

**General Terms and Conditions of Austrian savings banks  
Issue July 2018**

These General Terms and Conditions replace the "General Terms and Conditions of Austrian Credit Institutions" wherever reference is still made to "General Terms and Conditions of Austrian Credit Institutions" in contracts, contract templates, special terms and conditions and in other agreement.

**GENERAL PROVISIONS**

**I. BASIC RULES FOR BUSINESS RELATIONS BETWEEN CUSTOMER AND CREDIT INSTITUTION**

**A. Scope of and Amendments to the  
General Terms and Conditions**

**1. Scope of Application**

- Section 1.** (1) These General Terms and Conditions (hereinafter referred to as GTCs) shall be applicable to all aspects of the business relationship between the customer and all branches of the credit institution in Austria and abroad. The business relationship shall be understood to encompass all individual business transactions between the customer and the credit institution and, therefore,
- also all contracts regarding recurring or continuous services over specified or unspecified terms, particularly including master agreements for payment services (e.g., current account agreement or credit card agreement) and securities services, agreements for securities accounts, credit agreements, safe and passbook/safety deposit box rental agreements (hereinafter referred to as "permanent contracts")
  - as well as contracts entered into by the customer with the credit institution from time to time, particularly including transactions in foreign currencies and precious metals or individual payment or securities services not included in any permanent contracts (hereinafter referred to as "individual contracts").
- Terms and conditions in agreements concluded with the customer or special terms shall prevail.
- (2) Hereinafter, the terms "consumer" and "entrepreneur" shall have the meaning set forth in the Austrian Consumer Protection Act (KSchG).

**2. Amendments to the General Terms and Conditions and the master agreements for payment services**

- Section 2.** (1) The credit institution will propose changes to these GTCs to the customer no later than two months prior to the proposed time of their entry into force, pointing out the provisions affected. The customer's consent shall be deemed given, unless the credit institution receives an objection from the customer prior to the proposed time at which such changes enter into force. The credit institution shall point this out to the customer in the proposed amendment. In addition, the credit institution shall publish a side-by-side comparison of the provisions of the GTCs affected by the change as well as the complete version of the new GTCs on its website and provide this comparison to the customer at the latter's request. The credit institution will point this out in the proposed amendment as well. Customers who qualify as consumers must be notified of the proposed amendment.

In the case of entrepreneurs, it shall be sufficient to keep the envisaged change available for retrieval in a manner agreed with the entrepreneur.

(2) In case of such an intended amendment of the GTCs, customers who qualify as consumers shall be entitled to terminate their master agreement for payment services (especially the current account agreement) without notice and free of charge prior to such amendment becoming effective. The credit institution will point this out in the proposed amendment.

(3) Subsection (1) shall likewise be applicable to amendments to permanent contracts between the customer and the credit institution. In addition, subsection (2) shall be applicable for amendments to master agreements for payment services.

(4) Subsections (1) and (2) shall not be applicable to the amendment of the credit institution's services (including credit interest) and the remuneration payable by customers (including debit interest). Sections 43 through 45 shall be applicable for these amendments, unless they are agreed separately with the customer.

**B. Submission of Statements**

**1. Customer orders**

- Section 3.** (1) Orders must be made in writing. Customers may also place an order by using a facility for the recording of electronic signatures made available for this purpose by the credit institution.
- (2) However, the credit institution shall also be entitled to carry out instructions given via telecommunications (in particular over the phone, via cable, telex, fax or remote data transmission). Subject to the fulfilment of all other prerequisites the credit institution shall only be obliged to carry out such orders if agreed between the customer and the credit institution.

**2. Collection of confirmations by the credit institution**

- Section 4.** For security reasons, the credit institution shall be entitled, particularly when orders are placed via telecommunications, to obtain a confirmation of the order by the same or a different means of communication, as the case may be, before carrying out the order.

**3. Statements of the credit institution**

- Section 5.** (1) Any notifications and statements of the credit institution made via telecommunications shall be effective subject to written confirmation unless otherwise agreed in writing or other banking practices exist in this respect. The above shall not be applicable to consumers.
- (2) Statements and information, which the credit institution is required to provide or make available to the customer, shall be issued in hardcopy (including, but not limited to statements of account), unless electronic availability or transmission has been agreed with the customer.
- (3) By way of derogation from subsection 2, the credit institution shall make available to the customer a list of remuneration (remuneration, charges, credit and debit interest) on paper at the credit institution, if such customer qualifies as consumer, every quarter of a year in the case of payment accounts and on termination of the master agreement for payment services. (Section 5(3) shall be applicable as of 31 October 2018.)

### C. Right of Disposal on the Death of a Customer

- Section 6.** (1) As soon as it receives notice of a customer's death, the credit institution shall permit dispositions on the basis of a decision issued by the probate court, the certificate of inheritance (*Einantwortungsbeschluss*) or a European certificate of succession. In case of joint accounts/joint securities accounts, dispositions made by an account holder holding sole authority to operate of the account shall not be affected by this provision.
- (2) Any signing authority granted on a business account by an entrepreneur shall not terminate upon the death of a customer. In case of doubt, the accounts of an entrepreneur shall be considered business accounts.

### D. Obligations and Liability of the Credit Institution

#### 1. Duties to provide information

- Section 7.** (1) Apart from the statutory obligations to provide information, the credit institution shall have no other duties to disclose information than those stated in its Terms and Conditions unless separately agreed. Thus the credit institution shall not be obligated - unless statutory or contractual obligations provide otherwise - to inform the customer of any imminent price losses, the worth or worthlessness of objects entrusted to its care, or circumstances that might impair or endanger the value of those objects, nor is it obligated to give the customer further advice or information.
- (2) The provisions of Chapter 3 of the Austrian Payment Services Act (sections 32 through 54 Payment Service Act [ZaDiG]), which provides for the transparency of contractual conditions and the disclosure obligations for payment services, shall not be applicable to entrepreneurs and non-natural persons.

