

GENERAL TERMS AND CONDITIONS FOR BANKING TRANSACTIONS

VERSION AUGUST 2013

GENERAL PROVISIONS

I. RULES GOVERNING THE RELATIONS BETWEEN CUSTOMER AND THE BANK

A. Scope of application of and amendments to the General Terms and Conditions

1. Scope of application

Sect. 1 (1) These General Terms and Conditions (hereinafter "GTC") apply to the entire business relationship between the customer and all domestic and foreign branches of the bank and to all framework contracts for payment services, such as current account agreements or credit card agreements. Provisions in agreements or special conditions agreed upon with the customer shall take precedence over these GTC.

(2) The terms "consumer" and "entrepreneur" are used hereinafter within the meaning of the Austrian Consumer Protection Act [*Konsumentenschutzgesetz*].

2. Amendments

Sect. 2 (1) Amendments to these GTC agreed upon between the customer and the bank are deemed to have been agreed upon after expiry of two months from the date of receipt of the notification of the proposed amendments by the customer, unless the bank has received a written objection from the customer within that period.

Such notification of the customer may be made in any form agreed upon with the customer. An agreement with the customer on the receipt of statements from the bank also applies to the notification of amendments to the GTC. If the customer is an entrepreneur, it shall be sufficient if the bank keeps the proposed amendments available for inspection in any manner agreed upon with the entrepreneur.

(2) The bank will notify the customer of any amendments of the GTC and draw the customer's attention to the fact that his/her silence within two months of notification will be considered as acceptance of any such amendments. In addition, the bank will publish a comparison of the relevant provisions of the GTC as well as the full version of the new GTC on its website and hand over a written copy of such comparison to the customer at its branch offices or send it by post to the customer upon the customer's request. The bank will make the customer aware of these possibilities when notifying him/her of the proposed amendment.

(3) In case of such intended amendment to the GTC, the customer, who is a consumer, is entitled to terminate his/her framework contracts for payment services, in particular the

current account agreement, free of charge and without notice before the amendment becomes effective.

(4) Paras. 1, 2 and 3 also apply to amendments to framework contracts for payment services (in particular the current account agreement). The changes of the bank's services and the fees payable by the customer agreed upon in such framework contracts are subject to separate provisions: Sect. 43 (for business dealings with entrepreneurs) and Sect. 45 (for business dealings with consumers).

B. Service of Statements

1. Customer orders

Section 3. (1) Order shall be in writing. The customer can place orders also by using a device provided by the bank for the electronic recording of signatures.

(2) The bank shall also be authorised, however, to execute orders placed by means of telecommunications (in particular by telephone, telegraph, telex, fax or remote data transmission). Provided all the other requirements have been met, the bank shall be obligated to execute such orders only if agreed between the customer and the bank.

(3) In a business relationship with an entrepreneur, the bank shall be entitled to execute orders placed with it in whatever form for the account of the entrepreneur if the bank comes to the opinion - without negligence on its part - that they originate from the entrepreneur, and shall not be held accountable for any invalid order.

2. Request for confirmation by the bank

Section 4. For security reasons, the bank shall be entitled, particularly in the case of orders placed by means of telecommunications, to request a confirmation of the order through the same or other means of communication, as the case may be, before executing it.

3. Statements of the bank

Section 5. (1) Any disclosures and statements of the bank made by means of telecommunication shall apply subject to written confirmation, unless otherwise agreed in writing and in the absence of other bank practices. The above shall not apply to consumers.

(2) Any statements and information the bank is required to disclose or make available to the customer shall be issued in hardcopy (especially by means of statements of account).

C. Discretionary authority after the customer's death

Section 6. (1) As soon as it receives notice of the death of a customer, the bank shall allow dispositions to be made on the basis of the probate court's decision [*Abhandlungsgericht*] or the certificate of inheritance [*Einantwortungsurkunde*]. Dispositions by an account/securities

account holder with sole discretionary authority over the joint account/securities account shall not be affected by this provision.

(2) Signing authorities shall not expire as a result of the death of the customer if they have been granted by an entrepreneur for a business account. In case of doubt, the accounts of an entrepreneur shall be deemed business accounts.

D. Duties and liability of the bank

1. Duties to inform

Section 7. (1) Apart from the statutory duties to inform, the bank shall – in the absence of any separate agreement – have no duties to inform other than those specified in its General Terms and Conditions. Therefore, the bank shall not be obligated – unless it is legally or contractually obligated to do so – to inform the customer of any imminent price or exchange losses, of the value or worthlessness of objects entrusted to the bank, or of any facts or circumstances likely to affect or jeopardise the value of such objects, nor shall the bank be obligated to provide other advice or information to the customer.

(2) The duties to inform provided for in sections 26 (1) to (4), 28 (1), 31 and 32 of the Payment Services Act [*Zahlungsdienstegesetz*] shall not be applicable in relations with entrepreneurs.

2. Order execution

Section 8. (1) In assigning a third party to act in its name, the bank shall execute any order which, by its nature, ordinarily requires the assistance of a third party. In the event that the bank chooses the third party, it shall be liable for diligent selection.

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

(3) In addition, the bank shall be liable to consumers (but not to entrepreneurs) for payment services within the European Economic Area (EEA) in euros or in any other currency of an EEA member state for the proper execution of the payment transfer up until it is received by the beneficiary's payment service provider (section 39a of these GTCs).

Section 9. Omitted.

E. Obligations to cooperate and customer liability

1. Introduction

Section 10. In his/her dealings with the bank, the customer shall, in particular, meet his/her obligations to cooperate as set out below; any violation thereof shall obligate the customer to settle any damages payable or lead to a reduction of the customer's claims for damages against the bank.

