



**General Terms & Conditions for  
Mediation for Let/Rent  
&  
Buying/Selling Real Estate  
of  
Rotterdam Apartments**



## TABLE OF CONTENT

<b>I. GENERAL</b>	<b>3</b>
<b>TERMS &amp; CONDITIONS</b>	<b>3</b>
Article 1. Definitions	3
Article 2. Applicability of the General Terms & Conditions / scope	3
<b>REALISATION</b>	<b>4</b>
Article 3. Offer and acceptance	4
Article 4. Agreement realisation	4
<b>SEARCH ASSIGNMENT</b>	<b>4</b>
Article 5. Search assignment for a home	4
<b>EXECUTION</b>	<b>5</b>
Article 6. Obligations of Rotterdam Apartments	5
Article 7. Obligations of the Client	6
<b>DURATION</b>	<b>6</b>
Article 8. Duration and completion	6
Article 9. Termination of the agreement	6
<b>FEES AND PAYMENT</b>	<b>7</b>
Article 10. Fees; expenses	7
Article 11. Payment	7
<b>ADVERTISING</b>	<b>7</b>
Article 12. Defects, complaint deadlines	7
<b>SHORTCOMINGS</b>	<b>8</b>
Article 13. Liability, indemnities and exclusions	8
Article 14. Expiry date	8
Article 15. Force majeure / non-attributable shortcoming	8
<b>SPECIAL CONDITIONS</b>	<b>9</b>
Article 16. Privacy	9
Article 17. Intellectual property rights and confidentiality	9
Article 18. Waiver and transfer of rights	9
<b>APPLICABLE LAW AND DISPUTES</b>	<b>9</b>
Article 19. Applicable law	9
Article 20. Settlement of disputes	9
<b>FINAL CLAUSES</b>	<b>9</b>
Article 21. Location of General Terms & Condition	9
Article 22. Language	9
<b>II. CONDITIONS RELATED TO MEDIATION FOR LETTING/RENTING OF REAL ESTATE</b>	<b>10</b>
Article 23. Definitions	10
Article 24. Offering an Object	10
Article 25. Fee and charges	11
Article 26. Cancellation by the Client	11
Article 27. Indemnification	11
Article 28. Applicability	11

## I. GENERAL

### TERMS & CONDITIONS

#### Article 1. Definitions

1.1 In these general terms & conditions are defined under:

General terms & conditions:	The general terms & conditions of Rotterdam Apartments mentioned below, where effective as per 29th of April 2011 and have been registered with the Chamber of Commerce of Rotterdam under number 24476791;
Rotterdam Apartments:	Rotterdam Apartments B.V., operating under the name Rotterdam Apartments, established in and with their principal place of business in Rotterdam, who by virtue of the Assignment of the Client for the provision of services or mediation accepts;
Client:	The natural or legal person who has provided the Assignment to mediation to Rotterdam Apartments;
Consumer:	Client, natural person, who does not perform acts in the pursuit of a profession of for a or company;
Assignment:	The assignment to provision of Service given by the Client to Rotterdam Apartments;
Services:	Mediation relating to buying, selling, letting or renting of real estate, the appraisal of real estate and other services to be performed by Rotterdam Apartments;
Compensation:	The price for the provision of services by Rotterdam Apartments including Brokerage;
Brokerage:	The Compensation owed for mediation relating to mediation for buying, selling, renting or letting real estate; for which the mediation leads to an agreement concerning the real estate between the client and the counterparty;

#### Article 2. Applicability of the General Terms & Conditions / scope

- 2.1 The General Term & Conditions are applicable to every offer/quotation and every (assignment) agreement or legal relation between Rotterdam Apartments and the Client, unless expressly agreed otherwise in writing, or if the conditions in part II are applicable.
- 2.2 If any condition in the signed agreement(s) between Rotterdam Apartments and the Client is contrary to any condition of these general terms & conditions, the condition in the agreement(s) prevails.
- 2.3 The General Terms & Conditions are also applicable to all stages prior to entering into an Agreement and in the Services and actions which Rotterdam Apartments performs prior signing the agreement. The General Terms & Conditions also remain effective after termination of the Assignment where applicable.
- 2.4 Between Rotterdam Apartments and the Client is clear that once the applicability of the General Terms & Conditions is contracted, these will also be fully applicable to any future transactions.

