

NLHS Provincial Home Support Solution Terms of Use

Newfoundland and Labrador Health Services (“**NLHS**”), in connection with the Provincial Home Support Program (“**PHSP**”), has implemented a digital Provincial Home Support Solution (“**HSS**”) across Home Support Agency (“**HSA**”) and Self-Managed Care (“**SMC**”) home support delivery channels in Newfoundland and Labrador (the “**Province**”). The purpose of the HSS is to improve client care and outcomes by: (i) enhancing reporting, accountability and oversight of the PHSP; (ii) integrating clinical information from existing systems; and (iii) providing more timely, complete and accurate access to client information.

The HSS is provided as a suite of software and digital services portals, including the mobile app, family portal app, online web-based versions of the mobile app or family portal app, and the IVR portal. To access the PHSP, Home Care Agencies and their employees are required to use the HSS in accordance with these HSS Terms of Use (the “**ToU**”).

In these ToU, the terms “**You**” or “**Your**” refer to the end-users who download, install, access or use any portion of the HSS.

BY DOWNLOADING, INSTALLING, ACCESSING OR USING ANY PORTION OF THE HSS, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTOOD, AND AGREE TO BE BOUND BY ALL TERMS OF THE ToU. IF YOU DO NOT AGREE TO BE BOUND BY ALL OF THE TERMS, DO NOT DOWNLOAD, INSTALL, ACCESS OR USE THE HSS, AND YOU MAY NOT BE ABLE TO RECEIVE REFERRALS UNDER THE PHSP.

THE HSS IS PROVIDED AS A SUITE OF SECURE AND CONFIDENTIAL PORTALS FOR PERSONAL HEALTH INFORMATION IN ACCORDANCE WITH ALL APPLICABLE LAW, INCLUDING APPLICABLE PRIVACY LAW (AS DEFINED HEREIN). BREACH OF THESE ToU MAY RESULT IN PERSONAL LIABILITY, INCLUDING STATUTORY LIABILITY.

1 Use of the HSS

- 1.1 NLHS authorizes You to download, install, access and use the HSS, using the operating systems or browsers for which individual portions of the HSS are designed, solely for the purposes of (a) scheduling or providing authorized services or care under the PHSP, and (b) documenting the provision or receipt of such services or care; without any further right to commercialize or exploit the HSS, and for no other purposes.
- 1.2 As a condition of Your use of the HSS, You agree to the following restrictions on use:
 - (a) You must not use the HSS for any illegal or unauthorized purpose, and You must comply with all laws, rules and regulations applicable to Your use of the HSS, including any restrictions on access to or use of the PHSP.
 - (b) You must not interfere with or disrupt the service provided by the HSS or the servers or networks connected to the HSS (the “**HSS Network**”) by any means including by uploading false or misleading information to the HSS, overburdening the HSS Network access with repetitive unauthorized requests making it inaccessible to legitimate users, or by transmitting viruses, malware, worms, spyware or any other code of a destructive or disruptive nature to the HSS.
 - (c) You are fully responsible for using or ensuring that Your use of the HSS is in compliance with the ToU.

- 1.3 You must immediately notify NLHS if any provision of this ToU has been or may have been contravened.
- 1.4 You consent to engaging in electronic communications with NLHS including but not limited to through the HSS and/or email or by other electronic means at such numbers or addresses You provide to NLHS and that all contracts, notices, disclosures, and other communications that NLHS provides to You electronically satisfy any legal requirement that such communications be in writing.

