

# **Springer Nature Terms and Conditions for Account Setup and Management of Learning Content and Related Services in the Cloud**

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The legal relationship between the parties to the contract is governed exclusively by the laws of the Federal Republic of Germany, under exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG) and the following provisions.

Any deviating terms and conditions of the user have no validity.

## **1 Subject of the Contract**

1.1 Springer Nature is a proprietary product of the Operator  
Springer Nature Customer Service Center GmbH,  
Tiergartenstraße 15-17,  
69121 Heidelberg,

Directors: Martin Mos, Dr. Ulrich Vest, Dr. Niels Peter Thomas

Wiesbaden Local Court, Commercial Register: HRB 29162  
Tax Number: 04022971539  
VAT ID No.: DE307872640  
Phone: (0049) 0611 - 447544 20  
Fax: (0049) 0611 - 447544 22  
Email: customerservice@springernature.com

You may also submit any questions or complaints to us using these contacts. We will respond promptly.

- 1.2 Any and all mentions of Operator in these provisions refer to Springer Nature.
- 1.3 The subject of the contract is the setup of an account and use of the module for the use, purchase, management and synchronization of pre-existing, purchased, available for purchase and/or individually created learning products and supplementary services (hereinafter referred to as content) through the website [www.springernature.de](http://www.springernature.de) as well as the related supplementary services.
- 1.4 The Operator supplies users worldwide. German is the sole contract language.
- 1.5 The Operator shall act in accordance with applicable law and shall not be subject to any other codes of conduct or out-of-court complaint or redress procedures created under private law.

## **2 Specification of Services**

2.1 Springer Nature provides the account module developed by Springer Nature free of charge (free version) to private users for private use only. Springer Nature also provides a paid version of the account module (premium version) on a rental basis for the duration of the contract. Users can upgrade from the free version to the paid premium version with additional features at any time by purchasing the corresponding product in the shop.

2.2 The account module is a software and database developed by Springer Nature and operated on its servers for the distribution and management of learning content (content). It offers the user the possibility to manage content in the cloud online, meaning it is accessible using an internet connection. With the account, the user is allocated a defined storage space in the cloud. The user can upload user-created content to the cloud using the account and manage it there, download free or paid new content from the Springer Nature shop, and synchronize and manage the content via the cloud with the permitted number of workplaces/mobile devices. In addition, user-created content can be shared with other users, i.e., they can be granted access to this content via the cloud.

2.3 The account is available in two versions:

a) Free version:

The registration, setup and use of the account in the free version are completely free of charge and reserved solely for private users for their own personal use. This version is ad-financed, which means advertisements by partners of Springer Nature are shown regularly during account usage. By setting up the free version, the user agrees to the display of advertisements during the use of the software and the account. The user receives 100 MB of storage space for user-created content in the cloud, where he/she can create and store up to a total of 5,000 flashcards.

b) Premium version:

The paid premium version is provided on a monthly rental basis for the agreed contract term in exchange for payment of a monthly charge. The user receives the possibility to use premium features, which are constantly evolving. In addition, advertisements can be turned off in the basic settings of the account. The user also receives an expanded storage space of 2 GB in the cloud for user-created content, where he/she can create as many flashcards as desired.

## **3 Account Setup and Registration Process**

The setup and registration to activate a user's account is done online through the website [www.springernature.de](http://www.springernature.de), by using the corresponding user guide after installing the Springer Nature 2.0 program, or by using one of the available apps for iOS or Android.

The user completes the corresponding data form and enters his/her personal data. The user must acknowledge the General Terms and Conditions and the Privacy Policy by clicking on the buttons "GTC" and "Privacy Policy". It is the user's responsibility to save and/or print the GTC and Privacy Policy after accessing and reading them. By clicking on the respective box, the user confirms that he/she has read the GTC and agrees to their validity, and he/she can give his/her consent under data protection law.

Furthermore, the user can instruct Springer Nature to start the performance of the contract before the cancellation period has expired.

Clicking the "Register" button transmits the data to Springer Nature, which verifies and saves it. By doing so, the user submits his/her legally binding request to set up the account to Springer Nature.

The user will immediately receive a confirmation email about the receipt of the data sent to the email address provided by the user, containing a link that will activate the account when clicked by the user.

Springer Nature will promptly send a separate email to the email address provided by the user stating that the order has been accepted. With this mail, the user will receive a summary of the order, the login, these contract provisions, the Privacy Policy and instructions on withdrawal.

Once the user exits the registration process, the contract details are no longer available online. Registration data and the General Terms and Conditions can be accessed in this case by individually requesting them from Springer Nature.

#### **4 Using the Account**

The user is authorized to access the account subject to the following agreement:

##### **4.1 Access Authorization**

The user receives a login and a password free of charge, which gives him/her access to the account.

Access to the account is password-protected and may only be carried out by the user personally. The user is expressly prohibited from granting or providing third parties access to the login data or access to the account itself.

##### **4.2 Confidentiality of Access Data, Abuse, Liability**

The user agrees to keep his/her login and password confidential, not to disclose them to third parties and to adequately protect them from access by third parties. The user agrees to immediately notify Springer Nature if there is any suspicion of unauthorized persons having acquired knowledge of the login credentials.

Springer Nature will then temporarily block access and issue new access codes to the user. The user is liable for any damage caused to Springer Nature by violation of this agreement, in particular by misuse or abuse, unless the user is not at fault. In particular, misuse/abuse means any use of the access codes by persons other than the user him-/herself.

##### **4.3 Possibilities for Use**

The user is entitled to make use of the usage possibilities offered within the scope of the account; in particular the account enables access to virtualized storage space on Springer Nature's servers via the internet.

Through the account, the user is entitled to – insofar as it is offered –

- • create own learning content (see Section 5 below).
- • upload existing and own learning content to the cloud (see Section 6 below).
- • synchronize user-associated learning content in the cloud with his/her workplaces, i.e., make it available on all workplaces/devices registered for

this purpose (see Section 7 below).

- • purchase new learning content from Springer Nature or third-party providers, paid or free, and upload it to the cloud (see Section 8 below).
- • to share own learning content with other users, i.e., to grant other users access to the user's own learning content that has been released for this purpose (see Section 9 below).

The effective use of the account requires the installation of BRAINYOO 2.0 and/or 2.0 Mobile software, can be downloaded and installed free of charge under a separate licensing agreement. The respective legal relationships are regulated separately and are not the subject of this contract.

## **5 Creating Your Own Learning Content**

5.1 The user can create his/her own learning content using the Springer Nature software on his/her end device. The user can create texts on the device and import and edit pre-existing texts, images, audios and videos.

5.2 Before creating his/her own learning content, the user must ensure that the elements/content used are free of any conflicting rights of third parties, in particular that the user is entitled to the necessary rights to edit, reproduce, distribute, transmit online (Section 19a of the German Copyright Act), sublicense and grant and/or transfer corresponding rights, in particular to upload the created learning content to the cloud, synchronize it, share it and enable third parties to do so, insofar as the learning content is to be used further accordingly. If the use of the user-created learning content is expanded at a later point in time, this shall apply accordingly to the point in time when the usage is expanded.

5.3 The following provisions regarding the user's responsibility under 6.3 - 6.5 apply to the creation of own learning content accordingly.

## **6 Transfer of Learning Content to the Cloud**

6.1.1 Springer Nature provides the user with storage space on its servers free of charge, and on a rental basis in the premium version, for the transfer and storage of pre-existing, user-created or acquired/purchased content, as well as learning statuses and learning statistics stored for this purpose. Storage of other files is not permitted.

6.1.2 The parties agree that no specific geographical storage area is provided for the storage of data. However, under this agreement and for the entire period of validity of this contract Springer Nature is obliged to constantly provide storage capacity to the user to the extent of the specification of services, depending on the version of the account chosen.