#### 2. Order execution

- Section 8.** (1) The credit institution shall execute any order, which, due to its nature, requires the assistance of a third party, by entrusting it to a third party in its own name. If the credit institution selects the third party, it shall be liable for diligent selection.
- (2) At the customer's request, the credit institution shall be required to assign any claims vis-à-vis the third party to this customer.
- Section 9.** In addition to section 8, the credit institution shall further be liable vis-à-vis consumers (but not entrepreneurs) for payment services within the European Economic Area (EEA) as follows:
- if the payment process is directly initiated by the payer, for the proper execution of the payment process until receipt by the payee's payment service provider;
  - if the payment process is initiated by or via the payee, for the proper execution of the payment order to the payer's payment service provider.

In both cases, the credit institution's liability shall cover all remuneration and interest for which it is responsible and which the consumer is charged as a result of non-execution, incorrect or delayed execution of the payment process.

(2) By way of derogation from section 80(2)(5) Payment Services Act, the credit institution, in its capacity as the payee's payment service provider, shall, in case a payment process is executed with a slight delay, value date the amount in the entrepreneur's payment account with the correct date only if the credit institution caused such delayed execution of the payment process.

### E. Obligations to Co-operate and Customer's Liability

#### 1. Introduction

- Section 10.** In their dealings with the credit institution, customers shall, in particular, observe the obligations to co-operate stated below. In the event of violation thereof, customers shall be liable to pay damages or to reduce their claims for damages vis-à-vis the credit institution.

#### 2. Notification of material changes

##### a) Name or address and contact details

- Section 11.** (1) Customers shall notify the credit institution in writing without undue delay of any changes in their name, company name, address or

any other service address provided by them.

(2) If a customer fails to notify changes in the address or a change in the service address indicated by him/her, written communications of the credit institution shall be deemed received if they are sent to the address most recently provided to the credit institution by the customer.

**(b) Power of representation**

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

(2) Any power of representation that the credit institution has been advised of shall continue to be effective until written notification of cancellation of the same or of a change in its current scope, unless the credit institution had knowledge of such cancellation or change or was not aware thereof due to gross negligence. In particular, the above shall apply even if cancellation or change in the power of representation has been registered in a public register and was duly published.

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

**Section 13.** The credit institution shall be notified without undue delay in writing of any loss of or reduction in the customer's capacity to enter into legal transactions. If the customer is an enterprise or legal entity, the credit institution shall be notified without undue delay of its dissolution.

**3. Business relationship on own account or third-party account**

**Section 13 a** When establishing a business relationship and on performance of a transaction from time to time, the customer shall disclose to the credit institution whether he/she is undertaking such a business relationship and/or the transaction on his/her own account or on a third-party account and/or on behalf of a third party. The customer shall be obliged to inform the credit institution without undue delay of any related changes during the ongoing business relationship.

**4. Clarity of Orders**

**Section 14.** (1) The customer shall ensure that his/her orders to the credit institution are clear and unambiguous. Modifications, confirmations or reminders shall expressly be designated as such.  
(2) If customers wish to give special instructions to the credit institution regarding the execution of orders, they shall inform the credit institution thereof separately and explicitly, and in case of orders placed by means of forms, the instructions shall be given separately, i.e. not on the form. The above shall apply especially if the execution of the order is extremely urgent or subject to certain periods and deadlines.

**5. Exercising due care when using payment instruments**

**Section 15.** (1) When payment instruments are used to place orders with the credit institution in accordance with the agreement, customers shall take all reasonable precautions to protect the personalised security features against unauthorised access and to report any loss, theft, misuse, or any other unauthorised use of the payment instrument without delay to the credit institution or to a body specified by the credit institution as soon as they have become aware thereof. Payment initiation service providers and account information service providers shall not be considered "unauthorised" under this provision. (1) Customers shall report any loss, theft, misuse, or any other unauthorised use of the payment instrument without delay to the credit institution or to a body specified by the credit institution as soon as they have become aware thereof.

Entrepreneurs shall be liable for any loss sustained by the credit institution due to a breach of these duties of care and diligence, without limitation in case of negligence on the part of the entrepreneur.

(2) The credit institution shall be authorised to cancel payment instrument issued to customers

a) if justified by objective reasons relating to the security of the payment instrument, or

b) if unauthorised or fraudulent use of the payment instrument is suspected, or

c) in case of a payment instrument with credit line, there is significantly increased risk of the customer failing to meet his/her payment obligations. In particular, such a significantly increased risk arises if customers fail to honour a credit line associated with the payment instrument (overrun or overdraft) and

- either the fulfilment of these payment obligations is jeopardised due to the deterioration or endangerment of the customer's or a co-debtor's financial situation

- or the customer has become insolvent or threatens to become insolvent imminently.

The credit institution shall inform the customer of any such blocking and of the reasons for such a block, and of any blocking of the account information service provider and/or the payment initiation service provider to access a payment account held by the customer and about the reasons for such blocking of access using the means of communication agreed with the customer, where possible before and at the latest after such blocking.

The duty to notify shall not be applicable if notification of the blocking of access or of the reasons for such blocking would violate a judicial or administrative order or would run counter to any Austrian or Community legislation or objective security considerations.

(3) The requirements of this provision shall further apply to instruments whose use outside of the payment services has been agreed for the placement of an order with the credit institution.

**6. Objections**

**Section 16.** (1) Customers shall immediately check any statements provided by the credit institution that do not relate to any payment services (such as confirmations of their orders, any communication about the execution of these orders, final confirmations; statements of account, closing statements and any other accounts relating to lending and foreign currency transactions, securities accounts statements and list of securities accounts) to verify their completeness and correctness and shall raise any objections without undue delay, but in any case within a period of two months.

