

## **Terms of Use**

**(Effective: September 16, 2021)**

The following services and websites listed below (collectively, "Website") are owned and operated by Clinical Reference Laboratory, Inc. ("CRL"). CRL has contracted with The Guardian Life Insurance Company of America and The Guardian Insurance & Annuity Company, Inc. (collectively "Guardian") to offer the Access My Health services. CRL has adopted these Terms of Use ("Terms of Use") to make you aware of the terms and conditions of your use of the Website. By clicking "I Agree", creating an account or accessing, using or installing any part of the Website, you acknowledge that you have read these Terms of Use and agree to be bound by their Terms. If you do not agree to these Terms of Use do not use the Website. CRL reserves the right, at its discretion, to change, modify, add or remove portions of these Terms of Use at any time by posting such changes to this page. Please check these Terms of Use periodically for changes. The continued use of the Website following the posting of changes to these terms will mean you accept those changes.

### **Services, Accessibility and Equipment**

The Website is proprietary to CRL and is protected by intellectual property laws and international intellectual property treaties. Your access to services through the Website are licensed and not sold. Subject to the timely payment of all Fees, if any, and the terms and limitations set forth in these Terms of Use, CRL agrees to provide you with a personal, non-transferable and non-exclusive account enabling you to access and use the Website (but not for service bureau, time-sharing, or similar services). CRL reserves all rights not expressly granted herein, including, but not limited to, the right to alter, modify, update, enhance, or improve the Website. You acknowledge that from time to time the Website may be inaccessible or inoperable for any reason, including, without limitation: (i) equipment malfunctions; (ii) periodic maintenance procedures or repairs which CRL may undertake from time to time; or (iii) causes beyond the control of CRL or which are not foreseeable by CRL. You shall be solely responsible for providing, maintaining and ensuring the compatibility of all hardware, software, electrical and other physical requirements necessary for your use of the Website, including, without limitation, telecommunications and internet access connections and links, web browsers or other equipment, programs and services required to access and use the Website.

### **General Terms of Use and Restrictions on Use of Materials**

If you do not comply with the Terms of Use at any time, CRL reserves the right to limit your access to the Website. CRL may discontinue or alter any aspect of the Website, including, but not limited to, (i) restricting the time the Website is available, (ii) restricting the amount of use permitted, and (iii) restricting or terminating any user's right to use the Website, at CRL's sole discretion and without prior notice or liability. You acknowledge that the Website may contain information, software, photos, video, text, graphics, music, sounds or other material provided by CRL or third parties (collectively, "Content") that are protected by copyrights, patents, trademarks, trade secrets or other proprietary rights, and that these rights are valid and protected in all forms, media and technologies existing now or hereafter developed.

### **Trademarks and Logos**

Unless otherwise specifically noted, images, trademarks, service marks, logos and icons displayed on the Website are the property of CRL and may not be used without CRL's prior written consent. Any and all Guardian branding, including without limitation the GUARDIAN G trademark and logo, and any other Guardian content featured on the Website are the property of The Guardian Life Insurance Company of America, and are being used by CRL with permission.

### **Security**

You shall be solely responsible for the security, confidentiality and integrity of all messages and the content that you receive, transmit through or store on the Website. You shall be solely responsible for any authorized or unauthorized access to your account by any person. You agree to bear all responsibility for the confidentiality of your passwords and all use or charges incurred from use of the Website with your passwords.

### **CRL's Privacy Policy**

CRL collects, stores and uses data collected from you in accordance with CRL's Privacy Policy, which may be found at <http://www.crlcorp.com/company/CRLTermsOfUse.cfm> ("Privacy Policy"). CRL reserves the right to change the Privacy Policy as set forth therein. You acknowledge that you have read and understand the Privacy Policy and that you have the obligation to periodically review the Privacy Policy from time to time. In the event any provisions contained in these Terms of Use conflict with any terms, conditions or clauses contained in the Privacy Policy, the provisions of these Terms of Use shall govern.

### **Guardian's Privacy Policy**

By using this website, you authorize and grant permission to Guardian to receive any and all information in a secure manner, including any mental health and wellbeing information that you provide related to the use of the Access My Health site and

services. All information will be collected, used and shared in accordance with [Guardian's Privacy Policy](#). No information will be used for any underwriting or claim administration purposes and will only be used for analytic purposes.

### **Incentives and Rewards**

Guardian allows you to earn rewards up to certain limits for activities completed by you to incentivize healthier lifestyles.

