

**GENERAL RULES AND CONDITIONS FOR GENERATION AND ISSUING OF
UNIQUE IDENTIFIERS FOR TRACEABILITY SYSTEM OF TOBACCO
PRODUCTS IN THE REPUBLIC OF CROATIA**

April 2019

Article 1 Basic provisions

Agencija za komercijalnu djelatnost d.o.o. Zagreb, Savska cesta 31, PIN (OIB): 58843087891 (hereinafter: AKD or ID Issuer), pursuant to the *Ordinance on the implementation of technical aspects of the establishment and implementation of traceability systems for tobacco products* (Official Gazette 68/2018, 110/2018), is the Issuer of unique identifiers for the traceability system of tobacco products of the Republic of Croatia, all in accordance with the *Commission Implementing Regulation (EU) 2018/574 on technical standards for the establishment and operation of a traceability system for tobacco products* (hereinafter: “*the Implementing Regulation*”).

The General Rules for generation and issuing of unique identifiers in the Republic of Croatia (hereinafter: the General Terms and Conditions) regulate rights and obligations in connection with generation and issuing of unique identifiers for the traceability system of tobacco products of the Republic of Croatia (hereinafter: the Unique Identifiers), as well as rights and obligations in connection with issuing of identification codes, between the AKD as the issuer of the unique identifiers and the Economic Operators as users of the services.

AKD renders the service of generation and issuing of unique identifiers for the traceability system of tobacco products of the Republic of Croatia directly.

In its capacity as the Issuer of the unique identifiers, AKD holds the unique identification code which is composed of alphanumeric characters and which complies with the International Organization for Standardisation/International Electrotechnical Commission standard (“ISO/IEC”) 15459-2:2015.

AKD shall act in the capacity of the Issuer of unique identifiers until recalled by the Ministry of Finance or until termination of validity of the Ordinance from paragraph 1 of this Article.

Article 2

Economic operators are legal and natural persons involved in the trade of tobacco products in the territory of the Republic of Croatia (manufacturers, importers, distributors, wholesalers and retail outlets).

Article 3

The General Terms and Conditions shall be binding and shall relate to all business relations created in connection with generation and issuing of unique identifiers and codes between AKD as the ID Issuer and the Economic Operators.

The application of the General Terms and Conditions shall take precedence over the provisions of legislations regulating obligations in the Republic of Croatia, unless the provisions of such legislations are not of compulsory nature.

The provision of the services of generation and issuing of unique identifiers for the traceability system of tobacco products of the Republic of Croatia shall be subject exclusively to these General Terms and Conditions while other general terms and conditions of AKD relating to other types of services shall not apply.

The availability of the General Terms and Conditions, as well as amendments and modifications thereof, shall be ensured by its display and publication on the Internet site tpd.akd.hr.

Article 4

The authority in charge of supervision of the ID Issuer shall be the Ministry of Finance of the Republic of Croatia.

Article 5

Definitions

For the purposes of these General Terms and Conditions the following definitions shall apply:

1. “unique identifier” means the alphanumeric code ordered by manufacturers, importers, distributors and wholesalers from the ID Issuer and which they are obligated to place on unit pack or an aggregated packaging of tobacco products. AKD charges the issued unique identifiers to the Economic Operators.
2. “unique identification code” means the alphanumeric code assigned to manufacturers, importers, distributors, wholesalers and end retail outlets for their Economic Operators, facilities and machines. An Economic Operator makes only one request for the unique identification code and as a rule it does not change.
3. “Economic Operator” means any natural or legal person who is involved in the production, distribution or trade of tobacco products;
4. “first retail outlet” means the facility where tobacco products are placed on the market for the first time, including vending machines used for the sale of tobacco product;
5. “export” means shipment from the European Union to a third country;
6. “aggregated packaging” means any packaging containing more than one unit packet of tobacco products;
7. “facility” means any location, building or vending machine where tobacco products are manufactured, stored or placed on the market;

