

**MEMBERSHIP RULES - SEAL OF QUALITY  
OF THE INKASSOVERBAND ÖSTERREICH**

**PREAMBLE**

**I.**

The members of the Inkassoverband Österreich (the Austrian Collection Association, hereinafter referred to as the "IVÖ") practise the trade of collection agencies legally established in Section 94 No. 36 in connection with Section 118 of the Gewerbeordnung 1994 (Trade, Commerce and Industry Regulation Act 1994, hereinafter referred to as the "GewO").

Section 118 of the GewO reads:

"Collection agencies:

- (1) A business licence for the trade of collection agencies (Section 94 No. 36) is required for the collection of third-party claims.
- (2) The persons licensed to practise the trade of collection agencies are not authorised to legally enforce claims or to have claims assigned to themselves, even if the assignment is only to be carried out for the purposed of the collection.
- (3) The persons licensed to practise the trade of collection agencies are authorised to legally collect a third-party claim for the purpose of damage compensation without relation to a contract (Section 1295 of the ABGB) only if this claim is uncontested."

**II.**

The members of the IVÖ shall act in accordance with Directive 2000/35/EC, Recital 16 of which reads as follows:

"Late payment constitutes a breach of contract which has been made financially attractive to debtors in most Member States by low interest rates on late payments and/or slow procedures for redress. A decisive shift, including compensation of creditors for the costs incurred, is necessary to reverse this trend and to ensure that the consequences of late payments are such as to discourage late payment."

### **III.**

The members of the IVÖ hereby set the following Membership Rules for themselves. They establish the principles for the practise of the profession of the members of the IVÖ.

The Membership Rules are binding for all of the members of the IVÖ.

The Membership rules define the seal of quality of the IVÖ.

## **MEMBERSHIP RULES - SEAL OF QUALITY**

### **Membership Rules - Conduct in violation of the Membership Rules**

#### **§ 1**

Members are to practise their profession conscientiously with the due diligence of a prudent businessperson. They are obligated to abstain from any conduct that violates the Membership Rules.

#### **§ 2**

Conduct in the course of business is in violation of the Membership Rules if it negatively impacts the image of IVÖ as well as that of the entire profession or damages the common interests of the IVÖ as well as those of the profession.

#### **§ 3**

The members will be in violation of the Membership Rules with their conduct in the practise of their trade particularly if they

1. are bound to secrecy by their clients and do not comply with this obligation
2. accept remuneration exceeding the maximum fee rates for collection agencies in accordance with the latest version of the decree of the Federal Minister for Economic Affairs on the maximum fee rates for collection agencies (currently BGBl. [Federal Law Gazette] No. 141/1996 as amended in BGBl. II [Federal Law Gazette Part II] No. 103/2005)

3. do not surrender the third-party funds to the entitled recipient in accordance with the agreement or, in the case of the lack of such an agreement, do not surrender it to the entitled recipient within three months at the latest
4. assert a right of retention or right of set-off subject to special agreements regarding third-party funds or subject to submitted documents
5. set dunning intervals for dunning letters in the case of the lack of a response on the part of the debtor that are shorter than seven work days
6. disclose personally identifiable collection data to credit agencies without informing the debtor of this in advance and setting a deadline for the payment of the debt claim
7. carry out the collection in a way that gives the parties involved cause to file complaint
8. accept orders that were perceivably placed for unfair, usurious or sham transactions
9. use means for the collection of debt claims that are immoral or indecent
10. do not take into account a hardship on the part of the debtor that is established as being through no part of the debtor's own
11. use misleading occupational titles
12. do not follow the principle of truth in advertising and thereby make false claims about their own performance capabilities and the features of their own company
13. violate other Membership Rules.

### **Advanced training**

#### **§ 4**

The members shall take care to always keep their professional expertise and that of their employees up to date and to orient their practise of the profession accordingly.

## **Dunning letters**

### **§ 5**

(1) Dunning letters are to contain the following minimum information:

1. the name/company of the creditor and reason for the debt claim
2. the date, consisting of the day, month and year, by which the payment is to be made.

(2) The first dunning letter is also to include the following information:

1. a breakdown of the debt claim according to capital, interest, reminder fees of the client (insofar as these are broken down accordingly by the client) and collection costs
2. reference to the latest version of the decree of the Federal Minister for Economic Affairs on the maximum fee rates for collection agencies (currently BGBl. [Federal Law Gazette] No. 141/1996 as amended in BGBl. II [Federal Law Gazette Part II] No. 103/2005)
3. notification to the debtor of whether and under what conditions credit-relevant collection data will be disclosed to credit agencies.

## **Use of collection agents**

### **§ 6**

(1) The members are obligated to make use of collection agents only if a dunning letter has already been sent.

(2) It is to be ensured that the collection agents carry a collection agent ID on them and present them to the debtor without request.

(3) The conduct of the collection agents in the practise of their trade will be in violation of the Membership Rules if

1. dunning letters are delivered to or deposited at an address differing from the debtor's address
2. payments are accepted without the issuing of a corresponding voucher
3. information about the collection of the debt is disclosed to outside parties

4. "public attention" is attracted while performing research and collection, i.e. people standing outside of the debtor's address become aware of the fact that a debt is being collected
5. their conduct violates the mandates of the applicable law or morality.

#### **Duties of notification**

### **§ 7**

(1) In the event of a written objection the members are obligated to inform the debtor of the situation without delay.

(2) Upon the request of the debtor the members are obligated to provide the debtor with a breakdown of the operating costs and interest incurred free of charge and without delay.

#### **Duty to inform**

### **§ 8**

The client shall be provided with an overview of the cases handled by the member at least once a year. This overview shall include the information about the transferred capital, returned capital and current status of the enforcement on a case-by-case basis. This is not required if the client does not desire any such information or if the client has access to the member's system and has the ability to personally gain an overview of the cases handled by the member.

#### **Data retention and deletion**

### **§ 9**

The duration of the duty to preserve records during the active contractual relationship with the client shall be determined according to the specific agreement. After the conclusion of the order, the business documents are to be returned to the client or alternatively to be preserved for three years at the most in accordance with a corresponding notification to the client.

**These provisions were approved by the General Assembly of the IVÖ on 27 April 2012 and take effect on 1 January 2013.**