

Status: May 2021

1 These General Terms and Conditions ("**GTC**") govern the legal relationship between clients (sellers and interested parties) and Otto Immobilien GmbH (Broker) in the brokerage of real estate. They take into account the current legal situation as standardised by the Austrian Broker Act (*Maklergesetz*), the real estate agent regulation (*Immobilienmaklerverordnung*), the Austrian Civil Code (*Allgemeine bürgerliche Gesetzbuch*), the Austrian Consumer Protection Act (*Konsumentenschutzgesetz*) as well as the Distance and Outbound Transactions Act (*Fern- und Auswärtsgeschäfte-Gesetz*) and the Austrian Special Code of Conduct for Real Estate Agents (*Besondere Standesregeln für Immobilienmakler*). A summary of the essential provisions for brokerage activities is available at www.otto.at. If the brokerage contract contains more specific provisions, these take precedence over the GTC.

2 The Broker shall act in the interests of both parties (seller and interested party) - unless this is excluded in individual cases - and shall therefore take into account the interests of both clients.

3 The seller shall provide the Broker with all information required for the brokerage and - if available - hand over documents or grant the power of attorney required to obtain the documents and information.

All changes to the conditions of sale must be agreed with the Broker.

4 Property offers of the Broker are subject to change and non-binding. The interested party shall not be entitled to have his offer accepted by the seller even if the offer fully corresponds to the property offer. Unless expressly agreed otherwise, the broker has no authority to conclude contracts.

The interested party is not entitled to make use of the Broker's information if he withdraws from the brokerage contract in exercise of a right of withdrawal from the contract. The seller is not entitled to negotiate the conclusion of the legal transaction with an interested party who has become aware of the business opportunity through the Broker, if the Broker informs him that the interested party withdraws from the brokerage contract and the seller is not prepared to assume the buyer's or tenant's commission.

5 The information about a property is provided with the care of a prudent real estate broker. The Broker has no influence on the information provided by third parties. The client is obliged to disclose all circumstances that are essential for the brokerage of the property. This includes all defects of the property known to him as well as other essential or value-determining circumstances. In the case of financial losses, the Broker's liability for damages in consumer business shall be limited to cases of intent and gross negligence. Excluded from this are damages due to the violation of essential contractual obligations, damages to life and limb or death. In all other cases, the statutory liability provisions shall apply. If the client is an entrepreneur, the Broker shall only be liable in the case of intent and gross negligence. In this case, the Broker's liability is limited to an insured sum of € 2,000,000.

Within the scope of his brokerage activity, the Broker will advise both contracting parties objectively and neutrally. Since the Broker will normally act for both contracting parties, we recommend that experts be consulted for the contract review, as well as for the review of the economic viability and the tax implications, if necessary.

6 If the client is already aware of a property offered by the Broker as a business opportunity, he must inform the Broker of this in writing without delay, attaching appropriate supporting documents.

7 The claim to commission arises according to Art 7 Austrian Broker Act (*Maklergesetz*) with legal effect (i.e. agreement of will or possible entry into conditions) of the brokered transaction and is due immediately - unless a later due date has been agreed in individual cases. The entitlement to payment of the commission arises at this time irrespective of the invoicing. The amount of the commission claim shall be notified to the consumer before the conclusion of the contract.

The naming of the brokered business partner is sufficient for the brokerage.

The entitlement to commission shall only lapse if the client proves that the legal transaction is not executed for reasons for which the client is not responsible, or that the enforcement of the claim to the maintenance of the legal transaction fails for reasons for which the client is not responsible or is unreasonable.

The agreement of a commission reduction shall always be made in writing and on condition that payment of the reduced amount is made to the Broker's account within one week at the latest. Otherwise the full amount shall be due.

Furthermore, in the event of a default in payment for which the Broker is responsible, the Broker shall be entitled to charge interest on arrears at the respective permissible rate (4% for consumers, otherwise 9.2% above the respective base interest rate pursuant to Art 456 Austrian Corporate Code (*Unternehmensgesetzbuch*) and, in the event of the use of legal assistance for debt collection, the costs pursuant to Austrian Lawyers Tariff Act (*Rechtsanwaltstarifgesetz*), insofar as these were actually necessary for the appropriate legal prosecution.