8. “anti-tampering device” means the device allowing for the recording of the verification process following the application of each unit level unique identifier by means of a video or a log file, which once recorded cannot be further altered by an Economic Operator;
9. “offline flat-files” means the electronic files established and maintained by each ID issuer, which contain data in a plain text format allowing for the extraction of information encoded in the unique identifiers (excluding the time stamp) used at the unit packet and aggregated packaging levels without accessing the repositories system;
10. “registry” means the record of all the identifier codes generated for Economic Operators, operators of first retail outlets, facilities and machines, along with the corresponding information; established and maintained by each ID issuer;
11. “data carrier” means a carrier representing data in a form readable with the aid of a device;
12. “machine” means the equipment used for the manufacture of tobacco products, which is integral to the manufacturing process;
13. “time stamp” means the date and time of occurrence of a particular event recorded in UTC (Coordinated Universal Time) time in a prescribed format;
14. “primary repository” means a repository storing traceability data relating exclusively to the products of a given manufacturer or importer;
15. “secondary repository” means a repository containing a copy of all traceability data stored in the primary repositories;
16. “router” means a device established within the secondary repository that transfers data between different components of the repositories system;
17. “repositories system” means the system consisting of the primary repositories, the secondary repository and the router;
18. “common data dictionary” means a set of information describing the contents, format, and structure of a database and the relationship between its elements, used to control access to and manipulation of the databases common for all primary and secondary repositories;
19. “working day” means every working day in the Republic of Croatia in accordance with the Holidays, Memorial Days and Non-Working Days in the Republic of Croatia (Official Gazette 33/96, 96/01, 13/02, 136/02, 112/05, 59/06, 55/08, 74/11, 130/1);
20. “pricelist” means the pricelist of services determined by AKD as the ID Issuer;
21. “Request” means a written electronic order sent by an Economic Operator to AKD as the ID Issuer for issuance of unique identifiers;
22. “Service” means the service of generation and issuing of unique identifiers which AKD provides in accordance with these General Terms and Conditions, on the basis of the Request by an Economic Operator;
23. “The Act on Implementation of General Data Protection Regulation” (Official Gazette 42/18) shall be applied to the corresponding collected data in accordance with the statutory provisions on the protection of personal data.

Article 6

Registration on the traceability system

The Economic Operator which intends to send Requests to AKD is obligated to register at the web portal idissuer.akd.hr (hereinafter: Portal) by filling out the registration form and acceptance of these General Terms and Conditions.

The Economic Operator is obligated to insert all required information truly and accurately, and in case of change of information it is obligated to inform AKD without delay.

On occasion of filing of the Request for registration the following information must be provided:

Information on the Economic Operator in the manner as regulated in the Chapter II, section 1 and 2 of the Implementing Regulation.

Information on the Applicant:

- Name
- Surname
- Username
- Email
- Phone.

Upon properly completed registration, the Economic Operator shall receive, to the email address provided, the confirmation of the registration and the unique Username. The Economic Operator shall receive the Password in the SMS message to the phone number indicated in the Request. By using the Username and the Password the Economic Operator shall acquire the access to the Portal. The Economic Operator is obliged to keep safe the Username and Password. It is responsible for every abuse by third parties, as well as for every material and immaterial damage that occurred due to abuse of the Username and Password by a third party.

Should it be established after the registration that the provided information is inaccurate (such as providing inaccurate information on legal persons and their personal or business information), AKD shall request the change of registered information before issuing of the identifier.

Upon termination of rendering of the Services, all personal information shall be deleted, except information for which, pursuant to the European Union law or national law, there is a duty to store personal data.

On the basis of the Username and Password the Economic Operator shall be able to access to the Portal and to send the Requests for issuance of the unique identifiers to AKD.

The intention of AKD is not to process personal information of the Economic Operator, however, process of certain information about the Economic Operator is required to the extent as necessary in order to realize the contract or provide the service.

Article 7

Request for issuing of unique identifiers

Depending on the type of the activity performed by the Economic Operator in the trade of tobacco products, AKD shall provide the following services:

For manufacturers and importers:

- the service of issuing of identification codes for Economic Operators, facilities and machines
- the service of issuing of identification codes for unit packets and aggregate packaging of tobacco products

For distributors and wholesalers:

- the service of issuing of identification codes for Economic Operators and facilities
- the service of issuing of identification codes for aggregate packaging level

For retail outlets:

- the service of issuing of identification codes for Economic Operators and facilities.

Article 8

Request and issuing of unit level unique identifiers

Manufacturers and importers shall send a Request to the competent ID issuer for unit level unique identifiers in accordance with Annex II, Chapter II, Section 2, Point 2.1 of the Implementing Regulation.

