

**Asendia UK Limited**  
**General Terms and Conditions for Value Added Services**

**(V3, July 2019)**

## **1 Scope**

These General Terms and Conditions (hereinafter “VAS GTC”) and the appendices and their respective attachments set forth in section 23 (Appendices) govern the relationship between the Customer and Asendia UK Limited (the “Asendia Company”) in relation to the value added services provided by the Asendia Company including fulfilment, warehousing, print, air conveyance and data services (hereinafter the “VAS”).

These VAS GTC are not applicable to Mail services provided by the Asendia Company such as collection, handling, storage, custom clearance, cross-border transportation and delivery of Mail that are governed by the General Terms and Conditions of the Asendia Company (“the Asendia Company GTC”). If the Asendia Company provides both VAS and Mail services to the Customer, the GTC applicable to the relevant services shall apply respectively.

## **2 Contractual relationship and applicable provisions**

A contract exists between the Customer and the Asendia Company as soon as the Customer confirms by any means their unconditional acceptance of a quotation made by the Asendia Company for VAS, or the Customer or a third party on behalf of the Customer handed over Mail, Materials to the Asendia Company and the latter accepts (directly or through third Parties) for the provision of VAS, even in the absence of a written contract signed between the Parties. These VAS GTC (clause 2.1), the products and/or Value Added Service(s) to be provided by the Asendia Company (clause 2.2), the price to be paid by the Customer (clause 2.3) and the quotation made by the Asendia Company and agreed by the Customer (clause 4) form an integral part of the Contract between the Parties.

In addition, the Customer is informed that Asendia Group Anti-Bribery/ Anti-Corruption Policy is available on the Asendia Company’s website.

### **2.1 Acceptance of VAS GTC**

These VAS GTC are deemed accepted at the latest when the Customer, or a third party on behalf of the Customer, hands over his Mail and/or Materials to the Asendia Company or to a third party that accepts the Mail and/or Materials on behalf of the Asendia Company for the provision of VAS. These VAS GTC also apply to third Parties asserting claims arising out of or relating to the Contract between the Parties, provided that such application does not conflict with any mandatory provisions of the applicable law. Deviations from these VAS GTC shall not apply unless prior agreed in writing between the Parties.

The general purchase conditions and/or the general terms and conditions of the Customer (if any) shall not apply to the Contract between the Parties unless explicitly agreed in writing by the Asendia Company.

## 2.2 Product and Service Specifications

The products and services offered by the Asendia Company are described in the latest version of its brochures, user guides and factsheets (hereinafter the “Product and Service Specifications”) or in any other means of communication of the Asendia Company. These Product and Service Specifications form an integral part of the Contract between the Parties. In case of any conflict, inconsistency or discrepancy between the wording of the Product and Service Specifications and the present VAS GTC, the terms of the VAS GTC shall prevail.

## 2.3 Prices

The applicable prices relating to the Value Added Services are communicated to the Customer by the Asendia Company.

## 3 Definitions

3.1 In these VAS GTC, the terms listed below are used with the following meaning:

<b>Term</b>	<b>Meaning</b>
Carrier	A carrier nominated by the Asendia Company or a carrier otherwise nominated by the Customer and agreed in writing by the Asendia Company.
Customer	The natural person, or legal entity for whom the Asendia Company has agreed to provide VAS.
Asendia Company	Asendia UK Limited whose registered office is at Ground Floor, Egerton House, 68 Baker Street, Weybridge, Surrey, KT13 8AL, England and whose principal place of business is at Units 8-12, The Heathrow Estate, Silver Jubilee Way, Hounslow, Middlesex TW4 6NF, England.
Contract	The contract between the Asendia Company and the Customer for the provision of VAS strictly in accordance with these terms and conditions.
Dangerous Goods	Article, materials, goods and liquids identified as dangerous goods in the <ul style="list-style-type: none"><li>• Technical instructions issued by the International Civil Aviation Organization (ICAO),</li><li>• Dangerous goods regulations of the International Air Transport Association (IATA)</li><li>• International Maritime Dangerous Goods (IMDG) Code,</li><li>• European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR) and</li><li>• Universal Postal Union (UPU) Convention and its regulations In their versions as amended from time to time Convention concerning International Carriage by Rail (COTIF)</li></ul>
Delivery	Delivery by the Asendia Company to the Carrier.
Mail	Letters, documents, goods, parcels, newspapers and magazines packaged and addressed in accordance with the Asendia Company’s