6.1.3 The data shall be stored and adequately safeguarded against access by third parties. The directory assigned to the user can only be accessed by entering the login, password and user ID. Access rights through "sharing the content" are granted in accordance with Section 9.

6.1.4 Springer Nature provides access to Springer Nature's servers to retrieve the user's files stored there through the internet. Springer Nature shall ensure the connection of the server to an internet.

6.1.5 Springer Nature will always strive to provide the user with access to the files he/she has saved on the server at any time under the contract for storage, addition, modification or deletion of files.

### **6.2 Usage Rights**

By transferring and storing user-created content, pre-existing content and learning outcomes on the server, the user grants Springer Nature the non-exclusive, perpetual, geographically unrestricted right to store the files and their contents and to duplicate the file or its contents in any form. No remuneration is owed for this.

### **6.3 Responsibility of the User for Content**

6.3.1 All files and contents that are filed and stored by the user on the servers of Springer Nature are the full responsibility of the user. The user agrees not to violate applicable laws of the Federal Republic of Germany and not to violate the rights of third parties when transferring and storing data and content on the servers of Springer Nature. In particular, the transfer, storage, distribution or transmission via the internet of the files or content and their further use in accordance with the contract by Springer Nature must not violate copyright, art copyright, trademark, patent, the German Design Act, other intellectual property rights of third parties or German criminal law. In particular, the user agrees not to transmit, enter or store any content that is offensive or defamatory, national socialist or otherwise subversive, racist or pornographic.

6.3.2 Before uploading content, the user is obligated to ensure that he/she holds all necessary rights for the reproduction and transmission of the content via the internet and that he/she can grant Springer Nature the necessary rights for the execution of this contract.

6.3.3 By transferring content from his/her computer to the servers of Springer Nature via the internet (uploading), the user assures that he/she holds the rights to reproduce and transmit this content via the internet and that it is free of conflicting rights of third parties.

#### 6.4 Right to Block/Delete Content

6.4.1 Springer Nature is entitled and required by law to block individual data or information or, if individual blocking is not possible, to block all data immediately after becoming aware that illegal data or content has been stored, or of facts or circumstances from which illegal activity or information becomes apparent. The blocking is carried out by temporarily interrupting the connection of the data or information to the internet.

6.4.2 Springer Nature will immediately notify the user that the data or information has been blocked. The user is obligated to immediately remove the illegal data or information or to prove the legality to Springer Nature. Springer Nature is also entitled to immediately and irrevocably delete the data and information if the possession thereof is already illegal or punishable.

#### 6.5 Virus-free Transferred Data, Backup Copy

6.5.1. The user bears full responsibility for ensuring that files he/she transfers and stores on the server are free of viruses, worms, Trojan horses or other similar malicious programs.

6.5.2 Prior to uploading graphics or images, the user is obliged to check the files using suitable up-to-date virus programs.

6.5.3 It is the user's responsibility to regularly save the data transferred and stored by him/her in another way, for instance by using a system backup. In particular, Springer Nature is not liable for the loss of data stored by the user. Liability for intent remains unaffected.

### **7 Synchronization of Learning Content with Workplaces**

7.1 The user can synchronize the learning content stored in the cloud via the software, i.e., make it available for download on all end devices. However, the workplace restrictions agreed upon when ordering paid learning content shall apply.

7.2 Insofar as the right of use of the learning content ends, the right of use of the synchronized learning content on the other end devices ends as well. The discontinuation of use is technically implemented by Springer Nature by linking the learning content and all copies to an expiration date.

