

# GENERAL TERMS AND CONDITIONS

## GENERAL

### I. BASIC RULES FOR BUSINESS RELATIONS BETWEEN CUSTOMER AND BANK

#### A. Scope of application and modifications or amendments to these General Terms and Conditions

##### 1. Scope of application

**Section 1 (1)** These General Terms and Conditions (hereinafter referred to as GTC) shall apply to any and all business conducted between the customer and the bank and thus cover

- agreements for repeat or ongoing services for a definite or indefinite period of time, including but not limited to general agreements for payment services (e.g. Current Account Agreement or Credit Card Agreement), as well as investment services, custody agreements, loan agreements, safe deposit box lease agreements (hereinafter “permanent agreements”), and also
- agreements which the customer enters into with the bank for individual transactions, such as including without limitation transactions in foreign currencies and precious metals, individual payment and investment services, which are not covered by a permanent agreement (in the following referred to as “individual agreements”).

The provisions of agreements concluded with the customer or those included in special terms and conditions shall prevail.

(2) For the purposes of the GTC and in accordance with the consumer protection act, consumer means every customer for whom the transaction entered into with the bank does not constitute an integral part of the operation of his/her business (any organization, which is intended to be permanent, for the purposes of independent commercial activity). All other customers fall under the category of entrepreneurs, for the purposes of the GTC.

##### 2. Modifications of or amendments to the General Terms and Conditions and permanent agreements.

**Section 2 (1)** The bank will provide the customer amendments to the GTC or to a permanent agreement as set forth below (hereinafter “Amendment Proposal”). The provisions of the GTC and of the permanent agreement affected by the Amendment Proposal and the respective proposed changes will be presented in the form of a comparison table (hereinafter referred to as “Comparison”). If the Amendment Proposal applies to the GTC, the bank will publish the Comparison, as well as the updated full version of the new terms, online on its website. The bank will indicate this in the Amendment Proposal.

(2) The Amendment Proposal and the Comparison Table will be delivered to any customer who is a consumer.

Delivery will be

- to the Electronic Banking mailbox agreed upon between the customer and the bank. (in the following referred to as “Mobile Banking-Mailbox”). The customer will be informed of this mode of delivery by postal mail or upon prior agreement via email or SMS to a designated email address or Mobile-Number; or
- by email if the customer has selected email as the preferred mode of communication with the bank;
- by postal mail.

Upon delivery – this also applies to the Mobile Banking Mailbox – the Amendment Proposal and the Comparison can no longer be altered by the bank. If the Amendment Proposal and the Comparison have been delivered by email or to the Mobile Banking Mailbox, the customer can save an electronic copy or print the documents.

The Amendment Proposal, including the Comparison, and in the event of delivery to the Mobile Banking Mailbox, the respective notice of delivery must also be provided to the consumer customer no later than two months before the proposed effective date of the amendments.

(3) For an entrepreneur, it suffices to deliver the Amendment Proposal without the comparison table no later than two months before the proposed effective date of the amendments to the Mobile Banking Mailbox, or to provide it for access by the entrepreneur via the agreed upon channels.

(4) The Amendment Proposal shall be deemed accepted by the customer if the bank does not receive any

objection by the customer before the proposed effective date of the proposed amendments. The bank will advise the customer accordingly in the Amendment Proposal.

(5) In the event of an intended amendment to the GTC or to a general agreement for payment services, the customer shall be entitled to terminate his/her General Agreement for Payment Services (including without limitation the Current Account Agreement) without notice or prior to such amendments taking effect. The bank will advise the customer accordingly.

(6) An Amendment Proposal within the meaning of this Section 2 regarding services offered by the bank in connection with permanent agreements (including credit interest) and fees charged to the customer (including debit interest) is only permitted and effective provided the requirements set forth in Section 43, Paragraph 2, Section 44 and 46 to 47a are met.

## B. Statements

### 1. Customer orders and instructions

**Section 3 (1)** Instructions shall be given in writing. The customer may give the order on a platform for capturing electronic signatures which the bank provides specifically for that purpose.

(2) The bank shall, however, also be entitled to carry out instructions given via telecommunications (in particular over the phone, via telefax or data communication). Subject to the fulfilment of all other prerequisites the bank shall only be obliged to carry out such orders if agreed upon by the customer and the bank.

(3) The bank shall be entitled to carry out instructions of any kind given by an entrepreneur within the scope of the business relation on the customer's account if the bank is, without fault, of the opinion that they originate from the entrepreneur and if the ineffective order cannot be attributed to the bank. This does not just apply to orders concerning payment services.

### 2. Obtaining of confirmations by the bank

**Section (4)** For security reasons the bank shall be entitled, in particular in case of instructions given via telecommunications, to obtain a confirmation of the order via the same or a different means of communication, as the case may be.

### 3. Statements by the bank

**Section 5 (1)** Any notifications and statements of the bank made by means of telecommunications shall – unless agreed upon otherwise in writing and in the absence of other practices of the bank – apply subject to written confirmation. The above shall not apply vis-à-vis consumers.

(2) Notwithstanding any provisions to the contrary in Section 2, para. 7, Sections 38, 39, para. 10 and Section 40, para. 2, any and all information and statements by the bank regarding its business relations with the customer can be provided for access in the preferred form of delivery for bank account statements (e.g. Mobile Banking Mailbox, Tipas mailbox, Print on Demand).

## C. Right of disposal upon the death of a customer

**Section 6 (1)** As soon as it receives notice of the death of a customer, the bank shall permit dispositions on the basis of a decision rendered by the probate court or ruling to devolve to the heir (Einantwortungsbeschluss or European Certificate of Succession). Dispositions of joint accounts/joint securities accounts may be made by an account holder holding individual authority to dispose of the account shall not be affected by this provision.

(2) Authorizations to sign on an account which were granted by an entrepreneur for a business account shall not terminate upon the death of the customer. In case of doubt, the accounts of an entrepreneur shall be considered business accounts.

## D. Obligations and liability of the bank

### 1. Duty to inform

**Section 7** (1) The bank shall not be obligated to inform the customer of imminent price or exchange losses, of the value or lack thereof of objects entrusted to the bank, or of any facts or circumstances likely to affect or jeopardize the value of such objects. Nor shall the bank be obliged to provide other advice or information to the customer.

(2) For payment accounts, the bank will make available to the customer who is a consumer on a yearly basis and upon termination of the general agreement a statement of fees charged (charges, debit and credit interest) in the Mobile Banking portal or on paper on the premises of the bank. Upon request, the bank will provide the customer said statement once per year via the channel set forth in Section 2 (2).

(3) Chapter 3 of the 2018 Payment Services Act (Zahlungsdienstegesetz) does not apply to customers who are entrepreneurs.

### 2. Execution of orders

**Section 8** (1) The bank shall execute an order which, due to its nature, requires the assistance of a third party, by engaging the services of a third party on its behalf. If the bank selects the third party, it shall be liable for diligent selection.

(2) The bank shall be obligated to assign claims against a third party, if any, to the customer upon his/her request.

**Section 9** Beyond the scope of Section 8, the bank is liable for payment services within the European Economic Area (EEA) for consumers who are natural persons

- in the event the payment transaction was directly initiated by the payer, for proper execution of the payment transaction until receipt by the payee's payment services provider,
- in the event the payment transaction was initiated by or on behalf of the payee, for proper transfer of the payment transaction to the payer's payment services provider.