	specifications. Mail may also be unpackaged and/or unaddressed if the Service provides for this.
Excluded Mail	Items excluded from carriage under clause 5.4 and 7.1 of Asendia GTC Including items that are subject to legal export restrictions or prohibitions and items that are sent to or by a person who is subject to embargo rules and international sanctions as specified by the United Nations, the European Union, or any national law, regulation or policy, such as the US “SDN” (Specially Designated National) list issued by OFAC or any other similar sanction list.
Materials	Marketing advertising promotional fulfilment, goods, data and other materials provided or approved by the Customer for the provision of the VAS Services to the Customer by the Asendia Company, including printed matters produced by the Asendia Company on behalf of the Customer.
Party or Parties	The parties to the Contract, i.e. the Customer or the Asendia Company individually (“a Party”) or together (“the Parties”).
Personal Data	Data which may be linked to an identified or identifiable natural person.
Price	The price charged by the Asendia Company to the Customer for the provision of VAS set out in or determined in accordance with the Contract.
TUPE	A transfer of undertakings (Protection of Employment) according to UK law.
VAS	The services provided by the Asendia Company directly or indirectly to the Customer described in clause 1 of this VAS GTC.
Warsaw/Montreal Conventions	The Warsaw Convention of 12 October 1929 for the Unification of Certain Rules relating to International Carriage by Air, as amended by the Hague Protocol of 28 September 1955 and by the Montreal Protocol No. 4 of 25 September 1975 or the Montreal Convention of 28 May 1999 for the Unification of Certain Rules for International Carriage by Air.

#### **4 Estimates, Quotations and the Contract**

**4.1** A quotation given by the Asendia Company is an offer to supply VAS to the Customer and acceptance of the offer shall be binding on the Asendia Company when accepted in writing by the Customer in the conditions described above in clause 2. Any such Contract shall be made only on these terms and conditions.

**4.2** A quotation provided by the Asendia Company for the provision of VAS is subject to sight by the Asendia Company of Materials being suitable for the provision of the VAS for which the quotation was provided. If the Materials received by the Asendia Company after entering into the Contract are unsuitable, the Asendia Company reserves the right in its absolute discretion to amend the terms and conditions relating to the Contract including but not limited to amending the Price and any dates relating to Delivery or to terminate the Contract.

**4.3** Quotations given to the Customer for the provision of VAS are valid for thirty (30) days and are exclusive of any VAT for which the Customer shall be additionally liable at the applicable rate.

**4.4** The Price set out in the quotation is based on a uniform run of the Materials of the quantity requested. Any variation in the quantity will give rise to a variation in the Price in accordance with rates set out in the quotation or otherwise as published by or available from the Asendia Company.

**4.5** Further details about the Asendia Company's VAS and advice or recommendations about its provision or utilisation may be made available on written request.

## **5 Price and Payment**

### **5.1 Charges and terms of payment**

Unless different terms of payment have been agreed between the Customer and the Asendia Company, the Customer undertakes to pay the Asendia Company the price (including all charges, duties, taxes and/or value added tax if applicable) of the Services in advance or, at the latest, when he hands over the Mail and/or Materials to the Asendia Company.

If the Customer hands over Mail and/or Materials to the Asendia Company for the provision of VAS on a regular basis, the Parties may agree on payment by invoice. Unless a different payment term has been agreed in writing, invoices are payable within seven (7) days from the date of the invoice of the Asendia Company.

The Customer accepts the Asendia Company's data as the basis for invoicing. If the Customer's data differ from the data recorded by the Asendia Company, those of the Asendia Company are authoritative. If only the Asendia Company has electronic or physical data, the Customer shall acknowledge them as the basis for invoicing.

The Asendia Company is entitled to require at any time (and specifically in case of payment by invoice) any specific securities or guarantees and any financial information as necessary to verify the Customer's solvency, particularly if:

- the Customer has or moves his place of residence or business abroad,
- the Customer's solvency is in doubt,
- the Customer has not or does not observe payment terms,
- the Asendia Company has already suffered a loss attributable to the Customer.

### **5.2 Default of payment**

In case of default of payment (e.g. in case of late payment, partial payment or any rejection of a payment order), the Asendia Company shall charge the Customer, without any further notice, a default interest and a compensation for recovery costs. Unless a specific default interest rate is required by the applicable law in the country of registration of the Asendia Company, the rate of the default interest shall be of 8% above the Bank of England base interest rate until full and final payment of the amounts due (the principal sum due and all applicable taxes, duties, levies or charges specified in the invoice).