- 2.5 Rotterdam Apartments reserves the right to supplement and/or modify the General Terms & Conditions at any time.
- 2.6 Rotterdam Apartments is not held to the general terms & conditions who were declared applicable by the Client, unless Rotterdam Apartments has accepted these conditions explicitly and in writing. In case the Client has declared their own general terms & conditions to be applicable on the Order and/or other agreements the General Terms & Conditions of Rotterdam Apartments prevails, unless this is otherwise agreed in writing.
- 2.7 If one or more provisions of these General Terms & Conditions prove to be invalid or are declared void, the remaining provisions of these General Terms & Conditions will remain in force unaltered. Instead of the provisions that prove to be invalid of where declared void, provisions will be applicable which approach the original provisions as closely as possible with regards to the purpose and purport.

## **REALISATION**

### **Article 3. Offer and acceptance**

- 3.1 Every Assignment is supposed to be given to and accepted by Rotterdam Apartments, even if the express or implied intention of the Client is that the Assignment is performed by one or multiple people working for Rotterdam Apartments.
- 3.2 Any documents handed over from Rotterdam Apartments to the Client have no binding effect on Rotterdam Apartments.
- 3.3 Verbal commitments and agreements with employees of Rotterdam Apartments have no binding effect on Rotterdam Apartments, only if and for as far they have expressly been confirmed by Rotterdam Apartments.
- 3.4 If no agreement has been realised between the parties, the Client must return any documents which Rotterdam Apartments has provided them with for the offer, to Rotterdam Apartments upon the first request.

### **Article 4. Agreement realisation**

- 4.1 The agreement is realised by and at the moment of sending an order confirmation to Rotterdam Apartments, or by the actual commencement of work by Rotterdam Apartments.
- 4.2 All additions, amendments and further agreements to the agreement are only valid if they have been agreed in writing, unless due to circumstances (required speed, etc) recording in writing is not possible. Parties will strive to have these additions, amendments and further agreements subsequently recorded in writing.
- 4.3 Rotterdam Apartments is always entitled to, prior to the delivery of services or continuation thereof, to require security for the client's prompt performance if his obligations.

## **SEARCH ASSIGNMENT**

### **Article 5. Search assignment for a home**

- 5.1 In case the Client provides Rotterdam Apartments with a search assignment for a home, the Client is entitled the right to access the current rental offer of Rotterdam Apartments.
- 5.2 The search assignment to Rotterdam Apartments is no guarantee to find a (suitable) home.

- 5.3 A search assignment is accepted by Rotterdam Apartments if Rotterdam Apartments has received all requested data which was filled in completely and truthfully with the acceptance of the general terms & conditions.
- 5.4 Rotterdam Apartments has the right to end the search assignment immediately and without further notice or judicial intervention, of the Client does not adequately or fully fulfil one or more obligations towards Rotterdam Apartments, which includes the delivery of the correct data.
- 5.5 The Client must pay the agreed compensation for the work due to Rotterdam Apartments when despite an irrevocable offer of the Client and acceptance of the Client to enter into a rental agreement, be it the Client does not honour the rental agreement, be it though rejection by the Client due to circumstances not attributable to the Client.

