



MOBANKING SERVICE AGREEMENT

General Terms and Conditions
relating to Mobile Banking Services.

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INTRODUCTION

The following Terms and Conditions ("Agreement") apply to our Mobile Banking services. These general terms and conditions are in addition to those that apply to any account that you have with us.

By accepting this Agreement and using Mobile Banking, you agree to all the terms, conditions, notices and annexes contained in this Agreement, User Manual and Electronic Communications that will be made available by National Bank of Dominica Ltd. and accept liability for consequences of unauthorised use, misuse or incorrect use of Mobile Banking. Please read this Agreement carefully before accepting. We may amend these terms, and modify or cancel the mobile services and features we offer either completely or in part, from time to time without notice, except as may be required by Law.

We may offer additional mobile services and features in the future. Any such added mobile services and features will be governed by this Agreement (General Terms and Conditions) and User Manual and by any other terms and conditions provided to you by National Bank of Dominica Ltd., including at the time the new mobile service or feature is added and/or at the time of enrollment for the feature or service if applicable. Each such revision shall thereafter have effect as if it were specifically provided for as a term in this Agreement.

1 DEFINITION OF TERMS

As used in this Agreement the following words have the meanings given below unless otherwise stated:

‘We’, ‘us’ and ‘our’ means The National Bank of Dominica Ltd, which holds the Qualifying Accounts and/or services to be accessed by Mobile Banking;

‘NBD’ means the National Bank of Dominica Ltd;

‘You’ and ‘Your’ means the person, company or other business entity that we permit to use the Mobile Banking Services;

‘Qualifying Account(s)’ means your eligible NBD Demand Deposit, Certificate of Deposit, Loan , Savings Account or any other account which we allow to access mobile banking services;

‘Available Balance’ means the balance available at the time you make your request, which is the total balance less any amounts that are held (e.g. based on funds availability), pledged (e.g. as security for a loan), or otherwise subject to restraint (e.g. due to legal process). All outstanding transactions or holds on your Account may not be included as of the time of your request. Available Balance may not be the same as Ledger Balance.

‘Balance’ means your Available Balance.

‘Device’ means a supportable electronic device including a cellular phone or other mobile device that is web enabled and/or capable of sending and receiving email or text messages.

‘Mobile Banking’ means the banking services provided under this Agreement accessible from a supportable Device.

‘Business Day’ means Monday through Friday, excluding holidays in the Commonwealth of Dominica on which banks are closed to the public.

‘Customer’ means any personal or business account holder who has entered into this Agreement with NBD.

‘General Terms and Conditions’ means the General Terms and Conditions herein that may be amended and revised from time to time.

‘Confidential Information’ means any information that NBD obtains regarding the Customer and/or Customers business operation(s) in connection with providing Mobile Banking Service to the Customer other than information which by law can be disclosed.

‘Customer Account Mandate’ means the written instructions given to the Bank in relation to the operation of the Customer Account at the time when the Account was first opened. This includes but is not limited to the authorized signatories on the account for payment instructions.

‘Electronic Communications’ any disclosure, agreement or other communication received from NBD relating to Mobile Banking Service electronically via electronic Device. Electronic Communications includes Electronic Fund Transfer disclosures, any other disclosures required by law or regulation, this Agreement, and any other communication that is provided to the Customer at any time while the Mobile Banking service is in effect. NBD may also provide electronic communication via our website at:

www.nbdominica.com.

‘User Guide’ means the document, annexed to this (Annex A) Agreement which may be amended from time to time, that NBD provides to the Customer either electronically, digitally, by regular mail or by hand which contains information, procedures and requirements relating to NBD Mobile Banking Services and use thereof;

‘On-line’ is used to indicate that the service or services mentioned are available via a connection to the Internet. Accordingly, in this context when a person is on-line then he/she is connected to the World Wide Web.

2 GENERAL

i The Conditions, the Sections and Annexes form an integral part of the Agreement. As far as the Annexes contradict the Agreement and its Conditions, the terms and Conditions of this Agreement will supersede and prevail.

