

TERMS AND CONDITIONS OF SERVICE 020BEHEER Amsterdam

Article 1: Scope, definitions

1. These Terms and Conditions of Service, hereinafter referred to as 'TCS', govern all agreements that 020BEHEER Amsterdam, hereinafter referred to as the 'Estate Agent', concludes with its clients.
2. 'Instructions for service' is deemed to mean: the Estate Agent's best-efforts obligation aimed at bringing about a lease, against payment of a fee by the Client, for a residential property between the Client and his other party as meant in Article 7: 425 of the Dutch Civil Code. The Estate Agent will never accept instructions for service from the Client's other party relating to the same residential space. Instructions for service do not comprise a search instruction as meant in Article 3, paragraph 1 of these TCS (renting) and Article 4, paragraph 1 of these TCS (letting). Search instructions and instructions for service can, however, be combined.
3. If the Client is the party who wishes to rent residential space and has given instructions to the Estate Agent for this purpose, the other party is deemed to be the (potential) lessor of the relevant residential space. If a Client is the party who wishes to let this residential space and has given instructions for service to the Estate Agent for this purpose, the other party is deemed to be the (potential) lessee of the relevant residential space.
4. Provisions that deviate from these TCS only form part of the agreement concluded between the parties if and to the extent that the parties have expressly agreed this in writing.
5. If the Client consists of two or more (legal) persons, they will be jointly and severally liable for the performance of all obligations towards the Estate Agent.
6. If for whatever reason a provision, or part of a provision, in these Terms and Conditions of Service does not apply, this will not affect the applicability of the remaining provisions.

Article 2: Cooperation of the Client in the performance of the agreement

1. The parties will not do and/or omit anything that impedes or may impede proper performance of this agreement. The Client will cooperate in every regard with proper performance of the agreement by both parties, among others by promptly providing all necessary data and documents to the Estate Agent.
2. The Estate Agent will not start to perform the activities until the Client has provided all the necessary data and documents and the Client has paid the agreed fee and/or (advance) payment.

Article 3: If the Client is a person seeking a house (letting)

Contents of the instructions. Estate Agent's activities and method

1. 'Search instruction' means the Estate Agent's best-efforts obligation to search for suitable rented accommodation for the Client.
2. Depending on the Client's wishes and what the parties agree at the formation of the agreement or possibly thereafter, the Estate Agent's activities may comprise among others the following components:
 - a. Search instruction:
 - i. providing general information about among others the options to find a residential space, the local housing market, the housing permit, rent allowance, tenancy protection, rents, and registration in the municipal personal records database
 - ii. identifying and listing the Client's housing requirements/search profile
 - iii. searching for suitable residential space based on the Client's housing requirements/search profile
 - iv. organizing one or more viewings by the Client and providing information on one or more houses
 - v. evaluating viewings with the Client.
 - b. Instruction for service
 - i. Composing a full dossier on the Client and presenting the Clients based on this dossier as a potential lessee to potential lessors and endeavouring that this lessor awards the relevant residential property to the Client
 - ii. negotiating on behalf of the Client with potential lessor(s) about the contents of the lease
 - iii. bringing about a written lease and ensuring that it is signed by both parties
 - iv. providing information on and an explanation of the lease
 - c. Other activities
 - i. ensuring that the first payment to the lessor is made on time
 - ii. organising the transfer of the residential property
 - iii. drawing up a proper inspection report (with photographs) in triplicate (including taking meter readings, checking keys, checking the inventory, identifying defects)
 - iv. ensuring that the lessor performs his obligations at the start of the lease
 - v. providing support on: maintenance contracts, relocation, transport/purchase of inventory, finding workers to carry out paintwork, hang wallpaper and lay floors, etc.;
 - vi. providing support on: telephone and internet connections and/or connections to mains services
 - vii. acting as first point of assistance for the Client during the lease.
3. In the performance of all his activities the Estate Agent will exclusively look after the Client's interests, and not those of the (potential) lessor.
4. The Estate Agent will never represent both the (potential) lessor of a residential space and the Client in the formation of a lease for this residential space.

