



# **Verification Program Seal Agreement**

Protecting the Public Health:  
Helping Consumers Find Information About  
Verified Online Pharmacies that Sell  
Affordable Medications

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# PharmacyChecker Verification Program Seal Agreement

## The PharmacyChecker Seal Program

**1.0 License to Use the Seal:** Subject to the terms of this Agreement and during its term, PharmacyChecker grants to Company a non-exclusive, worldwide, limited license to reproduce and display the PharmacyChecker Seal (the "Seal") in accordance with PharmacyChecker's requirements set forth in this Agreement and by abiding with PharmacyChecker's Verification Program Membership Standards, Verification Program Membership Agreement and PharmacyChecker policies. Company may not sublicense the Seal. Company may not permit anyone to use this license except as necessary to a third party that provides hosting services to Company to enable Company to use this license, and for no other purpose. Company agrees that PharmacyChecker may change the Seal from time to time and upon receipt of notice, Company agrees to update all images of the Seal in a timely manner. Company agrees that the Seal, when displayed by Company electronically, will be an HTML based button, which, when clicked, initiates a hypertext link to enable third parties to access Company's Public Seal Information (as defined below in Section 4).

**1.1 License Restrictions:** Company agrees not to modify the Seal in any form, to change the data contained within the Seal or change its size. Except as expressly authorized in this Agreement, any use, modification, reproduction, display or redistribution of the Seal or any other PharmacyChecker trademark is expressly prohibited. Company agrees not to use or display the Seal in a manner that is misleading, defamatory, infringing, libelous, disparaging, obscene or otherwise objectionable to PharmacyChecker or in a manner that impairs, or negatively impacts, the rights of PharmacyChecker in its trademarks or logos. PharmacyChecker reserves the right to terminate or modify Company's license to use the Seal at any time and to take action against any use of the Seal that (i) does not conform to the terms and conditions set forth in this Agreement, (ii) infringes any PharmacyChecker intellectual property or other right, or (iii) violates any applicable law. Company agrees not to register the Seal or any other PharmacyChecker logo or trademark in any jurisdiction.

**1.2 Ownership of the Seal:** Company agrees that PharmacyChecker is and will remain the sole and exclusive owner of the Seal and any good will that comes from Company's use of the Seal. Company agrees not to (i) do anything inconsistent with such ownership, (ii) use the Seal to create a separate and distinct impression for any other service mark or trademark, (iii) take any action to change or reduce PharmacyChecker's rights in the Seal. In addition, Company agrees that all goodwill associated with the use of the Seal will be for the benefit of PharmacyChecker.

**1.3 Provision of Seal Information:** Company agrees to accurately provide to PharmacyChecker all requested information about Company and Company's affiliations during and after the PharmacyChecker Verification Application Process ("Application"), and to keep this information

current at all times. This information includes but is not limited to Company's name and address, telephone number, email address, credit card number, expiration date and billing address, license number, if required, and representation that Company is authorized to do business under that license or on behalf of a third party. PharmacyChecker may make periodic checks to ensure that all information is correct. Company's failure to respond to these checks may lead to the suspension or revocation of Company's license to use the seal.

**1.4 Seal Standards and Revocation:** Company agrees that PharmacyChecker may suspend or revoke its license to use the Seal with or without notice if (a) any of the information which Company furnishes to PharmacyChecker is inaccurate or incorrect; (b) if Company fails to keep the information Company provides to PharmacyChecker current; (c) PharmacyChecker receives verifiable complaints or claims about Company's non-compliance with PharmacyChecker standards, such as non-compliant selling practices; (d) Company's website contains or other communications contain statements which PharmacyChecker considers to be misleading, false, or deceptive; (e) Company charges hidden fees or fees that recur without the customer's consent or (f) if Company is in violation of the Verification Program Membership Standards, Verification Program Membership Agreement and/or PharmacyChecker policies.

