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## GENERAL PROVISIONS

### I BASIC RULES FOR BUSINESS RELATIONSHIPS BETWEEN CUSTOMER AND BANK

#### A SCOPE OF APPLICATION AND MODIFICATIONS OF OR AMENDMENTS TO THESE TERMS AND CONDITIONS

##### 1 Scope of application

**Section 1** (1) These Terms and Conditions shall apply to the maintenance of a payment account with basic features (basic account) of UniCredit Bank Austria AG (the Bank). The basic account is a payment account with basic features pursuant to Section 23 ff of the Austrian Consumer Payment Accounts Act (Verbraucherzahlungskontogesetz – VZKG).

(2) A basic account as described in these Terms and Conditions is only available to consumers within the meaning of Section 2 (1) of the VZKG.

##### 2 Modifications or amendments

**Section 2** (1) Modifications of or amendments to these Terms and Conditions shall be offered to the customer by the Bank no later than two months before the date proposed for their adoption, with the Bank indicating which provisions will be affected. The customer shall be deemed to have agreed to the modifications of or amendments to these Terms and Conditions if the Bank does not receive an objection from the customer before the date proposed for their adoption. The Bank shall inform the customer of this fact when it offers the modifications of or amendments to the Terms and Conditions to him/her. The Bank shall inform the customer of the offer to modify or amend these Terms and Conditions. In addition, the Bank shall publish on its website a comparative overview of the provisions of the Terms and Conditions that are affected by the modification or amendment as well as the full version of the new Terms and Conditions. The bank shall provide the customer with this information in writing in its branch offices or by mail upon request. The Bank shall inform the customer of these options in the notice regarding the offered modification or amendment.

(1a) The notification in accordance with paragraph 1 shall be sent by mail to the address most recently advised by the customer (cf. Section 11 para. 2). Irrespective of this principle, the bank shall alternatively provide the notification in electronic form via mailbox in the internet banking system (i.e. OnlineBanking) if the customer has concluded an agreement with the bank for use of at least one internet banking product. This electronic notification shall be made in such a way that the bank can no longer alter the offer of modifications or amendments unilaterally, and the customer has the opportunity to store and print out the notification for him- or herself. In case of an electronic notification via internet banking, the bank shall further inform the customer at the same time that the offer of modifications or amendments is available in the mailbox of the internet banking system and can be retrieved from it. This occurs through sending a separate e-mail to the email-address most recently advised by the customer, or a separate SMS to

the mobile phone number most recently advised by the customer for the receipt of SMS in the context of internet banking.

(2) In the event of such an intended modification of or amendment to the Terms and Conditions, customers shall have the right to terminate their master agreements for payment services, in particular the contract for maintenance of a basic account, free of charge and without giving notice before such modification or amendment becomes effective. The Bank will draw the customer's attention to this fact in the notice regarding the offered modification or amendment.

(3) Paras. (1) to (2) shall also apply to modifications of or amendments to framework contracts for payment services (in particular the basic account maintenance agreement) in which the application of these Terms and Conditions has been agreed between the customer and the Bank.

(4) Paras. (1) to (2) do not apply to changes to payments made by the Bank (including credit interest) or charges payable by the customer (including debit interest). Section 33 shall apply to changes to charges payable by the customer (with the exception of debit interest) unless such changes were agreed separately with the customer.

## B STATEMENTS

### 1 Customer orders and instructions

**Section 3** (1) Instructions shall be given in writing.

(2) The bank shall, however, also be entitled to carry out orders and instructions given via telecommunications (in particular by telephone, cable, telex, fax or data communication). Subject to the fulfilment of all other prerequisites the Bank shall only be obliged to carry out such orders if the customer has made an agreement to this effect with the Bank.

### 2 Obtaining of confirmations by the Bank

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

### 3 Statements of the Bank

**Section 5** (1) Statements and information which the Bank shall provide or make accessible to the customer shall be provided or made accessible to the customer on paper (in particular by means of a statement of account) unless accessibility or transmission by electronic means has been agreed with the customer.

(2) The bank shall make available to a customer who is a consumer, at any branch in paper form and - provided that the customer has concluded an agreement for use of internet banking - via internet banking in electronic form, the list of charges to be prepared pursuant to Section 8 of the Austrian Consumer Payment Accounts Act (Verbraucherzahlungskontogesetz – VZKG) on a quarterly basis and when the framework contract is terminated. (Section 5 Paragraph 3 shall apply from 31. 10. 2018)

## C RIGHT OF DISPOSAL UPON THE DEATH OF A CUSTOMER

**Section 6** (1) As soon as it receives notice of the death of a customer the Bank shall permit disposal of the funds on the basis of a specific decision by the probate court or of a court order specifying the heirs' entitlement to the inheritance.

