

# NEDBANK NAMIBIA INTERNET AND ELECTRONIC BANKING SERVICES GENERAL TERMS AND CONDITIONS



NEDBANK WILL EXPLAIN THE TERMS AND CONDITIONS CONTAINED HEREIN TO YOU IN PLAIN ENGLISH LANGUAGE AND SIMPLE TERMS. SHOULD YOU NOT UNDERSTAND ENGLISH YOU ARE HEREBY INFORMED THAT YOU HAVE THE RIGHT AND OPPORTUNITY TO PROVIDE AN INTERPRETER OF YOUR CHOICE TO ASSIST US IN EXPLAINING THE CONTENT AND SUBSTANCE OF THESE TERMS AND CONDITIONS TO YOU. YOU ARE HEREBY FURTHER AFFORDED WITH THE RIGHT AND OPPORTUNITY TO READ, UNDERSTAND AND NEGOTIATE, IF NECESSARY, THE SUBSTANCE OF THIS AGREEMENT, WITHIN FIVE (5) BUSINESS DAYS FROM DATE OF RECEIPT AND WISH TO EXERCISE THIS RIGHT.

The following terms and conditions are applicable to Nedbank's Electronic Banking Services ('the services'), which services include (but is not limited to) Online and Mobile Banking, which **Nedbank Namibia Limited Reg No 73/04561 ('we')** will provide to the you upon formal approval of you as a Nedbank client.

These Terms and Conditions (T&C's), as amended from time to time, and which T&C's will be published on the Nedbank Namibia Website, should be read in conjunction with the applicable account opening documentation for using any service / account and/or product of Nedbank, and shall apply to all the respective services / accounts and/or products the Account Holder may hold with Nedbank. These T&C's should be read in conjunction with any/all other T&C's applicable to specific products and services (including but not limited to for example the Card services; Merchant services; Banking Facilities etc).

## 1. INTERPRETATION AND DEFINITIONS:

### 1.1 In these Terms and Conditions:

- 1.1.1 clause headings are for convenience and are not to be used in its interpretation;
- 1.1.2 unless the context indicates a contrary intention, an expression that denotes any gender includes the other genders;
- 1.1.3 a natural person includes a juristic person and vice versa; and
- 1.1.4 the singular includes the plural and vice versa; and
- 1.1.5 any number of days will be determined by excluding the first and including the last day or, where the last day falls on a day that is not a business day, the next business day.

### 1.2 In this Agreement, unless the context indicates otherwise, the following expressions bear the meanings assigned to them below and cognate expressions bear corresponding meanings:

- 1.2.1 **"Client or Customer"** means any person using any service / account and/or product of Nedbank and is hereinafter: the "client"; "customer"; "you" or "your"
- 1.2.2 **"Nedbank"** means Nedbank Namibia Limited, a public company with limited liability, registered and incorporated in accordance with the applicable laws in Namibia ( the Banking Institutions Act ,1998 (Act 2 of 1998),with registration number 73/04561 and includes the Nedbank Group of Companies, our employees; officials and directors; duly authorised representatives and hereinafter: "Nedbank"; "the Bank"; "we"; "us" or "our";
- 1.2.3 **"Parties"** means Nedbank and the Account Holder and "Party" means, as the context requires, each or any one of them;
- 1.2.4 **"Person"** means any natural or legal person, partnership, trust, company; joint venture, agency, governmental authority or any other body (whether corporate or unincorporated).
- 1.2.5 **"Services"** means all the electronic banking services offered by Nedbank, including but not limited to online; mobile; USSD and all other services.

### 1.3 You, the client, confirm that the information and instructions in the electronic banking application form are both true and correct to the best of your knowledge. In the event of incorrect information being supplied, the bank will have the right immediately to discontinue any/all of the services without notification and you specifically waive any right to hold us liable for damage suffered as a consequence of services being discontinued in this manner.

## 2. ELECTRONIC BANKING

Electronic Banking means a service which enables you or any Authorised User to access and/or transact on your Nedbank Accounts over the internet by using *inter alia*: computers; mobile-phones; ATM's or other self-service bank facilities and services. The Nedbank Electronic Banking Services include (but is not limited to) the following:

- 2.1 **Online Banking Services:** means access to the Online Banking Services via the Nedbank Website at <https://www.nedbank.com>. Online Banking Services includes Mobile Banking services.