2. Notification of important changes

a) Name or address

Section 11. (1) The customer shall notify the bank without delay in writing of changes to his/her name, company name, address or the service address disclosed by him/her.

(2) If the customer fails to notify address changes, written statements of the bank shall be deemed received if sent to the address most recently notified by the customer to the bank.

b) Power of representation

Section 12. (1) The customer shall inform the bank without delay in writing of the expiration of or any changes to a power of representation it had been advised of, including any discretionary authority and authority to sign (sections 31 and 32), and provide appropriate documentary evidence.

(2) Any power of representation of which the bank has been advised shall continue to be effective up until the bank is informed in writing of its expiration or of a change to its current scope, unless the bank had knowledge of such expiration or change, or was not aware of it due to gross negligence. The same shall apply particularly if the expiration of or the change to the power of representation was recorded in a public register and a public announcement to this effect was made.

c) Capacity; dissolution of the company

Section 13. The bank shall be notified without delay in writing of any loss and/or any restriction to the customer's capacity to enter into contracts. If the customer is a company or a legal entity, then the bank must also be informed without delay in the event of dissolution.

3. Clarity of orders

Section 14. (1) The customer shall ensure that any orders he/she places with the bank are clear and unambiguous. Changes, confirmations and repeat orders must be explicitly designated as such.

(2) If the customer wishes to give the bank special instructions for the execution of orders, then he/she shall inform the bank of this separately and explicitly, and, if forms are used to place orders, the instructions shall be given separately. This shall apply in particular if the execution of the order is especially urgent or is subject to specific periods and dates.

4. Due care and diligence in using means of telecommunication

Section 15 (1) When using payment instruments in accordance with the agreement to place an order with the bank, the customer 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 bank

or to a body specified by the bank as soon as he/she has become aware of the above. Entrepreneurs shall be liable for any losses sustained by the bank due to violations of these duties of care and diligence without limitation in case of negligence on the part of the entrepreneur.

(2) The bank shall be authorised to cancel payment instruments issued to the customer

- if justified by objective reasons in connection with the security of the payment instrument, or

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

- in case of a significantly increased risk of the customer failing to meet his/her payment obligations under the credit line associated with the payment instrument.

The bank shall inform the customer – provided the notification of the cancellation or the reasons for the cancellation do not violate a court or administrative order or run counter to Austrian or Community law or any objective security considerations - of such cancellation and the reasons for such cancellation prior to, but no later than immediately after, the cancellation.

5. Objections

Section 16. (1) The customer shall immediately verify statements of the bank not relating to payment services (e.g. confirmations of orders relating to financial instruments, communications about the carrying out of the same and trade confirmations; statements of account, closing statements and other settlements regarding credit and foreign currency transactions; securities account statements) and raise objections, if any, without delay.

(2) If the bank receives no written objections against these statements within a period of two months, the specified statements of the bank shall be deemed approved; the bank shall in each case inform the customer about the significance of his/her behaviour at the beginning of the period.

(3) If an amount was debited to the customer's current account following an unauthorised or incorrectly executed payment transaction, the customer may obtain rectification from the bank if he/she notifies the bank without undue delay upon becoming aware of any such unauthorised or incorrectly executed payment transaction, no later however than 13 months after the debit date, unless the bank has failed to provide or make available the information on that payment transaction provided for in Sect. 39(9) of these GTC. This provision does not prevent the customer from raising other claims for rectification.

(4) The period in Par. 3 shall be reduced from 13 months to three months for entrepreneurs.

6. Notification in case of non-receipt of disclosures

Section 17. Omitted

7. Translations

Section 18. Upon request, all types of foreign language documents shall be presented to the bank together with a German translation certified by a certified court translator.

F. Place of performance; choice of law; venue

1. Place of performance

Section 19. The place of performance for both parties shall be the offices of the branch of the bank with which the transaction was concluded. § 6a *Konsumentenschutzgesetz* (Consumer Protection Act) applies to the payment of consumer's monetary debts.

2. Choice of law

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

3. Venue

Section 21. (1) An entrepreneur may only bring legal actions against the bank before a court with subject-matter jurisdiction for the place of the registered office of the main branch of the bank. This shall also be the legal venue for actions the bank brings against an entrepreneur. In the latter case, the bank shall also be entitled to assert its rights in any other court with local jurisdiction and subject-matter jurisdiction.

(2) The general venue in Austria for actions by a consumer or against a consumer at the time of conclusion of the agreement with the bank shall remain the same even if the consumer moves his/her domicile abroad after conclusion of the agreement and Austrian court decisions are enforceable in that country.

G. Termination of the business relationship

1. Termination with notice of business relationships with entrepreneurs

Section 22 (Where no business relationship for a fixed term has been agreed upon, the bank and the customer may terminate the business relationship as a whole, or individual parts thereof (including credit agreements and framework contracts for payment services such as current account agreements), at any time giving reasonable prior notice to that effect to the other party. Prepaid fees will not be reimburse.

2. Termination with notice of business relationships with consumers

Section 23. (1) The customer can terminate a framework contract for payment services, in particular the current account agreement, free of charge at any time without notice. The right to terminate a framework contract for payment services, in particular the current account agreement, free of charge and without notice following the proposal of an amendment of the

GTC or a framework contract for payment services, in particular the current account agreement (Par. 2), by the bank shall not be affected thereby.

(2) All other agreements concluded with the bank for an indefinite period may be terminated by the customer at any time by giving reasonable prior notice.

(3) The bank can terminate framework contracts for payment services (in particular current account agreements) and credit agreements concluded for an indefinite period with two months' prior notice.

