

Terms of Use

Effective: April 2021

These Terms of Use (“Terms”) are a legal contract between you (“You/Your” or “User”) and Clarify Health Solutions, Inc. (“Us/We” or “Clarify”) and govern Your use of the Clarify Platform and associated services (“Services”), as described below, and of all the text, data, information, software, graphics, photographs, and more (all of which We refer to as “Materials”) that We may make available to You. These Terms apply to access and use of the Services through Your system (the “System”).

You are an Authorized User on a System Controlled by a Third Party

The organization or other third party that we refer to in these Terms as “**Customer**” has authorized You to utilize these Services. Customer has separately agreed to our Customer Terms and Conditions or entered into a written agreement with us (in either case, the “**Agreement**”) that permits the Customer to grant individuals access to the Services, including You, is an “**Authorized User.**” The Agreement contains our commitment to deliver the Services to Customer, who may then invite Authorized Users to access these Services. When an Authorized User (including, You) submits or uploads content or information to the Services, such as messages or files (“**Customer Data**”), You acknowledge and agree that the Customer Data is owned by Customer and the Agreement gives Customer options for managing access and control over that Customer Data. For example, Customer may provision or deprovision access to the Services, enable or disable third party integrations, manage permissions, manage retention and export settings, audit user activity, etc.

YOU AGREE THAT IT IS SOLELY CUSTOMER’S RESPONSIBILITY TO (A) INFORM AUTHORIZED USERS OF ANY RELEVANT CUSTOMER POLICIES AND PRACTICES AND ANY SETTINGS THAT MAY IMPACT THE PROCESSING OF CUSTOMER DATA; (B) OBTAIN ANY RIGHTS, PERMISSIONS OR CONSENTS FROM AUTHORIZED USERS THAT ARE NECESSARY FOR THE LAWFUL USE OF CUSTOMER DATA AND THE OPERATION OF THE SERVICES; AND (C) RESPOND TO AND RESOLVE ANY DISPUTE WITH AN AUTHORIZED USER RELATING TO OR BASED ON CUSTOMER DATA, THE SERVICES OR CUSTOMER’S FAILURE TO FULFILL THESE OBLIGATIONS.

THE SYSTEM, SERVICES, AND MATERIALS ARE PROVIDED “AS IS”, WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED. WITHOUT LIMITING THE FOREGOING, CLARIFY EXPLICITLY DISCLAIMS ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT, OR NON-INFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. UNLESS OTHERWISE AGREED TO IN WRITING IN THE AGREEMENT, CLARIFY MAKES NO WARRANTY THAT THE SYSTEM, SERVICES, OR MATERIALS WILL MEET YOUR REQUIREMENTS OR BE AVAILABLE ON AN UNINTERRUPTED, SECURE, OR ERROR-FREE BASIS. CLARIFY MAKES NO

WARRANTY REGARDING THE QUALITY OF ANY PRODUCTS, SERVICES OR MATERIALS PURCHASED OR OBTAINED THROUGH THE SYSTEM OR SERVICES OR THE ACCURACY, TIMELINESS, TRUTHFULNESS, COMPLETENESS OR RELIABILITY OF ANY CONTENT OBTAINED THROUGH THE SYSTEM OR SERVICES.

NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM CLARIFY OR THROUGH THE SYSTEM, SERVICES, OR MATERIALS, WILL CREATE ANY WARRANTY NOT EXPRESSLY MADE HEREIN.

YOU ARE SOLELY RESPONSIBLE FOR ALL OF YOUR COMMUNICATIONS AND INTERACTIONS WITH OTHER USERS OF THE SYSTEM AND SERVICES AND WITH OTHER PERSONS WITH WHOM YOU COMMUNICATE OR INTERACT AS A RESULT OF YOUR USE OF THE SYSTEM OR SERVICES, INCLUDING, WITHOUT LIMITATION AND AS APPLICABLE, CUSTOMER, CLINICIANS/CAREGIVERS, PATIENTS, MEMBERS, OR AUTHORIZED THIRD PARTIES. YOU ARE responsible and liable for the completeness, integrity, quality, and accuracy of Customer Data and Customer Materials YOU input into the Clarify Services. YOU UNDERSTAND THAT CLARIFY DOES NOT TAKE RESPONSIBILITY FOR SCREENING OR INQUIRY INTO THE BACKGROUND OF ANY AUTHORIZED USERS OF THE SYSTEM OR SERVICES, INCLUDING, WITHOUT LIMITATION AND AS APPLICABLE, CUSTOMER, CLINICIANS/CAREGIVERS, PATIENTS, MEMBERS OR AUTHORIZED THIRD PARTIES, NOR DOES CLARIFY VERIFY OR TAKE RESPONSIBILITY FOR THE STATEMENTS OR OTHER USER-GENERATED CONTENT OF ANY USERS OF THE SYSTEM OR SERVICES. CLARIFY MAKES NO REPRESENTATIONS OR WARRANTIES AS TO THE CONDUCT OF USERS OF THE SYSTEM OR SERVICES, INCLUDING, WITHOUT LIMITATION AND AS APPLICABLE, CUSTOMER, CLINICIANS/CAREGIVERS, PATIENTS, MEMBERS OR AUTHORIZED THIRD PARTIES. NOTWITHSTANDING THE FOREGOING, CLARIFY MAY, AT ITS DISCRETION, remove any violating content posted or stored using the Clarify Services or transmitted through the Clarify Services, AT ANY TIME AND without notice to YOU.