### **Intellectual Property**

The intellectual property utilized in providing the Website is the valuable, confidential and copyrighted property of CRL. You may use the Website as permitted herein and may not otherwise modify, adapt, translate, or create derivative works based on the Website without the prior written consent of CRL. As between the parties, CRL owns all right, title, and interest in and to the Website, including without limitation, all ancillary and interface software, all current and future enhancements, revisions, new releases and updates thereof and any derivative works based thereon and all documentation thereto, all copyrights, trade secrets, patents and goodwill therein. As between the parties, you shall retain all rights, if any, which you may have in any images, photographs, illustrations, graphics, audio clips, video clips and text retrieved, viewed or sent by you using the Website, provided that CRL shall have a perpetual, fully paid-up, royalty free license to use any of the foregoing to provide the Website to you. All trademarks, service marks, and logos used on the Website are owned by CRL, or appropriately licensed from their owner. All other trademarks, service marks and logos used on the website or through the Website (including without limitation those owned by The Guardian Life Insurance Company of America) are the trademarks, service marks or logos of their respective owners. Any unauthorized use of the images may violate copyright laws, trademark laws, privacy and publicity laws and communications regulations and statutes.

### **Your Representations**

You represent and warrant to CRL that: (a) all information provided by you to CRL is truthful, accurate and complete; (b) you will comply with all terms and conditions of this Agreement, including, without limitation, the provisions set forth in the Prohibited Uses section; (c) you have provided and will maintain accurate and complete registration information with CRL, including, without limitation, your legal name, address and telephone number; and (d) your access to and/or use of the Website does not and will not constitute a breach or violation of any other agreement, contract, terms of use, or similar policy or understanding to which you may be subject.

### **Prohibited Uses**

You are solely responsible for any and all acts and omissions that occur under your account or password, and you agree not to engage in unacceptable use of the Website, which includes, without limitation, use of the Website to: (a) disseminate, store or transmit unsolicited messages, chain letters or unsolicited commercial email; (b) disseminate or transmit material that, to a reasonable person may be abusive, obscene, pornographic, defamatory, harassing, grossly offensive, vulgar, threatening or malicious; (c) disseminate, store or transmit files, graphics, software or other material that actually or potentially infringes the copyright, trademark, patent, trade secret or other intellectual property right of any person; (d) create a false identity or to otherwise attempt to mislead any person as to the identity or origin of any communication; (e) export, re-export or permit downloading of any message or content in violation of any export or import law, regulation or restriction of the United States and its agencies or authorities, or without all required approvals, licenses or exemptions; (f) interfere, disrupt or attempt to gain unauthorized access to other accounts on the Website or any other computer network; (g) disseminate, store or transmit viruses, trojan horses or any other malicious code or program; or (h) engage in any other activity deemed by CRL to be in conflict with the spirit or intent of the Website and these Terms of Use.

### **Disclaimer**

CRL uses reasonable efforts to maintain the Website, but neither CRL nor Guardian are responsible for any defects or failures associated with the Website or any damages (such as lost profits or other consequential damages) that may result from any such defects or failures. In addition, neither CRL and Guardian make no guarantees as to the web sites and information located worldwide throughout the Internet to which you may access as a result of the use of the Website, including as to the accuracy, content, or quality of any such sites and information.

### **PLEASE NOTE THE FOLLOWING IMPORTANT DISCLAIMERS OF WARRANTIES:**

THE WEB SITE IS PROVIDED "AS IS" AND YOUR USE IS AT YOUR SOLE RISK. CRL AND GUARDIAN EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

WITHOUT LIMITATION, CRL AND GUARDIAN MAKE NO WARRANTY THAT THE WEB SITE WILL MEET YOUR REQUIREMENTS, THAT IT WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, THAT THE RESULTS OBTAINED FROM THE USE OF ANY INFORMATION FOUND ON THE WEB SITE WILL BE ACCURATE

OR RELIABLE, OR THAT THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL OBTAINED THROUGH THE WEB SITE WILL MEET YOUR EXPECTATIONS.

ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE WEB SITE IS DONE AT YOUR SOLE RISK AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM THE DOWNLOAD OF ANY SUCH MATERIAL.

FURTHER, PLEASE NOTE THAT NO INFORMATION, OBTAINED BY YOU THROUGH THE WEB SITE SHALL CREATE ANY WARRANTY NOT EXPRESSLY PROVIDED FOR IN THESE TERMS OF USE.

