

# Digital Simplistics, Inc. Long Term Care Website Portal Agreement

Digital Simplistics, Inc.(DSI) a Kansas Corporation, with principal offices at 14207 W. 95<sup>th</sup> Street, Lenexa,

KS 66215, and \_\_\_\_\_ (Pharmacy), with principal offices at \_\_\_\_\_

desire to enter into the following agreement for purposes of utilizing DSI's Long Term Care (LTC) website portal that will interface to the Digital Simplistics' Pharmacy Management System (DSI System). For purposes of this Agreement, an LTC site is any long-term care facility, nursing home, or assisted living facility, or any other approved entity wishing to use these services that is a customer of the Pharmacy listed above.

**1 Features and Services Included in the Website Portal.** DSI provides a website which will incorporate the following features:

- a) The website gives LTC sites the ability to add, change, and delete information that is shared and resides on the DSI System. The LTC site is only able to see the patient information that is designated to be shared with their site.
- b) DSI shall host the server and URL for the information which is displayed on the website portal and synchronize the data with the DSI System located at the Pharmacy.
- c) When information is added, updated, or deleted, it is synchronized from the Digital Simplistics server to the database server located at DSI and will be available to the LTC Website portal generally within ten (10) minutes.
- d) No information sent from the website portal directly affects the information contained in the DSI system until approved by the Pharmacy. As information is modified or deleted from the website, the request is sent to the Pharmacy, awaiting approval from an approved Pharmacy employee. Once the information is either accepted or rejected, in the pharmacy, the information is synchronized with the database server that supports the website. Some of the features of the DSI System allow the pharmacy to elect to receive and approve certain information charges automatically. If the Pharmacy elects to enable these features, the information changes are deemed to have been approved.
- e) User authorization and password controls for data access to the LTC website portal and other site management tools are initiated by the Pharmacy through the creation of one or more user accounts with Administrative privileges

**2 Standard Digital Simplistics LTC Package.** DSI services include the following elements:

- a) Email/phone consultation between DSI and Pharmacy regarding initial website usage and up to four (4) hours training in the use of the LTC portal. Pharmacy will be responsible for all training with LTC facility.
- b) Initial database synchronization schedule and setup.
- c) DSI reserves the right to bill pharmacy for additional training at its current rate as needed.

**3 Duties of Pharmacy**

- a) Pharmacy will market and sell the services to their LTC customers.
- b) Pharmacy will monitor and support the LTC user accounts from within their DSI System. Pharmacy will create one or more LTC user accounts with Administrative privileges to support the creation of the remainder of the LTC user accounts.
- c) Pharmacy will support their LTC customers.



all further services and to terminate hosting of website. DSI will still be entitled to payment for all services rendered and other amounts due under this Agreement.

- 12 Term.** The initial Term shall be for a period of one (1) year commencing on the date under Approval of Services. After the expiration of the initial one (1) year term, this Agreement shall remain in effect under the same terms and conditions, except that DSI reserves the right to modify the ongoing monthly charges upon thirty (30) days advance written notice to Pharmacy, and either party shall have the right to terminate the Agreement for any reason with thirty (30) days advanced written notice to the other party.
- 13 Assignment of Project.** DSI reserves the right to assign subcontractors to this project to insure the right fit for the job as well as timely completion.
- 14 Severability.** If any term, clause or provision of this Agreement is illegal, invalid or unenforceable under present or future laws or public policy, then and in that event, such term, clause or provision shall be ineffective only to the extent invalid, illegal or incapable of being enforced, without affecting in any manner whatsoever the remainder of the term, clause or provision and all other terms, clauses and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. In addition, upon such determination that any clause, term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner in order that the transaction contemplated hereby is consummated as originally contemplated to the greatest extent possible.
- 15 Notices.** All notices, demands, consents, approvals and other communications which may be required to be served or given hereunder shall be in writing and sent by Certified Mail, Return Receipt Requested, postage prepaid, addressed as follows:

If to DSI:

Ronald L. Davis,  
President,  
Digital Simplistics, Inc.  
14207 W. 95<sup>th</sup> Street  
Lenexa, KS 66215

If to Pharmacy:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Either party may by notice, as aforesaid, change its address for all subsequent notices. Notices shall be deemed given when placed in the United States Mail, or on such earlier date as actually received by the addressee.