## **D OBLIGATIONS AND LIABILITY OF THE BANK**

### **1 Notification obligations**

**Section 7** (1) Apart from the statutory duties to provide information, the Bank shall have no other duties to provide information in addition to those stated in its Terms and Conditions unless a separate agreement was made with the customer.

### **2 Execution of orders**

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

(2) The Bank shall be obliged to assign claims vis-à-vis the third party, if any, to the customer upon his/her request.

(3) In addition, the bank shall be liable for payment services within the European Economic Area (EEA) as follows:

- where the payment transaction is initiated directly by the payer the bank shall be liable for the correct execution of the payment transaction until receipt by the payment service provider of the payee,
- where the payment transaction is initiated by or through the payee the bank shall be liable for the correct transmission of the payment transaction to the payment service provider of the payer.

In both cases, the bank shall be liable for any charges for which the bank is responsible and for any interest to which the customer is subject as a consequence of non-execution or defective execution of the payment transaction.

## **E CUSTOMER'S OBLIGATION TO COOPERATE AND LIABILITY**

### **1 Introduction**

**Section 9** In his/her dealings with the Bank the customer shall, in particular, observe the obligations to cooperate stated below. In the event of a breach of these obligations the customer shall be obliged to pay damages, or it may result in a reduction of his/her claims for damages vis-à-vis the Bank.

### **2 Notification of important changes**

a) Name, address and contact details

**Section 10 (1)** The customer shall immediately notify the Bank of any changes in his/her name, address or the service address advised by him/her, his/her email address and (mobile) telephone number.

(2) If the customer fails to notify the Bank of changes in the address, written communications of the Bank shall be deemed to have been received if they were sent to the address most recently advised to the Bank by the customer.

(3) Any electronic declarations of the bank (e.g. declarations sent by email or SMS) to the email address or mobile telephone number most recently advised by the customer shall be

deemed received by the customer for whom they are intended if he/she is able to access them under normal circumstances (§12 E-Commerce Act).

b) Authority to represent the account holder

**Section 11** (1) The customer shall immediately notify the bank in writing of any cancellation or of any changes in the authorised representatives appointed by him/her, including an authority to operate and sign on an account (Sections 24 and 25), and shall provide appropriate documentary evidence in this regard.

(2) Any authority to represent the account holder advised to the Bank shall continue to be effective until written notification of cancellation of the same or of a change in its current scope, unless the Bank had knowledge of such cancellation or change or was not aware thereof due to gross negligence. The same shall, in particular, also apply if the cancellation or change in the authority to represent the account holder is registered in a public register and was duly published.

c) Capacity to enter into legal transactions

**Section 12** The Bank shall immediately be notified in writing of any loss of or reduction in the customer's capacity to enter into legal transactions.

d) Business relationship on its own account or on the account of a third party

**Section 13a** The customer shall inform the bank, when establishing a basic account maintenance agreement and when availing himself/herself of an occasional transaction, if he/she wishes to engage in the business relationship and/or the transaction on his/her own account or on the account of a third party or on behalf of a third party. The customer shall immediately notify the bank of his/her own accord of any changes in this regard over the course of the proper business relationship.

### **3 Clarity of orders**

**Section 13** (1) The customer shall ensure that his/her orders/instructions to the Bank are clear and precise. Modifications, confirmations or reminders shall expressly be indicated as such.

(2) If the customer wants to instruct the Bank to execute an order within a specific period, s/he must do this separately and expressly; if orders/instructions are given using the requisite forms, the period within which an order is to be executed must be indicated separately, i.e. not on the form.

### **4 Due care and diligence in using and blocking of payment instruments; blocking account access**

**Section 14** (1) When using a payment instrument which, in accordance with an agreement, may be used for giving instructions to the bank, the customer shall take all reasonable precautions in order to protect the personalised security features against unauthorised access. Payment initiation service providers and account information service providers shall not be considered "unauthorised parties" in the terms of this provision.

(1a) The customer shall notify the bank, or an entity specified by the bank without delay of the loss, theft, misuse or any other

unauthorised use of the payment instrument as soon as he/she becomes aware of it.

(2) The Bank shall be entitled to block payment instruments issued to the customer if

- objective reasons justify such an action in connection with the security of the payment instrument, or
- if there is a suspicion of unauthorised or fraudulent use of the payment instrument.