In both scenarios the bank's liability applies to any and all charges and fees including interest for which it is responsible and which accrued to the client as a consequence of defective execution of the payment transaction. If the amount specified in the payment transaction is in neither euros nor in another currency of an EEA member state, the bank can only be considered at fault and liable for its own actions regarding the parts of the execution that occur outside of the EEA and not for actions performed by the intermediaries engaged by the bank. Regarding the intermediaries, liability of the bank is limited to careful selection and instruction of the first intermediary in the chain.

## E. Obligations to co-operate and liability of the customer

### 1. Introduction

**Section 10** In his/her dealings with the bank the customer shall, in particular, observe the obligations to co-operate stated below. Any violation thereof shall lead to an obligation to pay damages on the part of the customer or to a reduction in his/her claims for damages vis-à-vis the bank.

### 2. Notification of important changes

#### (a) Name, address or other contact details

**Section 11** (1) The customer shall immediately notify the bank of any changes in his/her name, company name, address or the service address advised by him/her.

(2) If the customer fails to report changes in the address or in the service address provided by him/her, written communications of the bank shall be deemed received if they were sent to the address most recently advised to the bank by the customer.

#### (b) Power of representation

**Section 12** (1) The customer shall immediately notify the bank in writing of any cancellation or of changes of any power of representation advised to it, including an authority to operate and sign on an account (Sections 31 and 32), and shall provide appropriate documentary evidence in this regard.

(2) Any power of representation advised to the bank shall continue to be effective until written notification of cancellation of the same or of a change in its current scope, unless the bank had knowledge of such cancellation or change or was not aware thereof due to gross negligence. The same shall, in particular, also apply if the

cancellation or change in the power of representation is registered in a public register in Austria and was duly published.

*(c) Capacity to enter into legal transactions; dissolution of the company*

**Section 13.** The bank shall immediately be notified in writing of any loss of or reduction in the customer's capacity to enter into legal transactions. If the customer is a company or legal entity, a dissolution of the same shall be immediately notified to the bank.

*(d) Business relationship for own account or for account of third-parties*

**Section 13a.** Upon establishing a business relationship with the bank and when engaging the bank for occasional transactions, the customer is obliged to inform the bank whether s/he intends to conduct the business relationship or carry out the transaction for own or third-party account. With regard to the above, the customer must inform the bank immediately and of his/her own accord of any changes during the course of the business relationship.

### 3. Clarity of orders

**Section 14.** (1) The customer shall ensure that his/her orders / instructions to the bank are clear and unambiguous. Modifications, confirmations or reminders shall expressly be marked as such.

(2) If the customer wishes to give special instructions to the bank regarding the carrying out of orders s/he shall inform the bank thereof separately and explicitly, and in case of orders given by means of forms, the instructions shall be given separately, i.e. not on the form. This shall, above all, apply if the carrying out of the order is extremely urgent or subject to certain periods and deadlines.

### 4. Due diligence regarding the use of telecommunication; instruments of payment and other instruments for order placement; blocking of account access for third-party service providers

**Section 15** If the customer places orders or gives instructions through telecommunication channels, s/he shall take reasonable precautions in order to avoid transmission errors and misuse. This provision does not apply to customer orders and instructions regarding payment services.

**Section 15a.**(1) When using an instrument of payment which, according to the agreements with the bank, may be used for placing an order with the bank, the customer shall take all reasonable precautions to protect the personalized security features from unauthorized access. Sharing of security features with payment initiation service providers is permitted. The customer shall notify the bank or the designated agency of any loss, theft, misuse or other unauthorized use of the instrument of payment immediately upon discovery. Entrepreneurs shall be liable for any losses sustained by the bank due to violations of these duties of care and diligence without limitation in the event of negligence on the part of the entrepreneur.

(2) The bank shall be authorized to cancel instruments of payment issued to the customer if

- i. justified by objective reasons in connection with the security of the instrument of payment, or
- ii. unauthorized or fraudulent use of the instrument of payment is suspected; or
- iii. the customer has not fulfilled his/her payment obligations arising from credit granted with the instrument of payment (exceeding of credit line or overdraft facility), and
  - fulfillment of the payment obligation is in jeopardy because the financial position of the customer or the co-obligor is deteriorating or at risk, or
  - the customer is insolvent, or insolvency is imminent.

(3) The provisions of this item also apply to instruments which may be used outside the scope of the payment services for placing orders with the bank as agreed.

**Section 15b.** Provided notification of cancellation or of the reasons for such cancellation does not violate a court or administrative order or infringes on Austrian or Community Law or objective security considerations, the bank shall notify the customer prior to, but in any event without delay after such, cancellation through the communication channels agreed upon with the customer, and shall provide the reasons for such cancellation.

### 5. Raising objections and adjustment of payment transactions

**Section 16** (1) The customer shall review bank statements not referencing payment services (such as confirmation of orders placed for financial instruments and notifications of execution and trade confirmations; account statements; closing statements and any other statements for lending and foreign exchange transactions;

statements or lists of securities held) for their completeness and accuracy and raise any objections immediately or no later than within two months. If the bank receives no written objections within a period of two months for an account statement that does not refer to a payment account, the statements and services of the bank stated shall be deemed approved. The customer may request an adjustment to the account statement after the period of two months has passed, but has to prove that the account was debited incorrectly or credit due did not post. The bank will advise the customer of the consequences of failing to submit a timely objection each time at the start of the period.

(2) In the event of a current account debit resulting from an unauthorized or incorrectly executed payment transaction, the customer may effect an adjustment by the bank only if s/he has notified the bank without delay upon detecting such unauthorized or incorrectly executed payment transaction, but in any event no later than 13 months after the relevant debit date. If the customer is an entrepreneur, the period ends one month from the debit date. The time limits shall not be applicable if the bank fails to provide the customer with the information stipulated in Section 39 (10) of these GTCs regarding the relevant payment process or fails to give the customer access to this information. This provision does not overwrite any other claims for correction the customer might have.

(3) The bank shall refund the customer the amount of a non-authorized payment transaction immediately or no later than by the end of the next business day after it learned or was informed of the payment transaction. Reimbursement entails crediting the account that was debited so that the balance in the account is the same as before the non-authorized payment transaction was executed, with a value date no later than the day the account was debited. In the event the bank provided written notice to the Financial Market Authority of its legitimate suspicion that the customer acted in bad faith, the bank shall investigate and comply with its reimbursement obligation immediately after it has been confirmed that the suspected fraud was unfounded. If the transfer was initiated by a payment initiating service provider, the reimbursement obligation remains with the bank.

## 6. Notification in case of non-receipt of communications

**Section 17** The customer shall notify the bank immediately if s/he does not receive regular communications from the bank (such as closing statements or statements of securities) or other communications or mail from the bank, which, as the case may be, the customer would expect to receive, within the period of time normally needed for the agreed form of transmission. This provision does not apply to notices and communication regarding payment services.

## 7. Translations

**Section 18** Any foreign-language instruments shall be presented to the bank also in a German translation of a court-appointed and certified interpreter if the bank so requires.

## F. Place of performance; choice of law; legal venue

### 1. Place of performance

**Section 19** For business transactions with entrepreneurs, the place of performance for both parties shall be the offices of that branch of the bank with which the transaction was concluded.

