

General terms and conditions Busker Makelaardij

Article 1 Scope

1. These general terms and conditions apply to the establishment and implementation of a contract for the provision of services concluded between a consumer and Busker Makelaardij with regard to immovable property situated in the Netherlands.
2. If one or more provisions in these general terms and conditions are at any time wholly or partially invalid or should be annulled, the remaining provisions in these terms and conditions will remain fully applicable. The broker and the consumer will then enter into consultation in order to agree new provisions to replace the void / voided provisions, whereby the purpose and purport of the original provisions are taken into account as much as possible.
3. If there is uncertainty about the interpretation of one or more provisions of these general terms and conditions, the explanation must be in the spirit of these provisions.
4. If a situation occurs between parties that is not regulated in these general terms and conditions, then this situation must be assessed in the spirit of these general terms and conditions.
5. If the broker does not always demand strict compliance with these conditions, this does not mean that they do not apply, or that the broker would lose the right to demand strict compliance with the provisions of these conditions in other cases.

Article 2 Definitions and terms

The following definitions apply in these terms and conditions:

1. The consumer: the client, being a natural person, who does not act in the exercise of a profession or business.
2. Broker: the broker or contractor of Busker Makelaardij.
3. Assignment: the contract from service contract. Services are understood to mean: the mediation with regard to the purchase, sale, rent or rental etc. of immovable property, the valuation of immovable property, the management of immovable property, the provision of partial services and the other services to be provided by the broker.
4. Fee: the price for the services provided by the broker, including the brokerage fee.
5. Brokerage: the fee that is owed for mediation with regard to the purchase, sale, rent or rental of immovable property; immovable property also includes: rights to immovable property, such as ground lease and building.

Article 3 General and personal offer and realization of assignment

1. The general offer from the broker to the consumer contains a clear description of the service to the consumer. The general offer also includes the fee for the service and the other conditions under which the service is provided.
2. After the consumer has taken cognizance of the general offer, the broker offers the consumer the opportunity to enter into negotiations to arrive at a personal offer. The order is established by acceptance of the general / personal offer by the consumer.
3. The broker ensures that the final personal offer is recorded in writing in an agreement. The offer is accompanied by these terms and conditions.

Article 4 Contract duration

The agreement between the broker and the consumer applies indefinitely, unless the nature of the agreement dictates otherwise or if the parties expressly agree otherwise in writing and electronically.

Article 5 End of the assignment

1. The assignment ends by:
 - a. fulfillment of the assignment by the broker
 - b. withdrawal of the order by the consumer.
 - c. refund of the commission by the broker.
 - d. dissolution by one of the parties.
 - e. death of the consumer before the order has been fulfilled by the broker or otherwise agreed in the order.
2. The broker has fulfilled his assignment as soon as the agreed performance has been delivered or - in the event of brokerage by the broker - the intended agreement between the parties involved has been concluded as a result of services provided by him.
3. With the purchase of immovable property, the broker fulfills the assignment if the agreement between the buyer and the seller is apparent from a written agreement signed by both parties and the buyer has also not made use of the option to terminate this to invoke during the cooling-off period due to him by law. This does not affect his obligation arising from the order to guide the consumer through the settlement.
4. A consumer can withdraw the order with due observance of a notice period of two (2) months. The withdrawal of an assignment must be made in writing by registered letter. The consumer is never liable for damages with regard to a withdrawal. The broker is entitled to reimbursement of costs already incurred. Busker Makelaardij retains the right to the full brokerage fee if the aforementioned under 2 is still met during the cancellation period.
5. An order can be dissolved if there are serious shortcomings in the fulfillment of the obligations on the part of the other party. The declaration of termination must be made in writing.
6. The contractor can return the assignment for serious reasons. A serious reason is in any case considered a disruption of the relationship between the contractor and the client.
7. The date for termination of the assignment is the date on which the other party receives the written notice regarding the cancellation, refund, termination or death or the later date specified in that notice.

