General Conditions NVM for professional clients

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The General Conditions NVM for professional clients have been established by the Dutch Cooperative Association of Real Estate Agents and Appraisers NVM U.A. (Nederlandse Coöperatieve Vereniging van Makelaars en Taxateurs in onroerende goederen NVM U.A.).
The Conditions came into effect as of February 2023.
Sometimes parties other than NVM members state that the NVM General Conditions apply to their work. As in such case there is no connection whatsoever with the NVM, the NVM accepts no responsibility in this respect and no appeal can be made on the NVM or related bodies into such matters. Information on the NVM is available from the NVM office.
The NVM office can also answer any questions you may have on the Conditions, the members (for example if you wish to check whether a broker is a member of the NVM), etc. It is also the appropriate contact address for any complaints or disputes.

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Inhoud

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I. General conditions

1. These Conditions apply to services relating to real estate in the Netherlands, unless the client is a natural person who does not act in a professional or business capacity*. Insofar as the contrary is not stated, real estate means real property and qualified rights thereon.
2. A client who has been sent written notice to pay fees, out-of-pocket expenses or costs by means of an invoice or in some other manner, and from whom no payment is received within 30 days after a second written request, is liable for the costs which the NVM member makes as of the expiry of such 30 days, judicially and extrajudicially, in respect of collection of his claim. In addition, as of that time he shall owe interest on such claim; the interest rate shall be equal to the statutory interest rate (Sec. 6:120 of the Civil Code). This liability for collection costs and interest shall lapse if and insofar as such is decided by an arbitration board or court designated by the NVM, which decision states that the fees, out-of-pocket expenses and costs charged by the NVM member are not owed.

II. Services relating to making contracts

Assignment

1. Insofar as the contrary does not appear in this chapter, assignment means an assignment to provide services relating to the making of a contract concerning real estate.
2. In the event an assignment is granted by more than one (legal) person, each of the clients shall be severally liable for the amounts owed to the NVM member in relation to such assignment.
3. If the NVM member deems a (legal) person to be a client, but such party denies the existence of the assignment and the existence of the assignment does not appear from a document addressed to the NVM member and signed by the client, the NVM member shall lack any entitlement to payment in respect of broker fees, out-of-pocket expenses or costs, unless he can prove the existence of the assignment in some other way.
4. An assignment shall run for an indefinite period of time. It shall terminate by, inter alia,
   a. performance by the NVM member;

**With the conclusion and fulfilment of an agreement regarding the instruction to provide services between a consumer and the NVM member, concerning immovable property situated in the Netherlands, the General Consumer Terms & conditions NVM apply.*

b. return of the assignment by the NVM member;
c. revocation by the client.

To a: The NVM member shall have carried out his assignment as soon as the intended contract has been made as a result of services provided by him. Whether the assignment has been carried out does not affect his obligation ensuing from the assignment to supervise the client in wrapping up the matter. For contracts for which the final making or the obligation to perform is, pursuant to a clause in the contract, dependent on a suspensive or dissolving condition, then the performance of the assignment shall also be dependent thereon.

To b: The NVM member may only return the assignment on substantial grounds. The following shall in any event be deemed substantial grounds:
- the situation described under Article II.10, second and following full sentences;
- disruption of the relationship between the NVM member and the client.

To c: The revocation or return of an assignment must be effected in writing. The date of termination of the assignment shall be the date on which the NVM member or the client respectively receives the written notice of the revocation or return of the assignment or any later date set out in said notice. Upon termination or suspension of the assignment, costs can be charged in accordance with the provisions of Article II.23, 24 and 25. After the end of the assignment, broker fee obligations can arise in accordance with the provisions of Article II.16

5. In the event of death of the client, the assignment shall terminate on the date when the NVM member is given notice of the death. The provisions of Article II.24 apply mutatis mutandis.

6. Unless otherwise agreed, the following services, inter alia, shall be available to the client in relation to his assignment:
- discussion of and advice regarding the options of making the intended contract;
- evaluation of the value of the real estate in question;
- attention to legal, fiscal, architectural and other relevant aspects;

- advice on and the conducting of negotiations;
- supervision of the completion.