The ID issuer shall, within two working days from the receipt of the Request and in the order indicated: generate the codes, transmit the codes along with the additional information via the router to the primary repository of the requesting manufacturer or importer, electronically transmit the codes to the requesting manufacturer or importer.

Within one working day, manufacturers and importers may cancel a request which was sent pursuant to paragraph 1 of this Article by means of a recall message as defined and in form set out in Point 5 of Section 5 of Chapter II of Annex II of the Implementing Regulation.

Article 9

Request and issuing of aggregated level unique identifiers generated by ID issuers

Economic operators requesting aggregated level unique identifiers on the basis of a Request to the competent ID issuer shall introduce such requests in electronic form, in accordance with Point 2.2, Section 2, Chapter II of Annex II of the Implementing Regulation, in the form as specified therein.

For manufacturers and importers, the ID issuer shall, within two working days from the receipt of the Request and in the order indicated: generate the code referred to in Article 11, paragraph 2 of the Implementing Regulation, transmit the codes along with the information referred to in paragraph 2 of this Article via the router to the primary repository of the requesting manufacturer or importer, as established under Article 26 of the Implementing Regulation and transmit the codes electronically to the requesting manufacturer or importer.

For economic operators other than manufacturers and importers, the ID issuer shall, within two working days from the receipt of the request and in the order indicated: generate the code referred to in Article 11, paragraph 2 of the Implementing Regulation, transmit the codes along with the information referred to in paragraph 2 of this Article via the router to the secondary repository, as established under Article 26 of the Implementing Regulation and transmit the codes electronically to the requesting Economic Operator.

Within one working day, the Economic Operators may cancel a request which was sent pursuant to paragraph 1 of this Article by means of a recall message as defined and, in the format, as set out in point 5 of Section 5 of Chapter II of Annex II of the Implementing Regulation, in the format indicated therein.

Aggregated level unique identifiers issued by competent ID issuers shall not be reused.

Article 10

Request for an Economic Operator identifier code

Economic operators shall apply for an economic operator identifier code from the ID issuer.

Economic Operators introducing such a request shall provide the information listed in point 1.1 of Section 1 of Chapter II of Annex II of the Implementing Regulation, in the format indicated therein.

For operators of first retail outlets the obligation to apply for an Economic Operator identifier code may also be discharged by any other registered Economic Operator. Such registration by the third party shall be subject to the consent of the operator of the first retail outlet. The third party shall inform the operator of the first retail outlet of the full details of the registration, including the allocated Economic Operator identifier code.

Economic operators and operators of first retail outlets shall inform the ID issuer of any Economic Operator identifier codes allocated to them by other ID issuers. If not available at the time of registration, Economic Operators shall provide that information at the latest within two working days from the receipt of the Economic Operator identifier codes allocated by another ID issuer.

Any modification of the information submitted in the initial application form and any cessation of the operator activities shall be notified by the relevant operator to the ID issuer without delay, in the formats indicated in points 1.2. and 1.3. of Section 1 of Chapter II of Annex II of the Implementing Regulation.

Article 11

Issuing and registration of Economic Operator identifier codes

Upon receipt of a request for issuing and registration of Economic Operator identifier codes the ID issuer shall generate an Economic Operator identifier code, which consists of the following data elements, to be placed in the following order: in the first position, the alphanumeric characters that constitute the ID issuer identification code assigned and in the second position, an alphanumeric sequence which is unique within the code pool of the ID issuer.

The ID issuer shall transmit within two working days the code to the requesting operator.

All the information submitted to the ID issuer and the corresponding identifier codes, shall form part of a registry to be established, managed and kept up to date by the competent ID issuer.

In duly justified cases, the Ministry of Finance of the Republic of Croatia, as the competent authority, may require the ID issuer to deactivate an Economic Operator identifier code. In such cases the Ministry of Finance of the Republic of Croatia, as the competent authority, shall inform the Economic Operator of the deactivation and the grounds for such deactivation. The deactivation of an Economic Operator identifier code shall lead to the automatic deactivation of related facility identifier codes and machine identifier codes.

Article 12

Request for a facility identifier code

All facilities from manufacturing to the first retail outlet shall be identified by a code ('facility identifier code') generated by the ID issuer competent for the territory in which the facility is located.

