

## General Terms and Conditions of Asendia - Appendix 2

### European Union Customs Clearance

This Appendix 2 to the Asendia General Terms and Conditions (“GTC”) completes the Asendia GTC provisions on customs clearance and taxes and duties payments for **shipments to the European Union**. It integrates the new Value Added Tax rules applicable within the European Union as of July 1<sup>st</sup>, 2021.

#### 1. Definitions

In this Appendix 2 to the Asendia GTC, the words described below have the following meaning:

Terms	Meaning
Asendia	The company of the Asendia Group which is party to a contract with the Customer.
Asendia Group	The companies whose share capital and voting rights are majority held, directly or indirectly, by the Swiss company Asendia Holding AG.
Consignment	Goods packed together and dispatched simultaneously by the same supplier (the Customer) to the same consignee (the Consumer) and covered by the same transport contract/order. Consignment may include Mail as defined in the Asendia GTC.
Consumer	The end user consumer who purchased Goods to the Customer.
Customer	The individual or the legal entity involved in an international distance selling of Goods to Consumers from a non-European Union (“EU”) country to an EU country, that has directly or indirectly concluded a contract with or passed an order to Asendia for the transport of Consignments and their delivery to Consumers in the destination country. The Customer can be an Electronic Interface such as a market place.
Customs Declarant	The customs broker or postal operator to whom Asendia sub-contracts all or part of customs clearance formalities and taxes and duties payment. The Customs Declarant may act as a direct representative (customs broker) if he acts in the name and on behalf of the Consignment importer or may act as indirect representative, if he acts in his own name but on behalf of the Consignment importer.
Customer’s Documentation	The documentation which needs to be provided in advance to Asendia by the Customer in order to fulfill all formalities regarding customs clearance, security, taxes and duties. The list of the documents which must be provided in advance to Asendia by the Customer is set out in Article 3 below.
Data Sets	The electronic documentation required for safety and security, for customs clearance and for calculation and payment of taxes and duties as described under articles 4, 5 and 6 below.
Electronic Interface	A taxable person operating an electronic interface such as a website, a portal, a gateway, an application program interface (API), facilitating a distance selling of Goods. A market place can be an Electronic interface and be a taxable person as “deemed supplier” of Goods according to EU VAT rules.
Excise Goods	Goods subject to excise duties such as alcohol and tobacco.
Goods	Any merchandise sent in a Consignment that may be subject to taxes and/or duties.
HS Code	The relevant classification for Goods imported in accordance with the Harmonized System of the World Customs Organization, in accordance with the European Union legal requirements.
Intrinsic Value	The price of the Goods themselves when sold for export, excluding transport and insurance costs (unless they are included in the price and not indicated separately in the invoice; in such case the transport and insurance costs shall be reported for a zero value in the Data Sets) and excluding any other taxes and charges as ascertainable by the customs authorities.

IOSS	The European Union "Import One Stop Shop" scheme that can be used for centralized tax payment of Low Value Consignment ("LVC", see the definition below). The Customer must be involved in a distance selling of LVC to register under IOSS either as supplier of the Goods or as deemed supplier when the Customer is an Electronic Interface such as market place.
LVC	A "Low Value Consignment" i.e. a Consignment containing Goods whose intrinsic value at import is not exceeding €150 or the equivalent value in another currency and not containing Excise Goods.
Mail	Letters, documents, Goods, parcels, newspapers and magazines packaged and addressed in accordance with the Asendia's specifications. Mail may also be unpackaged and/or unaddressed if the service provides for this.
Return(s)	The Consignments that the Consumer decides to ship back to the Customer in accordance with the contractual conditions agreed with the Customer and with the local law as applicable.
Surcharges	Surcharges means any costs generated by anomalies occurred in the customs formalities process compared to the normal process for customs declaration (standard or simplified). Surcharges may be generated by any sub-contractor used by Asendia to provide the services (carrier, Customs Declarant, handler...) or by Asendia itself.
Tax Debt	The taxes and duties (including fines, interests, Surcharges, Goods storage and destruction costs) due by the Customer and whose payment is entrusted to Asendia and its Customs Declarant(s) in relation to the Customs formalities and tax payment obligations, in accordance with this Appendix 2 to Asendia GTC.
Undeliverable(s)	The Consignment(s) that cannot be delivered to the Consumer, for instance in case of wrong address, impossibility to agree on the delivery with the Consumer or refusal of the Consignment by the Consumer.
VAT	The value added tax applicable on the Intrinsic Value of Consignments imported in the country where they are delivered to the Consumer.