- 16 Copyrights and Trademarks.** Pharmacy represents to DSI and unconditionally guarantees that any elements of data, information, text, graphics, photos, designs, trademarks, or other artwork furnished to DSI for inclusion in web pages are owned by Pharmacy, or that Pharmacy has permission from the rightful owner to use each of these elements, and pharmacy will hold DSI and its officers, directors, subcontractors and employees harmless from any and all claims, actions, damages, expenses, losses, proceedings, judgments, settlements, obligations, and liabilities

including, without limitation, attorney's fees and expenses, or by operation of law and any claims of patent, trademark or copyright infringement, protect, and defend DSI and its officers, directors, subcontractors and employees from any claim or suit arising from the use of such elements furnished by Pharmacy.

- 17 Laws Affecting Electronic Commerce.** From time to time governments enact laws and levy taxes and tariffs affecting Internet electronic commerce. Pharmacy agrees that Pharmacy is solely responsible for complying with such laws, taxes, and tariffs, and will hold harmless, protect, and defend DSI and its subcontractors from any claim, suit, penalty, tax, or tariff arising from Pharmacy's exercise of Internet electronic commerce.
- 18 DSI Logo.** DSI reserves the right to display its logo on the LTC Website Portal as the creator and host of the website portal.
- 19 HIPAA Disclosure.** DSI requires that Pharmacy take all action necessary to comply with the most recent HIPAA and HITECH laws and provisions. DSI has monitored the Health Insurance Portability and Accountability Act (HIPAA) since it was signed into law on August 21, 1996 as well as the HITECH act (effective February 17, 2010). The goal is to bring data-standard unity to healthcare transactions and provide assurance that confidential patient information will be as safe as, or safer than, paper-based patient records. Speed Script, including SSLTC, its systems, software, and networks are HIPAA compliant based on today's standards. Speed Script has Business Associate Agreements in place with its customers and other business partners.
- 20 Web Portal Notices.** The LTC Web Portal will contain privacy, legal, and copyright notices in the forms collectively attached to this Agreement as Appendix I and by reference incorporated herein.
- 21 Late Payment.** DSI reserves the right to charge interest on any balances over 30 days past due at the rate equal to the lesser of 1.5% per month or the maximum permitted by law from the due date until paid in full.
- 22 Attorney Fees.** If suit shall be brought or claim shall be made for any amount due under this Agreement, or because of the breach of any other obligation on the part of Pharmacy, then, in addition to all amounts due to DSI, Pharmacy agrees to pay all expenses incurred, including reasonable attorney fees to the maximum extent permitted by law.
- 23 Default.** Notwithstanding any other provisions of this Agreement to the contrary, under no circumstances in the Agreement shall default be deemed to have occurred other than the payment obligations of Pharmacy, unless and until the party claiming a default has mailed written notice of the alleged default, and for ten (10) days after the mailing of such notice there has been a failure to cure the default. Said ten (10) days shall be a minimum time period and shall not affect greater rights granted elsewhere herein.
- 24 Disclaimer.** DSI does not warrant that the functions contained in these web pages or the Internet website will meet the Pharmacy's requirements or that the operation of the web pages will be uninterrupted or error-free. Pharmacy acknowledges that from time to time due to maintenance of the hosting facility, problems with the Internet infrastructure, or other problems may prevent the Pharmacy's website from being operational 100% of the time.
- 25 Limitation of Liability.**
  - a) DSI's liability on any claim of any kind, whether based on contract, warranty, tort, including negligence or otherwise, for any loss or damage arising out of, connected with, or resulting from this Agreement or from the performance or breach thereof, or from all services covered by or furnished under this Agreement, shall in no case exceed the monthly charge for the specific LTC site.