### 2. Choice of law

**Section 20** All legal relations between the customer and the bank shall be subject to Austrian law.

### 3. Legal venue

**Section 21** (1) Legal actions of an entrepreneur against the bank may only be taken in the court having subject-matter jurisdiction at the place of the bank's registered office. This shall also be the legal venue in case of legal actions of the bank against an entrepreneur, with the bank being entitled to assert its rights in every court having local jurisdiction and jurisdiction over the subject-matter.

(2) The general legal venue in Austria provided for by law in case of legal actions of a consumer or against a consumer regarding agreements with a bank shall remain the same even if the consumer, after conclusion of the agreement, transfers his/her domicile abroad and Austrian court decisions are enforceable in that country.

## G. Termination of the business relation

### 1. Terminating a business relation with entrepreneurs without cause

**Section 22** (1) Provided there is no permanent agreement for a fixed term, the bank and the customer may terminate a permanent agreement (including loan agreements and general agreements for payment services including without limitation current account agreements) at any time by giving proper notice. Prepaid fees will not be reimbursed.

### 2. Terminating a business relation with consumers without cause

#### a) Termination by the customer

**Section 22a.** (1) The customer has the right to terminate a general agreement for payment services, including without limitation the Current Account Agreement, at any time without penalty up to the last day of the current month, whereby notices given on the last business day of the month go into effect the first business day of the following month. The right to terminate a general agreement for payment services, including without limitations the Current Account Agreement, free of charge and without notice, due to modifications of or amendments to the GTC or the general agreement for payment services, including without limitations the Current Account Agreement proposed by the bank shall remain unaffected.

(2) Loan agreements for indefinite duration can be terminated by the customer any time and without penalty by giving one month's notice. Notice of termination must be provided on paper or on some other form of permanent storage medium.

(3) All other agreements with the bank for indefinite duration can be terminated by the customer any time by giving adequate notice.

#### b) Termination by the bank

**Section 22b.** The bank may terminate general agreements for payment services entered into for indefinite duration (including but not limited to current account agreements and loan agreements) by giving two months' notice. All other agreements with the bank for indefinite duration can be terminated by the bank any time by giving adequate notice. Notice of termination must be provided on paper or on some other form of permanent storage medium.

### 3. Termination for important reasons

**Section 23** (1) The bank and the customer shall be entitled to terminate the entire business relation or individual permanent agreements at any time with immediate effect for good cause.

(2) Reasonable cause entitling the bank to terminate the business relation is including without limitation

- the financial situation of the customer or of a co-debtor deteriorates or is put at risk and the fulfilment of obligations vis-à-vis the bank is jeopardized as a result thereof,
- the customer furnishes incorrect information about his/her financial situation or other circumstances and the bank would not have entered into the agreement had it known the true financial situation or other circumstances, or
- the customer fails or is unable to fulfil the obligation to provide or increase collateral and thus jeopardizes fulfilment of the obligations to the bank.

### 4. Legal consequences

**Section 24.** (1) Upon termination of the entire business relation or individual parts thereof, the amounts owed thereunder will immediately become due and payable. In addition, the customer shall be obliged to release the bank from all liabilities assumed for him/her.

(2) In addition, the bank shall be entitled to terminate all liabilities assumed for the customer and to settle the same on behalf of the customer as well as to immediately redebit credited amounts, subject to collection. Claims arising from securities, in particular bills of exchange or checks, may be asserted by the bank until potential debit balances, if any, are covered.

(3) In the event of termination of the entire business relation or individual components thereof the bank will reimburse the customer who is a consumer pro rata the fees for payment services s/he prepaid for a certain period of time.

(4) These General Terms and Conditions shall continue to apply even after termination of the business relation until complete settlement.

## H. Right to refuse disbursement

**Section 25 (1)** The bank may refuse to disburse the loan amount for objectively justified reasons.

(2) In accordance with Paragraph 1, objectively justified reasons exist when situations arise after conclusion of a contract

- that show a deterioration of the financial situation of the borrower or a depreciation of the pledged collateral such that repayment of the loan or payment of interest would be in jeopardy even when liquidating the collateral, or
- the bank has objectively justified reason to suspect that the borrower uses the loan amount contrary to the contract or to legal provisions.

(3) The bank shall advise consumers of such intent immediately on paper or another permanent storage medium and shall state the reasons. The reasons shall not be disclosed if this would threaten public safety and order.

## II. BANK INFORMATION

**Section 26** General information about the financial situation of an enterprise which is customary in banking practice will only be provided in a non-binding manner and, vis-à-vis entrepreneurs, only in writing unless an obligation to provide such information exists.

**Section 27** Empty

## III. OPENING AND KEEPING OF ACCOUNTS AND SECURITIES ACCOUNTS

### A. Scope

**Section 28** Unless otherwise provided the following regulations regarding accounts shall also apply to securities accounts.

### B. Opening of accounts

**Section 29** When opening an account the future account holder shall prove his/her identity. Accounts shall be kept under the name of the account holder or the company name together with an account number.

### C. Specimen signature

**Section 30** Persons who are to be authorised to operate or sign on an account or securities account shall deposit their signature with the bank. Based on the signatures deposited the bank shall permit written disposition within the scope of the account.

### D. Authority to operate and sign

#### 1. Authority to operate the account

**Section 31** Only the account holder shall be entitled to operate the account. Only persons whose power of representation is provided for by law or persons who hold an express written power of attorney to operate the account shall be entitled to represent the account holder. They shall be obliged to prove their identity and power of

representation. For durable powers of attorney which are registered in the Central Austrian Register of Representation (Österreichisches Zentrales Vertretungsverzeichnis, ÖZVV), it shall suffice to have a power of attorney that includes the authorization to operate the accounts of the grantor of the power of attorney.

## 2. Authority to sign

**Section 32** (1) The account holder may expressly and in writing grant third parties authority to sign on an account. The authorized signer must provide the bank with proof of identity. The authorized signer shall be exclusively entitled to make and revoke transactions for the account.

(2) The authority to sign on a securities account also includes the power to buy and sell securities within the scope of the coverage available. Investment consultation for the authorized signer by the bank is only provided if the authorized signer is authorized to represent all other securities accounts (including settlement accounts) associated with the respective account number and is based solely on the stated investment objectives, financial situation and risk tolerance of the holder of the securities account. An assessment of the experience and knowledge only considers the authorized signer. In the event of a purchase/sale that is not based on consultation by the bank, the bank only checks whether the authorized signer has the experience and knowledge relevant for the selected product (appropriateness check). If the authorized signer does not have the necessary experience and relevant knowledge (or if s/he does not provide any pertinent information), the bank will alert him/her of the lacking suitability (or lacking verifiability of the appropriateness by the bank) to comply with standard procedures, but the authorized signer can proceed with placing the order.

## E. Special types of accounts

### 1. Sub-account

**Section 33** An account may also include sub-accounts. Even if they are given sub-account names the account holder shall be exclusively entitled and obligated vis-à-vis the bank in connection with the same.

### 2. Escrow account

**Section 34** In case of escrow accounts the escrow agent shall be exclusively entitled and obligated vis-à-vis the bank as account holder.

### 3. Joint account

**Section 35.** (1) An account may also be opened for several account holders (joint account). Dispositions regarding the claim underlying the account, in particular the closing thereof and the granting of authority to sign, may only be made by all account holders jointly. Every account holder may be represented by an authorised representative in the individual case of account dispositions. Authorizations to sign may be revoked by each individual joint account holder.

