

TERMS OF USE

Last updated September 13, 2023.

IMPORTANT!

CAREFULLY READ THESE TERMS AND CONDITIONS BEFORE CONTINUING.

BY USING THE SERVICES, YOU CONFIRM THAT YOU HAVE READ THIS AGREEMENT AND UNDERSTAND, ACCEPT, AND INTEND AND AGREE TO BE LEGALLY BOUND BY ALL OF ITS TERMS.

Definitions

“Commission” means the Financial and Consumer Services Commission of New Brunswick.

“Portal” means the website portal services of the Commission, available at <https://portal.fcnb.ca>.

“Services” refers to the Commission and FundsFinderNB websites, the Portal, and the Unclaimed Property Portal, as applicable.

“Unclaimed Property Portal” means unclaimed property portal services of the Commission, available at <https://fundsfinder-mesfondsnb.ca>.

“Website” refers to either FCNB.ca, accessible from <https://www.fcnb.ca>, or FundsFinderNB.ca, accessible from <https://fundsfindernb.ca>, as applicable.

“You” means the individual accessing or using the Services, or the company, or other legal entity on behalf of which such individual is accessing or using the Service, as applicable.

Acknowledgment

These terms govern your use of the Services, including the Website, the Portal, and the Unclaimed Property Portal.

These terms set out the rights and obligations of all users regarding the use of the Services. Your access to and use of the Services is conditional on your acceptance of and compliance with the Commission’s Privacy Policy. Our Privacy Policy describes our policies and procedures on the collection, use and disclosure of your personal information when you use the Services and tells you about your privacy rights and how the law protects you. Please read the Commission’s Privacy Policy carefully before using our Services.

By creating a user account to access the Services, you agree to these terms. If you do not agree to these terms, do not become a user of the Services.

Choice of Law

The Services are governed by the law of the Province of New Brunswick.

Use of Services

Subject to your compliance with these terms and the law, you may access and use the Services, including create a user account.

You are responsible for all activity that occurs via your account. You may share your account information with your assistant, secretary, office administrator or similar person, where such sharing is consistent with the way you ordinarily manage your work and business affairs, but any use of the Services via your account by someone other than you will bind you without reservation. You are urged to carefully monitor and review any use of your account by others. You agree to notify the Commission of any unauthorized use of your account.

Representations, Confirmations and Attestations

Many of the online applications, filings or processes provided by the Services require your representation, confirmation or attestation that information provided is true, accurate and complete.

You may also be asked to provide confirmations of certain facts at the various steps of an application, filing or other process.

You agree and confirm that your use of the various means to indicate such representations, confirmations or attestations (e.g., text boxes, “drop down” boxes, check boxes, radio (“yes”/”no”) buttons, “submit” or “validate” buttons) during or at the conclusion of a particular application, filing, or other process shall bind you in the same manner as if such representation, confirmation or attestation was made under oath or solemn affirmation.

You agree that the electronic means used to collect the necessary information in the various applications, filings and processes offered by the Services (e.g., text boxes, drop down boxes, check boxes, radio (“yes”/”no”) buttons, “submit” or “validate” buttons) constitute “electronic information” that you have “created or adopted” as contemplated by the *Electronic Transactions Act*, in order to sign the electronic document comprised of all the information provided in the course of the application, filing or process.

You agree that the combination of:

- (a) providing your name as part of the account creation process to access the Services, and**
- (b) checking any required checkboxes, “validate”, and/or “submit” buttons during or at the end of a particular application, filing or other process,**

shall constitute your “electronic signature” as contemplated by the *Electronic Transactions Act*.

Content

The Commission will use its best efforts to ensure that the information contained on the Website, the Portal and the Unclaimed Property Portal is accurate and up to date. However, the Commission makes no representation or warranty as to the accuracy of the information provided. The Commission reserves the right, but not the duty, to correct any errors or omissions in any portion of the Website, the Portal or the Unclaimed Property Portal at any time without notice.

All design, functionality and content of the Services, including any images, and text, but not including any third-party personal information, is owned exclusively by the Commission, and may not be distributed, downloaded, modified, reused, reposted, or otherwise used in whole or in part, whether in text, graphical, audio, video or executable form, without the express written permission of the Commission.

