



Uw Professional in Vastgoedadvies

## DELIVERY CONDITIONS

### **AGREEMENT**

#### **1. GENERAL**

- 1.1 ADA Keur undertakes to inspect properties upon the instructions of the client, to possibly record the results of this (these) inspection(s) in an inspection report and to make this report available to the client.
- 1.2 The general terms and conditions observed by ADA KEUR are part of the agreement or assignment between parties. The client declares that these terms and conditions are known to him/her and to accept the contents thereof. Client also declares that prior to entering into the agreement or assignment, he/she received a copy of the general terms and conditions observed by ADA KEUR, or has at least seen and accepted them electronically at the inception of the contract.

#### **2. ASSIGNMENT AND PLANNING**

- 2.1 Assignments relating to the execution of Energy Performance Advice (EPA), pre-purchase inspections, sales inspections, acceptance tests and long-term maintenance for Homeowners Association are provided to ADA KEUR via the online application form containing all relevant information regarding the object(s) to be inspected.
- 2.2 ADA KEUR has the right to let third parties play a greater or lesser role with regards to activities arising from the agreement, unless parties have agreed in writing otherwise. If services from a third party are used, the general terms and conditions of this party apply to the activities of the party concerned.
- 2.3 Depending on the assignment, arrangements for the inspections may be made by ADA KEUR. For the time of the inspection a margin of plus or minus 30 minutes is observed, as external circumstances often cannot guarantee an exact time.
- 2.4 The client ensures timely provision to ADA KEUR with regards to all information ADA KEUR necessarily needs or all information of which the client should logically understand that it is necessary for executing the agreement. If the information necessary to execute the agreement has not been provided in time to ADA KEUR, ADA KEUR has the right to suspend the execution of the agreement and/or charge the client for the extra costs resulting from the delay. Charging will be done in accordance with the customary rates.
- 2.5 ADA KEUR is not liable for damage of any kind, which directly results from inaccurate and/or incomplete information from the client and/or the seller.
- 2.6 The client guarantees that ADA KEUR has free access to the object to be inspected and all components to be inspected, including attics, crawl spaces etc. on surprising factors such as stray pets and the like. If, in order to gain access to the object, keys must be picked up somewhere and/or returned by ADA KEUR, or waiting times arise, ADA KEUR has the right to charge the associated costs.
- 2.7 The client provides ADA KEUR with all relevant information necessary for the proper conduct of an inspection.
- 2.8 The collection and delivery of keys will only take place when absolutely necessary and only upon prior request from the client and/or his/her representative, and within a radius of 20 km around the inspecting object. In such situations, the client or his/her representative will have a key statement prepared and ready. The key statement indemnifies ADA KEUR against all liabilities and damages of any nature or resulting from any cause whatsoever. Picking up and/or dropping of keys will be charged at the prevailing rates of ADA KEUR.
- 2.9 If a situation liable to serious danger is found during inspection (including situations concerning friable asbestos), ADA KEUR has the right to suspend the activities and to cancel the agreement.
- 2.10 If an asbestos inspection or a combination inspection is ordered, another party will be responsible for the asbestos inventory. In case of a combination inspection, this will concern a separate order: ADA KEUR will only be responsible for the house inspection, but does remain the contact person. In this situation, ADA KEUR has the right to charge 75% of the agreed final invoice.

