



Inspire your customers

Ve Framework Terms

Last updated: September 2016

Introduction

These Ve Framework Terms ("Framework" or "Agreement") contain the framework terms and conditions that govern your access to and use of the Service Offerings (as defined below) and are an agreement between Ve Interactive Pty Ltd ACN 149 285 129 whose registered office is at Level 2, 122 Pitt Street, Sydney, 2000 ("Ve," "we," "us," or "our") and you or the entity you represent ("you").

(A) Creating an Account and signing up to this Framework

This Framework shall take effect when you create an Account (as defined below) with us and click the "Click here to accept our terms and conditions" button or check box.

(B) Ordering a Service Offering under Commercial Terms

When you order a Service Offering under Commercial Terms (except under a Free Trial as described in introductory paragraph (F) below, in which case Commercial Terms will not apply until the Free Trial is over), you will be presented with a description of the Service Offering and key commercial terms such as the price and subscription period as set out in the Commercial Terms. Together, this Framework, Commercial Terms, Policies and descriptions of our Service Offerings on the Platform create the "Agreement". The Agreement shall take effect on the date you: (i) click the "I agree to Ve Interactive's Commercial Terms" (or words to that effect) button or check box presented with the Commercial Terms on the Platform or otherwise express your consent to Commercial Terms; or (ii) upon agreement of your Commercial Terms via email; or (iii) when you use any of the Service Offerings, whichever is the earliest (the "Effective Date"). Each Agreement forms a separate and independent contract for the applicable Service Offering.

(C) Order of Precedence

If there is a conflict between any provision of an Agreement, then the following order of priority will govern: (i) first, the provisions of the applicable Commercial Terms; (ii) second, this Framework; and (iii) third, the Policies.

(D) Authority to bind

When entering into this Framework or an Agreement with us, you represent to us that you are lawfully able to enter into contracts (e.g., you are not a minor). If you are entering into this Framework or any Agreement on behalf of an entity, such as the company you work for, you represent to us that you have legal authority, power and right to bind that entity. If you (or, if relevant, the entity on whose behalf you are acting) do not agree to all of these terms or the terms of an Agreement (or if you do not have the right to bind the entity on whose behalf you are acting), you should not click the "Click here to accept our terms and conditions" (or words to that effect) button or check box and proceed further or start using the Service Offerings.

(E) Definitions

Please see the Appendix for definitions of certain capitalised terms used in this Framework. Capitalised terms used herein but not defined herein shall have the meanings set forth in the Commercial Terms.

(F) Free Trial

If you are using a Service Offering under a trial, instead of Commercial Terms applying, this paragraph F will apply and, in the event of any inconsistency, takes precedence over the remainder of any Agreement and in particular any warranties or terms purporting to limit liability. You acknowledge that the Service Offering is provided free of charge. Accordingly, and subject to clause 12.1, we shall not be liable to you (whether for breach of contract, negligence, misrepresentation or for any other reason) for any loss or damage whatsoever incurred or sustained by you in connection with the Agreement and/or use of a Service Offering whether such loss or damage is direct, indirect or consequential and including, without limitation: (i) loss of profit; (ii) loss of business; (iii) lost data; (iv) work delays or (v) wasted staff or management time. The Service Offering is provided "as is" with no warranties, undertakings, conditions or terms of any kind, whether express or implied, statutory or otherwise. In particular, no condition, warranty, representation or other term is given or entered into to the effect that the Service Offering will be of satisfactory (or any other) quality, that they will be fit for any particular purpose (whether that purpose is made known to us or not), that use of the Service Offering will be uninterrupted or error-free, or that they will perform to or operate in accordance with any particular standard. On expiration of a Free Trial period you shall be automatically signed up on a fee-paying basis for the relevant Service Offering, unless we receive notice from you in writing to the contrary prior to expiration of the Free Trial period.

1. Use of the Service Offerings.

- 1.1 Generally. You may access and use the Service Offerings in accordance with the Agreement. You will adhere to all laws, rules, and regulations applicable to your use of the Service Offerings, including the Policies.
- 1.2 Your Account. To access the Service Offerings, you must create an Account associated with a valid e-mail address and sign up to this Framework. Unless explicitly permitted by the Commercial Terms, you may only create one Account per email address. You warrant that all information you provide to us when registering an Account is true and accurate. You must ensure your Account is updated with any relevant changes. We reserve the right in our absolute discretion to refuse to register an Account for any given prospective user. You are responsible for protecting your Account login details and all activities that occur under your Account, regardless of whether the activities are undertaken by you, your employees or a third party (including your contractors or agents) and, except to the extent caused by our breach of the Agreement, we and our affiliates are not responsible for unauthorised access to your Account or any loss or damage that may result therefrom. You will contact us immediately if you believe an unauthorised third party may be using your Account or if your Account information is lost or stolen. You may terminate your Account and any Agreement in accordance with clause 7.
- 1.3 VeServices. You may request additional VeServices at any time in accordance with the Commercial Terms.
- 1.4 Third Party Content. Third Party Content, such as software applications provided by third parties, may be made available directly to you by other companies or individuals under separate terms and conditions, including separate fees and charges. Because we may not have tested or screened the Third Party Content, your use of any Third Party Content is at your sole risk.