## **EXECUTION**

### **Article 6. Obligations of Rotterdam Apartments**

- 6.1 The undertaking of Rotterdam Apartments is a commitment where Rotterdam Apartments will comply with the specific requirements of expertise which the service represents. All requirements which are defined by the Client to the Services must be specifically agreed with Rotterdam Apartments.
- 6.2 By an agreement of assignment to mediation we mean the assignment to deliver services related to mediation by Rotterdam Apartments in order to facilitate an agreement for the Client, as referred to in article 7:425 of the Dutch Civil Code, where at the least the specifications given by the Client are met.
- 6.3 Unless the parties otherwise specifically agree in writing, the Client and Rotterdam Apartments aim that Rotterdam Apartments will not be authorised by the client, in de sense of article 3:60 of the Dutch Civil Code, to perform legal acts in their name or that Rotterdam Apartments performs legal acts for the Client under a mandate and intended in article 7:414 of the Dutch Civil Code.
- 6.4 Rotterdam Apartments makes an effort to ensure the interests of the contracting parties. In any conflicting situations Rotterdam Apartments will hand back the assignment regarding one of the contracting parties.
- 6.5 The activities of Rotterdam Apartments do not include giving (legal) advice to the parties involved. Communication of Rotterdam Apartments can never be interpreted as (legal) advice.
- 6.6 Insofar as the proper execution of the Assignment requires, Rotterdam Apartments reserves the right to have certain Services performed by a third party. The applicability of article 7:404 of the Dutch Civil Code and article 7:407 section 2 CC which implies a joint and several liability when several people have received the Assignment is not applicable.
- 6.7 Rotterdam Apartments will regularly keep the Client informed of the progress. If Rotterdam Apartments has received payments for the benefit or paid amounts charged against the expense of the Client, they will report this.

### **Article 7. Obligations of the Client**

- 7.1 Client will supply all information and documents required for the execution of the agreement in a timely manner to Rotterdam Apartments. Client guarantees the accurateness of this information and documents. If Client does not fulfil these obligations in a timely manner, Rotterdam Apartments reserves the right to suspend the execution of the agreement and/or charge the Client additional cost according to the usual rates.
- 7.2 The Client will refrain from all activities which may interfere with the Assignment to Rotterdam Apartments and/or may impede Rotterdam Apartments in the execution of the Assignment.

## DURATION

### Article 8. Duration and completion

- 8.1 Unless both parties have otherwise agreed the Assignment is valid for an indefinite period.
- 8.2 The Assignment will end upon:
- a - fulfilment of the Assignment by Rotterdam Apartments;
  - b - cancellation of the Assignment by the Client;
  - c - termination by one the parties (article 9 Termination).
- 8.3 Rotterdam Apartments has fulfilled the Assignment mentioned in article 8 section 2 under a, when the agreed activity has been delivered or - in the case of mediation by Rotterdam Apartments - the proposed contract between the parties was created as a result of the Service supplied by them.
- 8.4 An Assignment can any time be cancelled by the Client, respecting the notice period of 4 weeks. Cancellation of an Assignment can only be performed in writing.
- 8.5 Without any effect on the obligation of the Client to pay the fee for the work and charges of Rotterdam Apartments, the parties are not entitled to any claim of compensation, unless this is agreement is terminated based on article 9.

### Article 9. Termination of the agreement

- 9.1 Each of the parties can terminate the agreement if the counter party - after the period of 14 days set forth in the written notice of 14 days has expired - exhibits shortcomings in fulfilment of this agreement.
- 9.2 In addition Rotterdam Apartments is authorised to terminate the agreement immediately and without notice and without legal intervention by written notice and with immediate effect, either wholly or partially:
- a - in case of bankruptcy, (temporary) moratorium, a private agreement with creditors, or the declaration applicable to the debt rescheduling arrangement for natural persons;
  - b - if his company is liquidated or terminated other than for the reconstruction or merger of companies; or
  - c - if in the opinion of Rotterdam Apartments there is a serious distortion of the relationship between Rotterdam Apartments and the Client;
  - d - if the Client becomes seriously compromised commercially;
  - e - if the Client settles outside of the Netherlands and this causes insurmountable problems for Rotterdam Apartments;
  - f - if it appears the Client has supplied Rotterdam Apartments with incorrect information upon entering the agreement, which are such that if Rotterdam Apartments would have been supplied with this information, the agreement would not have been entered upon, or not under the same conditions;
  - g - if there are other circumstances which according to Rotterdam Apartments object to continuation of the agreement.
- 9.3 Rotterdam Apartments will never be obliged to pay any compensation due to this termination. All claims of Rotterdam Apartments towards the client will then be immediately due and payable.