If the credit institution receives no objections to an account statement that relates to an account other than a payment account within a period of two months, such account statement shall be deemed approved. After the time limit, customers may still request that the account statement be corrected, but they must also demonstrate that their account was incorrectly debited or that a credit to which they are entitled was not entered in the account.

In each case, the credit institution shall inform the customer about the consequences of failing to make a timely objection at the beginning of this period.

(2) If a customer's current account is debited due to the unauthorised or the incorrect implementation of a payment process, the customer shall be entitled to obtain a correction by the credit institution if he/she advises the credit institution thereof immediately after establishing an unauthorised or incorrectly implemented payment process, but no later than 13 months after the day the debit was made. If the customer qualifies as an entrepreneur, this correction may be requested by the customer until a maximum of 3 months after the day the debit was made. The time limits shall not be applicable if the credit institution fails to provide the customer with the information provided for in section 38(9) of these GTCs regarding the relevant payment process or fails to give the customer access to this information. This provision shall not exclude any of the customer's other rights to correction.

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

**Section 17.** Customers shall notify the credit institution without undue delay if they fail to receive regular communications (such as closing statements or securities account statements) or other communications or deliveries from the credit institution, which, depending on the case at hand, the customer would expect and which do not relate to payment services, within the time normally to be expected when using the agreed form of transmission.

## 8. Translations

**Section 18.** If the credit institution so requires, any foreign-language document shall also be presented to the credit institution in a German translation of a court-appointed and certified translator.

## F. Place of Performance; Choice of Law; Legal Venue

### 1. Place of performance

**Section 19.** The place of performance for both parties shall be the offices of that branch of the credit institution with which the transaction was concluded. This shall not be applicable for payments that are payable to the credit institution by a consumer.

### 2. Choice of law

**Section 20.** All legal relations between the customer and the credit institution shall be governed by Austrian law.

### 3. Legal venue

**Section 21.** (1) An entrepreneur may only take legal action against the credit institution in the court with subject-matter jurisdiction at the place of the credit institution's registered office. This shall also serve as the venue for any legal action the credit institution takes against an entrepreneur, with the credit institution being entitled to assert its rights in every court having local and subject-matter jurisdiction. (2) Whenever a consumer takes legal action or legal action is brought against a consumer with respect to agreements with a credit institution, the general legal venue in Austria 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 Business Relations

### 1) Ordinary termination in business relations with enterprises

**Section 22.** Unless an agreement has been concluded for a definite period of time, the credit institution and the customer shall be entitled to terminate the business relationship as a whole or individual parts thereof (including loan contracts and master agreements for payment services, specifically including current account agreements) at any time subject to a reasonable notice period. Any fees paid in advance shall not be reimbursed.

### 2) Ordinary termination in business relations with consumers

**Section 23.** (1) Customers shall be entitled to terminate a master agreement for payment services at any time without prior notice, particularly the current account contract. The right to terminate a master agreement for payment services free of charge and

- without notice, **particularly the current account contract**, in response to a change in the GTCs or a master agreement for payment services proposed by the credit institution, especially the current account contract (sec. 2), shall remain unaffected.
- (2) Customers may terminate open-ended loan contracts free of charge anytime subject to a notice period of one month.
- (3) Subject to a reasonable notice period, customers may terminate all remaining open-ended contracts concluded with the credit institution at any time.
- (4) Subject to a notice period of two months, the credit institution may terminate all open-ended contracts at any time.

### 3) Termination for good cause

- Section 24.** (1) For good cause, the credit institution and the customer shall be entitled to terminate the entire business relation or individual parts thereof at any time with immediate effect notwithstanding any agreement concluded for a definite period.
- (2) Good cause that entitles the credit institution to termination shall be given, in particular, if
- 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 credit institution is jeopardised as a result,
  - the customer provided incorrect information about material aspects of his/her financial situation (assets and liabilities) or other material circumstances and the credit institution would not have entered into the contract had it been aware of the true financial situation or circumstances, or
  - the customer fails/failed or is/was unable to fulfil the obligation to provide or increase collateral, resulting in a significantly increased risk of the payer not fulfilling his/her payment obligations. In particular, the imminent danger of insolvency or the occurrence of insolvency shall constitute such significantly increased risk.

### 4) Legal consequences

- Section 25.** (1) Upon termination of the entire business relationship or individual parts thereof, the amounts owed thereunder shall become due and payable immediately. In addition, the customer shall be obliged to release the credit institution from all liabilities assumed for him/her.
- (2) In addition, the credit institution shall be entitled to terminate all liabilities assumed for the customer, to settle these on behalf of the customer and to immediately redebit credited amounts provided these have actually been received. Until potential debit balances, if any, are covered, the credit institution shall be entitled to assert claims arising from securities, specifically from bills of exchange or cheques.
- (3) In the event of termination of the entire business relationship or individual parts thereof, the credit institution shall reimburse customers who qualify as consumers any fees for payment services that were paid in advance for a certain time period.
- (4) These GTCs shall continue to apply even after termination of the business relationship until full completion.

## H. Refusal to Make a Payout

- Section 26.** (1) The credit institution shall be entitled to refuse to pay out the loan for objectively justified reasons.
- (2) Objectively justified reasons in accordance with subsection 1 shall be given if, after contract conclusion
- circumstances arise that lead to such a deterioration of the borrower's financial situation or such a depreciation of the pledged collateral that repayment of the loan or payment of the interest rate itself is jeopardised even if the collateral is sold or
  - the credit institution has objectively justified reason to suspect that the borrower is using the loan funds in a way other than that agreed in the contract or provided for by law.
- (3) The credit institution shall be obliged to advise consumers immediately on paper or on any other permanent data medium of any such intention, stating the grounds for its decision. No reasons shall be provided if public security or order would be jeopardised.