#### **3. NATURE OF THE INSPECTION**

- 3.1 The inspection consists of a visual inspection related to the age of the object and is a snapshot that reports detected apparent faults or defects only.
- 3.2 The purpose and the nature and manner of the visual inspection does not entail that specialist examinations will be performed, nor that measurements will be made, nor calculations will take place or parts will be removed, moved, lifted, etc. in order to assess underlying structures and/or installations. ADA KEUR will conduct its work to the best of its knowledge and abilities. does not provide any guarantees regarding the inspections carried out and/or advice provided.
- 3.3 For reporting purposes, the objects will be visually checked respectively inspected by ADA KEUR. The visible parts are judged on their functionality and quality. For those parts that cannot be inspected visually a derivative judgment of the suspected quality may be given on the basis of the suspected quality of the visible, composed, and interconnected building elements.
- 3.4 As for the purchase and sales inspection test, the ground floor in the immediate vicinity of the crawl hatch will be inspected if the client or his/her representative is not present during the inspection. If the client or his/her representative is present at the inspection, the underside of the ground floor will be inspected, if accessible in a simple manner and under good conditions and safely, such in connection with safety and health and safety legislation, only at the sole discretion of ADA KEUR. For all inspections, a dry and free minimum crawl height of 0.50 meters is required.
- 3.5 Roofs, gutters, eaves, etc. are inspected to a maximum height of 2.5 meters (first floor level), if safe, at the sole discretion of ADA KEUR, accessible by ladders up to 3.5 meters (working height 2.5 meters). If elevated elements must be inspected, this is only possible with the use of climbing equipment made available by the client, that meets the current legal requirements, properly maintained and under safe conditions, this at the sole discretion of ADA KEUR.
- 3.6 If weather conditions and/or unforeseeable circumstances prevent, render more difficult or delay the inspection, this at the sole discretion of ADA KEUR, ADA KEUR reserves the right to postpone and/or interrupt the inspection.
- 3.7 If, because of circumstances described in Article 3.6, an inspection does not move forward, must be interrupted, or can only be partially implemented, this inspection will be invoiced nevertheless. A re-inspection and/or a follow-up inspection will then take place. This renewed and/or follow-up inspection will be conducted by ADA KEUR according to the conditions and rates specified in this agreement.
- 3.8 If inspections should be performed by ADA KEUR on objects that are part of a larger whole, the client or his/her representative shall indicate beforehand which building components should also be inspected. In these situations, ADA KEUR reserves the right to invoice additional costs, if any.
- 3.9 Unless otherwise agreed in writing, environmentally hazardous materials will not be expressly sought during the inspections. Environmentally-friendly materials are understood to mean asbestos, oil tanks and the like.
- 3.10 Since 1994, a general ban on the use of asbestos has been in force in the Netherlands. Residential as well as commercial objects built until 1994 possibly contain asbestos or materials containing asbestos. Detecting asbestos (inventory of asbestos) and mentioning this in the reports is not included in the scope of an architectural inspection, as these activities are part of an asbestos investigation, which should be done by an asbestos specialist. This specialist inspection includes, among other things, laboratory tests, to determine the actual presence of asbestos. No liability is accepted for possible damage resulting from the presence of asbestos in a residential or commercial object.
- 3.11 No objects other than the home and external spaces that are attached to the house shall initially be inspected. Excluded is the terrain and landscaping. If, nonetheless, loose objects (such as a barn, shed, carport, etc.) should be approved, ADA KEUR indicates this clearly in the order confirmation.

#### **4. NATURE OF THE REPORT**

- 4.1 With the exception of the delivery inspections and open inspections, the findings of the inspections are recorded in the inspection report. Unless otherwise agreed, these reports will all be transmitted digitally.
- 4.2 If, during an inspection, it appears that certain elements or parts of an object cannot be inspected, this will be stated in the report.
- 4.3 If, during an inspection, it appears that certain elements or parts of an object should be inspected by a specialist or expert in a particular field, this will be indicated in the report.
- 4.4 If, during an inspection, it appears that access to certain objects and/or parts thereof is very difficult and not without risk, these objects and / or part thereof not inspected, only at the discretion of the ADA KEUR. This shall be stated in the report.
- 4.5 The charges stated in a report are global estimates of costs of repair and/or replacement.
- 4.6 The validity of the report is 6 months.
- 4.7 Changes or adjustments to the inspection reports and/or the working methods are applied exclusively by ADA KEUR.
- 4.8 Client has the obligation to check the accuracy and completeness of the contents of the reports prepared and the advice provided by ADA KEUR upon receipt and to inform ADA KEUR of modifications and/or remarks within 14 days after date. Unless changes and/or remarks have been notified to ADA KEUR by the client within 2 weeks, he/she shall be deemed to unconditionally accept work performed, reports prepared, and advice provided. ADA KEUR has the right to ascertain the correctness of modifications and/or remarks from the client, failing which the client will not be entitled to assert any rights.
- 4.9 ADA KEUR initially drafts all inspection reports in Dutch. When English reports are ordered, these reports are translated Dutch reports. The Dutch reports remain leading. ADA KEUR is not responsible for misconceptions or differences in the interpretations due to the translation from Dutch to English.



## **GENERAL TERMS AND CONDITIONS**

### **1. SCOPE**

- 1.1 These terms and conditions apply to all offers and agreements of or with ADA Keur, hereinafter referred to as ADA KEUR, and all associated operations, both preparatory and executive in nature.
- 1.2 Insofar as not otherwise agreed in an agreement, only the general terms and conditions shall apply.

