

## FRAMEWORK TERMS

Last updated: 17 May 2018

### Introduction

These Ve Framework terms and conditions (“**Framework**”) govern your access to and use of the Service Offerings (as defined below) and create a legally binding agreement between Ve Interactive DACH GmbH registered with the commercial register of the Local Court of Berlin (Charlottenburg) under HRB 141739 (“**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 with us or when you sign (or otherwise indicate your agreement to) an Order, whichever occurs first.

**(B) Ordering a Service Offering**

When you place an Order 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 Order (except under a free trial as described in introductory paragraph (F) below, in which case the Order will not apply until the free trial is over). This Framework, together with each Order, Policies and/or descriptions of our Service Offerings on the Platform, creates an “**Agreement**”. The Agreement shall take effect on the date that you: (i) click the “I agree to Ve’s Order” (or words to that effect) button or check box presented with the Order or otherwise indicate your agreement to the Order; or (ii) on agreement of your Order via email or hard copy signature; or (iii) when you use any relevant Service Offering, whichever is the earliest (“**Effective Date**”). Each Agreement forms a separate and independent contract for the relevant Service Offering.

**(C) Precedence**

If there is a conflict between any part of an Agreement, the following order of precedence will apply: (i) the main body of an Order; (ii) any addendum, annex or schedule to that Order; (iii) this Framework ; (iv) our Policies; and (v) descriptions of our Service Offerings on the Platform.

**(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 Order.

**(F) Free Trial**

If you are using a Service Offering under a trial, instead of the Order applying this paragraph F will apply and, in the event of any inconsistency, this paragraph F takes precedence over the remainder of any Agreement and in particular any warranties, promises and/or terms purporting to limit liability. You acknowledge that a trial Service Offering is (unless otherwise agreed between us in writing) provided free of charge for a trial period. 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 trial Service Offering whether such loss or damage is direct, indirect or consequential and including, without limitation (direct and indirect): (i) loss of profit; (ii) loss of business; (iii) lost data; (iv) work delays; and (v) wasted staff or management time. Each trial 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 and/or other term is given or entered into to the effect that the trial Service Offering will be of satisfactory (or other) quality, that it will be fit for any particular purpose (whether made known to us or not), that use of the trial Service Offering will be uninterrupted or error-free, or that it will perform to or operate in accordance with any particular standard. **On expiration of any free trial period, you will be automatically signed up on a fee-paying basis for that Service Offering, unless we receive notice from you in writing to the contrary prior to expiration of the free trial period.**

**1. Use of our 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 Order, 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 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. In this Framework and each Agreement, references to "controller", "data subject", "personal data", "personal data breach", "processor" and "processing" have the meanings set out in the GDPR (and "process" and "processed" shall be construed accordingly).

3.2. Each party will comply with applicable Data Protection Legislation in relation to its respective activities under and in connection with this Framework and each Agreement, including compliance with Article 5 GDPR (data protection principles) and all applicable data security requirements in respect of personal data that each party holds (including Article 32 GDPR).

3.3. Our [Privacy Policy](#) explains how we collect and use personal data.

3.4. We are, together, joint controllers with you in respect of our Service Offerings, except to the extent expressly stated otherwise in an Order. We are, for certain purposes, a controller in our own right where we determine the purposes for which we process data, such as the use of our own data assets (which may include cookies, other online identifiers, behavioural data and other personal data collected by us via our provision of the Service Offerings, as more fully explained in our Privacy Policy) to support and/or enhance the delivery of our Service Offerings and/or for the creation of new solutions or services created for the benefit of our clients.

3.5. Article 26 of the GDPR requires that joint controllers must determine, in a transparent manner, their respective responsibilities for compliance with the obligations under GDPR. Our respective responsibilities in this regard are set out below and in our Privacy Policy, except as may be amended by written agreement between us in an Order.