(2) The account holders shall be liable jointly and severally for obligations arising out of the account.

(3) Except as otherwise expressly provided, every joint account holder shall have individual power to make dispositions regarding the account. Such authority also includes the power to buy and sell securities within the scope of the coverage available. The authority of the joint account holder will, however, be terminated by the express objection of another account holder. In such case the joint account holders shall only be authorised to act jointly. Investment consultation for the co-owner of the securities account by the bank is based solely on the stated investment objectives, financial situation and risk tolerance of the joint owners of the account. With conflicting information, the lowest-level partial assessment score for all co-owners of the securities account is taken into account for the investment objectives and the risk tolerance, while the highest partial assessment score for all co-owners is taken into account with regards to the financial situation. An assessment of the experience and knowledge only considers the securities account co-owner who is authorized to operate the account.

For a purchase/sale that is not based on consultation by the bank, the bank only checks whether in the relevant case the securities account co-owner who operates the account has experience and knowledge concerning the selected product (appropriateness check). In the event the securities account co-owner with current right of disposal does not have the necessary experience and relevant knowledge (or if s/he does not provide any pertinent information), the bank will alert him/her of the lacking suitability (or lacking verifiability of the appropriateness by the bank) to comply with standard procedures, but the securities account co-owner can proceed with placing the order.



## Section 36. Empty

### 4. Foreign currency account

**Section 37.** (1) The bank's obligation to execute an order to debit a foreign currency balance or to settle a foreign currency liability shall be suspended to the extent that, and as long as, the bank has limited or no access to the currency in which the foreign currency balance or the liability is denominated due to political measures or events in the country of the relevant currency. To the extent that, and as long as, such measures or events last, the bank shall not be obliged to ensure fulfilment in a different place outside the country of the relevant currency, in a different currency (including the euro) or through the procurement of cash. The bank's obligation to execute an instruction to the debit of a foreign currency balance shall not be suspended, however, if the bank can ensure complete execution in-house. The above provisions shall not affect the right of the customer and of the bank to offset mutual claims which are due and denominated in the same currency against one another.

## F. Balancing of accounts and statements of securities

**Section 38** (1) Unless otherwise agreed, the bank shall balance the account on a quarterly basis. All interest and charges accrued since the last account balancing shall be included in the closing balance, which shall subsequently continue to carry interest ("compound interest"). The customer shall receive the account balancing along with the account statement.

(2) Statement of securities will be provided on a quarterly basis. The statement of securities can be delivered via the Mobile Banking Mailbox. The customer will receive special notification of deliveries to the Mobile Banking Mailbox. This communication is provided through postal mail or, if agreed upon with the customer, to a customer provided email address or text messaging number.

## IV. GIRO TRANSACTIONS

### A. Transfer instructions

**Section 39** (1) For electronic transfers in euros to a payee with a bank account at a payment service provider located in Austria or in a member country of the European Economic Area (EEA) or in Switzerland, the customer shall specify the payee's International Bank Account Number (IBAN).

Transfer instructions in currencies other than the euro to a payee with an account at a payment service provider within Austria or another country within the European Economic Area (EEA) or Switzerland, shall specify the payee's International Bank Account Number (IBAN) and the Bank Identifier Code (BIC) of the payee's payment service provider.

(2) When transfers are to be made to a payee whose account is kept by a payment service provider outside the EEA or Switzerland, the customer shall specify the payee's name and identify the payee as follows:

- by providing the payee's account number and using either the name, the sort code or the BIC of the payee's payment service provider, or
- by providing the payee's IBAN and the BIC of the payee's payment service provider.

(3) IBAN and BIC or account number and name/sort code/BIC of the payee's payment service provider which the customer has to enter according to a) and b) above, constitute the payee's unique identifiers for executing the transfer. Additional information relating to the payee such as including but not limited to the payee's name, which must be specified when giving the transfer instruction, does not constitute part of the unique customer identifier and is for documentation purposes only and will not be considered when executing the transfer.

(4) The designated purpose stated in the transfer instruction shall be irrelevant to the bank under any circumstances.

(5) Acceptance of a transfer instruction by the bank alone shall not lead to any rights of a third party vis-à-vis the bank.

(6) The bank shall only be obliged to carry out a transfer instruction if sufficient funds to cover the total amount are available in the designated customer account (credit balance, overdraft facility).

(7) The customer is entitled to engage the services of a payment initiation service provider to initiate a transfer instruction, unless the provider does not have online access to the customer payment account.

(8) Transfer instructions received by the bank or by a payment initiation service provider (Section 39a) cannot be revoked unilaterally by the customer. If a later date of execution has been agreed for a transfer instruction, it shall become irrevocable only upon expiration of the business day immediately preceding the execution date.

(9) If the bank refuses execution of a transfer instruction, the bank shall notify the customer by the agreed upon method and as timely as possible but no later than within the time limits set forth in Section 39a (3) and (4) about the reasons for such refusal and about ways to amend the transfer instruction to allow for a future execution. A reason for such refusal shall only be stated if this would not constitute an infringement of Austrian or Community law or an infringement of a court order or an order issued by an administrative authority. Transfer instructions refused by the bank for justified reasons shall not trigger the execution deadlines stipulated in Section 39a of these GTC.

(10) Information about executed transfer instructions (reference, amount, currency, charges, interest, exchange rate, value date of the debit entry) as well as any other payments debited from the customer's account, particularly in relation to direct debits and standing orders, shall be provided to the customer, who is a consumer unless already shown for the relevant transaction in the statement of account – free of charge monthly upon request in the statement of account monthly upon request in the manner agreed upon with the customer (e.g. Mobile Banking inquiry) so s/he can store them as is or reproduce them. The customer may further require the statement of account to be provided by the bank once a month, against an appropriate compensation of costs, in paper form or to the Mobile Banking Mailbox.

#### Execution deadlines

**Section 39a.** (1) Payment orders received by the bank after the deadlines specified for the respective type of payment (time of receipt) or on a day which is not a business day are deemed received on the following business day. The bank will provide the customer who is a consumer the specific deadlines for receipt of instructions in a timely fashion before and upon entering into the current account agreement and hereinafter every time the deadline changes, in paper format or – if agreed upon with the customer – on a different permanent storage medium. A business day is any day on which the bank is open for business as required for the execution of payment transactions.

(2) If the customer who gives a payment instruction and the bank agree that execution of a payment order should commence on a specific date or at the end of a specific period or on the day on which the customer provides the bank with the relevant amount of money, then the agreed upon date shall be deemed the date of receipt. If the agreed upon date is not a banking day, the payment order shall be treated as received on the following business day.

(3) The bank shall ensure that, after the time of receipt, the amount of the payment transaction will be credited to the payee's payment service provider's account no later than by the end of the following business day. In the case of payment transactions submitted in paper form, no later than by the end of the day after the following business day.

Those time limits only apply to the following payment transactions within the European Economic Area (EEA):

- (i) Payment transactions in euros and
- (ii) Payment transactions in which amounts in euros are transferred to an EEA member state that does not participate in the European Monetary Union and will then be converted to the national currency.

(4) For payment transactions within the European Economic Area (EEA) not mentioned in Paragraph 3, the execution time mentioned in Paragraph 3 shall not exceed 4 business days.