### **2. PAYMENTS AND RATES**

- 2.1 The structural inspections and additional services to be performed by ADA KEUR will be invoiced to the client or his/her representative according to the separately confirmed rates.
- 2.2 ADA KEUR reserves the right to adjust the rates once a year, as per January 1, in line with the price index figure for household consumption as determined by CBS per each November 1. An adjustment as referred to here will never lead to a decrease in the rate applicable at the time when the rates would be adjusted.
- 2.3 All prices quoted by or agreed with ADA KEUR are excluding VAT, unless explicitly stated otherwise. A specified or agreed (all inclusive) price only relates to the tasks expressly specified therein, to be performed under reasonably normal foreseeable conditions and based on the data known to ADA KEUR at the time of the quotation or agreement on the price. Derogations or changes in the abovementioned activities, circumstances, data and the like may lead to additional work or cost increases and are cause for adjustment of the agreed price. When working without an end date, the agreed sales prices will be indexed per January 1 of each new year. Invoices are payable within 14 days after the date of the invoice, unless stated otherwise on the invoice.
- 2.5 The client will be in default merely through exceeding the payment deadline. The ADA KEUR client is liable for 1.5% interest per month for every month (or every part of the month) the payment does not take place, without prior notice of default being required.
- 2.6 The client has to pay ADA KEUR the full extrajudicial and judicial costs if the client does not, despite reminders, pay the amount which is due and if ADA KEUR passes on the claim to a third party.
- 2.7 The client does not have the right to compensate a possible counterclaim with the claim of ADA KEUR. All payments must be made without any deduction or setoff.
- 2.8 In case of liquidation, bankruptcy or suspension of the payment of the client, the claims of ADA KEUR and the obligations of the client concerning ADA KEUR will become immediately due.
- 2.9 Payments done by the client shall always be used to settle all interest and costs owed and then due and payable invoices which have been outstanding the longest, even if the client indicates that the payment pertains to a later invoice.

### **3. CANCEL AND/OR POSTPONE INSPECTIONS**

- 3.1 In case of cancellation by the client of an already given assignment after the inspection day, the client will owe ADA KEUR a cancellation fee equivalent to the payable invoice amount.
- 3.2 In case of cancellation by the client of an already given assignment on the inspection day or the day before the inspection day, the client will owe ADA KEUR a cancellation fee of 75% of the agreed invoice amount.
- 3.3 In case of cancellation by the client of an already given assignment two days before the inspection day, the client will owe ADA KEUR a cancellation fee of 50% of the agreed invoice amount.
- 3.4 In the event of cancellation by the client of an already given assignment more than two working days before the inspection day, the client will not owe ADA KEUR a cancellation fee.
- 3.5 In case of postponement by the client of an assignment already given on the inspection day or the day before the inspection day, the client will owe ADA KEUR a postponement fee of 25% extra on top of the agreed invoice amount.
- 3.6 In case of postponement by the client of a mandate already given two working days before the inspection day, the client will owe ADA KEUR a postponement fee of 10% extra on top of the agreed invoice amount.
- 3.7 If it appears that despite existing agreements an object is not accessible or that the object cannot be inspected, ADA KEUR cannot be responsible or liable for any resulting delays and/or damage of any kind. If, as a result, a given assignment cannot be executed, a fee shall be owed to the amount of the agreed inspection rate.
- 3.8 If the client and/or occupant and/or his/her representative is not present at the agreed inspection date and time, and therefore the agreed inspection cannot take place, the client, without having the right to an inspection at a time to be determined, is liable to pay the full inspection price agreed with ADA KEUR without any discount.
- 3.9 If ADA KEUR cannot attend the inspection within a reasonable time, the inspection will be canceled and no fee will be charged.
- 3.10 Payment must be made within 14 days of the invoice date. ADA KEUR, however, always has the right to claim full or partial advance payment and/or to otherwise obtain payment assurance, including bank guarantee. If the client does not settle any amount due on the basis of the above, he/she will be legally in default, without any notice of default being required. All judicial and extrajudicial costs of ADA KEUR in connection with the collection of any claim against the client or related to the defense against a wrongly alleged claim of the client shall be borne by the client.

### **4. COMPLAINTS AND DISPUTES**

- 4.1 The client should inform ADA KEUR in writing of complaints and/or damages and/or indemnities within three months after discovery, failing which the client can no longer claim that ADA KEUR was at fault in not fulfilling its obligations under the agreement or assignment.
- 4.2 After written notification, the submitter immediately receives a confirmation and the "registration form damage, defect, or deficiency".
- 4.3 The registration form damage, defect or deficiency shall, within fourteen days of the date of dispatch by ADA KEUR, be returned to ADA KEUR fully, clearly and truthfully, completed, initialed, signed and with all attachments, failing which the client will lose his/her legal claim rights. Incomplete and/or illegible, and/or not truthfully completed and/or not initialed and/or unsigned application forms will not be processed by ADA KEUR and also lead to loss of rights of client as mentioned above.
- 4.4 The handling of a registration does not imply any recognition of the damage, the defect, the deficiency and/or liability in any form and by whatever cause. Therefore, ADA KEUR reserves all rights in this field.

