

General Terms and Conditions of Use

for the use of pharma mall

§ 1 Subject of regulation

1.1. The pharma mall Gesellschaft für Electronic Commerce GmbH, Westerwaldstraße 10-12, 53757 Sankt Augustin, Germany (hereinafter referred to as "pharma mall") operates the e-commerce platform at www.pharma-mall.de and www.pharmamall.de (hereinafter referred to as "PLATTFORM").

After a successful registration within the meaning of § 3, the use of pharma mall's services is also available via other websites, for example the websites of MANUFACTURERS, forasmuch as they provide direct access to the PLATTFORM on their respective website.

pharma mall has no influence on the provision of services via the websites of third parties, in particular of the MANUFACTURERS. Pharma mall only has to provide their services under the specified URLs.

The principle of the PLATTFORM is to enable the presentation and sale of PLATTFORM products via the Internet.

For this purpose, a transaction and information system is offered at www.pharma-mall.de and www.pharmamall.de which makes it possible to access the individual websites of the MANUFACTURERS via the joint start page of the PLATTFORM in order to obtain information on the services of pharma mall and PRODUCTS of the MANUFACTURERS, to place orders with the participating MANUFACTURERS via the web shop or by way of the SILENT-COMMERCE and to process other transactions.

1.2. The General Terms and Conditions of Use in the present case govern the provision of the services by pharma mall and their use by the USERS.

1.3. Contracts between USER and MANUFACTURER.

(1) The present General Terms and Conditions of Use explicitly do not regulate the handling of concrete ordering procedures for PRODUCTS, carried out by the USER from the offers of the MANUFACTURERS which can be called up via the PLATTFORM. These require an additional activation of the USER through the respective MANUFACTURER. The regulation of the contractual relationship between MANUFACTURER and USER is left to these parties.

(2) The use of pharma mall's services, in particular the procurement of the possibility of ordering PRODUCTS from the MANUFACTURER via the web shop or by way of the SILENT-COMMERCE, does not therefore establish any contractual relationship between the USER and pharma mall with regard to these orders. Claims for delivery, warranty or consultation against pharma mall are therefore excluded.

§ 2 General Definitions and Contractual Elements

2.1 Components of the contract

(1) The following provisions apply under exclusion of existing General Terms and Conditions of Business of the USER and regulate the use of the PLATTFORM.

(2) Conflicting or deviating Terms and Conditions of Use require in individual cases the explicit and written consent of pharma mall.

2.2. Amendment of these General Terms of Use

pharma mall reserves the right to amend these General Terms and Conditions of Use at any time with effect within the existing contractual relationships as well. Therefore, the USER must confirm the General Terms and Conditions of Use of pharma mall each time the USER logs in. pharma mall therefore recommends that the USER read the General Terms and Conditions of Use carefully each time the USER logs in. Any changes shall apply exclusively to future use; retrospective changes shall not take place.

2.3. Definitions of Terms:

(1) "BENEFICIARIES" are users who are not USERS but derive their right of use from a USER in accordance with the provisions of § 3.3. Unless explicitly provided otherwise hereinafter, the provisions for USERS shall apply accordingly.

(2) "MANUFACTURER" are the pharmaceutical companies having a share of pharma mall as well as other pharmaceutical companies using this information and distribution channel for a fee.

(3) "USERS" are the customers of the MANUFACTURERS as well as other visitors to the website for whom the use of the PLATTFORM is a free internet offer. USERS may only be entrepreneurs within the meaning of § 14 BGB (German Civil Code).

(4) "PRODUCTS" are pharmaceutical products and related articles (e. g. dietary foods, cosmetic products) for which the MANUFACTURERS make use of the information and distribution channel of pharma mall.

(5) "SILENT-COMMERCE" refers to automated transaction processes that can be carried out regularly via the PLATFORM in order to meet the USER's needs without the need for action in the specific individual case.

(6) "WORKING DAYS" are the days from Monday to Friday in the period from 8.00 a. m. to 5.00 p.m. with the exception of the public holidays of the federal state of North Rhine-Westphalia as well as December 24 and December 31 of a year. The time zone Berlin applies.