The compensation for recovery costs shall be charged to the Customer according to the legislation in force in the United Kingdom, without prejudice to the right of the Asendia Company to be indemnified for any additional costs such as attorney fees and debt collection agency fees.

In order to ensure the Asendia Company against non-payment, the Customer acknowledges that the Asendia Company shall have a lien on all Mail and Materials handed over to the Asendia Company and which is in the possession of the Asendia Company and authorizes expressly the latter, in whatever way the Asendia Company consider appropriate, to retain the Mail and Materials until

complete payment of any sum due by the Customer and/or to sell or to destroy the Mail and Materials in order to recover the sums due by the Customer. In any case, the Asendia Company has the right to shorten the payment term or to ask the Customer to pay immediately without giving a reason.

### **5.3 Offset**

The Customer shall not be entitled to set off any claim it may have against the Asendia Company against any money due to the Asendia Company, unless the claim of the Customer is undisputed or has been confirmed in a final non appealable judgment.

## **6 Provision of Materials**

**6.1** The Customer shall at its own expense provide the Asendia Company with Materials of adequate quantity for the provision of the Asendia Company's VAS. For fulfilment and printing Services, the Customer shall provide the Asendia Company with an excess volume of 3% of Materials for machinery spoilage (unless otherwise agreed in writing). The Customer shall also provide a delivery note describing each type Materials and relevant quantities delivered to the Asendia Company for the provision of VAS.

If the Asendia Company has agreed to print any text or image the Customer shall supply such text in a media agreed by the Parties. The Customer shall ensure and be responsible for the accuracy of such text and image and their compliance with law.

The Asendia Company shall have the right but not the obligation to correct any typographical or other errors or omissions in any Materials printed by the Asendia Company without any liability to the Customer.

**6.2** The Asendia Company reserves the right in its absolute discretion to reject any Materials provided or specified by the Customer which appear in the opinion of the Asendia Company to be unsuitable for the provision of VAS.

In particular, the Asendia Company shall reject any Materials that would be included in the list of Excluded Mail (including Dangerous Goods) or Valuable goods as defined in the General Terms and Conditions of the Asendia Company (please see Asendia GTC applicable to Mail available on the Asendia Company's website: [www.asendia.co.uk](http://www.asendia.co.uk)). The Customer agrees that the Asendia Company is authorized at its sole discretion to return, remove, dispose or destruct at the Customer's costs any Dangerous Goods included in the Materials handed over to the Asendia Company.

The Customer is fully informed that he remains fully responsible towards the Asendia Company and any third party in the case when Excluded Mail, and in particular Dangerous Goods is handed over to the Asendia Company.

Consequently, the Customer shall hold harmless and indemnify the Asendia Company against any claim, damage, litigation, costs, expenses and other financial consequences caused by breach of contract, negligence, tort or breach of statutory duty, independently from the control that the Asendia Company or its sub-contractors may conduct for the provision of the Services, such as scanning the Goods or x-ray controls for air conveyance Services.

The Asendia Company shall not be required to print, distribute or handle any Materials which in its reasonable opinion may be illegal, indecent or libellous or might infringe any third party rights or cause the Asendia Company to incur any criminal or tortious liability. The Customer shall under no circumstances hand over to the Asendia Company any dangerous Materials that may hurt, damage

or endanger the employees, subcontractors or any third party.

By exception, the Asendia Company may prior agree in writing to receive and process certain dangerous goods, duly identified, for which safety measures have been agreed upon between the Asendia Company and the Customer in compliance with legal requirements and subject the appropriate packaging and labelling are used and safety material sheets are supplied by the Customer for the relevant dangerous goods handed over to the Asendia Company. The Asendia Company may decide to agree to any such exception at its absolute discretion and subject to the prior provision by the Customer of all the relevant documentation (safety material sheet...). The Customer shall hold harmless and indemnify the Asendia Company in respect of any claims, damages, costs and expenses whatsoever arising out of such above matters.

The Customer warrants that the Materials will not infringe the copyright or other rights of any third party and will not constitute counterfeiting items. The Customer shall indemnify the Asendia Company against any losses, damages, costs, expenses or other claims arising from any such infringement. The Asendia Company shall be under no obligation to examine Materials supplied by the Customer as to quality or quantity or as to the accuracy, legality or suitability of any printed matter or logo thereon.