## 2. Scope of Appendix 2

When entrusting Asendia for the delivery of Mail (as defined in the Asendia GTC) and the provision of services in relation to customs clearance formalities and taxes and duties payments for shipments to the European Union, the Customer agrees to be bound by this Appendix 2 to the Asendia GTC. This Appendix 2 is also applicable to Asendia Customers that are IOSS registered within the European Union for the presentation of their Consignments not exceeding €150 (LVC) to the customs authorities and their customs clearance.

## 3. Requirements regarding the Customers' Documentation

For any shipment of Consignment including Goods in a country where customs clearance formalities must be accomplished, the Customer must communicate in advance to Asendia, depending on the Asendia service used, the following Customer's Documentation:

- the postal documentation (CN22/CN23) in paper form;
- the S10 barcode or relevant barcode supported by data that must be labelled on the Consignment;
- the invoice(s) of the Goods in the Consignment for transportation and customs formalities (the invoice must be included in the Consignment if the Consignment value does not exceed €300 and attached outside, on the Consignment, if the value exceeds €300);
- the electronic Data Sets required for safety and security (in particular for air transportation), for customs clearance and calculation and payment of taxes and duties. The specific requirements, modalities and conditions regarding the Data Sets are described under articles 4 to 6 below);
- the other documents specifically needed for importing the relevant Goods in the EU;

- the power of attorney required to the benefit of the Customs Declarant to accomplish customs clearance formalities and the payment of tax and duties to be agreed by the Customer in the conditions described in section 9 below by acceptance of this Appendix 2 to the GTC or the specific power of attorney that may be provided by the Customer upon Asendia request.

In addition, the Customer may be required to provide a financial guarantee, if required by Asendia, if the Customer uses an Asendia solution whereby taxes and duties are paid in advance by the Consumer to the Customer and the payment of such taxes and duties to the customs authority is entrusted to Asendia by the Customer.

#### **4. General requirements regarding Data Sets:**

The Customer is responsible for the provision of full, complete and accurate Data Sets both in paper and electronic form for customs clearance and taxes and duties payment (as applicable).

The content of the Data Sets depends on the destination country, on the value and nature of the Goods included in the Consignment and on the Asendia services used by the Customer. The requirements regarding the content of the Data Sets are described in the Asendia labelling tool(s) documentation. The Asendia labelling tool(s) documentation can at any time be provided to the Customer by the key account manager who manages the business relationship on behalf of Asendia.

There are two types of Data Sets:

- A simplified electronic Data Set can be used for certain Asendia services concerning Low Value Consignments.
- A complete Data Set for customs clearance purpose is needed for other services where standard customs clearance process needs to be implemented, such as for Consignments with an intrinsic value exceeding €150 or containing Excise Goods.

It is strongly recommended to communicate the full electronic Data Set to Asendia in advance to facilitate the Consignment processing and delivery. In some cases, for specific Asendia services, the provision of the full Data Sets in advance is mandatory.

The Customer's Documentation and the Data Sets serve as the basis for the Consignment's transportation and customs clearance.

The Customs Declarant shall rely on the Customer's Documentation and on the Data Sets for the declaration of the Goods to the customs authorities. This also applies to Customers registered under IOSS in the European Union.

Missing or erroneous information/documentation in the Customer's Documentation and the Data Sets may lead to (i) delay in the Consignment delivery, (ii) to its refusal during the label printing process, (iii) to its refusal during the Consignment transport or processing, or (iv) to its refusal during the customs clearance procedure (see also sections 5, 6.1 and 6.2 below).

In all cases, the Data Sets must contain a precise description of the Goods by the Customer.

The provision of the HS code of the Goods in the Data Sets is highly recommended. If the HS code is missing in the Data Sets, the Customer may be charged the costs incurred by the Customs Declarant for completing the HS code. The Customer, as supplier of the Goods (or deemed supplier), is in the best position to determine the right HS code classification. If the HS code is missing, incomplete or is obviously inaccurate, the Customs Declarant may allocate an HS code based on their best knowledge and the Goods description provided by the Customer. In this case, the allocation of an HS code by the Customs Declarant shall be realized at the Customer's risk and the Customer shall be held liable for any error or inaccurate HS code allocated by the Customs Declarant.

## **5. Security pre-controls (electronic advance data):**

The electronic Data Sets contain information required by the customs authorities for security control for air transportation. They must be communicated by Asendia to the customs authority before the Consignments are shipped by Asendia to the destination country.

Asendia may receive instructions from the customs authority of the destination country and must respond diligently before the departure of the Consignment.

