Business Associate Agreement

This Business Associate Agreement ("Agreement") is effective as of the Effective Date specified below by and between Pantheon Systems, Inc. ("**Company**") and _____ on behalf of itself and its subsidiaries and affiliates ("**Customer**") for which Company provides services pursuant to one or more service agreements entered into between the parties (collectively the "Services Agreement").

The services provided pursuant to the Services Agreement do not involve the management, creation, modification or storage of Protected Health Information (as defined below) by Company, which is expressly prohibited by the Services Agreement. However, to the extent Company may unknowingly perform or assist in performing a function or activity on behalf of Customer that involves the access to and/or use of Protected Health Information (as defined below), Covered Entity and Company mutually agree to the terms of this Agreement in order to comply with the HIPAA Rules, as defined below.

This Agreement is effective as of _____ or the effective date of the Agreement if earlier (the "Effective Date").

1. Definitions

(a) "Breach" shall have the same meaning as the term "Breach" in 45 CFR 164.402.

(b) "HIPAA Rules" shall collectively mean the Health Insurance Portability and Accountability Act of 1996, as amended by Subtitle D of the Health Information Technology for Economic and Clinical Health Act, Title XIII of Division A and Title IV of Division B of the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) (the "HITECH Act") and the federal regulations published at 45 CFR parts 160 and 164.

(c) "Privacy Rule" means the privacy regulations at 45 CFR Part 160 and 45 CFR Part 164, Subparts A and E, as they exist now or as they may be amended.

(d) "Security Rule" means the security regulations at 45 CFR Part 160 and 45 CFR Part 164, Subparts A and C, as they exist now or as they may be amended

(e) "Individual" shall have the same meaning as the term "Individual" in 45 CFR 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).

(f) "Protected Health Information" or **"PHI"** shall have the same meaning as such term as defined in 45 CFR 160.103, but limited to information created, received, maintained or transmitted by Company on behalf of Customer.

All capitalized terms used in this Agreement and not defined elsewhere herein or in the Services Agreement shall have the same meaning as those terms as used or defined in the HIPAA Rules.

2. Obligations of Company with respect to Use and Disclosure of Protected Health Information

(a) Applicability. The parties acknowledge and agree that Company's services contemplated by the Services Agreement do not involve the management, creation, modification or storage of Protected Health Information and Company does not need access to Protected Health Information to perform its obligations under the Services Agreement. Any exposure to Protected Health Information is incidental to Company's provision of services and at Customer's sole discretion.

(b) Compliance. Company agrees to satisfy and comply with the applicable requirements of the HIPAA Rules concerning the confidentiality, privacy, and security of Protected Health Information that apply to business associates. To the extent the Company is to carry out a covered entity's obligation under 45 CFR Part 164 Subpart E, which is not contemplated under the Services Agreement, it shall comply with the requirements of that Subpart that apply to Company's provision of the services contemplated under the Services Agreement.

(c) Uses and Disclosures of PHI. Company shall not use or disclose Protected Health Information except as permitted or required by Section 4 of this Agreement or as Required by Law. Company may use and disclose Protected Health Information only if such use or disclosure is in compliance with the applicable requirement of 45 CFR 164.504(e).

(d) Mitigation. Company agrees to mitigate: (i) any harmful effect resulting from a Security Incident involving PHI or any use or disclosure of PHI in violation of the requirements of this Agreement or the HIPAA Rules and (ii) any material risks identified or discovered as a result of a Security Incident that does not result in the unauthorized use, access, disclosure, modification or destruction of electronic Protected Health Information. Notwithstanding the foregoing, to the extent Company is unaware of any use of the Services for processing of PHI, Company may not be in a position to implement specific electronic mechanisms to corroborate that PHI

has not been altered, modified or destroyed in an unauthorized manner.

(e) Subcontractors. Company will require any Subcontractor to whom it provides Protected Health Information agrees in writing to terms and conditions that are similar to those that apply to Company with respect to such information under this Agreement.

(f) Minimum Necessary. Company agrees that it shall request from Customer, use itself, and disclose to its affiliates, subsidiaries, agents and Subcontractors or other third parties only the minimum necessary Protected Health Information to perform or fulfill a specific function required or permitted hereunder.

