

Software Evaluation License SEA

This Software Evaluation License (the “**SEA**”) is entered on the Effective Date pursuant to the terms of the WebOps Services agreement found in <https://pantheon.io/legal> (collectively, the SEA and the WebOps Services Agreement being the “Agreement”) shall govern any access to or use of certain services as set out in the Order Form (the “Evaluation Materials”) between Pantheon Systems, Inc. (“Pantheon,” “we,” “us,” or “our”) and you the individual or entity (“Subscriber” or “you”), each a “Party” and together the “Parties.” This SEA takes effect on the earlier of the last date a party signs this SEA, when you click an “Accept” button or by your use of any of the Services (the “Effective Date”). Any capitalized terms not found herein shall have the same meanings as in the Agreement.

WHEREAS, Subscriber wishes to test and evaluate the Evaluation Materials for purposes of considering a subsequent subscription period upon general market availability by Pantheon in accordance with the terms and conditions of this SEA; and

WHEREAS, Pantheon is willing to grant to Subscriber the Evaluation License in accordance with the terms and conditions of this SEA.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Evaluation License and Use.
 - A. License Grant. Subject to Subscriber's compliance with this SEA, Pantheon hereby grants Subscriber a limited, revocable, non-exclusive, non-transferable, non-sublicensable and in object code form only a license to use the Evaluation Materials that Pantheon may deliver or make available to Subscriber solely for the Permitted Use during the Evaluation Period.
 - B. No Technical Support. Pantheon has no obligation under this SEA to provide Support relating to the Evaluation Software. Subscriber is solely responsible for taking appropriate measures to back up and manage Subscriber's systems and data.
2. Subscriber Obligations. Upon reasonable request by Pantheon including in some cases participation in interviews with their employees or End Users, Subscriber shall make available information or resources regarding Subscriber's use of the Evaluation Materials.
3. Fees. Unless otherwise agreed by the Parties or specified in an Order Form, for the duration of the Evaluation Period, there is no additional charge for any licensed use by Subscriber of the Evaluation Materials pursuant to this SEA.
4. Term and Termination.
 - A. Term. This SEA commences as of the Effective Date and will continue in effect until the expiration of the Evaluation Period (the “**Term**”).
 - B. Termination. This SEA may be terminated:
 - a. By Pantheon, without notice for Subscriber's breach of this SEA;
 - b. By Pantheon at any time without cause, and without incurring any obligation, liability, or penalty by reason of such termination with 10 days' notice to the other Party; and
 - c. By either Party in the event of a claim that any Evaluation Materials or use of such materials infringes the rights of a third party.
 - C. Disabling Evaluation Materials. The Evaluation Materials may be suspended, replaced or superseded by Pantheon during the Evaluation Period.
5. Limitations of Liability. IN NO EVENT WILL PANTHEON OR ANY OF ITS EMPLOYEES, OFFICERS, DIRECTORS, REPRESENTATIVES OR ITS AFFILIATES, BE LIABLE, WHETHER DIRECT, CONSEQUENTIAL, INCIDENTAL, INDIRECT,

EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES, REGARDLESS OF WHETHER SUCH PERSONS WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE, UNDER OR IN CONNECTION WITH THIS SEA OR ITS SUBJECT MATTER UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE.

6. Miscellaneous.

- A. Public Announcements. Subscriber shall not issue or release any announcement, statement, press release, or other publicity or marketing materials relating to the Evaluation Materials or this SEA without the prior written consent of Pantheon. Pantheon may, at its discretion, include Subscriber's name and other indicia in promotional and marketing materials.
- B. Definitions.
- a. "**Evaluation Materials**" means the Evaluation Software and the associated Documentation, Software Tools and UI necessary to use the Evaluation Software not separately licensed to Subscriber by Pantheon, and any and all (a) copies, reproductions, modifications, enhancements, adaptations, translations, and other derivative works thereof, and (b) inventions, improvements, know-how, specifications, performance characteristics, designs, plans, methods, procedures, processes, techniques, software, technology, concepts, information, or materials whatsoever comprising, relating to, based on, or arising out of, the Evaluation Software, in whole or in part and however and by whomever originated, including, without limitation, by any technology or device or by Pantheon, Subscriber, an End User, or any other Person.
 - b. "**Evaluation Period**" means the period that begins on the Effective Date and ends when Evaluation Material is made generally available to the public by Pantheon, or when earlier terminated by Pantheon at its reasonable discretion.
 - c. "**Evaluation Software**" means Pantheon's evaluation version of the services as set out in the Order Form in object code form only.
 - d. "**Permitted Use**" means solely for the testing, demonstration, trial, and other evaluative, but not any developmental or productive, use of the Evaluation Materials, including, but not limited to, the assessment of the Evaluation Software's compatibility with the Subscriber's systems, data and environment for the benefit of Subscriber.