The Services may include links to third-party websites operated by other organizations, government agencies or private businesses. These links are not intended to be referrals and are posted only for convenience. The Commission has no responsibility or liability for, or control over such external websites. The Commission strongly advises you to read the terms and conditions and privacy policies of any third-party websites or services that you visit.

Service Availability

The Commission intends to provide 24-hour daily availability of the Services. However, the Commission makes no representation or warranty as to the availability or functionality of the Services. You agree and acknowledge that the Services will, at times, be unavailable due to regularly scheduled maintenance, service upgrades, or mechanical or electronic interruptions.

Security

The Commission will use its best efforts to make the Services secure from unauthorized access and to securely maintain your personal information. However, the Commission makes no representation or warranty regarding the security of the Services.

Privacy

The personal information you provide in the course of using the Services is collected on behalf of the Commission under the authority granted by the *Financial and Consumer Services Commission Act* and/or any of the other regulatory Acts, Regulations and/or Rules under the ambit of the Commission, for the purpose of the administration and enforcement of those Acts. The Commission may also share the information contained in your application, filing or other process with regulating authorities and law enforcement agencies in other jurisdictions, and you acknowledge that such information may be used in determining your status in other jurisdictions where you are licensed or applying for license.

You also acknowledge that your personal information may be collected by the Commission as part of the chronological record of user and system activities of, and relating to, the Services (the "audit log") for the purpose of maintaining an audit trail of the use and operation of the Services.

By completing and/or submitting any application, filing or other process using the Services, you confirm your consent and authorization to the Commission's direct and indirect collection of any personal information contained therein. Where a specific application, filing or process requires your consent to the performance of a background check, credit check, and/or criminal records check, your completion thereof confirms your consent to, and authorization for, the Commission to consult with other government regulators, law enforcement agencies, and private organizations, bodies or agencies, including former and current employers, and possibly collect additional relevant information, in order to complete and verify the information provided by you in your application, filing, or process. The additional information the Commission may collect includes but is not limited to police records, credit

records, and employment records.

All personal information collected is governed by the *Right to Information and Protection of Privacy Act* and by the Commission's Privacy Policy. Your personal information will not be disseminated to third parties or the public without your consent, other than as may be required by the *Right to Information and Protection of Privacy Act* or as otherwise permitted by applicable law. By agreeing to these Terms of Use you acknowledge you have read the Commission's Privacy Policy linked above.

All questions or comments regarding the collection of your personal information, the Commission's Privacy Policy or any of our policies, directives or procedures related to privacy should be addressed to the Privacy Designate at:

Privacy Designate
Financial and Consumer Services Commission of New Brunswick
85 Charlotte Street, Suite 300
Saint John, New Brunswick E2L 2J2
info@fcnb.ca

Sponsor/Employer/Delegate Users – Portal Only

A Sponsor/Employer/Delegate User is a user who accesses the Portal:

- (a) To complete an online filing or other process on behalf of a registered or licensed person or entity, or a person or entity who has applied to become licensed or registered, or
- (b) To view information about a registered or licensed person or entity, or a person or entity who has applied to become licensed or registered, in the course of an online third-party authorization or sponsorship approval process facilitated through the Services.

A Sponsor/Employer/Delegate User, with the consent of a registered or licensed person or entity, or a person or entity who has applied to become licensed or registered, can view the information provided by, or on behalf of, the person or entity using the Services, which may include information which is personal and confidential to that person or entity (the "Viewable Information").

A Sponsor/Employer/Delegate User agrees:

- (a) to use the Viewable Information only for the purposes of completing the applicable online process, authorization, or approval, and for no other purpose, and
- (b) to manage the storage of, access to, and retention of the Viewable Information in compliance with all applicable laws and regulations, including but not limited to the *Personal Information Protection and Electronic Documents Act* and in a manner consistent with these terms of use.

Communications by Email

The Commission may send out reminders or notices regarding the various applications, filings and processes offered by the Services, for example regarding the status of an application, or the due date of a particular renewal or filing. You agree that the Commission may communicate with you regarding such reminders or notices, using only the email address you have provided during the claims application or user account creation process as the case may be.