## **7 Proofs**

**7.1** A proof of any text to be printed by the Asendia Company shall be sent to the Customer. The Customer shall amend the proof if necessary, sign, date and return it to the Asendia Company to confirm approval of the proof. The Customer understands and agrees that any unreasonable delay in the return of the proof may result in a delay in Delivery.

**7.2** Upon request of the Customer, the Asendia Company shall send to the Customer a first proof of the run of any printing which the Customer shall amend if necessary, sign, date and return to the Asendia Company to confirm approval of the proof. The Customer understands and agrees that any unreasonable delay in the return of the proof may result in a delay in Delivery.

**7.3** If further amendments and proofs are required due to errors made by the Customer or a third party or if the Customer requires further amendments including but not limited to alterations in style type of printing ink or method of packaging the Customer will be liable for the costs incurred and the Price shall be amended accordingly. The Asendia Company will provide proof of the run of the printing at the Customer's approval as set out in clauses 7.1 and 7.2.

**7.4** The Customer understands and agrees that the Asendia Company will not be responsible for any error in a proof which has been approved by the Customer and such error shall not entitle the Customer to reject all or any of the Materials or to terminate the Contract.

## **8 Materials and Storage/Access to Asendia premises**

**8.1** As soon as practical after entering into the Contract the Parties shall agree a date or dates for the Delivery of the Materials by or on behalf of the Customer to the Asendia Company. If no date or dates can be agreed the Asendia Company shall inform the Customer of a delivery date or dates to

enable the Asendia Company to perform its obligations set out in the Contract and the Customer shall procure Delivery on such date or dates.

**8.2** Materials delivered to the Asendia Company's premises prior to the delivery date or dates set out in Clause 8.1 above will be charged a 'pallet per week' rate for storage unless otherwise agreed in writing. However Materials stored for mailings shall be stored free of charge by the Asendia Company for a period up to seven (7) days. Thereafter the 'pallet per week' rate for storage shall be applicable.

**8.3** The Asendia Company, at the Customer's expense shall return to the Customer or its nominee or (if agreed with the Customer) dispose of any Materials remaining on the Asendia Company's premises following completion of Delivery.

**8.4** Where postponement of Delivery is agreed by the Parties the Customer shall pay any costs and expenses (including but not limited to the Asendia Company's storage charges) incurred by the Asendia Company occasioned thereby. The Materials shall be held at the Customer's risk as from the date of postponement.

**8.5** When attending Asendia's facilities (in particular for the delivery of Mail or Materials to the Asendia Company), the Customer will ensure that his employees and sub-contractors will respect the site's health and safety and security regulations.

## **9 Delivery and Completion**

**9.1** The Asendia Company will use its reasonable endeavours to deliver the VAS on or before the date or dates estimated in the Contract but unless the Contract otherwise expressly provides such date or dates shall constitute only statements of expectation and shall not be binding on the Asendia Company. The Parties understand and agree that the date of Delivery shall not be of the essence of the Contract unless otherwise expressly agreed in writing between the Parties.

**9.2** Any unforeseen overtime/waiting time costs incumbent to the Customer (or third party entrusted by the Customer) incurred by the Asendia Company in seeking to achieve the delivery dates stated in the Contract shall be paid by the Customer. Unforeseen overtime/waiting time shall under no circumstance be subject to penalties.

**9.3** The Parties understand and agree that in accordance with custom and practice of fulfilment and printing services the Asendia Company shall be deemed to have complied fully with its obligations under the Contract if it shall deliver a quantity of Materials constituting plus or minus three per cent. The Price shall reflect delivered quantities.

**9.4** Where Delivery is to be by batches made each day, Delivery shall be deemed to constitute a separate enforceable Contract and the Asendia Company shall be entitled to issue and be paid on a separate invoice for each such Delivery.

Failure to make any one or more Deliveries shall not affect the enforceability of the order as to the remaining Delivery.

## **10 Air Conveyance**

**10.1** For air conveyance services, the Customer accepts Asendia Company's delivery aims, process specifications and cut off time as notified from time to time by the Asendia Company. Unless otherwise agreed between the Parties, the airline companies' flights and transport itineraries shall be chosen by the Asendia Company at its sole discretion. The Customer will ensure that only Mail to international destinations (non UK) will be handed over to the Asendia Company for air conveyance services.