(4) All other agreements concluded for an indefinite period may be terminated by the bank at any time by giving reasonable prior notice.

3. Termination without notice

Section 24. (1) Notwithstanding an agreement for a fixed term, the bank and the customer may terminate the business relationship as a whole, or individual parts thereof, for an important reason with immediate effect at any time.

(2) It shall be considered as an important reason for termination if it endangers the payment of the debt to the bank. Such danger can occur if:

- the circumstances under which the collateral was provided significantly change, in particular if its value materially changes compared with the value it had when the credit was granted, and the bank is not provided with adequate collateral taking account of the increased risk situation,
- the customer's or another liable person's (e.g. guarantor,...) financial situation deteriorates or is put at risk,

the customer provides false information about its financial situation or fails to abide by other important contractual terms.

4. Legal consequences

Section 25. (1) Upon termination of the business relationship in whole or in part, any amounts owed under this business relationship shall immediately become due. In addition, the customer shall be obliged to release the bank from all obligations undertaken on his/her behalf.

(2) Moreover, the bank shall be entitled to terminate all obligations undertaken for the customer and to settle these on behalf of the customer and, subject to the receipt of credit entries, to immediately redebit credited amounts. Claims arising from securities, in particular bills of exchange and cheques, may be asserted by the bank until any existing debit balance is covered.

(3) If the business relationship is terminated as a whole or in part, the bank will reimburse the customer, who is a consumer, the fees prepaid for payment services for a specific period.

(4) The GTCs shall continue to apply even after any termination of the business relationship until complete settlement.

H. Right to refuse payment of the credit amount

Section 26. (1) The bank may refuse payment of the credit amount for objective reasons.

(2) Objective reasons for the purposes of Par. 1 occur when circumstances arise after conclusion of contract that result in a deterioration of the borrower's financial situation or a loss in the value of agreed collateral to an extent that the repayment of the credit or the payment of interest payable on it is endangered even if the collateral is liquidated, or the bank has reasonable grounds to suspect that the credit amount is used by the borrower in a manner contrary to the contract or the law.

(3) The bank shall immediately notify consumers in writing or in the form of another durable medium of its intention giving the reasons for it. No reasons must be given if this endangered public security or public policy.

II. BANKING INFORMATION

Section 27. General banking information on the financial situation of a company shall be provided without any commitment only and only in writing to entrepreneurs, unless there is an obligation to provide such information.

III. OPENING AND KEEPING ACCOUNTS AND SECURITIES ACCOUNTS

A. Scope of application

Section 28. Unless otherwise specified, 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 must provide proof of his/her identity. Accounts shall be kept under the name or company name of the account holder and an account number.

C. Specimen signatures

Section 30. Persons who are to have discretionary and signing authority on the account shall deposit their signature with the bank. On the basis of the signatures deposited with the bank, the bank shall permit written dispositions regarding the customer's account.

D. Discretionary authority and authority to sign

1. Discretionary authority

Section 31. Only the account holder is authorised to sign on the account. Only persons whose power of representation is statutory or who hold an express written power of attorney giving them discretionary authority over the account in question are authorised to represent the account holder. Such persons must provide proof of their identity and power of representation. In the case of enduring powers of attorney whose entering into force (in particular in cases where the grantor becomes incapacitated) is registered with the *Österreichisches Zentrales Vertretungsverzeichnis* (Austrian Central Representatives Directory), a general power of attorney providing discretionary authority over the accounts held by the grantor shall suffice.

2. Authority to sign

Section 32. (1) The account holder may expressly and in writing grant third parties authority to sign on the account. The authorised signatory must provide proof of his/her identity to the bank. The authorised signatory shall be exclusively authorised to draw down on the account and to revoke any drawdowns made.

(2) The authority to sign on a securities account shall also include the authority to buy and sell securities within the scope of the available cover and the investment objective of the securities account holder surveyed in accordance with the Securities Supervision Act [*Wertpapieraufsichtsgesetz*].

E. Special types of accounts

1. Sub-accounts

Section 33. An account may also have sub-accounts. Even if these are given sub-account names, only the account holder shall be authorised and obligated towards the bank.

2. Escrow accounts

Section 34. In the case of escrow accounts, only the escrow agent, as the account holder, shall be authorised and obligated towards the bank.

3. Joint accounts

Section 35. (1) An account may also be opened for several holders (joint account). Dispositions regarding the account, in particular its closure and the granting of authority to sign, may only be made jointly by all account holders. In individual cases, each account holder may arrange to be represented by his/her own representative authorised for this purpose.

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

(3) Unless expressly agreed otherwise, every joint account holder shall have sole authority to make dispositions regarding the account. Such authority shall also include the authority to buy and sell securities within the scope of the available cover and the joint investment objective of all securities account holders surveyed in accordance with the Securities Supervision Act. This authority, however, shall terminate anytime another account holder files an express objection. In this case, authority shall be given only if all joint account holders act jointly.

Section 36. Omitted.

4. Foreign currency accounts

Section 37. Holders of credit balances in foreign currency shall bear all financial and legal disadvantages and damages that affect the total credit balance held by the bank in the respective currency in Austria and abroad caused by measures or occurrences for which the bank is not responsible on a pro rate basis and up to the amount of their respective balances.

F. Balancing accounts and lists of securities

Section 38. (1) Unless otherwise agreed, the bank shall balance accounts on a quarterly basis. Any interest and fees which accrue in a quarter shall form part of the closing balance, which will subsequently be subject to interest (compound interest). Lists of securities shall be provided once a year.

(2) The bank shall hold the statement of account including the balance of account/list of securities ready for collection by the customer at the account-keeping branch.