If Company's Seal is suspended or revoked, Company will no longer be entitled to use the Seal and the license set forth in Section 1.0 ("License to Use the Seal") will immediately terminate and Company must stop all use of the Seal. If Company's license to use the Seal is terminated, Company may appeal the termination to [SealProgram@PharmacyChecker.com](mailto:SealProgram@PharmacyChecker.com)

## **Company's Role and the Quality of Service**

### **2.0 Company hereby:**

- i. Authorizes PharmacyChecker to make inquiries and collect information from various sources, including marketplace and licensing board (or analogous authority) to assist in evaluating Company's Application and ongoing compliance with the PharmacyChecker Standards;
- ii. Agrees to use good faith efforts to provide timely and accurate information related to a dispute;
- iii. Agrees to cooperate and participate in good faith and in a timely manner in each dispute and to respond to all e-mails sent by PharmacyChecker after receipt of such e-mails;
- iv. Agrees to provide information to PharmacyChecker and the other party in connection with the dispute that is true, accurate and complete and does not contain any false or misleading information; and
- v. Authorizes PharmacyChecker to provide to Company's marketplace, any appropriate governmental or licensing body, or to any third party, information regarding any disputes, suspensions, behaviors or terminations as a Seal Member.

## **2.2 Company agrees not to:**

- i. Impersonate any person or entity or use a name or alias that Company is not authorized to use, including applying for or maintaining Company's Seal once and if Company is no longer an authorized representative of the approved pharmacy and/or online pharmacy;
- ii. Furnish false, misleading, or deceptive communications to or through PharmacyChecker or permit any other person to transmit any information that falsely identifies Company's PharmacyChecker account as the origin of such communication;
- iii. Transmit any unlawful, harassing, libelous, abusive, threatening, harmful, vulgar, obscene or otherwise objectionable material of any kind or nature, as determined by PharmacyChecker in its sole discretion;
- iv. Represent that PharmacyChecker in any way approves or endorses Company's products or services; or
- v. Use the PharmacyChecker trademarks or other intellectual property without a current valid license from PharmacyChecker authorizing such use.

**2.3 No Wrongful Use of Materials:** Company acknowledges and agrees that the materials, content, methodology and concepts of the process and in PharmacyChecker's online materials (collectively, the "Materials") are owned by PharmacyChecker and are protected by patents, copyrights, trademarks or other proprietary rights and that the use of such Materials is governed by the laws which create those rights and provide for their enforcement. Company may not reproduce, modify, distribute, reverse engineer or publicly display such Materials. Company agrees that Company will not (i) resell any PharmacyChecker service or (ii) reproduce, modify, distribute, reverse engineer or publicly display such Materials in any form. Wrongful use of the Materials is illegal and may result in revocation of the Seal or PharmacyChecker taking legal action.

## **Fees Due PharmacyChecker**

**3.0 Seal and Program Membership Fees:** Company is also responsible for and agrees to pay any non-refundable Application fees, which are due whether Company is approved for the PharmacyChecker Seal or any other PharmacyChecker programs. Company agrees to pay the non-refundable monthly Membership fees upon approval of Company's membership and/or participation in PharmacyChecker programs. Company is responsible for payment of any applicable sales or use taxes. Seal Membership fees are due whether Company posts the PharmacyChecker Seal after approval. Company is entitled to post the PharmacyChecker Seal once approved in the format provided by PharmacyChecker.

**3.1 Investigation Fees:** Company agrees to reimburse PharmacyChecker for any amounts reasonably expended to independently confirm Company's compliance with the PharmacyChecker Program.

**3.2 Payment and Changing Fees:** Company authorizes PharmacyChecker to charge any and all Fees due to PharmacyChecker to the credit card account Company has provided to PharmacyChecker as part of Company's Application. Fees will be charged at the beginning of each monthly period. If a promotional period applies, Fees will be charged at the expiration of that period, unless we are notified Company wants to terminate Company's use of the Seal. To terminate PharmacyChecker Seal Membership, Company must log in to Company's Account or notify PharmacyChecker via email at [SealProgram@PharmacyChecker.com](mailto:SealProgram@PharmacyChecker.com). Company agrees that PharmacyChecker may revise its fees with ten (10) days advance e-mail notice to Company or by posting the notice on the Member Services Site. If Company continues to use the Seal and/or other PharmacyChecker programs after notice, Company accepts the fee change.