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- 2.2 **Mobile / Cellphone Banking Services:** means a service that enables you or an Authorised User to access and/or transact on your Accounts, by using a Mobile Device with internet connectivity, made available to you by downloading the **NEDBANK MONEY (AFRICA) APP** from the Google Playstore or I store.
- 2.3 **Send Money Services** means the services that allows you to send funds from your Nedbank transactional account to anyone with a valid Namibian cellphone number by using cellphone banking, online banking or the Nedbank Money app.
- 2.4 **USSD Services:** means the banking channel services that include payments, transfers, Send Money and prepaid and value added services available through the USSD banking channel on cellphones.
- 2.5 **Telephone, Fax, Email and SMS Services** means the services made available by Nedbank to you upon expressly consenting thereto to transmit and accept documents to and from you and to carry out certain financial transactions on the basis of instructions given to Nedbank telephonically, by fax, and/or by email.

### 3. FEES

The applicable monthly access and/or transaction fees will apply as published on the Nedbank Website.

### 4. PROVISION OF SERVICES AND CONSENT

- 4.1 Customers may apply to Nedbank for the activation of the Electronic Banking Services, expressly and or we may activate all or part of the Electronic Banking Services for Customers as part of our Electronic Banking Services without formal application.
- 4.2 By accessing, browsing, downloading, installing and/or using the Nedbank Online, Mobile or USSD services, you expressly consent and agree to these terms and conditions.
- 4.3 In instances where formal application is made, we will upon approval thereof provide you with a profile number (or security device, signature numbers, password(s) and/or PIN ('confidential information'), and/or application ("the device")) and you will be afforded the use of various electronic banking services / profiles / systems offered by Nedbank ("the services") in terms of which we, using our equipment, will execute on your behalf, instructions which you may give to us in written or electronic format.
- 4.4 Nedbank may add or remove services and profiles from time to time upon your written request and we reserve the right to modify, replace or withdraw any service and/or profile at any time, for any reason whatsoever, with notice to you.
- 4.5 You understand and accept that you may link a business account or an account requiring multiple signatures to your profile only if you have submitted to Nedbank an original written resolution or power of attorney to this effect and it will be your responsibility to ensure that no unauthorised persons have access to your account.
- 4.6 Nedbank shall be entitled and authorised to debit your account with the amounts of the transactions effected via electronic banking and to debit your account with the amount of any fees applicable to the electronic banking services from time to time.
- 4.7 For the purposes hereof a reference to 'services' shall include a reference to profiles and systems offered by the Bank from time to time in terms hereof.

### 5. PASSWORD AND EQUIPMENT

- 5.1 If you wish to make use of the electronic banking services where a password is required, Nedbank shall allocate a password to you in respect of your profile number. The password will allow you to gain access to the services linked to your profile. You shall ensure the safekeeping of passwords and confidentiality of all devices, passwords, signature numbers and other confidential information and shall further ensure that the account is not used / instructions are not issued / relevant functions are not performed by anyone other than a person authorised to do so.
- 5.2 You agree to comply with all the terms and conditions in force from time to time and applicable to our services when entering your profile number and password/PIN to gain access to any of the services or profiles.
- 5.3 You shall provide and maintain hardware and all consumable materials required for the use of the above services. Nedbank makes no representations as to the suitability of any of your hardware, software or consumable materials for the use of the services.
- 5.4 You shall notify us immediately in writing on you becoming aware that a device or password has been lost or forgotten or may have fallen into the hands of an unauthorised person. We shall, on receipt of such written notice, furnish replacement passwords to you.

### 6. CLIENT'S OBLIGATIONS

- 6.1 The client acknowledges that it is aware that the rendering of the services is subject to various acts and other legislation and the client undertakes to comply with all applicable legislation at all times.