Economic Operators shall apply for a facility identifier code providing to the ID issuer the information listed in point 1.4. of Section 1 of Chapter II of Annex II of the Implementing Regulation, in the format indicated therein.

This obligation may also be discharged by any other registered Economic Operator, who may act on behalf of the operator of the first retail outlet. The registration by the third party shall be subject to the consent of the operator of the first retail outlet. The third party shall inform the operator of the first retail outlet about the full details of the registration, including the allocated facility identifier code.

The obligation to apply for a facility identifier code related to manufacturing facilities located outside the Union shall lie with the importer established inside the Union. The importer shall apply to any ID issuer appointed by a Member State on whose market they place their products. The registration by the importer shall be subject to the consent of the entity responsible for the third country manufacturing facility. The importer shall inform the Economic Operator responsible for the third country manufacturing facility about the full details of registration, including the allocated facility identifier code.

Any modification of the information submitted in the initial application form and any facility closure shall be notified by the Economic Operator to the ID issuer without delay, in the formats indicated in points 1.5 and 1.6 of Section 1 of Chapter II of Annex II of the Implementing Regulation.

Article 13

Issuing and registration of facility identifier codes

Upon receipt of a request pursuant to Article 12 of these General Terms and Conditions, the ID issuer shall generate a facility identifier code, which consists of the following data elements, to be placed in the following order: in the first position, the alphanumeric characters that constitute the ID issuer identification code assigned and in the second position, an alphanumeric sequence which is unique within the code pool of the ID issuer.

The ID issuer shall transmit within two working days the code to the requesting operator.

All the information submitted to the ID issuer in accordance with Article 12, paragraph 2 of these General Terms and Conditions and the corresponding identifier codes, shall form part of a registry to be established, managed and kept up to date by AKD.

In duly justified cases, the competent authority of the Ministry of Finance of the Republic of Croatia may require the ID issuer to deactivate a facility identifier code. In such cases the Ministry of Finance of the Republic of Croatia shall inform the Economic Operator of the deactivation and the grounds for such deactivation. The deactivation of a facility identifier code shall lead to the automatic deactivation of related machine identifier codes.

Article 14

Request for a machine identifier code

Each machine shall be identified by a code ('machine identifier code') generated by the ID issuer competent for the territory in which the machine is located.

Manufacturers and importers shall apply for a machine identifier code by providing to the ID issuer the information listed in point 1.7. of Section 1 of Chapter II of Annex II of the Implementing Regulation, in the format indicated therein.

The obligation to apply for a machine identifier code related to machines located in manufacturing facilities outside the Union shall lie with the importer established inside the Union. The importer shall apply to any ID issuer appointed by a Member State on whose market they place their products. The registration by the importer shall be subject to the consent of the entity responsible for the third country manufacturing facility. The importer shall inform the Economic Operator responsible for the third country manufacturing facility as to the full details of the registration, including the allocated machine identifier code.

Any modification of the information submitted in the initial application form and any decommissioning of the registered machines shall be notified by the manufacturer to the ID issuer without delay, in the formats indicated in points 1.8 and 1.9 of Section 1 of Chapter II of Annex II of the Implementing Regulation.

Article 15

Issuing and registration of machine identifier codes

Upon receipt of a request pursuant to Article 14 of these General Terms and Conditions, the ID issuer shall generate a machine identifier code, which consists of the following data elements, to be placed in the following order: in the first position, the alphanumeric characters that constitute the ID issuer identification code assigned and in the second position, an alphanumeric sequence which is unique within the code pool of the ID issuer.

The ID issuer shall transmit within two working days the code to the requesting operator.

All the information submitted to the ID issuer in accordance with Article 14, paragraph 2 of these General Terms and Conditions and the corresponding identifier codes, shall form part of a registry to be established, managed and kept up to date by the competent ID issuer.

In duly justified cases, the competent authority of the Ministry of Finance of the Republic of Croatia may require the ID issuer to deactivate a machine identifier code. In such cases the

Ministry of Finance of the Republic of Croatia shall inform the manufacturers and importers of the deactivation and the grounds for such deactivation.

Article 16

Price of the Service

The ID issuer shall confirm the receipt of the proper electronically sent Request.