2 HSS Data

- 2.1 The HSS can be used, with different levels of access, to create, schedule or download client visit information, schedules and support plans, and upload visit confirmation notes for a client, and to create or obtain other client information ("**Client Data**") or home support worker information ("**Employee Data**", and together with the Client Data, "**HSS Data**").
- 2.2 All Client Data is presumptively personal health information and is to be treated as such by You in accordance with:
 - (a) these ToU,
 - (b) the Access to Information and Protection of Privacy Act ("**ATIPPA**"),
 - (c) the Personal Health Information Act ("**PHIA**"),
 - (d) the Personal Information Protection and Electronic Documents Act ("**PIPEDA**", and together with ATIPPA and PHIA "**Applicable Privacy Laws**"),
 - (e) any agreements related to the delivery of the PHSP, and
 - (f) your employment agreement, which should contain an oath of confidentiality.
- 2.3 "**Employee Data**" includes any information about HSA employees accessed, collected, used or created by or within the HSS, and any such information about You related to employment with your HSA, including but not limited to Your name, address, phone number, email address, employment contract or any other information that the HSS may collect, process or maintain. NLHS claims no Intellectual Property rights in Employee Data. All Employee Data shall be kept confidential and may be used by NLHS only to the extent necessary for the purposes of the PHSP.
- 2.4 You may only access or provide Client Data in respect of a client of the PHSP if You are a home support worker to such client or the Home Support Agency to such client.
- 2.5 You acknowledge that NLHS shall have the right to collect, use, disclose, retain, destroy, review, update, modify, and manage the Client Data in accordance with its relationship with the affected client, Applicable Privacy Laws, the *Provincial Health Authority Act*, regulations promulgated under that legislation, and its contracts with affected Home Support Agencies. This is without prejudice to any right of a HSA to collect, use, disclose, retain, destroy, review, update, modify, and manage the HSS Data maintained by it, or for which it is the custodian in accordance with Applicable Privacy Laws and its contracts with NLHS.

3 System Requirements & Compatibility

You agree that in providing services to clients and interfacing with the HSS Network, You and any Home Support Agency (or HSA?) employing You, shall use computer hardware and software, which is capable

of reporting and receiving data in a format that is compatible with the HSS Network and authorized or recommended by the third party supplier of the HSS, currently Alayacare Inc.

4 Prohibitions/Exceptions

4.1 You shall not:

- (a) make the HSS available to others outside Your organization;
- (b) translate, recreate, reverse engineer, decompile or disassemble the HSS;
- (c) create derivative works based upon the HSS;
- (d) alter, destroy or otherwise remove any proprietary notices or labels on or embedded within the HSS;
- (e) copy or distribute any personal health information from the HSS without the consent of the owner of such personal health information; or
- (f) knowingly provide, upload or enter false or misleading information into the HSS.

4.2 Your user account to access the HSS is restricted to the provision of services to clients and may not be shared. To the extent You have administrator level access to grant or enable accounts within your organization, You shall ensure that each new accountholder agrees to these ToU when first accessing and using the HSS.

5 Privacy & Confidentiality

5.1 You agree to abide by all Applicable Privacy Laws in connection with Your use of the HSS. The Client Data which may be provided by NLHS, a Home Care Agency, You or the Clients themselves, is highly confidential, and may include information from the health records of clients. Such Client Data may be viewable to users through HSS, and the confidentiality of this information should be protected by You at all times.

5.2 You commit to protecting the privacy of individuals and to using all security measures available within the HSS or required by NLHS (including any security, bring-your-own-device, multifactor authentication or password policies agreed between NLHS and Your HSA) to help safeguard an individual's personal and personal health information while using the HSS.

5.3 You agree to maintain the confidentiality of the clients' personal information and personal health information, and not to collect, use or disclose such information except to the extent required to provide and supervise the care of the client, and for no improper or unauthorized purpose.

5.4 Each party to these ToU has a role to play in the maintenance, protection, and security of HSS Data:

- (a) NLHS is responsible for Client Data supplied by it to the HSS; and
- (b) Home Support Agencies are responsible for Client Data and Employee Data supplied by them or their employees to the HSS; and
- (c) You agree to: (i) use a strong password and abide by the minimum security rules set out in Articles 6 and 7; (ii) obtain all necessary consents to the collection, use, disclosure and destruction of Client Data or Employee Data within the HSS as contemplated by the PHSP; (iii) comply with the terms of all security, bring-your-own-device, multifactor

authentication, password or breach notification policies adopted for the purposes of the PHSP from time to time.

6 Accounts

- 6.1 You have been provided a username and password prior to obtaining access to the HSS either through NLHS or a Home Support Agency where You are employed.
- 6.2 Any breach of the terms and conditions associated with Your username and password shall be a breach of these ToU.
- 6.3 Passwords shall meet the following security standards:
 - (a) You shall maintain unique passwords for different applications: Only use Your HSS password for accessing the HSS and the services available through it - don't use Your HSS password for any other login/site/application; and
 - (b) It is recommended that you use a unique pass-'phrase' that is memorable for You rather than a pass-'word': A passphrase does not have to be a proper sentence (or grammatically correct), it can include spaces and symbols and is typically longer than single passwords.