- ii If any provision of the Agreement is held to be invalid or ineffective, the validity of the remaining provisions of the Agreement will supersede and prevail.
- iii The Customer shall observe and comply with the General Terms and Conditions and Instructions in the User Guide. The Customer acknowledges that he has been duly informed of the contents of the General Terms and Conditions, the User Manual and other information that it may from time to time receive, and shall adhere to and act in accordance with them.
- iv The Customer must inform NBD immediately of any changes in address, email, telephone number and any other change concerning the Customer that can be considered to be of importance or significance for the proper execution of the Agreement and the use of the Mobile Banking Services.
- v NBD will establish and determine at all times the conditions, terms, and limits under which the Customer can obtain access to the Mobile Banking Service and will inform the Customer of any such amendment to terms and conditions as appropriate including by posting notices on its website or by electronic communication.
- vi The Customer should regularly consult the Customer Service Unit, the help function, User Guide and other information relating to use of the Mobile Banking Service that may from time to time be made available by NBD.
- vii The Customer will not acquire any title, ownership interest or intellectual property right in NBD Mobile Banking Service or any manual relative thereto.
- vii Security Services may be provided to the Customer on behalf of NBD by third parties, such Security Services Providers to include any of National Bank of Dominica Ltd. Affiliates, agents and subcontractors. The Customer agrees that such third party Security Services Providers are third party beneficiaries of the provisions of the Agreement which apply to the NBD, including provisions which indemnify NBD or limit its liability.

3 AMENDMENTS OF THE TERMS AND CONDITIONS AND USE OF MOBILE BANKING SERVICE

- i NBD may amend, change and supplement the Conditions, suspend or discontinue any aspects of NBD Mobile Banking Service at NBD's discretion, either completely or in part at any time, in order to take into consideration a material development in NBD business, its operational banking systems, the introduction of new procedures or services or to reflect a change in the law or in applicable banking rules and regulations to which NBD is subject. In any event, NBD will endeavor to provide the Customer with at least 30 business days prior notice of any change that will affect the Customer, unless it is not reasonably practicable to do so. If the Customer does not agree to such changes, the Customer shall inform NBD accordingly in writing within the above-mentioned 30 business days, after which the Agreement is terminated in accordance with Section 9.
- ii The Customer is responsible and shall guarantee that he is aware of changes and/or additions to the Terms and Conditions, User Guide or any aspect of the Service after notification in accordance with Clause 3(i) above.
- iii Notwithstanding the foregoing, the amendments as a result of change in the law or in respect to banking regulatory requirements may take effect immediately.

4 ELECTRONIC COMMUNICATIONS CONSENT AND CUSTOMER INSTRUCTIONS

- i Every Instruction has the same status and legal value as a written instruction signed by the Customer. Accordingly, the Customer agrees not to challenge the legal effect, validity or enforceability of an Instruction authenticated by use of your password or other security information.
- ii The Customer is bound by his/its Instruction(s) as received by NBD. An Instruction can not be cancelled or revoked. The Customer can nevertheless request NBD not to execute the Instruction by notifying the Bank within 24 hours of execution of the transaction. NBD will then determine (at its sole discretion) whether that request can be complied with. Any possible execution of an Instruction will remain at the Customer's own risk.

- iii After an Instruction has been given, it must first be approved by NBD in accordance with its applicable approval and authorization procedures before it can be processed.
- iv All instructions received by NBD will be approved and authorized subject to the Customer Account Mandate. Where Instructions given using Mobile Services would contradict or be in conflict with the Customer Account Mandate, the Account Mandate shall prevail.
- v By accepting this Agreement and using Mobile Banking, the Customer agrees to receive from NBD any disclosures, agreements or other communications relating to the Mobile Banking service electronically via electronic Device.
- vi Electronic Communication that is received on the Customer's Device or accessed on NBD's website must be printed, signed and returned to NBD as required and specified from time to time.
- vii The Customer has a right to withdraw its consent to receive Electronic Communications; however NBD may terminate the Mobile Banking Service in those circumstances. To receive an Electronic Communication from NBD, the Customer's Device must be web-enabled and/or capable of receiving text messages.

5 THE CUSTOMER'S MOBILE BANKING RESPONSIBILITIES AND OBLIGATIONS

- i The Customer shall use the password and other security information in accordance with this Agreement and NBD's instructions and directions notified from time to time.
- ii The Customer shall represent and warrant that on every occasion the Customer has all necessary powers, authority and approvals to perform in accordance with the Customer's obligations under this Agreement.
- iii The Customer shall exercise sufficient care in using and handling the password and other security information, and shall be responsible for the use thereof under this Agreement.

- iv The Customer is required to inform the Customer Support Unit immediately in a manner indicated by the NBD in the event:
 - a The Mobile Device or associated number is lost, stolen, cancelled or changed.
 - b The Customer is aware, knows or suspects its passwords and/or other security information is known to unauthorised parties.
 - c The Customer has discovered, becomes aware, knows or suspects irregularities in the use of its account associated with Mobile Banking Service.