## **B. Credit entries and right to cancel**

**Section 40** (1) With a valid existing current account agreement in place, the bank shall be obliged and irrevocably entitled to accept amounts of money on behalf of the customer and credit the same to his/her account. If the bank has any claims against the customer in connection with the account, the bank shall be entitled – even after termination of the current account agreement – to accept amounts of money on behalf of the customer and to offset its claims against the customer's claim for payment of the amount received. The customer may dispose of the remaining balance after settlement.

The instruction to provide a customer with an amount of money shall be carried out by the bank by crediting the amount to the account of the customer unless otherwise indicated in the instruction. If the customer's account designated in the instruction is not held in the currency of the instruction, the credit entry shall be made after conversion in the account's currency at the conversion rate of the day on which the respective amount is at the bank's disposal and may

be utilized by it.

(2) Information about transfers credited to his/her account (reference, amount, currency, charges, interest, exchange rate, value date of the credit entry) shall be provided to the customer, who is a consumer – unless already shown for the relevant transaction in the statement of account – monthly upon request in the manner agreed upon with the customer so s/he can store them as is or reproduce them. The customer may further require the statement of account to be provided by the bank once a month against an appropriate compensation of costs in paper form or to the Electronic Banking Mailbox.

(3) The bank shall be entitled to deduct from the credited amount its charges for the relevant transfer. The bank shall show the transfer amount and deducted charges itemized. Where a payment transaction to be credited to a customer is initiated by or through the customer as a payee, the bank shall value the credit transfer to the customer's account in the full amount.

(4) The bank shall be entitled to cancel any credit entries made due to an error on its part at any time. In other cases, the bank will only cancel the credit entry if the ineffectiveness of the transfer instruction is clearly proven. The right to cancel shall not be eliminated by a balancing of the account which took place in the meantime. If the right to cancel exists the bank may deny disposal of the amounts credited.

(5) In the event a payment transaction to the benefit of a customer who is an entrepreneur was executed with slight delay, the bank will credit the amount of the payment transaction with a value date that corresponds to the date of timely execution only if the bank is at fault regarding the delayed execution of the payment transaction.

### C. Credit entry – subject to collection

**Section 41** (1) If the bank credits amounts it has to collect on behalf of the customer (in particular, within the scope of collecting cheques, bills of exchange and other securities, debit notes, etc.), or which are to be transferred to the customer's account, to the customer's account before the amount to be collected or transferred is received by the bank, the credit entry shall be made subject to the actual receipt of the credited amount by the bank. This shall also apply if the amount to be collected should be payable to the bank.

(2) Due to this reservation, the bank shall be obliged to reverse the credit entry by means of a simple entry if the collection has failed or if due to the economic situation of a debtor, intervention by a public authority or for other reasons it is to be expected that the bank will not obtain the unrestricted right of disposition over the amount to be collected.

(3) The reservation may also be exercised if the amount credited was collected or transferred from abroad and the bank is re-debited the amount by a third party pursuant to foreign law or on the basis of an agreement entered into with a foreign bank.

(4) If the reservation is in force, the bank shall also be entitled to deny the customer the right to dispose of the credited amounts. The reservation will not be eliminated by the balancing of accounts.

### D. Debit entries

**Section 42** (1) In the event of transfer instructions, debit entries shall only be considered a confirmation that the instruction has been carried out if the debit entry was not reversed within two banking days (cf. Section 39a (1) of these GTC).

(2) Checks and other payment instructions as well as Business to Business Direct Debits (Section 42a (1)) are deemed collected/cashed/honored if the debit entry has not been cancelled on the debited account of the customer within three banking days unless the bank has informed the presenter or paid him/her the amount in cash already prior thereto. Direct Debits (Section 42a (1)) are honored upon expiry of five business days.

### E. Direct Debit and Business to Business Direct Debit

**Section 42a.** (1) Direct Debit means that the payer directly authorizes the payee, by means of a Direct Debit mandate and without involving the payer's bank, to collect amounts at the expense of the payer's account.

Business to Business Direct Debit means that

- the payer directly authorizes the payee, by means of a Business to Business Direct Debit mandate, to collect amounts at the expense of the payer's account,
- whereby both the payer and the payee are entrepreneurs and
- the Business to Business Direct Debit mandate is being held by the payer's bank before the account is debited.

The customer (payer) agrees to his/her account being debited with amounts collected from his/her account at the bank by third parties (payees) who were authorized by him/her by means of a Direct Debit mandate or a Business to Business Direct Debit mandate. Such consent may be revoked by the customer in writing at any time. Such revocation shall take effect from the business day following receipt by the bank. In the same way, consent to Direct Debits (but not Business to Business Direct Debits) by an authorized third party may be restricted to a specified amount or a specified interval or both.

(2) The bank shall execute Direct Debits and Business to Business Direct Debits to be debited to the customer's account on the basis of the International Bank Account Number (IBAN) transmitted by the bank collecting the amount. The IBAN data are the customer identifier used for executing the Direct Debit or the Business to Business Direct Debit. If the bank collecting the amount provides additional details of the customer, such as the name of the holder of the account from which the amount is to be collected, such details shall serve only documentation purposes and will be disregarded by the bank when it executes the Direct Debit or the Business to Business Direct Debit. The bank shall only be obliged to carry out a direct debit instruction if sufficient funds to cover the total amount are available in the customer's account stated therein (credit balance, overdraft facility).

(3) The customer (payer) may request a refund from the bank of the amount debited to his/her payment account due to a Direct Debit mandate issued by him/her within eight weeks from the date on which the respective amounts were debited. The bank shall comply with the customer's request and shall refund the debited amount to the customer's account within ten business days with the valuation of the date on which the account was debited. With Business to Business Direct Debit mandates the customer is not entitled to request a reversal of the debit to the account.

(4) In the event that the Direct Debit or the Business to Business Direct Debit executed at the expense of the customer's account was not authorized, the customer shall obtain a correction in accordance with Section 16 Paragraph (2) and (3).

## V. CHANGES IN CHARGES AND SERVICES

### A. Changes in charges and services for entrepreneurs

**Section 43** (1) The bank shall be entitled in business with entrepreneurs to change, at its reasonable discretion, the charges for permanent services which are payable by the bank or the customer (including debit interest and credit interest on current accounts and other accounts, account maintenance fees) by taking into account all relevant circumstances (in particular, changes in the legal framework, changes in money markets or capital markets, changes in funding costs, changes in staff expenses and non-staff expenses, changes in the Consumer Price Index, etc.). The same applies to changes to other services provided by the bank due to changes in legal requirements, in the security of the banking operation, in technical developments or in the significant decrease in utilization of a service which materially affects covering the cost of such services.

(2) Changes to permanent services provided by the bank or fees charged to the customer that go beyond the changes stated in Paragraph 1, as well as the introduction of new chargeable services and new charges for services previously established, will be offered to the customer no later than two months prior to the proposed effective date as stated in Section 2. Those changes shall be deemed accepted by the customer if the bank does not receive written objection by the customer before the proposed effective date. The bank will advise the customer accordingly in the Amendment Proposal.