3.6. In respect of personal data that you share with us and/or that we collect when providing our Service Offerings to you:

- (a) we shall process the personal data only for the agreed purposes identified in our Privacy Policy and each Agreement, and not for any other purpose;
- (b) we shall promptly notify you and provide such co-operation and information as you may reasonably require if we:

(i) receive any written request, notice or complaint from a data subject exercising their rights under GDPR or any correspondence or written communication from the ICO or any other relevant regulator in relation to the processing of the personal data; and/or

(ii) become aware of any personal data breach affecting the personal data,

in each case in (i) and (ii) to the extent required to enable you to comply with your obligations under Data Protection Legislation;

(c) you shall promptly notify us and provide such co-operation and information as we may reasonably require if you:

(i) receive any request, notice or complaint from a data subject exercising their rights under GDPR or any correspondence or written communication from the ICO or any other relevant regulator in relation to the processing of the personal data; and/or

(ii) become aware of any personal data breach affecting the personal data;

in each case in (i) and (ii) to the extent required to enable us to comply with our obligations under Data Protection Legislation;

3.7 You agree:

**(a) to obtain, and on reasonable request evidence, any and all marketing permissions and other consents that are required to enable us to provide the relevant Service Offerings, including (but not limited to) in respect of cookies that we use and electronic marketing that we send on your behalf, in a manner that is compliant with applicable Data Protection Legislation;**

**(b) to have in place and, on reasonable request evidence, in respect of Digital Properties that you operate through which we collect personal data, appropriate mechanisms, compliant with Data Protection Legislation, for obtaining any and all permissions and other consents that are required for the collection of personal data for the purposes used by us as set out in our Privacy Policy and each Agreement;**

**(c) to ensure, in respect of Digital Properties that you operate through which we collect personal data, that you have a privacy notice that complies with Data Protection Legislation and, in particular, expressly names Ve Global as a party for whom, and by whom, personal data is collected through your Digital Properties, including a clear link to our Privacy Policy (to help end users understand who we are and what we do); and**

**(d) in respect of any marketing communications that are served to data subjects in respect of our Service Offerings (including Digital Assistant and Email Remarketing solutions) to include in the marketing communication clear and visible language that makes clear Ve's involvement, including a clear link to our Privacy Policy (to help end users understand who we are and what we do).**

3.8 Notwithstanding anything else in this Agreement, Ve and its group companies may use, exploit and disclose, in aggregated and/or anonymised form, data (that is not, or is no

longer, personal data within the meaning of Data Protection Legislation) resulting from or generated through the provision of our Service Offerings.

#### **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.
- 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 Order (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 current base lending rate of the Bank of England 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 VAT and applicable sales tax. You will provide us any information we reasonably request to determine whether we are obligated to collect VAT from you, including your VAT identification 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 occurrence of one of the events described in recital (A) of this Framework 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 Order 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 Order to that effect. Termination of any one Agreement shall not affect 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) 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 Agreements or violation of applicable law (including Data Protection Legislation) 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.

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.

9.5 Our Data Indemnity to you: We agree to hold harmless and indemnify you, and keep you indemnified, from any and all costs, claims, damages, liabilities and expenses suffered or incurred by you as a result of any failure by us to comply with our obligations in clause 3. This indemnity shall not apply to the extent that any such cost, claim, damage liability or expense arises or is exacerbated as a result of your failure to comply with your obligations under this Framework and/or any Agreement. This indemnity is conditional upon you: (a) as soon as reasonably practicable giving written notice of the 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 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 claim; (d) taking such action as we may reasonably request to avoid, dispute, compromise or defend the claim; and (e) at our request allowing us to conduct the defence (and settlement if any) of the relevant claim.

## **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 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), 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 or 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, 12.2 and 12.4, 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 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 relevant Order 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.

- 12.4 IP and Data Financial Caps: 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), breach of statutory duty, misrepresentation, restitution or otherwise, arising from or in connection with:

- a) any claim that the existence and/or use of our Service Offerings infringes third party rights (including any Third Party Claim and the indemnity provided under clause 9.3) shall not exceed i) in respect of each Agreement, the greater of: A) 100% of the Fees received by us under the relevant Agreement and B) £10,000; and ii) in respect of all Agreements and the Framework Terms £50,000; and

- b) breach of our data protection related warranties, obligations and other terms, including clause 3 and the indemnity at clause 9.5, shall not exceed: i) in respect of the relevant Agreement £100,000; and ii) in respect of all Agreements and the Framework Terms £500,000.