The unique identifiers issued constitute the basis for charging of the service.

The invoicing shall be performed on the last day of the month for the unique identifiers delivered in that monthly period. Payment shall be made in the currency in which the invoice was issued. The invoices shall be sent to the email of the Economic Operator registered in the process of the registration. A printed invoice may be delivered to the address of the Economic Operator upon a specific request of such Economic Operator.

The invoices shall be accompanied by a specification of services.

The invoice becomes due within 15 days of the issuance of the invoice.

The prices are expressed exclusive of VAT.

The payment shall be effected to the account number IBAN HR4723400091100035352 with the reference to the number stated on the invoice.

Article 17

Conditions of payment

AKD charges a fee to the Economic Operators for the services of generation and issuing of unique identifiers.

The contract on generation and issuing of unique identifiers is concluded at the moment of the receipt of the Request, i.e. the order.

The price for the services rendered is specified in the pricelist and the valid pricelist is the pricelist as in force on the day of making of the order for the service. AKD may amend the Pricelist and in the case of such amendments the valid Pricelist is the one published on the website tpd.akd.hr.

All prices stated are in the amounts exclusive of VAT and other potential taxes or fees. The amount of VAT shall be determined in accordance with the law and other applicable tax charges and shall be specifically expressed in the invoice.

The Economic Operator is obliged to make a timely payment of the Service to AKD.

If the Economic Operator is late with the payment of the invoice, AKD shall charge a statutory default interest.

All payments shall be made in the currency in which the invoice was issued.

If payment is made by bank transfer (wire or internet banking), the following payment information shall be used:

Payer: _____

Recipient: AKD d.o.o., Savska cesta 31, Zagreb, Hrvatska

Privredna banka Zagreb d.d.

IBAN: HR4723400091100035352

Swift code (BIC): PBZGHR2X

Payment model and the reference number are located on the invoice.

Article 18

Rights and obligations of the Contracting Parties

AKD is obliged to render the services with due diligence of a prudent businessman.

The ID issuer is responsible only for generating and issuing of the unique identifiers and the identifier codes; all other information the Economic Operators receive from the Issuer are of informative nature and the Economic Operators should not base their decisions upon such information.

The access to the unique identifiers generated and issued is protected by the Username and the Password, therefore, the Economic Operator – Applicant has the exclusive right to access the unique identifiers generated and issued. The Economic Operator is obliged to protect the access to the Username and the Password from any abuse. The Economic Operator shall be liable to the unique identifiers Issuer for damages due to the use of their Username and Password by a third party.

AKD shall not perform the Service in case of extraordinary circumstances (force majeure) for which it is not liable and in the event of Article 11, paragraph 4 of these General Terms and Conditions and shall inform thereupon the Economic Operators.

All communication between AKD and the Economic Operator shall be made in the Croatian or English language.

Article 19

Support

If the Applicant did not receive the electronic confirmation of the receipt of the order it is obliged to contact AKD by email to helpdesk-tpd@akd.hr or by contact form on tpd.akd.hr Monday through Friday from 08:00 to 16:00.

Article 20

Validity and deactivation of unique identifiers

Unique identifiers generated may be used to mark unit packets or aggregated packaging within a maximum period of six months from the date of receipt of the unique identifiers by the Economic Operator. After this time period unique identifiers shall become invalid and Economic Operators shall ensure that they are not used to mark unit packets or aggregated packaging.

Article 21

Protection of personal information

AKD shall protect personal information about the Economic Operators in the way to collect only necessary, basic information on the users required for performance of mutual obligations arising from the Implementing Regulation and these General Terms and Conditions. The information the Economic Operators provide in the process of registration from Article 6 of these General Terms and Conditions are necessary requirement for access to the Service and realization of requests from the Implementing Regulation. All information on the Economic Operators shall be strictly kept and shall be made available only to the employees who require such information for due performance of their duties.

AKD shall implement appropriate technical and organisational measures to protect the information from accidental or unlawful destruction, loss, unauthorised disclosure of, or access to, personal data on the Economic Operators, in accordance with Article 32 of the GDPR.

The collected data shall be given only to the processors providing sufficient guarantees to implement technical and organisational measures in the way to ensure that the processing is made in accordance with the requirements of the Directive and that it protects the rights of the data subjects.