7. The assignment as such does not encompass any authority for the NVM member to make contracts on behalf of the client, although such authority can be granted in connection with the assignment or subsequent to the granting of the assignment

Contractor

8. The NVM member shall ensure that the client possesses information regarding the service package of the NVM member, the rights and obligations ensuing from the assignment and the normal course of affairs for transactions relating to real estate.

9. The NVM member shall carry out assignments he has accepted to the best of his ability and in the best interests of his client. Unless otherwise agreed, the NVM member may instruct others to carry out the work necessary for execution of the assignment, under his auspices.

10. The NVM member shall refrain from accepting an assignment relating to real estate in respect of which he has already been granted an assignment by another client.
    If it ensues from an ongoing assignment that the NVM member provides the client with services relating to real estate in respect of which he must simultaneously provide some service under the heading of another ongoing assignment for another client, and the providing of the service to one client would conflict with the interests of the other client, the NVM member shall consult, at his election, with each of said clients or with one of them. The NVM member shall in any event commence such consultation as soon as said clients have reached the stage of negotiation. The consultation should lead to the suspension or return of one of the assignments.
    In such consultation the NVM member shall also discuss the option that the client whose assignment is suspended or returned engages a colleague real estate expert.
    If a contract is made between the clients of the same NVM member, whether or not such is contrary to the above, the NVM member can, in cases where the law does not prohibit the charging of a fee, only derive a right to such fee in respect of one of the clients.

Client

11. The client shall refrain from activities which could hinder the NVM member when carrying out his assignment or which could affect his activities. The client shall not make use of similar services of parties other than the NVM member except in the event express agreements to the contrary have been made. He shall not make any contracts outside of the knowledge of the NVM, nor shall he conduct any negotiations in this respect.

12. If a client gives various NVM members an assignment, the provisions of this chapter apply in full to each of these assignments and the client shall therefore owe each of these NVM members compensation for out-of-pocket expenses, costs and fees, except insofar as express agreements to the contrary have been made with one or more of these NVM members.

Broker fee (Courtage)

13. The fee is laid down in the instruction to provide services. The agreed fee and the additional costs are, unless explicitly otherwise agreed, exclusive of statutory turnover tax.

14. The client owes the NVM member a broker fee if a contract is made during the term of the assignment, even if the contract deviates from the assignment. This also applies if the contract is not the result of the services provided by the NVM member, unless the matter relates to an assignment of a client purchaser or lessee and the latter purchases or leases property outside of the region to which the assignment relates.

15. Making a contract shall also mean cooperation by the client in an action as a result of which the real estate is sold, let or allocated to the client and/or a third party in whole or in part and performance of the assignment is not continued in connection therewith.

16. The client also owes a broker fee if the contract is made after the end of the assignment, but is the result of actions contrary to Article II.11 or the making of the contract is connected with the services which the NVM member provided to the client during the term of the assignment. Subject to evidence to the contrary, such connection is deemed to exist if the contract is made within three months after

the end of the assignment. If the assignment terminates as a result of revocation by the client and the client gives a period of notice when revoking the assignment, the above-mentioned period of three months is as much shorter as the time period between the date when the NVM member receives the written notice of termination and the date on which the assignment terminates. The foregoing does not apply if at the time of termination of the assignment a similar assignment has been granted to a professional real estate expert and such assignment is still ongoing at the time the contract is made.

17. If a contract which has been made is not performed due to default of one of the parties or is not performed for some other reason, such shall not affect the NVM member's right to the broker fee. With regard to contracts whereby the final making or obligation to perform is dependent, by virtue of a clause in the contract, on a suspensive or dissolving condition, the right to the broker fee shall also be dependent thereon, unless one of the parties or both enforces or enforce the condition in question in a manner contrary to its purpose.

