



## Terms & Conditions Girobank Mobile Banking Services

### March 5, 2012

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#### **1. Definitions**

In these General Terms and Conditions the following terms shall have the meaning:

- a. Girobank Mobile Banking Services: Access to Account information through the use of a mobile device using the text messaging capabilities of your mobile device or using a software application provided by a third-party.
- b. The Bank: Girobank N.V. , established in Curaçao and Bonaire and Girobank International N.V.
- c. P.I.N.: Personal Identification Number to verify identity whenever the Girobank Mobile Banking Services is accessed for inquiries, configurations and/or other transactions
- d. **Girobank online banking system:** the Bank's electronic financial services system as it may from time to time be upgraded, modified or renamed.
- e. Customer: natural persons who have a (eligible) bank account or otherwise pay in cash for other product and/or services or who has applied for and been accepted to use the Mobile banking services at the Bank
- f. SMS: Short Message System, service of text messaging that allows short messages to be sent between the mobile device and systems of the Bank
- g. Fee List: the applicable list of fees and charges as part of a transaction, which are published by the Bank and available at all local branches and on our website: [www.Girobank.an](http://www.Girobank.an). The Bank may amend the Fee list from time to time.
- h. Telecom provider: the companies that are delivering mobile telecommunications services, which are currently United Telecommunication Services (UTS) and Digicel operating in both Curaçao and Bonaire and that are partners to the Girobank Mobile Banking Services,
- i. Utility company: company that provides electricity, which is Aqualetra operating in Curaçao.
- j. Pagatinu: a prepayment system powered and offered by Aqualetra that enables its customers to purchase prepaid electricity.
- k. Registered Account(s): all active Resident Personal Current and Saving Accounts maintained by the Customer with Girobank N.V. in Curaçao and Bonaire or Non-resident personal current and savings Account maintained with Girobank International N.V., that are eligible and successfully registered to the Girobank Mobile banking services. For Non-Resident clients, only alerts will be available.
- l. No Sufficient Funds (NSF): indication that a demand for transaction cannot be processed because insufficient funds are available in the account.

#### **2. Access to the Mobile Banking services**

- a. The Bank grants to the Customer the right to access the Girobank Mobile Banking Services and use all services offered through this system in accordance with and subject to the General Terms



and Conditions of the Girobank Mobile Banking services. The Bank warrants that it has the right to grant to the Customer such right of access and use.

- b. The Customer can only access the Girobank Mobile Banking Services after a successful registration at one of the branches in Curaçao or Bonaire or on Gironet and after confirming acceptance of these Terms and Conditions with the mobile device.
- c.
- d. Customers must have a mobile device that offers text messaging and subscribed, either pre-paid or postpaid, to a telecom provider that supports Girobank Mobile Banking Services.
- e. Access to the Girobank Mobile Banking system is only possible through a P.I.N. which is created by the Customer. The P.I.N. is strictly personal and confidential and the Customer must keep the P.I.N. secret.
- f. The Bank cannot, under any circumstance or with any exception, be held liable for the consequences or damage suffered by the Customer directly or indirectly resulting from the use of the P.I.N., access codes, passwords or any similar codes, by any unauthorized party due to whatever reason.
- g. By using Girobank Mobile Banking Services, the Customer agrees to maintain one or more Accounts with the Bank and to keep sufficient balances in each Account to cover any transactions and fees that are ultimately approved by or related to the system.

### **3. Accountability**

- a. The Bank has the right at any time to modify any of the functions in its system or incorporate additional ones, and has the right to partly or totally modify the system at discretion of the Bank, without having to notify the Customer and without incurring any responsibility or liability in respect thereof, unless such modification of the system would imply an incompatibility with the previous system, making future access by the Customer to the system impossible, in which case the Bank shall notify the Customer accordingly.
- b. The implementation of new methods to access information will be at sole discretion of the Bank.
- c. Equipment, systems, cellular phones, programs to navigate the internet, if applicable, and any other programs required to use the Girobank Mobile Banking services shall be acquired by the Customer at his own expense and risk and will be required to have the necessary technical requirements to allow access to the network or equipment of the Bank.
- d. The Bank can under no circumstance be held responsible or liable for the functioning, capacity, compatibility and the like of the equipment, systems and programs acquired or used by the Customer.
- e. The Bank cannot be held liable and responsible vis-à-vis the Customer in case of a failure, due to the Telecom Provider, in the communication through the Girobank Mobile Banking system, as a result of which instructions or requests of the Customer are not processed.
- f. The Bank shall not be responsible and cannot be held liable vis-à-vis the Customer in the event of an unforeseen interruption of the Girobank Mobile Banking services due to maintenance, modification, expansion, enhancement nor of any difficulties that may arise with the functioning of the system, a delay in the processing time caused by a technical failure or a failure in the electronic service system, electrical system or telephone system, nor of any other type of failure caused by an event or circumstance which the Bank has no control over.



