

Terms and conditions of use – Brooklyn Financial Group LLC

Effective Date: 9/1/19

Brooklyn Financial Group LLC Online Terms and Conditions of Use

Brooklyn Financial Group LLC, an agency of The Guardian Life Insurance Company of America © 2019, may also be referred as “BFG” or “Agency”. The Online Privacy Statement and Online Terms and Conditions for Use are limited to those applicable sites for which the agency has primary supervisory responsibilities, including its related DBAs, its Landing Pages, and Calendar Booking sites. For the purposes of these, the following is our Online Terms and Conditions Agreement. BFG understands that you care about how we collect, use, and share information when you interact with our websites, online services, and applications (our “Sites”).

Important Disclosures below:

All investments contain risk and may lose value. Diversification does not guarantee profit or protect against market loss.

Investors should consider the investment objectives, risks, charges and expenses of mutual funds carefully before investing. This and other information are contained in the fund’s prospectus, which may be obtained from your investment professional. Please read it before you invest or send money. Investments in mutual funds are subject to risk, including possible loss of the principal amount invested.

Securities products and advisory services offered through Park Avenue Securities LLC (PAS), a registered broker-dealer and investment adviser.

PAS is an indirect, wholly owned subsidiary of Guardian and a member [FINRA](#), [SIPC](#)
[Mutual Funds Disclosure for PAS](#)

Introduction

These Terms and Conditions (“Terms”) apply to your use of any of BFG, as described above, The Guardian Life Insurance Company of America’s (“Guardian”) online interfaces (*e.g.*, websites, applications, or online services) and any Guardian U.S. affiliate or subsidiary online interface that links to them, (collectively, the “Sites”), including any content, functionality, and services offered on or through the Sites, regardless of how you access the Sites.

The term “Guardian” includes its parents, subsidiaries, affiliates, predecessors, successors, and assigns.

When used in these Terms, “we” and “our” mean Guardian and “you” and “your” refer to any individual, company, or legal entity that accesses or otherwise uses the Sites. Words importing the singular number include the plural and vice versa.

We reserve the right to modify or amend these Terms from time to time with or without prior notice. Your accessing and continued use of our Sites following the posting of changes to these Terms will mean you accept those changes. You should review these Terms from time to time to be aware of any changes that are made. These Terms constitute a binding agreement between you and Guardian.

If you do not agree to these Terms, please do not use the Sites.

Accepting the Terms

In order for you to use the Sites, you must first accept these Terms. You can accept these Terms by:

- 1) On a Site, or any part of a Site, that requires registration, signing in or checking a box near a statement that indicates your agreement with or acceptance of the Terms; or
- 2) Using any of the Sites that link to these Terms, in which case you understand and agree that these Terms will apply to your use of those Sites (or any parts of them), in which case, if you do not agree, you should immediately discontinue your use of the Sites.

You may wish to print or save a copy of the Terms for your records.

Privacy

Please review our Online Privacy Statement and other privacy notices, which explain how we may collect, use, and share information from or about you. The Online Privacy Statement is incorporated into and made a part of these Terms.

Additional Terms

Portions of the Sites, as well as certain products and services offered by BFG and Guardian through the Sites, may be governed by other or additional terms and conditions. For example, certain products and services offered by BFG and Guardian may be subject to specific governmental regulations, and therefore will have separate terms and conditions that apply to them. You agree to review all applicable terms and conditions relevant to BFG and Guardian products and services that you access and use. To the extent that these Terms conflict with any additional terms and conditions, the additional terms and conditions shall govern and control.

Further, you may have established an account, contract or policy with Guardian which is governed by an account, contract or policy agreement. To the extent that these Terms conflict with your account, contract or policy agreement, the account, contract or policy agreement shall govern.

Registration and Security

You may need to create an account or provide authentication information such as a policy number to have access to parts of the Sites. In consideration of your use of the Sites, you agree to: (a) provide true, accurate, current and complete information about yourself as prompted by the Sites' registration and/or authentication process and (b) maintain and promptly update your information to keep it true, accurate, current and complete. If Guardian suspects that such information is untrue, inaccurate, not current, or incomplete, Guardian has the right to suspend or terminate your account and refuse any and all use of the Sites. Unauthorized use of or access to portions of the Sites requiring authorization such as an account username and password is prohibited.