### **8 Purchase of New Learning Content**

8.1 The user can purchase new paid learning content through the connected online Springer Nature shop or through partner companies affiliated with Springer Nature, either permanently or for a limited period of time. The details of the order

are determined by the order conditions that are agreed upon separately with the order (<https://springernature.de/legal/agb/>)

8.2 The learning content to be purchased is legally protected by copyright, in some cases also in accordance with the German Trademark Act (Markengesetz), the German Design Act (Geschmacksmustergesetz), the German Patent Act (Patentgesetz) and/or other proprietary laws, including international laws. The learning content may therefore only be used by the user within the rights of use granted by the respective conditions of the order. Any use beyond those conditions is unlawful and prohibited, and may result in injunctive relief and claims for damages by the rights holders against the user. Furthermore, violations of copyrights or other intellectual property rights regularly constitute criminal offenses that will be reported for criminal prosecution by the holder of the rights.

8.3 For each order, Springer Nature uses its encryption software to encrypt each individual digital flashcard set with a Springer Nature license issued individually for the user, which permits the user to install the learning content on a maximum of 2 desktop versions and 2 mobile versions in the free version, and on 3 desktop versions and 3 mobile versions in the premium version. The file is also linked to the user's personal user ID and, if temporary usage rights have been purchased, to an expiration date. This prevents unauthorized multiple installations and transfer of the digital flashcard sets to unauthorized third parties, as well as making any violations attributable to the specific user.

8.4 The user must refrain from any manipulation of the encryption or the link to the file with the identifying data.

## **9 Sharing of Learning Content in the Cloud**

9.1 The user can share learning content he/she has created with other users. For this purpose, the user can enable other users to access the learning content stored in the cloud via a software interface, so that other users can download the learning content themselves to their end devices. The sharing of paid learning content is not permitted.

9.2 Prior to sharing learning content with third parties, the user must ensure that no third-party rights (copyrights, trademark rights, patents, other intellectual property rights) to the learning content or its components are violated by the transmission, storage in the cloud, enabling of access by third parties, by the download by a third party and, if applicable, further exploitation through renewed sharing with additional third parties.

9.3 By sharing as defined in 9.1, the user grants Springer Nature the simple, non-exclusive, perpetual, geographically unrestricted, transferable and sublicensable right to reproduce, store, edit and distribute the learning content and make it available online (Section 19a of the German Copyright Act).

9.4 The user also grants the other user with whom he/she shares the learning content the simple, non-exclusive, perpetual, geographically unrestricted, transferable and sublicensable right to reproduce, store, edit and distribute the learning content and make it available online (Section 19a of the German Copyright Act) so that the user can further share the learning content with other users.

## **10 General Terms and Conditions for All Services**

For all services offered under this contract, the following terms and conditions shall apply in addition, unless the above terms and conditions provide for more specific provisions.

### **10.1 Right of Withdrawal**

If the user is a consumer, he/she has a statutory right of withdrawal. The user may then revoke the contractual declaration within 14 days without stating reasons in a clear statement. In the event of an effective withdrawal, the services and benefits received by both parties shall be returned. Details can be found in the separate

Withdrawal Policy.

10.2 Obligation of the User to Cooperate:

10.3.1 If disruptions occur during the use of Springer Nature's offer, the user will inform Springer Nature immediately so that Springer Nature can remedy the disruption.

10.3.2 The user is obliged to inform Springer Nature immediately of any changes to his/her data relevant to the contract.

10.3 Obligation to Protect Access Authorization:

10.4.1 The user is obliged to treat confidential data or access codes (especially user name/login and passwords) confidentially, to not disclose them to third parties and to sufficiently protect them from being accessed by third parties.

10.4.2 The user is obliged to immediately notify Springer Nature if there is any suspicion that unauthorized persons have acquired knowledge of the access codes. Springer Nature will then temporarily block access and issue new access codes to the user.

## **11 Liability of the User, Indemnification**

11.1 The user is liable for damages incurred by Springer Nature arising from violations of this agreement, unless the user proves that he/she is not at fault.

11.2 The user agrees to release Springer Nature from any and all claims in case of claims by third parties due to a violation by the user of the aforementioned contractual obligations, in particular violations of copyright, art copyright, trademark, patent, the German Design Act, competition laws, criminal law or other civil law, by actions of the user, for which Springer Nature is legally liable or which Springer Nature can be charged with.