**10.2** Air conveyance services are subject to the prohibitions of Dangerous Goods as respectively applicable to parcels and mail transportation, in the conditions described in the Asendia Company's GTC (Asendia Company's GTC are available on Asendia Company's website: [www.asendia.co.uk](http://www.asendia.co.uk)). The Customer agrees that clauses 3 to 5.6 and 6 to 9 of the Asendia GTC shall specifically apply to air conveyance Services provided to the Customer by the Asendia Company, including the provisions of embargo rules and international sanctions described in clause 5.4 of Asendia UK GTC and in clause 3 of these VAS GTC. The Customer agrees that the Asendia Company is authorized at its sole discretion to remove, dispose, destruct or return to the Customer at the Customer's costs any Excluded Mail or Dangerous Goods included in the Mail handed over to the Asendia Company. The Customer agrees that the provisions of this clause 10 are applicable to any Mail shipped (either on transit transport or not) by any Customer, including any postal Designated Operator in the meaning of the Universal Postal Convention.

**10.3** The Customer understands and agrees that for air conveyance services the Asendia Company doesn't screen the parcels and/or mail entrusted by the Customer to the Asendia Company but passes this responsibility over to a third party. The Asendia Company has the right to charge the Customer for such screening service undertaken by such third party for security purpose.

**10.4** The Customer shall indemnify and hold the Asendia Company harmless against any loss, damage, costs (including legal fees) suffered or incurred by the Asendia Company and against all liabilities and related costs (including legal fees and costs) that the Asendia Company may incur towards third parties in relation with any shipment made by the Customer (or any third party acting on behalf of the Customer) containing Excluded Mail or Dangerous Goods. The Customer agrees to make benefit the Asendia Company of its insurance policy accordingly.

## **11 Data Services -Data protection**

### **11.1 Data supplied by Customer**

The following shall apply to data supplied by the Customer to the Asendia Company in electronic format meeting the Asendia Company's criteria, whether supplied on direct electronic transfer or otherwise:



**11.1.1** Customer warrants and shall ensure the following:

- that the data is clean, unadulterated, free of any computer viruses and capable of being read and processed by the Asendia Company;
- that the data is completely unambiguous with regard to its format and a specification as to the format of the data supplied and instructions for interpretation must be provided in writing; and
- that the Customer will have retained a copy of any original electronic file it provides to Asendia Company.

**11.1.2** Customer further warrants to the Asendia Company that it will have checked the accuracy and compliance with clause 11.2 of all data supplied and the Asendia Company shall not be responsible for checking such accuracy and compliance unless otherwise agreed in writing, provided that the Asendia Company will notify Customer of any such inaccuracy or non-compliance, but only if and when Asendia Company has discovered it.

**11.1.3** If data is supplied in breach of any of the warranties contained in clauses 11.1.1 and 11.1.2, Asendia Company may in its discretion do any of the following:

- process the data, in which case Customer will accept the results as processed with such inherent defects arising by virtue of the breach of warranty; or
- require Customer to supply fresh data within such period as Asendia Company shall reasonably determine; or
- take appropriate corrective action at the expense of the Customer; or
- reject the data and terminate the Contract, in which case Customer shall pay Asendia Company's costs incurred to the date of termination.

## **11.2 Data Protection**

The Asendia Company undertakes to process any Personal Data provided by the Customer under the Customer's control in the conditions described in Appendix 1 ("Data Protection Agreement") of the present VAS GTC as described in section 23.

## **12 Warranties**

The Asendia Company warrants to the Customer that VAS will be provided using reasonable care and skill. Where the Asendia Company supplies any Materials in connection with the provision of such VAS (including information used for data cleansing services, if applicable) the Asendia Company does not give any warranty or other term as to their quality fitness for purpose or otherwise but shall where possible assign to the Customer the benefit of any warranty or indemnity given by the person providing the Materials to the Asendia Company.

## **13 Liability**

**13.1** The Asendia Company shall have no liability to the Customer for any loss, damage costs, expenses or other claims for compensation arising from any Materials which are incomplete or damaged on delivery to the Asendia Company or for instructions supplied by the Customer which are incomplete, incorrect, inaccurate, illegible or ambiguous or arising from the late delivery or non-

arrival of Materials or any other fault of the Customer or third party in relation to the provision of the VAS.

