

# TILLI CITY

## I M M O B I L I E N

### General Terms & Conditions

Our estate agency activities include the referral and/or brokerage of property transactions, including the associated advisory services. We treat our business relationships with clients as confidential. In particular, we strive at all times to provide a high quality of service, i.e. we work swiftly, conscientiously and exercise all reasonable and usual care, skill and forethought. In the event that we are engaged by several parties to one contract, we ensure that there are no conflicts of interest and endeavour to come to an arrangement which is satisfactory to all parties. The following General Terms & Conditions (GTCs) provide the basis for constructive cooperation with our clients.

#### 1. Referral and brokerage services

In the absence of an agreement to the contrary (e.g. a non-performance related fee), our agent's commission is deemed to have been earned as soon as a contract is concluded in respect of a property which we have referred or brokered as per the client's instructions, or as soon as a different, yet commercially equivalent contract is concluded in respect of the property. The principle of concurrent causation applies.

#### 2. Commissions on property purchases

Unless otherwise agreed, the commission payable by the client upon his purchase of a property or rights equivalent to real property is as specified below:

- 5.0% for properties with a purchase price up to €15.0 million
- 4.0% for properties with a purchase price up to €25.0 million
- 3.5% for properties with a purchase price up to € 40.0 million
- 3.0% for properties with a purchase price over € 40.0 million

When purchase price payments are offset in part or in whole by other considerations, the value of such other considerations shall also be taken into account.

#### 3. Commission on the purchase and sale of companies

Unless otherwise agreed, the commission payable by the client upon the purchase or sale of companies or shareholdings (corporate rights) in companies is 3% of the contract value.

#### 4. Commission on rentals and leases of retail and catering space

Unless otherwise agreed, the commission payable to us for rentals and leases involving retail and catering space is as follows:

- 3 net average monthly rents for lease terms of up to 5 years
- 4 net average monthly rents for lease terms of more than 5 years

When rental or lease contracts are concluded with an option to extend or to rent/lease additional areas, the options are included in the calculation of commission for the term of the contract, irrespective of whether they are exercised or not. Rent-free periods are not taken into account in the calculation of average rent.

If the rent or lease agreement has a percentage lease or rent clause, the net monthly rent or lease payment which the parties to the contract would have agreed had they opted for fixed rent or lease payments is authoritative for the calculation of commission. In particular, the calculation shall be based on the customary local rent and lease payments for comparable properties and on the amount of rent or lease that the lessor demanded or the tenant offered before agreeing upon a percentage rent or lease clause with the agent's client.

If the parties agree a compensation payment or similar payment to be effected by the tenant to a third party in connection with the conclusion of a rent or lease contract, we are entitled to a commission amounting to 3% of such payment.

#### 5. Commission on rentals and leases of office space

Unless otherwise agreed, the commission payable to us for rentals and leases involving office space is as follows:

- 2.5 gross average monthly rents for lease terms of up to 10 years
- 3 gross average monthly rents for lease terms of more than 10 years

When rental or lease contracts are concluded with an option to extend or to rent/lease additional areas, the options are included in the calculation of commission for the term of the contract, irrespective of whether they are exercised or not. Rent-free periods are not taken into account in the calculation of average rent.

If the rent or lease agreement has a percentage lease or rent clause, the net monthly rent or lease payment which the parties to the contract would have agreed had they opted for fixed rent or lease payments is authoritative for the calculation of commission. In particular, the calculation shall be based on the customary local rent and lease payments for comparable properties and on the amount of rent or lease that the lessor demanded or the tenant offered before agreeing upon a percentage rent or lease clause with the agent's client.

If the parties agree a compensation payment or similar payment to be effected by the tenant to a third party in connection with the conclusion of a rent or lease contract, we are entitled to a commission amounting to 3% of such payment.

#### 6. Commission on rentals and leases of residential space

If we have been engaged by the tenant our agent's commission is 2.38 monthly rents including VAT and it is payable by the tenant. If we have been engaged by the owner and nothing else has been agreed, our agent's commission is 2.38 monthly rents including VAT and it is payable by the landlord.