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- 6.2 The client acknowledges that its use of the services shall in no way vary any aspect of the bank-client relationship between it and the bank and the client furthermore, without limiting the generality thereof, agrees in particular that:
- 6.2.1 the utilisation of any service shall be subject to the completion and signature by a duly authorised signatory/signatories of the client of any application form and any other documentation or agreement required by the bank from time to time and the delivery thereof to a branch or electronic banking centre of the bank;
  - 6.2.2 it shall be obliged to settle any payment obligations to the bank in accordance with the instructions issued to the bank through the service and that this shall not in any way entitle the client to overdraw any account, unless prior arrangements have been made with the bank and then only in terms of such arrangements;
  - 6.2.3 the limits allocated to any of the client's accounts will not be exceeded.
- 6.3 The client declares and warrants that all information provided in any application form and any information to be given in the future in terms hereof and information to be contained in each instruction processed electronically through the service, is and will be correct in all respects. The client records that it shall be obliged to inform the bank of any change in the information provided by the client and that it will have no claims against the bank in the event of any information provided by the client to the bank being incorrect.
- 6.4 You must at all times:
- 6.4.1 acquaint yourself with the functionality of the services and how they are to be used and, if necessary, ask us for help;
  - 6.4.2 Shall immediately change any temporary password/PIN allocated by us for the purpose of giving you access to the services for the first time;
  - 6.4.3 acquaint yourself with and follow the security procedures communicated by us from time to time as well as such other procedures that may apply to the services and specifically those that may be displayed on our internet website, acknowledging that:
    - 6.4.3.1 we are not obliged to prescribe or recommend any security procedures to you, but we may do so and any failure by you to follow the recommended security procedures may result in a breach of the confidentiality of your confidential information and may lead to unauthorised transactions between accounts linked to your electronic banking profile with us;
    - 6.4.3.2 any software downloaded by you from the internet and specifically our internet site, is third-party software, the licensing of which will be subject to such terms and conditions as the licensor of such software may impose and we make no representations or warranties as to the suitability of any of your information technology systems used for receiving, accessing or using the services; and
    - 6.4.3.3 any failure on the part of the client to follow the recommended security procedures may result in a breach of the client's profile confidentiality and may lead to unauthorised transactions between accounts linked to the client's electronic banking subscription with the bank;
  - 6.4.4 ensure the safekeeping of passwords and confidentiality of all devices, passwords, signature numbers and other confidential information; and must particularly ensure that the confidential information is not written down and kept where it can easily be discovered.
  - 6.4.5 ensure that nobody other than yourself is permitted to use services to which you have subscribed. If a power of attorney has been given, you must ensure that only authorised persons have access to and are allowed to use the services and businesses must ensure that only authorised employees have access to and are allowed to use the services;
  - 6.4.6 notify us immediately where you reasonably become aware or suspect that confidential information has been lost or forgotten or may have fallen into the hands of an unauthorised person;
  - 6.4.7 read, understand and apply the information displayed on any profile, system or electronic banking site and understand your role in respect thereof;
  - 6.4.8 ensure that you have current and updated antivirus software in place to prevent, detect and remove malicious computer viruses and acknowledge that undetected viruses may corrupt and/or destroy computer programs, applications, files and potentially computer hardware. Additionally you may unintentionally transmit the virus to other computers. We will not be held responsible for any computer virus that affects your computer or software while using the services; and
  - 6.4.9 acquaint yourself with any specific terms and conditions of use that may exist in relation to any of the services and will be bound by such terms and conditions as though they form part of this document
- 6.5 The client shall not at any time:
- 6.5.1 cede or assign any of its rights under this agreement without the prior written consent of the bank;

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- 6.5.2 operate or use the service in any manner that may be prejudicial to the bank.
- 6.6 Where applicable the client understands and accepts that it may link a business account or an account requiring multiple signatures to the client's profile only if the client has submitted to the bank an original written resolution or power of attorney to this effect and it will be the responsibility of the client to ensure that no unauthorised persons have access to its accounts.

