



Standard Terms & Conditions – Engineering Support Blocks

Purchase and utilization of Vanteon's Engineering Support Blocks ("ESBs") are subject to the following terms and conditions unless agreed to by Vanteon in writing.

1. Scope of Services. ESBs provide ad-hoc support for the CLIENT at the CLIENTS direction and are limited to the duration of support hours purchased. Vanteon does not guarantee that any particular-issue will be resolved during an ESB; however, it will use all reasonable efforts to complete all or a portion of the task given the duration purchased.

2. Non-Solicitation. CLIENT will solicit, hire, contract with, or engage the employment of any employee, former employee, contractor, or former contractor of VANTEON, with whom their personnel has had contact in the course of the ESB and for an additional period of twelve (12) months after delivery of the ESB without the prior written consent of Vanteon.

3. Liability of Vanteon and Its Employees and Contractors. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR LOST PROFITS, BUSINESS REVENUE, SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, HOWEVER, CAUSED.

CLIENT agrees that VANTEON's liability for all claims of any kind shall be limited to general money damages and shall not exceed the amounts actually received by VANTEON from CLIENT pursuant to the applicable ESB.

During the ESB, VANTEON may give advice to the CLIENT. VANTEON will exercise reasonable care in giving such advice but will not be responsible for the accuracy of advice based on information supplied by CLIENT or third parties. The responsibility for decisions taken on the basis of advice given by VANTEON will remain with the CLIENT.

THE LIMITATIONS AND EXCLUSIONS SET FORTH IN THIS SECTION SHALL APPLY TO ALL CLAIMS OR CAUSES OF ACTION IN THE AGGREGATE WHETHER FOR BREACH OF WARRANTY OR ANY OBLIGATION ARISING THEREFROM OR OTHERWISE, WHETHER LIABILITY IS ASSERTED IN CONTRACT OR TORT (INCLUDING NEGLIGENCE, MISREPRESENTATION, AND STRICT PRODUCT LIABILITY) AND IRRESPECTIVE OF WHETHER THE PARTY HAS ADVISED OR HAS BEEN ADVISED OF THE POSSIBILITY OF ANY SUCH LOSS OR DAMAGE. EACH PARTY HEREBY WAIVES ANY CLAIM THAT THESE LIMITATIONS OR EXCLUSIONS DEPRIVE SUCH PARTY OF AN ADEQUATE REMEDY. THE PROVISIONS OF THIS SECTION ALLOCATE THE RISKS UNDER THIS AGREEMENT BETWEEN CLIENT AND VANTEON. VANTEON'S PRICING REFLECTS THE ALLOCATION OF RISK AND LIMITATION OF LIABILITY SPECIFIED HEREIN.

4. Warranties. Employees or agents of VANTEON who are experienced and skilled in their profession and in accordance with the standards of workmanship in their professions shall perform all Services. VANTEON represents and warrants that the services performed under the ESB shall be completed in a professional, workmanlike manner, with the degree of skill and care that is required by current, good, and sound professional procedures and practices and in conformance with generally accepted professional standards for the completion of such Services prevailing at the time. VANTEON represents and warrants that all Services and Deliverables shall be original works, except for third party items incorporated at the CLIENT's request.

Vanteon does not provide any guarantee that a particular issue resolution, document, or other deliverables can be delivered in a given ESB. VANTEON makes no other express or implied warranties of any type or description, including merchantability and/or fitness for any particular purpose.

5. Indemnification. In the event that some or all of the deliverables of the ESB are held by a court of competent jurisdiction to be infringing or if prior to the institution of any third party claim or action VANTEON reasonably believes that such Deliverables may be held to be infringing, then VANTEON shall have the option to: (x) modify the Deliverables to be non-infringing; (y) obtain for CLIENT a license to continue using the Deliverables; or (z) require return of the infringing Deliverables and all rights thereto from CLIENT. If VANTEON is unable to implement (x) or (y) and therefore implements

(z), then CLIENT may, at its option and upon thirty (30) days prior written notice shall be entitled to recover the fees paid by CLIENT for that portion of the ESB deliverables adversely affected by the infringement prorated.

Notwithstanding the foregoing, VANTEON shall have no liability for any claim of infringement resulting from: (i) CLIENT's use of a superseded or altered release of some or all of the Deliverables if infringement would have been avoided by the use of a subsequent unaltered release of the Deliverables; (ii) any software or other materials not furnished by VANTEON; (iii) use of the Deliverables in combination with any equipment or software not contemplated by the applicable Statement of Work; (iv) VANTEON's compliance with specifications of CLIENT; (v) the claimed infringement of any patent, copyright or intellectual property right in which CLIENT or any subsidiary or affiliate of CLIENT has any interest, by license or otherwise, or (vi) modification of the Deliverables by parties other than VANTEON. VANTEON shall have no indemnification obligations under this Agreement unless (a) CLIENT notifies VANTEON in writing of the claim in a timely manner sufficient to allow VANTEON to respond without forfeiting any rights; (b) VANTEON has sole control of the defense and all related settlement negotiations; and (c) CLIENT provides VANTEON with the assistance, information and authority reasonably necessary to perform the above. CLIENT will have the right to participate in any defense of a claim and/or to be represented by counsel of its own choosing at its own expense. VANTEON shall not indemnify CLIENT, its officers, directors, and employees against claims arising out of the negligence or willful misconduct of CLIENT.

