



# General Terms and Conditions

**Applicable to the Services of Ardent Advocaten**

(01/12/2015 Version)

## Article 1 – General & Legal Information

### 1.1. “Ardent Advocaten”

“Ardent Advocaten”, or “Ardent” for short, is the name of the cooperation without legal personality between, on the one hand, Ardent Advocaten B.V. o.v.v. B.V.B.A\* and Advocatenkantoor Moens Annemie B.V. o.v.v. B.V.B.A\* on the other. It is a group of lawyers in the sense of the Regulations of the Order of Flemish Bars of 8 November 2006 relating to cooperations between lawyers and the relevant one-man legal firms of lawyers.

### 1.2. Members of the group of lawyers

1.2.1 Ardent **Advocaten B.V. o.v.v. B.V.B.A.** is an association of lawyers in the sense of the aforesaid Regulation of the Order of Flemish Bars of 8 November 2006.

It has its registered office at 177-179 Prins Boudewijnlaan, 2610 Wilrijk (Antwerp), and is registered at the Crossroads Databank for Enterprises under No. 0446.103.889. Its VAT No. is BE446.103.889.

The following lawyers are linked to Ardent Advocaten B.V. o.v.v. B.V.B.A. personally or via a one-man company, by a cooperation agreement.

Partners:

- Maître Luc Van Braekel: Advocaat L. van Braekel B.V. o.v.v. B.V.B.A., CBE No. 0860.494.918, (Antwerp Bar),
- Maître Inez van Loock: Advocaat I. Van Loock B.V. o.v.v. B.V.B.A., CBE No. 0874.937.228, (Antwerp Bar),
- Maître Filip Duwaerts: Rutone B.V. o.v.v. B.V.B.A., CBE No. 0873.354.544, (Turnhout Bar),
- Maître Rob de Koninck: Rob De Koninck B.V. o.v.v. B.V.B.A., CBE No. 0743.705.141, (Antwerp Bar),
- Maître Werenfried Schwagten: Amberes Advocaten B.V. o.v.v. B.V.B.A., CBE No. 0563.772.017, (Antwerp Bar and Turnhout Bar),
- Maître Frederic Wilkin: Advocatenkantoor Frederic Wilkin B.V. o.v.v. B.V.B.A., CBE No. 0808.686.030, (Antwerp Bar and Turnhout Bar),
- Maître Niel Bombaerts: Advocatenkantoor Niel Bombaerts B.V. o.v.v. B.V.B.A., CBE No. 0828.814.520, (Antwerp Bar),

Associates:

- Maître Steven Bivacco: CBE No. 0818.441.359, (Turnhout Bar),

- Maître Jean-Phillipe Sel: CBE No. 0817.280.923, (Antwerp Bar),
- Maître Wouter Thibaut: CBE No. 0835.494.355, (Antwerp Bar),
- Maître Joëlle Daelman: CBE No. 0839.253.403, (Antwerp Bar),

Trainees:

- Maître Marie Adams: CBE No. 0558.975.663, (Antwerp Bar),
- Maître Hannelore Pauwels: CBE No. 0561.967.223, (Antwerp Bar),
- Maître Anneke Van Belleghem: CBA No. 0634.635.564 (Antwerp Bar),
- Maître Kenneth Lamoen: CBA No. 0635.476.001 (Antwerp Bar),
- Maître Iene Vandepoel: CBA No. 0635.813.125 (Turnhout Bar).

All of the aforesaid lawyers perform their services on behalf of and for the account of Ardent Advocaten B.V. o.v.v. B.V.B.A., unless they have expressly declared for a specific dossier that they are handling this dossier in their own name and for their own account.

1.2.2. **Advocatenkantoor Moens Annemie B.V. o.v.v. B.V.B.A.**, is a one-man company in the sense of the Regulations of the Order of Flemish Bars of 8 November 2006.

It has its registered office at 177-179 Prins Boudewijnlaan, 2610 Wilrijk (Antwerp), and is registered at the Crossroads Databank for Enterprises under No. 0460.888.966. Its VAT No. is BE460.888.966.

The following lawyers are linked to Advocatenkantoor Moens Annemie B.V. o.v.v. B.V.B.A. personally or via a one-man company, by a cooperation agreement.

- Maître Annemie MOENS, who performs her profession via Advocatenkantoor Moens Annemie B.V. o.v.v. B.V.B.A., (Antwerp Bar),

All of the aforesaid lawyers perform their services on behalf of and for the account of Advocatenkantoor Moens Annemie B.V. o.v.v. B.V.B.A., unless they have expressly declared for a specific dossier that they are handling this dossier in their own name and for their own account.