7 Account Information, Password, Personal Verification Questions and Electronic Signature

- 7.1 When You register to use the HSS, You will be asked to provide Your email address, full name, a password and/or multifactor authentication details, and such other information as NLHS may require as part of registration ("**Your HSS Login Information**").
- 7.2 You agree that the information You provide in connection with registering to use the HSS and at all other times will be true, accurate, current and complete and will ensure that this information is kept accurate and up to date at all times. You are responsible for ensuring the security and confidentiality of Your HSS Login Information. You shall not attempt to circumvent any security measures within the HSS.
- 7.3 At a minimum, You agree to:
 - (a) Take all reasonable measures to prevent the loss, unauthorized disclosure, modification or use of Your HSS Login Information, and exercise appropriate care in using Your HSS Login Information to avoid theft, misappropriation, unauthorized access and unauthorized communication;
 - (b) Keep Your HSS Login Information confidential and not disclose them to anyone, except as expressly set forth herein; and
 - (c) Notify Your Home Care Agency immediately if You suspect Your HSS Login Information has been lost, stolen or compromised, or that unauthorized use of the HSS may be occurring with Your HSS Login Information.

8 Security

- 8.1 You agree to comply with all security requirements established by NLHS from time to time in connection with the use of the HSS and not disable or bypass any security features. Unauthorized attempts to circumvent security features, to use the HSS for purposes other than its intended purposes or to obtain, alter, damage or destroy information or otherwise interfere with the

operation of the HSS are not permitted and any evidence of such acts may result in immediate loss of access to the HSS.

- 8.2 In particular, You will abide by all requests for password resets for Your account as required by any portion of the HSS, no less than annually.

9 Intellectual Property

- 9.1 For the purposes of the ToU, “**Intellectual Property**” means:

- (a) any and all proprietary rights anywhere in the world provided under: (i) patent law; (ii) copyright law (including moral rights); (iii) trade-mark law; (iv) design patent or industrial design law; (v) semi-conductor chip or mask work or integrated circuit topography law; or (vi) any other statutory provision or common law principle applicable to this Agreement, including trade secret law, which may provide a right in the HSS, the software embodying the HSS, the HSS, documentation, confidential information, trademarks, ideas, formulae, algorithms, concepts, inventions, processes or know-how generally, or the expression or use of any of the foregoing;
- (b) any and all applications, registrations, licenses, sub-licenses, franchises, agreements or any other evidence of a right in any of the foregoing; and
- (c) all licenses and waivers and benefits of waivers of the intellectual property rights set out in (a) and (b) above, all future income and proceeds from the intellectual property rights set out in (a) and (b) above, and all rights to damages and profits by reason of the infringement or violation of any of the intellectual property rights set out in (a) and (b) above.

- 9.2 NLHS, and its third-party licensors, retains all Intellectual Property rights in the HSS.

- 9.3 All Intellectual Property rights in any derivative works, feedback, suggestions, or other user generated content created (other than HSS Data) using the HSS shall be owned by NLHS and NLHS may use, modify, display, or distribute content without accounting to You, provided it complies with Applicable Privacy Law. You waive all moral rights in or to any such content.

10 Disclaimer, Limitation of Liability

Whether You are the Home Support Agency or an employee providing service to a client of the PHSP, You understand, acknowledge and agree that:

- 10.1 NOT FOR EMERGENCY USE. If You or the client have an emergency dial 911. If the client needs to speak to someone urgently, please have them contact their healthcare professional, HealthLine (dial 811), a primary health care clinic, or go to the emergency department at the nearest hospital.
- 10.2 NOT MEDICAL ADVICE. The HSS is primarily a scheduling and record keeping tool, and should not be used for medical advice or self-diagnosis. The HSS is not intended to provide You or the client with any medical advice or any other advice. There is no substitution for professional medical advice from a healthcare professional or other licensed medical professional. NLHS cannot provide You with medical advice.
- 10.3 RECONFIRM INFORMATION. Visit information, including care plans, will be presented to You in the HSS in substantially the same format in which it is presented to an NLHS case manager or other health care provider. If You do not understand any terminology or care instructions provided in the HSS, please reconfirm with NLHS personnel.