Modification

The Commission may modify, update, or discontinue the Services (including any of their portions or features) at any time without notice, and without liability to you or anyone else. The Commission may modify these terms or any additional terms that apply to the Services to, for example, reflect changes to the law or changes to the Commission's activities. The Commission will notify you of any changes to these terms by posting notice of such changes on the Services web site, or such other means of Notice as set out below. You should look at the terms regularly. Any modification to these terms is effective immediately upon their revision and posting to the website by the Commission. By continuing to use or access the Services after any revisions come into effect, you agree to be bound by the revised terms. If any change to these terms is not acceptable to you, you should discontinue use of the Services immediately.

User Conduct

You must not misuse the Services. For example, you must not:

- (a) copy, modify, host, sublicense, or resell the Services, or content;**
- (b) access or attempt to access the Services by any means other than the interface the Commission provides; (c) circumvent any access or use restrictions put into place to prevent certain uses of the Services;**
- (d) impersonate any person or entity, or falsely state or otherwise misrepresent your affiliation with a person or entity;**
- (e) attempt to disable, impair, or destroy the Services; or**
- (f) violate applicable law.**

Technical Support and Account Access by Commission Staff

For assistance with troubleshooting technical issues during your use of the Services, please access the "Request Support" page on the Services website (accessible from either the "Request Support" menu item or "Help" button displayed on every page).

To assist you in resolving technical issues with your use of the Services, Commission staff may require access to your user account. You agree to provide such access to Commission staff for the limited purpose of investigating and assisting you to correct technical issues while using the Services.

To access your account, Commission Staff will reset your password and log in to your account. Once the troubleshooting is complete, they will log out and reset your password. Anytime your user account is accessed by Commission staff for technical support, a note will be kept of the access within the Commission's data system.

Incidental Costs and Fees

You must pay any costs and/or fees arising from, or incidental to your use of the Services, including, for example mobile carrier fees, ISP charges, data plan charges, credit card fees, and foreign exchange fees. The Commission is not responsible for these fees.

Payments and Refunds – Portal Only

You acknowledge that the Commission has retained the services of Moneris to receive online payments for the applications, filings and processes offered by the Services through the Portal. The Commission accepts no responsibility for the information collected by Moneris in the course of these online payments and directs you to the Moneris Terms of Use for further information.

The Commission does not provide refunds directly to debit or credit cards. Requests for refunds are handled on a case by case basis. Where applicable, you may make a request for a refund by contacting the Commission at info@fcnb.ca.

Limitation of Liability

The Commission is not liable to you or anyone else for:

- (a) any breach of security or loss of use of the Services, loss of information, data, goodwill, or profits, whether or not foreseeable; and**
- (b) any damages whatsoever, whether direct or indirect, special, incidental, consequential, or punitive (even if the Commission has been advised of the possibility of these damages), including but not limited to those resulting from breach of security or loss of use of the Services, loss of information, data, or profits, whether or not foreseeable, or based on any theory of liability, including breach of contract or warranty, negligence or other tortious action, or arising from any other claim arising out of or in connection with your use of or access to the Services.**

Termination

The Commission may terminate your access and delete your user account without any notice to you if:

- (a) you materially breach any of these terms (or act in a manner that clearly shows you do not intend to, or are unable to, comply with these terms);**
- (b) the Commission is required to do so by law (for example, where the provision of the Services to you is, or becomes, unlawful); or**
- (c) the Commission elects to discontinue the Services, in whole or in part.**

Notice to the Commission

You may send any notices to the Commission at the following address: Financial and Consumer Services Commission of New Brunswick, 85 Charlotte Street, Suite 300, Saint John, New Brunswick, E2L 2J2 Attention: Legal Services.

Notice to You

The Commission may notify you by:

- (a) the email, postal mail or other contact details you provide when creating your account, or**
- (b) postings within the Services, or**
- (c) other legally acceptable means.**

Entire Agreement

These terms constitute the entire agreement between you and the Commission regarding your use of the Services and supersede any prior agreements between you and the Commission relating to the Services.

Non-Assignment

You may not assign or otherwise transfer these terms or your rights and obligations under these terms, in whole or in part, without the Commission's written consent and any such attempt will be void.

Severability

If a particular term is not enforceable, the unenforceability of that term will not affect any other terms.

No Waiver

The Commission's failure to enforce or exercise any of these terms is not a waiver of that section.