

General terms and conditions



General terms and conditions of De Hypotheker

1. What do we have these general terms and conditions for?

1.1 De Hypotheker has a number of agreements about its services that apply to everyone. You can think about the agreements on how we pay for our services or how we communicate/ inform you. In this document, which we call the general conditions, you can read back these agreements.

1.2 The general terms and conditions apply to all our services. Offers we make to you on behalf of financial institutions are excluded from these general terms and conditions.

1.3 These general terms and conditions are also established for our directors and/or partners and all persons working for us. Their applicability continues if these persons are no longer working for us.

2. Who are we?

2.1 We are De Hypotheker, the branch that advises you and/or mediates for you in financial products. We are a franchise organisation and are part of De Hypothekers Associatie B.V. De Hypothekers Associatie B.V. is the umbrella organisation to which all De Hypotheker branches are affiliated. The administration, coordination and support of all branches takes place from this central organisation in Capelle aan den IJssel. The actual advising and/or mediating always takes place at a branch.

2.2 We are registered and supervised by the Financial Markets Authority (AFM). Our licence number is: 12010105.

3. What terms do we use in the general terms and conditions?

3.1 You: the natural person with whom we have concluded an Order for Services and we make offers as an intermediary of financial institutions.

3.2 Assignment: the assignment given by you to us to advise on and/or mediate in the conclusion of a financial product and/or subscription.

3.3 OTD: we record the assignment given to us by you in an Order for Service, the OTD. An OTD is only established when you (and possibly the other contracting parties) have signed it digitally.

3.4 Financial product: Such as a mortgage, insurance, investment or savings account or credit on which we (will) advise and/or mediate.

3.5 Financial institution means the provider of the financial product.

3.6 Services: By services we mean advice on financial products and/or mediation between you and parties involved. We may also provide services arising from other agreements that may come into existence between you and us.

3.7 Agreement: an agreement includes the Order for Services (OTD) and/or other agreements that may come into existence between you and us.

3.8 Electronic customer file: your digital mortgage file where you can find all the caveats for your mortgage application. You can think of your payslip, employer's statement, etc.

3.9 Distance contract: The contract entered into by the consumer with us where the communication has taken place entirely at a distance without the personal presence of any of our employees.

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4. Agreements on our mission

4.1 We will start the assignment after you have signed the OTD. It may have started earlier if you have given us permission to do so.

4.2 If You have entered into a Distance Agreement with Us, You have the Right of Withdrawal. At the latest within 14 calendar days after You have entered into a Distance Agreement with Us, You may rescind the Distance Agreement. You can do this by sending us a clear written statement. Upon receipt of this declaration, We will confirm its receipt to You.

4.3 You can no longer exercise the Right of Withdrawal after You have expressly given us permission to commence the Service and we have completed the Order.

4.4 Signing of the OTD is done via a digital signature. If there are several contractors, all contractors must digitally sign the OTD. We offer you the option of a digital signature in a manner that meets all legal reliability requirements. The digital signature is equivalent to a handwritten signature.

4.5 The assignment given to us leads to an obligation of effort on our part and not an obligation of result. The assignment given to us also leads to an obligation of effort on your part. This may be different if this has been clearly agreed in the OTD or if it appears from the nature of the assignment.

4.6 The deadlines specified by us for carrying out an assignment are intended as an indication and not as deadlines, unless we have agreed this with you in writing in the OTD. We are not responsible for monitoring deadlines in agreements to which you are a party, such as terms of resolutive conditions in a purchase or contracting agreement.

4.7 If you do not provide us with information necessary for the execution of the agreed commission, or do not do so in time or in accordance with the arrangements made, or if you have not fulfilled your (information) obligations in any other way, we are authorised to suspend the execution of the commission. You will be charged for the costs of the work already carried out by us up to the time of suspension. In this case, we cannot be held responsible for any financial consequences.

5. Agreements on offers and advice

5.1 If, as an intermediary, we send you offers on behalf of a Financial Institution, those offers are non-binding and subject to acceptance by the relevant Financial Institution unless expressly stated otherwise in those documents.

5.2 You cannot derive any rights from calculations we make for you. These calculations relate to the cost of a financial product, its passing on in your monthly costs, any tax consequences and the consequences that may arise in the event of, for example, incapacity for work or death. All calculations we make are provisional and indicative. They may change in the interim due to changes in, for example, interest rates and/or premiums and (tax) legislation.

5.3 Our opinions are snapshots and may change as circumstances change. You can think of changes in laws and regulations or in your personal situation.

5.4 We cannot provide you with a final calculation until a Financial Institution has made an offer (e.g. an interest rate offer) which you have accepted.