Asendia may liaise with the Customer to obtain the information requested by the customs authorities. If the Customer doesn't respond in due time or if the customs authority sends a "*do not load*" message, the relevant Consignment will be returned to the Customer or destroyed at his costs. Asendia will not be liable for the return or destruction of the Consignment or the delay incurred for responding to the customs authority message or complying with the customs instructions.

The Customer shall be held liable for any damages caused by the inclusion of hazardous Goods, dangerous Goods, such as explosive or flammable products in the Consignment. Please refer to section 7.1 of the Asendia GTC.

## **6. Customs formalities/Data Sets/Tax Debt:**

### **6.1 Asendia and Customers rights and obligations in relation to customs formalities:**

Asendia is responsible for the transportation and delivery of the Consignments entrusted to Asendia by the Customer and for the accomplishment of related customs formalities via the Customs Declarant, in accordance with the Asendia service used by the Customer.

Asendia may at its sole discretion:

- suspend or return the Consignment to the Customer at the Customer's costs if the Customer Documentation or the Data Sets needed for customs formalities are missing or incomplete (in paper form and in electronic form as required for the relevant service);
- complete or rectify the customs documentation on the basis of its best knowledge if an information is missing, incomplete or is obviously erroneous, at the risk and costs of the Customer.

The Customer shall hold harmless and indemnify Asendia (and the Customs Declarant) for any financial consequences of a false, erroneous or misleading information or document communicated to Asendia for customs formalities, including any fines, additional taxes, duties, for the costs incurred for the Goods storage, destruction or return and Surcharges (as components of the Tax Debt) as applicable.

### **6.2 Tax Debt - Payment obligations**

The Customer shall pay to Asendia any Tax Debt borne by Asendia (or its Customs Declarant) within seven (7) days of the date of Asendia invoice, in accordance with articles 5.7 to 5.9 of the Asendia GTC.

Asendia may suspend the delivery of the Asendia services to the Customer until complete payment of the Tax Debt as payable by Asendia or the Customs Declarant(s) to the customs/tax authorities.

The Customer shall be liable for the reimbursement of the Tax Debt to Asendia, including when the Consignment has been sent under DAP incoterm and is returned by the Consumer (in the case the Returns service is offered by Asendia) or is Undeliverable (see section 7 below). In such event, the Tax Debt shall include the costs borne by Asendia for the export formalities for the Returns and the Undeliverables sent back to the Customer and the taxes and duties paid in advance by the Customs Declarant and not reimbursed by the local authorities.

### **6.3 Special Arrangement:**

The Customer is informed that in some European Union countries, the Customs Declarant may use the Special Arrangement scheme. In this case, the Customer must inform the Consumer that the VAT rate shall be the normal rate applicable in that country whatever the nature of the Goods and that no reduced rate shall be applied.

The Special Arrangement shall not be applicable if the Customer is IOSS registered or is an Electronic Interface involved in the distance selling of Goods to the Consumers, such as a market place.

### **7. Returns and Undeliverables**

**7.1** Unless expressly agreed in writing with Asendia, Asendia transportation and delivery services do not include the Return of the Consignment to the Customer and Asendia shall have no liability in this regard.

**7.2** Asendia shall do its reasonable commercial efforts to send back the Undeliverables to the Customer.

Asendia does not guarantee that the Undeliverables can be returned to the Customer and that the taxes and duties (if paid in advance) shall be refunded. This process largely depends on the local customs conditions and current practices that are not under Asendia control.

### **8. Power of attorney:**

**By entrusting Asendia for the international transport and delivery of his Consignment(s) and accomplish related customs formalities:**

- (a) the Customer hereby appoints Asendia to act in the name and on behalf of the Customer to accomplish all import/export declarations and pay all related taxes, duties and fines to the customs authorities for which Asendia (or the Customs Declarant) may be liable as Customs Declarant and get credited of the sums due when re-exporting the Goods as applicable;**
- (b) the Customer authorizes Asendia to delegate customs clearance to any Customs Declarant of its choice in all dealings with customs and tax authorities where appropriate;**
- (c) the Customer declares that it has received a power of attorney from the Consumer to accomplish the customs formalities (and as applicable the payment of taxes and duties) for the importation of such Goods in the country where the Consumer is established, according to the local rules.**

### **9. Incoterms and trading terms**

**9.1** Unless the Customs Declarant is prior informed that the seller of the Goods is registered under IOSS in the European Union:

- (i) the Consignment is deemed shipped under the DAP incoterm, "Delivered At Place". Please refer to the International Chamber of Commerce incoterms:

<https://iccwbo.org/resources-for-business/incoterms-rules/incoterms-2020/>

This means that the Consumer is liable for the customs declaration and the payment of the Tax Debt, as applicable;

- (ii) the addressee is reputed to be the buyer of the Goods (the Consumer) and the importer in the country where they are delivered.