### 1.3. Status & Regulations

All of the lawyers linked to Ardent are lawyers in Belgium, and are registered at the Antwerp and/or Turnhout bar as indicated in 1.2. They are subject to the regulations of the Order of Flemish Bars, the

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regulations not yet withdrawn of the former National Bar Association, which can be consulted at [www.advocaat.be](http://www.advocaat.be) > Ik ben advocaat > Reglementen, as well as the regulations of the Antwerp and/or Turnhout Bar Association, as indicated in Article 1.2, which can be consulted or requested on or via the following websites: [www.balieantwerpen.be](http://www.balieantwerpen.be) and/or [www.advocatenturnhout.be](http://www.advocatenturnhout.be).

#### 1.4. Status & Regulations

Ardent Advocaten has 2 offices, namely:

- *Ardent Advocaten Wilrijk*, located at 177-179 Prins Boudewijnlaan, 2610 Wilrijk (Antwerp), tel. +32 (0)3.458.26.33, fax. +32 (0)3.457.98.85,
- *Ardent Advocaten Herentals*, located at 1A Atealaan, 2270 Herenthout, tel. +32 (0)14.480.274, fax. +32 (0)14.757.082

You can contact Ardent at [info@ardent.be](mailto:info@ardent.be). Ardent's lawyers can be contacted at their individual email addresses, as mentioned on the website [www.ardent.be](http://www.ardent.be) > Lawyers. You can also contact Ardent using the contact form on the website [www.ardent.be](http://www.ardent.be) > Contact.

#### 1.5. More Detailed Information

More detailed information on Ardent's partner, associates and trainees, the offices at which they operate, and how to contact them, can be found on Ardent's website ([www.ardent.be](http://www.ardent.be)).

#### Article 2 - Application

2.1. These General Terms and Conditions are applicable to all work performed for a client by Ardent, and its lawyers acting in the context of their cooperation agreement with Ardent, except in the existence of differently-worded written agreement, in which case the present General Terms and Conditions shall only apply in as much as they do not deviate from the stipulations of that agreement.

2.2. These General Terms and Conditions have legal force in the relationship between Ardent and the client, and shall be deemed to have been accepted by the client, if the latter has expressed no protest within a reasonable period from inspection of them, or from their dispatch. Acceptance of these General Terms and Conditions can, amongst others but not exclusively, be derived from Ardent's normal continuation of the work,

without protest from the client, within a reasonable period.

#### Article 3 – Agreement

3.1. If the client calls upon the services of one of the lawyers linked to Ardent, the agreement with the client arises with Ardent Advocaten B.V. o.v.v. B.V.B.A., or if the client calls upon the services of one of the lawyers linked to Advocatenkantoor Moens Annemie B.V. o.v.v. B.V.B.A., the agreement with the client arises with Advocatenkantoor Moens Annemie, which shall be the client's sole contracting party. The agreement with the client arises immediately one of the lawyers commences his/her services.

3.2. Notwithstanding the above, Ardent may divide A dossiers or certain aspects of them internally amongst its lawyers, as it sees fit, without this affecting the client's contracting party. Wherever possible, this internal division shall be made in line with the preferred subject areas of the lawyers and/or the client's wishes. The details of the lawyer handling his/her dossier shall be made known to the client.

#### Article 4 - Services

4.1. Ardent's services may relate, amongst others, to the provision of advice, assistance with mediation, assistance with negotiation, drawing up agreements, assistance with proceedings, or acting as an agent. The parties shall agree the precise subject of Ardent's services at the commencement of activities, and, if necessary, adapt or extend this during their further execution.

4.2. Unless, due to the nature of the relevant task, there can be no possible doubt that it relates to an undertaking of result, or this was expressly agreed in writing, the undertakings of Ardent are not undertakings of result, but undertakings of effort.

#### Article 5 – Information from and to the Client

5.1. Both at the commencement of the agreement, and during the period of it, the Client shall spontaneously provide Ardent all data and information, where applicable, with necessary supporting documents. The client is responsible for the accuracy, completeness and reliability of the information and documents provided to Ardent by him/her or on his/her behalf. Ardent is not liable for damage arising from incorrect, incomplete or unreliable information or documents provided by the client.

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5.2. Ardent shall provide the client with information on the performance of its services, and on progress in the handling of the dossier, in a timely manner.