IV. GIRO TRANSACTIONS

A. Payment transfer orders

Section 39. (1) In the case of transfer orders in favour of a payee whose account is managed by a payment service provider based in Austria, other States of the European Economic Area (EEA) or Switzerland, the customer must designate the payee with his/her International Bank Account Number (IBAN). If the payee's payment service provider is based in a Member State of the EEA other than Austria or in Switzerland, the Bank Identifier Code (BIC) of the payee's service provider must be indicated in addition to the IBAN by 31 January 2016.

Until 31 January 2014, the customer can continue to use the payee's name and account number and indicate either the bank code or BIC of the payee's payment service provider.

(2) In the case of transfer orders in favour of a payee whose account is managed by a payment service provider based outside the EEA and Switzerland, the customer must

indicate the following bank details of the payee: the payee's name and account number and either the name, bank code or BIC of the payee's service provider or the payee's IBAN and the BIC of the payee's service provider.

(3) The IBAN and BIC to be indicated by the customer pursuant to Paras. 1 and 2 are the payee's unique identifier based on which the transfer order is carried out. Any additional information regarding the payee, such as the payee's name, does not form part of the unique identifier and is disregarded when carrying out the transfer order.

(4) The purpose of transfer indicated in the transfer order is not binding on the bank.

(5) Acceptance of a transfer order 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 order if sufficient funds to cover the total amount are available on the customer's account stated therein (credit balance, credit line granted).

(7) Transfer orders received by the bank (Par. 39a) cannot be revoked unilaterally by the customer. If a later execution date is agreed for a transfer order, the transfer order shall become irrevocable only upon expiration of the business day preceding the execution date.

(8) Where the bank refuses to carry out a transfer order, it will inform the customer thereof in the manner agreed with the customer as soon as possible, not later however than within the periods stated in Par. 39a(3), and about how the transfer order can be rectified to facilitate its execution in the future. A reason for the refusal is not given, unless this would be contrary to Austrian or Community legislation, a court order or an order issued by an administrative authority. Transfer orders which the bank is justified in refusing shall not trigger the execution periods agreed in Sect. 39a of these GTC.

(9) A customer who is a consumer shall be informed by the bank, upon request, about transfer orders carried out (reference, amount, currency, charges, interest, exchange rate, debit value date) and other payments debited to his/her account, in particular under a direct debit and collection procedure, once a month unless such information has been provided on the account statement on occasion of the respective transaction.

Execution deadlines

Section 39a (1) Payment orders received by the bank close to the end of the business day or on a day other than a business day after the points in time defined by the bank and to be notified to the customer for the respective mode of payment shall be deemed received on the next business day. In addition, the bank publishes these points in time in the "General Information on Payment Services for Consumers", which is accessible on its website. Business day means any day on which the bank is open for business with customers and for the execution of payment transactions.

(2) If the customer placing a payment order 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 date shall be deemed the date of receipt. If the agreed date is not a business day, the payment order shall be treated as received on the following business day.

(3) The bank shall ensure that the amount of the payment transaction received is received by the payee's payment service provider at the end of the following business day (in the case of payment transactions made on paper at the end of the second business day), at the latest. This paragraph only applies to payment transactions made in euros within the EEA.

(4) The execution period specified in subsection (3) shall not exceed 4 business days in case of payment transactions made within the EEA that are not denominated in euros but in another currency of an EEA member state.

B. Credit entries and right to cancellation

Section 40. (1) In case of a valid current account agreement, the bank shall be obligated and irrevocably entitled to accept amounts of money on behalf of the customer and credit the same to his/her account. Even after termination of the current account agreement the bank shall be entitled to accept amounts of money on behalf of the customer insofar as the customer has obligations to meet in connection with the account. The bank shall execute the order to provide a customer with an amount of money by crediting the amount to the account of the beneficiary unless otherwise indicated in the order.

If the customer's account referred to in the payment transfer order is not denominated in the currency under which the order was given, any transferred amounts are credited to the account after conversion into the currency in which the account is denominated at the rate of the day on which the amount referred to in the payment transfer order is available to the bank and can be used by it

(2) Upon request, the customer who qualifies as a consumer shall be provided information at the bank on payment transfers credited to his/her account (reference, amount, currency, fees, interest, exchange rate, value date of the debit entry) on a monthly basis, unless already shown for the relevant transaction in the statement of account.

(3) The bank shall be entitled to deduct its fees for the relevant payment transfer from the credited amount. The bank shall show the transferred amount and deducted fees separately.

(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 shall cancel the credit entry only if the ineffectiveness of the payment transfer order is clearly proven. The right to cancellation shall not be eliminated by any preliminary balancing of the account. If the right to cancellation exists, the bank may deny discretion over the credited amounts.

C. Credit entry subject to receipt

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 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) By virtue of this proviso, the bank shall be entitled to reverse the credit entry by means of a simple entry if the collection or payment transfer has failed or if due to the financial situation of a debtor, intervention by a public authority or other reasons it is to be expected that the bank will not obtain the unrestricted discretionary authority over the amount to be collected or transferred.

(3) This proviso shall also be applicable if the amount credited has been collected or transferred from abroad and re-debited to the bank by a third party in accordance with foreign law or on the basis of an agreement entered into with foreign banks.

(4) If the proviso is applicable, the bank shall also be entitled to deny the customer discretionary authority over the credited amounts. The proviso shall not be eliminated by the balancing of accounts.

D. Debit entries

Section 42. (1) In the event of payment transfer orders, debit entries shall only be considered a notification that the order has been executed if the debit entry is not reversed within two business days (cf. subsection 39a (1) of these GTCs).