5. The Client will on his own initiative provide to the Estate Agent all information, data and documents necessary for the performance of the instructions and the Client guarantees the correctness thereof. This information and data includes, without limitation: a valid ID-document, valid proof of residence in the Netherlands, recent salary specification(s), employment agreement, recent bank statements (showing salary payments), employee declarations and suchlike. The Client is entitled to share this information, data and documents with third parties to the extent this is useful and necessary for the performance of the instructions.
6. After the Client has informed the Estate Agent that he wishes to rent a residential property put forward by the Estate Agent with the request to the Estate Agent to bring this to the attention of the lessor and to act as an intermediary in the formation of a lease with the lessor, the Estate Agent will confirm this announcement to the Client by email. The Client is entitled to withdraw the abovementioned announcement by informing the Estate Agent within 24 hours after sending this email message. After the 24-hour period, this right lapses. The Client does not have this right if he has made the abovementioned announcement to the Estate Agent in writing or by email or has confirmed it in writing in a declaration of intent signed by the Client. Fee for Estate Agent's service provision
7. If the Estate Agent's service provision results in a lease for a residential property between the Client and a lessor, the Client will owe the Estate Agent a (brokerage) fee. This fee is laid down in the agreement between the parties (instructions for service). The Client will pay this fee to the Estate Agent upon the conclusion of the lease.
8. The fee is deemed to be a reasonable fee for the activities the Estate Agent performs for the Clients in the context of the agreement. In this, the parties take account of the fact that the fee owed is at a rate that is customary in the market, and is not connected to the volume of the work to be performed by the Estate Agent, but to a result to be realised.
9. The Estate Agent is entitled to ensure that the Client cannot move into the property until he has paid the fee to the Estate Agent.
10. If the Client and/or his relations prove to be moving into a residential property the information on which the Client has received from the Estate Agent, the Client will owe the agreed fee to the Estate Agent, regardless of whether the lease was concluded due to the Estate Agent's work.
11. If for whatever reason the Client does not move into the residential property for which a lease has been concluded due to the work of the Estate Agent, or if the lease for this residential property is terminated, voided or dissolved, the Client remains obliged to pay the agreed fee and the Client is not entitled to partial or full restitution of the fee.
12. If after making the announcement or providing the written confirmation as referred to in Article 3, paragraph 6 of these TCS and after this right to withdraw this announcement has lapsed, the client withdraws his announcement after all or otherwise frustrates the conclusion of the lease, the Client is obliged to repay the damage suffered by the the Estate Agent. This damage will comprise in any case a sum equal to the agreed fee that the Client would owe if a definitive lease were concluded for the residential property. If the level of the agreed fee was based on the level of the rent agreed with the potential lessor and no rent has as yet been agreed, the compensation will be based on the gross rent of the initial lease offer from the potential lessor. In addition, the Client will be obliged to indemnify and hold harmless the Estate Agent against any damage suffered by the relevant potential lessor.

13. Immediately after the Client and a potential lessor have reached agreement about a lease for a residential property due to the work of the Estate Agent, the Estate Agent will draw up a rent confirmation form containing the key provisions of the lease before drawing up a lease to be signed by both parties. The Client is obliged to sign this rent confirmation form promptly.

Article 4: If the Client is the owner of a residential property (letting)

1. 'Search instruction' means the Estate Agent's best-efforts obligation to search for suitable lessee for the Client's residential space.
2. Depending on the Client's wishes and what the parties agree at the formation of the agreement or possibly thereafter, the Estate Agent's activities may comprise among others the following:
 - a. giving advice on letting residential space and on market conditions
 - b. inspecting the residential property
 - c. determining the rental value of the residential space
 - d. taking meter readings
 - e. taking photographs of the residential space
 - f. placing photographs and information about the residential space on the Estate Agent's website, on various residential property websites, with other estate agents/brokers and/or in other media
 - g. placement of a 'To Let' sign
 - h. designing and placing a window advert
 - i. advance screening of potential lessee(s)
 - j. negotiating on behalf of the Client with potential lessee(s) about the contents of the lease
 - k. forming a written lease and ensuring that it is signed by both parties
 - l. providing information on and an explanation of the lease
 - m. ensuring that the first payment is made on time by the lessor
 - n. organising the transfer of the residential space
 - o. drawing up a proper inspection report (with photographs) in triplicate (including taking meter readings, checking keys, checking the inventory, identifying defects).
3. The Client will on his own initiative provide to the Estate Agent all information and documents necessary for the performance of the instructions and the Client guarantees the correctness thereof
4. If the Estate Agent's work results in a lease for the residential property for the Client, the Client owes the Estate Agent the fee agreed with the Client. The Client must pay this fee within 14 days after the invoice is sent to him by the Estate Agent.
5. The fee is deemed to be a reasonable fee for the activities the Estate Agent performs for the Client in the context of the agreement. In this, the parties take account of the fact that the fee owed is at a rate that is customary in the market, and is not connected to the volume of the work to be performed by the Estate Agent, but to a result to be realized.
6. The Client instructs the Estate Agent to collect from the lessee the amounts for the first month's gross rent and the guarantee deposit. The Estate Agent will transfer the amounts collected to the Client, after deduction of any amounts owed by the Client to the Estate Agent.