2. Changes.

- 2.1. To the Service Offerings. We may change, discontinue, or deprecate any of the Service Offerings (including the Service Offerings as a whole), or change or remove features or functionality of the Service Offerings from time to time. We will notify you of any material change to or discontinuation of the Service Offerings through our Platform or through other reasonable means.
- 2.2 To this Framework. We may change, discontinue or add to this Framework and other documents referenced in the Agreement from time to time. When we do we will revise the "last updated" date given above. It is your responsibility to review the Framework frequently and to remain informed of any changes to it. The then-current version of the Framework will supersede all earlier versions. You agree that your continued use of our Service Offerings after such changes have been published will constitute your acceptance of such revised Framework. We will provide advance notice of this wherever practicable and will notify you of any material change to the Framework through our Platform or through other reasonable means.

3. Security and Data.

- 3.1 Data. Both parties will comply with applicable Data Protection Legislation relating to their activities under an Agreement and, in particular, you agree that you will give appropriate information and obtain necessary consents for the use of cookies and other data collected where required for the delivery of a Service Offering and our other services. We summarise in our Platform Privacy Statement (as updated from time to time) the data we collect and the cookies we use in the provision of the Service Offerings to assist you in complying with the previous sentence, but Ve accepts no responsibility for your failure to do so. In relation to any "personal data" (as defined in the Data Protection Legislation, which also defines other terms in this clause 3 such as "process", "data processor" and "data controller"), to the extent (if any) that we act as a data processor in processing personal data in connection with the Service Offerings: (a) we will only process such personal data for the purposes necessary for providing the Service Offerings and in accordance with your written instructions (which you agree will be consistent with the Agreement) and (b) without limiting clause 10 or your obligations under clause 4.2, we will take appropriate technical and organisational measures against unauthorised or unlawful processing of the personal data and accidental loss or destruction of, or damage to, the personal data. You agree that any such personal data may be transferred or stored outside the country where you are located. If you receive notification of non-compliance with Data Protection Legislation, you will contact us immediately. We shall not be liable for any claim brought by a data subject arising from any action or omission by us to the extent such action or omission resulted directly from your instructions.
- 3.2 You agree to hold us harmless, indemnify and keep us indemnified from all costs, claims, damages, liabilities and expenses incurred or sustained by us, or any failure on your part to comply with clause 3.1 and/or the obligations set out in Data Protection Legislation.
- 3.3 Ve will access third party data in order to provide a better service to you. Reciprocally, notwithstanding anything else in this Agreement, Ve may use and exploit, in aggregated and/or anonymised form, any data resulting from or generated through the provision of the Service Offerings, including disclosing to its trusted partners.

4. Your Responsibilities

- 4.1 Your Content. Without prejudice to clause 3 in relation to personal data, you are solely responsible for the provision, development, content, operation, maintenance, and use of Your Content. For example, you are solely responsible for: (a) the

technical operation of Your Content; (b) the compliance of Your Content with the Policies and applicable law; (c) ensuring Your Content is accurate and kept up to date; (d) any claims relating to Your Content; and (e) properly handling and processing notices sent to you (or any of your affiliates) by any person claiming that Your Content violates such person's rights. You shall comply at all times with all legislation relevant to this Framework including, without limitation, the Competition and Consumer Act 2010 (Cth).

- 4.2 Other Security and Backup. You are responsible for properly configuring and using the Service Offerings and taking your own steps to maintain appropriate security, protection and backup of Your Content, which may include the use of encryption technology to protect Your Content from unauthorised access and routine archiving Your Content. Your Account log-in credentials and private keys generated by the Service Offerings are for your internal use only and you may not sell, transfer or sublicense them to any other entity or person, except that you may disclose your private key to your agents and subcontractors performing work on your behalf.
- 4.3 End User Violations. You will be deemed to have taken any action that you permit, assist or facilitate any person or entity to take related to the Agreement, Your Content or use of the Service Offerings, including by End Users. You are responsible for End Users' use of Your Content and the Service Offerings. You will ensure that all End Users comply with your obligations under the Agreement and that the terms of your agreement with each End User are consistent with the Agreement. If you become aware of any violation of your obligations under the Agreement by an End User, you will immediately terminate such End User's access to Your Content and the Service Offerings.
- 4.4 End User Support. You are responsible for providing customer service (if any) to End Users.
- 4.5 Traffic. You acknowledge that we do not guarantee traffic to your website and that you are solely responsible for generating traffic.
- 4.6 You will not, for the duration of this Framework, and for a period of 12 months following termination, directly or indirectly induce or attempt to induce any employee of ours of senior or management level who has been engaged in the provision, receipt, review or management of the Service Offerings or otherwise in connection with this Framework to leave our employment.