18. The amount of the broker fee is dependent on the type and content of the contract made, even if it deviates from the assignment and regardless of whether the contract was made during the term of the assignment or after termination thereof. The amount is determined by what the NVM member and the client have agreed. If a broker fee obligation arises in accordance with the provisions of Article II.16 after the end of the assignment, the broker fee shall be fixed at a reasonable amount.

19. No broker fee is owed on the costs connected with making and performing a contract, such as notary costs and transfer and turnover tax, unless otherwise agreed in the instruction to provide services.

20. If due to the actions of his client the NVM member cannot determine on which amount he must charge a broker fee, he is entitled to fix this amount in accordance with his own valuation and the client shall owe the broker fee calculated on such amount.

21. Subject to the provisions of Article II.17, the broker fee is owed and payable at the time the contract is made.

22. Claims relating to fees owing are payable if and as soon as the assignment has been carried out or is terminated for some other reason, unless the contrary appears from these Conditions, or the client and the NVM member agree otherwise. This also applies with regard to out-of-pocket expenses and costs. The client and the NVM member can also agree payment in advance or interim settlement of advances and costs.

Costs

23. Unless otherwise agreed, the client shall reimburse the costs which the NVM member incurs on behalf of the client. With regard to making these costs and the scope thereof, the NVM member must have prior consultation with his client. The foregoing also applies if the assignment is suspended or terminated by revocation, return or otherwise.

24. Without prejudice to the provisions of Article II.23, the client who revokes or suspends an assignment for services shall owe the NVM member compensation. If no agreements are made regarding the amount of such compensation, it shall be fixed at a reasonable amount.

25. If there is cause for such, the client and NVM member can declare the provisions of Article II.24 to apply mutatis mutandis in the event the assignment is terminated in some manner other than revocation.

Purchase and Sale

26. If the amount of the broker fee is made dependent on the purchase price, purchase price means:

    a) The amount that the buyer and seller agree as such.
    b) If for a contract of purchase and sale the consideration is an annuity: The value which is attributed to the real estate to calculate the transfer tax owing;
    c) In the event of real property under construction or still to be built: The agreed amount of the purchase and contractor's price together or the expected construction price as set out in the

contract; the foregoing excludes turnover tax;

d) In the event of purchase and sale of a right of emphyteusis or a right of superficies (opstal) on emphyteusis land: The amount that the buyer and seller agree as such, increased by an amount equal to ten times the periodic fee on an annual basis;
e) In the event of purchase and sale of apartment rights: The purchase price of the apartment right;
f) In the event of purchase and sale of membership rights in a joint venture for the exploitation of real estate or of shares in jointly owned property: The purchase price of the relevant membership right or share, without deduction of the share in any mortgage loan;
g) In the event of purchase and sale of shares in a public or private limited company: The fraction in the sale value of the real estate of the company which has been traded, as evidenced by the relevant number of shares;
h) In the event of purchase by exchange: The joint value of the related real property;

27. The following are deemed the same as purchase and sale: contracts
a) of purchase by exchange;
b) of hire-purchase;
c) of purchase and sale in instalments;
d) of purchase and sale which do not or do not by definition encompass an obligation to transfer (legal) title (transfer of beneficial title);
e) granting a right of emphyteusis or superficies.

28. If, in addition to real property, there is also purchase and sale of personal property (e.g. in the form of furniture, fixtures and fittings and inventory) or property rights (e.g. goodwill), or if in addition property rights such as compensation, registrations, contributions and similar claims are transferred to third parties or such rights are agreed between the parties, purchase price shall also mean the purchase price of such personal property and property rights.

Rent and Letting

29. If the amount of the broker fee is dependent on the rent, rent means:
a) The consideration which the lessor and the lessee agree as compensation for the enjoyment of the real estate for the first lease year;

b) If pursuant to the contract another amount is owed in rent in any following year than was owed in the first lease year, such amount is fixed at the time the contract is made and it apparently has another purpose than for the rent to stay in line with inflation: the total of those amounts, divided by the number of years to which they relate;
c) If the rent is not expressed in money: The amount that the NVM member deems in line with the market on the basis of his own valuations.