## II. BANK INFORMATION

- Section 27.** Unless there is an obligation to disclose such information, general information about the financial situation of an enterprise, as is customary in banking practice, shall only be provided in a non-binding manner and, vis-à-vis entrepreneurs, only in writing.

## III. OPENING AND KEEPING ACCOUNTS AND SECURITIES ACCOUNTS

### A. Scope of Application

- Section 28.** Unless otherwise provided, the following provisions relating to accounts shall likewise be applicable 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 Signatures

- Section 30.** Persons who are to be authorised to operate or sign on an account or securities account are obliged to deposit a specimen of their signature with the credit institution. Based on the signatures deposited, the credit institution shall permit written dispositions within the scope of the account.

#### D. Authority to Operate and to Sign

##### 1. Authority to operate

**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 required to provide proof of their identity and power of representation.  
In the case of a durable power of attorney, whose effectiveness has been registered in the Austrian Central Directory of Powers of Attorney, it suffices to have a power of attorney that generally includes the authorisation to operate the accounts.

##### 2. Authority to sign

**Section 32.** (1) The account holder may expressly and in writing grant third parties authority to sign for an account. The authorised signatory shall provide the credit institution with proof of his identity. The person authorised to sign shall be exclusively entitled to make and revoke transactions for the account.  
(2) The authority to sign for a securities account also includes the power to buy and sell securities within the scope of the credit available for coverage on the securities account.

#### E. Special Types of Accounts

##### 1. Sub-account

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

##### 2. Trust account

**Section 34.** In case of trust accounts the fiduciary agent, as account holder, shall be exclusively entitled and obligated vis-à-vis the credit institution.

##### 3. Joint account

###### Authority to operate

**Section 35.** (1) An account may also be opened for several account holders (joint account). Operations relating to 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 on a case-by-case basis.  
(2) The account holders shall be liable jointly and severally for obligations arising out of the account.  
(3) Unless expressly agreed otherwise, every joint account holder shall have individual power to operate the account. Such authority shall further include the power to buy and sell securities within the scope of the credit available as coverage in the settlement account. However, such authority shall be terminated by the express objection of another account holder. In this case, joint account holders shall only be authorised to act jointly.  
(4) Authorities to sign may be revoked by each individual joint account holder.

##### 4. Foreign currency account

**Section 36.** (1) If the credit institution keeps a foreign currency account for the customer, transfers in the respective foreign currency shall be credited to such an account unless the transfer instruction states otherwise. If no foreign currency account exists, the credit institution shall be entitled to credit foreign currency amounts in national currency unless expressly instructed to the contrary by the customer. The amount shall be converted at the conversion rate of the day on which the amount in foreign currency is at the credit institution's disposal and may be used by it.

(2) The obligation of the credit institution to settle a foreign-currency liability or to execute an order to debit a foreign-currency balance is suspended to the extent that and for as long as the credit institution has limited or no access to the currency in which the foreign-currency balance or the liability is denominated due to politically related measures or events in that currency's country. To the extent that and for as long as such measures or events persist, the credit institution shall also not be obliged to fulfil in a country other than the currency's country, in a different currency (also not in euros), or through the procurement of cash. However, the credit institution's obligation to execute an order to debit a foreign-currency balance is not suspended if it can do so completely in-house. The right of the customer and the credit institution to offset reciprocal claims in the same currency remains unaffected by the aforementioned arrangements.

#### F. Balancing of Accounts and Securities Account Statements

**Section 37.** Unless otherwise agreed, the credit institution shall balance the account on a quarterly basis. The interest and fees accrued for each calendar quarter shall be part of the closing balance, which shall subsequently carry interest ("compound interest"). Securities account statements shall be prepared once every quarter of a year.

#### IV. GIRO TRANSACTIONS

##### A. Transfer orders

- Section 38.** (1) When transfers are to be made to a payee whose account is held by a payment service provider within Austria and in other countries of the European Economic Area (EEA), the customer shall be obliged to identify the payee using his International Bank Account Number (IBAN).
- (2) When transfers are to be made to a beneficiary whose account is held by a payment service provider outside the EEA, the customer shall be obliged to identify the payee by providing the IBAN or account number of the payee and the BIC of the payee's service provider and the payee's name.
- (3) The IBAN and BIC, or the account number and name/sorting code/BIC of the payee's payment service provider, to be provided by the customer in accordance with paragraphs (1) and (2) shall constitute the payee's unique identifier on the basis of which the transfer is to be carried out. In the event that the customer provides information on the payee over and beyond this, such as the payee's name, this information shall not form part of the unique identifier and thus serve merely for documentation purposes and shall not be taken into account by the credit institution when the transfer is carried out.
- (4) The designated purpose stated in the transfer order shall at all events be irrelevant to the credit institution.
- (5) Acceptance of a transfer order by the credit institution shall by itself not give rise to any rights of a third party vis-à-vis the credit institution.
- (6) The credit institution shall only be obliged to carry out a transfer order if sufficient funds to cover the total amount are available in the customer's account stated therein (credit balance, overdraft facility).
- (7) Any transfer orders received by the credit institution (sec. 39) cannot be unilaterally revoked 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.
- (8) If the credit institution refuses to execute a transfer, the credit institution shall notify the customer as soon as possible using the form agreed with the customer, but in any event within the time periods set forth in section 39 (3) and (4), about the reasons for such refusal and about ways to amend the transfer order to enable an execution in the future. A reason for the rejection shall only be provided if this does not violate Austrian or Community law or a court or administrative order. Transfers orders refused by the credit institution for justified reasons shall not trigger the execution deadlines stipulated in section 39a of these GTCs.
- (9) On request, information about executed transfer orders (reference, amount, currency, fees, 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 SEPA debits, shall be made available at the credit institution once monthly to customers who qualify as consumers – unless already shown for the relevant transaction in the statement of account.