(g) Incident Reporting. Company agrees to report any use or disclosure of Protected Health Information not permitted by this Agreement and any Breach or Security Incident to Customer within a commercially reasonable period, but in no event later than within thirty (30) business days, after it is discovered (within the meaning of 45 CFR 164.410(a)(2)). Such report shall be made by email to _____ and Company shall provide the information required by 45 CFR 164.410(c). If such information is not available to Company at the time the report to be reported to Customer, Company shall provide such information to Customer as it becomes available. Notice is hereby deemed provided, and no further notice will be provided, for any Security Incident that does not result in the unauthorized use, access or disclosure of electronic Protected Health Information, such as pings and other broadcast attacks on a firewall, denial of service attacks, port scans, unsuccessful login attempts, or interception of electronic PHI/encrypted PHI where the key is not compromised, or any combination of the above.

(h) Access Requests. This section shall only apply if Company maintains Customer's PHI in a Designated Record Set, which is not contemplated under the Services Agreement. Within fifteen (15) business days of

receipt of a request from Customer, Company shall provide to Customer the Protected Health Information relating to that individual held by Company or its agents or Subcontractors in a Designated Record Set in accordance with 45 CFR 164.524. In the event any Individual requests access to his or her Protected Health Information directly from Company, Company shall, within fifteen (15) business days of receipt of such request, forward the request to Customer unless the Privacy Rule requires Company to receive and respond to such requests directly, in which case Company shall respond directly as required by and in accordance with 45 CFR 164.524, and shall send a copy of such response to Customer.

(i) Amendment Requests. This section shall only apply if Company maintains Customer's PHI in a Designated Record, which is not contemplated by the Services Agreement. Within fifteen (15) business days of receipt of a request from Customer, Company agrees to make any requested amendment(s) to Protected Health Information held in a Designated Record Set by it, or any of its agents or Subcontractors in conjunction with any other measures necessary to satisfy the requirements set forth in 45 CFR § 164.526. In the event an individual requests an amendment to his or her Protected Health Information directly from Company, Company shall within five (5) business days of receipt thereof, forward such request to Customer.

(j) Accountings of Disclosures. Subject to consistency with the nature of the services provided by Company under the Services Agreement, within fifteen (15) business days after a request from Customer, Company, its agents or Subcontractors shall prepare a list of any disclosure of Protected Health Information by Company for which an accounting may be required under 45 CFR 164.528, provided in writing via email to _____. In the event any Individual requests an accounting of disclosures under 45 CFR 164.528(a) directly from Company, Company shall, within fifteen (15) business days of receipt of

such request, forward the request to Customer unless the Privacy Rule requires that Company to receive and respond to such requests directly, in which case Company shall respond directly as required by and in accordance with 45 CFR 164.528, and shall send a copy of such response to Customer unless prohibited by law.

(k) Other requests regarding PHI. Within fifteen (15) business days of receipt of a request from Customer, Company agrees to comply with any request for confidential communication of, or restriction on the use or disclosure of, Protected Health Information held by it or any agent or Subcontractor as requested by Customer and in accordance with 45 CFR 164.522.

(l) Books and Records. Company agrees to make its internal practices, books, and records relating to the use and disclosure of Protected Health Information available to the Secretary of Health and Human Services or her/his designees or other government authorities in a time and manner designated by such governmental authorities, for purposes of determining compliance with the HIPAA Rules.

(m) Documentation. Company shall maintain documentation of its obligations hereunder to the extent and for the period required by the applicable requirements of the HIPAA Rules.

3. Security of Protected Health Information

(a) Company agrees to implement appropriate administrative, physical, and technical safeguards required by the HIPAA Rules.

(b) Company will perform periodic reviews of its security safeguards to ensure they are appropriate and operating as intended.

4. Permitted Uses and Disclosures of Protected Health Information

(a) Company agrees not to use, store, or disclose Protected Health Information other than as permitted or required by this Agreement or as Required by Law. Subject to the limitations set forth in this Agreement, Company may use and disclose Protected Health Information as necessary in order to provide its services as described in the Services Agreement.

(b) Subject to the limitations set forth in this Agreement, Company may use Protected Health Information if necessary for its proper management and administration or to carry out its legal responsibilities. In addition, Company may disclose Protected Health Information as necessary for its proper management and administration or to carry out its legal responsibilities provided that:

(i) Any such disclosure is Required by Law; or

(ii) (1) Company obtains reasonable assurances, in the form of a written agreement, from the person to whom the Protected Health Information is disclosed that it will be held confidentially and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person; and (2) the person agrees to promptly notify Company (which shall notify Customer in accordance with Section 2 above) of any instances of which it is aware in which the confidentiality of the Protected Health Information has been breached.