(2) Cheques and other payment orders as well as debit entries are deemed cashed/honoured/collected if the debit entry on the customer's debited account is not cancelled within two business days, unless the bank has notified the presenter or paid out the amount in cash to him/her prior thereto.

E. Direct debit authorisations and standing orders

Section 42a. (1) The customer agrees to have the account he/she holds with the bank debited with amounts collected by third parties authorised by him/her. Such approval may be revoked by the customer at any time in writing. Such revocation shall take effect from the business day following receipt by the bank.

(2) If at the time of a debit the bank is in receipt of a relevant order from the customer to pay amounts collected from the customer's account ("standing order") by the third party specified in this order, the bank shall be obligated to reverse the debited amount from his/her account upon request by the customer who qualifies as a consumer. The above shall not apply if the bank is able to prove that the customer had authorised this exact amount in his/her debit order or that the bank or the beneficiary had provided the customer or made available to him/her information about the upcoming debit no later than four weeks prior to the due date

in an agreed form. The bank must receive the customer's receipt for reversal of the debit entry within 8 weeks from the date of such debit entry. Entrepreneurs shall not be entitled to make such a request.

(3) If at the time of a debit the bank has not received a standing order by the customer ("**procedure for direct debit authorisation**"), the bank shall be required to meet the request of a customer (including entrepreneurs) received within 8 weeks from the date of the debit entry to reverse the debit from his/her account.

(4) A justified request by a customer to reverse a debit shall be met within 10 business days.

V. CONSIDERATION FOR SERVICES AND REIMBURSEMENT OF EXPENSES

A. Changes in fees and services for entrepreneurs

1. Principle that services are rendered subject to payment of consideration

Section 43. (1) The bank is entitled to an adequate fee for its services, the level of which the bank will determine and display in the form of a price table for certain typical services.

(2) In business dealings with entrepreneurs, the bank can change the fees for permanent services the bank or the customer has to pay (including negative and positive interest on current and other accounts, account keeping fees, etc.) by taking into account all relevant circumstances (in particular, changes in the legal framework, changes in the money or capital market, changes in refinancing charges, changes in staff expenses and operating expenditure, changes in the Consumer Price Index, etc.) using equitable discretion.

The bank may change its services using equitable discretion if such changes become necessary due to changes in legal requirements, safety requirements of banking operations, technical developments or a significant reduction of the degree to which a service is used so that the costs related to such service are no longer covered.

(3) Changes in the bank's services or in the fees payable by the customer going beyond those referred to in Par. 2 as well as the introduction of new separately charged services and new fees for already agreed services require the customer's consent, such changes becoming effective - provided the customer has not given his/her explicit prior consent - two months after the customer has been notified of the changes proposed by the bank, unless the bank has received a written objection from the customer by then. The bank shall inform the customer in its notification of the proposed amendment and warn the customer that his/her silence will be regarded as consent upon expiry of that period. The bank may keep the notification of the proposed amendment ready for inspection in a manner agreed upon with the entrepreneur.

(4) Subsection (1) shall furthermore not apply to services provided by the bank to consumers in connection with the customer's termination of the current account agreement.

B. Fee changes for services, other than payment services, provided to consumers (except for debit interest rates)

Section 44. (1) The fees agreed upon with consumers for the permanent services, other than payment services, provided by the bank (such as custodian fees, safe deposit fees, account management fees for accounts from or to which payments are made, except for debit interest) are adjusted (increased or lowered) on the 1st of April of each year to reflect the development of the national Consumer Price Index 2010 as published by Statistik Austria, amounts being commercially rounded up or down to whole cents. The adjustment is made on the basis of a comparison of the index values for November of the previous year with the index values for November of the penultimate year. If the increased fees are not charged for any reason whatsoever, this shall not prevent the bank from charging such increased fees in the future. Fees will be lowered if the consumer price index decreases. Fee adjustments in accordance with the preceding adjustment clause are made at the earliest after two months of the date of conclusion of the contract.

(2) The bank will propose any fee changes for services, other than payment services, going beyond par. 1 to the customer in a timely manner so that the customer receives the change notice at least two months before the proposed time of their entry into force. The customer's consent to such changes is deemed given if the bank has not received a written objection to them from the customer before the proposed time of their entry into force. The bank will inform the customer about this and about the extent of such changes in its fee change offer.

(3) The bank may change the fees for permanent services agreed upon with the customer in accordance with par. 2 only if all of the following requirements have been met:

- The costs incurred by the bank in connection with the respective permanent service during the period relevant for the fee change for the purposes of par. 1 differs from the development of the consumer price index due to changes of legal and supervisory requirements and the fee change offered reflects this different cost development.
- The fee increase pursuant to par. 2 does not exceed a fee increase resulting from the development of the consumer price index by a factor of three.
- The fee change offer states that the offered fee exceeds the fee resulting from the development of the consumer price index.

C. Fee changes for payment services provided to consumers (except for debit interest rates)

Section 45. (1) (1) The bank shall propose any changes of fees agreed upon with consumers in a framework contract for payment services (in particular the current account agreement) for permanent services (except for debit interest rates) in a timely manner so that the customer receives the fee change notice at least two months before the proposed times of their entry into force. The customer's consent to such changes is deemed given if the bank has not received a written objection to them from the customer before the proposed time of

their entry into force. The bank will inform the customer about this in its fee change offer. The customer shall be entitled to terminate the framework contract without notice free of charge before the amendment enters into force. The bank will inform the customer about this and the extent of the changes in its fee change offer. The fee change offer shall be made to the customer in writing or, if the customer agrees, in the form of another durable medium.