Article 22

Filing of complaints

If an Economic Operator deems that in its business relationship with AKD his rights have been violated or that the issued invoice does not correspond to the Services ordered, it is obliged within 8 days after becoming aware of the violation or from the moment it could and should have become aware of the violation without delay to file a written complaint with AKD to its business address or via electronic mail to LegalHR-TPD@akd.hr indicating that it is a case of complaint. The complaint shall be resolved by the employees of AKD authorised to resolve complaints.

The complaint must contain a detailed description of the violation and the evidence on which the allegations are based. In case of an incomplete complaint, AKD may request the Economic Operator to amend the complaint within the period of 8 days. If the Economic Operator fails to do so within 8 days from being requested to amend the complaint, AKD shall deem that the User withdrew from the complaint. AKD shall not be liable for possible damages caused by delay of the Economic Operator in filing of the complaint or subsequent amendments.

AKD shall inform the Economic Operator on the merits of the complaint and the measures and activities undertaken in writing within 15 days from the receipt of the complaint.

Any dispute between the Economic Operator regarding the quality or quantity of goods or services rendered shall not delay the financial obligation of the Economic Operator towards the AKD.

An error by AKD shall mean an error in which rendering of the service is not possible or cannot be rendered in the guaranteed period. AKD guarantees the availability of the service at the level of 98%. An error on the side of AKD and consequently the liability of AKD shall not exist if the Economic Operator could not access the traceability system due to unavailability of the internet or any other reason not falling under responsibility of AKD.

Outside the guaranteed period of availability, the unique identifiers Issuer may perform periodic system maintenances during which the system shall not be available. In that case, the Issuer shall inform the Economic Operators on the planned period of unavailability of the system due to maintenance at least 8 (eight) days in advance via its internet site.

Article 23

Limitation of liability of AKD

AKD shall be liable exclusively for generating and issuing of unique identifiers. AKD shall not be liable for accuracy of information provided to it by the Economic Operator in the Request.

Information provided on the internet site of the Issuer are of informative nature only and do not present a basis for decision making. AKD shall not be liable for damages to Economic Operators or third parties which they suffered by use of the internet site tpd.akd.hr, including loss profit or loss or any data.

AKD shall be liable for damages occurred to the Economic Operator due to actions of AKD made contrary to the provisions of these General Terms and Conditions, exclusively up to the amount of the highest fee under the Pricelist for the Service in connection with which the damage occurred.

Article 24

Common provisions

All notifications and other acts, including legal acts to be made in writing according to the Contract or an appropriate legal regulation, shall be communicated to the other Contracting Party by personal delivery or by registered mail to the last known address of the Contracting Party. The Contracting Parties agree that the notice shall be deemed delivered even if the recipient refuses to accept the mail on the day he refused to accept the mail or in case the mail was returned to the sender for any reason of failed delivery whatsoever from the day the mail was returned to the sender.

Article 25

Final provisions

AKD reserves the right to amend and modify the General Terms and Conditions and shall notify such amendments and modifications to the Economic Operators via the web site tpd.akd.hr, notifications in the Traceability System, and shall specify the date on such changes shall become effective.

The Contracting Parties undertake not to disclose any information they acquired during their cooperation to any third party. AKD undertakes that AKD and its authorised persons shall, in accordance with the Personal Data Protection Act, keep confidentiality of the personal information of the Economic Operator they acquired in performance of their duties and to not use such information for personal use or share them with third parties without permission of these persons. The provisions of this paragraph do not relate to the obligations arising from relevant legal provisions and/or decisions of competent authorities.

All relations not regulated by these General Terms and Conditions shall be governed by the Obligations Act accordingly.

The Contracting Parties undertake to resolve all possible disputes amicably. In case of a dispute, the parties stipulate the jurisdiction of the court having subject matter jurisdiction in Zagreb. The applicable law shall be the law of the Republic of Croatia.

In case any provision of these General Terms and Conditions becomes invalid, inefficient or unenforceable, either partially or as whole, such invalidity shall not affect the validity and enforceability of other provisions. Invalid, inefficient and unenforceable provisions shall be replaced by application of the provisions of the appropriate legal regulations.

For protection and improvement of operations, AKD reserved the right to amend these General Terms and Conditions.

These General Terms and Conditions enter into force on 23rd April 2019.