(3) The bank shall – to the extent that notification of such blocking or of the reasons for such blocking would not infringe a court order or an order issued by an administrative authority, or contravene Austrian or Community law or objective security considerations – inform the customer of blocking of the payment instrument and the reasons for it by using one of the methods of communication agreed with the customer, where possible, before the payment instrument is blocked and at the latest immediately afterwards.

(4) The bank shall be entitled to deny a payment initiation service provider or an account information service provider access to the customer's basic account if this is justified by objective and duly evidenced reasons associated with unauthorised or fraudulent access to the basic account by that payment initiation service provider or that account information service provider, including the unauthorised or fraudulent initiation of a payment transaction.

(5) The bank shall immediately inform the customer – to the extent that notification of such blocking or of the reasons for such blocking would not infringe a court order or an order issued by an administrative authority, or contravene Austrian or Community law or objective security considerations – that the access to the customer's basic account by that payment initiation service provider or that account information service provider is denied and the reasons therefor by using one of the methods of communication agreed with the customer, before access is denied and at the latest immediately thereafter.

## 5 Raising of objections

**Section 15** (1) In the event of a debit entry being made in the customer's current account on the basis of an unauthorised or incorrectly executed payment transaction, the customer may in any case obtain a correction by the bank if he/she informs the bank to this effect without delay after becoming aware of an unauthorised or incorrectly executed payment transaction, but not later than 13 months after the date of the debit entry. The time limits shall not apply if the bank has failed to provide the customer with, or make available to him/her, the information on the relevant payment transaction which is to be provided pursuant to Section 27 para. 9 of these Terms and Conditions. This provision shall not preclude any other claims of the customer for the correction.

(2) The bank shall refund the customer the amount of the unauthorised payment immediately, and in any event no later than by the end of the following business day, after noting or being notified of the transaction. The refund shall be made by restoring the debited payment account to the state in which it would have been had the unauthorised payment transaction not taken place. The amount on the payer's payment account shall be valued no later than the date the amount had been debited. If the bank has informed the Financial Market Authority of justified reasons for there being the suspicion of the customer acting fraudulently, in writing, then the bank shall

immediately review and meet its refund obligation if the suspicion of fraud cannot be confirmed. Where the unauthorised payment transaction was initiated through a payment initiation service provider, then the bank shall be obliged to make the refund.

## 6 Translations

**Section 16** Any foreign-language instruments shall be presented to the Bank also in a German translation certified by a court-appointed translator if the Bank so requires.

## F PLACE OF PERFORMANCE; CHOICE OF LAW; LEGAL VENUE

### 1 Place of performance

**Section 17** The place of performance for both parties shall be the offices of that branch of the Bank with which the transaction was concluded.

### 2 Choice of law

**Section 18** All legal relations between the customer and the Bank shall be subject to Austrian law.

### 3 Legal venue

**Section 19** The general legal venue in Austria for lawsuits that may be filed by or against the customer, determined at the time the agreement was concluded with the Bank, shall remain the same even if the customer, after conclusion of the agreement, transfers his/her domicile abroad and Austrian court decisions are enforceable in that country.

## G TERMINATION OF THE BUSINESS RELATIONSHIP

### 1 Termination of the business relationship

**Section 20** (1) The customer may terminate a master agreement for payment services, in particular a current account maintenance agreement, free of charge at any time subject to a period of notice of one month. The right to terminate a master agreement for payment services, in particular a current account maintenance agreement, free of charge and without notice if the Bank proposes a modification of or amendment to these Terms and Conditions (Section 2 para. 2) shall remain unaffected by this provision.

(2) The Bank may terminate master agreements for payment services relating to a basic account and concluded for an indefinite period, in particular the agreement for maintenance of a basic account, without notice and with immediate effect if

1. the customer has intentionally used the basic account for unlawful purposes; or
2. the customer has provided incorrect information to enable him/her to open the basic account; if s/he had provided correct information, s/he would have been refused the right to open a basic account.

(3) The Bank may terminate master agreements for payment services relating to a basic account and concluded for an indefinite period, subject to a period of notice of two months, if

1. the basic account has not been used for any payment transactions in more than 24 consecutive months; or

2. the customer no longer has lawful residence in the European Union; or

3. the customer has opened a second payment account at a bank domiciled in Austria which enables him/her to use the services specified in Section 25 (1) of the VZKG; or

4. the customer has been charged, pursuant to Section 210 (1) of the Austrian Code of Criminal Procedure, with a punishable offence committed to the detriment of the Bank or any of its employees; or

5. the customer has repeatedly used the basic account for business activities within the meaning of Section 1 (1) 1 and (2) of the Austrian Consumer Protection Act (Konsumentenschutzgesetz – KSchG), Federal Law Gazette No. 140/1979; or

6. the customer has refused a change to the master agreement (in particular to the basic account maintenance agreement), which the Bank has offered to all holders of payment accounts with basic features (basic account).