### 7. THE BANK'S OBLIGATIONS

- 7.1 The bank shall:
- 7.1.1 Where applicable furnish the password to the client upon the bank having approved the client's utilisation of the services offered in terms hereof;
  - 7.1.2 furnish replacement passwords to the client only upon written notice that a password has been lost or forgotten or fallen into the wrong hands.
- 7.2 The client acknowledges that:
- 7.2.1 the bank will neither be required to inquire into the authority of any person who uses or has used the services or passwords/PINs, nor the validity of any information you gave us for the use of the services and we will be entitled to assume (unless we have been informed in writing to the contrary) that any person in possession of the confidential information is properly authorised to conduct any and all transactions through the services;
  - 7.2.2 once the bank has received and implemented an instruction given by the client in the utilisation of the services, the client shall not be entitled to countermand or amend such instruction but shall be obliged to follow such procedures as may be prescribed by the bank from time to time in respect of the various services.
  - 7.2.3 If we are instructed in writing to stop a transaction, we will attempt to do so, but we will not be liable for any loss incurred, whether direct or consequential, if we fail to do so, save where we have been grossly negligent or acted in breach of contract,

### 8. PAYMENTS AND TRANSFERS

- 8.1 The "new" Namibian national electronic fund transfer "EFT" system is called NamPay. Following a decision taken by the Bank of Namibia, the Payment Association of Namibia (PAN) in partnership with the banking institutions and suppliers, a new enhanced EFT system is being introduced into the Namibian financial sector. This system will comprise of three new payment streams. They are enhanced debit orders (EnDO), enhanced credit payments (EnCR) and near-real-time credit payment (NRTC) that will transform electronic fund transfers in Namibia.
- 8.2 Payments made to beneficiaries at local banks by Nedbank customers through the Nedbank online banking or mobile app will operate over enhanced credit payments ("EnCR") service. EnCR payments are processed between banks as received between 04:00 and daily cut off time of 14:00 on weekdays and 09:00 on Saturdays. Due to more frequent settlements between domestic banks during the day, EnCR payments will reflect on the customer's account on the same day. Payments made after 14:00 will only reflect on the beneficiaries account the next day depending on the day that the transaction is effected. Payments made using the near real-time credit (NRTC) payment stream have cut-off times of 16:00 on weekdays and 11:00 on Saturdays. and will reflect within one minute (60 seconds) on the customer account. Please note that there are related fees applicable to this service, please visit the Nedbank Namibia website for pricing.
- 8.3 Once payment to a third party or a transfer transaction (a transfer between your linked accounts) has been processed, a confirmation reflecting that the payment or transfer has been processed will be available to you.
- 8.4 You hereby consent and agree to be irrecoverably bound by all legislative requirements pertaining to the Nampay and clearing rules as these rules and legislative development are binding on you.

### 9. FAILED TRANSACTIONS

If any transaction fails, including as a result of insufficient funds being available in your account or of a third-party account having been closed, we will not be held liable.

### 10. COPYRIGHT

- 10.1 The bank shall at all times retain its copyright in or licence to the software (including the passwords) and associated documentation, should such software and associated documentation belong to it, used in the provision of the services as well as in respect of any logos, trademarks or service marks used.
- 10.2 The client shall not duplicate, reproduce or in any way tamper with the software and associated documentation without the prior written consent of the bank.

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- 10.3 In respect of third-party software, the bank is not a party to any licence agreement entered into by the client and the licensor and thus makes no warranties relating to such software, including without limitation, warranties relating to the suitability for a particular purpose, security features or performance. The client acknowledges that the use of such software shall be at the client's own risk and indemnifies and holds the bank harmless against any loss or damage, which the client may suffer as a result of the use, abuse or possession of such software.
- 10.4 Furthermore, the client understands that the utilisation of such third-party software may be illegal in jurisdictions outside Namibia and/or may infringe upon certain third-party intellectual property rights in such jurisdictions. The client understands that should it use any third-party software outside the boundaries of Namibia, it shall at all times be incumbent upon the client to ascertain the legality of such use and to obtain all necessary licences and permissions from the relevant parties. The client accordingly indemnifies and holds the bank harmless against any and all liability, which it may incur in this regard.

