

# GENERAL TERMS AND CONDITIONS OF USE

## "PROFESSIONALS" INTERFACE

### IOMET 2015

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## GENERAL TERMS AND CONDITIONS OF USE

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## 1) Purpose of the general terms and conditions of use

These General Terms and Conditions of Use (hereafter "T&Cs") are governed by French law and set out the terms of use of the website <https://www.iomet.fr> (hereafter the "Service" ), of its professional section <https://www.pro-iomet.fr> and of the associated mobile and tablet applications (hereafter the "Applications") by health professionals, osteopaths and naturopaths (hereafter the "User"). The website iomet.fr, its professionals section and associated mobile and tablet applications are hereafter referred to as the "Services".

The Services are designed for health professionals, namely:

- Medical professionals: doctors, midwives and odontologists in accordance with Articles L. 4111-1 to L. 4163-10 of the CSP (Code de la Santé Publique, French public health code).
- Pharmacy professionals: pharmacists and pharmacy and hospital pharmacy assistants in accordance with Articles L. 4211-1 to L. 4244-2 of the CSP.
- Medical auxiliary professionals (nurses, masseur-physiotherapists, podiatrist, occupational therapists, psychomotor specialists, speech therapists, orthoptists, electroradiology specialists, medical laboratory technicians, hearing care professional, opticians, prothesists, orthesists, dieticians), caregivers, childcare assistants and ambulance personnel in accordance with Articles L. 4311-1 to L. 4394-3 of the CSP.

The Services are also designed for osteopaths and naturopaths.

Nutergia does not authorise the online sale of the Services. The Services may only be used in a face-to-face setting.

The T&Cs may be modified at any time, notably in response to changes in legislation or decisions taken in the courts as well as for editorial or technical reasons. The User therefore undertakes to comply with the T&Cs in their latest applicable version.

By using the Services and Applications, you agree to read and comply with the T&Cs as set out below in addition to all applicable legal and regulatory provisions.

## 2) Legal notices

This site (<https://www.pro.iomet.fr>) is published by LABORATOIRE NUTERGIA (hereafter "Nutergia"), represented by Antoine LAGARDE, a French SAS with capital of €253,400, whose registered office address is Rue Claude Bernard, 12700 Capdenac, France, RCS Rodez registration number 006 380 042.

Nutergia may be contacted by the following means:

- Telephone: 05 65 64 71 51
- Address: Laboratoire NUTERGIA, Service IoMET, BP 52, 12700 CAPDENAC, France
- E-mail: [\*\*\*iomet@nutergia.fr\*\*\*](mailto:iomet@nutergia.fr)

Information relating to the editorial content:

- Publication Director: ***Antoine LAGARDE***

The site is hosted by CLARANET, represented by Denis Correia, a company with capital of €2,334,800, RCS Paris registration number B419 632 286, whose registered office address is 2 rue Breguet - 75011 PARIS – France.

### **3) French data protection act (law no. 78-17 *Informatique et Libertés* 6 January 1978)**

Utilisation of the Services requires personal data to be processed under the aforementioned data protection act.

Personal data files and processing are declared to CNIL, the French data protection commission, which has issued confirmation under the number 1915171 v 0, and comply with the provisions of the said French data protection act.

#### ***a) What is personal data?***

According to Article 2 of the aforementioned act, personal data: "*Constitutes data of a personal nature that relates to a natural person who has been or may be identified, whether directly or indirectly, by way of reference to an identification number or one or more elements belonging to that person.*"

Personal data enabling such identification notably include the surname, first names, postal address, e-mail address and telephone number of the User.

#### ***b) Data recipients***

The personal data of the User will only be processed by Nutergia.  
Nutergia undertakes not to transfer the data for commercial ends nor to intentionally disclose the personal data collected to any third party.