5. Customer Obligations

(a) Limitations. Customer shall notify Company of any limitation(s) in the notice of privacy practices of Customer under 45 CFR 164.520, to the extent that such limitation may affect Company's use or disclosure of Protected Health Information.

(b) Changes. Customer shall notify Company of any changes in, or revocation of, the permission by an Individual to use or disclose his or her Protected Health Information, to the extent that such changes may affect Company's use or disclosure of Protected Health Information.

(c) Restrictions on Use or Disclosure. Customer shall notify Company of any restriction on the use or disclosure of Protected Health Information that Customer has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

(d) Requests to Company. Customer shall not request Company to use or disclose Protected Health Information in any manner that would not be permissible under Subpart E of 45 CFR Part 164 if done by

Customer, except to the extent that Company will use or disclose Protected Health Information for the management and administration and legal responsibilities of the Company.

(e) Minimum Necessary. Customer shall disclose to Company only the minimum amount of Protected Health Information necessary to allow Company to fulfill its obligations to Customer under the Services Agreement. It is not contemplated that disclosure of PHI will be necessary for Company to fulfill its obligations under the Services Agreement, and Customer agrees that any PHI that is provided will be encrypted and that it will not provide the encryption key to Company.

6. Term and Termination.

(a) The term of this Agreement shall continue for so long as the Services Agreement remains in effect, except that Section 6(c) shall survive after the termination of the Services Agreement for as long as Company retains any Protected Health Information.

(b) Upon Customer's determination that Company has violated or breached a material term of this Agreement, Customer shall provide an opportunity for Company to cure the breach or end the violation, and terminate this Agreement and the Services Agreement if Company does not cure the breach or end the violation within a reasonable period.

(c) Effect of Termination.

(i) Except as provided in paragraph (b) of this subsection *infra*, upon termination of this Agreement for any reason, Company shall, at the election of Customer, return to Customer or destroy all Protected Health Information in its possession or that of its Subcontractors or agents. Company and its agents and Subcontractors shall retain no copies of the Protected Health Information.

(ii) In the event that returning or destroying the Protected Health Information is infeasible, Company shall provide to Customer written notification within ten (10) business days after termination of the Services Agreement of the conditions that make return or destruction infeasible. Upon agreement by Customer that return or destruction of the Protected Health Information is infeasible, Company shall extend the protections of this Agreement to such Protected Health Information, and limit further uses and disclosures of it to those purposes that make the return or destruction infeasible, for so long as Company or its agents or Subcontractors hold such Protected Health Information.

7. Miscellaneous

(a) Amendment. Company agrees to take such action as necessary to amend this Agreement from time to time to comply with the requirements of any HIPAA Rules. If Company disagrees with any such amendment proposed by Customer, it shall so notify Customer in writing no later than fifteen (15) business days after receipt of Customer's notice of the amendment. If the parties are unable to agree on an amendment, Customer may, at its option, terminate the Services Agreement.

(b) A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended, and as of its effective date.

(c) Any ambiguity in this Agreement shall be resolved to permit compliance with the HIPAA Rules.

(d) Except with respect to the general prohibition on using the Services to process or store PHI, which shall prevail in any conflict, the terms and conditions of this Agreement shall override and control any conflicting term or condition of the Services Agreement. All non-conflicting terms and conditions of the Services Agreement remain in full force and effect.

(e) Relationship of Parties. It is expressly agreed that Company, its divisions, and its affiliates, including its employees and Subcontractors, are performing the services under this Agreement as independent contractors for Customer. Neither Company nor of its affiliates, officers, directors, employees or Subcontractors is an employee or agent of Customer. Nothing in this Agreement shall be construed to create (i) a partnership, joint venture or other joint business relationship between the parties or any of their affiliates, or (ii) an agency relationship.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized officers or agents as of the Effective Date.

Company Pantheon Systems, Inc.	**Customer** _____, *on behalf of itself and its affiliates*
Signature:	Signature:
Typed Name: Kha Nguyen	Typed Name: _____
Title: Vice President, General Counsel	Title: _____
Date:	Date: