



# ardent

ADVISEURS EN ACCOUNTANTS

## GENERAL TERMS OF SERVICE ARDENT

### 1. GENERAL

1.1 B.V. Obras under the trade name "**Ardent Adviseurs en Accountants**", hereinafter referred to as "Ardent", runs a multi-disciplinary practice in financial services, and has its registered seat at the address Radarweg 513, 1043 NZ Amsterdam.

### 2. DEFINITIONS

In these General Terms of Service, hereinafter referred to as: "these General Terms", the following definitions apply:

**Client:** the natural person or legal entity who has instructed the Contractor to perform Activities.

**Contractor:** Ardent who concludes the Agreement and applies these General Terms. All Instructions shall be deemed to have been given exclusively to the Contractor and not to any person associated with the Contractor. All Agreements shall only and exclusively be concluded with the Contractor. This also applies if the Client's intention is that an instruction will be carried out by a certain person or certain persons associated with the Contractor.

**Activities:** all activities for which an Instruction has been given, or that are performed by the Contractor for any other reason. The above shall apply in the broadest sense of the word, and in any case includes the activities stated in the order confirmation.

**Records:** all items made available by the Client to the Contractor, including documents and data carriers, as well as all items manufactured or collected by the Contractor in the context of the execution of the Instruction, including documents and data carriers.

**Agreement/Instruction:** each agreement between the Client and the Contractor to let the Contractor perform Activities for the Client.

### 3. APPLICABILITY

3.1 These General Terms shall apply to all offers, quotations, agreements and other legal relationships (arising therefrom/relating thereto) under which Ardent performs Activities on behalf of a party that provides or has provided one or more Instructions to Ardent, hereinafter referred to as: "the Client". All Instructions provided by the Client shall exclusively be accepted and carried out by Ardent with setting aside of the Articles 7:404 and 7:407 paragraph 2 of the Dutch Civil Code.

3.2 All stipulations in these General Terms are also expressly made for the managing directors of professional partnerships and/or operating companies of Ardent, and for and of all those who either directly or indirectly work or have worked for or on behalf Ardent.

3.3 Any deviations from these General Terms, or any deviations from specific parts of the Agreement, shall only bind Ardent if Ardent has confirmed these deviations and/or changes in writing.

3.4 If any provision of these General Terms is null and void or is nullified, the remaining provisions of these General Terms shall remain in full force and effect, and Ardent and the Client shall consult with each other in order to agree upon new provisions to replace the null and void or nullified provision, in which the purpose and intent of the null and void or nullified provision will be taken into account as much as possible.

3.5 Any general terms and conditions of the Client shall expressly not apply, unless the Parties expressly agree otherwise in writing.

3.6 If the Client consists of various (legal) persons or companies, these will jointly and severally be held to perform all obligations under the Agreement concluded with Ardent.

3.7 The Client with whom an Agreement has been concluded under these General Terms, accepts the applicability of these General Terms to all subsequent offers and quotations from the Contractor and Agreements between the Client and the Contractor.

3.8 Provisions of the Agreement and/or these General Terms that expressly or by their nature continue to apply after the expiration or termination of the Agreement, shall remain in full force and effect after such expiration or termination.



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## 4. OFFER AND AGREEMENT

4.1 All offers of Ardent - also including pictures, price lists, drawings, specifications, schedules, plans and other documents - shall be without engagement, unless agreed otherwise.

4.2 An Agreement shall only come about:  
(i) after Ardent has sent an instruction confirmation to the Client that has been signed by Ardent; or  
(ii) if Ardent effectively starts with the execution of the Agreement.

4.3 The instruction confirmation signed by Ardent as it is sent by Ardent to the Client is based on the information provided by the Client to Ardent at the time that the instruction confirmation was drawn up. The instruction confirmation shall be deemed to reflect the Agreement concluded between Ardent and the Client correctly and in full.

4.4 In so far as, in deviation from the present General Terms, the instruction confirmation provides otherwise, more specifically and/or additionally, the provisions as specified in the order confirmation specifically and exclusively apply.

4.5 The Agreement shall be entered into for an indefinite period of time, unless the content, nature or scope of the provided instruction indicate that the Agreement is entered into for a definite period of time.

## 5. OBLIGATION OF THE CLIENT TO COOPERATE

5.1 The Client shall be held to make all data and Records that in the opinion of the Contractor are required for the correct execution of the Agreement available to the Contractor in a timely manner, in the desired form and in the desired manner. This must also be understood to include the documents that the Contractor says it needs to verify the identity of the Client. The Client shall be held to provide the Contractor with the necessary information for verifying his identity prior to the execution of the Agreement.