## FEES AND PAYMENT

### Article 10. Fees; expenses

- 10.1 The fee(s) mentioned in the order confirmation for the activities (het wages as intended in article 7:405 or article 7:427 of the Dutch Civil Code) include the compensation for the expenses made by Rotterdam Apartments in relation to the Agreement, unless stated otherwise in the order confirmation.

- 10.2 The Client will always have to pay the Fee to Rotterdam Apartments regardless of the agreements made between the contact parties in relation to the cost of the transaction in question.
- 10.3 The Client must pay the full Fee including the agreed Brokerage if during the term of the contact, including the agreed Brokerage owed if during the term of the Agreement the Client and a third party sign an (rental) agreement, even if this agreement is not attributable to the Services provided by Rotterdam Apartments, unless otherwise agreed in the agreement of the assignment.
- 10.4 The Client owes the full Fee including the agreed Brokerage if the agreement with a third party is signed after the Agreement between Rotterdam Apartments and the Client (by notice or other) has ended, but the agreement with a third party is the result of the Services provided by Rotterdam Apartments and/or because the Client has entered into negotiations with third parties without consultation of Rotterdam Apartments during the term of the agreement with the purpose of entering into an agreement.
- 10.5 If between the Client who has given the Assignment to Rotterdam Apartments and a third party an agreement is signed after termination of the Assignment, then this assignment is deemed to have been the result of mediation by Rotterdam Apartments, unless the Client can prove otherwise. and the Client must pay the full Fee including the agreed Brokerage, unless the law would object to this.

#### **Article 11. Payment**

- 11.1 If an invoice is not paid on the due date stated on the invoice, a contractual interest at the statutory (commercial) interest rate plus 1% is due over the invoice amount from the due date. If after the first notice the invoice is not paid, Rotterdam Apartments reserves the right to claim extrajudicial collection costs from the Client, amounting to 15% of the invoice amount with a minimum of € 250.-.
- 11.2 As long as the invoice remains unpaid, Rotterdam Apartments has the right to suspend the activities for the Client after informing the Client thereof. Rotterdam Apartments will not be held responsible of any damages as a result of the suspension.

### **ADVERTISING**

#### **Article 12. Defects, complaint deadlines**

- 12.1 Complaints on declarations should be submitted in writing within 5 working days of receiving the invoice.
- 12.2 Complaints about the execution of the agreement should be submitted in writing within a reasonable period (article 6:89 Dutch Civil Code) by the Client to Rotterdam Apartments in accordance with the Complaints procedure of Rotterdam Apartments. This does however not suspend the payment obligation of the Client.

### **SHORTCOMINGS**

#### **Article 13. Liability, indemnities and exclusions**

- 13.1 The liability of Rotterdam Apartments towards the Client is limited to the maximum amount which is paid out by the insurance company of Rotterdam Apartments. Rotterdam Apartments will supply information about her business liability insurance upon request of the Client.
- 13.2 Rotterdam Apartments is not responsible for any damage which are covered by any insurance taken out by the Client.

- 13.3 Liability of Rotterdam Apartments for indirect damages, also including consequential damages, lost profits, lost savings and damage due to business interruption is excluded. For damages resulting from an occurrence which can be (direct or indirectly) linked to an act of terrorism or malevolent contamination Rotterdam Apartments can never be held responsible.
- 13.4 Rotterdam Apartments is in no way liable for the consequences of the inaccuracy of the information provided by or on behalf the Client.
- 13.5 Rotterdam Apartments is not liable for damages which are inevitable with the correct execution of the Services, or the result of urgency required by the circumstances. Additionally Rotterdam Apartments is not liable for damages as a result of working in a manner known to the Client and to which they have made no objections.
- 13.6 Client shall indemnify Rotterdam Apartments from claims of liability of third parties vis-à-vis Rotterdam Apartments.

