

**GENERAL CONDITIONS OF  
DPM GROUP**



**1. Definitions**

Unless expressly indicated otherwise, the capitalized terms as used herein shall have the following meanings.

Commission:	the fee to which DPM is entitled in connection with the Assignment;
DPM:	DPM Group, having its registered office in Naarden, the Netherlands, as well as any private individuals or legal entities affiliated with it within the meaning of Article 2:24b of the Netherlands Civil Code [ <i>Burgerlijk Wetboek</i> ];
Client:	any private individual or legal entity having entered, or wishing to enter, into an Agreement with DPM;
Assignment:	any assignments from one of more Clients issued to DPM in writing, orally or electronically, with respect to the formation of agreements relating to immovable property in the broadest sense, and/or rights in that respect between one or more Clients and one or more third parties, or for any other form of service directly or indirectly relating to immovable property in the broadest sense;
Agreement:	the agreement between the Client and DPM with respect to the formation of agreements relating to immovable property in the broadest sense, and/or rights in that respect between one or more Clients and one or more third parties, or for any other form of service directly or indirectly relating to immovable property in the broadest sense;
Party/Parties:	the Client and DPM, jointly or each individually;
Conditions:	these general conditions, which have been filed in Dutch and English at the Court Registry of Amsterdam under no. 14/2009.

**2. Applicability**

- 2.1 These Conditions shall apply to all quotations, Assignments and (supplementary) Agreements to be issued or entered into by DPM.
- 2.2 The applicability of any general conditions, howsoever denominated, of the Client is hereby expressly waived. By the mere entering into an Agreement the Client waives any general conditions on its part, so that all Agreements shall be governed exclusively by the present Conditions.
- 2.3 Any derogations from these Conditions shall be binding on DPM only if and to the extent confirmed in writing by DPM.
- 2.4 In the event of conflict between the provisions of the Conditions and any Agreement, the Agreement shall prevail.

2.5 The invalidity, unlawfulness or unenforceability of any of the provisions of these Conditions shall not affect the validity of the remaining provisions. In such event the Parties shall mutually negotiate a new provision to replace the invalid or unenforceable provision, taking into account the purport of the original provision to the extent possible.

### **3. Offers and Formation of Agreements**

3.1 A request from the Client shall be followed by an offer or quotation from DPM. If an offer or quotation from DPM is followed by an Assignment, the Agreement shall be deemed to have been formed upon despatch of the Assignment by the Client.

3.2 If an Assignment is issued by the Client without being preceded by a quotation from DPM, the Agreement shall be deemed to have been formed if either within five (5) days of despatch of the Assignment the assignment confirmation or a copy thereof signed by DPM is received by the Client or as a result of DPM's commencement of performance of the Assignment in accordance with such Assignment within such term. In such event the Agreement shall be deemed to have been formed upon receipt of the assignment confirmation, or copy thereof, or upon commencement of performance of the Assignment. If the Assignment is not confirmed or performance thereof is not commenced within the said term, the Client may not assume that DPM has tacitly accepted the Assignment in accordance with the Assignment.

3.3 Any additional agreements or changes made at a later date, as well as any (oral) agreements and/or commitments entered into or made by one of DPM's employees shall be binding on DPM only if and to the extent confirmed in writing by authorized representatives of DPM.

3.4 Contrary to Articles 7:404 BW and 7:407 (2) BW, all Assignments shall be accepted and performed only by DPM, even if the (implicit) intention is for the Assignment to be performed by a certain individual.

### **4. Performance of the Agreement**

4.1 In the performance of the Agreement DPM shall observe due care as befits a good supplier, taking into account the nature and substance of the assignment issued and in compliance with applicable legislation and regulations. In no event, however, shall there be any obligation to produce a certain result.

With due observance of the foregoing, DPM shall be free in its method of factual performance of the Agreement, unless express agreements have been made in respect of such method.

4.2 In no event shall DPM be under any obligation to perform an Agreement in any way that may be contrary to applicable legislation and/or regulations or rules of conduct applicable to DPM.

4.3 For the duration of the Agreement the Client shall provide DPM with all such relevant information as may be required for the proper and swift performance of the Agreement. In addition, the Client shall be under an obligation to cooperate with

DPM. The Client shall warrant the correctness, completeness and reliability of the information provided to DPM, even if such information originate from third parties. Furthermore, the Client shall be under an obligation on its own initiative to provide DPM with all information with respect to which the Client knows or should reasonably know that it is or may be relevant for the proper performance of the Agreement.