GRANT OF LICENSE

Subject to Your compliance with the terms and conditions of these Terms and with the [Acceptable Use Policy](#), Clarify grants You a limited, personal, non-exclusive, non-transferable license to view, use, and display Services and Materials solely for the permitted purposes and activities as authorized by Customer. You have no right to sublicense the license rights granted in this section.

You will not use, copy, adapt, modify, prepare derivative works based upon, distribute, license, sell, transfer, publicly display, publicly perform, transmit, stream, broadcast or otherwise exploit the System, Services, or Materials, except as expressly permitted in these Terms. No licenses or rights are granted to You by implication or otherwise under any intellectual property rights owned or controlled by Clarify or its licensors, except for the licenses and rights expressly granted in these Terms.

These Terms remain effective until Customer's Services subscription expires or terminates or until Your access to the Services is terminated by Customer or Clarify. Please contact Customer if You, at any time or for any reason, wish to terminate Your account, including due to a disagreement with any updates to these Terms or the [Acceptable Use Policy](#).

SECURITY

The Services are designed to require Authorized Users to provide a valid, working e-mail address and password to access and use the System, Services, and Materials. Upon registering, You will select a password. Your e-mail address and the password and any codes assigned to You are, collectively, Your "User Information." You are solely responsible for (A) maintaining the strict confidentiality of Your User Information, (B) not allowing any other person to use Your User Information to access the Services, (C) any and all damages or losses that may be incurred or suffered as a result of any activities that occur under Your User Information.

You agree to immediately notify Clarify via email of any unauthorized use of or access to Your User Information or any other security compromise. Clarify is not and shall not be liable for any harm arising from or relating to the theft of Your User Information, Your disclosure of Your User Information, or the use of Your User Information by another person or entity. Any attempt to obtain unauthorized access or to exceed authorized access to the System, Services, or Materials shall be considered a trespass and computer fraud and abuse, punishable under provincial, state, and federal laws.

Clarify hereby notifies You that any or all communications within this System can and will be monitored, captured, recorded, and transmitted to the authorities as deemed necessary by Clarify in its sole discretion and without further notice. Notwithstanding the foregoing, as an Authorized User, You remain responsible for Your individual compliance with any additional applicable notification requirements related to the unauthorized use of User Information or Authorized User Content, including but not limited to, any applicable Breach and/or Security Incident notification requirements established under the Health Insurance Portability and Accountability Act (HIPAA).

Clarify's ability to monitor the System and Services and to audit individual user activity shall not obligate us in any way to engage in such monitoring on a continuous basis and/or at any particular point in time. Clarify has no duty to police, censor, or remove any user-generated content.

PATIENT CONSENT AND AUTHORIZATIONS.

If the Customer for which You are an Authorized User is a California entity and a health care provider, You shall make sure that all Patient consents and/or authorizations required by applicable law have been obtained. Specifically, (1) prior to requesting medication history data for a specific Patient, You shall obtain the consent, in the form of a signed election, from each Patient (a) affirming the Patient's desire to either opt-in or opt-out of receiving the Services and (b) authorizing the Customer to obtain medication history data about the specific Patient; and (2) you must seek patient consent, which is compliant with Section 56.10 of the California Civil

Code, for redisclosure of information to Us and to any third party vendors We use to power the Services. You shall comply with any privacy and Patient consent policies of Clarify related to the delivery of Private Information as may be published and/or amended by Us from time to time, which policies shall be considered part of the Materials. You also acknowledge that certain of our Data Sources may impose additional privacy and patient consent policies on the delivery of Private Information (See Below).