#### 4. Services

- a. The Bank offers the following services through Girobank Mobile Banking for all Registered Accounts:
  1. Balance inquiry: to view the current available balance of all Registered Accounts.
  2. Debit statement: showing the last 5 debits on the requested Registered Accounts
  3. Credit statement: showing the last 3 credits on the requested Registered Accounts
  4. Transaction alerts:
    - i. Showing the last debit transaction performed through all transaction channels of the Bank, including but not limited to POS, ATM and teller
    - ii. Showing the last credit transaction performed through all transaction channels of the Bank, including but not limited to POS, ATM and teller
    - iii. Showing the last debit transaction on registered credit cards, performed through POS sales, Internet sales and cash withdrawal (ATM)
  5. Bill payment: Customers can pay their utility bills of Aqualectra and postpaid phone bills of UTS and/ or Digicel from their registered Personal Current Account.
  6. Prepaid phone recharge: the registered Personal Current Account of the Customer will be debited for the cost of the prepayment without need for further demand, notice or consent. The Customer agrees that The Bank shall not be held liable in the event that the Telecom provider fails to recharge the requested telephone or mobile phone.
  7. Pagatinu: the registered Personal Current Account of the Customer will be debited for the cost of the prepayment without need for further demand, notice or consent. The Customer agrees that The Bank shall not be held liable in the event that the Utility Company fails, for providing recharge.
  8. A minimum and maximum transaction amount are applicable for transfers, recharges and bill payment
- b. These services will be offered 24 hours a day and seven days a week. These services will be unavailable when the bank is processing the end of day or when the system of the Utility company and or Telecom provider is/are unavailable.
- c. The Customer who makes use of these services is expected to use a mobile/telecommunication technology that is compatible to system of the Bank.
- d. The Customer agrees that The Bank shall not be held liable in the event that the Telecom Providers fails, for any reason whatsoever, to reload his/ her prepaid phone. Any complaint in connection with reloading shall and should be referred to and addressed to the Telecom Provider.
- e. In the event of any discrepancies, the Client must notify the Bank within 2 days after the alert or transaction.

#### 5. Termination

- a. The Bank shall have the right at any time to unilaterally discontinue the Girobank Mobile Banking services without assuming or incurring any responsibility or liability vis-à-vis the Customer and shall notify the Customer as soon as possible of such discontinuation.
- b. The Customer has the right to discontinue the use of the Girobank Mobile Banking services at any time by completing a service discontinuation form at one of the branches of The Bank or via **Girobank online banking system**. Discontinuation is immediate.
- c. 4.2 The Bank may block the access of the Girobank online banking system by the Customer immediately:
- d. - if the Customer is declared bankrupted or has applied for suspension of payment, or if the Bank is served with a garnishee order (*derdenbeslag*) related to the Customer's account(s);



- e. - if the relationship between the Customer and the Bank is terminated;
- f. - if the Customer is subjected to a guardianship order (*ondercuratelestelling*);
- g. - if the Customer deceases;
- h. - if there are reasonable ground to suspect misuse of the Girobank online banking system.

## **6. Indemnification**

- a. The Bank shall not be liable for, and the Customer agrees to indemnify and keep the Bank indemnified, against any and all proceedings, claims, losses, damages or expenses (including legal costs) arising from or in connection with the following:
  - i. The Bank's acting upon any instructions given to it via the mobile phone of the Customer, which is identified by the use of the Customer's account number, P.I.N., or such other means of identification assigned to the Customer associated with his/ her Registered Account(s);
  - ii. Any loss or damage arising out of any fraudulent access or utilization of the Girobank Mobile Banking service due to theft, loss or unauthorized disclosure of the P.I.N. or violation of other security measures used for Girobank Mobile Banking with or without participation of the Customer.
  - iii. Inaccurate, incomplete or delayed information due to disruption or failure of any communication facilities used for Girobank Mobile Banking, or due to faults in the communication network, internet or network failure, or software or hardware error beyond the control of The Bank
  - iv. Any loss or damage suffered by reason of the inability to use the Girobank Mobile Banking service.
  - v. Any loss or damage connected with the disclosure of information concerning the accounts and/or transactions of the Customer with The Bank to unauthorized persons for any reason whatsoever, including but not limited to wiretapping of communication lines or erroneous connection by telecommunication switches, or errors in transmitted information due to faulty lines, and any and all forms of high technology surveillance or fraud.

