

TERMS AND CONDITIONS OF USE



06/12/2024 version

Welcome to KOA, the ACKOMAS software solution, which enables users to respond to issues of data registration, sharing and processing for the purposes of exchanges with partners or declarations with regulatory authorities.

ANY USE OF THE SOLUTION FOR ANY PURPOSE WHATSOEVER IMPLIES THE USER'S UNRESERVED ACCEPTANCE OF THESE TERMS AND CONDITIONS OF USE (CGU).

1. - PURPOSE

ACKOMAS is the publisher of the KOA software solution. Based on a SaaS ("Software as a Service") model, hosted on Microsoft Azure. ACKOMAS specializes in the design and development of software for industries subject to strict regulations. These include the medical device, pharmaceutical and wine & spirits industries, where the application of product identification and traceability systems is required from manufacture to use.

Ackomas provides manufacturers with essential support to facilitate the secure flow of data. Sharing and analyzing information on traceability and unit identification data at every stage of the chain (manufacturer, distributor, hospitals, hospital pharmacies, etc.) and **Product Information Management (PIM)** contribute actively to compliance with regulations, the implementation of alerts and the fight against device falsification.

(hereinafter referred to as the "Solution").

The present Terms and Conditions of Use entered into between ACKOMAS (a simplified joint stock company with capital of 17,533 euros, registered with the Amiens Trade and Companies Register under number 907 500 672, whose registered office is at 47 place Alphonse Fiquet 80000 Amiens) and the User are intended to govern the respective rights and obligations of the Parties in connection with the use of the Solution.

2. - DEFINITIONS

The terms mentioned below have the following meanings in these Terms and Conditions of Use:

- **"Customer"**: refers to the natural person or legal entity acting as a professional within the meaning of French legislation and case law, who has contracted with ACKOMAS to benefit from the Solution and enable its Users to use the various Services.
- **"Account"**: refers to the interface hosted on the Solution allowing access to the Services, in which all the Data provided by the User is grouped together. Access to the Account is via the User's Identifiers.
- **"General Conditions of Use"** or "GCU" or "Contract": refers to the present contractual conditions intended to govern the use of the Solution by the User.
- **"Special Conditions / General Conditions of Services"** or "CP/CGS": refers to the contract between ACKOMAS and the Customer governing access to the Solution and the provision of the Services offered.
- **"Data"**: refers to all information, anomalies, texts, risk mapping, assessments and their solutions, logos, trademarks, animations, drawings and models, photographs, hypertext links, and generally all elements integrated into the Solution by the User, including the results.
- **"Identifiers"**: refers to the User's e-mail address and password, required to access his/her Account on the Solution. The password is linked to the e-mail address of the Microsoft account.
- **"Parties"**: in the plural, refers to both ACKOMAS and the User. In the singular, refers to only one of the two Parties.
- **"Services"**: refers to all services offered by ACKOMAS via the Solution.
- **"Solution"**: refers to the KOA software solution published and operated by ACKOMAS and all its graphic, sound, visual, software, database and textual components. The Solution is software accessible in SaaS mode (Software as a Service, which designates a type of software accessible via an Internet browser), bringing together a set of functionalities intended for the Customer and its Users. The Solution is accessible remotely by the Customer and its Users, via a secure and confidential interface.

- **"Users"**: refers to any person who uses the Solution as part of their professional activities, in the name and on behalf of the Customer. Users may be :
- **Administrator"**: refers to the User designated by the Customer as having full access and modification rights to use the Solution. The Administrator is ACKOMAS' point of contact.
- **Referring Users"**: refers to any User designated by the Customer as having a "Manager" role.
- **Simple Users"**: refers to any User who has only a "Reader" role when using the Solution.
- **Partners"**: refers to third parties authorized by the Customer to use certain functionalities of the Solution for the Customer's benefit.

3. - ACCEPTANCE OF GENERAL CONDITIONS OF USE

By using the KOA Solution, you agree to abide by the terms of these Terms of Use. The User therefore undertakes to read these GTUs carefully and is invited to print them out, save them and keep a copy.

The User acknowledges having received from ACKOMAS all necessary information enabling him to assess the suitability of the Solution for his needs and to take all necessary precautions for its use.

4. - ACCESS CONDITIONS

4.1. PREREQUISITES

In order to use the Solution, the User must comply with the following prerequisites:

- Use the Solution in an environment that respects the prerequisites defined in the user manual].
- Implement the following security conditions: have or implement an Entra ID or Azure Active Directory and ensure that it is managed in compliance with .
- Authorize KOA to authenticate in the 's Entra ID (AAD) environment

The User is informed that proper use of the Solution may be affected by certain combinations of hardware, software or Internet access.