**(4)** The Bank shall terminate the business relationship in writing and shall state the reason for this measure unless such information breaches national security or the public order. In its communication, the Bank shall inform the customer

- of his/her right to lodge a complaint with the Austrian Financial Market Authority (Finanzmarktaufsicht – FMA) and
- of the possibility for him/her to enforce his/her rights out of court, through the FIN-NET Conciliation Board network (especially the Joint Arbitration Board of the Austrian banking industry (“Gemeinsame Schlichtungsstelle der österreichischen Kreditwirtschaft”), Wiedner Hauptstraße 63, 1045 Wien).

#### 4 Legal consequences

**Section 21** (1) Upon termination of the entire business relationship or individual parts thereof the amounts owed thereunder will immediately become due and payable. The customer shall moreover be obliged to release the Bank from all liabilities assumed for him/her.

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

(3) In the event of the termination of the account maintenance agreement relating to the basic account the Bank shall reimburse any charges for payment services paid in advance for a specific period to the customer on a pro-rata basis.

(4) These Terms and Conditions shall continue to apply after termination of the business relationship until the latter has been completely wound up.

## II OPENING AND MAINTENANCE OF A BASIC ACCOUNT

### A OPENING A BASIC ACCOUNT

**Section 22** When opening a basic account the future account holder shall provide proof of his/her identity. Accounts shall be

maintained in the name of the account holder together with an account number.

### B SPECIMEN SIGNATURES

**Section 23** Persons who are to be authorised to operate or sign on an account shall provide the Bank with a specimen signature. Based on the signatures provided, the Bank shall permit transactions to be conducted via the account in writing within the scope of the account relationship maintained with the customer.

## C AUTHORITY TO OPERATE AND SIGN ON THE ACCOUNT

### 1 Authority to operate the account

**Section 24** Only the account holder shall be authorised to dispose of the funds in the account. Only the persons authorised to represent the account holder by operation of law or who have been expressly granted a power of attorney in writing to operate the account are entitled to represent the account holder; they shall provide proof of their identity and of their authority to represent the account holder. In the case of durable powers of attorney whose effectiveness (in particular when a person becomes legally incapacitated) has been recorded in the Austrian Central Representatives Directory, a power of attorney which generally covers the authority to operate the accounts of the grantor of the power of attorney shall suffice.

### 2 Authority to sign on the account

**Section 25** The account holder may, in writing, expressly grant other persons authority to sign on the account. The authorised signatory shall provide the Bank with proof of his/her identity. The authorised signatory shall be entitled only to dispose of credit balances in the account and to revoke transactions relating to credit balances in the account.

## F BALANCING OF ACCOUNTS

**Section 26** (1) The Bank balances basic accounts on a quarterly basis. Interest accrued in and charges due for the respective quarter shall be included in the closing balance, which shall subsequently continue to carry interest (“compound interest”).

(2) The bank shall keep the statement of account including the closing statement ready for the customer to be collected in paper form at self-service machines in the Bank’s branches or, provided that the customer has concluded an internet banking agreement, to be accessed by the customer via internet banking in a manner which allows the customer to store and reproduce information unchanged.

## III GIRO TRANSACTIONS

### A TRANSFER INSTRUCTIONS

**Section 27** (1) Transfers may only be made in currencies of EEA countries in favour of a payee whose account is maintained with a payment service provider within Austria or in another member country of the European Economic Area (EEA).

(2) For transfer instructions in euro to the benefit of a payee whose account is maintained at a payment service provider within Austria or other member states of the European Economic Area (EEA), the customer shall specify the payee by indicating the payee’s International Bank Account Number (IBAN). For transfer instructions in currencies other than euro to



the benefit of a payee whose account is maintained at a payment service provider within Austria or other EEA member state, the customer shall specify the payee by indicating payee's IBAN (or account number) and the payment service provider's Bank Identifier Code (BIC).

(3) The payee's IBAN and the payment service provider's Bank Identifier Code (BIC) specified by the customer pursuant to Para. (2) are the unique identifier of the payee on the basis of which the transfer instruction is executed. If the customer specifies details of the payee in addition to the IBAN and BIC, such as the payee's name, such details are not part of the unique identifier; they serve only documentation purposes and will be disregarded by the Bank when it executes the transfer instruction.