## **7. Liability**

7.1 Except to the extent that these General Terms and Conditions provide otherwise, and unless gross negligence or willful misconduct can be imputed to the Bank, the Bank shall in no event and under no circumstance whatsoever be liable for any Loss arising from or in connection with these General Terms and Conditions or in respect of the Girobank Mobile Banking system or the Services, directly or indirectly caused by:

- a. any viral contamination, downtime or unavailability, failure, malfunctioning, distortion or interruption of any computer equipment, hardware or software, or of any telephone line or other communication system, service link, service provider or service equipment;
- b. any error, discrepancy or ambiguity in, or delay in giving, any instruction or advise (which shall include any failure to transmit such instruction or advise) or information relating to the Registered Accounts;
- c. any damage to the Girobank Mobile banking system not caused by (any action or lack of action by) the Bank;
- d. any receipt by an unauthorized person of any (confidential) information, documentation, instruction, advise and the like related to the Customer, the Girobank Mobile banking system, or the Services;



- e. any use of the Girobank online banking system or the Services for unauthorized purposes or in a manner inconsistent with or in violation of any provision of these Terms and Conditions;
- f. any Loss related to non-access to the Girobank Mobile banking system, whether due to maintenance of the Girobank Mobile banking system or to any other reason or circumstance which should reasonably be considered to be out of the Bank's control;
- g. any (infringement) action or claim based upon or arising from the use of the Girobank Mobile banking system in combination with any other system, equipment or software;
- h. any event, circumstance, act or omission which should reasonably be considered not to be under the Bank's control;

7.2 Without prejudice to and in addition to any other indemnities provided to the Bank by the Customer, the Customer shall indemnify the Bank and hold it harmless from and against any Loss arising from or in connection with:

- a. any incorrect, delayed or incomplete transmission of any instruction, advice or information (which shall also include any failure to transmit) relating to the Registered Accounts;
- b. any error or omission in any information provided by the Bank through the Girobank Mobile banking system;
- c. any use or misuse by the Customer or any unauthorized person of the Girobank online banking system or failure to comply with any of the security provisions of these Terms and Conditions or any security provision otherwise communicated by the Bank to the Customer;
- d. any use of information made available by the Bank to the Customer or any third party duly representing the Customer or authorized by the Customer to receive such information, at the Customer's or, as the case may be, the third party's request.

## **8. Fees and charges**

- a. The Customer will be charged for any SMS sent to the SMS Gateway of the Bank as according to the fee established per SMS by the Telecom Provider. The Customer agrees hereby to be responsible for any telephone charges, text messaging fees, internet service fees and any other charges or fees that the Telecom provider may impose as a result of accessing the Registered Account(s) through the Girobank Mobile Banking service.
- b. The Bank will not charge any additional fees for requesting or using the Mobile Banking service.
- c. For any fees regarding prepaid payments the Customer will be charged accordingly as indicated on the Fee List.
- d. In case there are No Sufficient Funds on the Registered Account(s), the Customer will be unable to perform any prepaid payments. If the Registered Account(s) becomes dormant the customer will be unable to use the Girobank Mobile banking services until this is active again.

## **9. Conflicts and Inconsistencies**

9.1 These General Terms and Conditions shall apply to all legal and other acts that include the use of the Girobank online banking system. These General Terms and Conditions shall not detract from the applicability of any applicable Special Conditions. The Bank's General Terms and Conditions shall also apply.



9.2 In the event of any conflict between different conditions, the order of priority shall be as follows: first the relevant Special Conditions, next these General Terms and Conditions, lastly the Bank's General Terms and Conditions.

#### **10. Amendments**

The Bank has the right to amend these General Terms and Conditions from time to time. Notice of such amendments and/or additions shall, at the Bank's option, be given either in writing or by e-mail directed to the Customer, via the Bank's website or in at least one local newspaper.

#### **11. Governing Law and Jurisdiction**

These General Terms and Conditions are governed by the laws of the Curaçao. Any dispute between the Customer and the Bank, shall be submitted to the competent court in Curaçao or Bonaire, that is competent pursuant to the laws of Curaçao, with the exclusion of other courts, unless the Bank is the plaintiff and would prefer a different court.