisites

according to payment instruction form given/mailed by the Client to the Company.

16.8. Upon termination of this Agreement, all amounts owed by the Client to the Company must be settled immediately (but not limited to):

- all outstanding fees, charges and commissions;
- any expenses incurred by terminating this Agreement;
- any losses and expenses sustained by the Company in closing out any transactions or in connection with any other of the Company's obligations initiated or caused by the Client.

16.9. In the event of the Client's death:

- the right of claim of funds withdrawal from the client account shall be inherited to heirs first in line to inherit or to heirs by devise;
- the right of using the Client account and the right of carrying out operations at financial markets shall not be inherited.