(4) The designated purpose stated in the transfer instruction shall in any case be irrelevant for the Bank.

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

(6) The Bank shall execute a transfer instruction of the customer only if sufficient funds to cover the total amount of the transfer instruction are available in the customer's basic account.

(7) Transfer instructions received by the Bank or by a payment initiation service provider (Section 28) cannot be revoked unilaterally by the customer. If a transfer instruction is agreed to be executed at a later date, the transfer instruction becomes irrevocable only upon expiry of the business day preceding the date of execution.

(8) If the Bank refuses to execute a transfer instruction, it shall inform the customer as soon as possible, but in any case within the periods specified in Section 28 (3), of such refusal and of how the transfer instruction can be corrected in order to enable the Bank to execute it in the future. A reason for such refusal shall only be stated if this does not constitute an infringement of Austrian or Community law or an infringement of a court order or an order issued by an administrative authority. Transfer instructions which are legitimately refused by the Bank shall not trigger the periods agreed for execution in Section 28 of these Terms and Conditions.

(9) Information on executed transfer instructions (reference, amount, currency, charges, interest rate, exchange rate, value date of the debit entry) and other payments debited to the customer's basic account, especially under a direct debit procedure, shall be provided to the customer in the statement of account when the respective transaction takes place. The customer may require the statement of account to be made available by the bank once a month, free of charge, in a manner which has been agreed in the framework contract for making information available (i.e. access via self service devices of the bank or via internet banking) which allows the customer to store and reproduce the statement of account unchanged. The customer may further require the statement of account to be provided once a month against an appropriate compensation of costs by mail.

#### **Execution periods**

**Section 28** (1) Payment instructions received by the Bank after the time near the end of the business day specified by the Bank and to be notified to the customer for the respective type of payment, or on a day which is not a business day, shall be deemed to have been received on the subsequent business day.

In addition, the Bank shall publish these times in the "Information provided by UniCredit Bank Austria AG on Payment Services for Consumers", which is made available electronically on its website. A business day is every day on which the Bank maintains the business operations required for carrying out payments with a specific payment instrument.

(2) If the customer who gives a payment instruction and the Bank agree that the execution of a payment instruction should start on a specified date or at the end of a specified period or on the day on which the customer makes the funds available to the Bank, the agreed date shall be deemed to be the time of receipt. If the agreed date is not a business day of the Bank, the payment instruction shall be deemed to have been received on the subsequent business day.

(3) The Bank shall ensure that, after the time of receipt, the amount of the payment transaction will be credited to the payee's payment service provider's account not later than by the end of the following business day (in the case of payment transactions submitted in paper form, not later than by the end of the day after the following business day). This paragraph shall only apply to payment transactions in euro as well as to payment transactions whose amounts are transferred in euro to an EEA member state outside the euro area in which the currency conversion is carried out.

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

#### **B CREDIT ENTRIES AND RIGHT TO CANCEL**

**Section 29** (1) In case of a valid basic account maintenance agreement the Bank shall be obliged and irrevocably authorised to accept funds on behalf of the customer and credit the same to his/her account. If the bank has any claims in connection with the basic account against the customer, then the bank shall be entitled even after termination of the basic account maintenance agreement, to accept funds on behalf of the customer and to offset its claims against the customer's claim for payment of the amount received. In such a case, the bank shall announce the offsetting to the customer and inform the customer of the remaining balance, as well as of the fact that he/she may dispose of it, once the claims have been offset. As soon as there are no claims of the bank in connection with the basic account against the customer and the basic account balance amounts to EUR 0 the bank shall close the basic account and shall inform the customer of the account's closure. The instruction to provide a customer with an amount of money shall be carried out by the bank by crediting the amount to the account of the payee unless otherwise indicated in the instruction.

(2) The Bank shall convert into euros any funds denominated in foreign currency which are received in the basic account which is maintained in euros, and it shall credit such funds to the basic account. The funds shall be converted at the exchange rate prevailing on the day on which the funds which are denominated in foreign currency are made available to the Bank and can be used by it.

(3) Information on credit transfers to the customer's basic account (reference, amount, currency, charges, interest rate, exchange rate, value date of the credit entry) shall be provided to the customer in the statement of account when the transaction takes place. The customer may require the statement of account to be made available by the bank once a month, free of charge, in a manner which has been agreed in

the framework contract for making information available (e.g. access via self service devices of the bank or via internet banking) which allows the customer to store and reproduce the statement of account unchanged. The customer may further require the statement of account to be provided once a month against an appropriate compensation of costs by mail.