### 11. PRIVACY CONSENT

- 11.1 You hereby provide your consent to Nedbank to process your personal information, including fingerprints, biometric personal identification details, photographs and identity verification, for purposes of providing financial services and for detecting and preventing fraud and money laundering, and to send your personal information to third parties in order to provide a service to you, and also to send such information to foreign countries, when necessary, by electronic or other means for processing. You understand that such countries may not have specific data privacy laws and that where that is the case, Nedbank will enter into appropriate confidentiality agreements with the service providers in the foreign countries.
- 11.2 Nedbank may undertake identity and fraud prevention checks and share information with relevant Namibian and South African Fraud Prevention Services.

### 12. DOMICILIUM AND NOTICES

- 12.1 The client chooses as its *domicilium citandi et executandi* for the purpose of legal proceedings and for the purposes of giving or sending any notice provided for or necessary in terms of this agreement the address given in the application form.
- 12.2 The bank's address for the purposes hereof is:
- |            |   |
|------------|---|
| Physical:  | Nedbank Campus, Freedom Plaza, Erf 8764, Corner of Fidel Castro & Reverend Michael Scott Street |
| Postal:    | P O Box 1, Windhoek, Namibia  |
| Telefax:   | +264 (61) 2952120   |
| Attention: | The Company Secretary   |
- 12.3 Provided that a party may change its *domicilium* to any other physical address or telefax number or e-mail address by written notice to the other party to that effect. Such change of address will be effective seven (7) days after receipt of notice of the change of *domicilium* by the other Party
- 12.4 All notices to be given in terms of this agreement will:
- 12.4.1 be given in writing;
  - 12.4.2 Any notice so given shall be deemed to have been received:
    - 12.4.2.1 if by way of e-mail or fax sent to the e-mail address or fax number provided for above, be deemed to have been received on the first business day following the date of transmission provided that the fax is received in legible form;
    - 12.4.2.2 if delivered by e-mail only once the addressee has acknowledged receipt thereof in writing and /or if a deliver and/or read receipt has been delivered, whichever occurs the earliest;
    - 12.4.2.3 if delivered by hand, to the physical address provided for above be deemed to have been received at the time of delivery; and
    - 12.4.2.4 if by way of courier service to the to address provided for above, be deemed to have been received on the seventh business day following the date of such sending,
- 12.5 Notwithstanding the above, any notice actually received by the party to whom the notice is addressed will be deemed to have been properly given and received notwithstanding that such notice has not been given in accordance with the provisions of this clause.

### 13. INDEMNITY

- 13.1 The client hereby waives its rights in respect of and indemnifies the bank against any demand, claim or action relating to or in connection with the services, whether directly or indirectly, unless such demand, claim or action arose as a direct consequence of the gross negligence or wilful misconduct of the bank or any of its employees.
- 13.2 Any demand, claim or action arising against the bank in connection with the circumstances referred above shall be limited to direct damages. Special or consequential damages are hereby specifically excluded.
- 13.3 The client indemnifies and holds the bank harmless from:

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- 13.3.1 any delay or failure by us to act on any instruction given by using the services;
- 13.3.2 any malfunction, failure or unavailability of any system, hardware, software or equipment;
- 13.3.3 any loss or destruction of any data, power failures or corruption of storage media;
- 13.3.4 any natural phenomena, riots, acts of vandalism, sabotage, terrorism or any other event beyond our control;
- 13.3.5 any interruption or distortion of communication links or reliance by any person on incorrect, illegible, inaudible, incomplete or inaccurate information or data contained in any instructions received by us;
- 13.3.6 any use, misuse, abuse or possession of any third-party software, including, without limitation, any operating system software, browser software or any other software packages or programs;
- 13.3.7 any unauthorised access to your accounts or any breach of security or any destruction or accessing of your data or any destruction or theft of or damage to any of your equipment;
- 13.3.8 your divulging any confidential information and/or permitting unauthorised persons from having access to and/or using the services;
- 13.3.9 failure to adhere to any terms and conditions applicable to the services and/or the supplying of incorrect information or the failure or unavailability of third-party facilities or systems or the inability of a third party to process a transaction;
- 13.3.10 confidential information/documentation requested by using the services coming to the knowledge of third parties; or
- 13.3.11 fraudulent, false or altered instructions given by using the services.