##### Execution Deadlines

- Section 39.** (1) Any payment orders the credit institution receives after the deadlines specified by the credit institution for the respective type of payment near the end of a banking day or on a day that is not a banking day, of which the customer must be notified, shall be treated as received on the following banking day. In addition, the credit institution shall publish these deadlines in "*Informationen zu Zahlungsdienstleistungen für Verbraucher*", which it shall make available electronically on its website. A banking day shall be any day on which the credit institution operates as required for the execution of payment transactions.
- (2) If the customer placing a payment order and the credit institution 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 credit institution with the relevant amount of money, then the agreed date shall be deemed the time of receipt. If the agreed date is not a banking day, the payment order shall be treated as received on the following banking day.
- (3) The credit institution shall ensure that, after the time of receipt, the amount of the payment transaction will be received by the payee's payment service provider no later than by the end of the following banking day (by the end of the second following banking day whenever payment transactions are initiated in paper form). This subsection shall apply to the following payment transactions:
- payment transactions denominated in euros within the European Economic Area ("EEA"),
  - payment transactions by which euro amounts are transferred to an account held in an EEA country that does not belong to the eurozone and in which the currency conversion is carried out.
- (4) The execution period shall not exceed 4 banking days in case of payment transactions within the European Economic Area not mentioned in subsection 3.

##### B. Credit Entries and Right to Cancel

- Section 40.** (2) (1) In an account agreement has been signed, the credit institution shall be obliged and irrevocably entitled to accept funds on behalf of the customer and credit the same to the customer's account. The credit institution shall execute the order to provide a customer with funds by crediting the amount to the account of the payee unless the order specifies otherwise. Information about transfers credited to his account (reference, amount, currency, fees, interest, exchange rate, value date of the credit entry) shall be made available by the credit institution at the credit institution free of charge once monthly to customers who qualify as consumers – unless already shown for the relevant transaction in the statement of account.
- (3) The credit institution shall be entitled to deduct its fees for the relevant transfer from the credited amount. The credit institution shall show the transfer amount and deducted charges separately.
- (4) The credit institution shall be entitled to cancel any credit entries made due to an error on its part at any time. In other cases, the

credit institution shall cancel the credit entry only if it has been clearly demonstrated the ineffectiveness of the transfer order. The right to cancel shall not be eliminated by any balancing of the account in the meantime. If the right to cancel exists, the credit institution may deny authority to dispose over the amounts credited.

#### C. Credit Entry Subject to Receipt

- Section 41.** (1) If the credit institution credits funds which it is obliged to debit 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 before the amount to be debited or transferred is received by the credit institution, the credit entry shall only be made subject to the credit institution's actual receipt of the credited amount. This shall also apply if the amount to be collected is payable at the credit institution.
- (2) Due to this reservation, the credit institution shall be entitled to reverse the credit by means of a simple entry if debiting or the transfer has failed or if, due to the financial situation of a debtor, intervention by a public authority or for other reasons, it is to be expected that the credit institution will not obtain the unrestricted right to dispose of the amount to be debited or transferred.
- (3) The reservation may also be exercised if the amount credited was collected or transferred from abroad and the credit institution is re-debited the amount by a third party pursuant to the applicable foreign law or on the basis of an agreement entered into with foreign credit institutions.
- (4) Where the reservation applies, the credit institution shall also be entitled to deny the customer the right to use the credited amounts. The reservation shall not be eliminated by the balancing of accounts.

#### D. Debit Entries

#### E. SEPA Debit Entries

- Section 42a.** (1) A SEPA debit mandate is when the payer grants a payee the authority to debit amounts from his account. A corporate SEPA debit mandate is when the payer grants a payee the authority to debit amounts from his account, both the payer and the payee are companies and the payer places a pertinent debit order with his credit institution.

The customer agrees to have his account debited - by third parties he authorises using SEPA direct debit or, as the case may be, corporate SEPA direct debit - with amounts collected from the account he holds with the credit institution. This consent may be revoked at any time. Such revocation shall take effect from the business day following receipt by the credit institution. In the same manner, approval for direct debits by an authorised third party - using SEPA direct debit or, as the case may be, corporate SEPA debit - can be limited vis-à-vis the bank to a specific amount or a specific period or both.

(2) The credit institution shall execute SEPA direct debits and corporate SEPA direct debits that are to be debited from the customer's account on the basis of the International Bank Account Number (IBAN) provided by the collecting bank. The IBAN information constitutes the customer identifier that is used to execute the SEPA direct debit or the corporate SEPA debit. If the collecting credit institution provides further information about the customer, such as the name of the account holder whose account is to be debited, this shall therefore be merely for documentation purposes and shall not be taken into account when executing the SEPA direct debit or the corporate SEPA direct debit.

(3) The customer may request the credit institution to return the amount debited from his account on the basis of a SEPA direct debit granted by him within a period of eight weeks from the time his account was debited. Within a period of ten banking days from receipt of the request, the credit institution shall comply with such a request submitted by the customer and return the amount debited from the customer's account as of the value date on which the debit was originally made from the customer's account.

(4) By way of derogation from section 3, the customer shall not be entitled to have an amount returned that was debited from his account on the basis of a corporate SEPA direct debit mandate granted by him.

(5) If the SEPA direct debit or, as the case may be, the corporate SEPA direct debit from the customer's account was not authorised, customers who qualify as consumers may request reimbursement of the debited amount within a period of 13 months from the original debit and customers who qualify as entrepreneurs may request such a return within a period of three months from the original debit. The time limit shall begin only once the credit institution has provided the customer with the information specified in section 38(9).