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

(5) The Bank shall be entitled to cancel any credit entries made due to an error on its part at any time. In other cases the Bank will only cancel the credit entry if it has been provided with clear proof of the ineffectiveness of the transfer instruction. The right to cancel shall not be affected by a balancing of the account which may have taken place in the meantime. If the right to cancel exists the Bank may not permit the customer to dispose of the amounts credited.

#### **C CREDIT ENTRY SUBJECT TO COLLECTION**

**Section 30** (1) If the Bank credits amounts which it has to collect on behalf of the customer (in particular, in the context of the collection of cheques, bills of exchange) or which are to be transferred to the customer's account, to the customer's account before the amount to be collected or the amount transferred is received by the Bank, the credit entry is only 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 at the Bank.

(2) Due to this reservation the Bank shall be entitled to reverse the credit entry by means of a simple entry if the collection or the credit transfer has failed or if due to the financial circumstances of the debtor, intervention by a public authority or for other reasons it is to be expected that the Bank will not obtain the unrestricted right to dispose of the amount to be collected or the amount transferred.

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

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

#### **D DEBIT ENTRIES**

**Section 31** (1) In the event of transfer instructions, debit entries shall only be considered a confirmation that the instruction has been carried out if the debit entry was not reversed within two business days (see Section 28 (1) of these Terms and Conditions).

(2) Cheques and other payment instructions are deemed collected/cashed/honoured if the debit entry has not been cancelled on the debited account of the customer within three business days unless the Bank has informed the presenter or paid him/her the amount in cash prior thereto. Direct debits (Section 32) are settled upon expiry of five business days.

#### **E DIRECT DEBITS**

**Section 32** (1) Direct Debit means that the payer directly authorises the payee, by means of a Direct Debit mandate and without involving the payer's bank, to collect amounts in euro at the expense of the payer's account. The customer (payer) agrees to his/her account being debited with amounts collected from his/her account at the bank by third parties (payees) who were authorised by him/her by means of a Direct Debit mandate. Such consent may be revoked by the customer in writing at any time. Any such revocation shall be effective from the business day following its receipt by the bank. In the same way, consent to Direct Debits by an authorised third party may be restricted to a specified amount or a specified interval or both.

(2) The Bank settles Direct Debits with which the customer's account is to be debited on the basis of the International Bank Account Number (IBAN) of which it has been notified by the bank collecting the funds. The IBAN details are the unique identifier on the basis of which the Direct Debit is settled. If the collecting bank provides additional information on the customer, such as the name of the account holder of the account from which the funds are to be collected, then this shall serve only documentation purposes and will be disregarded in the execution of the Direct Debit.

(3) The customer (payer) may request a refund from the bank of the amount debited to his/her payment account due to a Direct Debit mandate issued by him/her within eight weeks from the date on which the respective amounts were debited. The Bank shall comply with the customer's request and shall refund the debited amount to the customer's account within ten business days with the valuation of the date on which the account was debited.

(4) In the event that the Direct Debit executed at the expense of the customer's account was not authorised, the customer shall obtain a correction in accordance with Section 15 paragraph 2. The period shall begin when the bank has made the information available to the customer in accordance with Section 27 paragraph 9.

#### **IV CHANGES OF CHARGES AND PERMANENT SERVICES**

##### **A CHANGES OF CHARGES FOR PAYMENT SERVICES AGREED IN THE FRAMEWORK CONTRACT FOR THE BASIC ACCOUNT**

**Section 33** (1) Changes in the charges for services (except debit interest, credit interest and charges whose amount is expressed as a percentage or mark-up) agreed with consumers in a framework contract on payment services (in particular a basic account maintenance agreement) shall be proposed to the customer by the Bank in a timely manner, whereby s/he shall receive the proposal of changes no later than two months before the proposed date on which the changes are to become effective. The customer is deemed to have consented to the changes unless the Bank receives a written objection from the customer before the proposed date on which the changes are to become effective. The Bank shall draw the customer's attention to this fact in its proposal of changes.

The customer shall have the right to terminate his/her framework contract free of charge, and without giving notice, before the change becomes effective. The Bank shall also draw the customer's attention to this possibility in its proposal of changes. The proposal of changes shall be provided to the customer.

(2) The procedure agreed in Para. (1) permits the charges agreed in the basic account maintenance agreement to be increased to an amount not exceeding the amount specified in Section 26 (1) of the VZKG.