5.2 If information that is necessary for the execution of the Agreement (including without limitation digital files) is not available for Ardent in time, in accordance with what

has been agreed or at all, or if the Client in any other way fails to perform his obligations (for example by providing qualitatively inferior files/information, or by not providing files/information in time or at all), Ardent shall have the right to suspend the performance of the Agreement, and Ardent shall furthermore have the right to charge any costs created by that against its usual rates.

5.3 The Client shall be held to inform Ardent forthwith of any facts and circumstances in connection with the execution and/or completion of the Instruction that may be of interest (for Ardent).

5.4 The Client warrants the correctness, completeness and reliability of the data and information provided by him to Ardent, also if these originate from third parties, in so far as the nature of the instruction does not direct otherwise.

5.5 Any additional costs and extra fees resulting from the delay in the execution of the Agreement caused by the failure to make the required information available in time, in full or at all, shall be for the account of the Client.

5.6 If and in so far as requested by the Client, the Records made available will be returned to the Client, except in so far as the Contractor has a right of suspension. The Client will bear the costs of this return shipment of Records.

## 6. EXECUTION OF THE INSTRUCTION

6.1 Ardent shall determine the manner in which and by which person(s) the instruction will be carried out, but shall in that as much as possible take into account any wishes expressed by the Client.

6.2 Although Ardent will carry out the activities to the best of its knowledge, ability and as a carefully acting professional - this in accordance with the requirements of good workmanship - Ardent does not guarantee that any envisioned result will be achieved.

6.3 The Contractor shall execute the Agreement in accordance with the rules of conduct and professional rules applicable to it, which form part of the Agreement, and that which applies to the Contractor by law. A copy of the rules of conduct and professional rules applicable to the



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Contractor will be sent to the Client at his request. The Client will respect the obligations arising from these rules of conduct and professional rules and the rules applying to the Contractor pursuant to the law and to those who work at or for the Contractor respectively.

6.4 If during the term of the Agreement Activities are performed for the benefit of the profession or business of the Client that do not fall under the Activities to which the Agreement relates, those Activities shall be deemed to have been performed on the basis of separate Agreements.

6.5 Unless explicitly stated otherwise in writing, the execution of the Agreement is not specifically aimed at detecting fraud. If the Activities yield evidence of fraud, the Contractor will report on this to the Client. The Contractor shall in that be held to comply with the applicable laws and regulations and with the regulations and guidelines issued by the various professional organizations.

## 7. PERIODS AND DEADLINES

7.1 Unless it has been established that execution is permanently impossible, the Agreement cannot be dissolved by the Contractor because of excess of an agreed deadline, unless the Contractor does not or does not in full execute the Agreement within a reasonable period of time notified to him in writing after the expiry of the agreed term of delivery.

7.2 All periods mentioned by Ardent shall only be estimates. They have been determined by Ardent to the best of its knowledge and ability on the basis of the information available to Ardent at the conclusion of the Agreement, and they will be observed as much as possible. The sole excess of a period specified by Ardent shall not mean that Ardent is in default. Periods within which Activities have to be completed shall only be deadlines if this has expressly been agreed by Ardent and the Client in writing.

7.3 Ardent shall not be bound to periods or deadlines that due to circumstances that have arisen after the conclusion of the Agreement can no longer be achieved. If excess of any period threatens, Ardent shall notify the Client thereof as soon as possible. In case of any excess of periods or deadlines, Ardent shall not be liable for any resulting damages, unless the delay is caused by intent or gross negligence of Ardent.

## 8. FEE

8.1 The Client shall be due a fee to Ardent as well as a compensation of costs and expenses and due VAT, in accordance with the rates, calculation methods and procedures that are usual at Ardent. Any travel and accommodation expenses will be charged separately.

8.2 The fee of Ardent shall not depend on the outcome or results of the Instruction provided by the Client.

8.3 Ardent shall have the right to charge through to the Client all price-increasing factors, including increases of cost prices and rates for labour costs, social security charges, taxes, prices charged by suppliers, as well as any changes in exchange prices or rates arising after the conclusion of the Agreement but before the Instruction has been carried out, unless the Client and Ardent have agreed otherwise in writing in respect of this matter prior to the conclusion of the Agreement underlying the Instruction.

8.4 Ardent shall monthly in arrears, within 10 days after the end of a calendar month, declare all realized billable hours and expenses in that calendar month, regardless of whether or not separate distinguishable instructions have been completed in that calendar month. This unless the amount of one or more costs incurred in and for that month are not yet known to the Contractor.