#### **Limitation of Liability**

YOU EXPRESSLY UNDERSTAND AND AGREE THAT NEITHER CRL NOR GUARDIAN SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES (EVEN IF CRL OR GUARDIAN HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), RESULTING FROM: (i) THE USE OR THE INABILITY TO USE THE WEB SITE; (ii) THE COST OF PROCUREMENT OF SUBSTITUTE PRODUCTS AND SERVICES RESULTING FROM ANY PRODUCTS, DATA, INFORMATION OR SERVICES PURCHASED OR OBTAINED OR MESSAGES RECEIVED OR TRANSACTIONS ENTERED INTO THROUGH OR FROM THE WEB SITE; (iii) UNAUTHORIZED ACCESS TO OR ALTERATION OF YOUR TRANSMISSIONS OR DATA; OR (iv) ANY OTHER MATTER RELATING TO THE WEB SITE. IN NO EVENT SHALL CRL'S OR GUARDIAN'S TOTAL LIABILITY TO YOU FOR ALL DAMAGES, LOSSES, AND CAUSES OF ACTION (WHETHER IN CONTRACT, TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE), OR OTHERWISE EXCEED THE AMOUNT PAID BY YOU, IF ANY, FOR YOUR RIGHT TO ACCESS THE WEB SITE.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

#### **Indemnification**

You agree to defend, indemnify and hold harmless CRL and Guardian, its officers, directors, employees, agents and representatives from and against any and all claims, liabilities, damages, losses or expenses, including attorney's fees and costs, arising out of or in any way connected with your access to or use of the Website, any services or products provided by CRL or Guardian, infringement of any intellectual property or any other rights of any person or entity or the violation of these Terms of Use.

#### **Termination and Modification**

You agree that CRL, in its sole discretion, may terminate your use of the Website, and remove and discard any Content, for any or no reason. CRL may also, in its sole discretion and at any time, discontinue providing the Website, or any part thereof, with or without notice. You agree that any termination of your access to the Website under any provision of these Terms of Use may be effected without prior notice. Further, you agree that CRL shall not be liable to you or any third-party for any termination of your access to the Website.

#### **Compliance with Laws**

You are responsible for compliance with any applicable laws governing your use or submissions through the Website. You may not use the Website in any way that violates applicable state, federal, or international laws, regulations or other government requirements. You further agree not to transmit any material that encourages conduct that could constitute a criminal offense, give rise to civil liability or otherwise violate any applicable local, state, national, or international law or regulation.

#### **Governing Law**

The validity and effect of these Terms of Use shall be governed by and construed and enforced in accordance with the laws of the State of Kansas, USA, without regard to its conflicts of laws principles. ANY SUIT, ACTION OR PROCEEDING CONCERNING THE WEB SITE, ITS USE, THESE TERMS OF USE, OR CONCERNING ANY OTHER POLICY OR PROCEDURE OF CRL, MUST BE BROUGHT IN A COURT OF COMPETENT JURISDICTION IN KANSAS, AND YOU HEREBY IRREVOCABLY CONSENT TO THE JURISDICTION OF SUCH COURT (AND OF THE APPROPRIATE APPELLATE COURTS THEREFROM) IN ANY SUCH SUIT, ACTION OR PROCEEDING; AND YOU IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION WHICH YOU MAY NOW OR HEREAFTER HAVE TO THE LAYING OF THE VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING IN ANY SUCH COURT OR THAT ANY SUCH SUIT, ACTION OR PROCEEDING WHICH IS BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

## **Other Miscellaneous Terms**

The parties and their respective personnel are and shall be independent contractors and neither party by virtue of the Website and these Terms of Use shall have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party. If any action in law or in equity is necessary to enforce the terms hereof, the prevailing party will be entitled to reasonable fees of attorneys, accountants, and other professionals, and costs and expenses in addition to any other relief to which such prevailing party may be entitled. These Terms of Use and any License and Access Agreement constitutes the complete and exclusive statement of the agreement between the parties with respect to the Website and supersedes any and all prior or contemporaneous communications, representations, statements and understandings, whether oral or written, between the parties concerning the same.

## **Links**

The Website may provide, or third parties may provide, links to other web sites on the Internet or resources. Because CRL and Guardian have no control over such sites and resources, you acknowledge and agree that CRL and Guardian are not responsible for the availability of such external sites or resources and does not endorse and is not responsible or liable for any Content, advertising, products, or other materials on or available from such sites or resources. You further acknowledge and agree that neither CRL nor Guardian shall be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such Content, goods or services available on or through any such site or resource.

## **Copyright and Copyright Notices**

CRL respects the intellectual property of others, and we ask our users to do the same. If you believe that your work has been copied in a way that constitutes copyright infringement, please provide CRL's Copyright Agent the following information:

- an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest;
- a description of the copyrighted work that you claim has been infringed;
- a description of where the material that you claim is infringing is located on the site;
- your address, telephone number, and email address;
- a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law; and
- a statement by you, made under penalty of perjury, that the above information in your Notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf.

Please contact CRL's Copyright Agent for Notice of Claims of copyright infringement in the following manner:

By Mail:  
Corporate Secretary  
Clinical Reference Laboratory, Inc.  
8433 Quivira Road  
Lenexa, KS 66215

By Email:  
copyright@crlcorp.com