## B. Changes in agreed upon charges for payment services for consumers (excluding debit interest)

**Section 44** (1) Changes in the fees and charges agreed upon in the general agreement for payment service (including without limitations the current account agreement) will be offered the customer by the bank no later than two months prior to the proposed effective date, which is in any event 1 April. Those changes shall be deemed accepted by the customer if the bank does not receive objection by the customer before the proposed effective date. The bank shall draw the customer's attention to this fact in its Amendment Proposal which shall detail the extent of changes. The customer shall be entitled to terminate his/her current account agreement free of charge without notice prior to the change taking effect. The bank will advise the customer accordingly in the Amendment Proposal. The bank shall deliver the Amendment Proposal to the customer as set forth in 2 (2).

(2) The bank may agree upon adjusting the charges and fees to the changes in the Consumer Price Index 2000 published by Statistik Austria ("Consumer Price Index") in the manner set forth in Paragraph 1. The adjustment is based on a comparison of the index between November of the previous year and November of the year before that. The charges resulting from such adjustment will be rounded off to a full cent. If the customer was not offered the fee adjustment resulting from changes in the Consumer Price Index during one year, the adjustment can still be offered to the customer at a later date with effect going forward.

## C. Changes in agreed upon charges other than payment services for consumers (excluding debit interest)

**Section 45** The fees and charges agreed upon with consumers for permanent agreements that do not cover payment services (e.g. safety deposit box rental fee, management fee for accounts that are not used for payment services) shall be adjusted annually with effect as of April 1 each year in accordance with the changes in the National Consumer Price Index 2000 published by Statistik Austria (increased or reduced) with the adjustments rounded off to a full cent. The adjustment is based on a comparison of the index between November of the previous year and November of the year before that. If for any reason fees are not increased following an increase in the Index, this does not forgo the right to implement that increase effective in the future. Fee adjustments take effect at the earliest at the end of two months from entering into the agreement.

## D. Changes to the debit interest rates agreed upon with consumers

**Section 46** (1) If an adjustment clause ties a debit interest rate to a reference interest rate (e.g. the EURIBOR), changes shall take effect immediately without prior notification of the customer. The consumer shall be notified of changes to the interest rate that have taken effect no later than during the subsequent calendar quarter. Interest rate adjustments take effect at the earliest at the end of two months from entering into the agreement.

(2) If no adjustment clause was agreed upon with the customer or the bank intends to implement a change to the debit interest rate that exceeds the agreed upon adjustment, the bank shall offer the customer this change to the interest rate no later than two months prior to the proposed effective date. The change shall be deemed accepted by the customer, if the bank does not receive objection by the customer before the proposed effective date. The bank shall draw the customer's attention to this fact in its Amendment Proposal which shall detail the extent of changes. The bank shall deliver the Amendment Proposal to the customer as set forth in Section 2 (2).

(3) The bank may agree upon an interest rate adjustment with the customer in the manner set forth in Section 2 only under the following conditions:

- The proposed interest rate adjustment reflects the changes arising from developments in the money and capital markets in the cost to the bank for the respective loan since conclusion of the agreement that is subject to the current interest rate.
- An increase in interest rates in accordance with Paragraph 2 must not exceed 0.5 percentage points per year and may be implemented no earlier than two years following conclusion of the respective agreement.

The Amendment Proposal shall point out that the proposed change in interest rate exceeds the increase following the

agreed upon adjustment clause. In the absence of an adjustment clause, the Amendment Proposal shall point out that the agreement in which the interest rate is stipulated does not provide for any unilateral interest rate adjustment.

## E. Change to the services of the bank agreed upon in permanent agreements with consumers (excluding credit interest)

**Section 47** (1) Changes in the services agreed upon in a permanent agreement with the customer will be offered the customer by the bank no later than two months prior to the proposed effective date. Those changes shall be deemed accepted by the customer, if the bank does not receive objection by the customer before the proposed effective date. The bank will advise the customer accordingly in the Amendment Proposal. The bank shall deliver the Amendment Proposal to the customer as set forth in Section 2 (2).

(2) The bank may only agree upon changes in services in the manner set forth in Paragraph 1 if it is objectively justified to do so when taking into account all circumstances (change in prevailing customer needs, statutory and regulatory requirements, security of banking operation, technical developments or a significant decrease in utilization of a service which materially affects cost coverage for such service). Such objective justification shall be given only if the proposed change in services results in an extension of the bank's services or a limitation of the bank's services that can be reasonably accepted by the customer and does not result in any unreasonable changes to essential rights and obligations in the bank's favor.

## F. Changes to the credit interest agreed upon with consumers

**Section 47a.** (1) If an adjustment clause ties a credit interest rate to a reference interest rate (e.g. The EURIBOR), changes shall take effect immediately without prior notification of the customer. The consumer shall be notified of changes to the interest rate that have taken effect no later than during the subsequent calendar quarter.

(2) If no adjustment clause was agreed upon with the customer or the bank intends to implement a change to the credit interest rate that exceeds the agreed upon adjustment, the bank shall offer the customer this change to the interest rate no later than two months prior to the proposed effective date. The change shall be deemed accepted by the customer, if the bank does not receive objection by the customer before the proposed effective date. The bank shall draw the customer's attention to this fact in its Amendment Proposal which shall detail the extent of changes. The bank shall deliver the Amendment Proposal to the customer as set forth in Section 2 (2).

(3) The bank may agree upon an interest rate adjustment with the customer in the manner set forth in Section 2 only under the following conditions:

- The proposed interest rate adjustment reflects the changes arising from developments in the money and capital markets in the cost to and reinvestment options for the bank for the respective credit balance since conclusion of the agreement that is subject to the current interest rate.
- A reduction in interest rates in accordance with Paragraph 2 must not exceed 0.5 percentage points per year and may be implemented no earlier than two years following conclusion of the respective agreement.
- The Amendment Proposal shall point out that the proposed change in interest rate exceeds the increase following the agreed upon adjustment clause. In the absence of an adjustment clause, the Amendment Proposal shall point out that the agreement in which the interest rate is stipulated does not provide for any unilateral interest rate adjustment.

## VI. COLLATERAL

### A. Change in the risk

**Section 48** (1) If circumstances occur or become known subsequently which justify an increased risk assessment of the claims vis-à-vis the customer, the bank shall be entitled to demand the provision or increase of collateral within a reasonable period of time. This shall, in particular, be the case if the economic situation of the customer has deteriorated

or threatens to deteriorate or if the collateral available has deteriorated in value or threatens to deteriorate.

(2) This shall also apply if no collateral was required at the time the claims came into existence.

## B. Bank's lien

### 1. Scope and creation

**Section 49** (1) The customer shall grant the bank a lien on any items and rights that, at the customer's volition, come into the bank's possession in connection with any banking transaction entered into with the bank.

(2) Notwithstanding anything to the contrary in Section 51, the lien shall, in particular, also exist on all claims of the customer vis-à-vis the bank, such as from credit balances. If securities are subject to the lien, the lien shall also extend to the interest and dividend coupons pertaining to such securities.

**Section 50** (1) The lien shall secure the bank's claims vis-à-vis the customer arising from the business relationship, including joint accounts, even if the claims are conditional or limited as to time or not yet due.

(2) The lien shall be created upon the bank's taking possession of the item to the extent claims pursuant to Paragraph 1 exist; otherwise at any future point in time when such claims arise. If the customer is an entrepreneur the lien also secures the bank's statutory claims as well as claims by third parties where fulfillment of the claims is the customer's responsibility.

(3) The lien shall be created upon the bank's taking possession of the item to the extent claims pursuant to Paragraph 1 exist; otherwise at any future point in time when such claims arise.