5.3. It is hereby pointed out to the client that legal proceedings entail risks and costs (in addition to the individual costs of the lawyer). In particular, Ardent reminds the client of the system relating to court costs, as contained in Articles 1017 and 1022 of the Judicial Code and the Royal Decree of 26 October 2007 in execution of this. On the basis of these legal provisions: (1) in principle (in civil court cases) the party found against is sentenced to pay the costs, (2) amongst others, these costs include the costs of the proceedings, i.e. "a fixed contribution to the costs and fees of the lawyer of the party found against", and (3) the amount of these costs of the proceedings are established in accordance with complex rules and (periodically indexed) tariff scales. For other procedures – criminal procedures, administrative procedures, etc. – specific, similar or dissimilar, rules apply.

#### Article 6 – Use of Third Parties

6.1. If, for the performance of the services, it is necessary to call upon a judicial officer or a translator, the client shall allow Ardent freedom to choose which. The same applies for the performance of simple tasks (deposit of a procedural document, appearance of a local lawyer at a (introductory) hearing, etc.).

6.2. If, for the performance of the services, it is necessary to call upon other third parties, such as (foreign) lawyers, public notaries, accountants, auditors or experts, these are to be chosen in consultation with the client. The fees and costs / remunerations of these third parties are to be paid in full by the client and, as a rule, except if agreed by Ardent, must be paid directly by the client to these third parties. If they are advanced by Ardent, they will be invoiced on to the client.

#### Article 7 – Remuneration – Payment

7.1. Unless agreed otherwise in writing (e.g. in the case of a subscription or fixed fee per case), payment for Ardent's services (the fee) is to be charged on an hourly basis at a variable tariff depending, amongst others, on the lawyer's experience, the complexity of the subject matter and the urgency of the case. The first consultation will also be invoiced in this manner. The hourly rate varies between € 100 and € 275 per hour, according to the aforesaid criteria. The applicable hourly rate shall be made known directly on request.

7.2. If the case is completed with a favourable result, Ardent has the right to charge a "success fee". Depending on Ardent's decision, and except in the event of specific arrangements in this respect, this "success fee" may comprise: (i) the multiplication by a coefficient (which of a minimum of 1.1 and a maximum of 2) of the fees charged or to be charged for the work performed, (ii) the additional charge as a fee, of a percentage (that – unless agreed otherwise – amounts to a maximum of 20 percent) of the sums recuperated or saved, or of the stake of the case or (iii) the additional charge of a sum that corresponds to the damage clause granted and/or the costs of proceedings granted.

7.3. The hourly rates and fees of Ardent do not include secretariat and other office costs borne by Ardent (such as costs of correspondence, registered mail, kilometres travelled, typing, etc.), which are charged on a fixed basis (amount per letter, by registered mail dispatch, per kilometre travelled, etc.). The fixed sum applicable shall be made known directly on request. Should Ardent choose, the office costs may also be invoiced as a fixed sum based on a percentage (that – unless agreed otherwise – amounts to a maximum of 20 percent) of the fees charged.

7.4. Ardent and the client may, in consultation, (e.g. for collection cases, undisputed cases and more simple cases), agree other formulae for calculating fees and office costs.

7.5. If these are advanced by Ardent, specific costs and expenditure (translation costs, public notary costs, fees and costs van judicial officers, travel costs and other advances), are invoiced separately by Ardent.

7.6. Ardent shall periodically charge the client its fees, office costs, and advanced costs (as the activities in a dossier progress, and at any event at the times prescribed by the VAT legislation) via an invoice. The invoice sum owed is split into (at least) the following items: (1) fees, (2) costs and (3) advanced costs. In cases in which VAT legislation does not make it compulsory to draw up an invoice, (in particular, for private clients acting outside any professional activity), if Ardent deems this desirable, it may opt to request (provisional) payment from the client, instead of, or prior to, addressing an invoice to the client. All of the provisions which relate to invoices drawn up by Ardent, apply by analogy to any such request for payment.

7.7. Ardent is entitled to request advances of fees, office costs and advanced costs in the form of provision invoices. An advance or provision is a fixed sum that the client must pay to Ardent prior to a detailed interim invoice or final invoice. The interim

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invoice or final invoice shall take into account the advances already charged. Ardent is entitled only to commence or continue its activities, and only to advance costs, after payment of the provision invoices.

7.8. Unless expressly stated otherwise on the invoice, all invoices of Ardent for fees, costs and advanced costs are payable within fifteen (15) calendar days of the invoice date. Provision statements must be paid at latest seven (7) calendar days from the date mentioned on the provision invoice. The place of payment is the registered office of Ardent. Invoices must be paid by transfer or deposit in Euros onto the bank account with the number mentioned on the invoice. Ardent does not accept payment in cash.