30. With regard to calculating the broker fee, parts of rental years are deemed a whole rental year. Contracts for an indefinite period of time and contracts for less than five years which provide for extension by option or otherwise, are deemed, for the calculation of the broker fee, as contracts made for a period of five years or as much less as corresponds with a final date set out in the contract. Optional years or years of tacit extension set out in contracts for a term of five years or longer, shall not affect the amount of the broker fee.

31. The following are deemed the same as leases:
a) emphyteusis contracts;
b) lease by exchange contracts;
c) contracts for giving property into use;
d) contracts relating to a right in rem of use or residence;
e) other comparable contracts.

32. . If at the time the lease is made an option to purchase, a right of first refusal to purchase or a duty to purchase is agreed for a sum for which the size or the manner of calculation of which is laid down in the contract or which must be determined with the help of the NVM member and the purchase must be effected during the agreed or extended term of the original or renewed lease, a broker fee shall also be owed in respect of the purchase and sale in accordance with the agreed prices of purchase and sale. If no agreements are made regarding the prices for purchase and sale, the broker fee is to be fixed at a reasonable price.

33. If personal property (such as furniture, fixtures and fittings, inventory) or property rights (e.g. goodwill) are leased as well, rent also includes the rent agreed for these goods.
    If the personal property is purchased and sold along with the real estate or if property rights such as compensation, registrations, contributions and similar agreements are transferred to third parties or if the parties agree such rights, a broker fee shall be owed therefore in accordance with the agreed prices of purchase and sale. If no agreements are made regarding the rates at the time of purchase and sale, the broker fee shall be fixed at a reasonable price.

III. Appraisal

1. In this chapter a valuation assignment means an assignment to make an appraisal of real property and publish a report regarding the appraisal. An appraisal assignment does not entail an assignment to carry out an architectural inspection.

2. The report shall encompass, inter alia, the name of the client, a description of the item appraised, the land registry data, the value opinion, any special circumstances which were taken into account with regard to the value opinion, reference properties, the purpose of the appraisal and the date on which it was carried out.

3. The report shall be issued to the client. The NVM member only accepts responsibility for the contents of the report with regard to the client. The client is free to make the report or information contained therein, unless such contains information clearly only intended for the client, available to third parties, provided he has paid the fee owing to the NVM member and he has made it clear to such third party that the NVM member does not accept any responsibility in respect of third parties with regard to the contents of the report. The NVM member shall not disclose the report to third parties other than in consultation with his client.

4. If an assignment has been granted to more than one NVM member jointly, such NVM members shall jointly publish the report. Their joint findings shall be published in this report. If the NVM members do not succeed in coming to joint conclusions, they shall consult with the client as to publishing a report setting out their various conclusions.

Fee

5. The fee shall be in the assignment and/or the assignment conditions.

6. The fee shall be charged per plot. However, if the plots form one complex, or if due to their situation they can be deemed to be equivalent thereto, they shall be deemed one plot for the calculation of the fee.

7. In the event of appraisal in relation to an assignment given to one or more NVM members, each NVM member shall charge a fee.

8. In the event of revocation of an assignment before it has been carried out, the client shall owe the NVM member a fee for the work already carried out. If no agreements have been made regarding the amount of this fee, it shall be fixed at a reasonable amount.

9. Out-of-pocket expenses shall be charged. Reasonable charges can also be made in respect of travel and accommodation costs incurred..

IV Disputes and trade guarantee

1. Any disputes between a member of the NVM and its client concerning the conclusion or execution of agreements regarding any services rendered or to be rendered by the NVM member may be submitted to the Real Estate Disputes Committee (Geschillencommissie Makelaardij), Bordewijklaan 46, 2591 XR The Hague (www.degeschillencommissie.nl).

2. In respect of disputes involving liability for damage, the Disputes Committee will be authorised only if such disputes do not exceed a financial interest of 10,000 Euros.

3. Disputes will be handled by the Disputes Committee only if the client has first filed a complete and clearly specified complaint with the NVM member.

4. After the complaint has been filed with the NVM member, the dispute must be brought before the Disputes Committee no later than three months after the dispute arose.