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The Broker shall also be entitled to commission if the transaction to be brokered in accordance with the contract is not concluded, but a transaction of equivalent value is concluded or the contract is concluded under conditions other than those originally envisaged. In such cases, the commission shall be deemed to be agreed which is permissible for this transaction according to the provisions of the real estate agent regulation (*Immobilienmaklerverordnung*).

In the event of a follow-up transaction within three years, the Broker is entitled to any difference in the form of a supplementary commission. This applies, for example, if a property initially rented is subsequently sold to the tenant or another legal transaction is concluded between the principals (additional rental or further purchase). The entitlement to commission from the subsequent transaction exists even if the Broker has not been gainfully active in this subsequent transaction. In the event of an extension of a fixed-term tenancy agreement, the supplementary commission rates of real estate agent regulation (*Immobilienmaklerverordnung*) shall apply.

If the subject of the brokerage contract is the brokerage of an option contract, the client shall pay 50% of the maximum commission rate applicable to the transaction in each case if the option right is granted. This amount shall be credited upon exercise of his option right.

If the interested party decides to conclude an option contract instead of a rental or purchase contract for the time being, the Broker shall be entitled to 50% of the commission agreed with the option beneficiary if the option contract becomes legally effective. If the permissible commission amount for the conclusion of the legal transaction is not exhausted, the Broker shall be entitled to agree 50% of the legally permissible buyer's commission as option commission. In the event that the option right is exercised, the option beneficiary shall owe the respective agreed differential amount on the commission agreed with him.

The contracting parties agree that the Broker shall also be entitled to an amount in the amount of the agreed commission if the legal transaction is not concluded because the principal, contrary to the course of negotiations to date, omits a legal act required for the conclusion of the legal transaction without a noteworthy reason (revocation against good faith). This payment obligation shall also apply if a transaction other than a transaction of equivalent purpose is concluded with the third party brokered by the Broker or if the transaction referred to in the brokerage contract is not concluded with the principal but with another person because the principal has informed the latter of the opportunity to conclude the transaction as disclosed to him by the Broker or if the transaction is not concluded with the brokered third party but with another person, but with another person, because the brokered third party has informed the latter of the business opportunity, or the transaction is not concluded with the brokered third party because a statutory or contractual right of first refusal, right of repurchase or right of subrogation is exercised. The obligation to pay is also agreed in the event that the exclusive brokerage agreement is terminated prematurely without good cause, the transaction is concluded during the term of the exclusive brokerage agreement in breach of the agreement through the mediation of another broker commissioned by the client or the transaction is concluded during the term of the exclusive brokerage agreement in a manner other than through the mediation of another broker commissioned by the client. In consumer business, this provision shall apply if this has been additionally agreed in writing in the brokerage contract.

8 The Broker reserves the right to broker the property by way of a joint transaction. In this case, no further costs shall be incurred by the client.

9 Consumers' right of withdrawal

If the interested party is a consumer within the meaning of the Austrian Consumer Protection Act (*Konsumentenschutzgesetz*), he/she is entitled to various rights of withdrawal. The consumer will be comprehensively informed about his rights in the separate information statement enclosed and handed over with these GTC.

10 The place of performance shall be Vienna. In the case of business transactions as well as in the case of consumer transactions in which the consumer has neither his domicile or habitual residence in Austria nor is employed in Austria at the time the action is brought, the court having jurisdiction for the 1st district in Vienna in terms of subject matter and value shall have jurisdiction for any disputes arising from the brokerage contract. The contracting parties agree on the application of Austrian law to the exclusion of the conflict-of-law rules of private international law and the UN Convention on Contracts for the International Sale of Goods. In the case of consumers, this choice of law shall only apply insofar as mandatory provisions of the law of the state in which he has his habitual residence are not displaced.

11 The following also applies to entrepreneurs: Should individual provisions of these GTC be invalid in whole or in part, this shall not affect the validity of the remaining provisions and the contracts concluded on the basis thereof. In the case of contracts with entrepreneurs, the wholly or partially invalid provision shall be replaced by a provision that comes as close as possible to the meaning and purpose of the invalid provision.