You must protect the security and confidentiality of any established username, password and security information you use to access the Sites. Anyone able to provide your username and password will be able to access your account and you will be held responsible for any and all activities that occur under your account. You agree to immediately notify us of any unauthorized use of your security credentials, your account, or any other breach of security of which you become aware. You are responsible for taking precautions and providing security measures best suited for your situation and intended use of the Sites.

Intellectual Property Rights and Ownership

All of the information and content displayed on the Sites including, without limitation, text, graphics, photographs, images, moving images, sound, and illustrations ("Content"), is owned by BFG, Guardian, its licensors, agents, and/or Content providers. All Content on the Sites, without limitation, is protected worldwide by trade dress, copyright, moral rights, trademark and other applicable intellectual property laws.

Except as may be otherwise indicated on the Sites, Content is provided for informational purposes and you are authorized to view, play, print and download documents, audio and video found on our Sites for your personal or internal business purposes only. You may not use, copy, reproduce, republish, upload, post, transmit, distribute, or modify the Content for any commercial purpose without Guardian's prior express written consent.

The Sites, the Content and all related rights shall remain the exclusive property of BFG, Guardian, its licensors, agents and/or Content providers, unless otherwise expressly agreed. You acknowledge that you do not acquire any proprietary rights by copying or downloading any Content that is copyrighted or protected by any other intellectual property right. You agree that you will not remove any copyright, trademark, or other proprietary notices from material found on the Sites.

GUARDIAN® and the GUARDIAN G® Logo are registered service marks of Guardian, and all other trademarks and service marks ("Marks") on the Sites are proprietary trademarks and/or service marks of Guardian, its licensors, agents and/or Content providers unless otherwise indicated. No right, title or interest in any such marks is granted you in these Terms, and you are not authorized to reproduce or otherwise use any such Marks absent prior express written approval from Guardian, its licensors, agents and/or Content providers, as applicable, in each instance.

Intellectual Property Claims

Guardian, itself the owner of valuable intellectual property, respects the intellectual property rights of others. Third party materials that we do not own or control may be transmitted, stored, accessed or otherwise made available using the Sites. Guardian has adopted a policy that provides for the removal of any content or the suspension of any user that is found to have repeatedly infringed on the copyright of a third party. If you believe that any material available via the Sites violates your copyright rights, you should notify us using the notice procedure for claimed infringement under the DMCA (17 USC Section 512). Please promptly notify Guardian's agent: Logan Gould, litigation@glic.com or 212-919-8565. Please make you sure that you specifically identify the copyrighted work that you claim has been infringed by providing specific URL(s) and a precise description of where the copyrighted material is located on the page(s).

We may give notice to our users of any infringement notice by means of a general notice on any of our Sites, electronic mail to a user's e-mail address in our records, or by written communication sent to a user's last known physical address in our records. If you receive such an infringement notice, you may provide counter-notification in writing. Please be advised that if you submit a counter-notification, that notice along with your identifying information included in the notice will be provided to the party that submitted the original claim of infringement.

If you believe that content on the Sites violates other non-copyright intellectual property rights, including your trademark or publicity rights, please promptly notify Guardian by submitting the following information to the street or email address set forth below: the basis for your rights (including any trademark or other relevant registrations); a succinct description of the alleged violation and the nature of the rights violated; and the location (including URL or internet address) of the content that you believe to be infringing on the Sites.

By Mail: The Guardian Life Insurance Company of America

10 Hudson Yards

New York, NY 10001

By Email: litigation@glic.com

Restrictions on Use of the Sites

You agree that you will not post material on the Sites, or otherwise use the Sites or Content in any manner, that could: (i) humiliate, threaten, defame, harass, or injure other people or their property rights, including, but not limited to, intellectual property rights; (ii) violate the privacy or publicity rights of other individuals or entities; (iii) be considered criminal conduct or give rise to civil liability; or (iv) otherwise violate any law or regulation or these Terms. You further understand and agree that posting unsolicited advertisements on the Sites is expressly prohibited by these Terms.

You agree that you will not use any robot, spider, scraper or other automated means to access the Sites for any purpose without our express written permission. Additionally, you agree that you will not: (i) take any action that imposes, or may impose in our sole discretion an unreasonable or disproportionately large load on our infrastructure; (ii) interfere or attempt to interfere with the proper working of the site or any activities conducted on the Sites; or (iii) bypass any measures we may use to prevent or restrict access to the Sites.

Any unauthorized use of our Sites or computer systems is a violation of these Terms. In addition to any remedies that we may have at law or in equity, if we determine, in our sole discretion, that you have violated or are likely to violate the foregoing prohibitions, we may take any action we deem necessary to prevent or cure the violation, including without limitation, the immediate termination of your access to the Sites.

Unsolicited Submissions

BFG and Guardian do not accept or consider creative ideas, suggestions, or materials other than those it has specifically requested. This policy is designed to avoid misunderstandings if projects developed by BFG or Guardian's professional staff seem to others to be similar to their own creative work. Accordingly, Guardian requests that you not submit any creative ideas, suggestions, or materials except where specifically requested or solicited.

However, if you do send us any unsolicited suggestions, (i) you agree not to assert any ownership right of any kind in against BFG or Guardian (including, but not limited to copyright, trademark, unfair competition, moral rights, or implied contract), (ii) you hereby grant BFG and Guardian a nonexclusive, perpetual, worldwide license to use the unsolicited submission in every media and for every purpose now known or hereinafter discovered, and (iii) you waive the right to receive any financial or other consideration in connection with such unsolicited submission including, but not limited to, credit. You agree to release BFG, Guardian (and our officers, directors, agents, subsidiaries, joint ventures and employees) from any claims, demands, or damages (actual and consequential) arising out of, or in any way connected with, your unsolicited submissions, including, without limitation, all claims for theft of ideas or copyright infringement.

Links

Running or displaying the Sites or any Content displayed on the Sites in frames or through similar means on another site without our prior written permission is prohibited.

From time to time, the Sites may contain links to third-party websites that are not owned, operated or controlled by BFG or Guardian. All such links are provided solely as a convenience to you. We are not responsible for any content, materials or other information located on or accessible from any other websites. Nor do we endorse, guarantee, or make any representations or warranties regarding any other websites, or any content, materials or other information located or accessible from those websites. If you decide to access any other websites linked to or from the Sites, you do so entirely at your own risk.

Availability of Products and Services; United States Only

Certain products and services offered by BFG or Guardian through the Sites may not be available in all areas of the United States ("U.S."), and you may not be eligible for all products and services. BFG and Guardian reserve the exclusive right to determine availability and eligibility for our products and services.

The Sites are directed to and are intended to be made available only to persons in the United States and are not intended for distribution to, or use by, any person in any other country or any jurisdiction where such distribution or use would be contrary to

law or regulation or that would subject BFG or Guardian to any registration requirement within such jurisdiction or country. Persons who access the Sites do so on their own initiative and are responsible for compliance with applicable local laws and regulations. Software and other materials from Sites may be subject to export controls imposed by the United States and may not be downloaded or otherwise exported to any country or anyone prohibited by law. BFG and Guardian prohibit your downloading or exporting of software or other material from the Sites in violation of U.S. export laws and any applicable international or foreign laws, including the laws of your resident country. By downloading software or other material from the Sites, you represent and warrant that you are able to do so in full compliance with the laws of the United States and all applicable international and foreign laws, including the laws of your resident country.

Warranty Disclaimer

Your use of the Sites is at your own risk. The Content, products and services provided on, through, or in connection with the Sites or otherwise provided by us are provided “as is” and for informational purposes only. To the fullest extent permitted by applicable law, we hereby disclaim all representations and warranties of any kind, either express or implied, with including, but not limited to, warranties of merchantability, fitness for a particular purpose, security, non-infringement of intellectual property, freedom from computer virus, or warranties arising from course of dealing or course of performance. We do not represent or warrant that the Sites or the Content will be uninterrupted or error-free, that defects will be corrected, or that the Sites are free of viruses or other harmful components.

We attempt to ensure that Content on the Sites is complete, accurate and current. Despite our efforts, Content may occasionally be inaccurate, incomplete or out of date. We make no representations or warranties regarding the completeness, accuracy, timeliness, or reliability of any Content, nor do we assume any duty to update such Content.

No advice or information, whether oral or written, obtained from BFG or Guardian or through our Sites, products or services will create any warranty not expressly made herein. The foregoing exclusions of warranties do not apply to the extent prohibited by applicable law.

The Sites are not a substitute for seeking financial advice concerning your specific circumstances from a qualified attorney, accountant, investment or other professional advisor. As a courtesy, Guardian makes efforts to ensure the accuracy of information provided, but the accuracy of information on the Site is not guaranteed and may be subject to change without notice, and revisions to material posted on the Site may not be made immediately following any such change. While the Site (i) may display language or features from an insurance policy/policies or a variable annuity contract/contracts; or (ii) may summarize certain features of an insurance policy/policies; or (iii) may provide information about advisory or brokerage accounts,

nothing stated in the Site modifies, alters, or supplants the terms of any insurance policy or annuity contract, or any advisory or brokerage account statements or information, in any way, nor should such content be construed as such.

The Content contained on the Sites is not intended, in any manner, as an official brokerage or mutual fund statement, quarterly performance report or a record of policy values.

The Content is not to be used as an official books and records statement of Guardian or its affiliates. Any performance data quoted represents past performance and does not guarantee future results. The investment return and principal of an investment will fluctuate so that an investor's shares when redeemed may be worth more or less than the original cost. The values represented on the Site may not reflect the true original cost of your initial investment. You should not rely on this information for any financial decision making. You are encouraged to review and maintain the official source document(s) provided by the account or policy custodian(s). Those source documents may contain notices, disclosures and other important information and may also serve as a reference should questions arise regarding the accuracy of the information in this report. Always refer to these source documents for lending, legal or tax purposes.

Some Content of the Sites, including but not limited to Park Avenue Securities account data, exchange data, market data, news, and other information services, are provided by third parties as a convenience to you ("Third Party Content"). Third Party Content is outside BFG and Guardian's control. Neither BFG, Guardian nor the provider(s) of Third Party Content take responsibility for the suitability of the Third Party Content. The provision of Third Party Content is not an endorsement of the Third Party Content, any third party service, or its sponsoring organization.

REFERENCE TO A FUND OR SECURITY INCLUDED ANYWHERE ON OUR SITES IS NOT A RECOMMENDATION TO BUY, SELL, OR HOLD THAT, OR ANY OTHER SECURITY.

THE SITES AND THE CONTENT CONTAINED ON BFG AND RELATED OR ASSOCIATED AFFILIATES AND GUARDIAN'S SITES ARE PROVIDED "AS IS" AND AS AVAILABLE. AS SUCH, GUARDIAN MAKES NO, AND TO THE FULLEST EXTENT PERMITTED BY LAW HEREBY DISCLAIMS ANY, WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF TITLE, NONINFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE OR PURPOSE.**

**In jurisdictions that do not permit the exclusion of implied warranties, this exclusion may not apply.

WITHOUT LIMITING THE FOREGOING:

BFG, ITS RELATED AND ASSOCIATED AFFILIATES, AND GUARDIAN DO NOT GUARANTEE, AND DISCLAIMS ANY WARRANTY, THAT THE SITES WILL BE AVAILABLE AT ALL TIMES, WILL OPERATE WITHOUT INTERRUPTION OR ERROR, OR WILL BE FREE OF AND SECURE FROM VIRUSES, WORMS, "TROJAN HORSES", HACKING, OR OTHER HARMFUL OR DESTRUCTIVE ELEMENTS CREATED BY OTHERS, OR FROM COOKIES PLACED BY GUARDIAN OR OTHERS. YOU UNDERSTAND THAT YOU ARE RESPONSIBLE FOR IMPLEMENTING SUFFICIENT PROCEDURES AND CHECKPOINTS TO SATISFY YOUR PARTICULAR REQUIREMENTS FOR ACCURACY OF DATA INPUT AND OUTPUT; AND

BFG, ITS RELATED AND ASSOCIATED AFFILIATES, AND GUARDIAN MAKE NO WARRANTY AS TO THE RELIABILITY, ACCURACY, TIMELINESS, USEFULNESS, ADEQUACY, COMPLETENESS OR SUITABILITY OF THE SITES OR CONTENT, PRODUCTS OR SERVICES PROVIDED THROUGH THE SITES.