**13.2** Without prejudice to the application of clause 13.1 above and 13.3 below, if the relevant VAS comprise Materials (including goods) held in storage, the Asendia Company's liability for any loss, damage or spoilage to the Materials handed over by the Customer (or by a third party acting on behalf of the Customer) shall be limited to the proven damage and shall not exceed the lower of:

- (i) a total £100 per kilo gross weight lost or damaged, with a maximum liability of £1000; or
- (ii) the purchase cost for a reseller or the production cost for a producer; or
- (iii) the repair cost where the item is damaged; or
- (iv) the market value of the item (not including the market value of any message and/or information that it carries).

The Customer is responsible for insuring the Materials for all risks exceeding these thresholds under the conditions described in clause 14 below.

**13.3** Except in respect of death or personal injury caused by the Asendia Company's negligence or as expressly provided in these terms and conditions the Asendia Company shall not be liable to the Customer by reason of any representation (unless fraudulent) or any implied warranty condition or other term or any duty at common law or under the express terms of the Contract for any loss of profit, loss of revenue, loss of business, damage to the Customer's reputation or goodwill or any indirect special or consequential loss, damage, costs expenses or other claims (whether caused by the negligence of the Asendia Company its employees or agents or otherwise) which arise out of or in connection with the provision of VAS or their use by the Customer. In any case, the entire liability of the Asendia Company under or in connection with the Contract shall be limited to the proven loss or damage and shall not exceed the total VAS invoice value (excluding postage charges) for that work or the sum of £5,000 whichever shall be the lesser.

**13.4** If notwithstanding that the Asendia Company has used its reasonable endeavours the Asendia Company fails to despatch or deliver the Materials to the Carrier or to deliver Materials by such date or dates set out in the Contract such failure shall not constitute a breach of the Contract (unless expressly otherwise agreed in writing) and the Customer shall not be entitled to rescind or repudiate the Contract or to claim compensation for such failure or for any consequential loss or damage resulting there from.

**13.5** By derogation to clauses 13.1 to 13.4 above the liability of the Asendia Company for air conveyance Services is ruled by the Asendia Company's GTC as described above in clause 10.

## **14 Insurance and Risk**

The Customer is responsible for insuring the Materials whilst on the premises of the Asendia Company. The Customer shall insure the Materials for all risks including but not limited to insurance for fire and spoilage and accidental loss or damage and risks in transit. All Materials are delivered to and stored by the Asendia Company at the sole risk of the Customer and the Asendia Company shall have no other liability than those described above in clause 13.

## **15 Force Majeure**

**15.1** If the Asendia Company shall be prevented or hindered from providing VAS or any part thereof in accordance with the Contract by any circumstances beyond its reasonable control (including without prejudice to the generality of the foregoing fire, flood, civil strife, legislation, delays in transit shortages of or breakdown of plant, delay by suppliers, trade disputes and all other causes whether or not of a like nature beyond the reasonable control of the Asendia Company) further performance of the Contract shall be suspended for so long as the Asendia Company is so prevented or hindered (provided that if the performance of the Contract shall be suspended for more than thirty (30) days the Customer and the Asendia Company shall be entitled by notice in writing to the other forthwith to terminate the Contract or to cancel any outstanding part thereof and in such circumstances the Customer shall pay at the Contract rate for all Materials supplied and all work done by the Asendia Company to the actual date of such termination).

**15.2** The Asendia Company shall not have any liability to the Customer for any direct or consequential loss or damage suffered by the Customer as a result of the Asendia Company's inability to perform its obligations under the Contract in the circumstances set out in clause 15.1. The Asendia Company will be entitled to make a reasonable charge for any expenses it incurs following and resulting from such suspension.

## **16 TUPE**

The Parties believe and agree that the commencement, expiry or termination of the Contract (whatever the cause) will not constitute a relevant transfer for the purpose of a TUPE. Consequently no employee will transfer from the Customer to the Asendia Company at the commencement date of the Contract or any other date. Notwithstanding the foregoing, the Customer agrees to indemnify the Asendia Company fully and to hold it harmless at all times from and against all actions, proceedings, claims, demands, expenses, awards, costs (including legal fees), losses and all other liabilities whatsoever that the Asendia Company may suffer or incur in any way connected with or arising from any claim or allegation made by any employees (or on their behalf), former employees or person claiming to be an employee arising out of their employment or its termination on the basis that the commencement, the implementation, the termination or the expiry of the Contract amounts to a relevant transfer for the purpose of TUPE.