CLIENT shall indemnify VANTEON, its officers, directors and employees from and against any and all loss, damage, liability or expense (including reasonable attorneys' fees) assessed against VANTEON, or incurred by CLIENT, arising out of any claim being made or suit brought by third parties alleging that any material supplied by CLIENT to VANTEON ("CLIENT Material") violates such third party's U.S. copyright, trademark or patent rights. VANTEON will promptly notify CLIENT of any claim made or suit brought against VANTEON arising out of matters referred to in this Section.

6. Property Rights. Any and all data, design, plans, layouts, specifications and any and all other memoranda which may be furnished by the CLIENT, shall remain the exclusive property of the CLIENT.

Any and all third-party data, design, plans, layouts, specifications and any and all other memoranda which may be furnished to VANTEON shall, upon payment in full, become the exclusive property of the CLIENT.

Except for materials or other data relating to Vanteon owned intellectual property, for services an ESB, all data, design, plans, layouts, specifications and any and all other memorandum which may be produced, prepared, or designed by VANTEON for the CLIENT (the "Deliverables"), shall become the exclusive property of CLIENT, upon

Notwithstanding anything herein, the Parties acknowledge that VANTEON will develop general industry knowledge and know how in the performance of Services which is not specific to CLIENT or the Services. Such general knowledge or subject matter expertise, know how, or processes developed by VANTEON while performing Services shall remain the property of VANTEON.

7. Confidential Information. Any information concerning either Party's finances, business, future business plans, products, specifications, and any other information that may be marked "Confidential" and exchanged between the parties shall be used only for the performance of Services under the terms of this Agreement ("Confidential"). The Parties agree that information relating to the business of the other Party that may come into the possession of, or come to the attention of, the receiving Party as a result of Services performed hereunder shall remain Confidential and shall not be disclosed to any third party. Irreparable harm should be presumed if either Party breaches this Section 11 of this Agreement. Therefore, each Party agrees that a court of competent jurisdiction should immediately enjoin any breach of this Section 11, upon a request by the other Party.

8. Export Administration. CLIENT agrees to comply fully with all relevant export laws and regulations of the United States (the "Export Laws") to assure that the Development Work is not (a) exported, directly or indirectly, in violation of Export Laws; or (b) intended to be used for any purposes prohibited by the Export Laws.

9. Modification. No waiver, alteration, or modification of any of the provisions of the Agreement shall be binding upon either Party unless in writing, signed by the duly authorized representative of the Party intended to be bound thereby.

10. Termination. This Agreement may be terminated at any time by either Party upon thirty (30) days written notice to the other Party. If VANTEON elects to terminate this agreement, an equitable portion of the fee paid for the engineering support block (based on hours utilized) will be returned to the client. If CLIENT elects to terminate this agreement, any unutilized engineering support block hours shall be forfeited, without a right to a refund.

11. Assignment. Neither Party may assign or delegate all or any part of its rights or obligations under this Agreement without the prior written consent of the other Party, which consent shall not unreasonably be withheld, except this agreement may be assigned in the event of the sale of all or substantially all the assets of the assigning Party or by operation of law. Any attempted assignment or delegation without such consent except as expressly set forth herein, will be void.

12. Notices. Any notices shall be sent by registered mail to: Vanteon Corporation, Attention: Legal, 99 Garnsey Road, Suite 200, Pittsford, New York 14534. Notices sent shall be deemed to be effective on the fifth business day following mailing, except in the case of mail strike or disruption of postal services.

13. Severability. Each provision of this Agreement is severable. If any provision is found to be unenforceable or illegal, the remainder of this Agreement will continue in full force and effect and this Agreement will apply as if such provision was not included herein. To the extent any provision is held invalid or unenforceable for being too broad or extensive, it is the intention of the parties that the court enforce such provision to the limits of proper scope or breadth. The parties agree to replace any invalid provision with a valid provision which most closely approximates the intent and economic effect of the invalid provision.

14. Governing Law. This Agreement shall be governed by, subject to, and interpreted in all respects in accordance with the laws of the State of New York, without taking into account conflicts of laws principles. All disputes arising from or relating to this Agreement shall be within the exclusive jurisdiction of the state and/or federal courts located within the State of New York, and the parties hereby consent to such exclusive jurisdiction and waive objections to venue therein.

15. Force Majeure. Neither Party shall be deemed in default or otherwise liable for any delay in or failure of its performance under this Agreement (other than payment obligations) by reason of any Act of God, fire, natural disaster, accident, riot, act of government, strike or labor dispute, shortage of materials or supplies, failure of transportation or communication or of suppliers of goods or services, or any other cause beyond the reasonable control of such Party.

16. Survival. The provisions of this Agreement that by their sense and context are intended to survive termination of this Agreement, including but not limited to provision regarding confidentiality, shall so survive this Agreement.