7.9. If the client does not agree with an invoice or provision invoice, he must protest it in writing within fifteen (15) calendar days of the date of receipt of the invoice.

7.10. In the event of late payment of an invoice, after notification of default by Ardent, containing a warning that interest on the arrears and/or a damage clause will be charged, and giving him/her a final period of 14 days in which to pay, the client will owe interest on the arrears of 7% per annum, as well as a fixed sum of damages amounting to 10 % of the invoice sum.

7.11. In the event of late payment of an interim invoice or a provision invoice, Ardent may suspend its services pending full payment. Ardent is not liable for damage, which may arise from the suspension of its activities.

7.12. If, Ardent defends the interests of several clients in one case, all of these clients will be jointly and indivisibly bound for payment of the invoices, which relate to this case, (where applicable uplifted by the related costs and all costs of collection), and this regardless of the client for whom the invoice was issued.

7.13. The applicable percentage of VAT will be charged on top of fees, office costs and advances. In accordance with the conditions stipulated in the VAT legislation, VAT will only not be charged on certain advanced costs.

### Article 8 – Third-Party Monies

8.1. Ardent shall transfer to the client all sums, which it receives for payment to the client, within the briefest possible period. If it is not immediately able to pay a sum, it will notify the client of receipt of the sum, and state the reason for it not being paid.

8.2. Ardent may withhold amounts from the sums received for the client, in order to cover amounts owed to it by the client (even if these are not yet claimable).

It shall notify the client of this in writing. Ardent may deduct sums owed to it by the client, from the sums withheld. The deduction will be mentioned on the invoice. This provision does not affect the client's right to dispute the invoice and claim payment of these withheld sums. The fact of Ardent deducting unpaid advances or cost and fee statements from such sums, in no way affects the client's obligation to pay the VAT owed on them, and this via one or more separate payments to Ardent, if the third-party monies in question are insufficient to pay the full amount of VAT owed.

8.3. Ardent shall pay all sums received from the client which are intended for payment to third parties, as quickly as possible, to these third parties.

### Article 9 – Professional Liability

9.1. To cover any professional liability of the lawyers acting in the context of a cooperation agreement with Ardent, these lawyers have subscribed to the basic professional liability insurance policy of the Antwerp Bar Association. This policy, which insures professional liability, grants cover in the whole world, reserving the clarifications and exceptions included in the basic professional liability insurance policy of the Antwerp Bar Association. Subject to the specific clauses of the insurance policy subscribed to, the insurance company's contribution amounts to a maximum of € 4,250,000.00 per event of damage for partners and € 1.250.000 for associates and trainees. For the specific conditions of the insurance cover, Ardent refers to the text of the insurance agreements subscribed to, which takes precedence over the above summary. An overview and copy of the insurance policies concluded can be requested in writing and will be provided free of charge.

9.2. The client deems the ordinary insurance of Ardent and its lawyers to be sufficient, and accepts that the compensation of damage which he/she suffers as a result of a professional error of Ardent and its lawyers and appointees is limited to the sum for which Ardent and its lawyers are insured. This limitation does not apply in the case of intent on part of Ardent, its lawyers and/or appointees. The liability of Ardent and of its lawyers to the client in relation to work performed in the context of their cooperation with Ardent, shall at any event always be limited to the sum that covered by the professional liability insurance of Ardent and its lawyers. If the professional liability insurance company does not cover the damage, and this is not due to a fault on the part of Ardent or its lawyers and

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appointees, the compensation due to a professional error of Ardent or its lawyers and appointees shall be limited in the main sum, costs and interest to a sum of € 25,000.00 per event of damage.

9.3. If the client wishes Ardent and its lawyers to take out a supplementary insurance policy, Ardent (its lawyers) and the client must conclude an advance written agreement about this. Except in the case of a differently-worded written agreement, the premium for this supplementary insurance shall be for the account of the client and shall be charged to him.

9.4. Ardent and its lawyers are not liable for any shortcomings of third parties involved in the performance of their services for the benefit of and on behalf of the client (such as, for example, judicial officers, translators, other lawyers, etc.), regardless whether these third parties charge their fees and costs to Ardent or directly to the client. Third parties are always regarded as performing their services directly for the client, with Ardent and its lawyers only acting as an intermediary.

#### **Article 10 – Termination**

10.1. The client and Ardent can terminate the agreement at any time without compensation, without this affecting the fact that the services performed and the costs incurred must be paid by the client. Ardent is not liable for damage which may arise from termination of the agreement with the client.