The Customer shall confirm the above mentioned information immediately in writing to NBD Customer Support Unit in the manner indicated in the User Guide, whereby the date, the time, location of the event, and other reasonable information that NBD may request shall be provided.

- v The Customer shall monitor its Account and important information through the Mobile Banking Service, Electronic Communications, periodic statements for the Account if applicable. In addition, the Customer shall keep informed of any changes to Mobile Banking service by regularly visiting the NBD website.
- vi The Customer shall take every precaution to ensure the safety, security and integrity of its Accounts, instructions and transactions when using Mobile Banking or accessing any Electronic Communication, this includes but is not limited to ensuring that the Device is not left unattended while logged into Mobile Banking, ensuring the Device is logged off immediately at the completion of each access by the Customer, not using any personally identifiable information when creating shortcuts or as security access information for the Customer Account(s) associated with Mobile Banking.
- vii The Customer shall not provide its password and/or any other access information to any other person.
- viii The Customer must take all reasonable precautions to prevent fraudulent and/or unauthorised use of or access to the Customer's security access information/details.

- ix The Customer shall comply with all applicable laws, rules and regulations in connection with Mobile Banking. NBD makes no representation that any content or use of Mobile Banking is available for use in any location within or outside of the Commonwealth of Dominica. Accessing Mobile Banking from any location is at the Customer's risk, the Customer is responsible for compliance with all applicable laws.
- x The Customer is not allowed to do anything which would result in any infringement or unauthorised use of any intellectual property rights of NBD relative to the User Guide, Mobile Banking services or any other NBD product in general.
- xi The Customer shall be liable for the consequences of any unauthorised use, misuse or incorrect use of the passwords and other events specified in 5(iv) above.
- xii The Customer shall comply with all security procedures and all other requirements provided by NBD by regular mail, Electronic Communication, by hand including but not limited to those procedures as set out in this Agreement and the User Guide.

6 NATIONAL BANK OF DOMINICA LIMITED LIABILITY FOR THE USE OF MOBILE BANKING SERVICES

- i With the exception of willful default NBD is not liable for any damage which directly or indirectly derived or arises from:
 - a NBD services not being wholly or partially available.
 - b Change, suspension and/or termination of NBD Mobile Banking Services.
 - c The non-execution or untimely execution of an Instruction.
 - d Unauthorised taking cognizance or changing of an Instruction.
 - e The non-functioning or inadequate functioning (or malfunctioning) of Mobile Banking service, passwords, or other enabling or accessing feature or information.
 - f Unauthorised, irregular or incorrect use of the Mobile Banking service including as a result of events listed in 5(iv) above.

- ii In addition, NBD will not be liable either for any loss whatsoever if NBD fails to execute or delays in execution of the Customer's Instruction(s), or fails to revoke or cancel such instructions as notified by the Customer in accordance with this Agreement.
- iii The non-functioning, inadequate functioning or malfunctioning of the communication method(s), or any other malfunctioning of the Mobile Banking Service does not indicate that Instructions have not been executed. In such event, the Customer shall have to obtain information from NBD with respect to the status of Instructions given (or pending) by contacting the Customer Support Unit during working hours and in the manner as stated in the User Guide.
- iv NBD may from time to time limit the number or types of qualifying accounts for Mobile Banking. Mobile Banking may not be supportable for all device models or for all carriers at all times. NBD does not guarantee the availability of underlying services, this includes carrier outages or 'out of range' issues for which NBD is not liable. (Specific information concerning methods and accounts services currently offered may be available on NBD website or via electronic communications).
- v The Customer must indemnify NBD, its subsidiaries, affiliates, officers, directors, employees, consultants, Mobile Service providers, licensors and keep them harmless from and against any and all losses, and all acts of and omissions by the Customer under this Agreement including, but not limited to any breach of this Agreement, any violations by the Customer of NBD's rights, the Customer's violation of applicable law, any failure to maintain the safety of our security details and any and all third party claims, liability, damages and/or costs (including but not limited to reasonable attorney's fees) arising out of or relating to (a) the Customer's use or third party's use or failure to use the Mobile Banking (b) a third party claim, dispute, action or allegation of infringement, misuse, or misappropriation based on information, data, files or otherwise in connection with the service (c) the Customer's violation of any law or rights of a third party.
- vi NBD provides this Mobile Banking Service to the Customer on an 'as is' and 'as available' basis. NBD does not make any warranties or representations that the Customer will

have continuous or uninterrupted access to Mobile Banking, its content or functions; or that such functions or any advertisements, or websites in connection with that service will be error free. NBD does not make any implied or expressed warranties of merchantability, fitness for particular purpose or non-infringement of third-party rights and title, or any implied warranties arising from course of dealing or course of performance.