#### 14. PREPAID AND VALUE-ADDED SERVICES

You must ensure that all information used when purchasing prepaid and using value-added services is accurate, as these are non-reversible.

#### 15. GENERAL

- 15.1 These terms and conditions govern the relationship between the client and the bank in respect of the services. Should there, however, be a conflict between the provisions hereof and the provisions of any agreement relating to a specific service utilised by the client, then the provisions of that agreement insofar as they conflict with the provisions hereof only will take precedence.
- 15.2 We may effect electronic funds transfers in respect of the accounts of which the numbers are provided in a payment instruction.
- 15.3 You acknowledge that we will not be obliged to verify the destination account numbers, parties' names or the amounts involved in any instruction, and if there is a discrepancy between the destination account number and the name of the party concerned, the destination account number will prevail.
- 15.4 Notwithstanding the a foregoing terms and conditions, the client acknowledges and accepts that the bank may from time to time amend such terms and conditions insofar as they relate to the use by the client of the services. In pursuance of the a foregoing the client confirms that:
  - 15.4.1 it is aware that all such changes shall be reflected in the terms and conditions published on the bank's website;
  - 15.4.2 by entering the client's electronic banking subscription number and PASSWORD or security device to gain access to the services, the client binds itself to the terms and conditions in force at that point in time as they may appear on the bank's internet site
  - 15.4.3 You acknowledge that by using the Electronic platform services that instructions and documents submitted electronically may be fraudulently amended/varied/altered by another person other than the originator or author thereof and that personal information and confidential information may come into possession of an unauthorised person.
- 15.5 This agreement shall be interpreted in accordance with and governed by the laws of Namibia notwithstanding the fact that any instruction emanated from outside the borders of Namibia.
- 15.6 If we allow you any latitude or extension of time, this is not and must not be understood as a novation or waiver of our rights in respect of these terms and conditions of use, and will also not be, or be the cause of, an estoppel against us.
- 15.7 No waiver of any of the terms and conditions of this Agreement will be binding or effectual for any purpose, unless it is expressed in writing and signed by the party hereto giving the same, and any such waiver will be effective only in the specific instance and for the purpose given. No failure or delay on the part of either party hereto in exercising any right, power or privilege hereunder will operate as a waiver thereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.
- 15.8 This Agreement may be executed in counterparts, each of which shall be deemed an original, which read and taken together shall constitute one and the same instrument.

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15.9 The Parties record that it is not required for this Agreement to be valid and enforceable that a Party shall initial the pages of this Agreement and/or have its signature of this Agreement verified by a witness.

### 16. FATCA POLICY

- 16.1 FATCA is an acronym for the United States (US) Foreign Account Tax Compliance Act ("the FATCA Act"). The purpose of FATCA is to prevent US persons from using banks and other financial institutions to avoid taxation from income generated outside of the US.
- 16.2 The FATCA Act and any Rules pertaining thereto forms part of this Agreement and you are hereby bound by the terms and Rules of the FATCA Act. Should there be any conflict or inconsistency between the Act and the Agreement, the contents of the Act shall prevail.
- 16.3 In terms of the FATCA Act you herewith agree to co-operate with us to ensure compliance with the FATCA Act;
- 16.4 You herewith waive any claim that you may have against us and you herewith indemnify us against any damages, claims, losses or otherwise, as a result of any actions, omissions as a result of adherence to the FATCA Act or Rules.

### 17. ANTI-MONEY LAUNDERING (AML), COUNTERING THE FINANCING OF TERRORISM (CFT) AML / CFT / SANCTIONED TRANSACTIONS / EXCHANGE CONTROL

- 17.1 The Financial Intelligence Act, 2012 (Act No 13 of 2012) (the "FIA Act") and all other applicable legislation pertaining to Anti-Money Laundering forms part of these Terms and Conditions.
- 17.2 You are hereby bound by the FIA Act and you herewith agree to co-operate with us during the Know Your Client (KYC) process by identifying and ascertaining your identity and any source of income or transaction and consequently you undertake to furnish us with all documentation and information required in terms of the FIA Act and any other legislative requirements.