In the case of customers who are to be assigned to the group of consumers who are in need of special protection in social or economic terms within the meaning of the regulation issued by the Austrian Minister of Labour, Social Affairs, Health and Consumer Protection on the basis of Section 26 (2) of the VZKG, charges may be increased pursuant to the procedure agreed in Para. (1) up to an amount not exceeding the maximum amount specified in Section 26 (2) of the VZKG. If, as a result of an increase in the maximum charges permitted for the basic account and published pursuant to Section 26 (3) of the VZKG, the Bank has the right to increase charges in the manner specified in Para. (1), and if the Bank does not make use of its right to increase its charges, the Bank may offer the customer such an increase in charges at a later time with future effect.

(3) Pursuant to the procedure agreed in Para. (1) the Bank may, in respect of charges for services other than those agreed in Section 25 Para.1 of the VZKG, agree with the customer to adjust such charges by an amount not exceeding the change of the Consumer Price Index 2000 published by Statistik Austria, and it may do this only once a year. The adjustment shall correspond to the change in index level published for December of the previous year compared with the index level published for December of the preceding year. The charge resulting from the adjustment shall be rounded off to the nearest cent. If the customer was not offered the adjustment to charges which results from the change of the Consumer Price Index in any year, the Bank may offer such adjustment to the customer at a later time with future effect. Prices must however be lowered if this is called for by developments in the Consumer Price Index.

(4) In addition to the extent to which charges are changed and the proposed date on which they are to become effective, the bank shall in its proposal of changes inform the customer of the date when changes to charges were last made, and of the extent to which the Consumer Price Index has changed since the date when changes to charges were last made.

(5) The notification in accordance with paragraph 1 shall be sent by mail to the address most recently advised by the customer (cf. Section 10 paragraph 2). Irrespective of this principle, the bank shall alternatively provide the notification in electronic form via mailbox in the internet banking if the customer has concluded an agreement with the bank for use of internet banking. Such an electronic notification shall be made in a way that the bank can no longer alter the proposal of changes unilaterally, and the customer has the opportunity to store and print out the notification for him- or herself. In case of an electronic notification via mailbox in the internet banking, the bank shall further inform the customer that the proposal of changes is available in the mailbox of the internet banking and can be retrieved from it. This occurs through sending a separate email to the email-address most recently advised by the customer, or a separate SMS to the mobile phone number most recently advised by the customer for the receipt of SMS in the context of internet banking.

## V COLLATERAL

### A BANK'S LIEN

#### 1 Scope and coming into existence

**Section 34** (1) The customer shall grant the Bank a lien on any items and rights which come into the possession of the Bank with the customer's will in connection with a banking transaction concluded with the bank.

(2) The lien shall - unless there is an agreement to the contrary in Section 36 - in particular, also exist on all distrainable claims of the customer vis-à-vis the Bank, such as under 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 35** (1) The lien shall secure the Bank's claims vis-à-vis the customer under the business relationship even if the claims are conditional or limited as to time or not yet due. (2) The lien shall come into existence upon the Bank's taking possession of the item to the extent claims pursuant to Para. (1) exist; otherwise at any future point in time when such claims arise.

#### 2 Exemptions from the lien

**Section 36** (1) The lien shall not include items and rights which have been assigned by the customer to the execution of a certain instruction prior to coming into existence of the lien, such as amounts designated for the cashing of a certain cheque or honouring of a certain bill of exchange as well as for the carrying out of a certain transfer. This shall, however, apply only as long as the assignment is effective.

(2) Notwithstanding the existing lien the Bank will carry out dispositions of the customer regarding credit balances on current accounts in favour of third parties as long as the customer has not received a notification by the Bank of the assertion of the lien. Distraint of the credit balance shall not be considered a disposition by the customer. Should payments be arriving on the current account for not distrainable monetary claims or only limited distrainable monetary claims on the part of the customer, then the bank's lien shall only cover the distrainable part of the credit balances on this current account.

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

## B RELEASE OF COLLATERAL

**Section 37** Upon the customer's request the Bank will release collateral to the extent it has no justified interest in keeping it as security.

## C REALISATION OF COLLATERAL

### 1 General information

Z 37a The following Sections 38 to 41 define the procedure applied by the bank in realising collateral. As a basic requirement in each case (except cases covered by Section 41, where a claim serving as collateral becomes due before the secured claim becomes due), the secured claim shall be due and the right to realise such collateral shall have materialised pursuant to the applicable contractual and legal provisions. This requires a prior notice to the customer specifying the amount of the secured claim and threatening realisation of such collateral; at least one month shall have passed since the notice was sent to the customer. The notice threatening realisation of collateral may be omitted if it is impracticable, e.g. because the customer's whereabouts is unknown. In such a case the relevant period will start to run from the date the secured claim becomes due. Collateral may be realised before expiry of the relevant period if waiting for the period to expire would involve the risk of a significant and permanent loss in value.