(2) The fees agreed upon with the customer under this par. 1 are adjusted (increased or lowered) on the 1st of April of each year to reflect the development of the national Consumer Price Index 2010 as published by Statistik Austria, amounts being commercially rounded up or down to whole cents. The adjustment is made on the basis of a comparison of the index values for November of the previous year with the index values for November of the penultimate year. If, in the case of an index increase, the fees are not increased for any reason whatsoever, this shall not prevent the bank from adjusting them in the future. Fees will be lowered if the consumer price index decreases.

(3) The bank may propose the customer a fee change diverging from the development of the consumer price index pursuant to par. 1 only if all of the following requirements are met:

- The costs incurred by the bank in connection with the respective permanent service during the period relevant for the purposes of par. 1 for the fee change differs from the development of the consumer price index due to changes of legal and supervisory requirements and the fee change offered reflects this different cost development.
- The fee increase pursuant to par. 2 does not exceed a fee increase resulting from the development of the consumer price index by a factor of three.
- The fee change offer states that the offered fee exceeds the fee resulting from the development of the consumer price index.

D. Changes of interest rates for consumers (except for credit agreements)

Section 45a. (1) If no adjustment clause has been agreed upon with the consumer, or if the bank intends to change the interest rate beyond the agreed adjustment, other than under credit agreements, the bank will offer such interest rate change at least two months before the proposed time of entry into force of such change. The customer's consent to such changes is deemed given if the bank has not received a written objection to them from the customer before the proposed time of their entry into force. The bank will inform the customer about this in its fee change offer. If the fee change offer concerns an account via which payment services are provided, the customer shall be entitled to terminate the framework contract without notice and free of charge before the change enters into force. The bank will inform the customer about this and the extent of the changes in its fee change offer.

(2) The bank may propose the customer an interest rate adjustment pursuant to par. 1 only if all of the following requirements are met:

- The offered interest rate adjustment corresponds to the development of the costs incurred by the bank in connection with the respective account since conclusion of the agreement on which the current interest rate is based, taking account of all objective circumstances (changes in the legal and supervisory framework, changes in the the money or capital market, in particular changes in the ECB's reference rate and 3-month Euribor):
- An increase in debit interest and/or a decrease in credit interest pursuant ot par. 1 must not exceed 0.5% per year.
- The fee change offer shall state that the offered interest rate change exceeds an interest rate change that would result from the agreed adjustment clause. Where no adjustment clause has been agreed upon, the fee change offer shall state that the agreement underlying the interest rate does not provide for a unilateral interest rate adjustment.

(3) In this way, the agreement of an interest rate adjustment clause can be offered.

E. Reimbursement of costs by entrepreneurs

Section 46. (1) The customer, who is an entrepreneur, shall bear all necessary or useful expenses, expenditure and costs incurred by them, in particular stamp duties and legal fees, taxes, postage, insurance costs, lawyer fees, enforcement and collection costs, costs for business consultancy and advisory services, telecommunications and provision, administration and liquidation or release of collateral incurred by the bank in connection with the business relationship with the customer.

(2) The bank is entitled to charge these expenses as an overall amount without having to itemise the related invoice, unless the customers has expressly requested an itemised invoice.

VI. COLLATERAL

A. Providing and increasing collateral

1. Entitlement to collateral

1. **Section 47.** Omitted.

2. Changes in risk

Section 48. (1) If circumstances arise or become known after conclusion of a contract which jeopardise the fulfilment of the customer's obligations under that contract ("risk increase"), the bank shall be entitled to request the customer in writing to provide or increase collateral for these obligations within a period of at least 2 months. A risk increase may arise in particular from a material deterioration of the customer's or a guarantor's assets or income or

from the adverse development of the value of collateral provided. The extent to which collateral must be provided shall be proportionate to the extent of the risk increase.

(2) The bank's right to request the customer to increase collateral pursuant to Par. 1 also applies if the provision of collateral was not requested at the time the claims arose. Par. 52 applies to any release of collateral at a later stage.

(3) Contrary to the above Paras. 1 and 2, the following applies for entrepreneurs:

If circumstances arise or become known subsequently which justify the assessment that the claims against the customer are subject to an increased risk, the bank shall be entitled to request the customer to provide or increase collateral within a reasonable period. This applies in particular if the economic situation of the customer has changed or is expected to change, or the value of the collateral provided has deteriorated or is expected to deteriorate. The same applies if the provision of collateral was not requested at the time the claims arose. Par. 75 applies to a risk increase arising from a significant undesirable development, with respect to the repayment of a credit, of the foreign currency exchange rate under which the credit was granted.

B. The bank's lien rights

1. Scope and creation

Section 49. (1) The customer shall grant the bank a lien on any property and titles which come into the bank's possession.

(2) In particular, the lien shall also apply to all the customer's distrainable claims against the bank, from credit balances for example. If securities are subject to the bank's lien, then the lien shall also extend to the interest and dividend coupons attached to these securities.

Section 50. (1) The lien shall guarantee the bank's claims against the customer arising out of the business relationship, including joint accounts, even if the claims are conditional, limited in time or not yet due.

(2) The lien shall arise when the bank takes possession of the pledged property, provided the bank has claims pursuant to subsection (1), and otherwise at any future point in time when such claims arise.

2. Exceptions from the lien

Section 51. (1) The lien shall not cover items and rights assigned by the customer for the execution of a specific order prior to the time the lien arose, for example amounts for cashing a certain cheque or honouring a bill of exchange, and for the execution of a certain payment transfer. This, however, shall apply only as long as the assignment remains effective.

(2) Notwithstanding the existing lien, the bank shall carry out the customer's dispositions with regard to balances on current accounts for the benefit of third parties for as long as the

customer has not received a notification from the bank for the assertion of the lien. Distraint of the credit balance shall not be considered a disposition by the customer.