#### 7. Commission on similar real estate transactions

Today's flexible real estate market offers transaction structuring options which do not reflect a normal property purchase or classic property rental transaction and therefore necessitate a number of special arrangements. The following provisions apply to such special arrangements.

- a) If the buyer undertakes to pay an annuity, the annuity payments which are capitalised pursuant to the German Valuation Law (*Bewertungsgesetz*) are deemed to be the purchase price.
- b) If a commercially similar transaction is concluded in place of a contract of purchase, such as the acquisition of heritable building rights and/or options, the contribution of a property into a company, the acquisition of company shares, the acquisition of receivables within the scope of foreclosure proceedings or similar, the provisions on commissions pursuant to 2, 3 and 4 apply accordingly.
- c) If a right of first refusal to rent a property or a similar right is granted, the commission is 1% of the extrapolated rent for 10 years. The same applies to leasehold and other utilisation arrangements. For the arrangement of rights of first refusal or similar rights pertaining to property purchases, we charge a commission of 1% of the property's fair market value.
- d)

#### **8. Persistence of the right to claim commission**

Our right to claim commission shall remain effective even if the concluded contract is rescinded due to a condition precedent not having been met or a right to rescind the contract is exercised or the contract is not executed for another reason. Our right to claim commission also remains effective if the contract is concluded at a later date or subject to different terms and conditions, and if an alternative transaction with the same commercial intent as the transaction which we brokered is concluded.

#### **9. Value added tax and due date of commission payments**

Commissions are payable with value added tax at the applicable statutory rate. The commission becomes due upon exchange of contracts and is payable within 8 days of receipt of invoice. In the event of late payment, we are entitled to charge default interest at a rate of 8% above the effective base rate. The right to assert claims for further damages remains unaffected by this clause, as does the client's right to furnish proof of lesser damages due to default.

#### **10. Commercially similar transactions**

Our entitlement to receive commission remains effective even if a contract with deviating terms and conditions is concluded in respect of the property, provided that the commercial intent and purpose of its content is essentially identical to that of our offer.

#### **11. Right to be involved and to receive information**

In the interest of constructive collaboration, it is essential that the client involves us sufficiently in and informs us about contractual negotiations. Involving clients and keeping them informed are fundamental to the provision of high quality services. We therefore provide the client with timely information about the content and status of contract negotiations and send a copy of the concluded contract to the client without delay.

#### **12. Consequences of failure to provide timely information**

In order to claim our due commission, we are dependent on the client providing us with the necessary information. If the client culpably fails to inform us that a contract has been concluded, or delays informing us, resulting in the late issue of our commission invoice, we are entitled to claim compensation for any damages incurred by us as a result.

#### **13. Confidentiality of our offers and notifications**

The unauthorised transfer of offers and notifications to third parties enables the third party to claim prior knowledge and, as a result, fraudulently avoid the payment of our commission. Our offers and notifications shall therefore be treated as confidential by the client and may only be transferred to third parties with our prior written consent. Wilful breach of this provision entitles the agent to claim the commission due on the concluded contract from the client.

#### **14. Engagement by multiple clients**

We are entitled to provide remunerated services to other parties to the contract provided that there are no resulting conflicts of loyalty which are unacceptable to the client.

#### **15. Intermediaries and joint business**

We are entitled to engage further persons and to pay a portion of the commission to them. (Upon request we will disclose the amount of commission paid/to be paid and the recipient.)

#### **16. Basis of our offers and notifications**

We draft offers and provide information in good faith. However, since we are dependent on information from third parties, the offers and information are subject to change and without obligation. In particular, we cannot rule out errors or the possibility that the potential transaction cannot be brought to a conclusion as a result of interim transactions. We therefore accept no liability for negligence. Claims for damages are naturally not excluded by this provision if they are asserted in respect of damages caused by wilful intent or gross negligence. Liability is unlimited in cases of damages arising from injury to life, limb and health or breach of a material contractual obligation.

#### **17. Severability**

We have endeavoured to ensure that these GTCs provide an appropriate balance of interests. If any of the provisions should be or become invalid, however, the remaining provisions hereof shall not be affected.

#### **18. Place of performance and legal venue**

The place of performance and legal venue is the place of our company's registered office provided that both contracting parties are merchants.