To limit the risk of incompatibility, Users are advised to update their browser and operating system.

By using the Solution, the User acknowledges that he/she has the necessary means and skills to use the Services.

It is specified that the equipment required to access and use the Solution is at the User's expense, as are any telecommunications charges incurred by its use. The same applies to other software required to use the Solution, such as, but not limited to, serialization, management or logistics software.

The User is hereby informed that in order to benefit from the Services, he/she must implement the instructions, recommendations and updates that will be communicated by ACKOMAS as the Solution evolves.

5. OBLIGATIONS OF THE PARTIES

5.1. OBLIGATIONS OF THE USER

When using the Solution, each User undertakes not to undermine public order, to comply with the laws and regulations in force and to respect the rights of third parties and the provisions of these GCU.

In particular, each User must :

- To behave in a loyal manner towards ACKOMAS and any third parties. In particular, to cooperate with ACKOMAS in all matters relating to the use of the Solution;
- Provide accurate and up-to-date information in connection with the use of the Solution, it being specified that ACKOMAS shall not be held liable in the event of errors or omissions by the User, in particular with regard to the import, input, creation, generation, printing or digitization of Data on the Solution;
- Use the Solution in accordance with its purpose as described in these GCU;
- Not to divert the purpose of the Solution to commit crimes, offences or contraventions punishable under the Penal Code or any other law;
- Respect the privacy of third parties and the confidentiality of exchanges;
- Not to seek to undermine the automated data processing systems implemented by ACKOMAS through the Solution, in particular through practices such as scrapping, in accordance with Articles 323-1 et seq. of the French Penal Code;
- Respect the intellectual property rights of ACKOMAS relating to the components of the Solution and in particular not make any substantial or repeated extraction of the source code or object code of the Solution;

- Do not import, enter, create or generate Data containing or likely to contain a virus or a program likely to destroy the Solution in whole or in part;
- Do not import, enter, create or generate any Data that would diminish, disorganize, slow down or interrupt the normal operation of the Solution
- Strictly comply with the RGPD, the French Data Protection Act no. 78-17 of January 6, 1978, as amended, and the recommendations of the CNIL when using the Solution ;
- Do not attempt to divert Users to another site or competing service.

The User shall also :

- To take note of the notifications sent via its Account ;
- Make regular back-ups of your Data;
- If applicable, to follow any training program or session recommended by ACKOMAS before using the Solution provided.

Users are reminded that they use the Solution under their sole and exclusive responsibility.

In particular, the User is solely responsible for the Data imported, entered, created, generated, printed or digitized on the Solution, as well as its transmission to third parties.

5.2. OBLIGATIONS OF ACKOMAS

The general obligation of ACKOMAS is an obligation of means. ACKOMAS is under no obligation of result or reinforced means of any kind.

ACKOMAS undertakes to make every effort to ensure continuity of access and use of the Solution 7 days a week and 24 hours a day.

However, ACKOMAS draws Users' attention to the fact that current Internet communication protocols do not guarantee the certainty and continuity of the transmission of electronic exchanges (messages, documents, identity of sender or recipient).

Thus, the User's access to his Account may be suspended in the event of :

- Maintenance of all or part of the Solution or associated Services.
- Suspension of the Customer's Account in accordance with the Special Conditions / General Conditions of Services
- Unavailability due to circumstances beyond the control of ACKOMAS.

6. RESPONSIBILITY

6.1. GENERAL PROVISIONS

The User is solely responsible for its use of the Data entered, imported, created, generated, printed or digitized on the Solution, in particular as regards its availability, integrity or accuracy.

ACKOMAS shall not be held liable for any damage caused by the use of all or part of the Solution, Services or Data.

In particular, the User is solely liable for any damage resulting in whole or in part :

- Misuse of the Account or the Solution, including negligence;
- An intrusion or fraudulent use or any use of his Account or the Solution by a third party using his Identifiers;
- The equipment it uses to access the Solution.

ACKOMAS also declines any form of liability in the event of :

- Abnormal use or illicit exploitation of the Solution;
- Use of the Solution that does not comply with and is not provided for in these GCU;
- In the event of delay or non-performance of its obligations, when the cause of the delay or non-performance is linked to a case of force majeure as defined in article 8 of these GCU;
- In the event of an external cause not attributable to ACKOMAS ;
- Temporary inability to access the Solution due to technical maintenance operations or interruptions beyond ACKOMAS's control;
- Computer attacks on the User's system, including viruses, denial-of-service attacks, Trojan horses, etc. ;
- Incomplete, out-of-date or erroneous data entered, imported, created, generated, printed or scanned by the User on the Solution;
- Inadequacy of the Solution with the hardware and other software used by the User, whose compatibility he alone is responsible for assessing;
- Misappropriation, damage, capture, loss or misuse of User Data during the transfer of said Data to or from the Solution via the telecommunications networks used by the User.