- 4.4 If, in the performance of an Agreement, DPM depends on the consent or cooperation of third parties, including the Client, and such consent or cooperation is not or not properly given, or not given in good time, DPM shall be authorized to terminate the Agreement early with immediately effect, the provisions of article 10 of these Conditions remaining in full force and effect, or - at its discretion - to suspend performance of the Agreement. In such event DPM shall be authorized to charge the Client for the costs incurred as a result. The Client warrants that third parties shall give their consent or cooperation in respect of performance of the Agreement.
- 4.5 Any term communicated by DPM to the Client within which the Agreement will be performed, shall be deemed to be an estimate. The Agreement cannot be dissolved by the Client on account of delay in performance. If it proves impossible for DPM to perform the Agreement within the term communicated, the Parties shall consult on extension of the term. The Client shall not be entitled to damages on account of delay in performance.
- 4.6 DPM shall be authorized to engage third parties in the performance of an Agreement.
- 4.7 Save written agreements to the contrary, the Client may, for the duration of the Agreement, not issue any assignments of similar purport to any third parties with respect to the immovable property or properties to which the Agreement relates.

## **5. Commission and Costs**

- 5.1 The Commission agreed between DPM and the Client, or the basis for computation of the Commission as stated in the Agreement, as applicable, shall be fixed and, therefore, not subject to revision. The Commission shall be in euros, exclusive of *BTW* (Dutch VAT). The Commission may be changed only with DPM's prior written consent.
- 5.2 If determination of the Commission in accordance with the provisions of the Agreement is not possible, DPM shall determine the Commission due by the Client based on generally accepted standards.
- 5.3 If the type and substance of the Agreement derogate from the Assignment, without any further agreements having been made in writing with respect to the amount of the Commission, the Client shall pay the Commission computed according to the usual method or, in the absence thereof, the amount in Commission determined by DPM based on generally accepted standards.
- 5.4 The Client shall pay to DPM the disbursements, costs of advertising, as well as all other costs reasonably to be incurred by DPM for the Client in the performance of, or in connection with, the Assignment.

## **6. Payment**

- 6.1 Save provisions in the Conditions to the contrary or agreements to the contrary made between the DPM and the Client, any claims against the Client on account of Commission due and costs incurred shall be payable if and as soon as the Agreement has been performed or ends for any other reason.
- 6.2 Unless agreed otherwise in writing, payment shall be made within fourteen (14) days of the date of the invoice, without deduction, discount, setoff, suspension or withholding, by means of deposit in or transfer to a bank account to be designated by DPM.
- 6.3 DPM shall at all times be authorized, before payment is made, to require adequate security – at its discretion – for performance of the Client’s (remaining) obligations. Refusal by the Client to provide the required security shall entitle DPM to dissolve the Agreement without any liability arising on its part to pay damages to the Client, without prejudice to DPM’s right to claim full damages.
- 6.4 If the Assignment has been issued by multiple Clients jointly, each of them shall be jointly and severally liable for all their obligations vis-à-vis DPM as a result of, or in connection with, the Agreement.
- 6.5 If payment is not made, the Client shall be in default, without any further demand or notice of default by DPM being required.
- 6.6 In the event of default on the Client’s part, the Client shall pay interest on the outstanding amount equal to 2% per calendar month, part of a calendar month being counted as a full calendar month. Furthermore, the Client shall reimburse the judicial and extrajudicial costs of collection to be incurred by DPM, amounting to at least 15% of the outstanding amount, with a minimum of EUR 500.
- 6.7 Any payments made by the Client shall first go to deduction of the costs of collection due, subsequently of the interest due, and finally of the outstanding invoices.

## **7. Liability**

- 7.1 DPM’s liability to the Client shall be limited to performance of the obligations described in article 4.1.
- 7.2 DPM shall not be liable for any damage, due to any cause whatsoever, save to the extent caused by intentional act or gross negligence. This also includes all damage as a result of liability to third parties. Liability for damage caused by non-managerial staff of DPM or third parties engaged by it, indirect damage, consequential damage, non-material damage, trading loss or environmental damage, including lost turnover and profit, losses incurred, loss of market share, stagnation in production, investments made, goodwill acquired, damage to reputation, etc., is also expressly excluded.
- 7.3 The Client shall indemnify and hold DPM harmless against any third-party claim, on any basis whatsoever, in connection with, or as a result of, the Agreement. The claims shall in any event be deemed to include, but not limited to, claims for compensation of

damage and costs on account of wrongful act. The Client shall be liable for compensation of all damage, losses, costs and charges, etc., that DPM may suffer or incur in relation to any such claim, including but not limited to costs of legal assistance and all other legal costs and charges.

- 7.4 If and to the extent that DPM is liable to the Client as yet, on any basis whatsoever, such liability shall be limited to the amount of the Commission that has been invoiced, or could have been invoiced, by DPM in respect of the relevant Agreement, provided that DPM's liability shall in no event exceed an amount of EUR 500,000 (in words: five hundred thousand euros) per Assignment.