7. If the Client appears (also) to be letting the relevant residential property or (also) to have given into use by one or more persons or parties whose information the Client has obtained from the Estate Agent, the Client owes the agreed fee to the Estate Agent, regardless of whether the lease was concluded due to the Estate Agent's work.
8. If for whatever reason the lessee with whom the Client has concluded a lease due to the work of the Estate Agent does not move into the relevant residential property, or if the lease for this residential property is terminated, voided or dissolved, the Client remains obliged to pay the agreed fee and the Client is not entitled to partial or full restitution of the fee.
9. If a (housing) permit is required for the relevant residential property, obtaining this permit for the Client and/or lessee is at the risk and expense of the Client and the Client is obliged to pay the agreed fee regardless of whether the permit has been or will be issued, unless the parties have agreed otherwise.
10. If after negotiations with a potential lessee have started, whether or not after the Client has signed a declaration of intent to that effect, the Client ends or frustrates the negotiations and/or is no longer prepared to lease the relevant residential property to the potential lessee, the Client is obliged to pay the damage suffered by the Estate Agent. This damage will comprise in any case a sum equal to the agreed fee that the Client would owe if a definitive lease were concluded for the residential property. If the level of the agreed fee was based on the level of the rent agreed with the potential lessee and no rent has as yet been agreed, the compensation will be based on the Client's initial lease offer. In addition, the Client will be obliged to indemnify and hold harmless the Estate Agent against any damage suffered by the relevant potential lessee.
11. Immediately after the Client and a potential lessee have reached agreement about a lease for a residential property due to the work of the Estate Agent, the Estate Agent will draw up a rent confirmation form containing the key provisions of the lease before drawing up a lease to be signed by both parties. The Client is obliged to sign this rent confirmation form promptly.
12. The Client declares and warrants that he is entitled in every respect (among others in view of possible claims of whatever kind from other entitled parties relating to the residential property, mortgage holder(s), insurer(s), (local) governments, competent authorities, manager(s), other residential property agent(s), owners' associations, etc.) to offer the residential property to let and to let it, and indemnifies and holds harmless the Estate Agent against all possible third party claims in this context and against all extrajudicial and judicial costs incurred by the Estate Agent. The Estate Agent accepts no liability of any kind in this context.
13. The Client declares that he is fully aware that due to mandatory tenancy law the lessee of residential property is protected among others from termination of the lease by the lessor, from excessive rents, too high or incorrect service costs and too high or incorrect once-only fees in the conclusion of leases. The Client (not the Estate Agent) determines the duration of the lease desired by the Client, the level of the rent, the level of the guarantee deposit, the composition of the service package, the level of the (advance on the) service costs and/or the level of any once-only fees. The Estate Agent accepts no liability of any kind for damage resulting from the contents of the lease, in particular relating to its duration, the level of the rent, the level of the guarantee deposit, the level of the (advance on the) service costs, the composition of the service package and the level of any once-only fees.

14. The Client declares that he is aware that the statutory tenancy protection and rent protection set out in Article 4, paragraph 13 of these TCS also contain regulations that limit the possibilities of short-term leases to specific cases and that, if a shortterm lease is concluded in contravention of the law of if it does not fulfil the statutory criteria, the lessee may ignore the temporary character of the lease by invoking the law. The Estate Agent does not accept liability of any kind for damage that results from such an appeal to rent protection on the part of the lessee, whether successful or otherwise.

Article 5: Personal information

The Client's personal information will be recorded in the Estate Agent's records. The Estate Agent will not provide any information of the Client to third parties, unless obliged to do so due to statutory obligations and/or if this is useful or necessary in the performance of the instructions. The recorded data are only used by the Estate Agent for the performance of the contract with the Client.

Article 6: Estate Agent's best-efforts obligation

The Estate Agent will endeavour to the best of his ability and knowledge to realise the result desired or intended by the Client. This is at all times a best-efforts obligation on the part of the Estate Agent, not a result obligation. If the result is not achieved, this therefore does not release the Client from his obligations towards the Estate Agent, with the exception of any obligations which the parties have expressly linked to the realisation of the intended result.