## 9. PAYMENT

9.1 Unless agreed otherwise, payments by the Client will have to be made within 14 days after the invoice date, without deduction, suspension, reduction or setoff.

9.2 Payments shall always first be used to pay the oldest overdue receivables, net of any forfeited interest thereon and penalties for late payment.

9.3 If payment is made by bank, the date of payment shall be the date at which crediting of Ardent by the bank takes place.

9.4 If the Client does not perform his payment obligations in time or at all, the Client shall be in default by right, without any notification of default being required, and shall if he is a private client as from the payment due



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date of the invoice be due to Ardent the statutory interest as referred to in Article 6:119 of the Dutch Civil Code, and if he is a company the statutory commercial interest as referred to in Article 6:119a of the Dutch Civil Code. In addition thereto, Ardent shall have the right to suspend the performance of all of its obligations towards the Client under the Agreement and under any other similar agreements until the moment that all exigible claims on the Client have been paid in full, and/or to let others collect those claims. All costs associated with the collection, including court costs (also if and in so far as these exceed the amount of any court order to pay the costs of litigation), the extrajudicial costs as well as - in addition to the costs fixed by law - any costs charged by external experts, shall be due by the Client to Ardent, and the amount thereof shall be set on at least 15% of the total amount due including VAT, with a minimum of EUR 125.00 including VAT. Ardent shall have the right to authorise its collection executor to use all relevant legal means in that.

9.5 Ardent shall both at the beginning of the relationship and during the relationship be free to request the Client to provide securities concerning any current and future obligations arising from the relationship, and/or to demand an advance payment prior to or pending the agreed activities.

9.6 In case of multiple Clients, all Clients shall - if and in so far as the activities performed by Ardent have been performed on behalf of all those Clients jointly - be jointly and severally liable for payment of the invoice amount.

9.7 In the event of liquidation, bankruptcy or suspension of payments of the Client, the claims against the Client shall be exigible immediately.

## 10. COMPLAINTS

10.1 Any complaints concerning performed Activities or (the height of) the invoice amount will, on pain of forfeiture of all rights and claims, have to be made known by the Client to Ardent unambiguously in writing within 30 days of the sending by Ardent of the documents and/or information regarding which the Client complains, or, if the Client proves that he reasonably could not discover the defect earlier, within 30 days of the discovery of the defect.

10.2 A complaint will not suspend the payment obligation of the Client, save in so far as Ardent

unambiguously notifies the Client in writing that it considers the complaint justified.

10.3 If Ardent is of the opinion that the complaint is justified, it shall have a choice between adjusting the fee charged to the Client, the free improvement or renewed execution of the relevant activities, or not executing the Instruction any further in part or at all (anymore) against proportional refund of the fee already paid by the Client.

## 11. LIABILITY

11.1 Ardent shall exclusively be liable towards the Client for a failure in the performance of the execution of the Instruction if and in so far as that failure in the performance consists of a failure to observe the care and expertise which the Client given the facts and circumstances is allowed to expect in the execution of the Instruction. Ardent shall in any event never be liable for:

- any damage suffered by the Client or third parties arising from the provision of incorrect or incomplete data or information by the Client to Ardent, or any damage otherwise resulting from any act or omission of the Client;
- any damage suffered by the Client or third parties arising from any act or omission of any aides called in by the Client (not including employees of Ardent), also if these activities have been performed in an organization affiliated to Ardent;
- any trading losses or indirect or consequential damages suffered by the Client or third parties.

11.2 Ardent shall at all times have the right, if and in so far as possible, to make the damage of the Client undone.

11.3 Ardent shall not be liable for any damage to or loss of documents during transport or shipment by post, irrespective of whether the transport or shipment is carried out by or on behalf of the Client, Ardent or third parties.

11.4 The liability of Ardent for any failure in the performance in the execution of the Instruction and for any tort shall, in addition to what has already been provided in these General Terms regarding the limitation of liability of Ardent, be limited as follows:



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- a. in case of a tax consultancy instruction or related activities, the liability shall be limited to a maximum of three times the amount of the fee for the relevant Instruction over the last calendar year that the Client has paid or is still due in respect of the activities to which the damage-causing event relates or with which it is connected, with a maximum of EUR 225,000.00, unless there is intent or gross negligence on the part of Ardent that can be deemed to be equal to that (the latter except in case of non-managerial subordinates);
- b. in case of an instruction to perform activities that belong to the activities of an auditor, the liability shall be limited to a maximum of three times the amount of the fee for the relevant Instruction over the last calendar year that the Client has paid or is still due in respect of the activities to which the damage-causing event relates or with which it is connected, with a maximum of EUR 225,000.00, unless on the part of Ardent there is intent or gross negligence that can be deemed equal to that (the latter except in case of non-managerial subordinates).