YOU AGREE TO BE SOLELY RESPONSIBLE FOR YOUR USE OF BFG, ITS RELATED AND ASSOCIATED AFFILIATES, AND GUARDIAN'S SITES, WHICH IS AT YOUR OWN RISK, AND YOU ASSUME FULL RESPONSIBILITY FOR AND RISK OF LOSS RESULTING FROM YOUR USE. BFG, GUARDIAN, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND CONTENT PROVIDERS SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES ARISING OUT OF YOUR USE OF OR INABILITY TO USE THE SITES EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Limitations of Liability

FOR PURPOSES OF THIS LIMITATION OF LIABILITY PROVISION, "GUARDIAN" REFERS TO THE GUARDIAN LIFE INSURANCE COMPANY OF AMERICA, INCLUDING ITS PARENTS, SUBSIDIARIES, AGENCY (BFG), AFFILIATES, PREDECESSORS, SUCCESSORS, AND ASSIGNS, AND EACH OF THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS.

YOU WAIVE THE RIGHT TO ASSERT A CLAIM AGAINST BFG, ITS RELATED AND ASSOCIATED AFFILIATES, AND GUARDIAN MORE THAN TWELVE (12) MONTHS AFTER THE FIRST EVENT OR FACT THAT GIVES RISE TO THE CLAIM.

EXCEPT AS EXPRESSLY PROVIDED IN THESE TERMS, IN NO EVENT SHALL BFG, ITS RELATED AND ASSOCIATED AFFILIATES, OR GUARDIAN BE LIABLE TO YOU OR TO ANY THIRD PARTY FOR ANY DAMAGES ARISING OR RESULTING FROM ANY INTERRUPTION IN OR DISRUPTION TO THE SITES OR CONTENT. IN NO EVENT SHALL BFG, ITS RELATED AND ASSOCIATED AFFILIATES, OR GUARDIAN BE LIABLE TO YOU OR TO ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO LOST DATA, LOST PROFITS, OR LOST BUSINESS OPPORTUNITIES), REGARDLESS OF THE LEGAL THEORY, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE, AND REGARDLESS OF WHETHER GUARDIAN WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

IN NO EVENT SHALL BFG, ITS RELATED AND ASSOCIATED AFFILIATES, OR GUARDIAN'S AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THESE TERMS EXCEED THE GREATER OF: (1) \$2,500; OR (2) THREE (3) TIMES THE AGGREGATE AMOUNT PAID OR PAYABLE BY YOU TO BFG, ITS RELATED AND ASSOCIATED AFFILIATES, OR GUARDIAN PURSUANT TO THIS AGREEMENT IN THE TWELVE (12) MONTHS PRECEDING THE EVENT THAT GAVE RISE TO THE CLAIM. NOTWITHSTANDING THE FOREGOING, THE LIMITATIONS OF LIABILITY IN THIS PARAGRAPH SHALL NOT APPLY TO INJURIES: (1) TO THE BODY OR PERSON; OR (2) CAUSED BY GUARDIAN'S WILLFUL, MALICIOUS, RECKLESS, OR GROSSLY NEGLIGENT ACTS OR OMISSIONS.

THESE LIMITATIONS OF LIABILITY SHALL SURVIVE THE TERMINATION OF THESE TERMS. BECAUSE THE LAW REGARDING LIMITATIONS OF LIABILITY VARIES BY STATE, THESE LIMITATIONS OF LIABILITY MAY NOT APPLY TO YOU.

NOTICE TO NEW JERSEY CONSUMERS: THESE LIMITATIONS OF LIABILITY APPLY IN NEW JERSEY.

THESE LIMITATIONS SHALL APPLY WHETHER THE ASSERTED LIABILITY OR DAMAGES ARE BASED IN CONTRACT (INCLUDING, BUT NOT LIMITED TO, BREACH OF WARRANTY), TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE) OR ANY OTHER LEGAL OR EQUITABLE GROUNDS. YOUR SOLE AND EXCLUSIVE REMEDY FOR DISSATISFACTION WITH THE SITES IS TO STOP USING THE SITES.

IF THE FOREGOING DISCLAIMERS OF WARRANTIES AND LIMITATIONS OF LIABILITY ARE HELD TO BE UNENFORCEABLE, YOU AGREE THAT BFG OR GUARDIAN'S LIABILITY, RESPECTIVELY, TO YOU, WHETHER IN TORT, CONTRACT OR OTHERWISE, FOR ALL CAUSES SHALL NOT EXCEED IN THE AGGREGATE \$500.