ACCESS TO SURESCRIPTS DATA

If You are authorized to access Surescripts Data through the Customer's Agreement, the following Terms of Use apply to You:

1. Patient Consents. If Customer is a healthcare provider, prior to requesting medication history data for a specific Patient, You will obtain a signed consent from each Patient (a) affirming the Patient's desire to either opt-in or opt-out of receiving the Services and (b) authorizing You to obtain medication history data about the specific Patient. You must comply with any privacy and patient consent policies of Surescripts related to the delivery of Private Information as Surescripts publishes or amends from time to time.
2. Treating Provider. If Customer is a healthcare provider, You may only request a Prescription History Profile on a Patient for whom You are currently providing treatment services and You may only use the resulting Prescription History Profile for that Patient's treatment.
3. Limitations of Surescripts. We rely on Surescripts to provide patient prescription benefit and/or medication history data. Because this data is maintained in multiple places, not all of which are accessible to Surescripts, and because not all patient information is kept in a standard fashion or is regularly updated, it is possible that false matches may occur or that there may be errors or omissions in the provided data. Therefore, it is solely Your responsibility (or another treating physician or health care provider) to verify prescription benefit or medication history information through other means with each Patient and/or the Patient's representatives before You rely on such information or use it in diagnosing or treating the Patient. Neither Clarify nor Surescripts is a health plan, health care provider or prescriber. Neither Clarify nor Surescripts independently verifies or reviews the information transmitted in connection with the Services for accuracy or completeness. Neither Clarify nor Surescripts provides any representations or warranties with respect to the accuracy or completeness of the prescription benefit or medication history information. You agree to release and hold harmless Us and Surescripts and any person or entity providing prescription benefit or medication history information from any liability, cause of action, or claim related to the completeness or lack thereof of the medication history information.
4. No Substitution for Written Prescription or Documentation. Use of the Surescripts Services is not a substitute for Your standard practice or professional judgment. Any decision with regard to the appropriateness of treatment, or the validity or reliability of information, is the sole responsibility of a Patient's health care provider.

ACCESS TO RXNORM DATA

This product uses publicly available data courtesy of the U.S. National Library of Medicine (NLM), National Institutes of Health, Department of Health and Human Services; NLM is not responsible for the product and does not endorse or recommend this or any other product.

PRIVACY POLICY

Please review Clarify's Privacy Policy for more information on how We collect and use data relating to the use and performance of our products.

DISPUTE RESOLUTION

You agree that any dispute between You and Clarify arising out of or relating to these Terms, the Agreement, and/or the Services (collectively, "Disputes") will be governed by the dispute resolution procedure outlined below. We want to address Your concerns without needing a formal legal case, so We have included a tiered dispute resolution process.

1. Before filing a claim against Clarify, You agree to try to resolve the Dispute informally by contacting legal@clarifyhealth.com. We'll try to resolve the Dispute informally by contacting You through email. If a dispute is not resolved within 15 days after submission, You or Customer may bring a formal proceeding, as outlined below.
2. In the event of any controversy or claim arising out of or relating to these Terms or the Agreement, or a breach thereof, You and/or Customer shall attempt to settle the dispute with non-binding mediation through the American Health Lawyers Association. If both Parties agree to mediation they shall, in writing, jointly demand mediation and afterward jointly select a suitable mediator from the AHLA roster. If the Parties cannot agree upon a mediator, the AHLA shall designate one. The Parties will mediate according to the AHLA's Agreement to Mediate. The findings, conclusions and recommendations of the mediator shall be non-binding, confidential and inadmissible in arbitration.
3. Either Party shall have the right to bypass mediation and/or reject the Mediator's findings, conclusions and recommendations. In either event all claims and disputes shall be resolved exclusively using binding arbitration through the AHLA. The Parties agree to employ three (3) arbitrators where one (1) is selected by each Party and the third (3rd) is selected by mutual consent of the Parties. If the Parties cannot agree to the third arbitrator the first two (2) arbitrators chosen shall select the third arbitrator. The selection decision shall be binding. The arbitration shall be conducted by telephone, online and/or be solely based on written submissions—the specific manner shall be chosen by the party initiating the arbitration. The arbitration shall not involve any personal appearance by the parties or witnesses unless otherwise mutually agreed by the parties; and any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. Each Party shall pay 50% of all mediator and/or arbitrator costs, expenses and fees incurred in connection with mediating and/or arbitrating under this Agreement. Any claim or dispute under this Agreement must be initiated for mediation and/or arbitration within two (2) years from its accrual date. Any claim or dispute initiated two (2) years or longer from its accrual date shall be time-barred and dismissed.

4. Exceptions to Agreement to Arbitrate: Clarify may bring a lawsuit solely for injunctive relief to stop unauthorized use or abuse of the Services or Materials, or infringement of intellectual property rights (for example, trademark, trade secret, copyright or patent rights) without first engaging in arbitration or the informal dispute-resolution process described above.

YOU MAY ONLY RESOLVE DISPUTES WITH CLARIFY ON AN INDIVIDUAL BASIS, AND MAY NOT BRING A CLAIM AS A PLAINTIFF OR A CLASS MEMBER IN A CLASS, CONSOLIDATED, OR REPRESENTATIVE ACTION. CLASS ARBITRATIONS, CLASS ACTIONS, PRIVATE ATTORNEY GENERAL ACTIONS, AND CONSOLIDATION WITH OTHER ARBITRATIONS AREN'T ALLOWED UNDER OUR AGREEMENT.