§3 Admission Requirements

3.1. General Information

In order to use the PLATFORM it is necessary to register the USER (3.2.) in order to be able to use the PLATFORM (3.4.).

3.2. Registration

(1) The use of the PLATFORM requires a registration. A claim for use by any applicant does not apply. pharma mall is therefore entitled to reject requests for registration without giving reasons.

(2) The registration is exclusively open to entrepreneurs within the meaning of § 14 BGB (German Civil Code) which have a current pharmacy operating licence. When registering legal entities, the registration must be carried out by a natural person with unlimited legal capacity and power of representation.

(3) Contact details and other information requested during the registration process have to be complete and correct. When registering a legal entity, the natural person authorised to represent must also be indicated.

(4) After the registration data have been provided, pharma mall will check the registration data for completeness and plausibility. If the information is correct following the data check and if there are no objections against the registration, the requested access will be activated. pharma mall will inform the new USER about this via e-mail. This e-mail is considered a declaration of acceptance of the application.

(5) After activation, the USER will receive a user name and a temporary password sent to the postal or e-mail address indicated at the time of registration. The password can be changed by the USER. pharma mall recommends a regular change of the password to ensure of data security.

(6) After the final activation by sending the user name and password, the USER is entitled to use the functions of the PLATFORM and the services of pharma mall.

3.3. Activation of BENEFICIARIES by the USER

The USER has the opportunity to activate BENEFICIARIES after a successful activation. The USER is solely responsible for activating only those BENEFICIARIES to have access to the data transmitted by the USER via the PLATFORM who are in accordance with the applicable legal provisions, in particular the applicable data protection laws for the medical and health care professions. The USER accepts that it is impossible for pharma mall to check an activation of BENEFICIARIES in advance regarding their legitimacy in terms of data protection law. Otherwise, the provisions of § 3.5 shall apply.

3.4. User Access

(1) The Registration alone does not permit the ordering of PRODUCTS via the MANUFACTURERS' portals or other transactions. This requires the USER to be activated for each individual portal.

(2) The regulation of access to the portals is the sole responsibility of the MANUFACTURERS. It is at the discretion of the respective MANUFACTURER to grant the USER access to the respective portal. There is therefore no entitlement to a user access granted by the respective MANUFACTURER.

(3) The decision as to whether the user access can be restricted or cancelled at any time is the sole responsibility of the MANUFACTURERS. pharma mall has no influence on this.

3.5. Duties of the USER

(1) The USER shall be obliged to keep the user name and password generated by pharma mall (both the password generated during registration and a password that may have been changed at a later date) secret and to exclude unauthorised third parties from using them. Irrespective of this, it is the USER's responsibility to restrict access to the PLATFORM and the MANUFACTURERS' PRODUCTS in their portals to authorized persons only. The USER is obliged to inform pharma mall immediately if there is a well-founded suspicion that unauthorised third parties have obtained knowledge of the access data or will soon obtain it or have otherwise gained access to the user profile of the USER.

(2) The USER is liable to pharma mall for any use of its user profile by unauthorised third parties, unless the USER can prove that the USER is not at fault for this unauthorised use.

(3) The USER is obliged to keep the data entered during registration up-to-date, in particular but not exclusively the contact data. Therefore, the USER is obliged to amend any changes to the data without delay by changing the corresponding entry in the user profile. Should the USER not be able to change the data in this way, the USER will immediately send the changed data by e-mail to pharma mall.

§ 4 Services of pharma mall

4.1. pharma mall electronically transmits transactions and information for PRODUCTS and services between the USER and the MANUFACTURERS. Within the framework of the following provisions, pharma mall undertakes to forward the USER's data received by pharma mall to the MANUFACTURER without delay and, conversely, to forward the data of the MANUFACTURER to the USER.

4.2. pharma mall shall make every effort to ensure that the data stored by the USER in accordance with the contract can be retrieved to the extent agreed upon in terms of time within the agreed availabilities and outside the agreed maintenance windows (§ 4.5.). In this context, the term "retrievable" means that the USER can load the data into the working memory of the USER's computer and has access to the USER's own data, which is stored and processed for the USER in the pharma mall computer centre. pharma mall assumes no responsibility for the success of the respective access to the PLATFORM, unless only the network operated by pharma mall, including the interfaces to networks of third parties, is used.