#### ***c) Processing by Nutergia of User data***

Nutergia will be required to collect the User's account data, namely data required to access the Services: user id, surname, first name, postal address, e-mail address, telephone number and profession. Furthermore, such data is mandatory in order to access the Services. You will not be able to access the Services should you fail to supply any of this data.

Nutergia will also collect statistical data, notably including: registration date, number of profiles completed, the pages consulted, type of internet browser, browser language and User IP address.

#### ***d) Purpose of the data processing***

The data processed by Nutergia will be used for statistical purposes in order to best be able to improve the information, recommendations and Services and for the forwarding of newsletters designed for the User.

The processing of personal data relating to the health of persons is performed by the User at its sole responsibility. Nutergia undertakes not to process any such data.

#### ***e) Data retention***

Personal data will only be retained for a duration that is strictly necessary for the aforementioned purposes, and only for the duration of use of the IoMET Service by the health professional, i.e. during the existence of a contractual relationship. In the event of the Services not being used for a period of 2 years, Nutergia will delete your user data.

#### ***f) Your rights***

You enjoy a right of access under the aforementioned French data protection act. By exercising your right of access you can establish the purposes of the processing, the type of data recorded, the sources and recipients of the data and any transfer of the said information to countries outside the EU, it being specified that such information is defined by these T&Cs.

You also enjoy a right to rectify, complete, update, block or delete any information concerning you that may be false, inexact, incomplete or out of date, or where the collection, utilisation, communication or retention thereof is prohibited.

Finally, you also enjoy a right of opposition that may be exercised on legitimate grounds. You may therefore prevent the data concerning you from being processed, namely from being collected, recorded, distributed, communicated or retained. At no expense, you may also prevent any data concerning you from being used for the purposes of commercial prospecting.

In order to exercise any of these rights, you must send a letter with proof of identity (photocopy of national identity card or passport) to the following address: Laboratoire NUTERGIA – Service IoMET- BP 52 - 12 700 CAPDENAC.

### **4) Services content and access**

#### ***a) Content of the Services***

The Services provide a User space for the following main purposes:

- Performing bionutritional profiles, offering personalised nutritional and health advice and, if required, defining individual dietary supplement therapy;
- Retaining a history of bionutritional profiles;
- Keeping up to date with the latest scientific developments;
- Training in the IoMET tool (e-learning);
- Learning about the seven Nutergia bionutritional environments.

Nutergia reserves the right to modify the Content of the Services (excluding personal patient data to which Nutergia does not have access) at any time without prior notification.

The information and recommendations presented under the Services are not exhaustive and are provided for information purposes only, in order to support the approach of the User. The information, nutritional and dietary advice and services offered under the Services are not intended in any way, whether directly or indirectly, to replace a consultation, examination or diagnosis performed by a health professional, under whose sole responsibility they are provided.

The exploitation of the information and nutritional and dietary recommendations and the taking of the proposed dietary supplements remain the sole responsibility of the User.

## **b) Access to the Services**

The pro-iomet.fr section is accessible only to Users, as defined in Article 1 above, who have received training in the use of the IoMET tool during the course of a practical workshop, an IoMET basics day or training provided by the medical sales representative.

Access to this space is gained via identification of the User, who must register for this purpose in advance and have obtained a user id and password. The user id and password are strictly personal and must be kept confidential. In order to register, the User must be in possession of a valid e-mail address. On the first visit, the User will be asked to complete a registration form and provide their identity and professional qualifications.

All equipment (computer, software, telecommunications devices such as mobiles, etc.) enabling access to the Services and internet connection charges remain the exclusive responsibility of the User.

A single personal area may not provide access for more than one User or person.

## **5) Intellectual property rights**

Access to the Services grants to the User a private and non-exclusive right of use.

With the exception of trademarks, logos and other content belonging to third parties, the contents of the Services such as databases, text, logotypes, graphics, images, sound, icons and other distinctive signs are the property of Nutergia and are protected under the provisions of the French Intellectual Property Code.