## **8. Confidentiality**

- 8.1 DPM shall keep confidential vis-à-vis third parties all information and data received from the Client, save in the event of a statutory duty to disclose such information and data. In connection with the performance of the Agreement DPM shall take all possible precautions to protect the Client's interests.
- 8.2 Without DPM's express written consent the Client shall not issue any communications to third parties about DPM's approach and working method, or provide its reports or any other information relating to the Agreement to any third parties.

## **9. Industrial and Intellectual Property**

- 9.1 Unless agreed otherwise in writing, title, copyrights and all other rights of intellectual or industrial property in relation to the performance of the Agreement shall remain vested in DPM. The Client shall only acquire the use rights and powers expressly granted in these Conditions or otherwise, and shall not otherwise reproduce or copy any reports, if and to the extent provided to it.
- 9.2 DPM shall not be liable for any infringement of third-party rights, save in the event of its own infringement of rights the existence of which was generally known or known to DPM at the time of such infringement. The Client shall indemnify DPM against any third-party claims in that respect.

## **10. Assignment of Rights and Obligations**

The Client shall not assign all or part of its rights and obligations under the Agreement to any third parties without DPM's written consent.

## **11. Term and Termination of the Agreement**

- 11.1 An Agreement shall be entered into for a limited or an indefinite period of time.
- 11.2 An Agreement for an indefinite period of time ends by notice of termination. Either Party may terminate an Agreement, with due observance of a notice period of two (2) months. Notice of termination shall be given in writing by registered letter.
- 11.3 An Agreement for a limited period of time ends by expiry of the period for which the Agreement has been entered into or by fulfilment of the Agreement.

- 11.4 Either the Client or DPM may dissolve all or part of an Agreement with immediate effect, and without any judicial intervention being required, if the other party has been declared insolvent or bankrupt, or has been granted a (provisional) moratorium on payment of its debts, or if the other party, after having been given written notice of default, still fails to perform any of its obligations. Dissolution shall take place in writing by registered letter.  
The grounds set forth above are not exhaustive. Other serious grounds may also result in termination of an Agreement with immediate effect.
- 11.5 Paragraph 4 of this article shall not affect the possibility of dissolution of the Agreement pursuant to the law.
- 11.6 Any and all claims that DPM may have or acquire against the Client in the above-mentioned situations shall be promptly and fully due and payable, without any discount or setoff.
- 11.7 In no event shall DPM be liable to pay damages to the Client in connection with termination of the Agreement. The foregoing shall not affect DPM's right to claim full damages on account of breach by the Client of its obligations under an Agreement and/or the Conditions.
- 11.8 In the event of early termination of an Agreement by either Party, DPM shall retain its right to payment of invoices for services already performed. In such event the Client shall also compensate all damage to be suffered by DPM, including damage due to lost profits, unless the reason for early termination is due to circumstances attributable to DPM.
- 11.9 The Parties' rights and obligations as set forth in articles 7 (Liability), 8 (Confidentiality), and 9 (Industrial and Intellectual Property) shall survive termination of the Agreement.

## **12. Miscellaneous Provisions**

- 12.1 In no event shall the Client be authorized to set off any obligation on its part, irrespective of whether such obligation has become due and payable, against any obligation of DPM vis-à-vis the Client.
- 12.2 The period of limitation for any rights of action that the Client may have against DPM pursuant to an Agreement or the law shall be one year after commencement of the statutory period of limitation.
- 12.3 These Conditions have been filed with the Registrar of the District Court of Amsterdam, the Netherlands, and may also be obtained via [www.dpmgroup.eu](http://www.dpmgroup.eu). The most recently filed version shall be applicable.
- 12.4 These Conditions are subject to amendment by DPM. Any such amendments shall take effect on the effective date announced, save with respect to Assignments agreed prior to such date. DPM shall send the Client the amended Conditions in good time. If no effective date has been communicated, amendments shall take effect vis-à-vis the Client as soon as it has been notified or has taken cognizance of the amendment, save with respect to Assignments agreed prior to such date.

**13. Applicable Law and Disputes**

- 13.1 The legal relationship between the Parties shall be governed by the laws of the Netherlands.
- 13.2 Any disputes as a result of, or in connection with, an Agreement governed by these Conditions, or the relevant Conditions themselves and their interpretation or implementation, either of a factual or of a legal nature, shall be decided by the competent court in the district of Amsterdam, without prejudice to DPM's right to submit a dispute to the court in the district where the Client is based.
- 13.3 These Conditions have been drawn up in the Dutch and English languages. In the event of conflict between the substance and purport of these Conditions, the Dutch text and its interpretation in the Netherlands jurisdiction shall be binding only.