(3) The lien shall also not extend to assets which the customer has disclosed to the bank as assets in trust prior to the lien arising or which have come into the possession of the bank without the customer's intent.

C. Release of collateral

Section 52. The bank shall release collateral at the customer's request if it has no justified collateral interest therein.

D. Realisation of collateral

1. Sale

Section 53. The bank shall realise collateral which has a market or stock market price at such price on the open market in accordance with the relevant statutory provisions.

Section 54. The bank shall arrange for an expert to value collateral that has no market or stock market price. The bank shall inform the customer of the result of the estimate, asking him/her to designate an interested purchaser within a reasonable period willing to pay the bank at least the amount of the estimate as a purchase price within this period. If the customer fails to designate an interested purchaser within this period or if the purchase price is not paid by the designated interested purchaser, then the bank shall be irrevocably entitled to sell the security in the customer's name at the estimated value or higher. The proceeds of the sale shall serve to redeem the collateralised claims, with any surplus being due to the customer.

2. Forced sale or out-of-court auction

Section 55. The bank shall also be entitled to effect forced realisation of the collateral or, if such collateral has no market or stock market price, to arrange for its sale by auction out of court.

3. Collection

Section 56. (1) The bank shall be entitled to terminate and collect all kinds of claims it has been provided as collateral (including those whose ownership is evidenced in securities) when the collateralised claim becomes due. Prior thereto, it shall be entitled to collect the claim serving as collateral when it becomes due. In the event of an imminent loss in value of the claim serving as collateral, it may be terminated before it becomes due. To the extent possible, the customer shall be informed of this in advance. Amounts collected prior to the due date of the collateralised claim shall be used as security to replace the collected claim.

(2) The provisions of subsection (1) shall not apply to the wage and salary claims of consumers provided as collateral for claims not yet due.

4. Admissibility of realisation

Section 57. Even if the purchaser does not immediately pay the purchase price in cash, the bank shall nevertheless be entitled to realise the collateral provided no offer or no equivalent offer with immediate cash payment has been made and payment at a later point time has been secured.

E. Right of retention

Section 58. The bank shall be entitled to retain the services it is obliged to provide to the customer in the event of 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 NETTING

A. Offsetting

1. By the bank

Section 59. (1) The bank shall be entitled to offset all of the customer's claims, insofar as they are distrainable against all the customer's liabilities towards the bank.

(2) Notwithstanding the existing right to offset, the bank shall carry out the customer's dispositions for the benefit of third parties with regard to credit balances from current accounts for 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 shall only be entitled to offset his/her liabilities if the bank is insolvent or if the customer's claim is associated with his/her liability or has been approved by a court or acknowledged by the bank.

B. Netting

Section 61. Notwithstanding the provisions of section 1416 of the Austrian Civil Code [*ABGB*], the bank may credit payments to accounts payable to the bank only where no collateral has been provided for these claims or where the value of the collateral provided does not cover the claims. In so doing, it shall be irrelevant when the individual claims have become due. This shall also apply to a current account relationship.

SPECIAL TYPES OF TRANSACTIONS

I. TRADE IN SECURITIES AND OTHER ASSETS

A. Scope of application

Section 62. The provisions of sections 63 through 67 shall apply for securities and other assets even if they are not evidenced by certificates.

B. Type of execution

Section 63. (1) As a rule, the bank executes its customer's orders to sell and purchase securities as a commission agent.

(2) If, however, the bank agrees a fixed price with the customer, then it shall conclude a contract of sale.

(3) The customer hereby gives his/her consent to the bank's execution policy, on the basis of which the bank - in the absence of instructions to the contrary - shall execute the customer's orders. The bank shall inform the customer of any material changes to the execution policy.

(4) The bank may also execute orders it receives for the purchase and sale of securities in part if the market situation does not permit complete execution.

C. Place of execution

Section 64. The legal regulations and market practices applicable at the place of execution shall be applicable to the execution of an order.

D. Timing of execution

Section 65. If the order for same day execution is not received in a timely manner for consideration in the ordinary course of work, then its execution shall be scheduled for the next trading day.

E. Insufficient cover

Section 66. (1) The bank may refrain from executing securities transactions in whole or in part if insufficient cover is available.

(2) The bank shall, however, be entitled to execute such securities transactions if it is unaware of the customer wishes for the order to be executed only if cover is available.

(3) If the customer provides no cover, despite a request to do so, then the bank shall be entitled to conclude a close-out transaction at the best possible price for the account of the customer.

F. Foreign transactions

Section 67. If the customer is granted a claim to the delivery of securities (securities invoice), the customer's claim against the bank shall correspond to the portfolio of securities of the same type held abroad by the bank for the account of the customer of the total inventory of securities of the same type in compliance with the respective statutory regulations and market practices.

G. Transaction in shares

Section 68. In the case of transactions in shares where the final shares are not yet being traded on the market, the bank shall not be liable either for issue of the shares by the joint stock company concerned nor for the option of exercising the shareholders' rights prior to issuance of the shares.

II. SAFEKEEPING OF SECURITIES AND OTHER VALUABLES

A. Securities held in account

Section 69. (1) The bank shall be entitled to keep securities deposited with it in the beneficiary's securities account.

(2) The bank is expressly authorised to keep securities issued in Austria abroad and to keep securities issued abroad in Austria. Likewise, it is authorised to have bearer securities issued abroad registered in the name of the Austrian depository or in the name of the nominee of the foreign depository.

(3) The bank shall be liable to an entrepreneur only for the careful selection of the third party depository.