4.3. The accessibility of target addresses, i. e. the PLATFORM itself and/or the portals of the MANUFACTURERS, cannot be guaranteed by pharma mall due to the structure of the internet and the fact that pharma mall neither selects the operators and intermediaries of the data networks themselves nor do factual control possibilities exist for pharma mall.

4.4. pharma mall uses a state-of-the-art bandwidth of connections to the next Internet node to ensure that the highest possible data transmission speed for the USER is achieved.

4.5. The availability of the PLATFORM exists within the limits of the technical and operational possibilities of pharma mall and therefore in particular not in case of downtimes due to maintenance as well as times in which the computer centre cannot be reached via the Internet due to technical or other problems which are beyond the control of pharma mall (force majeure, fault of third parties etc.).

4.6. Without prejudice to the foregoing provisions, pharma mall will send the USER an acknowledgement of receipt by e-mail immediately after entering the data and submitting the order within the framework of orders for PRODUCTS.

On the basis of this acknowledgement of receipt, the USER has the possibility to check again the correctness of the order data received from pharma mall.

4.7. Error or fault messages as well as other support requests can be made via the chat function of the PLATFORM. In justified exceptional cases, the error message can also be entered by telephone via the official pharma mall hotline number. Chat function and hotline are available on WORKS DAYS. Support in the sense of this regulation is any problem-related answer to the description of a problem of the USER in connection with the use of the PLATFORM. On the other hand, no support within the meaning of this provision is to clarify questions of content and organisation on the part of the USER as well as the instruction in the functionality of the PLATFORM or the portals of the MANUFACTURERS. Each request of a USER is electronically documented and receives a unique processing number. Prior to using the hotline, the USER must attempt to solve the problem within a reasonable framework. In particular, he has to observe the help function of the PLATFORM.

§ 5 Duties of the USER

5.1. The USER itself responsible for ensuring that the prerequisites for the use of pharma mall's services are met. In particular, the USER must create and maintain the necessary technical prerequisites for the use of the services. In this respect pharma mall does not owe any consultation that goes beyond the transmission of the system requirements. To access the website, the USER requires a web browser (Internet Explorer version 8.0 or higher, Mozilla Firefox version 4.0 or higher, Safari version 5 or higher or Google Chrome version 9.0 or higher).

5.1. The USER shall have the right to observe the rights of pharma mall when using the services of pharma mall, i. e. in particular, but not exclusively, to protect the rights of third parties and to comply with the provisions of competition and unfair competition law. The USER is therefore prohibited from using the PLATFORM, especially in connection with the chat function, in order to transmit:

- (1) pornographic, youth endangering, violent or otherwise offensive content,
- (2) demagogic, anti-Semitic, xenophobic, homophobic or otherwise inhuman content,
- (3) any content that supports terrorism or propaganda,
- (4) offensive, defamatory or otherwise degrading contents,
- (5) content that violates personal rights or contents contrary to the provisions of the data protection laws,

pharma mall cannot check the contents of or transmitted over the PLATFORM for legal infringements of the aforementioned kind before the contents are submitted. pharma mall is not in a position to do this either practically or legally.

5.3. The USER shall be responsible for the immediate notification of electronically delivered messages in business transactions (in case of their activation also via the chat function of the PLATTFORM) himself/herself. pharma mall does not owe any monitoring of the user's usage activities in this regard.

§ 6 Protection and disclaimer for contents of the PLATFORM

6.1. The contents available on the PLATFORM are predominantly subject to industrial property rights of pharma mall, the MANUFACTURER or other third parties. They are subject in particular to the protection of copyright law, competition law or trademark law. The compilation of the contents may be protected by copyright as a database or database work.