Article 6 Obligations of the broker

1. The broker carries out the assignment accepted by him to the best of his knowledge and ability and with due regard for the interests of the consumer.
2. Unless otherwise agreed, the broker may have the work necessary for the execution of the assignment carried out by others under his responsibility.
3. The broker keeps the consumer regularly informed of the progress, at least once a month.
4. The broker is not permitted to accept more than one brokerage commission for one and the same immovable property, subject to the express written consent of both parties.
5. The broker is not entitled to conclude agreements on behalf of the consumer, unless he has given a written power of attorney for this.
6. The broker adheres to the Personal Data Protection Act (WBP) and the Act to prevent money laundering and terrorist financing (WWFT). This means, among other things, that data may only be collected and stored for as long as / if necessary for the execution of the assignment and that an identification obligation applies at all times when entering into an assignment.
7. The broker is obliged to adequately insure his liability for damage resulting from an attributable shortcoming or from an unlawful act and to keep it insured.

Article 7 Obligations of the consumer

1. The consumer ensures that all data, of which the broker indicates that they are necessary or which the consumer should reasonably understand to be necessary for the execution of the agreement, is provided to the broker in time.
2. The consumer is not permitted to enter into agreements, negotiate, and / or engage in activities outside the broker, unless otherwise agreed in writing, that may hinder the broker from carrying out the brokerage commission or interfere with his activities.
3. The consumer pays the broker for the services in accordance with the agreements made within the period specified in the invoice. If the consumer fails to do so and does not follow up on a payment reminder, he is in default and the broker may increase the statutory interest.
4. After the expiry of the two-week period referred to in Article 8, paragraph 3, the broker is authorized to proceed to collect the amount due to him without further notice of default. The reasonable (extra) judicial costs associated with this are at the expense of the consumer, unless the court or disputes committee decides otherwise.

5. In the event that an assignment is given by more than one person, each of them is jointly and severally liable for the payment of all amounts due for whatever reason.

Article 8 Force Majeure

1. The broker is not obliged to fulfill any obligation towards the consumer if he is prevented from doing so as a result of a circumstance that is not due to fault, and is not for his account by law, legal act or generally accepted beliefs.

2. Force majeure is understood to mean, in addition to what is understood by law and jurisprudence in that area, all of external causes, foreseen or unforeseen, over which the broker cannot influence, but as a result of which the broker is unable to fulfill his obligations, strikes in the business of the broker or third parties included. The broker also has the right to invoke force majeure if the circumstance that prevents (further) fulfillment of the agreement occurs after the broker should have fulfilled his obligation.

3. The broker can suspend the obligations under the agreement during the period that the force majeure continues. If this takes longer than two months, then each party is entitled to terminate the agreement, without obligation to compensate damage to the other party.

4. Insofar as the broker at the time of the occurrence of force majeure, his obligations under the agreement have in the meantime been partially fulfilled or will be able to fulfill them, and the part fulfilled or to be fulfilled will have independent value, the broker is entitled to fulfill the already fulfilled or to fulfill come to invoice separately. The consumer is obliged to pay this invoice as if it were a separate agreement.

Article 9 Brokerage and payment

1. The client owes brokerage fees if an agreement with regard to the immovable property is concluded during the term of the brokerage commission. This also applies if the agreement is not the result of services provided by the broker.

2. The conclusion of an agreement is also understood to mean that the client cooperates in an act as a result of which the immovable property is sold, rented or assigned in whole or in part to the client and / or a third party and in connection therewith the execution of the assignment no further progress.

3. Costs for creating advertisements and / or brochures can also be charged in the interim.

4. After termination of the brokerage commission as referred to in Article 5, paragraph 1, sub bt / me, the client will owe brokerage fees if within three (3) months after the date of termination or the date on which the agreement is withdrawn an agreement with regard to the property case comes about.

5. If an agreement that has been concluded is terminated by the buyer using the legal cooling-off period (Article 7: 2 of the Dutch Civil Code), the right to brokerage with regard to this agreement will lapse.

6. If an agreement concluded does not come into effect, except in the situation described in Article 9, paragraph 5, Busker Makelaardij retains the right to a full brokerage fee.

7. The broker sends the consumer a properly specified invoice.

8. If the consumer does not pay within the period specified in the invoice (which is in principle the moment of legal delivery), the broker will send him a payment reminder in which the consumer is given the opportunity to pay within 14 days of receiving it.

9. If the consumer does not respond to this payment reminder, he is in default and the broker is entitled to raise the statutory interest.

10. After the expiry of the period referred to in paragraph 4, the broker is authorized to proceed to collect the amount owed without further notice of default. The reasonable (extra) judicial costs associated with this are at the expense of the consumer.

Article 10 Calculation of commission for sale and purchase

1. Brokerage is calculated on the basis of what the parties have agreed on this. If the parties have not agreed a basis for the calculation of the brokerage fee, the following apply.