B. Redemption of securities, coupon renewal, drawing, termination

Section 70. (1) The bank shall ensure the detachment of due interest, profit participation certificates and dividend coupons and shall collect their money equivalent. The bank shall procure new interest, profit and dividend certificate coupons without being given a special order to do so.

(2) The bank shall monitor drawings, terminations and other similar measures with respect to the securities held in safekeeping, insofar as announcements related to these appear in the official gazette "*Amtsblatt der Wiener Zeitung*" or in the "*Mercur Authentischer Verlosungsanzeiger*". The bank shall redeem drawn and terminated securities as well as interest, profit participation certificates and dividend coupons.

(3) In case of securities held in safekeeping by a third party, the third party depository shall assume the obligations under subsections (1) and (2). In case of securities held in safekeeping abroad, the bank shall not be obliged to notify the customer of the numbers of the securities credited and, also in particular, of securities redeemable by drawing lots. By drawing lots, the bank shall then determine to which customers the drawn securities shall be allocated. If, however, the numbers of the securities redeemable by drawing lots are notified, then these shall only be relevant for the drawing of lots and for redemption, and only for as long as this is the practice abroad. If, according to the practice abroad, the amounts redeemed through drawn securities are distributed pro rata, and if the shares remaining for the individual customers cannot be represented in units, then the customers whose shares are to be redeemed shall be determined by drawing lots.

C. The bank's duty to verify

Section 71. The bank shall undertake a one-off verification to check whether domestic securities are affected by public notices, payment stops, and the like, at the time of delivery to the bank on the basis of the domestic documents available to it. Public notice procedures for the invalidation of securities shall also be checked following delivery.

D. Notification of conversion and other measures

Section 72. In the event of conversion, capital increase, capital reduction, fusion, exercise or realisation of subscription rights, requests for payment, merger, redenomination, exchange offer, coupon increase and other material measures affecting the securities, the bank shall attempt to inform the customer if an announcement has appeared in the official gazette "*Amtsblatt der Wiener Zeitung*" or has been communicated to the bank in the name of the issuing agency or the foreign depository in good time. If the customer fails to give instructions in good time, then the bank shall act to the best of its knowledge by taking into account the customer's interests, and, in particular, realise any rights that would otherwise expire at the last possible opportunity.

III. TRADE IN FOREIGN EXCHANGE AND FOREIGN CURRENCIES

A. Type of execution

Section 73. For foreign exchange and foreign currencies, the bank shall conclude a purchase agreement with the customer. If it is agreed that the bank is to act as commission agent for the customer, then the provisions for commission business set forth in the section relating to trade in securities shall apply accordingly. If the bank decides to contract in its own name no express disclosure pursuant to section 405 of the Austrian Business Code [*UGB*] shall be required.

B. Forward contracts

Section 74. (1) In the event of forward contracts, the bank may require the customer to provide proof at a reasonable time before the due date that the payment owed by the customer will actually be credited to the agreed account in good time. If such proof is not provided, or if it becomes clear due to other circumstances that the customer will not meet his/her obligations, then the bank shall be entitled to conclude a close-out transaction at the best possible price even before the agreed due date.

(2) If, in its professional opinion, the risk of loss has increased or if the customer's financial position has deteriorated, the bank shall be entitled, even without prior agreement, to demand cover for this risk. Cover shall be provided in cash, unless otherwise agreed. The bank shall hold a lien on the assets provided as cover. If no cover is provided, then the bank shall be entitled to conclude a close-out transaction at the best possible price.

(3) If the bank concludes a close-out transaction pursuant to subsections (1) or (2), then any price difference shall be debited from/credited to the customer. The customer shall bear all

and any expenses incurred in this regard.

IV. FOREIGN CURRENCY LOANS

Section 75. Foreign currency loans must be repaid in the currency in which the bank has granted them. Payments in other currencies are considered as security, unless the bank informs the customer that it will be used to repay the credit. The bank is also entitled to convert any debit balance denominated in foreign currency into domestic currency after having informed the customer thereof if

- due to legislation in force or other circumstances for which the bank is not responsible refinancing in the foreign currency is no longer possible, or
- the entire credit becomes due for repayment and is not repaid despite a reminder to do so, or
- in business dealings with entrepreneurs credit risk rises due to the development of the foreign currency exchange rate and the bank is not provided with adequate collateral within a reasonable period.

V. COLLECTION, DISCOUNT BUSINESS, BILL OF EXCHANGE AND CHEQUE TRANSACTIONS

A. Scope of application

Section 76. These terms and conditions shall apply to bills of exchange, cheques and other collection documents (such as payment orders issued by a merchant and promissory notes).

B. Collection or negotiation

Section 77. Generally, such documents shall be accepted by the bank unless their negotiation (discounting) has been agreed.

C. Timeliness of orders

Section 78. Collection orders shall be placed sufficiently in advance to ensure that they can be executed during the ordinary course of business without having to resort to express services.

D. Rights and obligations of the bank

Section 79. In discount business, the bank may debit the seller with the full nominal amount plus all expenses incurred by the bank if the circumstances defined in subsections 41 (2) and (3) apply; if the negotiable instruments are denominated in a foreign currency, the customer shall also assume the exchange rate risk.

Section 80. In the events stated above and if "subject to receipt" credits are redebited (Section 41), the bank shall retain the right to payment of the full amount plus ancillary claims against the customer and anyone obligated under the negotiable instrument, as provided under securities law, until the debt balance resulting from such redebiting has been covered.

Section 81. The bank may require the customer to transfer the claim underlying the negotiable instrument or its purchase by the customer and all current and future rights arising out of the underlying transactions, including the associated collateral.

Section 82. The bank shall only be required to redeem negotiable instrument presented to it for payment if an order from the customer has been received in good time and sufficient cover is provided.