Notwithstanding the above, You can decline or “opt out” of the agreement to arbitrate by contacting legal@clarifyhealth.com within 30 days of first accepting these Terms and stating that You (include your first and last name) decline this arbitration agreement.

MODIFICATIONS

As Our business evolves, We may change these Terms of Use and/or the [Acceptable Use Policy](#). If We make a material change to the Terms of Use and/or the [Acceptable Use Policy](#), We will provide You with reasonable notice prior to the change taking effect either by emailing the email address associated with Your account or by messaging You through the Services. You can review the most current version of the Terms of Use and the [Acceptable Use Policy](#) at any time by accessing the link at the bottom of the page while utilizing the Services. Any material revisions to these documents will become effective on the date set forth in the notice, and all other changes will become effective on the date We publish the change, which is noted at the beginning of the applicable document. If You use the Services after the effective date of any changes, that use will constitute Your acceptance of the revised terms and conditions.

WAIVER

No failure or delay by either party in exercising any right under these Terms of Use, including the [Acceptable Use Policy](#), will constitute a waiver of that right. No waiver under the Terms of Use and/or the [Acceptable Use Policy](#) will be effective unless made in writing and signed by an authorized representative of the party being deemed to have granted the waiver.

SEVERABILITY

The Terms of Use, including the [Acceptable Use Policy](#), will be enforced to the fullest extent permitted under applicable law. If any provision of the Terms of Use and/or the [Acceptable Use Policy](#) is held by to be contrary to law or public policy by a court of competent jurisdiction, it is the intent of all parties that the provision be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law. Any and all remaining provisions of the Terms of Use and/or the [Acceptable Use Policy](#) shall remain in full force and effect.

ASSIGNMENT

You may not assign any of Your rights or delegate any of Your obligations under these Terms of Use, including the [Acceptable Use Policy](#), whether by operation of law or otherwise. We may assign these Terms of Use and/or the [Acceptable Use Policy](#) in their entirety (including all terms and conditions incorporated herein by reference), without Your consent, to a corporate affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of Our assets.

GOVERNING LAW

The Agreement, Terms of Use, and [Acceptable Use Policy](#) and any disputes arising out of or related thereto, will be governed exclusively by the internal laws of the State of California, without regard to its conflicts of laws rules or the United Nations Convention on the International Sale of Goods.

VENUE, WAIVER OF JURY TRIAL & FEES

The state and federal courts located within twenty-five (25) miles of San Francisco, California will have exclusive jurisdiction to adjudicate any dispute arising out of or relating to these Terms of Use, including the [Acceptable Use Policy](#), their formation as a contract between us, and/or their enforcement. Each party hereby consents and submits to the exclusive jurisdiction of such courts. Each party hereby waives any right to object to any filing and/or action on the grounds of improper venue, *forum non-conveniens*, or other venue-related grounds.

Each party also hereby waives any right to jury trial in connection with any action or litigation in any way arising out of or related to the Terms of Use, including the Acceptable Use Policy and the underlying Agreement to which You, as an Authorized User, are an intended beneficiary. Notwithstanding the above, You can decline or “opt out” of the jury trial waiver by contacting legal@clarifyhealth.com within 30 days of first accepting these Terms and stating that You (include Your first and last name) decline this to waive this right.

In any action or proceeding to enforce rights under any of the aforementioned agreements, the prevailing party will be entitled to recover its reasonable costs and attorneys’ fees.

ENTIRE AGREEMENT

The Terms of Use, including the [Acceptable Use Policy](#), and any terms incorporated by reference into the Terms of Use constitute the entire agreement between You and Clarify and supersede all prior and contemporaneous agreements, proposals, or representations, written or oral, concerning its subject matter. To the extent of any conflict or inconsistency between the provisions in these Terms of Use, including the [Acceptable Use Policy](#), and any documents referenced in the Terms of Use, the prevailing terms shall be determined according to the following hierarchy: (1) if there is a conflict or inconsistency between the Terms of Use and the Agreement, the terms of the

Agreement will first prevail, followed by the provisions in these Terms of Use, and then followed by the documents referenced in these Terms of Use (e.g., the Privacy Policy); (2) if there is a conflict or inconsistency between Terms of Use and any document referenced herein, other than the Agreement, these Terms of Use shall prevail. Customer will be responsible for notifying Authorized Users of those conflicts or inconsistencies and, until such time, the terms set forth herein will be binding.

CONTACTING CLARIFY

Please feel free to contact Us if You have any questions about Clarify's Terms of Use and/or any other documents referenced herein. You may contact Us at legal@clarifyhealth.com, or at our mailing address:

Clarify Health Solutions, Inc.
75 Hawthorne Street, 4th Floor
San Francisco, CA 94105