Article 7: End and termination of the agreement

1. Unless agreed otherwise and without prejudice to the other provisions in these TCS, this agreement will end among others:
 - i. when the intended result of the Estate Agent's efforts is realised;
 - ii. due to the Client's termination
 - iii. due to the Estate Agent's termination
2. Termination of the agreement by the Client after making the announcement to the Estate Agent set out in Article 3, paragraph 6 of these TCS and after his right to withdraw this announcement has lapsed, does not release the Client from his obligation to pay damages and his obligation to indemnify the Estate Agent as referred to in the latter provision.
3. Termination of the agreement by the Client after the negotiations with a potential lessee have started as meant in Article 4, paragraph 10 of these TCS does not release the Client from his obligation to pay damages and his obligation to indemnify the Estate Agent as referred to in the latter provision.
4. The Client and the Estate Agent are entitled to terminate this agreement at any time. The Estate Agent will terminate the agreement among others when he fears that the Client will not perform, or not properly perform, the lease to be concluded, without prejudice to his claims of payment as provided for in these TCS.

5. Without prejudice to the claims for damages provided for in these TCS, the parties cannot derive rights to damages from the termination of this agreement by terminating it, unless the termination arises from a failure by the other party to perform one or more obligations.

Article 8: Obligation to complain and lapse of rights

1. Complaints with regard to the activities performed and/or services rendered by the Estate Agent must be conveyed by the Client to the Estate Agent by registered letter no later than within 2 months after discovery or after the Client should have reasonably discovered them, in the absence of which the Client can no longer make any claims based on any defects in the Estate Agent's performance.
2. Claims by the Client on the Estate Agent lapse after one year has expired after the ending of the agreement.

Article 9: Liability

1. The Estate Agent is not liable for the Client's damage, including consequential loss, trading loss, loss of profits or disruption of business that arise from his actions or omissions, or those of its staff or of third parties hired by him, in particular not for the Client's damage arising from the fact that the agreed rent and/or the agreed service (costs) and/or the additional fees, whether once-only or otherwise, are not in accordance with the law, or are or may be increased or decreased through legal proceedings.
2. The Estate Agent is not liable for damage suffered by the Client as a result of actions or omissions by the other party in the lease concluded or to be concluded due to the work of the Estate Agent.
3. To the extent that the Estate Agent is liable for the Client's damage, his liability is limited to the amount of the payment to be made by the Estate Agent's insurer in a specific case, to the extent that the Estate Agent is insured for this. If the Estate Agent is not insured as meant in the preceding sentence, the Estate Agent's liability is limited to twice the level of the fee charged and/or to be charged by the Estate Agent to the Client for his activities and/or services.
4. Limitation of the Estate Agent's liability for the Client's damage in these TCS does not apply if and to the extent that the damage is due to intentional act or willful recklessness on the part of the Estate Agent.

Article 10: Payment

1. Unless agreed otherwise or provided otherwise in these terms and conditions, the Client must pay all he owes to the Estate Agent within 14 days after the invoice date. This term is a strict deadline.
2. The Client will pay all he owes to the Estate Agent promptly without claiming any discount, suspension, setoff, termination or reversal.
3. If the Client does not promptly pay all he owes the Estate Agent:
 - a. the Client will owe the Estate Agent a default interest of 1% per month, to be calculated cumulatively on the principal. Parts of a month's will be calculated as a full month
 - b. the Client, after being sent a relevant demand by the Estate Agent, will owe in the context of extrajudicial costs 15% of the principal and the default interest, with a minimum of € 40.
 - c. In the event of non-performance by the Client of any obligation arising from the agreement, the Estate Agent is authorized without further notice of default or judicial intervention to terminate the agreement in full or in part and claim damages.
 - d. If the Client has not fulfilled his payment obligations in time, the Estate Agent is entitled to suspend performance of his obligations until payment has been made. The same applies if the Estate Agent even before the start of the default had a reasonable suspicion that the Client would not fulfill his payment obligations. The risk of the consequences of suspension by the Estate Agent is at the Client's expense.
 - e. Payments made by the Client always serve to settle, in sequence, the interest owed, the outstanding costs, and the longest outstanding payable invoices.

Article 11: Competent court, applicable law

1. The agreement concluded between the Estate Agent and the Client is governed solely by Dutch law.
2. Any disputes will be adjudicated by the competent Dutch court, with the proviso that the Estate Agent, to the extent that mandatory law does not conflict with this, is authorized to bring a case before the competent court in the city where the Estate Agent has his registered seat.