

# Non-Disclosure Agreement

**This Non-Disclosure Agreement** (this “Agreement”) is entered into between Pantheon Systems, Inc. (“Pantheon”) and (“Receiving Party”) as of the signature date below (the “Effective Date”), to protect the confidentiality of certain confidential information of Pantheon to be disclosed under this Agreement solely for use in the evaluation of a certain business opportunity discussed with Pantheon (the “Permitted Use”). Pantheon and Receiving Party may be referred to herein individually as a “Party” and collectively as the “Parties.”

1. As used herein, the “Confidential Information” of Pantheon will mean any and all technical and non-technical information disclosed by Pantheon to the Receiving Party, which may include without limitation: (a) patent and patent applications, (b) trade secrets, and (c) proprietary and confidential information, ideas, media, drawings, works of authorship, inventions, know-how, processes, algorithms, software programs and software source documents related to the current, future, and proposed products and services of Pantheon, such as information concerning research, development, design details and specifications, engineering, financial information, procurement requirements, purchasing, manufacturing, customer lists, investors, employees, business and contractual relationships, business forecasts, sales and merchandising, and marketing plans.
2. Subject to Section 3, the Receiving Party agrees that at all times it will hold in strict confidence and not disclose to any third party any Confidential Information of Pantheon, except as approved in writing by Pantheon, and will use the Confidential Information of Pantheon for no purpose other than the Permitted Use. Receiving Party will limit access to the Confidential Information of Pantheon to only those of the Receiving Party’s employees or authorized representatives having a need to know and who have signed confidentiality agreements containing, or are otherwise bound by, confidentiality obligations at least as restrictive as those contained herein.
3. The Receiving Party will not have any obligations under this Agreement with respect to a specific portion of the Confidential Information of Pantheon if the Receiving Party can demonstrate with competent evidence that such portion of Confidential Information (a) was in the public domain at the time it was disclosed to the Receiving Party; (b) entered the public domain subsequent to the time it was disclosed to the Receiving Party, through no fault of the Receiving Party; (c) was in the Receiving Party’s possession free of any obligation of confidence at the time it was disclosed to the Receiving Party; (d) was rightfully communicated to the Receiving Party free of any obligation of confidence subsequent to the time it was disclosed to the Receiving Party by Pantheon; or (e) was developed by employees or agents of the Receiving Party independently of and without reference to any information communicated to the Receiving Party by Pantheon.
4. Notwithstanding the above, the Receiving Party may disclose certain Confidential Information of Pantheon as permitted by law, or if required by a valid order of a court or other governmental body with jurisdiction, *provided that* the Receiving Party provides Pantheon with reasonable prior written notice of such order and makes a reasonable effort to obtain, or to assist Pantheon in obtaining, a protective order preventing or limiting the disclosure and/or requiring that the Confidential Information so disclosed be used only for the purposes for which the law or regulation required.
5. The Receiving Party will immediately notify Pantheon upon discovery of any loss or unauthorized disclosure of the Confidential Information of Pantheon.
6. Immediately upon completion of the Receiving Party’s authorized use of the Confidential Information, or upon written request of Pantheon, the Receiving Party will return to Pantheon or destroy all documents and other tangible materials representing Pantheon’s Confidential Information and all copies thereof, and certify that such Confidential Information

has been deleted and expunged.

7. The Receiving Party acknowledges and agrees that the Confidential Information of Pantheon is owned by and shall remain the sole and exclusive property of Pantheon. The Receiving Party recognizes and agrees that nothing contained in this Agreement will be construed as granting any property rights, by license or otherwise, to any Confidential Information of Pantheon, or to any invention or any patent, copyright, trademark, or other intellectual property right that has issued or that may issue, based on such Confidential Information.
8. The Receiving Party will not reproduce the Confidential Information of Pantheon in any form except as required to accomplish the intent of this Agreement. Any reproduction by the Receiving Party of any Confidential Information of Pantheon will remain the property of Pantheon and will contain any and all confidential or proprietary notices or legends that appear on the original, unless otherwise authorized in writing by Pantheon.
9. The Receiving Party agrees that during the course of communications pursuant to this Agreement, the Receiving Party will not make any unauthorized use or disclosure of any confidential or proprietary information or trade secrets of any other person or entity to whom it owes an obligation of confidentiality with respect to such information, including but not limited to, any current or former employer.
10. The Receiving Party's obligations under this Agreement will survive termination of the discussions or dealings between the Parties related to the Permitted Use and will be binding upon the Receiving Party's heirs, successors, and assigns.
11. This Agreement will be governed by and construed in accordance with the laws of California without reference to conflict of laws principles. Any disputes under this Agreement may only be brought in the state courts and the Federal courts located in San Francisco, California, and the Parties hereby consent to the exclusive personal jurisdiction and venue of these courts.
12. The Receiving Party acknowledges that its breach of this Agreement may cause irreparable damage to Pantheon and hereby agrees that the Pantheon will be entitled to seek injunctive relief under this Agreement, as well as such further relief as may be granted by a court of competent jurisdiction.
13. If any provision of this Agreement is found to be unenforceable or invalid, such unenforceability or invalidity will not render this Agreement unenforceable or invalid as a whole and, in such event, such provision will be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law or applicable court decisions.
14. Receiving Party will assign or transfer any rights or obligations under this Agreement without the prior written consent of the other Party, except that a Party may assign this Agreement without such consent to its successor in interest by way of merger, acquisition or sale of all or substantially all of its assets.
15. This Agreement represents the entire agreement and understanding between the Parties with respect to the subject matter hereof and supersedes all prior discussions relating to the subject matter of this Agreement. This Agreement is entered into without any reliance on any promise or representation, written or oral, other than those expressly contained herein, and may not be modified or amended in any way except by a writing signed by duly authorized officers of the Parties hereto. This Agreement may be executed in counterparts, which shall be deemed to be part of one original, and facsimile and electronic acceptance processes and electronic signatures shall be equivalent to original signatures.

**In Witness Whereof**, the Receiving Party has entered this Non-Disclosure Agreement to be executed on behalf on themselves and the organization they legally represent as of the Effective Date.