### **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@ve.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 DACH GmbH at its registered office (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. Each Agreement 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. You acknowledge and agree that in entering into this Framework and/or any Agreement you do not rely on any undertaking, promise, statement, representation, warranty, condition and/or other term (whether in writing or not) in relation 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 German law and subject to clause 13.12 the parties irrevocably agree that the local courts of Ve Interactive DACH GmbH 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 finally resolved by arbitration under the rules of the London Court of International Arbitration ("LCIA"), which rules are deemed to be incorporated by reference into this clause. The place and seat of arbitration shall be London, England. The language to be used in the arbitration proceedings shall be English. The number of arbitrators shall be one. 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

<b>"Account"</b>	means your account to access the Service Offerings through the Platform;
<b>"Ads"</b>	means any advertisement and other content;
<b>"Agreement"</b>	is defined in the Introduction section (B);
<b>"Business Days"</b>	means any day which is not a Saturday, Sunday or public holiday in England;
<b>"Confidential Information"</b>	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;
<b>"Content"</b>	means software (including machine images), data, text, audio, video images or other content;
<b>"Data Protection Legislation"</b>	means all data protection and privacy laws, regulations, directives and rules, including GDPR and the EU Privacy and Electronic Communications Directive (2002/58/EC), each as transposed into domestic legislation of each Member State or other territory, and as amended, replaced or superseded from time to time, and including laws implementing or supplementing the GDPR and other data protection and privacy laws elsewhere in the world from time to time;
<b>"Digital Properties"</b>	means websites, mobile applications, media players, mobile content, and/or other any properties approved by us;
<b>"Effective Date"</b>	is defined in the introductory paragraph (B) of this Framework;
<b>"End User"</b>	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 referred to in the Order or Platform;

**“Framework”**

means this Framework, as amended by us from time to time pursuant to clause 2.2;

**“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;

**“GDPR”**

means EU Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the Processing of Personal Data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

**“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 (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986); 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;

<b>"Intellectual Property Rights"</b>	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;
<b>"Open Source Software"</b>	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 redistributable at no charge to subsequent licensees;
<b>"Order"</b>	means the purchase order or insertion order requested or placed by you for one or more of our Service Offerings which is made available through the Platform, via email and/or hard copy format;
<b>"Platform"</b>	means the digital platform operated, programmed and hosted by us from which you can deploy and use Service Offerings;
<b>"Policies"</b>	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;
<b>"Privacy Policy"</b>	means our privacy policy (which includes our cookie policy), available <a href="#">here</a> , as updated from time to time
<b>"Service Offering(s):"</b>	means the services to be provided by us pursuant to an Order (which excludes Third Party Content);
<b>"Suggestions"</b>	means all suggested improvements to the Service Offerings that you provide to us;
<b>"Term"</b>	means the term of an Agreement beginning on the Effective Date;
<b>"Territory"</b>	means the territory or territories set out in the Order;

<b>“Third Party Content”</b>	means Content made available to you by any third party in conjunction with the Service Offerings.
<b>“Third Party Claim”</b>	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;
<b>“Ve”</b>	means Ve Global UK Limited (Company No. 10706696) whose registered office is at 7 Old Park Lane, London, W1K 1QR;
<b>“VeAds”</b>	means the digital advertising services undertaken by Ve on your behalf;
<b>“Ve Content”</b>	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;
<b>“Ve Marks”</b>	means the following marks and/or associated logos: Ve; 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;
<b>“Ve Site”</b>	means the website at <a href="http://www.ve.com">www.ve.com</a> ;
<b>“Website Terms”</b>	means the website terms and conditions for the Ve Site;
<b>“Your Content”</b>	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 the applicable Order; 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;
<b>“Your Website(s)”</b>	means websites at the domains listed in the Order that are owned or operated by you.