**3.3 Renewals:** Unless Company notifies PharmacyChecker of its decision to terminate Company's Seal Agreement, Company's Membership will automatically renew at the end of each term. Company's renewed Seal Agreement will have the same duration as the Seal Agreement being renewed. At the time of renewal, Company's credit card will be charged PharmacyChecker's then-current fee for Company's renewed license.

**4.0 "Public Seal Information"** is defined as the following information which Company provides to us or other users in registration, bidding or the listing process or through any email, fax or letter: Company's name, address, telephone number, pharmacy license number, expiration date, and licensing body, pharmacist name, license number and expiration date, and any other public information in our possession. Company hereby grants to PharmacyChecker the perpetual right to publish all or some of the Public Seal Information. PharmacyChecker is authorized to permit others to use and publish this information. Company specifically authorizes PharmacyChecker to provide its Public Seal Information to Company's marketplace, licensing body, government or law enforcement entity, or any third parties.

**5.0 Limited Warranty:** PHARMACYCHECKER, ITS OFFICERS, DIRECTORS, EMPLOYEES AND SUPPLIERS PROVIDE OUR WEB SITE AND SERVICES "AS IS" AND WITHOUT ANY WARRANTY OR CONDITION, EXPRESS, IMPLIED OR STATUTORY. PHARMACYCHECKER, ITS OFFICERS, DIRECTORS, EMPLOYEES AND SUPPLIERS SPECIFICALLY DISCLAIM ANY IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. Some states do not allow the disclaimer of implied warranties, so the foregoing disclaimer may not apply to Company. This warranty gives Company specific legal rights and Company may also have other legal rights that vary from state to state.

**6.0 Limits on Liability:** TO THE EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL PHARMACYCHECKER, ITS OFFICERS, AGENTS, AND EMPLOYEES BE LIABLE TO COMPANY, FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, INCLUDING ANY LOST OPPORTUNITIES FOR ADVERTISING, OR OTHERWISE, (INCLUDING WITHOUT LIMITATION LOST PROFITS) EVEN IF PHARMACYCHECKER HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL PHARMACYCHECKER'S TOTAL LIABILITY FOR ALL CLAIMS ARISING FROM OR RELATING TO

THIS AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE FEES PAID BY Company TO PHARMACYCHECKER UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT WHICH GAVE RISE TO THE CLAIM FOR DAMAGES. THE LIMITATIONS SET FORTH IN THIS SECTION SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ANY ESSENTIAL PURPOSE OF ANY LIMITED REMEDY SET FORTH IN THIS AGREEMENT. Because some jurisdictions do not allow the exclusion or limitation of liability for consequential or incidental damages, the above limitation may not apply to Company.

**7.0 Indemnity:** Company agrees to indemnify and hold PharmacyChecker, and as applicable its officers, directors, agents, employees, affiliates, suppliers and partners, harmless from and against any claims, demands, causes of action, damages, costs, liabilities and expenses (including but not limited to, reasonable attorneys' fees), arising from or relating to Company's use of the Seal (including, without limitation, any claims arising from any representations Company makes about the Seal or membership) or Company's breach of this Agreement or the documents it incorporates by reference, or Company's violation of any law or the rights of a third party.

**8.0 Related Agreements:** The provisions of the Verification Program Membership Standards, Verification Program Membership Agreement, PharmacyChecker Inspection Program, Pharmacy Checker Policies and, as appropriate, periodic updates of which Company are informed by email, are incorporated into this Agreement by reference. Any violation by Company of those agreements will automatically be deemed a violation of this Agreement and any violation by Company of this Agreement will automatically be deemed a violation of those agreements.

**9.0 Term and Termination:** This Agreement will commence on the date Company has been approved for Seal Membership. This Agreement will terminate on the earlier of: (a) the date Company terminates Company's membership online by going to Company's Account page; (b) the date on which PharmacyChecker dispatches e-mail notice to Company that it is terminating this Agreement; or (c) immediately pursuant to section 1.5. The following Sections shall survive the termination of this Agreement: Sections 2, 6, 7, 10, 11 and 12. Upon termination of this Agreement all licenses granted in this Agreement will immediately terminate.