Indemnity and Release

You agree to defend, indemnify and hold BFG, its related and associated affiliates, Guardian, and, as applicable, each of the parent companies, subsidiaries and affiliates and the successors of each of the foregoing, and the officers, directors, agents, and employees of each of the foregoing, harmless from any and all liabilities, costs, and expenses, including reasonable attorneys' fees, related to or in connection with (i) your use of the Sites or Content; (ii) your violation of any term or condition of these Terms, including without limitation, your breach of any of the representations and warranties; (iii) your violation of any third party rights, including without limitation any right of privacy, publicity rights or intellectual property rights; (iv) your violation of any law, rule or regulation of the United States or any other country; (v) any claim or damages that arise as a result of any information or material that you provide to BFG or Guardian; or (vi) any other party's access and use of the Sites with your unique username, password or other appropriate security code.

In the event that you have a dispute with another user or party related to the Sites or Content, you release BFG, its related and associated affiliates, Guardian (and our officers, directors, agents, subsidiaries, and employees) from all claims, demands, and damages (actual and consequential) arising out of or in any way connected with such disputes.

Termination

We may suspend or terminate your account or your access to the Sites at any time without notice, for any reason or for no reason. You understand that any termination of your account may involve the permanent deletion of your data. Neither BFG, its related and associated affiliates, nor Guardian will have any liability whatsoever to you for any suspension or termination, including for deletion of your data. The provisions of these Terms regarding Restrictions on Use of the Sites, Intellectual Property Rights and Ownership, Unsolicited Submissions, Warranty Disclaimer, Limitation of Liability, Indemnity and Release, Severability and Interpretation, and Governing Law shall survive any termination.

Severability and Interpretation

If any provision of these Terms is held to be invalid or unenforceable, such provision shall be struck and the remaining provisions shall be enforced. You agree that these Terms and all incorporated agreements may be assigned by BFG, its related and associated affiliates, or Guardian at our sole discretion. Headings are for reference purposes only and in no way define, limit, construe or describe the scope or extent of such section. Our failure to act with respect to a breach by you or others does not waive our right to act with respect to subsequent or similar breaches. A printed version of these Terms will be admissible in judicial and administrative proceedings based upon or relating to these Terms to the same extent as other business documents originally generated and maintained in printed form.

Governing Law

Any claim arising out of or relating to these Terms or the use of the Sites and Content shall be governed by the laws of the United States and the State of New York, without regard to its choice of law provisions. You expressly agree to submit any disputes to the exclusive jurisdiction of the state and federal courts located in New York, New York.

Apple Disclaimer

The following paragraph applies to any version of the Sites that you acquire from the Apple App Store. These Terms constitute an agreement entered into between you and Guardian. Apple, Inc. ("Apple") is not a party to these Terms and shall have no obligations with respect to the Sites. Guardian, not Apple, is solely responsible for any version of the Sites that you acquire from the Apple App Store and the content thereof as set forth hereunder. However, Apple and Apple's subsidiaries are third party

beneficiaries of these Terms. Upon your acceptance of these Terms, Apple shall have the right (and will be deemed to have accepted the right) to enforce these Terms against you with respect to the version of the Sites you acquire from the Apple App Store as a third-party beneficiary of these Terms. You represent and warrant that (i) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a “terrorist supporting” country; and (ii) you are not listed on any U.S. Government list of prohibited or restricted parties. These Terms incorporate by reference the Licensed Application End User License Agreement published by Apple, for purposes of which, you are “the end-user.” In the event of a conflict in the terms of the Licensed Application End User License Agreement and these Terms, these Terms shall control.

Binding Arbitration

a. Purpose. Any Dispute (as defined below in these Terms) involving you and BFG, its related and associated affiliates, and/or Guardian shall be resolved through individual arbitration. In arbitration, there is no judge or jury and there is less discovery and appellate review than in court. This Section (the “Arbitration Provision”) shall be broadly interpreted.