#### **Article 14. Expiry date**

- 14.1 Rotterdam Apartments is not liable for damages if the Client has not deemed Rotterdam Apartments responsible for the damage incident by registered mail within 5 working days after discovery of damage incident, and Rotterdam Apartments, because Client did not report this within the expiry date, is limited in their options to start an investigation into the damages and causes thereof.
- 14.2 All claims of Client expire if they are not motivated in writing by registered mail to Rotterdam Apartments within one year after Client or the third party was informed of or could reasonably be informed of the facts on which he bases his claims.

#### **Article 15. Force majeure / non-attributable shortcoming**

- 15.1 Neither of the parties is obliged to perform any obligation if prevented from doing so due to force majeure
- 15.2 The above does not affect the obligations of the parties to try and avoid and prevent any situations of force majeure where possible.
- 15.3 In case of force majeure Rotterdam Apartments is authorized to suspend the execution of the agreement without judicial intervention, or to terminate the agreement with immediate effect, without any obligation to pay damages for Rotterdam Apartments.
- 15.4 If Rotterdam Apartments has already met part of their obligations when the force majeure starts, or can only partially fulfil their obligations they reserve the rights to separately invoice the performed or executable part.

### **SPECIAL CONDITIONS**

#### **Article 16. Privacy**

- 16.1 Rotterdam Apartments will adhere to the Dutch Data Protection Act when performing their activities.

#### **Article 17. Intellectual property rights and confidentiality**

- 17.1 The intellectual property right on the documents supplied by Rotterdam Apartments, like reports, advice etcetera remain with Rotterdam Apartments. The related documents are exclusively destined to be used by Client and should not be reproduced, published, or disclosed to third parties without prior written permission of Rotterdam Apartments.

17.2 Both parties are bound to secrecy of all confidential information which they have obtained from each other or from another source under this agreement. Information is confidential if this is reported by one of the parties or arises from the nature of the information.

**Article 18. Waiver and transfer of rights**

18.1 Unless explicitly otherwise determined in the General Terms & Conditions any non-action by a party in case of default in respect of any provision of the agreement or the General Terms & Conditions or allowing or acquiescence of a deviation from any provision of the agreement or the General Terms & Conditions cannot be considered as waiver of rights.

18.2 For as far as these general provisions and/or agreement of the assignment is not otherwise determined, are described in these general provisions and/or the agreement of the assignment described rights and obligations are not transferable, unless with written permission of both parties.

**APPLICABLE LAW AND DISPUTES**

**Article 19. Applicable law**

19.1 The General Terms & Conditions, the agreement and all resulting agreements are governed by Dutch law.

**Article 20. Settlement of disputes**

20.1 All disputes, which may arise as a result of the Assignment and all further agreements resulting from this, will be settled by the competent court in Rotterdam, unless mandatory rules dictate otherwise.

**FINAL CLAUSES**

**Article 21. Location of General Terms & Condition**

21.1 These General Terms & Conditions are filed with the Chamber of Commerce in Rotterdam.

**Article 22. Language**

22.1 Where these General Terms & Conditions have been provided in a language other than Dutch, the Dutch text shall be decisive.

## II. CONDITIONS RELATED TO MEDIATION FOR LETTING/RENTING OF REAL ESTATE

In addition to chapter 1 of the General Terms & Conditions the following provision apply to mediation for letting/renting of real estate:

### Article 23. Definitions

23.1 In Chapter II the General Terms & Conditions are defined under:

Client:	The (legal) entity who offers one or more objects via Rotterdam Apartments for letting of the objects.
Object:	The offered real estate, being either living accommodation or business space;
Object Acceptation:	The confirmation of the cooperation between Client and Rotterdam Apartments as well as that the object on offer is included in the portfolio of Rotterdam Apartments and that the object will directly or indirectly be offered to house hunters of Rotterdam Apartments;
Candidate Proposal:	The document in which the candidate tenant is introduced for approval to the Client. The Candidate proposal contains the (essential) details of the rent, such as background declaration of the prospective tenant, rental period and the rent price as well as the applicable conditions after acceptance of the prospective tenant;
Costs:	Costs made by Rotterdam Apartments to publicize the availability of the offered Object, such as cost of advertising, costs related to including the Object in the shop window of the office of Rotterdam Apartments and fitting the Object with one or more posters and of V-signs, etc.. Additionally these costs also serve to cover the inclusion of the Object on the internet site of Rotterdam Apartments amongst others.