### V. FEES FOR SERVICES AND REIMBURSEMENT OF EXPENSES

#### A. Changes to Fees and Performance for Entrepreneurs

- Section 43.** (1) In business transactions with entrepreneurs, the credit institution shall be entitled to amend the fee payable on the basis of permanent contracts by the credit institution or the customer (including credit and debit interest on current and other accounts, account keeping fees, etc.) while taking into account all relevant circumstances (in particular, changes in the legal framework conditions, changes in the money market or capital market, changes to the refinancing cost, changes in the staff expenses and operating expenditure, changes in the Consumer Price Index, etc.) at its reasonable discretion. The same shall be applicable for changes in other services of the credit institution implemented due to amended legal requirements, the security of banking operations, technical developments or the substantial decrease in the level of utility, substantially affecting cost recovery.

(2) Changes to services of the credit institution or customer fees exceeding the scope of subsec. 1, the introduction of new services that are subject to cost and of new fees for already agreed services will be proposed to the customer at the latest two months prior to the proposed date of entry into force. The customer's consent to these changes shall be deemed given, unless the credit institution receives a objection from the customer prior to the proposed time at which such changes enter into force. The credit institution shall point this out to the customer in the proposed amendment. The credit institution may keep the proposed amendment available for retrieval in a manner agreed with the entrepreneur.

**B. Changes to fees for payment services agreed with consumers (debit interest excepted)**

**Section 44a.** (1) Changes to the fees agreed in a master agreement for payment services (particularly the current account agreement) will be proposed to the customer by the bank two months prior to the proposed date of entry into force at the latest, i.e. on April 1 or July 1 of a given year. The customer's consent to these changes shall be deemed given, unless the credit institution receives a written objection from the customer prior to the proposed time at which such changes enter into force. The credit institution will point this out in the proposed amendment, which the credit institution is required to present to the customer, and in which the extent of the change must be shown. The customer shall have the right to terminate the master agreement free of charge, without having to give notice, until that point in time at which the change takes effect. The credit institution will point this out in the proposed amendment.

(2) A fee adjustment by no more than rate of change in the national consumer price index 2015 ("*Verbraucherpreisindex*") as published by Statistics Austria may be agreed with the customer in the manner set forth in section 1 and such an adjustment may be made only once per calendar year. Each adjustment shall amount to the annual average of the inflation rates of the previous year. The fee resulting from the adjustment will be commercially rounded to the nearest full cent.

If no fee adjustment is proposed to the customer in a given year on account of the change in the consumer price index, this adjustment can be proposed to the customer at a later point in time and take effect for the future.

**C. Changes to fees outside of payment services agreed with consumers (debit interest excepted)**

**Section 44b.** The fees agreed with consumers in a permanent contract that does not relate to permanent services (e.g. safe rental, account keeping charges for accounts on which no payments are transacted) shall be adjusted once a year as of 1 April on the basis of the performance (increase or decrease) of the national Consumer Price Index 2015 ("*Verbraucherpreisindex*") as published by Statistics Austria, commercially rounded to the next whole cent. Each adjustment shall amount to the annual average of the inflation rates of the previous year. Should, for whatever reason, the fees not increase in spite of an index increase, the right for increases that become effective in the future shall in no way be affected. Adjustments of fees shall be implemented no earlier than two months from the time of contract conclusion

**D. Change to the Debit and Credit Interest Rates Agreed with Consumers**

**Section 44c.** (1) If an adjustment clause ties an interest rate to a reference interest rate (such as EURIBOR), changes shall take effect immediately without prior notification of the customer. The customer shall be notified of changes to the interest rate that have taken effect in the following calendar quarter at the latest.

(2) If no adjustment clause was agreed, the credit institution shall propose a change in the interest rate to the customer by no later than two months prior to the proposed date of entry into force. The customer's consent to this change shall be deemed given, unless the credit institution receives a written objection from the customer prior to the proposed time at which such change enters into force. The bank shall point this out in the proposed amendment, in which the scope of the change must be shown.

The credit institution may keep the proposed amendment available for retrieval in a manner agreed with the customer. If, however, the proposed amendment concerns an account via which payment services are processed, the customer must be notified thereof and has the right to terminate the master agreement free of charge, without having to give notice, until that point in time at which the change takes effect. The credit institution shall point out this right to termination in the proposed amendment.

(3) The credit institution may agree an interest rate adjustment with the customer in the manner set forth in subsection 2 only under the following conditions:

- In the case of an adjustment to debit interest rates, the proposed interest rate adjustment shall correspond to the development of the costs of the credit institution resulting from changes in the money or capital market related to the respective loan since conclusion of the agreement that is subject to the current interest rate. In the case of an adjustment to credit interest rates, the proposed interest rate adjustment shall correspond to the development of the costs of the credit institution resulting from changes in the money or capital market and the reinvestment options of the credit institution related to the respective balance since conclusion of the agreement that is subject to the current interest rate.
- An interest rate change as set forth in subsec. 2 must not exceed 0.5 percentage points annually.
- The proposed amendment shall point out that the agreement to which the interest rate is subject does not specify unilateral interest rate adjustment.
- A change to the interest rate in the context of subsection 2 may take effect no earlier than one year after conclusion of the agreement on which the current interest rate is based.

**E. Change of Permanent Services Agreed with Consumers (credit interest excepted)**

**Section 45.** (1) The credit institution shall propose changes with respect to the permanent services agreed the customer in a permanent contract to the customer no later than two months prior to the proposed time of their entry into force. The customer's consent to these changes shall be deemed given, unless the credit institution receives a objection from the customer prior to the proposed time at which such changes enter into force. The credit institution shall point this out to the customer in the proposed amendment.

The credit institution may keep the proposed amendment available for retrieval in a manner agreed with the customer. However, if the proposed amendment concerns payment services, the customer must be notified thereof and has the right to terminate the master agreement free of charge, without having to give notice, until that point in time at which the change takes effect. The credit institution shall point out this right to termination in the proposed amendment as well.