10.2. On termination of the agreement, Ardent shall return the dossier to the client, directly on request.

#### **Article 11 – Archiving**

At the completion of each task, Ardent archives the dossier and then keeps it for a period of five (5) years. At the client's request, original documents are returned to him/her, and, in that case, where applicable, must be archived by the client. After the aforementioned five-year period the dossier is permanently destroyed.

#### **Article 12 – Intellectual Property Rights**

Unless agreed otherwise in writing, the client is not permitted, by himself or with the assistance of third parties, to reproduce, publish or use in any way other than in the context of the task or case allocated to Ardent, the advice, memoranda, contracts, trial documents or any other intellectual activities created by Ardent or its lawyers, irrespective of their form.

#### **Article 13 – Satisfaction and Complaints**

If the client is dissatisfied with the work performed by a lawyer of Ardent, the client may consult with the lawyer himself concerning this. If this consultation fails to lead to a solution for the client, at his request, another Ardent lawyer will be designated to investigate the complaint, and where possible, negotiate in order to reach a solution.

#### **Article 14 – Duty of Identification**

The preventative section of the anti-money-laundering legislation (Act of 11 January 1993 for prevention of use of the financial system for money-laundering and the financing of terrorism, Belgian Official Gazette 9 February 1993) has also been declared applicable to the legal profession. In this context, particular reference is made to Article 7, Article 26 and Article 44 of the Act of 11 January 1993. The anti-money-laundering legislation aims to curb diverse money-laundering practices. In the context of the preventive section, lawyers are required to report certain transactions and fulfil a number of administrative obligations. Specific transactions are required to be reported to the President of the Bar Council, who then passes the information on to the Cell for Processing Financial Information. In principle, this duty to report is not applicable in the context of a (potential) legal dispute. Furthermore, on the grounds of a legally-instituted duty to identify, the lawyer is obliged to verify the client's identity. It is expressly pointed out to the client that the lawyer and the President of the Bar Council are forbidden to inform the client that information was passed on, or that an investigation is underway.

#### **Article 15 – Amendments**

Ardent reserves the right to amend the present General Terms and Conditions at any time. In the event of amendment, Ardent will notify the client of the amendment in writing (per email or post, attaching the amended text, or including a reference to the location of the amended text). If written protest is not made within fifteen (15) days of notification of the amendment, the client shall be deemed to have agreed to the amended Terms and Conditions, and in future, these shall be binding for the client and Ardent.

#### **Article 16 - Invalidity or Nullity**

If one or more clauses of these General Terms and

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Conditions is null, invalid or unenforceable, this will not affect the validity and the enforceability of the other clauses of these General Terms and Conditions. The parties undertake by mutual agreement, and straight away, to replace such null, invalid or unenforceable clause, with a clause that as closely as possible approximates the intention of the original clause. In the event of conflict between the different language versions of the present General Terms and Conditions, the Dutch-language, which is the sole, authentic version, shall have precedence.

#### **Article 17 - Applicable Law and Competent Instances**

17.1. These General Terms and Conditions and the relations between Ardent (its lawyers) and the client are governed by Belgian law and, in as much as applicable, by and with respect of the Ethical Rules of the Bar Association at the Antwerp Bar.

17.2. By preference, the parties shall settle their disputes amicably. By preference, and prior to any legal proceedings, however without being obliged to do this, the parties shall present the case before the competent court or before an instance competent for this at the Bar Association, for amicable settlement.

17.3. The Regulations of 17 December 2012 of the Antwerp Bar Association governing the collection and estimation of fees organises a mediation procedure for the collection of fees. This mediation procedure is not compulsory, but Ardent or the client may voluntarily seek it. The client can obtain more information on the characteristics and conditions of application of this system on the website [www.balieAntwerp.be](http://www.balieAntwerp.be) > a lawyer > fees > complaints. Reserving differently-worded agreement and reserving discovery that the fees and costs claimed are not owed by the client, the contribution to the costs which is owed to the Antwerp Bar Association in implementation of Article 1 of the aforesaid regulation is to be paid in full by the client.

17.4. Any disputes relating to relations between Ardent and the client, or to these General Terms and Conditions, shall be exclusively deliberated before the courts of the Judicial District of Antwerp (and the Court of First Instance of Antwerp, Antwerp Department, and where applicable, the Justice of the Peace Court of the 7th Canton of Antwerp), and, in as much as applicable, the competent instances of the Bar Association at the Antwerp Bar.

- End -