- vii In no event will NBD or any of its officers, directors, shareholders, subsidiaries, affiliates, agents, licensors or third party service providers be liable for any consequential (including without limitation loss of data, files, profit or goodwill, or the costs of procurement of substitute of goods or mobile banking), indirect, incidental, special or punitive damages arising out of or in connection with the Customer's use of Mobile Banking. The Aggregate liability of NBD and its third party service providers under this Agreement shall not exceed EC\$1000.

7 ADMINISTRATIVE CHANGES BY CUSTOMER

- i NBD will as far as possible act on authorised instructions of the Customer concerning the administration of the Mobile Banking Services including, activation, the resetting of passwords, the de-activation and termination of the service.
- ii Mobile Banking is offered as a convenience and supplemental service to Banking with NBD. It is not intended to replace other methods available to the Customer for managing Customer accounts. As such, NBD will provide Mobile Banking Service only in accordance with the Customer Account Mandate.

8 PROOF

- i All Instructions may be recorded or registered by NBD.
- ii All data recorded or registered by or on behalf of NBD and/or all written reproduction of data in connection with Instruction or other data recorded by NBD shall be accepted as evidence relative to the contractual relationship between NBD and Customer in respect to such transactions and rights and obligations thereunder.

- iii In the absence of manifest error, an extract from NBD's written or electronic records which have been duly certified by an authorized NBD officer shall form, prima facie undisputable evidence.

9 TERMINATION OF THE AGREEMENT

- i Subject to the provisions herein, the Agreement is entered into for an indefinite period of time.
- ii NBD is authorized to terminate the Agreement with immediate effect in the event of:
 - a Failure of the Customer to comply with one or more of the obligations, terms or conditions under the Agreement.
 - b Bankruptcy of the Customer.
 - c Application of moratorium of payments by the Customer.
 - d Termination of the Customer's business.
 - e Statutory debt restructuring of the Customer.
 - f Putting the Customer's assets under administration.
 - g Commencement of any insolvency proceedings against the Customer.
 - h Termination of the contractual banking relationship between NBD and the customer.
- iii Furthermore, the Agreement shall be terminated in the event the Customer or NBD gives reasonable notice to that extent.

10 FEES

- i NBD will charge the customer transaction fees for using Mobile Banking Services where they apply as stated in the User Guide.
- ii NBD has the right to adjust such fees at any time, from time to time at its sole discretion.
- iii All costs of the communication methods, including but not limited to texts and internet costs shall be borne by the Customer.

11 DISCLOSURE OF ACCOUNT INFORMATION

xii NBD may disclose to third parties, information about the Customer's Account or the transactions:

- a In order to comply with reporting and other regulatory and legal requirements.
- b If the Customer gives NBD permission.
- c To offer the Customer additional products and services from NBD.
- d Otherwise permitted by Law.

12 ASSIGNMENT

The Customer may not transfer or assign its rights, benefits or obligations under this Agreement. However, NBD is entitled to without the Customer's consent, assign any of its rights and transfer any of its obligations under this Agreement.

13 ENTIRE AGREEMENT

This Agreement, as it may be amended from time to time, contains the entire agreement between the Customer and NBD and supersedes any other or oral communications and previous agreements if any with regard to Mobile Banking.

14 GOVERNING LAW

Any Account will continue to be governed by the laws described in the Account Agreement, the laws of the Commonwealth of Dominica. This Agreement will be construed and interpreted in accordance with the laws of the Commonwealth of Dominica.

Any dispute between the Customer and NBD arising from this Agreement shall be exclusively submitted to the competent Courts of the Commonwealth of Dominica. Notwithstanding the foregoing, in the event NBD would act as claimant, it shall be entitled to bring any dispute, law suit or claim before the foreign court in a foreign jurisdiction.

This Agreement expressly includes the following Annexes, available for download from NBD's website and which may be available at any of our branches.

- i Annex (A) – MoBanking User Guide.
- ii Annex (B) – MoBanking Application form.



BRANCH LOCATIONS

64 Hillsborough Street,
Roseau

Independence Street,
Roseau

Canefield Highway,
Canefield

Michael Douglas Boulevard,
Portsmouth

Ross University School of Medicine,
Portsmouth

FOR FURTHER INFORMATION CALL:
(767) 255 2300



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