(2) The credit institution may agree a service change with the customer in the manner agreed in subsection 1 only if this is objectively justified in consideration of all circumstances (change of prevailing customer needs, statutory and regulatory requirements, security of banking operation, technical development or decreased level of utility of the service that considerably prejudices cost coverage). Such objective justification shall be given only if the proposed change in services

- results in an extension of the credit institution's services or a limitation of the credit institution's services that can be reasonably

accepted by the customer ,

- and not in any unreasonable changes to essential rights and duties in the credit institution's favour.

#### F. Reimbursement of Expenses by Entrepreneurs

**Section 46.** The customer who qualifies as an entrepreneur shall bear all expenses, disbursements and costs, in particular stamp duties and legal transaction charges, taxes, postage, cost of insurance, legal counsel, collection, consultancy services in business administration matters, telecommunications as well as provision, administration and utilisation or release of collateral incurred in connection with the business relation between him and the credit institution. The credit institution shall be entitled to charge such expenses as a lump-sum amount without having to specify the individual amounts unless the customer expressly demands itemisation of the individual amounts.

### VI. COLLATERAL

#### A. Providing and Increasing Collateral

**Section 47.** (1) If circumstances occur or become known subsequently in business relations with entrepreneurs that justify an increased risk assessment of the claims vis-à-vis the customer, the credit institution shall be entitled to demand the provision or increase of collateral within a reasonable period of time. In particular, this shall be the case if the customer's financial situation 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 coming into existence

**Section 48.** (1) The customer shall grant the credit institution a lien on any items and rights that with the customer's intention come into the credit institution's possession in connection with any banking transaction entered into with the credit institution.  
(2) The lien shall exist on all the customer's distrainable claims vis-à-vis the credit institution, 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 49.** (1) The lien shall secure the credit institution's claims vis-à-vis the customer under the business relation, even if the claims are conditional or limited in terms of time or not yet due. If the customer is an entrepreneur, the lien shall likewise secure the credit institution's legal claims and claims against third parties for whose contractual performance the customer is liable.  
(2) The lien shall come into existence when the credit institution takes possession of the item to the extent that claims pursuant to subsection 1 exist, otherwise at any future point in time when such claims arise, but subject to the exemptions from the lien pursuant under section 50(1).

##### 2. Exemptions from the lien

**Section 50.** (1) The lien shall not include the salary or remuneration for work, in the amount of the subsistence level, and the items and rights that have been assigned by the customer to a certain order prior to the establishment of the lien, such as amounts earmarked for the cashing of a certain cheque or honouring of a certain bill of exchange as well as for the execution of a certain transfer. However, this shall be applicable only as long as the earmarking is effective.  
(2) Notwithstanding the existing lien, the credit institution shall carry out transactions for the customer regarding credit balances in current accounts in favour 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 transaction by the customer.  
(3) Furthermore, the lien shall not include assets which the customer has disclosed to the credit institution in writing as trust assets prior to the establishment of the lien.

#### C. Release of Collateral

**Section 51.** Upon the customer's request, the credit institution shall release collateral to the extent that it has no justified interest in retaining it as security.

#### D. Right of Retention

**Section 52.** The credit institution 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 credit institution

**Section 53.** (1) The credit institution shall be entitled to offset all of the customer's claims to the extent that they are distrainable against all liabilities of the customer vis-à-vis the credit institution.  
(2) Notwithstanding the existing right to offset, the credit institution shall carry out transactions of the customer in favour of third parties regarding credit balances in current accounts as long as the customer has not received an offsetting statement. Distraint of the credit balance shall not be considered a transaction by the customer.

**2. By the customer**

**Section 54.** A customer who qualifies as a consumer is entitled to cancel his liabilities through set-off only if the credit institution is insolvent or the customer's claim is legally related to his liability or the customer's claim has been established by a court or acknowledged by the credit institution. A customer who qualifies as an entrepreneur hereby unconditionally and irrevocably waives, also in these cases, his right to cancel his liabilities through set-off.

**B. Credit**

**Section 55.** Notwithstanding the provisions of section 1416 Austrian General Civil Code (ABGB), the credit institution may initially credit payments to accounts payable to the credit institution to the extent that 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.

**SPECIAL TYPES OF BUSINESS TRANSACTIONS**

**I. TRADE IN SECURITIES AND OTHER ASSETS**

**A. Scope of Application**

**Section 56.** The terms and conditions under subsections 57 through 62 shall apply to securities and other assets even if they are not securitised.

**B. Type of Execution**

**Section 57.** (1) In general, the credit institution shall execute its customer's orders to buy and sell securities as a commission agent.  
(2) However, if the credit institution agrees on a fixed price with the customer, it concludes a purchase agreement.  
(3) The customer hereby acknowledges his agreement with the credit institution's order execution policy; this policy shall provide the basis on which the credit institution will execute the customer's orders in the absence of other instructions. The credit institution shall inform the customer of any material changes to its execution policy.  
(4) The credit institution may also carry out orders for the purchase and sale of securities in part if the market situation does not allow that they be carried out in full.

**C. Place of Execution**

**Section 58.** The prevailing laws and practices at the place of performance shall be decisive for the execution.

**D. Time of Execution**

**Section 59.** 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 60.** (1) The credit institution shall be entitled not to carry out transactions in securities in whole or in part if insufficient coverage is available.  
(2) However, the credit institution shall be entitled to execute such securities transactions if it is unable to determine that the customer wishes the order to be carried out only on the condition that coverage is available.  
(3) If the customer does not provide coverage despite being asked to do so, the credit institution shall be entitled to enter into a closing transaction for the customer's account at the best possible price.