6.2. As far as the contents of the website are not provided by pharma mall itself, pharma mall does not assume any responsibility or guarantee for the completeness, legality, correctness and topicality of these contents of third parties. This also applies with regard to the quality of these contents and their suitability for a certain purpose, and also to the content of third parties on linked external websites. Above all pharma mall does not assume any responsibility for compliance with the regulations of the products offered by the MANUFACTURERS in terms of medical advertising law or competition law.

6.3. Contents of third parties within the meaning of the beforementioned paragraphs are in particular all contents which refer to the PRODUCTS in the portals of the respective MANUFACTURER.

§ 7 Liability

7.1. The use of the PLATFORM is free of charge. A liability of pharma mall is therefore excluded, unless damage has arisen from the contractual use of the free content and/or services of pharma mall and pharma mall has acted intentionally or grossly negligently.

7.2. The following shall apply to pharma mall's liability if and to the extent that the USER accesses paid services via the PLATFORM, in particular if and to the extent that the USER acquires PRODUCTS of the MANUFACTURER via its portals:

(1) pharma mall shall be liable without limitation for all damages incurred by the USER as a result of the intentional or grossly negligent conduct of pharma mall or the persons acting on behalf of the USER (legal representatives, employees or vicarious agents). The liability of pharma mall is also without limitation for damages to life, limb or health of the USER or damages resulting from the violation of a guarantee promise. Liability according to the Product Liability Act (Produkthaftungsgesetz) shall also remain unaffected.

(2) The liability of pharma mall for otherwise negligently caused damages of only minor contractual obligations is excluded. For the otherwise negligent breach of essential contractual obligations, pharma mall's liability is limited to those damages which are typically foreseeable within the framework of the specific contractual relationship (typically foreseeable damages). Essential contractual obligations are those which are constitutive for the contractual relationship and whose fulfilment the USER can count on. This also applies to breaches of duty by the legal representatives, employees or vicarious agents of pharma mall.

§ 8 Temporary blockage

8.1. For the protection of the USER, pharma mall will temporarily block access to the user profile if, in short succession, three (3) times an incorrect password has been entered for the respective user name. The use of the PLATFORM is then no longer possible until pharma mall generates a new password and sends it to the USER by post or e-mail. The creation and sending of the new password will only take place after the USER has informed pharma mall that the use of the PLATFORM is to be continued.

8.2. pharma mall is entitled to temporarily interrupt the connection to the Internet and thus to exclude the use of the PLATFORM by the USER if there is sufficient suspicion of illegal contents of the data transmitted and stored by the USER (in particular in accordance with § 5.2.) and/or if a corresponding official order against pharma mall has been issued.

8.3. The blockage in accordance with clause 8.2 shall be lifted as soon as the suspicion is invalidated and/or a judicial and/or official decision has been made.

§ 9 Termination of Participation

9.1. A termination of participation by the USER is possible at any time without giving reasons by unsubscribing from the user profile. Termination is effective immediately.

9.2. Pharma mall may terminate its participation if pharma mall itself or the MANUFACTURERS cannot reasonably be expected to let the use of the PLATFORM by the USER continue. Whether the termination is declared without notice or by granting a use exhaustion period, pharma mall shall decide using equitable discretion, taking into account the circumstances justifying the termination, i. e. in particular legal infringements by the USER, on the one hand and the interest of the USER in the use of the PLATFORM, which is worthy of protection, on the other hand.

9.3. The right to use the terminated user profile ends upon termination. Therefore, pharma mall is allowed to block the corresponding user name and/or password.

9.4. After expiration of 30 days after the termination of the participation pharma mall is entitled to irrevocably delete all data resulting from the use of the PLATFORM. Up to this point in time, the USER may demand from pharma mall the surrender of the personal data stored about the USER during the term of the contract in a common file format customary on the market at the time of the surrender request; the surrender takes place in accordance with the request to the USER itself or a third party named by him against reimbursement of the expenses and costs incurred by pharma mall as a result thereof. This does not affect any longer legal or other retention periods for all or specific data stored by the USER.