- 10.4 NOT SPECIFIC USE. Any other health and health-related information contained within NLHS's websites is intended to be general in nature and should not be used as a substitute for a visit to a physician or other health care provider. Any such information that You or the client obtain from NLHS's websites might be inappropriate for You or the client's own situation or might be misinterpreted.
- 10.5 THIRD PARTY PROVIDERS. The HSS is delivered through third-party network services providers and You understand that there may be internet access fees, service disruptions or outages.
- 10.6 REASONABLE EFFORTS. You acknowledge that NLHS has made every reasonable effort to ensure the security of the HSS, however, NLHS is not responsible for ensuring that any device or service used to access these records, the internet or the Wi-Fi connection is secure and it is the individual user's responsibility to protect this health information when it is accessed, downloaded or printed. In light of the foregoing warnings, You hereby expressly agree to be responsible for any failure to comply with Your privacy, confidentiality and security obligations, including those set out in Article 5.
- 10.7 NO WARRANTIES. NLHS and Government of Newfoundland and Labrador assume no responsibility for how You use the information You obtain from the HSS. The HSS is provided on an 'as is' basis without representations, warranties or conditions of any kind.
- 10.8 YOUR SOLE RISK. You agree that as between You and NLHS, Your use of the HSS is at Your sole risk and that Your use or non-use of, and Your reliance or non-reliance on, any medical information or other content from the HSS is at Your own risk. This provision shall not affect any duties of care or other obligations owed by You to the client.
- 10.9 NLHS NOT LIABLE. You agree that NLHS and Government of Newfoundland and Labrador are not liable to You or anyone else if the HSS is unavailable at any time, or for the reliability, validity, accuracy, completeness, integrity, quality or timeliness of, or any failure to deliver or store, the HSS.
- 10.10 FULL DISCLAIMER. NLHS and Government of Newfoundland and Labrador make no representations, warranties or covenants to any person or entity with respect to the HSS. NLHS and Government of Newfoundland and Labrador do not give any warranties, guarantees, representations or conditions, whether express, implied, statutory or otherwise (including, without limitation, any warranty as to the accuracy, completeness, currency, or suitability of third party information, materials or website content, fitness for a particular purpose, compliance with any description, or non-infringement of third party rights) with respect to the HSS and all such warranties are hereby disclaimed to the maximum extent permitted by applicable law.

11 Indemnity

You agree to defend, indemnify, and hold harmless NLHS from any claims, losses, damages, costs or expenses (including reasonable accounting or legal fees to defend or settle any claim, using professional advisors chosen by NLHS) arising from breach of the ToU or the uploading of knowingly false or misleading information into the HSS which affects client care or PHSP billing practices.

12 Amendment

12.1 NLHS may, at any time, and with or without notice to You:

- (a) amend the content of the HSS and any or all of the products and/or services provided through the HSS; and

- (b) amend the ToU, by posting the amended ToU in the HSS, on the NLHS website, or through the platform where You downloaded the HSS. By accessing or using the HSS after the posting of changes to the ToU, You agree to be bound by such amended ToU.
- 12.2 In particular, NLHS reserves the right to modify the terms of the ToU as necessary to comply with any updates or changes made to the PHSP, to Applicable Privacy Law, to the HSS itself, or by or to the HSS technology provider. Continued use of the HSS after such changes implies acceptance of the new ToU.

13 Termination, Suspension or Inability to Access

- 13.1 Your access to the HSS may be terminated or suspended at any time by NLHS, without notice to You, in its sole discretion. NLHS will have no liability to You for any damage that may arise as a result of such cancellation.
- 13.2 Any or all of the services available to You through the HSS may periodically be unavailable to You in order to allow for maintenance, updates or other reasonable causes, including causes beyond NLHS's control.

14 General

- 14.1 The ToU shall be governed by and construed in accordance with the laws of the Province of Newfoundland and Labrador and the federal laws of Canada applicable therein, without giving effect to any principles of conflicts of law.
- 14.2 Any provision of the ToU found to be unlawful, void, or for any reason unenforceable, shall be deemed severable from the rest of the terms of the ToU without invalidating the remaining provisions of the ToU.
- 14.3 Any failure to strictly enforce any provision of the ToU will not be deemed to be a waiver of any provision of the ToU.
- 14.4 If You have any privacy related questions about these ToU or the HSS, or would like more information regarding the collection of Your personal information and/or Your personal health information, the privacy of the personal health information contained in the HSS or to request the correction of a record contained in the HSS about You, please contact the NLHS Privacy Office, 70 O'Leary Avenue, St. John's, NL, A1B 2C7, Email: privacy@nlhealthservices.ca.
- 14.5 If You have any other questions about the ToU or the HSS, please contact privacy@nlhealthservices.ca.