### 2. Exemptions from the lien

**Section 51** (1) The lien shall not include items and rights which have been assigned by the customer to a certain order prior to the establishment of the lien, e.g. amounts earmarked for the cashing of a specific check or for honoring a specific bill of exchange as well as for the execution of a certain transfer. This shall, however, apply only as long as the assignment is effective.

(2) Notwithstanding the existing lien, the bank shall carry out transactions for the customer regarding credit balances in current accounts in favor of third parties as long as the customer has not received a notification from the credit institution on the assertion of the lien. Distraint of the credit balance shall not be considered a customer transaction. In the event the current account receives payments for non or only partially distrainable claims of the customer, the bank's lien to the assets in the current account only covers the distrainable portion of the inflows to the account.

(3) The lien shall not include assets which the customer has disclosed in writing to the bank as escrow assets prior to the establishment of the lien or which have come into the possession of the bank without the customer's will.

## C. Release of collateral

**Section 52.** Upon the customer's request the bank will release collateral to the extent it has no justified interest in keeping it as security.

## D. Realization (sale) of collateral

### 1. General information

**Section 52a.** The following Sections 53 to 56 govern the procedure in the bank may apply in realizing collateral. As a basic requirement in each case (except cases covered by Section 56, where a claim serving as collateral becomes due before the secured claim becomes due), the secured claim shall be due and the right to realize such collateral shall have materialized pursuant to the applicable contractual and legal provisions. This requires a prior notice to the customer specifying the amount of the secured claim and advising that such collateral will be realized; at least two weeks shall have passed since the notice was sent to the customer. If the customer is an entrepreneur, the relevant period is one week. The notice threatening realization of collateral may be foregone if it is impracticable, e.g. because the customer's whereabouts are unknown. In such case the relevant period starts from the date the secured claim becomes due. Collateral may be realized before expiry of the relevant period if waiting for the period to expire would involve the risk of a significant and permanent

loss in value.

## 2. Sale

**Section 53** Collateral having a market price or stock exchange price shall be realized by the bank by selling them at such price in the open market.

**Section 54** Movable, physical items serving as collateral and having no market price or stock exchange price . shall be assessed by an authorized independent expert on behalf of the bank. The bank shall notify the customer of the result of the assessment and at the same time request that the customer names a party interested in purchasing the same within a reasonable period of time but no less than two weeks which who will pay the assessed value as purchase price to the bank within such period. If the customer fails to name an interested party within such period or if the purchase price is not paid by the named interested party, the bank shall be entitled irrevocably to sell the collateral in the name of the customer for not less than the assessed value. The proceeds from the sale shall be used for redemption of the secured claims, with the customer being entitled to the surplus, if any.

## 3. Enforcement and out-of-court auction

**Section 55** The bank shall also be entitled to realize the collateral by enforcement or – to the extent it has no market price or stock exchange price – to sell it at a public auction conducted by an authorized entrepreneur. The time and place of such auction and a general description of the collateral shall be published. The party who has provided the collateral and any third parties having rights to the collateral shall be informed of such details.

## 4. Collection

**Section 56** (1) The bank shall be entitled to terminate and collect the claims provided to it as collateral (including securities) if the secured claim is not paid when due. Prior thereto it shall be entitled to collect the claim serving as collateral when it becomes due. In the event of imminent significant and permanent loss in value of the claim serving as collateral the bank shall be entitled to terminate the same even prior to the same becoming due. To the extent possible, the customer shall be informed thereof in advance. Amounts collected prior to the due date of the secured claim shall serve as pledge substituting the claim collected.

(2) The provisions under Paragraph 1 shall not apply to wage and salary claims of consumers which have been provided as collateral for claims not yet due.

**Section 57** Empty

## E. Right of retention

**Section 58.** The bank shall be entitled to retain services to be rendered by it to the customer due to claims arising out of the business relationship even if they are not based on the same legal relationship. Sections 50 and 51 shall apply accordingly.

## VII. OFFSETTING AND CREDITING

### A. Offsetting

#### 1. By the bank

**Section 59** (1) The bank shall be entitled to offset all of the customer's claims to the extent they are distrainable against all liabilities of the customer vis-à-vis the bank.

(2) Notwithstanding the existing right to offset the bank shall carry out dispositions of the customer in favour of third parties regarding credit balances on current accounts as long as the customer has not received an offsetting statement. Distraint of the credit balance shall not be considered a disposition by the customer.



## 2. By the customer

**Section 60** The customer who is a consumer shall only be entitled to offset his/her liabilities if the bank is insolvent or if the claim of the customer is related to his/her liability or has been ascertained by court decision or recognized by the bank. The customer who is an entrepreneur hereby unconditionally and irrevocably waives his/her right to offset his/her liabilities in such cases.

## B. Settlement

**Section 61 (1)** In doing business with entrepreneurs, notwithstanding the provisions of Section 1416 Austrian General Civil Code (ABGB), the bank may initially credit payments to any accounts that are payable to the bank if no collateral has been provided for the same or if the value of the collateral provided does not cover the claims. In this respect it is irrelevant at what time the individual claims have become due. This shall also apply to a current account relationship.

(2) In business with consumers, the bank may initially credit payments which have been made with the intention to settle a specific claim to unsecured portions of such claim even if this deviates from the customer's intention. The bank may only avail itself of the rights granted in this Section if recovering its claims would otherwise be jeopardized.

## SPECIAL TYPES OF BUSINESS TRANSACTIONS

### I. TRADE IN SECURITIES AND OTHER ASSETS

#### A. Scope of application

**Section 62.** The terms and conditions under Sections 63 to 67 shall apply to securities and other assets even if they are not certificated.

#### B. Execution

**Section 63 (1)** The bank executes customer orders for the purchase of securities in a public offering as commission agent of the customer. However, the bank is entitled to execute such orders as authorized agent on behalf of the customer provided the customer has been notified in advance. A “public offering” is a notice by a third party to the public in any form and manner which contains sufficient information about the terms of the offer (or an invitation to subscribe) of securities or investments and about the securities or investments offered in order to give the investors the chance to decide whether or not to purchase or subscribe for those securities or investments.

(2) The bank carries out other customer instructions for the purchase and sale of securities as commission agent. However, if the bank agrees on a fixed price with the customer, it concludes a purchase agreement.

(3) The bank carries out securities transactions in accordance with its execution policy as amended. The bank is entitled to amend the execution policy to comply with regulatory requirements. The bank shall inform the customer of any material changes in the execution policy

(4) The bank may also carry out orders for the purchase and sale of securities in part if the market situation does not allow that the same be carried out in full.

#### C. Legal provisions and trade practices at the execution venue

**Section 64** When executing a customer order, the bank shall comply with the legal provisions applicable at the execution venue.

#### D. Date of execution

**Section 65** If an instruction which is to be carried out on the same day has not been received early enough to be carried out that day within the scope of ordinary workflow, it shall be scheduled to be carried out on the next trading day.

#### E. Insufficient coverage

**Section 66. (1)** The bank shall be entitled to refrain from carrying out transactions in securities in whole or in part if no sufficient coverage is available.

(2) However, the bank shall be entitled to execute such securities transactions if it is unable to note that the customer wants the order to be carried out only on the condition that coverage is available.