§ 10 Data Protection

10.1. Guarantee of privacy and personal data protection

(1) If a collection, storage or use of the USER's personal data takes place within the meaning of the following provisions, pharma mall shall ensure compliance with the statutory standards, in particular the German Federal Data Protection Act (BDSG). pharma mall already points out that from 25 May 2018 onward, Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 for the protection of natural persons with regard to the processing of personal data, the free movement of such data and the repeal of Directive 95/46/EC (Basic Data Protection Regulation, hereinafter referred to as "DS-GVO") and thereby extending and modifying the requirements of the BDSG on which these General Conditions of Use are based, Article 99 (2) DS-GVO. Insofar as the present General Terms and Conditions of Use contain references to legal regulations, in particular those of the BDSG, these are to be understood as references to the corresponding provisions of the DS-GVO or other national regulations issued with regard to the DS-GVO as of 25 May 2018.

(2) pharma mall ensures that the personnel employed by pharma mall and dealing with sensitive personal data meet the security and confidentiality standards and that they are in particular obliged to maintain data secrecy in accordance with § 53 BDSG.

(3) pharma mall shall only store, collect and use the personal data of the USER, which is indicated in the course of registration and the creation of a user account and, if necessary, subsequently supplemented or amended, to the extent necessary for the processing of this contractual relationship, unless the USER declares its consent with regard to certain additional processing operations.

(4) Details on how pharma mall handles personal data of the USER or the RIGHTS can be found in the data protection information at <https://www.pharma-mall.de/shop/overview/privacy> for the use of pharma mall.

10.2. Security

In order to ensure the security and confidentiality of personal data recorded online by pharma mall, the ordering process is secured by pharma mall using SSL encryption. The SSL (Secure Socket Layer) is a protocol for secure data transmission over the Internet.

10.3. Links to other websites

(1) The data protection policy explained in the present case only applies to websites of pharma mall, excluding websites of third parties. pharma mall can set so-called links to other websites. pharma mall tries wherever possible to ensure that websites connected with the websites of pharma mall meet the highest requirements.

(2) Due to the nature of the World Wide Web, pharma mall cannot, however, guarantee a high standard of all linked websites or even accept liability for non-pharma mall sites.

§ 11 Rights of Use

11.1. Subject matter of the License Agreement

(1) The subject matter of these license conditions is the transfer and limitation of the options of use of the software required to use the services of PLATFORM in the current version at the time of conclusion of the contract. These license terms apply to all versions of the standard software, including full versions, upgrades and updates.

(2) If necessary, the USER shall be granted rights of use of Free and Open Source software made available together with the software or of proprietary software from third party manufacturers in accordance with the applicable license terms of the

manufacturers. In this case, the USER shall be informed of the contents of the licence conditions of the manufacturers or the contents of the Free and Open Source Software licence conditions prior to conclusion of the contract.

11.2. Rights of Use to the Software (web access)

The software is made available to the USER via data networks. The simple rights of use required for this purpose pursuant to § 69c No. 4 UrhG (German Copyright Act) shall be transferred to the USER for the duration of this contract.

11.3. Legal Restrictions

Unless otherwise provided for in these license terms and conditions, the USER is not entitled to modify, edit, translate, translate, port, reverse engineer, disassemble, decompile or decompile the software or to determine its source code by other interference with the software, unless this is expressly permitted by mandatory legal regulations (§§ 69d, 69e UrhG).

11.4. Databases

The USER shall receive the rights of use necessary for the fulfilment of the purpose of the contract from pharma mall's databases and database system which have been made available to the USER.

§ 12 Other Provisions

12. 1. If the USER is an agent within the meaning of the German Commercial Code, a legal entity under public law or a public separate estate, the place of jurisdiction for all disputes arising in connection with the execution of this contractual relationship shall be Bonn; pharma mall shall also be entitled, without prejudice to the aforementioned, to bring proceedings before the court having jurisdiction for the registered office of the USER.

12.2. Place of performance is Sankt Augustin-Hangelar, Germany.

12.3. Should individual provisions of this contract be or become invalid or void, this shall not affect the rest of the contract.

12.4. The transfer of this contract or the assignment of claims from this contract to third parties requires the prior consent of the respective other contracting party.

12.5. Amendments and additions to this contract must be made in writing.

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