It is expressly agreed between the Parties that the provisions of the present clause shall continue to apply even in the event of termination of the present contract by a final court decision.

6.2. USER DATA HOSTING STATUS

Users acknowledge that ACKOMAS acts as a host in the sense of article 6 I 2° of the French law of June 21, 2004 on confidence in the digital economy (LCEN) concerning Data.

In this respect, ACKOMAS reserves the right to remove any content that has been brought to its attention and that it considers to be manifestly illicit within the meaning of Article 6 I 2° of the LCEN.

Notification of manifestly illicit content by a User or any other third party must be made by e-mail to security@ackomas.com or by registered post with acknowledgement of receipt to 47, place Alphonse Fiquet 80000 Amiens.

In accordance with article 6 I 5° of the LCEN, the notification, to be valid, must include the following elements:

- If the notifier is a natural person: surname, first name, e-mail address; if the notifier is a legal entity: corporate form, company name, e-mail address; if the notifier is an administrative authority: name and e-mail address. These conditions are deemed to have been met if the notifier is a registered user of the online public communication service, is connected at the time the notification is made, and the operator has collected the information needed to identify the notifier;
- A description of the disputed content, its precise location and, where applicable, the e-mail address(es) to which it can be accessed. These conditions are deemed to have been met if the online public communication service enables this notification to be made by a technical device directly accessible from the disputed content;
- The legal grounds on which the disputed content should be removed or made inaccessible. This condition is deemed to have been met if the online public communication service allows notification by means of a technical device that indicates the category of infringement to which the disputed content may be attached;
- A copy of any correspondence sent to the author or publisher of the litigious information or activities requesting their interruption, withdrawal or modification, or a justification that the author or publisher could not be contacted, except in the case of certain offences covered by article 6 I 5° of the LCEN.

7. FORCE MAJEURE

ACKOMAS may not be held liable if the non-performance or delay in the performance of any of its obligations described in these GCU results from a case of force majeure.

Force majeure in contractual matters occurs when an event beyond the debtor's control, which could not reasonably have been foreseen when the contract was concluded and whose effects cannot be avoided by appropriate measures, prevents the debtor from fulfilling his obligation.

If the impediment is temporary, performance of the obligation is suspended unless the resulting delay justifies termination of the contract. If the impediment is definitive, the contract is terminated ipso jure and the parties are released from their obligations under the conditions set out in articles 1351 and 1351-1 of the French Civil Code.

In the event of one of the aforementioned events, ACKOMAS will endeavour to inform the User as soon as possible.

8. INTELLECTUAL PROPERTY

8.1. ACKOMAS INTELLECTUAL PROPERTY RIGHTS

The User acknowledges that the Solution and all its components are the exclusive property of ACKOMAS and, where applicable, its licensors.

In particular, with the exception of User and Customer Data, trademarks, logos, slogans, graphics, photographs, animations, videos, software, solutions, databases and texts created, published or registered by ACKOMAS are the exclusive property of ACKOMAS and may not be reproduced, used or represented without prior express authorization, under penalty of legal action.

In particular, ACKOMAS expressly prohibits:

- The extraction, by permanent or temporary transfer, of all or a qualitatively or quantitatively substantial part of the content of the Solution, including in particular the source code and the object code of the Solution, by any means and in any form whatsoever, provided that the author of this extraction intervenes outside of a license granted by ACKOMAS ;
- The reuse or reproduction, by any process whatsoever, of all or a qualitatively or quantitatively substantial part of the Solution, in any form whatsoever, provided that the author of such reuse does not hold a license granted by ACKOMAS;

- Modifying, reverse engineering, disassembling, decompiling or attempting to modify all or part of the Solution or associated Services;
- The creation of works derived from all or part of the Solution or associated Services.

Acceptance of these GTUs constitutes recognition by Users of ACKOMAS's intellectual property rights and an undertaking to respect them.

8.2. LICENSE TO USE

ACKOMAS grants the User, who accepts, a personal, non-exclusive and non-transferable license, for the entire duration of the Contract and for the entire world, authorizing the User to access and use the Solution in accordance with these GCU.