(3) If the customer does not provide coverage despite demand the bank shall be entitled to enter into a closing transaction for account of the customer at the best possible price.

#### F. International Transactions

**Section 67** If a customer is credited for securities held abroad the customer's claim vis-à-vis the bank equals the share

in the overall portfolio of securities of the same type maintained abroad which is held by the bank for account of its customers in compliance with the relevant statutory provisions and market practices.

## G. Transactions in stocks

**Section 68** In case of transactions in stocks the physical securities of which are not being traded yet the bank shall neither be liable for the issuance of the securities on the part of the joint-stock company nor for the possibility of exercising the shareholders rights prior to the issuance of the securities.

## II. SAFEKEEPING OF SECURITIES AND OTHER ASSETS

### A. Safekeeping of securities

**Section 69** (1) The bank shall be entitled to place securities deposited with it in the safekeeping deposit of the beneficiary.

(2) The bank is hereby expressly authorised to keep securities issued in Austria abroad and securities issued abroad in Austria. Likewise it shall be authorised to cause registered securities issued abroad to be registered in the name of the domestic depository or in that of the nominee of the foreign depository ("nominee").

(3) Vis-à-vis an entrepreneur the bank shall exclusively be liable for careful selection of the third-party depository.

### B. Redemption of securities , renewal of coupons, drawing of lots, termination

**Section 70** The bank collects interest coupons, profit participation certificates and dividend coupons that are due. The bank shall procure new interest coupons, profit participation certifications and dividend coupons without specific instruction if required.

(2) The drawing of lots, terminations and other comparable measures in respect of the securities held in safekeeping shall be monitored by the credit institution to the extent that they are published in the official gazette "Amtsblatt zur Wiener Zeitung". The bank shall redeem drawn and terminated securities as well as interest coupons, profit participation certificates and dividend coupons.

(3) A third-party depository shall assume the obligations described in Paragraphs 1 and 2 above for securities deposited with it. Where securities are held abroad, the credit institution shall not be required to inform the customer about the numbers of the securities credited and, in particular, about securities redeemable by drawing lots. The credit institution shall then determine by drawing lots which customers are to be allotted the drawn securities. If, however, the numbers of the securities redeemable by drawing lots are disclosed, they shall be relevant only to the drawing of lots and redemption and only for as long as this is practice followed abroad. If, according to the practice abroad, the amounts collected for the drawn securities are to be distributed pro-rata and if, in so doing, it would not be possible to represent the shares remaining with individual customers in the form of units, the customers whose securities are to be redeemed shall be determined by the drawing of lots.

### C. The bank's obligation to verify

**Section 71** The bank shall examine whether Austrian securities are affected by public notification procedures, payment stops and the like on the basis of the Austrian documents available to it once, namely on the occasion of delivery of the securities to the bank. Also the examination regarding invalidation procedures for securities lost or stolen shall be carried out upon delivery.

## D. Notification of conversion or other measures

**Section 72** In case of conversion, capital increase, capital reduction, merger, exercise or realization of subscription rights, request for payment, consolidation, reorganization, exchange/conversion offer, coupon increase, dividend or coupon distribution, where the customer could exercise his/her voting right, share split, conversion of convertible bonds, entering or exercise of the option connected with warrants and other important measures regarding securities the bank shall, provided a notification pertaining thereto was published in the official gazette "Amtsblatt zur Wiener Zeitung" or communicated in time by the issuing agency or the foreign depository, try to notify the customer thereof. If the customer fails to provide timely instructions, the bank shall act to the best of its knowledge by taking into account the customer's interests and, in particular, realize rights which would otherwise forfeit as late as possible

## III. TRADE IN FOREIGN EXCHANGE AND FOREIGN CURRENCY

### A. Procedure

**Section 73** (1) The bank shall conclude a purchase agreement with the customer on foreign exchange and foreign currency.

(2) If it is agreed that the bank acts as commission agent for the customer, the provisions on commission transactions contained in the section on trade in securities shall apply accordingly.

In the event the bank contracts in its own name, no express notification pursuant to Section 405 Austrian Commercial Code (UGB) shall be required.

### B. Forward transactions

**Section 74** (1) In case of forward transactions the bank shall be entitled to demand from the customer at a reasonable date before the due date evidence on the fact that the amount owed by the customer will be received in the agreed account in time. If such evidence is not provided or if due to other circumstances it is obvious that the customer will not fulfil his obligations, the bank shall be entitled to conclude a closing transaction at the best possible price already prior to the agreed due date.

(2) Even without prior agreement the bank shall be entitled to demand coverage for the risk of loss if according to the opinion of an expert such risk has increased or if the assets situation of the customer has deteriorated. Unless otherwise agreed coverage shall be provided in cash. The bank shall hold a lien on the assets deposited as coverage. If the customer fails to provide coverage the bank shall be entitled to conclude a closing transaction at the best possible price.

(3) If the bank concludes a closing transaction pursuant to paras 1 or 2, any resulting price difference shall be debited or credited to the customer, respectively. Any and all expenses incurred in connection therewith shall be borne by the customer.

## IV. FOREIGN CURRENCY LOANS

**Section 75** (1) Foreign currency loans shall be paid back in the currency in which they were granted by the bank. Payments made in other currencies shall be considered security payments unless the bank informs the customer within two weeks after receipt of payment that they will be used for redemption of the loan.

(2) The bank shall also be entitled to convert an outstanding debit balance in a foreign currency into Austrian currency upon notification of the customer if

- in a business relationship with an entrepreneur the credit risk increases due to the price development of the foreign currency and if the bank does not receive sufficient security within a reasonable period of time or
- pursuant to statutory or other circumstances for which the bank is not responsible, refinancing the loan made

- to an entrepreneur in the foreign currency is no longer possible
- the entire loan is due for repayment and is not repaid despite reminder.

## VI. COLLECTIONS, DISCOUNT BUSINESS, BILL OF EXCHANGE AND CHEQUE OPERATIONS

### A. Scope

**Section 76** These terms and conditions shall apply to bills of exchange, cheques and other collection documents (such as commercial instructions and certificates of obligation).

### B. Collection order

**Section 77** The collection of document as mentioned above shall be based on a collection order, with the bank not obliged to accept such collection order. Negotiation (discounting) of the documents to be collected by the bank shall be subject to a separate agreement.

### C. Timeliness of orders

**Section 78.** Orders for collection shall be received so much in advance that they may be carried out in the ordinary course of business without making use of special means of express handling.

### D. Rights and obligations of the bank

**Section 79** Discounting as defined under Sections 41 (2) and (3) shall entitle the bank to debit the seller with the full nominal amount plus all expenses incurred by the bank; for documents denominated in foreign currency, the customer shall be charged or credited the difference in price between the time of discount and the time of redebit.

**Section 80** In all cases of redebit of discounted collection items or collection items accepted for collection or documents "subject to collection", the claims under security law for payment of the full amount plus ancillary expenses vis-à-vis the customer and any party obligated under the document shall remain with the bank until coverage of the debit balance which results from such redebit. To secure its claims arising from the redebit, the bank may demand from the customer until then that the receivable on which the document or acquisition of the same by the customer is based as well as all present and future rights arising from the underlying transactions, including the collateral pertaining thereto, be transferred.

### E. Cashing by the bank

**Section 81** The bank shall only be obliged to cash documents which are due for payment with it if it has received an order from the customer in time and if sufficient coverage is ensured.