- b) In no event, whether under contract, warranty, or tort, including negligence or otherwise, shall DSI be liable for special, incidental, exemplary, or consequential damages including but not limited to loss of profits, data, or revenue even if advised by Pharmacy of the possibility of such loss or damages.
- c) DSI hereby disclaims all warranties expressed or implied, not explicitly stated in this Agreement, and in particular disclaims all warranties of merchantability and fitness for a particular purpose.
- d) DSI has no liability for violation of any existing or future HIPAA laws or regulations including the release of Protected Health Information (PHI) by Pharmacy, its employees, agents, or patients of Pharmacy and LTC site, its employees, agents, or patients of LTC site using the website to communicate refill requests or any other communication or requests between patients and Pharmacy.

**26 Indemnification.** In the event of a breach by Pharmacy to comply with all terms and obligations of this Agreement, Pharmacy shall defend, indemnify and hold harmless DSI, its officers, directors, employees, agents, successors and assigns from and against any and all damage, cost, liability and expense (including court costs and reasonable attorneys fees), incurred as a result of such breach.

Further, Pharmacy shall defend, indemnify and hold harmless DSI, its officers, directors, employees, agents, successors and assigns from and against any and all damage, cost, liability and expense (including court costs and reasonable attorneys fees), incurred as a direct or indirect result of all claims, suits, or proceedings brought by any third party, including any LTC site or any residents of such LTC site relating to the services provided hereunder, unless due to the gross negligence or willful misconduct of DSI.

**27 Venue and Jurisdiction.** This Agreement becomes effective only when signed by DSI. Regardless of the place of signing of this Agreement, Pharmacy agrees that for purposes of venue and jurisdiction, this contract was entered into in Johnson County, Kansas, and any dispute will be litigated or arbitrated in Johnson County, Kansas or in a federal court located in Eastern Kansas, unless such venue and jurisdiction requirement is waived by DSI.

**28 Entire Agreement.** This Agreement constitutes the sole agreement between DSI and Pharmacy regarding this website and supersedes and replaces any and all previous agreements, whether oral or written, between the parties relating to the matter set forth herein. Any additional work not specified in this contract must be authorized by a written change order.

The undersigned agrees to the terms of this agreement on behalf of its organization or business, as of the day and year described below, which may be in one or more counterparts. A facsimile signature shall be acceptable and binding.

**Approval of services:**

**Effective Starting Date:** \_\_\_\_\_

<b>Pharmacy</b>	<b>DSI</b>
_____ _____ _____	Digital Simplistics, Inc. 14207 West 95 <sup>th</sup> Street Lenexa, KS 66215
Phone: _____ Fax: _____ URL: _____	Phone: 800-444-2765 Fax: 913-894-1802 URL: <a href="http://www.speedscript.com">www.speedscript.com</a>
Approved By: _____	Approved By: _____
Date: _____	Date: _____

## **Appendix I to Long Term Care Website Portal Agreement**

Privacy Statements, Medical Disclaimer, Copyright, and Disclaimer of Warranty and Liability

The following provisions will be incorporated into the Long Term Care Website Portal.

### **Privacy Statement**

The following policy guidelines have been created to safeguard the personal information of the Long Term Care Facility's patients. DSI respects their privacy and recognizes the importance of protecting all information contained within the DSI system databases. All information contained at this site will be kept strictly confidential and will not be sold, rented, loaned or otherwise disclosed.

### **Medical Disclaimer**

The information provided on this Long Term Care Website Portal is for general informational purposes. It is not intended to provide medical advice and is not a substitute from obtaining up-to-date, professional advice from a qualified person.

### **Copyright Information**

All pages within the Long Term Care Website Portal are the property of DSI. No portion of the materials on these pages may be reprinted or republished in any form without our express written permission. The users of the Long Term Care Website Portal are permitted to print Medical Charts, Reports, and Custom Reports using the interface provided by the Long Term Care Web Portal.

### **Disclaimer of Warranty and Liability**

While DSI strives to keep up-to-date materials on the site, we cannot assume responsibility for any errors or omissions in these materials. Some information presented may be out-of-date and may contain inaccuracies or errors.

ALL USERS OF THE WEB PORTAL SITE AGREE THAT NEITHER WE NOR OUR AFFILIATES SHALL BE LIABLE FOR ANY CLAIM, LOSS OR DAMAGES WHICH MAY RESULT FROM THE USE OF, ACCESS TO, OR INABILITY TO USE THESE MATERIALS.

Initials: \_\_\_\_\_