### 18. BREACH

Should the client breach any term or fail to perform any of its obligations in terms of this or any other agreement which it may have with the bank, the bank shall be entitled, without notice, to cancel this agreement and withdraw the services with immediate effect, without prejudice to its rights to recover:

- 18.1 any amounts due to the bank in terms of this agreement;
- 18.2 any loss or damage suffered by the bank as a consequence of the breach by the client of any term of this agreement or the cancellation of this agreement or the withdrawal of the services.

### 19. DISPUTE

- 19.1 Should any dispute arise at any time between the bank and the client relating to any matter arising out of any use of the services, such dispute shall be finally resolved in accordance with the rules of the ADR Forum (Pty) Ltd by an arbitrator(s) appointed ADR Forum. The client agrees that in pursuance hereof, either the client or the bank may demand that a dispute be referred to arbitration by giving seven (7) days written notice to that effect to the other party.
- 19.2 This clause shall not preclude the client or the bank from obtaining interim relief on an urgent basis from a court with competent jurisdiction pending the decision of the arbitrator.
- 19.3 The arbitration referred to herein shall be held at Windhoek in the English language and shall be held immediately with a view to be completed within 21 (twenty one) days after it is demanded. The client irrevocably agrees that the decision of the arbitrator in the arbitration proceedings:
- 19.3.1 shall be final and binding on it;
- 19.3.2 shall be carried into effect;
- 19.3.3 and may be made an order of court of competent jurisdiction.
- 19.4 This clause is severable from the rest of the terms and conditions and shall remain valid and binding on the client notwithstanding any cancellation by the client of its electronic banking services with the bank or any withdrawal by the bank of the services or any of them.

### 20. TERMINATION

- 20.1 Notwithstanding anything contained above, the services upon notice to you may be terminated at any time by the Bank in the following circumstances: any fraudulent or suspected fraudulent activity; breach of these terms and conditions; your account has been closed; you have not used the electronic banking services for a period of time and for any other reason we deem appropriate, by giving you appropriate notice, except that in the event of any change in any law or the application thereof, which would have the effect of prejudicing the bank should it continue with the rendering of any service, the bank shall be entitled to terminate the agreement on **48 (forty eight) hours' written** notice to the client.
- 20.2 You may at any time terminate these services by giving us written notice to that effect.

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## 21. SUSPENSION OF ACCOUNT

- 21.1 If your account remains inactive or dormant for a period exceeding 90 (ninety) days Nedbank may after 30 (thirty) working days written notice, close the account and refund any credit balance thereon.
- 21.2 Nedbank may also elect to suspend your account when you are in default under the Agreement, or close your account by giving written notice of termination to you of at least 30 (thirty) business days before your account is to be closed.
- 21.3 Despite the suspension or closure of your account, any liability which you may have in respect of this Agreement or any Facility and/or any Credit provided in respect of your account or facility, will not be affected by the above action, and this Agreement will remain in force to the extent necessary until you have paid all amounts lawfully due by you.
- 21.4 We may close, restrict, decrease or suspend access to your Account and any facility if we in any way suspect or have established that your Account or facility is being used negligently or for illegal activities, or if it is to comply with a law. The closure, restriction, decrease or suspension will become effective on delivery of written notice to you.

## 22. WITHHOLDING TAX

Amounts in your account (including any interest earned for a product) may be subject to withholding tax in accordance with the applicable laws.

## 23. BLOCKING ACCOUNTS/WITHHOLDING OF FUNDS

We may, without prior notice to you, block any account (and later remove the block) at any time and/or withhold amounts in any account at any time, if required to do so by any relevant authority, law or pursuant to any agreements with any regulator or other authority, or in order to comply with our internal policies and/or any applicable order or sanction of an authority.