11.5 The obligations set out in the previous Clause are also stipulated for the benefit of any third party called in by Ardent for the execution of the Instruction, who therefore as a result thereof can directly invoke this limitation of liability.

11.6 A claim for compensation of damage must have been submitted to Ardent no later than within twelve months after the Client has discovered or reasonably could have discovered the damage, failing which the entitlement to damages expires.

11.7 All limitations regarding the liability of Ardent that have been included in this Clause shall also apply in full to those who actually perform the Activities for Ardent. Actual performers can also (directly) invoke these provisions towards the Client.

## 12. INTELLECTUAL PROPERTY RIGHTS

12.1 All intellectual and industrial property rights in all goods developed, used and/or made available by Ardent within the framework of the Instruction, including (without limitation) pieces of advice, working methods, (model)

contracts, systems, system designs, computer programs, analyses, designs, models, illustrations, texts, drawings, diagrams, calculations, descriptions, manuals, documentation and other materials and works, shall accrue to Ardent or its supplier, if and in so far as these do not already accrue to third parties. Exclusively Ardent shall have the right to register rights on these goods. Without the express prior written permission of Ardent, the Client shall not be permitted in full or in part and whether or not with the assistance of third parties to reproduce, exploit and/or make public the goods, etc. provided to the Client as aforesaid, or to publish them and/or make them available to third parties by means of print, photocopy, microfilm or in any other manner whatsoever. Ardent shall have the right to make its permission subject to conditions to be specified further by it, including without limitation the payment of a compensation to Ardent. All costs to be incurred by Ardent for any infringement of industrial and/or intellectual property rights accruing to Ardent or its suppliers shall be for the charge of the Client.

12.2 Without prejudice to the other provisions of these General Terms, Ardent shall only be liable towards the Client for violations of provisions of the law or infringements of rights or interests of third parties protected by the law, if these regulations, rights or interests are generally known in the Netherlands or if the Client has expressly informed Ardent of the existence of such provisions and/or rights. If Ardent itself is held liable by third parties or in respect of a violation or an infringement as referred to here, the Client shall accordingly be held to indemnify Ardent and to hold it harmless.

12.3 Ardent may grant the Client a license to use programs, software and the like. This right of use will always end at the moment that the Agreement ends, unless agreed otherwise. After the end of the right of use, the Client must cease and keep ceased the use of the programs, software and the like. The Client must as then remove any programs and/or software from his systems.

12.4 Ardent shall have the right to take technical measures to protect its (intellectual property) rights or those of its licensors. The Client is explicitly forbidden to remove or circumvent these measures.

12.5 The Client shall not be permitted to provide (aids of) those products referred to in this Clause to third parties



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for any other purpose than to obtain an expert opinion regarding the Activities of Ardent. In that case, the Client will impose his obligations under this Clause on the third parties engaged by him.

12.6 In the event of violation of the provisions included in paragraphs 3 to 5 of this Clause, the Client shall forfeit an immediately due and payable penalty of € 25,000 to Ardent, without prejudice to the right of Ardent to claim damages.

### **13. ELECTRONIC COMMUNICATION AND ELECTRONIC FILING OF ANNUAL FINANCIAL STATEMENTS**

13.1 During the execution of the Instruction the Client and the Contractor may communicate with each other by electronic means and/or make use of electronic storage (such as cloud applications). Unless agreed otherwise in writing, the Parties shall be allowed to assume that sending correctly addressed faxes, e-mails (including e-mails sent over the internet) and voicemail messages, regardless of whether they contain confidential information or documents that relate to the Instruction, will be accepted by the other party. The same applies to any other means of communication used or accepted by the other party.

13.2 The Client and the Contractor shall not be liable towards each other for any damage that may occur to either one or both of them as a result of the use of electronic means of communication, networks, applications, electronic storage or other systems, including - but not limited to - damage resulting from non-delivery or delay in the delivery of electronic communications, omissions, distortion, interception or manipulation of electronic communications by third parties or by software/equipment used for sending, receiving or processing electronic communications, transfer of viruses and/or any failure or malfunctioning of the telecommunication network or other means necessary for electronic communication, except where the damage is the result of intent or gross negligence. The foregoing also applies to the use that the Client makes thereof in its contacts with third parties.

13.3 In supplement to the previous paragraph, the Contractor accepts no liability for any damage caused by or in connection with the electronic sending of (electronic) annual financial statements and the digital filing thereof at the Chamber of Commerce.

13.4 Both the Client and the Contractor shall do and/or omit everything that can reasonably be expected from each of them to prevent the occurrence of the aforementioned risks.

13.5 The data extracts from the computer systems of the sender shall provide conclusive evidence of (the contents of) the electronic communications sent by the sender, until counter-evidence is produced by the recipient.

### **14. FORCE MAJEURE**

14.1 Ardent shall not be held to perform any obligation nor be held to compensate any damage if it is prevented from doing that due to a circumstance that is not attributable to its fault and does not come for its account under the law, any legal act or generally accepted opinions as referred to in Article 6:75 of the Dutch Civil Code.

### **15. CANCELLATION**

15.1 With due observance of that which is provided elsewhere in these General Terms regarding dissolution of the Agreement, Ardent and the Client may cancel the Agreement at all times. Cancellation shall be effected by means of a written notification to that effect to the other contracting party.

15.2 If and in so far as the Client cancels the Agreement, Ardent shall have the right to demand payment of the invoices for the activities carried out by it until then.

15.3 If and in so far as a transfer of activities by Ardent to third parties involves any additional costs, Ardent shall have the right to charge these additional costs to the Client.

### **16. LIMITATION PERIOD**

In so far as these General Terms do not provide otherwise, all rights, entitlements and other claims and powers of the Client towards Ardent in relation to the agreed Activities shall lapse in any event within one year after the date at which the Client is aware or could reasonably have been aware of the existence of those rights.



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## 17. WORK ON SITE AND TAKING OVER PERSONNEL

17.1 If the Contractor performs Activities at the site of the Client, the Client shall provide a suitable workplace that complies with the statutory occupational health and safety standards and any other applicable regulations with regard to working conditions. The Client shall ensure that in that case the Contractor is provided with office space and other facilities that in the opinion of the Contractor are necessary or useful to execute the Agreement, and that comply with all (legal) requirements. With regard to any (computer) facilities that are made available, the Client shall be held to ensure continuity, inter alia through adequate back-up, security and virus control procedures.

17.2 The Client shall both during the execution of the Instruction by Ardent and within a period of one year following the termination thereof, not be permitted to employ any persons employed by Ardent who have in any way been involved in the performance of Activities for the Client, or to negotiate with them regarding activities that can in any way compete with the activities of Ardent, unless this is permitted by Ardent pursuant to a written notice.

## 18. TRANSFER OF RIGHTS

18.1 Without the prior written permission of Ardent the Client shall not have the right to transfer his rights and/or obligations under the Agreement in full or in part to any third party.

## 19. CONFIDENTIALITY

19.1 Ardent shall be held to keep the data and information provided by or on behalf of the Client secret towards third parties that are not involved in the execution of the Instruction. This obligation shall not apply in so far as Ardent has a legal or professional duty of disclosure, or if the Client has relieved Ardent from the obligation to observe secrecy.

19.2 Ardent shall have the right to use the figures results obtained after processing for statistical or comparative purposes, provided that those results cannot be traced back to individual clients.

19.3 If Ardent acts for itself in disciplinary, civil, fiscal, administrative or criminal proceedings, it shall have the right to use the data and information provided by or on

behalf of the Client, as well as any other data and information of which it has taken note during the execution of the Instruction, in so far as these can be relevant in its reasonable opinion.

19.4 Save with the express prior written permission of Ardent, the Client shall not be permitted to disclose or otherwise make available to third parties the content of pieces of advice, opinions and any other whether or not written statements of Ardent that have not been made or drawn up with the intent to make the information contained therein available to third parties, except in so far as this arises directly from the Agreement, takes place for the purposes of obtaining an expert opinion regarding the relevant activities of the Contractor, if the Client has a legal or professional duty to disclose, or if the Client acts for himself in disciplinary, civil or criminal proceedings.

## 20. GOVERNING LAW AND SETTLEMENT OF DISPUTES

20.1 Unless Ardent and the Client - unequivocally - agree or have agreed otherwise in writing, any disputes arising from agreements concluded by Ardent with the Client shall be submitted for settlement to the competent court in Amsterdam, in so far as statutory provisions do not direct otherwise.

20.2 All Agreements between Ardent and the Client shall exclusively be governed by Dutch law.

20.3 The present document General Terms of Service Ardent has 20 Clauses and has been filed with the Amsterdam Chamber of Commerce under number KvK01/3422349 on 22 February 2018.