"NUTERGIA" and "IOMET" are registered trademarks.

Any use of the contents, names and trademarks, i.e. their reproduction, representation or, more generally, exploitation, whether in part or in whole and by whatever means or via whichever medium, is prohibited without prior written approval from Nutergia, and constitutes an infringement that may be sanctioned under criminal or civil law (Articles L. 335-1 et seq., L. 343-2 et seq. and L. 716-1 et seq. of the French Intellectual Property Code).

The creation of internet links to or from the Services and the creation of "mirror" sites containing all or part of the elements of the Services is strictly prohibited.

Nutergia is the owner of the health questionnaire entitled "**assessment**" and the "**IoMET® bionutritional profile**".

The User undertakes only to communicate the contents of these questionnaires, whether in part or in whole, within the context of their patient relationships. The User undertakes not to publish them or place them online on sites other than the IoMET site.

The disassembly, reverse engineering and decompilation of all or part of the Services are also prohibited.

Any utilisation or advertising related to the Services or the "IOMET" and "NUTERGIA" trademarks must be notified to Nutergia in advance.

## 6) Personal data of the User's patients

Utilisation of the Services requires personal data to be processed under the aforementioned data protection act.

Personal data files and processing are declared to CNIL, the French data protection commission, which has issued confirmation under the number 1915169 v 0, and comply with the provisions of the said French data protection act.

Furthermore, health professionals as defined in the French Public Health Code under Articles L. 4111-1 to L. 4163-10, L. 4211-1 to L. 4244-2 and L. 4311-1 to L. 4394-3 may, on an exclusive basis and under their personal responsibility, collect or process personal health data only within the framework of Article 8, I, 6° of the aforementioned French data protection act.

Nutergia undertakes not to collect or process any such health data. Such data is intended for, and shall be collected, retained and processed under the sole responsibility of the User.

Furthermore, in accordance with Article L. 4113-7 of the French Public Health Code (CSP), Nutergia undertakes not to collect, collate or exploit for the purposes of commercial prospecting or promotion any data emanating from medical prescriptions or information from doctors or pharmacists.

Should any such data be collected and processed, this shall be performed at the sole responsibility of the User.

## 7) Medical confidentiality

The User hereby expressly undertakes to scrupulously comply with the provisions relating to medical confidentiality by which they are bound, the main legal texts of which are set out below:

Article L. 1110-4 of the CSP:

*"Any person treated by a professional, institution, health network or any other body participating in prevention and care has the right to their private life being respected and to the confidentiality of their personal information.*

*Unless specifically stated otherwise as set out under the law, such confidentiality covers all personal information about the patient of which the health professional, any member of the personnel of the said institutions or bodies or any other associated person becomes aware during the course of their activities with these institutions and bodies. These provisions are binding on all health professionals and any other professionals participating in the health system."*

The same article states that *"The simple fact of obtaining or attempting to obtain such information in violation of this article is punishable by one year's imprisonment and a fine of 15,000 euros."*

Article R. 4127-4 of the CSP: *"Professional confidentiality instituted to protect patient interests is binding on all physicians under the terms set out in law. Confidentiality covers everything of which the physician becomes aware during the exercise of their profession, i.e. not only that which has been confided but also anything the physician may have seen, heard or understood."*

Article 226-13 of the French Criminal Code: *"Disclosure of information of a confidential nature by a person in possession of the same due to their position or profession, whether during the course of*

*their functions or a temporary assignment, is punishable by one year's imprisonment and a fine of 15,000 euros. "*

## **8) Cookies**

In order to offer the best possible level of service, Nutergia places cookies on various devices of the User. These are notably used to facilitate the access of Users to their accounts.

### ***a) What is a cookie?***

A cookie is information placed on your hard disk by the server of the site you are currently visiting, namely <https://pro.iomet.fr/>. This information is stored on your equipment in a text file which is accessed by a server in order to read and record information.