## 2 Sale

**Section 38** Collateral having a market price or stock exchange price shall be realised by the Bank in compliance with the relevant statutory provisions by selling them at such price in the open market.

**Section 39** Movable, physical items serving as collateral and having no market price or stock exchange price shall the bank have assessed by an authorised independent expert. The Bank shall notify the customer of the result of the assessment and at the same time ask the customer to nominate a party interested in purchasing the same within a period of one month who will pay not less than the assessed value as purchase price to the Bank within such period. If the customer fails to nominate an interested party within such period or if the purchase price is not paid by the interested party nominated, the Bank shall irrevocably be entitled to sell the collateral in the name of the customer for not less than the assessed value. The proceeds from the sale shall be used for redemption of the secured claims, with the customer being entitled to the surplus, if any.

## 3 Enforcement and out-of-court auction

**Section 40** The Bank shall also be entitled to realise the collateral by enforcement or – to the extent it has no market price or stock exchange price – to sell it at a public auction conducted by an authorised entrepreneur. The time and place of such auction and a general description of the collateral shall be published. The party who has provided the collateral and any third parties having rights to the collateral shall be informed of such details.

## 4 Collection

**Section 41** (1) The bank shall be entitled to terminate and collect the claims provided to it as collateral (including securities) if the secured claim is not paid when due. Prior thereto it shall be entitled to collect the claim serving as collateral when it becomes due. In case of an imminent significant and permanent loss in value of the claim serving as collateral the bank shall be entitled to terminate the same already prior to the same becoming due. To the extent possible the customer shall be informed thereof in advance. Amounts collected prior to the due date of the secured claim shall serve as pledge instead of the claim collected.

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

**Section 42** Cancelled

## D RIGHT OF RETENTION

**Section 43** The Bank shall be entitled to retain services to be rendered by it to the customer due to claims arising out of the business relationship even if they are not based on the same legal relationship. Sections 35 and 36 shall apply accordingly.

## VI OFFSETTING AND CREDITING

### A OFFSETTING

#### 1 by the Bank

**Section 44** (1) The Bank shall be entitled to offset all of the customer's claims to the extent they are distrainable against all liabilities of the customer vis-à-vis the Bank.

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

#### 2 by the customer

**Section 45** The customer shall only be entitled to offset his/her liabilities if the bank is insolvent or if the claim of the customer is legally related to his/her liability or if the customer's claim has been ascertained by court decision or recognized by the bank.

## B CREDITING

**Section 46** (1) The bank may initially credit payments which have been made with the intention to settle a specific claim to unsecured portions of such claim even if this deviates from the customer's intention.

(2) The bank may only avail itself of the rights granted in this Section if recovering of its claims would otherwise be jeopardised.

## C TRADE IN FOREIGN CURRENCIES – PROCEDURE

**Section 47** The bank shall conclude a purchase agreement with the customer on foreign currency.

## VII COLLECTION AND DISCOUNT BUSINESS, BILL OF EXCHANGE AND CHEQUE OPERATIONS

### A SCOPE OF APPLICATION

**Section 48** 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 49** The collection of documents as mentioned above shall be based on a collection order, with the bank not being obliged to accept such collection order. Negotiation (discounting) of the documents to be collected by the bank shall be subject to a separate agreement.

### C TIMELINESS OF ORDERS

**Section 50** Orders for collection shall be received so much in advance that they may be carried out in the ordinary course of business without making use of special means of express handling.

## D RIGHTS AND OBLIGATIONS OF THE BANK

**Section 51** In case of discounting the Bank shall be entitled in the cases referred to in Section 30 (2) and (3) to debit the seller with the full nominal amount plus all expenses incurred by the Bank; in case of documents denominated in foreign currency the customer shall also bear the exchange risk.

**Section 52** In the events stated above as well as in case of redebits of "subject to collection" credits (Section 30) the claims under securities law for payment of the full amount plus ancillary expenses vis-à-vis the customer and any party obligated under the document shall remain with the Bank until coverage of the debit balance which results from such redebit.



**Section 53** The Bank may demand from the customer that the claim 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. The Bank shall only be obliged to cash documents which are due for payment with it if it has received an order from the customer in time and if sufficient coverage is ensured.