5. When the client brings a dispute before the Disputes Committee, the NVM member will be bound by this choice. If the NVM member wishes to bring a dispute before the Disputes Committee, he/she must first ask the client to grant his/her approval within five weeks. In doing so, the NVM member must inform the Consumer that the NVM member will consider him/herself at liberty – after the expiry of the aforementioned term – to bring the dispute before the Court.

6. The Disputes Committee will render judgement in accordance with the provisions of the regulations that apply to the Committee. The regulations of the Disputes Committee are available upon request. The decisions of the Disputes Committee are given as binding advice. A fee is due for hearing the disp.

7. The Court or the above-mentioned Disputes Committee are exclusively authorised to take cognizance of disputes.

V Trade Guarantee regarding Compliance with Binding Advice

1. The NVM guarantees compliance with the binding advice given by the Disputes Committee vis-à-vis the client up to 10,000 Euros; in respect of any sum exceeding this maximum amount the NVM will have an obligation to do its utmost to ensure that the NVM member will comply with the binding advice, unless the binding advice is submitted for judicial review by the Court within two months and the judgement in which the binding advice is declared non-binding becomes final and conclusive.

2. Situations in which there is a moratorium on payments and/or bankruptcy are excluded from the compliance guarantee as long as the dispute has not yet been to the judicial hearing. Situations in which the business is discontinued are excluded as long as the dispute has not yet been brought before the Committee.

3. The client may invoke the compliance guarantee in writing after it has become evident that the NVM member is not complying with the binding advice or has not submitted the binding advice for judicial review before the Court within two months after it has been given. Payment of the sum takes place within one calendar month after the letter invoking the guarantee was received, provided that the client has assigned his claim on the NVM member to the NVM.

Transitional provisions in respect of amendments of the Conditions NVM 2000

Amendment of 19 May 2000

1. The amendments hereby made shall be effective as of 1 July 2000. With regard to assignments and services ongoing on 30 June 2000, the text of the Conditions NVM 2000 in effect at that time shall remain effective, on the understanding that the members are authorised to apply the new text in respect of such assignments and services, if such would be more favourable for the client, or if the client expressly agrees thereto
2. If it deems such in the interests of the NVM, the general management is authorised to amend the text of the Conditions NVM 2000.

Amendment of 23 August 2001

The amendments hereby made shall be effective as of 1 January 2002. The transitional provisions of 19 May 2000 remain fully applicable.

Amendment of 7 August 2003

The amendments hereby made shall be effective as of 1 September 2003. The transitional provisions of 19 May 2000 and 23 August 2001 remain fully applicable.

Amendment of 9 December 2005

The amendments hereby made shall be effective as of 15 February 2006. The transitional provisions of 19 May 2000, 23 August 2001 and 7 August 2003 remain fully applicable.

Amendment of 16 December 2010

The amendments hereby made shall be effective as of 1 February 2011. The transitional provisions of 19 May 2000, 23 August 2001, 7 August 2003 and 9 December 2005 remain fully applicable.

Amendment of 26 October 2022

The amendments hereby made shall be effective as of 1 February 2023. The transitional provisions of 19 May 2000, 23 August 2001, 7 August 2003 and 9 December 2005 remain fully applicable.

Thus adopted and designated as the regulations binding the members in the meeting of members of the NVM of 19 May 2000, amended (art. VI.4) by the decision of the general management of 23 August 2001 effective as of 1 January 2002, thereupon amended (art. II.9 and II.17) by the decision of the general management of 7 August 2003, effective as of 1 September 2003, thereupon amended (title, preamble and art. I.1) by the decision of the general management of 9 December 2005, effective as of 15 February 2006, subsequently amended (Article VI and Article VII) by the decision of the general management of 16 December 2010, effective as of 1 February 2011. Subsequently amended by the decision of the general management of 26-10-22, effective as of 1 February 2023.

Nederlandse Coöperatieve Vereniging van Makelaars en Taxateurs in onroerende goederen NVM U.A.

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