The right of use granted means the right to represent and implement the Solution in accordance with its intended purpose, in SaaS mode, via a connection to the Internet network. The User may under no circumstances make the Solution available to a third party, and is strictly forbidden to make any other use of the Solution, in particular, but without this list being exhaustive, any adaptation, modification, translation, arrangement, reverse engineering, distribution or decompilation of the Solution.

This license to use the Solution is granted for the sole and exclusive purpose of enabling the User to use said Solution, to the exclusion of any other purpose. No third party may use or install the copy of the Solution.

Any other use of the Solution and its components is excluded from the scope of this license and may not be made without the express prior authorization of ACKOMAS.

Any use not in conformity with the license is liable to prosecution.

8.3. USER'S INTELLECTUAL PROPERTY RIGHTS

Data entered, imported, created, generated, printed or digitized by the User via the Solution belong to the User and the Customer

The User warrants that he has the right to make a representation of all Data.

As part of the performance of these GCU, the User authorizes ACKOMAS to use, reproduce, represent, adapt and, where applicable, make available to third parties this Data exclusively within the framework of the Services. This license is free of charge, non-exclusive and shall be valid worldwide for the duration of this Agreement.

9. PERSONAL DATA

Each Party guarantees that the other Party will comply with the legal and regulatory obligations incumbent upon it in respect of its role in protecting Personal Data.

9.1. ABOUT ACKOMAS TREATMENTS

As part of the operation of the Solution, ACKOMAS may collect personal data from Users.

This personal data is required to open Accounts, provide Services and manage Users.

The User's personal data will be kept for the duration of this Contract and for three (3) years following the end of this Contract.

In accordance with the French Data Protection Act, the User concerned has the right to access, rectify, limit, port, delete and oppose the use of his or her personal data, the right to withdraw consent at any time, and the right to formulate directives concerning the management of his or her post-mortem data. These rights may be exercised on simple request, by e-mail to security@ackomas.com or by post to :
ACKOMAS - 47 place Alphonse Fiquet 80000 Amiens

The User also has the right to lodge a complaint with the CNIL.

The User is invited to consult the ACKOMAS Privacy Policy accessible at the following address www.ackomas.com, which will provide further information on the protection of personal data, the processing carried out by ACKOMAS and the procedures for exercising rights.

9.2. CONCERNING PROCESSING CARRIED OUT BY THE USER

In the event of processing of personal data implemented by the User on the Solution, ACKOMAS will have the status of processor within the meaning of Article 28 of the RGPD.

It is therefore expressly agreed between the parties that ACKOMAS :

- will not carry out any data processing operations unless instructed to do so by the User, and always under the User's full and exclusive responsibility;
- Will do everything in its power to ensure the security and confidentiality of the personal data entrusted to it.

10. MODIFICATION

The GCU may be modified and updated by ACKOMAS at any time, in particular to adapt to changes in legislation or regulations.

The applicable GCU are those available on the KOA platform at the time the User accesses the Solution and browses it.

11. GENERAL PROVISIONS

The Parties hereby declare that these GCU may in no way be considered as an act constituting a legal person or entity of any kind, and that any form of "affectio societatis" is formally excluded from their relationship.

The fact that one of the Parties has not required the application of any clause of these GCU, whether permanently or temporarily, shall in no case be considered as a waiver of said clause.

In the event of any difficulty of interpretation between any of the headings appearing at the top of the clauses and any of the clauses, the headings will be declared non-existent.

If any provision of these GCU is found to be invalid by any applicable law, regulation or court decision, it shall be deemed unwritten, but shall not affect the validity of the remaining provisions, which shall remain in full force and effect.

Such modification or decision in no way authorizes Users to disregard the present Terms of Use.

12. JURISDICTION AND APPLICABLE LAW

These GCU are governed by French law.

In the event of any dispute arising between the Parties concerning the interpretation, performance or termination of the present contract, the Parties shall endeavor to settle such dispute amicably.

IN THE ABSENCE OF AN AMICABLE AGREEMENT WITHIN ONE (1) MONTH FROM THE DATE OF REFERRAL BY ONE OF THE PARTIES BY REGISTERED LETTER WITH ACKNOWLEDGEMENT OF RECEIPT, THE DISPUTE WILL BE SUBMITTED TO THE COURTS WITHIN THE JURISDICTION OF THE COURT OF APPEAL OF AMIENS, TO WHICH JURISDICTION IS EXPRESSLY ASSIGNED. THIS ASSIGNMENT OF JURISDICTION ALSO APPLIES IN THE EVENT OF AN APPEAL.