b. Definitions. The term “Dispute” means any claim or controversy related to the Sites, including but not limited to any and all: (1) claims for relief and theories of liability, whether based in contract, tort, fraud, negligence, statute, regulation, ordinance, or otherwise; (2) claims that arose before these Terms or any prior agreement; (3) claims that arise after the expiration or termination of these Terms; and (4) claims that are currently the subject of purported class action litigation in which you are not a member of a certified class. As used in this Arbitration Provision, “Guardian” means Guardian Life and any of its predecessors, successors, assigns, parents, subsidiaries and affiliated companies, Agency (BFG, its related and associated affiliates) and each of their respective officers, directors, employees and agents, and “you” means you and any users or beneficiaries of your access to the Sites. Notwithstanding the foregoing, Disputes relating to the scope, validity, or enforceability of this arbitration provision will not be subject to arbitration.

c. Right to Sue in Small Claims Court. Notwithstanding anything in this Arbitration Provision, either party may elect to bring an individual action in small claims court if the claim is not aggregated with the claim of any other person and if the amount in controversy is properly within the jurisdiction of the small claims court.

d. Right to Opt Out. IF YOU DO NOT WISH TO ARBITRATE DISPUTES YOU MAY DECLINE TO HAVE YOUR DISPUTES WITH BFG, ITS RELATED AND ASSOCIATED AFFILIATES, OR GUARDIAN ARBITRATED BY NOTIFYING GUARDIAN IN WRITING WITHIN 30 DAYS OF THE LATER OF YOUR FIRST ACCESS TO OR USE OF THE SITES, BY MAIL TO GUARDIAN, ATTN; PRIVACY OFFICE, LAW AND COMPLIANCE DEPARTMENT, 10 HUDSON YARDS, NEW YORK, NY 10001. YOUR WRITTEN NOTIFICATION TO GUARDIAN MUST INCLUDE YOUR NAME, ADDRESS AND TELEPHONE NUMBER AS

WELL AS A CLEAR STATEMENT THAT YOU DO NOT WISH TO RESOLVE DISPUTES WITH GUARDIAN THROUGH ARBITRATION. YOUR DECISION TO OPT OUT OF THIS ARBITRATION PROVISION WILL HAVE NO ADVERSE EFFECT ON YOUR RELATIONSHIP WITH GUARDIAN OR PRODUCTS AND SERVICES PROVIDED BY GUARDIAN.

e. Initiation of Arbitration Proceeding/Selection of Arbitrator. The party initiating the arbitration proceeding may open a case with the American Arbitration Association (“AAA”) by visiting its website (www.adr.org) or calling its toll free number (1-800-778-7879). You may deliver any required or desired notice to BFG or Guardian by mail to Guardian Life, Attn: Privacy Office, Law and Compliance Department, 10 Hudson Yards, New York, NY 10001.

f. Arbitration Procedures. This Arbitration Provision shall be governed by the Federal Arbitration Act. Arbitrations shall be administered by AAA pursuant to its Consumer Arbitration Rules (the “AAA Rules”) as modified by the version of this Arbitration Provision that is in effect when you notify Guardian about your Dispute. You can obtain the AAA Rules from the AAA by visiting its website (www.adr.org) or calling its toll-free number (1-800-778-7879). If there is a conflict between this Arbitration Provision and the rest of these Terms, this Arbitration Provision shall govern. If there is a conflict between this Arbitration Provision and the AAA rules, this Arbitration Provision shall govern. If the AAA will not administer a proceeding under this Arbitration Provision as written, the parties shall agree on a substitute arbitration organization. If the parties cannot agree, the parties shall mutually petition a court of appropriate jurisdiction to appoint an arbitration organization that will administer a proceeding under this Arbitration Provision as written applying the AAA Consumer Arbitration Rules. A single arbitrator will resolve the Dispute. Unless you and BFG or Guardian agree otherwise, any arbitration hearing will take place at a location convenient to you in the area where you receive or received any of the Sites from BFG or Guardian; or, if you reside in a location outside of the area where you receive or received any of the Sites, then the arbitration hearing will take place at a location convenient to you in the county where you reside. The arbitrator will honor claims of privilege recognized by law and will take reasonable steps to protect customer account information and other confidential or proprietary information. The arbitrator shall issue a reasoned written decision that explains the arbitrator’s essential findings and conclusions. The arbitrator’s award may be entered in any court having jurisdiction over the parties only if necessary for purposes of enforcing the arbitrator’s award. An arbitrator’s award that has been fully satisfied shall not be entered in any court.