## 24. CREDIT BUREAU

- 24.1 You consent to our periodically checking and reporting your credit status with any registered credit bureau or credit reference agency. By doing so you consent to our disclosing such information as may be necessary or required to check and/or report your credit status in terms of the applicable laws.
- 24.2 You authorise Nedbank to search, update or place your records at credit reference bureaus and government agencies in order to verify your identity, assess your ability to obtain credit or to provide collateral of any kind, including guarantees or suretyships, and may, on request from another credit provider with whom you have applied for credit, provide my personal information, including my credit reference data, to such credit provider and also make any enquiries that it deems necessary to confirm your details for marketing purposes and to assess your creditworthiness design and offer financial services or related products which may be of interest to you and undertake its credit validation models.
- 24.3 You hereby authorise Nedbank to use your personal information for debt enforcement, including but not limited to recovery, collection, repayment, surrender, enforcement and cession of debts.

## 25. CONFIDENTIALITY

You consent to our disclosing confidential information about you to other divisions/associated companies within our group. You acknowledge that such consent amounts to a waiver, in our favour, of the client-banker confidentiality principle.

## 26. SANCTIONED TRANSACTIONS/ANTI-MONEY-LAUNDERING/COUNTER-TERRORISM FINANCING/EXCHANGE CONTROL

- 26.1 To comply with and/or to meet our reporting requirements in terms of all applicable laws, regulations, requests by authorities, directives, international best practice and policies relating to anti-money-laundering, counter-terrorist financing, exchange control and sanctioned transactions, we may be:
- 26.1.1 prohibited from entering into certain foreign exchange transactions unless the conditions of approval by the Bank of Namibia are first complied with; and/or
  - 26.1.2 prohibited from entering or concluding transactions involving certain countries, entities, banks, vessels and/or individuals (eg a person or entity that is itself sanctioned or connected to or dealing with – directly or indirectly – any person or entity that is sanctioned under economic and trade sanctions imposed by any supranational organisation, international organisation, official body, the United States of America, Her Majesty's Treasury, the United Nations, the European Union or any country); and/or



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- 26.1.3 prohibited from engaging in transactions that are subject to such sanctions as described above (including, but not limited to, the clearing of incoming/outgoing cheques drawn on/presented before all sanctioned banks); and/or
- 26.1.4 compelled to reject such transactions and/or block the related funds, as per sanctions, policies and legislation; and/or
- 26.1.5 required to report any suspicious transactions to the relevant authorities.

26.2 To this end we or any of our employees may:

- 26.2.1 intercept and investigate any payment messages and/or other information or communications sent to or by you, and/or on your behalf; and
- 26.2.2 delay, block and/or refuse to make any payment and payment screening, which in turn may cause a delay in the processing of certain information.

- 26.3 We will not be liable for any loss arising out of any action taken or any delay or failure caused by performing any of our duties or other obligations caused in whole or in part by any steps taken as set out above. You agree not to make any of the finance we provided to you available to sanctioned individuals and/or entities or for the purposes of any sanctioned or illegal activity.
- 26.4 We reserve the right, subject to applicable law, to terminate the services/account/product and your right to use the account/product at any time and for any reason, including, without limitation, if we in our sole judgement, believe that you are/have been engaged in conduct or activities that violate any of the terms and conditions or our rights or if you provide us with false or misleading information.

## **27. GOVERNING LAW**

These terms and conditions and the agreement governing the relationship between you and us will be governed by and construed and interpreted in accordance with the applicable laws of the Republic of Namibia.

## **28. JURISDICTION**

You hereby consent to the jurisdiction of the magistrate's court having jurisdiction over you in respect of all legal proceedings, notwithstanding that the value of the matter in dispute might exceed the magistrate's court jurisdiction. Notwithstanding the foregoing, we may, at our sole discretion, institute all or any proceedings against you connected with this agreement in any division of the High Court of Namibia having jurisdiction. Any certificate signed by any of our managers (whose authority need not be proved) will be prima facie evidence of the matter herein stated for all purposes.

## **29. RIGHT OF SETOFF**

We will retain all our common-law, equitable and statutory rights of setoff. These rights will include, but is not limited to, our option to withhold, without notice to you, and to set off any moneys due to you by us, whether under this agreement or otherwise, up to an amount due and owing to us with regard to this agreement, any other agreement with us, including any agreement for a term commencing prior to the term of this agreement, plus any amounts due and owing to us for any other reason, whether such liability is liquidated or unliquidated, present or future, or accrued or contingent. We will exercise our setoff rights in accordance with normal banking practices.