#### **Resolution of Disputes:**

**10.0** In the event a dispute arises between Company and PharmacyChecker, Company and PharmacyChecker agree that any claim or controversy at law or equity that arises out of this Agreement or our services ("Claims") shall be resolved in accordance with one of the subsections below or as otherwise mutually agreed upon in writing by the parties. Before resorting to these alternatives, PharmacyChecker strongly encourages Company to first contact us directly to seek a resolution and PharmacyChecker will consider reasonable requests to

resolve the dispute through alternative dispute resolution procedures, such as mediation, as an alternative to litigation.

**10.1 Binding Arbitration:** For any Claim (excluding Claims for injunctive or other equitable relief) where the total amount of the award sought is less than \$10,000, Company or PharmacyChecker may elect to resolve the dispute through binding arbitration conducted by telephone, on-line and/or based solely upon written submissions where no in-person appearance is required. In such cases, the arbitration shall be administered by the American Arbitration Association in the City of New York in accordance with their applicable rules and regulations. Any judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

**10.2 Court:** Alternatively, any Claim may be adjudicated by a court of competent jurisdiction located in New York City. Company and PharmacyChecker agree to submit to the personal jurisdiction of the courts located within New York City.

**10.3 Alternative Dispute Resolution:** Alternatively, PharmacyChecker may consider use of other alternative forms of dispute resolution, such as binding arbitration to be held in New York City or another location mutually agreed upon by the parties.

**10.4 Claims:** All Claims (excluding requests for injunctive or equitable relief) between the parties must be resolved using the dispute resolution mechanism that is selected in accordance with this Section by the party filing a Claim. Should either party file a Claim contrary to this Section, the other party may recover attorneys' fees and costs up to \$1000, provided that the party seeking the award has notified the other party in writing of the improperly filed Claim, and the other party has failed to withdraw the Claim.

**11.0 General:** The parties irrevocably agree that the laws of the State of New York will govern this Agreement and their relationship, without reference to any choice of law rules. This Agreement is binding upon and shall inure to the benefit of PharmacyChecker and Company and our respective successors and assigns. The failure of either party to enforce any of the provisions of this Agreement shall not be construed as a waiver of that provision or the right of the party to enforce that provision or any other provision. In the event that any provision of this Agreement is found to be unenforceable or invalid the parties agree that that provision will be changed and interpreted so as to best accomplish the objectives of the provision within the limits of applicable law or applicable court decisions.

## **Miscellaneous**

**12.0 Notices:** Any and all notices to PharmacyChecker must be made in writing and mailed by first class postage to PharmacyChecker at 333 Mamaroneck Avenue, White Plains, NY 10605 or to such other address as PharmacyChecker may hereinafter designate, and such notices will be deemed delivered when received.

**12.1 Relationship:** Company agrees that Company and PharmacyChecker are independent contractors and neither is the legal representative, agent, joint venture, partner, or employee of the other party for any purpose whatsoever.

**12.2 Force Majeure:** PharmacyChecker shall not be liable to Company for its failure to perform under this Agreement to the extent that any such failure results from any cause beyond PharmacyChecker's reasonable control, including without limitation, acts of God, strike, electrical or power outage, the acts or omissions of a third party, earthquake, or weather.

**12.3 Electronic Signatures:** Company acknowledges and agrees that the standards of any applicable transactions act shall apply with regard to Company's execution of this Agreement as well as to Company's execution and submission of any and all documents and agreements pertaining to the Services offered by PharmacyChecker and any and all writings, affirmations, affidavits, declarations or sworn testimony that Company submit.

**Translation:**

PharmacyChecker and the Company have requested that this Agreement and all related documents be written in English.

PharmacyChecker et la Société avez demandé que cette entente ainsi que tous les documents qui s'y rattachent soient rédigés en anglais.

PharmacyChecker y la Compañía han solicitado que este Acuerdo y todos los documentos relacionados estén escritos en inglés.