2. The commission is calculated on the purchase price of the immovable property plus the applicable VAT. Prices must be stated excluding and including VAT.

3. The purchase price is understood to mean the amount that the buyer owes to the seller, excluding the costs and rights, such as transfer tax, notarial costs and cadastral rights.

4. If VAT is due on the purchase price, or if it is included in the purchase price, the commission is also calculated on the amount including the said tax unless the buyer is entitled to deduct the VAT.

5. In the case of immovable property under construction or to be built, the commission is calculated on the purchase and contract sum together, or on the expected construction sum or foundation costs, including VAT, arising from the agreement, unless the buyer is entitled to the VAT in to deduct.

6. When buying and selling an apartment right, the commission is calculated on the purchase price of the apartment right.

7. When buying and selling a membership right of a cooperative for the exploitation of immovable property or of shares in undivided property, the brokerage fee is calculated on the purchase price of the relevant right or share, without deduction of the share in a possible mortgage loan.

8. In the event of the purchase and sale of a right of leasehold or a building on leasehold land, the commission is calculated on the amount that the buyer and seller agree as such, plus an amount equal to ten times the periodic fee on an annual basis.

9. For the commission calculation, the following are assimilated to purchase and sales agreements:

Barter purchase, hire purchase, financial lease, installment purchase and sale as well as purchase and sale that does not automatically include the obligation to deliver (economic transfer of ownership)

10. If movable property in the material sense and / or goodwill is purchased or sold, and / or compensation, registrations, contributions and similar claims are agreed upon by the parties against each other, the brokerage fee is also charged on the purchase price of these goods and these rights.

Article 11 Sharing services

The essence of a mediation assignment is to provide advice and conduct negotiations. In addition, the client also has the following partial services available:

1. Discussion of and advice regarding the possibilities to reach the intended agreement.

2. Assessing the value of the property concerned

3. Drawing up the purchase agreement exclusive or including investigation at the Land Registry and / or easements investigation.

4. Drafting the purchase agreement for an apartment right, exclusive or including investigation at the Land Registry and / or easements investigation.

5. The production and sending of photo / postal information / brochures.

6. Entering a property in electronic data exchange systems including those via the internet.

7. The preparation and placement of advertisements.

8. Performing viewings.

9. Investigating immovable property, exclusive or including easements investigation and / or floor plan.

10. Providing advice.

11. Executing a specific purchase order for a property.

12. Performing a search for a property.

13. Performing targeted investigations.

An order can also be issued separately for these partial services. These conditions apply to partial services insofar as the nature of these provisions does not prevent this.

Article 12 Costs

1. Unless otherwise agreed in writing / electronically, the consumer will reimburse the costs incurred by the broker in this regard when commissioned for mediation. This also applies if the assignment is suspended or terminated by withdrawal or otherwise. Upon cancellation or suspension of the order, no compensation is due to the broker without prejudice to his right to reimbursement of costs already incurred (such as but not exclusively advertising and brochure costs).

2. The consumer is never liable for damages with regard to a withdrawal. With regard to this, the broker is entitled to reimbursement of costs already incurred as referred to in the previous paragraph and, if and insofar as agreed upon when the order was issued, to a percentage of the wage.

Article 13 Intellectual Property

1. The consumer as well as the broker reserve the rights and powers that belong to him / her on the basis of the Copyright Act and other intellectual laws and regulations.

Article 14 Liability

1. If the broker should be liable, then the liability is limited to the provisions here.

2. The broker is not liable for damage by or on behalf of the consumer provided incorrect and / or incomplete data.

3. The broker can never be held responsible for damage that has or may have occurred due to the placement of a garden board, triangle board, window board and / or any other form of advertising by the consumer and / or third parties.

4. The broker is only liable for direct damage. This is exclusively understood as:

- a. any reasonable costs to determine the cause and extent of the damage, insofar as the determination relates to damage within the meaning of these terms and conditions.
- b. any reasonable costs incurred to make the defective performance of the broker comply with the agreement, insofar as these can be attributed to the broker.
- c. reasonable costs incurred to prevent or limit damage, insofar as the consumer demonstrates that these costs have led to the limitation of direct damage as referred to in these general terms and conditions.

5. The broker is never liable for indirect damage, including consequential damage, lost profit, lost savings and damage due to business interruption.

6. The liability is in any case limited to a maximum of 2 times the amount of the brokerage fee.