**F. Foreign Business**

**Section 61.** If the customer has a right to delivery of securities credited to his account (safekeeping of securities abroad), the customer's right vis-à-vis the credit institution shall correspond to the proportion that the credit institution holds in the customer's account out of the total portfolio of the same type of securities held abroad by the credit institution for its customers according to the relevant laws and practices.

**G. Transactions in Securities**

**Section 62.** In case of transactions in securities, the physical units of which are not being traded yet, the credit institution 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 VALUABLES**

**A. Safekeeping of Securities**

- Section 63.** (1) The credit institution shall be entitled to place securities deposited with it in the beneficiary's securities account.  
 (2) The credit institution 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 credit institution shall be liable exclusively for careful selection of the third-party depository.

#### B. Redemption of Shares, Renewal of Coupons, Drawing, Termination

- Section 64.** (1) The credit institution shall ensure detachment of due interest coupons, profit participation certificates and dividend coupons and collect their countervalue. The credit institution shall procure new interest coupons, profit participation certifications and dividend coupons without specific instruction.  
 (2) Drawings, terminations and other comparable measures in respect of the securities held in safekeeping shall be monitored by the credit institution insofar as they are published in the official gazette "*Amtsblatt zur Wiener Zeitung*" or in "*Mercur, Authentischer Verlosungsanzeiger*". The credit institution shall redeem drawn and terminated securities as well as interest coupons, profit participation certificates and dividend coupons.  
 (3) In case of securities deposited with a third-party depository, the same shall assume the obligations described in subsections 1 and 2 above. In case of securities held abroad, the credit institution shall not be required to inform the customer about the numbers of the securities credited and in particular of securities redeemable by drawing. The credit institution shall then determine by drawing what customers are to be allotted the securities drawn.  
 If, however, the numbers of securities redeemable by drawings are provided, they shall only be relevant to the drawing and redemption and only for as long as this is the practice abroad. If, according to the practice abroad, the collection amounts of the drawn securities would have to be distributed pro-rata and if, in doing so, it would not be possible to represent the remaining parts for individual customers in securities, the customers whose securities are to be redeemed shall be determined by means of a drawing.

#### C. The Bank's Obligation to Examine

- Section 65.** The credit institution 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, i.e. on delivery of the securities to the credit institution. 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 66.** In case of conversion, capital increase, capital reduction, merger, exercise or realisation of subscription rights, request for payment, grouping, change, exchange/conversion offer, coupon increase or other major measures regarding securities, the credit institution shall, to the extent a respective notification has been published in the official gazette "*Amtsblatt zur Wiener Zeitung*" or communicated in time by the issuing house or the foreign depository, attempt to notify the customer thereof. If the customer fails to provide instructions in time, the credit institution shall act to the best of its knowledge by taking into account the customer's interests and, in particular, realise rights which would otherwise forfeit at the latest point in time possible.

### III. TRADE IN FOREIGN EXCHANGE AND FOREIGN CURRENCY

#### A. Type of Execution

- Section 67.** The credit institution shall conclude a purchase agreement with the customer on foreign exchange and foreign currency. If it is agreed that the credit institution act as commission agent for the customer, the provisions transactions contained in the section on trade in securities shall apply accordingly. In case the credit institution contracts in its own name, no express notification pursuant to section 405 Austrian Commercial Code (UGB) shall be required.

#### B. Forward Transactions

- Section 68.** (1) In case of forward transactions, the credit institution shall be entitled to demand evidence on the fact that the amount owed by the customer will be received in the agreed account in time from the customer at a reasonable date before the due date. If such evidence is not provided or if due to other circumstances it is obvious that the customer will not fulfil his obligations, the credit institution shall be entitled to conclude a closing transaction at the best possible price prior to the agreed due date.  
 (2) Even without prior agreement, the credit institution shall be entitled to demand coverage for the risk of loss if according to an expert's opinion such risk has increased or if the customer's assets situation has deteriorated. Unless otherwise agreed, coverage shall be provided in cash. The credit institution shall hold a lien on the assets deposited as coverage. If the customer fails to provide coverage, the credit institution shall be entitled to conclude a closing transaction at the best possible price.  
 (3) If the credit institution concludes a closing transaction pursuant to subsections 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 69.** Foreign currency loans shall be paid back in the currency in which they were granted by the credit institution. The credit institution shall furthermore be entitled to convert an outstanding debit balance in a foreign currency into Austrian currency upon notification of the customer if the loan is due for repayment in its entirety and not repaid despite a reminder.

This shall furthermore be applicable in business relationships with enterprises if

- o the credit risk increases due to the price development of the foreign currency and if the credit institution does not

- receive sufficient security within a reasonable period of time or
- o pursuant to statutory or other circumstances for which the credit institution is not responsible, refinancing in the foreign currency is no longer possible

## V. COLLECTION, DISCOUNT BUSINESS, BILL OF EXCHANGE AND CHEQUE OPERATIONS

### A. Scope of Application

- Section 70.** 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 or Negotiation of Documents

- Section 71.** Generally, such documents shall be accepted by the credit institution for collection unless negotiation (discounting) of the same has been agreed.

### C. Timeliness of Orders

- Section 72.** 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 Credit Institution

- Section 73.** In case of discounting as defined under section 41 (2) and (3), the credit institution shall be entitled to debit the seller with the full nominal amount plus all expenses incurred by the credit institution; in case of documents denominated in foreign currency, the customer shall also bear the exchange risk.
- Section 74.** In the events stated above as well as in case of redebts of "subject to collection" credits (section 41), 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 credit institution until coverage of the debit balance resulting from such redebit is ensured.
- Section 75.** The credit institution may demand from the customer 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.
- Section 76.** The credit institution shall be obliged to cash documents which are due for payment with it only if it has received an order from the customer in time and if sufficient coverage is available.