### **5. LIABILITY**

- 1.5 ADA KEUR is in no way liable for damages of any nature whatsoever and by whomsoever suffered, arising from, or in connection with services delivered by ADA KEUR, unless such damage was caused due to intent or gross negligence of ADA KEUR and / or employees of the ADA KEUR.
- 5.2 ADA KEUR is not liable for failing to report the defects resulting from conditions on the object to be inspected concealed or incorrectly specified by the owner, user, broker, client and/or third parties. ADA KEUR is either not liable for damage resulting from a description in the report that does not correspond to the terminology of legal regulations or regulations of utility companies or for terminology used by them.
- 5.3 ADA KEUR is not liable for the omission of defects that are not reasonably visible and should not be charged to ADA KEUR, or for defects where it is indicated that repairs are required or a further specialist examination is desirable or necessary.
- 5.4 If client could yet claim damages, his/her own risk will be € 500. -, provided that he/she will pay the damage costs.
- 5.5 Any liability of ADA KEUR will remain at all times limited to the following amounts:  
A: for constructional inspections carried out and reports, conducted surveys and all related services, to a maximum amount of € 4,500.00;  
B: for all other activities and advice to the client up to the amount invoiced or yet to be invoiced, provided that the damages payable by ADA KEUR to the client will never be higher than the amount that will actually be paid to ADA KEUR by its professional liability insurer.
- 5.6 If ADA KEUR is held accountable for damage, then it is entitled, subject to all rights, but not obliged, to limit or undo, restore or to have restored the damage at its own expense

### **6. TERMINATION OF THE AGREEMENT**

- 6.1 If the client does not timely or properly comply with one or more of his/her obligations, applies for or obtains suspension of payments, is declared bankrupt, as well as when his/her assets are fully or partially confiscated, ADA KEUR has the right to suspend or postpone the execution of the agreement, or to terminate the agreement in part or in its entirety by means of a written declaration, without prior notice of default, all this at its option and without prejudice to any right to compensation for costs, damages and interests accruing to ADA KEUR.
- 6.2 The termination as referred to in Article 6 paragraph 1.6 must be made at any time by registered letter or summons. If force majeure prevents execution of an agreement, ADA KEUR has the right, to suspend the execution of the agreement at its discretion without judicial intervention or to dissolve the agreement in whole or in part, under which ADA KEUR is obliged to pay compensation, without prejudice to the further rights of ADA KEUR. Here, force majeure is understood to mean any circumstance as a result of which the fulfillment of the agreement can reasonably not be required by the client, including war, threat of war, civil war and riots, strikes, lockouts, fire, weather conditions, accidents, changed legal regulations or. directions and instructions by authorities respectively, etc.



## **7. PROPERTY RIGHTS**

- 7.1 All copyrights, industrial and intellectual property rights in or in connection with advice provided, designs, drawings and / or software, remain at ADA KEUR and are not transferred to the client, unless expressly agreed otherwise. ADA KEUR and the client are mutually bound to handle data they acquire under the agreement and that clearly falls under the confidential information of others as strictly confidential.

## **8. DISPUTES**

- 8.1 Unless the parties have agreed otherwise in writing, all agreements with ADA KEUR and all assignments given to ADA KEUR are subject to Dutch law.
- 8.2 All disputes, including those which are only so considered by one of the parties, that may arise between ADA KEUR and the client in connection with the agreement or assignment and/ or emanations thereof and which cannot be amicably resolved by the parties will exclusively be settled by the competent sector of the Utrecht District Court.
- 8.3 ADA KEUR is authorised to unilaterally modify these general conditions. Insofar as the client, pursuant to Article 6.235 Civil Code, cannot call upon the grounds for annulment, as intended in Article 6.233 and 6.234 Civil Code, handing over the modified general conditions is not necessary for the application of these conditions.

## **9. ASSIGNMENT CLAUSE AND ENERGY LABEL**

- 9.1 The information on Energy Performance Advice that is included in the monitoring file will be registered by NL Agency. Upon completion of the assignment, a certifying body may wish to visit the dwelling or the building one more time to check the quality of the delivered energy label or customized advice. At the request of the certifying body, the client will provide access to his/her home or building.