6. Agreements around our communication

6.1 We also provide general information. We do so, for example, on our website or at your request. This information is without obligation and can never be regarded as advice given by us in the context of an assignment given to us, unless we let you know. Or unless the information concerns advice tailored to your personal situation.

6.2 We rely on you to be reachable at the address, telephone number and e-mail address provided by you at the start of the assignment. If your contact details change, you must notify us in writing. We will update these new details in our system.

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7. Agreements on engaging third parties

7.1 We may sometimes, with your consent, make use of third parties for the proper execution of the assignment. If this involves costs beyond the agreements in the OTD, we will pass these on to you. Whenever possible, we will let you know the costs in advance.

7.2 As far as possible, we will consult with you in advance if we need to make use of advice prepared by external advisors to carry out the assignment given to us. This includes, for example, advice from estate agents, tax consultants, valuers, etc. Naturally, we will exercise due care in selecting the relevant advisor. We are not liable for (culpable) shortcomings of these external advisors.

7.3 In the execution of the assignment granted to us, we may have to engage third parties who are not to be regarded as external advisors within the meaning of the provisions of Article 7.2 above. This could include temporary employees or external administrative agencies. However, we remain responsible for these persons.

8. Agreements on our remuneration and payments

8.1 We fix the remuneration for our services in the OTD before the start of the assignment. Our remuneration may include:

Fixed price

We charge a fixed price per operation per branch for our services.

Hourly rate

We charge an hourly rate for additional services.

Subscription

You pay De Hypotheker a fixed monthly fee.

Target price

We use guide prices in our (commercial) communications. We do this because the actual price depends on specific circumstances and advice requirements.

A combination of the above is also possible.

Changes in government-imposed taxes and/or charges will always be passed on to you.

8.2 If we send you a payment reminder on behalf of a Financial Institution for interest or premiums for a Financial Product, you should be aware that failure to pay it, or to pay it on time, may result in the insurance policies and/or provisions you have taken out no longer providing cover for the insured risk. For instance, this may result in non-payment in case of death, etc.

8.3 Our invoice for advice and/or mediation is collected by direct debit authorisation and/or through a notary of your choice at the time of execution of the deed.

8.4 Invoices arising from other agreements between you and us will be paid via direct debit that you provide to us.

8.5 If you do not pay our invoice within the agreed period, we will send you three reminders. If you also fail to pay the reminder, we will outsource the collection of our claim. All costs we incur in connection with the collection will be for your account. These costs will in any case be the statutory interest, as well as an amount equal to the maximum compensation allowed by law in respect of extrajudicial collection costs as stipulated in and calculated in accordance with the Compensation for Extrajudicial Collection Costs Decree (Besluit Vergoeding voor buitengerechtelijke Incassokosten).

8.6 You may only set off amounts that we charge you for our services against a counterclaim alleged by you, or suspend payment on that basis, insofar as we have expressly and unreservedly recognised that counterclaim or insofar as it has been irrevocably established in court.

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9. Agreements on the information you must give us

9.1 We expect you to provide us, within the stipulated period, with all the relevant information we need to correctly carry out the assignment given to us. You must do this on request and unsolicited. This could include changes in your family situation, income or assets. Such changes require us to adjust our advice or financial products already concluded may no longer be suitable for your new/current situation.

9.2 We can only fulfil the duty of care we have towards you if you make it in 9.1 strictly complies with the provisions of Article 9.1.

9.3 If the failure to provide information in a timely, accurate or complete manner results in us having to spend more time or incur additional costs in carrying out the assignment, we will pass on to you the remuneration involved in that additional time and/or the additional costs to be incurred.

9.4 You are fully responsible for the accuracy and completeness of all information you provide to us.

9.5 If it subsequently transpires that you have provided incorrect or incomplete information on the basis of which we carried out the instruction, the Financial Institution may be entitled under its (general) (policy) terms and conditions to terminate (with immediate effect) the financial product(s) purchased by you and/or to decide not to compensate you for any damage suffered. You continue to owe us the fee for the service we provide.

10. Agreements on complaints

10.1 You can address your complaint about our service directly to your advisor or the franchisee of that branch. You can do this by telephone or in writing. Your complaint must be made within 60 days of receiving the documents, information or invoice about which you have a complaint. Or, after you could reasonably have become aware of a shortcoming in our service.

10.2 If your complaint is not properly handled by your advisor or the franchisee, you can file your complaint directly with The Hypothekers Association B.V within a reasonable time.

10.3 If you have filed a complaint, you still have an obligation to pay for our services. If your complaint is justified, we will have the choice between adjusting the fees charged, improving or redoing the work you have complained about free of charge, or not (or no longer) carrying out the assignment in whole or in part against a proportionate refund of the fees you have already paid.