g. Waiver of Class Actions and Collective Relief. THERE SHALL BE NO RIGHT OR AUTHORITY FOR ANY CLAIMS TO BE ARBITRATED OR LITIGATED ON A CLASS ACTION, JOINT OR CONSOLIDATED BASIS OR ON BASES INVOLVING CLAIMS BROUGHT IN A PURPORTED REPRESENTATIVE CAPACITY ON BEHALF OF THE GENERAL PUBLIC (SUCH AS A PRIVATE ATTORNEY GENERAL), OTHER SUBSCRIBERS, OR OTHER PERSONS. THE ARBITRATOR MAY AWARD RELIEF ONLY IN FAVOR OF THE INDIVIDUAL PARTY SEEKING RELIEF AND ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF WARRANTED BY THAT INDIVIDUAL PARTY’S CLAIM. THE ARBITRATOR MAY NOT AWARD RELIEF FOR OR AGAINST ANYONE WHO IS NOT A

PARTY. THE ARBITRATOR MAY NOT CONSOLIDATE MORE THAN ONE PERSON'S CLAIMS, AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A REPRESENTATIVE OR CLASS PROCEEDING. THIS WAIVER OF CLASS ACTIONS AND COLLECTIVE RELIEF IS AN ESSENTIAL PART OF THIS ARBITRATION PROVISION AND CANNOT BE SEVERED FROM IT. THE REMAINING PORTIONS OF THIS ARBITRATION PROVISION ARE NOT ESSENTIAL PARTS OF THIS ARBITRATION PROVISION AND CAN BE SEVERED FROM IT BY A COURT OF COMPETENT JURISDICTION.

h. Arbitration Fees and Costs. If your claim seeks more than \$75,000 in the aggregate, the payment of the AAA's fees and costs will be governed by the AAA rules. If your claims seek less than \$75,000 in the aggregate, the payment of the AAA's fees and costs will be Guardian's responsibility. However, if the arbitrator finds that your Dispute was frivolous or brought for an improper purpose (as measured by the standards set forth in Federal Rule of Civil Procedure 11(b)), the payment of the AAA's fees and costs shall be governed by the AAA Rules and you shall reimburse BFG and Guardian for all fees and costs that were your obligation to pay under the AAA Rules. You may hire an attorney to represent you in arbitration. You are responsible for your attorneys' fees and additional costs and may only recover your attorneys' fees and costs in the arbitration to the extent that you could in court if the arbitration is decided in your favor. Notwithstanding anything in this Arbitration Provision to the contrary, Guardian will pay all fees and costs that it is required by law to pay.

i. Continuation. This Arbitration Provision will survive the termination or expiration of these Terms.

General Legal Terms

The Terms constitute the whole legal agreement between you and BFG, its related and associated affiliates, and/or Guardian and govern your use of the Sites, and completely replace any prior agreements between you and BFG, its related and associated affiliates, and/or Guardian in relation to the Sites. No modification or attempted modification of these Terms by you shall be binding on BFG, its related and associated affiliates, and/or Guardian unless made in writing and physically signed by an authorized representative of Guardian.

WHETHER IN COURT OR IN ARBITRATION, YOU AND WE AGREE TO WAIVE THE RIGHT TO A TRIAL BY JURY.

Upon termination of these Terms for any reason, BFG, its related and associated affiliates, Guardian and its third party service providers reserve the right to delete all your data, files, electronic messages, or other information that is stored on BFG, its related and associated affiliates, Guardian's or its third party service providers' servers or systems. BFG, its related and associated affiliates, and Guardian shall have no responsibility whatsoever for the loss of any such data.

You agree that BFG, its related and associated affiliates, and/or Guardian may provide you with notices, including those regarding changes to the Terms, by email, regular mail, or postings on the Sites.

You agree that if BFG, its related and associated affiliates, and/or Guardian does not exercise or enforce any contractual or legal right or remedy to which it is entitled, this will not be taken to be a formal waiver of BFG, its related and associated affiliates, or Guardian's rights and that those rights or remedies will still be available to BFG, its related and associated affiliates, and Guardian.

You acknowledge and agree that each member of the group of companies of which BFG and Guardian is the parent or is responsible for supervising shall be third-party beneficiaries to the Terms and that these other companies shall be entitled to directly enforce, and rely upon, any provision of the Terms which confers a benefit on (or rights in favor of) them. Other than these entities, and the entities described in the Apple Disclaimer above, no other person or entity shall be third-party beneficiaries to the Terms.

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