11.3 The user, if he/she is not a consumer, agrees to pay Springer Nature an appropriate advance on the costs of necessary legal action. In return, the user is entitled to issue instructions to influence the legal action to be taken. Any further claims of Springer Nature remain unaffected.

## **12 Liability of Springer Nature**

12.1 Free Version

Springer Nature shall be liable as follows in the scope of the use of the free version of the account:

The user's claims for damages or reimbursement of unnecessary expenses are governed by the following provisions, regardless of the legal nature of the claim:

- For damages arising from injury to life, body or health, which are attributable to a negligent breach of duty by Springer Nature or an intentional or negligent breach of duty by a legal representative or vicarious agent of Springer Nature, Springer Nature bears unlimited liability.
- Springer Nature is only liable for property damage and other damages in case of intent and gross negligence.
- The liability for data loss is limited to the typical recovery effort, which would have occurred in case of regular and risk-appropriate creation of backup copies.
- The above provisions will also apply to the benefit of Springer Nature's employees.
- Liability under the German Product Liability Act (Produkthaftungsgesetz) remains unaffected (Section 14 of the German Product Liability Act).
- Liability due to defects is determined pursuant to Section 600 of the German Civil Code (Bürgerliches Gesetzbuch) with the proviso that liability due to gross negligence is excluded.

12.2 Premium Version

Springer Nature shall be liable as follows in the scope of the use of the premium

version of the account:

12.2.1 The liability of Springer Nature with regard to the provision of storage space on a rental basis is limited to intentional acts, insofar as Springer Nature cannot be accused of violating a duty to protect or a legal duty to maintain safety. This does not apply to liability for fraudulently concealed defects under the law or errors.

12.2.2 Liability regardless of negligence of Springer Nature pursuant to Section 536a I of the German Civil Code due to errors that were already present at the time of the conclusion of the contract is excluded.

12.2.3 Insofar as the liability of Springer Nature is not separately governed above, Springer Nature is only liable for damages of the user, for whatever the legal reason, if Springer Nature or its vicarious agent culpably violates a cardinal or other essential contractual obligation, in a manner endangering the purpose of the contract, or the damage is due to gross negligence by or intent of Springer Nature or its vicarious agents. Liability for warranties or personal injury as well as under the provisions of the Product Liability Act shall remain unaffected by the above.

12.2.4 The claim for damages arising from the breach of essential contractual obligations is limited to the amount of foreseeable damages typical for the contract, unless there is intent or gross negligence or liability for injury to life, body or health or Springer Nature had fraudulently concealed a defect or had expressly assumed a warranty.

12.2.5 Liability for damages caused by the performance of Springer Nature to other objects of legal protection of the user, such as other property, is excluded, unless there is intent or gross negligence or liability for injury to life, body or health or Springer Nature had fraudulently concealed a defect or had expressly assumed a warranty.

12.2.6 Insofar as liability is effectively excluded or limited, this also applies to the personal liability of employees, other staff, bodies, representatives and vicarious agents.

12.2.7 The above provisions also extend to claims for damages in addition to performance and damages in lieu of performance, regardless of the legal grounds (for instance, due to defect, breach of contractual obligations, tort) and to claims for reimbursement of unnecessary expenses.

12.2.8 Springer Nature assumes no liability for non-accessibility of the user's data and content if the cause of this falls outside the interface to the internet, unless Springer Nature is responsible for the cause.

### **13 Premium Account Fee Payment**

13.1 When setting up a paid premium account, the user selects the desired method of payment from several methods of payment offered by Springer Nature (PayPal, credit card or pre-payment). Regardless of the chosen method of payment, payment will only be considered to have been made when Springer Nature has unrestricted access to the full amount. For payment by credit card, the account will be charged upon completion of the order.

13.2 Payment is due and payable immediately in full. The user is obliged to pay in advance for the billing period indicated at the time of the order.