10.4 We are affiliated to the Financial Services Complaints Institute (KiFID) under affiliation number: 300.006571. You have the choice of submitting a dispute arising from advice provided by us and/or our services related to the offers and agreements to which these conditions apply to KiFID or to a court for binding advice. You can do this after you have gone through the procedure in 10.1 and 10.2.

10.5 We adhere to the binding opinion to be issued by KiFID.

11. Agreements on our liability

11.1 Any liability of us, our directors, our employees and any persons engaged by us in the performance of the assignment is limited to the amount paid out in the relevant case under our professional liability insurance policy, including the excess to be borne by us. Upon request, we will provide interested parties with further information on professional liability insurance.

11.2 In the event that our professional liability insurance does not provide cover in a specific case, our liability is limited to a maximum of the total fees charged to you for the relevant assignment.

11.3 We carry out the assignment given to us by you exclusively for your benefit. Third parties cannot derive any rights from the content of the work carried out for you.

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11.4 We will never be liable for any damages from you or third parties:

- as a result of incorrect, incomplete or untimely information provided by you;
- arising from the circumstance that you have not paid the premiums and/or interest charged to you for the financial products you have taken out, after mediation by us;
- resulting from the circumstance that a financing reservation agreed by you with your counterparty has expired (unless this has been agreed);
- caused by the Financial Institution's failure to ensure, after we have completed the service, that the documents required for the execution of the mortgage deed are ready and/or the funds are not on deposit with the notary or are not on time.

11.5 In case we advise on, or mediate in, the conclusion of financial products that include an investment and/or investment component, we provide a forecast with regard to the possible results of the product concerned. This is only an indication. We are never liable for damage suffered by you or third parties resulting directly or indirectly from a (disappointing) value development of financial products. In addition, we are not liable for damage suffered as a result of errors or inaccuracies in the forecasts of third parties, including any Financial Institution, regarding a result to be achieved, return, profitability and the like.

11.6 Notwithstanding the provisions of this article, we remain liable for damage caused by proven intent or proven conscious recklessness of our subordinates.

12. Agreements around cancellation of the Service Assignment

12.1 As a private individual, you may cancel the agreement at any time. However, you remain obliged to pay the costs incurred before the time of cancellation and/or relating to all or part of the services already provided. You will sign a new direct debit mandate for these costs.

You can cancel by sending a letter to our branch address or an e-mail to our branch. In it, please state which agreement you wish to terminate, the reason and when.

13. Agreements around force majeure

13.1 If, demonstrably through no fault of our own, something changes in the circumstances existing at the time we entered into our obligations that make it unreasonable for us to fulfil our obligations, this is a case of force majeure. This means that we will then not imputably fail to fulfil our obligations. You cannot hold us liable for the financial consequences (if we are in force majeure) of this.

In any case, force majeure applies in the following cases:

- fire, strike or lockout, riot or insurrection or war;
- government measures;
- all other circumstances of such a nature that we can no longer be required to be bound by the agreement.

14. Agreements around the protection of your personal data

14.1 We treat all personal data you provide to us with care. We do not use these data for any purpose other than for the execution of the order given to us or mailings etc. We also do not provide your data to third parties. Except when we are obliged by law or public order in the context of our business operations to provide the relevant data to a designated body.

14.2 We treat the data and information provided by you in accordance with the provisions of applicable laws and regulations.

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14.3 If you object to us including your personal data in any mailing list etc. of ours, we will remove the relevant data from the relevant file upon your first written request. However, in connection with our after-care, we will inform you of material changes to the financial product you have purchased. We will also email you periodically to ask if there are any significant changes in your personal and/or financial situation.

14.4 If we act for ourselves in (legal) proceedings, we are entitled to use the data provided by you or on your behalf. We may also use information and other data received during the execution of the assignment if, in our opinion, they may be relevant.

15. Other appointments

15.1 All agreements between you and us are governed exclusively by Dutch law.

15.2 If the contents of the OTD differ from what is stipulated in these general terms and conditions, the provisions of the OTD take precedence.

15.3 Deviations from and/or additions to these general terms and conditions only bind us insofar as they have been expressly agreed in writing between you and us.

15.4 If any provision of these general terms and conditions is found to be invalid, only the relevant provision shall be excluded from application, all other provisions shall remain in full force and effect.

15.5 We may unilaterally amend the contents of these general terms and conditions in the interim. In the event we make interim changes during the performance of our services, we will let you know and send you the amended general terms and conditions.

15.6 You may object to the applicability of the amended terms and conditions within 30 days from the date you were notified of the relevant changes. We will then consult with you on the content of the applicable general terms and conditions. If you do not object to the amended content of the general terms and conditions, they will apply from the date specified by us.