### ***b) Configuration of your internet browser***

Cookies may be deactivated. Furthermore, your internet browser may be configured to notify you of the cookies placed on your equipment to ask for your approval or refusal.

Such configuration may modify the conditions of access to the Services.

## **9) Guarantees and responsibilities**

### ***a) Notification and disclosure obligations***

The User undertakes to complete the administrative formalities relating to the collection and processing of personal data from their patients in accordance with applicable legislative and regulatory provisions.

The User hereby undertakes to inform their patients of their rights under the aforementioned French data protection act (notably the right of access, rectification and opposition).

More generally, the User hereby undertakes to use the Services in compliance with the statutory and regulatory provisions by which they are bound.

### ***b) Health data***

The User undertakes not to collect or process on the pro.iomet.fr site any health data concerning their patients. Nutergia may not be held responsible for any breach of this provision.

Furthermore, the User undertakes to comply with all provisions under these T&Cs, notably all points under 6) *Personal data* and 7) *Medical confidentiality*.

### ***c) Information and training***

The information, recommendations and educational tools concerned are those that govern the content of the Services. Their main purpose is to keep the User informed of the latest scientific developments and also to train them in the IoMET tool and its various functionalities and content.

The information and recommendations presented under the Services are not exhaustive and are provided for information purposes only, in order to support the approach of the User. Although Nutergia makes every effort to take all reasonable steps to offer high quality content, the accuracy of the information and recommendations given to the User cannot be guaranteed.

The information, nutritional, dietary and lifestyle advice and the services offered under the Services are not intended in any way, whether directly or indirectly, to replace a consultation, examination or diagnosis performed by a health professional.

The information and nutritional and dietary advice offered is exploited under your sole responsibility. Furthermore, Nutergia cannot guarantee any particular outcome from such exploitation.

Product photos are non-contractual. In accordance with applicable legislation, the dietary supplements offered by Nutergia are declared to the DGGCRF.

#### ***d) Access to Services and performance***

In order to use the Services, the User must be in possession of the equipment, software, internet connection and configurations required for the proper functioning of the various services provided.

Although it undertakes as far as reasonably possible to main accessibility to the Services 24 hours a day and 7 days a week, Nutergia is not bound by any commitment in this area. Access may therefore be interrupted, notably for reasons of maintenance and performing upgrades, or for any other reason, whether technical in nature or resulting from an event of force majeure or act of God, as defined by applicable legislation and case law.

Nutergia does not guarantee the performance levels of the Services, notably in the event of any modifications made for technical configuration or network quality reasons.

Nutergia cannot be held liable for any malfunctions or vagaries affecting the Services nor, more generally, for any data losses or the consequences thereof.

#### ***e) Security and confidentiality***

Nutergia and its hosting company implement security measures for the premises and IT systems in order to prevent any corruption, damage or unauthorised third-party access to personal data.

Nutergia cannot guarantee that all risk of abusive data utilisation is eliminated, notably in the event of inadequate protection of the User's user id and password.

The User is bound by an obligation to maintain security. The User must take the necessary steps to ensure the confidentiality of the personal data and of the personal health-related data it may collect and to avoid any disclosure to unauthorised third parties.

#### ***f) Password***

Preservation of the password required to access the Services is the sole responsibility of the User.

#### ***g) Hypertext links***

The Services may contain hypertext links to other sites administered by third parties. Not exercising any control over such parties, Nutergia may not be held liable for the content, information, products



or services offered nor for any direct or indirect damage that may be caused as a result of using such sites.

***h) Limitation of liability***

In general terms, Nutergia may not be held liable for any direct or indirect damage irrespective of the cause, origin, nature or consequences resulting from accessing the Services, or from the inability to gain access thereto, or from using the Services, or from using the products or services cited by the Services.

**10) Financing**

This website neither accepts nor receives any advertising revenue and is entirely financed by NUTERGIA.

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