5. Fees and Payment

- 5.1 Fees. Your payment account will be managed via our Platform. We calculate and invoice Fees monthly. We may invoice you more frequently for Fees accrued if we suspect that your Account is fraudulent or at risk of non-payment. You will pay us the applicable Fees for use of the Service Offerings as described on our Platform and/or the Commercial Terms (as applicable) in full and cleared funds, upon receipt of invoice, to a bank account nominated by us or using one of the payment methods we support. Fees for any new Service Offering or new feature of a Service Offering will be effective when we post updated Fees on the Platform unless we expressly state otherwise in a notice. We may increase or add new Fees annually during the Term by a percentage of no more than ten percent (10%) for any existing Service Offerings by giving you at least 30 days' written notice. If you do not notify us of your intention to terminate the affected Service Offering within 30 days of the notification of the proposed increase you will be deemed to have accepted the increase. We may charge you interest on all late payments at the rate of 4% over the then Bank Bill Swap Benchmark Rate at the date the relevant invoice was issued,

commencing on the due date and continuing until fully paid, whether before or after judgment, without prejudice to any other right or remedy we may have.

5.2 Taxes. All Fees payable by you are exclusive of applicable taxes and duties, including GST and applicable sales tax. You will provide us any information we reasonably request to determine whether we are obligated to collect GST from you, including your Tax file number. If any deduction or withholding is required by law, you will notify us and will pay us any additional amounts necessary to ensure that the net amount that we receive, after any deduction and withholding, equals the amount we would have received if no deduction or withholding had been required. Additionally, you will provide us with documentation showing that the withheld and deducted amounts have been paid to the relevant taxing authority.

5.3 We collate details of transactions relating to our Service Offerings on the Platform, and invoice for those transactions on a monthly basis in accordance with clause 5.1. You may log into your Account at any time to review details of those transactions. If you dispute the validity of a transaction you can change its status on the Platform using your Account. Any pending transactions on the Platform invoicing section whose status is not amended within a 1-day period from the date of the conversion shall, unless otherwise agreed, be deemed automatically approved.

6. Temporary Suspension

6.1 Generally. We may suspend your or any End User's right to access or use any portion or all of the Service Offerings immediately upon notice to you if we determine:

- (a) your or an End User's use of or registration for the Service Offerings (i) poses a security risk to the Service Offerings or any third party, (ii) may adversely impact the Service Offerings or the systems or Content of any other Ve customer, (iii) may subject us, our affiliates, or any third party to liability, or (iv) may be fraudulent;
- (b) you are, or any End User is, in breach of the Agreement, including if you are late on your payment obligations for more than 15 days; or
- (c) you are subject to an Insolvency Event.

6.2 Effect of Suspension. If we suspend your right to access or use any portion or all of the Service Offerings:

- (a) you remain responsible for all Fees you have incurred through the date of suspension;
- (b) you remain responsible for any applicable Fees for any Service Offerings to which you continue to have access; and
- (c) we will not erase any of Your Content as a result of your suspension, except as specified elsewhere in the Agreement.

6.3 Our right to suspend your or any End User's right to access or use the Service Offerings is in addition to our right to terminate the Agreement pursuant to clause 7.2.

7 Term and Termination

7.1 Term. This Framework will commence on the date you sign up via the Platform and shall continue indefinitely until terminated in accordance with its terms. Each Agreement shall commence on the Effective Date and shall continue indefinitely until terminated in accordance with its terms.

7.2 Termination.

- (a) Termination for Convenience. Either party may terminate this Framework at any time for any reason by providing the other with written notice in accordance with the timing and notice period set out in the Commercial Terms where there are no extant Agreements. Either party may terminate an Agreement at any time for any reason by providing the other with written notice in accordance with the timing and notice period set out in the Commercial Terms to that effect. Termination of any one Agreement shall not modify the term of this Framework or any other Agreement(s).
- (b) Termination for Cause.
- (i) By Either Party. Without prejudice to any other rights or remedies to which the parties may be entitled, either party may terminate an Agreement immediately without liability to the other if: (A) the other party commits a material breach of any of the terms of the Agreement and (if such a breach is remediable) fails to remedy that breach within 15 days of that party being notified in writing of the breach; or (B) an Insolvency Event occurs.
 - (ii) By Us. We may also terminate an Agreement immediately upon notice to you: (A) for cause, if you repeatedly fail to provide us assistance to enable us to carry out the Service Offerings; (B) if any act or omission by you or any End User results in a suspension described in clause 6.1; (C) if our relationship with a third party partner who provides software or other technology we use to provide the Service Offerings expires, terminates or requires us to change the way we provide the software or other technology as part of the Service Offerings; (D) if we believe providing the Service Offerings could create a substantial economic or technical burden or material security risk for us; (E) in order to comply with applicable law or requests of governmental entities or regulators, or (F) if we determine use of the Service Offerings by you or any End Users or our provision of any of the Service Offerings to you or any End Users has become impractical or unfeasible for any legal or regulatory reason.

7.3 Effect of Termination.

- (a) Generally. Upon any termination of an Agreement:
- (i) all your rights under the Agreement immediately terminate;
 - (ii) you remain responsible for all Fees you have incurred through the date of termination; and
 - (iii) you will immediately return or, if instructed by us, destroy all Ve Content relevant to the Agreement in your possession.
- (b) On termination of an Agreement or this Framework, the accrued rights of the parties as at termination, or the continuation after termination of any provision including clauses 4.1, 4.6, 5.2, 7.3, 8 (except the license granted to you in clause 8.4), 9, 10,

11, 12, and 13 and those provisions implicitly surviving termination shall not be affected or prejudiced and will continue to apply in accordance with their terms.

8 Intellectual Property Rights and Licence

- 8.1 Your Licence to us. You or your licensors shall continue to own all Intellectual Property Rights in and to Your Content. Subject to the limited licence set forth herein, no Intellectual Property Rights in Your Content are transferred or assigned to us under an Agreement. You grant us and our affiliates a non-exclusive, worldwide, royalty free, transferable, sub-licensable licence to use, copy, transfer, distribute, store and modify Your Content to provide the Service Offerings and for marketing purposes.
- 8.2 Our Licence to you. We or our affiliates or licensors own and reserve all Intellectual Property Rights in and to the Service Offerings and Ve Content. In consideration of your payment of the Fees, we grant you a limited, revocable, non-exclusive, non-sublicensable, non-transferable licence to do the following during the Term: (i) access and use the Service Offerings solely in accordance with the Agreement; and (ii) copy and use the Ve Content solely in connection with your permitted use of the Service Offerings. Except as provided in this clause 8.2, no Intellectual Property Rights in the Service Offerings or Ve Content are transferred or assigned to you under the Agreement. You acknowledge that some Open Source Software may form part of the Service Offerings. Open Source Software is not licensed to you under the Agreement. You must comply with the terms of the applicable Open Source Software licences, a list of which is available upon request.
- 8.3 Licence Restrictions. Neither you nor any End User may use the Service Offerings in any manner or for any purpose other than as expressly permitted by the Agreement. Neither you nor any End User may, or may attempt to: (a) copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Service Offerings or Ve Content in any form or media or by any means; (b) (except to the extent permitted by law notwithstanding any contractual prohibition) reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable or source code or unlocked coding form all or any part of the Service Offerings or Ve Content; (c) access or use the Service Offerings, Ve Content or any part in order to build a product or service which competes with the Service Offerings or is in a way intended to avoid incurring Fees or exceeding usage limits or quotas; (d) attempt in any way to remove or circumvent any technical protection measures (TPMs), nor apply or manufacture for sale or hire, import, distribute, sell or let for hire, offer or expose for sale or hire, advertise for sale or hire, or have in its possession for private or commercial purposes, any means, the sole intended purpose of which is to facilitate the unauthorised removal or circumvention of TPMs; or (e) use the Service Offerings or Ve Content to provide services to third parties or otherwise licence, sell, rent, lease, transfer, assign, distribute, display, disclose or otherwise commercially exploit or make the Service Offerings or Ve Content available to any third party. All licenses granted to you are conditional upon on your continued compliance with the Agreement and will immediately automatically terminate if you do not comply. You will use all reasonable endeavours to prevent any unauthorised access to, or use of, the Service Offerings and Ve Content and, in the event of any such unauthorised access or use, promptly notify us. During and after the Term, you will not assert, nor will you authorise, assist, or encourage any third party to assert, against us or any of our affiliates, customers, vendors, business partners, or licensors, any patent infringement or other intellectual property infringement claim regarding any Service Offerings or Ve Content you have used or had access to.
- 8.4 We grant you a non-exclusive, non-transferable, non-sublicensable licence to use the Ve Marks solely in connection with your use of the Service Offerings. Any goodwill arising from such use shall belong to us. You shall use the Ve Marks only in relation to the Service Offerings and in a manner which complies with all standards and directions as to quality and mode of

presentation laid down from time to time by us. In particular you shall not use the Ve Marks: (i) other than in respect of the Service Offerings; and (ii) in a manner which could affect the value or validity of the Ve Marks in any part of the world.

8.5 Suggestions. If you provide any Suggestions to us or our affiliates, we will own Intellectual Property Rights in and to the Suggestions, even if you have designated the Suggestions as confidential. We and our affiliates will be entitled to use the Suggestions without restriction. You hereby irrevocably assign to us with full title guarantee (including by way of present assignment of future rights) all Intellectual Property Rights in and to the Suggestions absolutely and agree to provide us any assistance we may require to document, perfect, and maintain our Intellectual Property Rights in the Suggestions. To the extent (if any) that the foregoing assignment is ineffective for any reason, you agree to grant and hereby grant to us a non-exclusive, perpetual, irrevocable, royalty-free, sublicensable, worldwide licence to make, have made, use, import, offer for sale, sell, reproduce, distribute, modify, adapt, prepare derivative works of, display, perform and otherwise exploit such Suggestions without restriction.

9 Indemnification.

9.1 General indemnity from you. You will fully defend, indemnify, and hold harmless us, our affiliates and licensors, and each of their respective employees, officers, directors, and representatives, on demand, from and against any claims, damages, losses, liabilities, costs, and expenses (including reasonable legal fees) arising out of, in connection with or relating to any third party claim concerning: (a) your or any End Users' use of the Service Offerings (including any activities under your Account and use by your employees and personnel); (b) breach of the Agreement or violation of applicable law by you or any End User; (c) Your Content or the combination of Your Content with other applications, content or processes, including any claim involving alleged infringement or misappropriation of third party rights by Your Content or by the use, development, design, production, advertising or marketing of Your Content; or (d) a dispute between you and any End User. If we or our affiliates are obligated to respond to a third party claim, you will also reimburse us for reasonable legal fees, as well as our employees' and contractors' time and materials spent responding to the third party claim at our then-current hourly rates.

9.2 Process. We will promptly notify you of any claim subject to clause 9.1, but our failure to promptly notify you will only affect your obligations under clause 9.1 to the extent that our failure prejudices your ability to defend the claim. You may: (a) use counsel of your own choosing (subject to our written consent) to defend against any claim; and (b) settle the claim as you deem appropriate, provided that you obtain our prior written consent before entering into any settlement. We may also assume control of the defence and settlement of the claim at any time.

9.3 Our indemnity to you. We will indemnify and hold you harmless or, at our option, defend or settle any Third Party Claim and shall be responsible for any reasonable losses, damages, costs (including legal fees) and expenses incurred by, or awarded against, you as a result of or in connection with any such Third Party Claim. The indemnity set out in this clause 9.3 shall not apply to the extent the Third Party Claim in question is attributable to or arises from: (a) possession, use, development, modification or maintenance of the Service Offerings (or any part thereof including for the avoidance of doubt incorrect installation) by you other than in accordance with the terms of the Agreement; (b) use in combination with any hardware or software not supplied or specified by us, or if the infringement would have been avoided by use not so combined; (c) your failure to use updated versions of the Service Offerings which would have avoided the infringement (provided they were made available to you in good time so as to avoid the infringement); or (d) your failure to comply with the terms of any applicable Open Source Software licence. Our total aggregate liability in respect of the indemnity in this clause 9.3 whether in

tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise shall be the lesser of: (a) 100% of the Fees in the 12 months immediately preceding the claim; or (b) \$10,000.

9.4 Process. Our indemnity in clause 9.3 is conditional upon you: (a) as soon as reasonably practicable giving written notice of the Third Party Claim to us, specifying the nature of it in reasonable detail; (b) not making any admission of liability, agreement or compromise in relation to the Third Party Claim without our prior written consent (such consent not to be unreasonably conditioned, withheld or delayed); (c) giving us and our professional advisers access at reasonable times (on reasonable prior notice) to your premises and your officers, directors, employees, agents, representatives or advisers, and to any relevant documents, so as to enable us and our professional advisers to examine them and to take copies for the purpose of assessing the Third Party Claim; (d) taking such action as we may reasonably request to avoid, dispute, compromise or defend the Third Party Claim; and (e) at our request allowing us to conduct the defence (and settlement if any) of the relevant claim. If any Third Party Claim is made, or in our reasonable opinion is likely to be made, we may at our sole option and expense (a) procure for you the right to continue using the Service Offerings in accordance with the Agreement; (b) modify the Service Offerings so that they cease to be infringing; (c) replace the Service Offerings with non-infringing works; or (d) terminate the relevant Agreement immediately on notice to you. This clause constitutes your exclusive remedy and our only liability in respect of Third Party Claims.

10 Warranties

10.1 Mutual warranties. Each party represents and warrants to the other that: (a) it or its licensors owns all Intellectual Property Rights it requires to perform its obligations and grant any licences under the Agreement; (b) it has full power and authority to enter into the Agreement and shall secure and maintain during the Term any and all authorisations as may be necessary in respect of the performance of its obligations under the Agreement; (c) it shall not knowingly do anything or omit to do anything which will cause the other to be in breach of any applicable law or regulation; and (d) it will not make false, misleading or disparaging representations or statements regarding the other party.

10.2 Your warranties. You further represent and warrant to us that Your Content or End Users' use of Your Content will comply with the Website Terms. If you have instructed a third party agent to represent you then you warrant to us that such third party agent has full authority to commit you to the Agreement and you remain liable for all acts and representations and agreements of such third party agent.

10.3 Specification. We warrant that the Service Offerings will perform substantially in accordance with the specification set out on the Platform and will be provided with reasonable skill and care. This warranty shall not apply to the extent of any non-conformance of use by you with the Agreement or our instructions or due to any incorrect installation of the Service Offerings. If the Service Offerings do not perform in accordance with this clause then we shall, at our expense, use all reasonable efforts to correct such non-conformance or provide alternative means of accomplishing the desired performance. Where we are able to correct or substitute within a reasonable time, such correction or substitution shall constitute your sole and exclusive remedy and our only liability (subject to section 12.2) in respect of the warranty breach.

11 Disclaimer

11.1 You acknowledge that the Service Offerings have not been developed to meet your individual requirements and it is your responsibility to ensure the Service Offerings meet your requirements.

- 11.2 You assume sole responsibility for results obtained from your use of the Service Offerings and for conclusions drawn from such use and we recommend that if you intend to use any information resulting from the Service Offerings you should not do so without carrying out proper investigation and obtaining appropriate independent professional and legal advice.
- 11.3 We are not liable for any damage caused by errors or omissions in any information, instructions or scripts provided to us by you in connection with the Service Offerings or any actions taken by us at your direction.
- 11.4 Except for those warranties in clause 10 of this Framework, we and our affiliates and licensors make no representations, warranties, conditions or other terms of any kind, whether express, implied, statutory or otherwise regarding the Service Offerings or the Third Party Content, including any warranty that the Service Offerings or Third Party Content will be uninterrupted, error free or free of harmful components, or that any content, including Your Content or the Third Party Content, will be secure or not otherwise lost or damaged and we are not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and you acknowledge that the Service Offerings may be subject to limitation, delays and other problems inherent in the use of such communications facilities.
- 11.5 Except to the extent prohibited by law and as expressly provided under the Agreement, we and our affiliates and licensors disclaim all warranties, conditions or other terms, including any implied warranties of satisfactory quality, fitness for a particular purpose, non-infringement, or quiet enjoyment, and any warranties arising out of any course of dealing or usage of trade.

12 Limitations of Liability.

- 12.1 Nothing in this Framework or any Agreement excludes the liability of either party for: (a) death or personal injury caused by its negligence or that of its employees or personnel; (b) for fraud or fraudulent misrepresentation; (c) for non-payment of Fees; or (d) any other liability that cannot be excluded under applicable law, even if any other term of this Agreement would suggest that this might otherwise be the case.
- 12.2 Exclusions. Subject to clause 12.1, neither party shall be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any: (a) loss of profits; (b) loss of business; (c) depletion of goodwill and/or similar losses; (d) loss or corruption of data or information; or (e) for any special, indirect or consequential loss, costs, damages, charges or expenses, however arising under or in connection with this Agreement whether or not reasonably foreseeable and even if the other party had been advised of the possibility of incurring the same.
- 12.3 Financial cap. Subject to clauses 12.1 and 12.2, our total aggregate liability to you in respect of any Contract Year in contract, tort (including negligence or breach of statutory duty, misrepresentation, restitution or otherwise), arising from or in connection with the performance or contemplated performance of this Framework and each Agreement (excluding liability under the indemnity in clause 9.3) shall be limited as follows: (a) in aggregate in relation to each Agreement, to the greater of (i) an amount equal to 100% of the total amount payable to us in the previous Contract Year and (ii) \$25,000; and (b) in the aggregate under this Framework, to \$1,000,000, so that under no circumstances will our total aggregate liability under or in relation to this Framework (including all Agreements) in a Contract Year exceed \$1,000,000. In respect of the first Contract Year of the relevant Agreement the amount in sub-clause (b) shall apply. "Contract Year" for these purposes

means the relevant twelve-month period starting on the effective date set out in the Commercial Terms or an anniversary thereof (as appropriate). Where liability arises out of an event or series of connected events which span more than one Contract Year, all such liability shall be deemed to have occurred in the Contract Year in which the event first occurred, or in which the first of a series of connected events occurred, as appropriate.

13 Miscellaneous.

- 13.1 Confidentiality and Publicity. Each party undertakes to keep the Confidential Information of the disclosing party strictly confidential and not publish or disclose any part of it except as strictly necessary to exercise its rights or perform its obligations under an Agreement. Each party shall apply no lesser security measures and degree of care than those which it takes in protecting its own Confidential Information and in any event no less than that which a reasonable person or business would take in protecting its own confidential information. The obligations of confidentiality will not apply to the whole or any part of the Confidential Information to the extent that it: (a) is or becomes publicly known other than through any act or omission of the receiving party; (b) was in the other party's lawful possession before the disclosure; (c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure; (d) is independently developed by the receiving party, which independent development can be shown by written evidence; or (e) is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body. The obligations of confidentiality shall continue beyond the Term until such time as the information enters the public domain other than through the act or omission of the receiving party. Each party shall promptly on request and in any event on termination of an Agreement return to the other party or cause to be deleted all materials incorporating Confidential Information in its possession or control relevant to that Agreement. You will not issue any press release or make any other public communication with respect to an Agreement or your use of the Service Offerings. You will not misrepresent or embellish the relationship between us and you (including by expressing or implying that we support, sponsor, endorse, or contribute to you or your business endeavours), or express or imply any relationship or affiliation between us and you or any other person or entity except as expressly permitted by an Agreement.
- 13.2 Force Majeure. Neither us nor our affiliates nor you will be liable for any delay or failure to perform any obligation under an Agreement where the delay or failure results from any Force Majeure Event provided that the other party is notified of such an event and its expected duration.
- 13.3 Independent Contractors. We and you are independent contractors and this Framework and any Agreement shall not constitute a partnership, agency or joint venture between the parties.
- 13.4 Third Party Rights. An Agreement will not create any third party beneficiary rights in any individual or entity that is not a party to the Agreement.
- 13.5 English language. If an Agreement is translated into any language other than English, the English language text will prevail.
- 13.6 Notice. (a) To You. We may provide any notice to you under an Agreement by: (i) posting a notice on the Ve Site, effective upon posting; or (ii) sending a message to the email address then associated with your Account, effective when we send the email. It is your responsibility to keep your email address current. You will be deemed to have received any email sent to the email address then associated with your Account when we send the email, whether or not you actually receive the email; (b) To Us. To give us notice under this Framework or an Agreement, you must contact us: (i) by email to

info@au.veinteractive.com (effective one Business Day after they are sent); or (ii) by personal delivery (effective immediately), overnight courier (effective one Business Day after they are sent) or registered or certified mail to Ve Interactive Pty Ltd ACN 149 285 129, Level 2, 122 Pitt Street, Sydney, 2000 (effective three Business Days after they are sent). We may update our email or postal addresses for notices by posting a notice on the Ve Site.

- 13.7 Assignment. You will not, without our prior written consent, assign, transfer, charge, subcontract or deal in any other manner with all or any of your rights or obligations under this Framework or any Agreement.
- 13.8 No Waivers. A waiver by us of any terms of this Framework or an Agreement in a particular instance shall not be deemed or construed to be a waiver of such term or condition for the future or affect our rights in respect of any subsequent breach of the terms of this Framework or an Agreement as applicable. All rights and remedies contained in this Framework and any Agreement shall be distinct, separate and cumulative and no action or inaction by us shall operate to exclude or deprive us of any other rights allowed by law.
- 13.9 Severability. If any part of this Framework or an Agreement is or becomes invalid, illegal or unenforceable (including any provision excluding liability), it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant part shall be deemed deleted. Any modification to or deletion of a part shall not affect the validity and enforceability of the rest of this Framework or an Agreement as applicable. If one party gives notice to the other of the possibility that any part of this Framework or an Agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such part so that, as amended, it is legal, valid and enforceable and, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 13.10 Entire Agreement. The Agreement is made up of this Framework, the Commercial Terms and the Policies and contains the entire agreement between the parties relating to its subject matter and supersedes any previous agreements, arrangements, undertakings or proposals, written or oral, between the parties in relation to such matters or any statements made by any person, including (without limitation) any employees or agents for each party. Save for fraud or fraudulent misrepresentation, the parties shall have no liability for any such representation being untrue or misleading. Each party acknowledges and agrees that in entering into this Framework or an Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether a party to this Agreement or not) relating to the subject matter of this Agreement, other than as expressly set out in this Agreement.
- 13.11 Governing Law and Jurisdiction. This Framework and any Agreement shall be governed and interpreted in accordance with Australian law and subject to clause 13.12 the parties irrevocably agree that the courts in Australia shall have non-exclusive jurisdiction in relation thereto.
- 13.12 Dispute Resolution. Any dispute arising out of or in connection with this Framework or an Agreement, including any question regarding its existence, validity or termination, shall be referred to and conclusively resolved by arbitration under the rules of The Institute of Arbitrators & Mediators Australia, which rules are deemed to be incorporated by reference into this clause. The place and seat of arbitration shall be Sydney, NSW, Australia. The language to be used in the arbitration proceedings shall be English. The number of arbitrators shall be one (1). Notwithstanding this clause, we may bring proceedings in the courts of any state or territory which has jurisdiction for reasons other than the parties' choice, for the

purpose of seeking an interim injunction, order or other non-monetary relief to protect its Intellectual Property Rights and/or rights in Confidential Information.

Appendix – Definitions

"Account"	means your account to access the Service Offerings through the Platform;
"Ads"	means any advertisement and other content;
"Agreement"	is defined in the Introduction section (B);
"Business Days"	means any day which is not a Saturday, Sunday or public holiday in Australia;
"Confidential Information"	means (i) proprietary information (whether owned by the disclosing party or a third party to whom the disclosing party owes a non-disclosure obligation), including information relating to our technology, customers, business plans, promotional and marketing activities, finance and other business affairs, knowhow, software, including without limitation its source code, translations, compilations, partial copies and derivative works; (ii) such information which is marked as confidential at the time of disclosure to the receiving party, or if in oral form, is identified as confidential at the time of oral disclosure and reduced in writing or other tangible (including electronic) form including a prominent confidentiality notice and delivered to a receiving party within 30 days of disclosure; (iii) such information that, by the nature of the circumstances surrounding the disclosure, ought to be treated in good faith as proprietary and/or confidential;
"Commercial Terms"	means the commercial terms (including pricing, term and termination, territory, domains) or insertion order as applicable governing an order for Service Offerings subject to this Framework and made available either through the Platform or sent to you via email;
"Content"	means software (including machine images), data, text, audio, video images or other content;
"Data Protection Legislation"	means the Privacy Act 1988 (Cth) and the Privacy Amendment (Enhancing Privacy Protection) Act 2012 (Cth) as amended from time to time ("Acts") and all applicable local laws and regulations implementing such Acts and any other data protection and privacy laws elsewhere in the world from time to time;
"Effective Date"	is defined in the introductory paragraph (B) of this Framework;
"End User"	means any individual or entity that directly or indirectly: (a) accesses or uses Your Content; or (b) otherwise accesses or uses the Service Offerings under your Account. The term "End User" does not include individuals or entities when they are accessing or using the Service Offerings or any Content under their own Account, rather than your Account;
"Fees"	means the fees payable by you to us according to the rates as set out in the Commercial Terms;

“Force Majeure Event” means any cause beyond our reasonable control, including without limitation strikes, lockouts or other industrial disputes (whether involving our workforce or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors;

“Insolvency Event”

- (a) an order is made or a resolution is passed for the winding up of the other party, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order in relation to the other party; or
- (b) an order is made for the appointment of an administrator to manage the affairs, business and property of the other party, or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the other party, or notice of intention to appoint an administrator is given by the other party or its directors or by a qualifying floating charge holder; or
- (c) a receiver is appointed of any of the other party's assets or undertaking, or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the other party, or if any other person takes possession of or sells the other party's assets; or
- (d) the other party makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way; or
- (e) the other party ceases, or threatens to cease, to trade; or
- (f) the other party takes or suffers any similar or analogous action in any jurisdiction in consequence of debt;

“Intellectual Property Rights” means all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world unless otherwise stated in this Agreement;

"Open Source Software" means software licensed under terms which require as a condition of the use, modification or distribution of such software that other software incorporated into, derived from, or distributed with such software: (a) be disclosed or distributed in source code form; (b) be licensed under terms that permit making derivative works; and/or (c) be re-distributable at no charge to subsequent licensees;

“Platform”	means the digital platform operated, programmed and hosted by us from which you can deploy and use Service Offerings;
“Policies”	means the Website Terms, all restrictions described in the Ve Content and on the Ve Site, and any other policy or terms referenced in or incorporated into this Agreement. Policies does not include whitepapers or other marketing materials referenced on the Ve Site;
“Properties”	means your websites, mobile applications, media players, mobile content, and/or other properties approved by us;
“Service Offering(s):”	means the services to be provided pursuant to Commercial Terms, including the Platform, the Ve Marks, the Ve Site, VeServices, VeAds and any other product or service provided by us under this Agreement, excluding any Third Party Content;
“Suggestions”	means all suggested improvements to the Service Offerings that you provide to us;
“Term”	means the term of an Agreement beginning on the Effective Date;
“Territory”	means the territory or territories set out in the Commercial Terms;
“Third Party Content”	means Content made available to you by any third party in conjunction with the Service Offerings.
“Third Party Claim”	means a claim or action brought by a third party alleging that the use of the Service Offerings in the Territory infringes its copyright or rights in confidential information;
“Ve”	means Ve Interactive Pty Ltd ACN 149 285 129 whose registered office is at Level 2, 122 Pitt Street, Sydney, NSW, 2000;
“VeAds”	means the digital advertising services undertaken by Ve on your behalf;
“Ve Content”	means Content we or any of our affiliates make available in connection with the Service Offerings or on the Ve Site to allow access to and use of the Service Offerings;
“Ve Marks”	means the following marks and/or associated logos: Ve; Ve Interactive; VeInteractive, and any other trademark or logo owned or licensed to Ve to which the customer has access as a result of an Agreement whether registered or unregistered anywhere in the world;
“VeServices”	means any additional or bespoke services undertaken by us on your behalf falling outside the Services;
“Ve Site”	means the website at www.veinteractive.com/au ;
“Website Terms”	means the website terms and conditions for the Ve Site;

“Your Content”

means Content you or any End User: (a) run on the Service Offerings (which is not Ve Content); (b) submit to enable you or any End User to join the Platform; (c) cause to interface with the Service Offerings; (d) use in (or which contains) any Ads or which you or an End User submits or provides access to under any applicable Commercial Terms; or (e) upload to the Service Offerings under your Account or otherwise transfer, process, use or store in connection with your Account, including without limitation the trade-marks, logos and brand identifiers used by you in connection with your business, and any information relating to the commercial objectives of your website, retail prices, data, graphics, logos, photographs, video, text, design work and any other items reasonably required by us;

“Your Website(s)”

means websites at the domains listed in the Commercial Terms owned or operated by you.