**9.2** In the event that the Customer is registered under the EU IOSS scheme, the Customer must communicate his VAT IOSS registration number to Asendia with his electronic Data Sets for its communication to the Customs Declarant within EU. If the Customer IOSS registered does not communicate this information, the Consignment

is deemed sent under DAP incoterm and Asendia and its Customs Declarant shall not be liable for invoicing the VAT to the Consumer.

**9.3** For all transportation and delivery solutions offered by Asendia based on taxes and duties pre-payment by the Customers, such as DDP or DTP solutions ("**DTP**" is not an incoterm but a trading term where the taxes and duties are paid in advance by the Consumer to the Customer, but the Consumer and the Customs Declarant remain liable on the basis of a DAP incoterm), the Customer is liable towards Asendia for the payment of all taxes and duties in due time according to the contractual terms agreed with Asendia and the law of the country(ies) where customs clearance formalities are accomplished. Asendia may use at discretion the financial guarantee delivered by the Customer (see section 12 below) to be reimbursed of the Tax Debt.

#### **10. Customers IOSS registered**

When the Customer is IOSS registered (or the client selling the Goods using the Customer services), the Customer must:

- **NOT** indicate his (or his client) VAT IOSS registration number on the paper form transportation documentation attached to the Consignment.
- communicate his VAT IOSS registered number (or the one of his client) **ONLY** with the electronic Data Sets in order to restrict the communication of the VAT IOSS registered number to a limited number of persons in the logistic chain.

Asendia shall do its best efforts (i) to keep the Customer's VAT IOSS registered number confidential, to the extent compatible with the customs declaration process and (ii) to organize its communication on a need-to-know basis to the Customs Declarant in charge of the Customs formalities in the relevant country of the European Union. Asendia is not liable for any accidental communication of the Customer's (or his client) VAT IOSS registered number to third parties or for their communication by any third party.

The Customer is informed that Surcharges may be applicable to IOSS registered companies in certain countries for the customs clearance formalities.

When the Customer is not IOSS registered but the client of the Customer is a seller of Goods who is IOSS registered, the Customer must communicate to Asendia the identity of the seller and his VAT IOSS registered number in the conditions above described.

#### **11. Financial guarantee**

As described above in Section 3, a financial guarantee may be requested by Asendia from the Customer to cover the taxes and duties to be paid by Asendia (via the Customs Declarant) on behalf of the Customer who has collected the taxes and duties and Surcharges from the Consumer in the destination country.

The financial guarantee shall guarantee the payment of the Tax Debt, including any additional costs such as fines, storage and/or destruction costs imposed by the customs authorities in a transit or destination country.

The terms and conditions of the financial guarantee must be issued in a form satisfactory to Asendia. The financial guarantee may be provided in the form of a deposit or a first demand bank guarantee and must cover a minimum of ninety (90) days of taxes and duties payment obligations of the Customer entrusted by the Customer to Asendia as part of the customs clearance services (or any other minimum coverage period as requested by Asendia based on its assessment of the risk). The amount of the financial guarantee must be adjusted within four (4) calendar days from Asendia request to cover the minimum taxes and duties payment period requested by Asendia.

Asendia may suspend any service to the Customer with immediate effect and without notice if the financial guarantee is deemed insufficient to cover Asendia and its Customs Declarant(s) risk exposure. Asendia shall not be liable for the consequences of such suspension of the services.

The Customer is advised to increase the financial guarantee in advance to cover the financial risk during the Customer business peak periods and avoid any suspension of the services due to insufficient financial guarantee.

## **12. Liability**

In addition to the specific liability rules described in this Appendix 2 to the Asendia GTC, the respective liability of Asendia and of the Customer for the services of customs clearance, taxes and duties payments are ruled by the Asendia GTC.

In the event the liability of Asendia is proven for any default of the services of customs clearance and taxes and duties payment described in this Appendix 2 to the Asendia GTC, the liability of Asendia shall not exceed the value of the relevant service invoiced by Asendia to the Customer. Asendia shall be only liable for the direct damages caused to the Customer and shall not be liable for any consequential damages including any loss of revenue, loss of profit, loss of contract, loss of image.

© Asendia, January 2022

© Asendia Germany GmbH, Registered at the Chamber of Commerce of Siegburg under number HRB 9578, Share capital of EUR 400.000,00; Registered address and main place of business: Redcarstrasse 3, D-53842 Troisdorf, Germany.