13.3 If the method of payment selected by the user is not possible despite contractual execution by Springer Nature, in particular because a direct debit from the user's account is not possible due to insufficient funds in the user's account or due to the provision of incorrect data, the user shall reimburse Springer Nature or the third party acting on behalf of Springer Nature in the processing of the payment for any additional costs incurred as a result thereof.

13.4 Springer Nature is entitled to use the services of trustworthy third parties for the processing of the payment. Springer Nature is allowed to assign claims against the user to third parties for this purpose and to transfer the personal data required for the payment processing to said third party. In the event that a third party is



involved in the payment process, the payment will only be considered to have been completed in relation to Springer Nature when the amount has been made available to the third party in accordance with the contract, so that the third party has full access to it.

13.4 Insofar and as long as the account is supplied as a premium version in connection with the order of paid content (product), the obligation to pay the fee shall be waived for the duration of the promised fee-free use. If a premium account has already been set up prior to the purchase of the product and the fee has already been paid, the agreed period of use of the previously set-up premium account shall be extended by the period of free use of the product.

## **14 Data Protection and Privacy**

Springer Nature collects, processes and uses personal data of the user for the execution of the contract within the scope of the separately provided Privacy Policy (<https://springernature.de/legal/datenschutz/>) and in accordance with legal provisions.

## **15 Term of Contract/Cancellation**

15.1 The contract is concluded for an indefinite period of time, unless a specific contract term has been agreed upon. If no special terms have been agreed upon, the contract can be terminated by the user at any time, by Springer Nature with a notice period of one month. If paid content already purchased at the time of termination grants a longer period of use, the termination shall be effective upon expiration of this period of use. In the premium version, the contract can be terminated with a notice period of one month to the end of the month.

15.2 Upon termination of the premium contract, the account shall be converted into a free account, i.e., the free account shall continue to exist unless the complete termination of the entire contract has been agreed upon or was indicated upon termination. Upon termination of the free account, all stored data shall be deleted after the expiration of the retention period.

15.3 The right of both parties to terminate individual services or the entire contract without notice for good cause remains unaffected. Important reasons entitling Springer Nature to terminate the contract without notice include in particular:

- Use of the program by the user in violation of the contract, in particular the unauthorized transfer of the program for use by third parties.
- Violation of the copyrights of Springer Nature or its contractual partners (such as content providers) by the user.

15.4 In case of doubt, termination for cause extends to the entire contract.

15.5 The user agrees to delete all data stored on Springer Nature's server within two weeks of termination of the contract. After expiration of this period, Springer Nature will set another deadline of two weeks by letter or email for the deletion of the data, combined with the warning that it will delete the data itself after expiration of the deadline. After expiration of this period, Springer Nature is entitled to independently delete the data from the server. Further claims for surrender or damages to the user shall not exist then.

## **16 Final Provisions**

### **16.1 Server Data and General Information**

16.1.1 The user is informed that Springer Nature has rented storage space from a third party on which all data is stored (server housing).

16.1.2 The server is located in the Federal Republic of Germany.

### **16.2 Support/Hotline**

Should any questions or issues arise in connection with the contract or its execution, the user can contact the hotline under the number (0049) 0611 - 188

300 19 or by email at customerservice@springernature.com

### 16.3 Miscellaneous

16.3.1 This agreement represents the entire arrangement of the subject of the contract. No ancillary agreements have been made. Changes or additions to this contract must be made in writing or text form. This shall also apply to any provision waiving this requirement.

16.3.2 Should one or more of the aforementioned provisions of this agreement be deemed invalid, the remaining provisions shall remain unaffected.

It is the responsibility of the user to save and/or print out these Terms and Conditions.

Last update of the terms and conditions: November 1, 2016

Martin Mos, Dr. Ulrich Vest, Dr. Niels Peter Thomas, Director of Springer Nature Mobile Learning GmbH, Wiesbaden