### Article 24. Offering an Object

24.1 The Client should be entitled to let the Object and sign the rental agreement and is responsible and accountable thereto.

24.2 Prior to offering the Object for rent the Client should - where applicable - have obtained permission and/or have given notice to and/or have received notice from:

- a - the home owner or the administrator, in case of sublease;
- b - the concerned municipal authority;
- c - the Dutch home owners association;
- d - the holder(s) of the mortgage;
- e - the insurance company(ies);
- f - relevant laws - and regulations.

Client is responsible and accountable thereto.

24.3 Client agrees that:

- a - Rotterdam Apartments will publicize the availability of the Object in a manner selected by them; and
- b - can make no claim on specific marketing activities, other than placing the Object on the internet site of Rotterdam Apartments.

- 24.4 Offering via Rotterdam Apartments forms no guarantee to find a (suitable) tenant.
- 24.5 The liability of Rotterdam Apartments is explicitly excluded for damages as a result of the provision nature of the rental agreement (early notice, etc.).
- 24.6 Rotterdam Apartments is authorised to stop offering the object, when circumstances occur which, according to Rotterdam Apartments, lead to a situation where one can no longer expect to have to offer the Object. No restitution will occur of any cost already paid by the Client.
- 24.7 Rotterdam Apartments explicitly refers Client to the provided information regarding the working method of Rotterdam Apartments as well as the information concerning letting and renting of an accommodation. The provided information is only informative and does not in any way constitute (legal) advice. Rotterdam Apartments advises the Client to seek independent (legal) advice where appropriate.

#### **Article 25. Fee and charges**

- 25.1 Rotterdam Apartments will invoice Client an amount to cover the Costs made by Rotterdam Apartments for Client. The Object Acceptation will contain confirmation of the Costs with agreed with the Client. The amounts mentioned in the Object Acceptation are excluding VAT, unless stated otherwise.
- 25.2 Client irrevocably gives consent to settle the agreed Fee including Brokerage and the Costs, if not already separately invoices and paid, with the first rental payments and/or the deposit in relation to the Object, if these are not paid by the tenant via the office of Rotterdam Apartments. Rotterdam Apartments will then transfer the remaining amount within a target period of 10 working days.
- 5.3 If no settlement conform the previous article is possible or takes place, Rotterdam Apartments will invoice the Fee including Brokerage and Costs separately to the Client. Article 11 of the General Terms & Conditions is fully applicable to this.

#### **Article 26. Cancellation by the Client**

- 26.1 If Client, after signing the order confirmation or after having approved a (perspective) tenant, for reasons which are not attributable to Rotterdam Apartments, no longer wishes to offer or let the offered Object, Client must pay compensation to Rotterdam Apartments for the damages suffered. Abovementioned compensation will always include the forgone Fee and Cost of Rotterdam Apartments (and those of the perspective tenant). Additionally Client must indemnify Rotterdam Apartments for any damages suffered by the perspective tenant.

#### **Article 27. Indemnification**

- 27.1 Unless parties otherwise agree in writing, Rotterdam Apartments does not mediate for Client in relation to the content en conditions of rental agreements to be close.
- 27.2 Client is specifically informed of the possibility of the tenant to appeal to the review provision as described in article 7:249 of the Dutch Civil Code and the terms therein. Rotterdam Apartments explicitly accepts no liability in this regard.

#### **Article 28. Applicability**

- 28.1 In any provision in the Object Acceptation and/or Candidate proposal and/or resulting additional agreement(s) are in violation with any provision of these conditions, the provision in the Object Acceptation and/or Candidate proposal and/or resulting additional agreement(s) prevails.