## **17 Confidentiality**

The Asendia Company and the Customer shall keep in strict confidence all technical, financial and commercial information, specifications, inventions, processes or information relating to the strategy (hereinafter the "Confidential Information") which have been disclosed (or collected incidentally) under or in conjunction with their contractual relationship. The Asendia Company and the Customer shall restrict disclosure of such Confidential Information to such of their employees, agents or subcontractors who need to know the same for the purpose of the provision of the Services. Confidential Information shall not include information that a) is or become generally available to the public other than in relation to a disclosure in violation to the Contract or (b) is or become available

to the recipient Party on a no confidential basis from a source that is authorized to disclose it or (c) in the event that the recipient Party is required by applicable law, by decision of a competent jurisdiction or authority to disclose it (in this case, the recipient Party shall inform the other Party as soon as practically and legally possible to allow the other Party to take all appropriate protective measures against such disclosure as authorized by law).

The Asendia Company and the Customer shall apply reasonable safeguards against the unauthorized disclosure of Confidential Information and protect Confidential Information in the same manner and to the same degree that they protect their own Confidential Information. The obligation to maintain confidentiality shall remain in effect for a period of three (3) years after the expiration or the termination of the Contract.

## **18 General Lien**

Without Prejudice to other remedies, the Asendia Company shall in respect of all unpaid debts due from the Customer have a general lien on all Materials in its possession (whether worked upon or not) and shall be entitled on the expiration of fifteen (15) days written notice to dispose of such Materials as it thinks fit and apply any proceeds towards such debt.

## **19 Termination**

**19.1** Either Party may at any time terminate the Contract by giving written notice to the other Party if the other Party commits any breach of these terms and conditions and (if capable of remedy) fails to remedy the breach within fifteen (15) days after being required by written notice to do so. Either Party may also at any time terminate the Contract by giving written notice to the other Party if the other Party goes into liquidation, if a receiver is appointed, if (in the case of an individual of firm) the other Party becomes bankrupt, makes a voluntary arrangement with his or its creditors or has a receiver or administrator appointed.

**19.2** Unless the Contract is terminated for cause in the conditions described in clause 19.1 above, each Party may terminate the Contract (ordinary termination) by giving a three (3) months written notice to the other Party if the VAS provided to the Customer include a fulfilment centre service. In such case, the Customer shall organize the removal of the Materials stored by the Asendia Company within fifteen (15) days from the date the termination is effective.

After that period, the Asendia Company may at its absolute discretion (a) send the remaining Materials to the Customer at the Customer's costs, or (b) sell, dispose or destroy the remaining Materials that will be deemed abandoned by the Customer, without prejudice to the Asendia Company's right to recharge any additional costs incurred by the Asendia Company, such as storage, transportation and destruction costs.

## **20 Subcontracting – process organization**

**20.1** The Asendia Company may sub-contract part or all of the provision of VAS under the Contract without however affecting its liability to the Customer.

**20.2** The Asendia Company may at its discretion, decide to process the Materials entrusted by the Customer in other premises than those where the Materials has been handed over by the Customer. The Asendia Company shall inform the Customer of such location upon request.

## **21 General**

**21.1** These terms and conditions constitute the entire agreement between the parties and supersede any previous contract or understanding or practice and may be varied only as set out herein. All other terms and conditions express or implied by statute or otherwise are excluded to the fullest extent permitted by law.

**21.2** Any invoice or other document which may be given by either Party under the Contract shall be deemed to have been duly served if delivered by hand to or sent by first class post or to the Asendia Company at its registered office or to the Customer at the address set out in the Contract.

**21.3** No failure or delay by either Party in exercising any of its rights under the Contract shall be deemed to be a waiver of such rights and no waiver by either Party of any breach of the Contract by the other Party shall be considered as a waiver of any subsequent breach of the same or any other provision.

**21.4** If any provision of these terms and conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these terms and conditions and the remainder of the provision in question shall not be affected.

## **22 Applicable law and place of jurisdiction**

The Contract between the Customer and the Asendia Company shall be ruled by English law. The sole place of jurisdiction for all disputes arising from or in any way connected with the contractual relationship between the Customer and the Asendia Company shall be the Asendia Company's place of registration.

## **23 Appendices**

Appendix 1 – Data Protection Agreement including Attachment A (Job details) and Attachment B (Technical and organisational data protection measures).

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