

Terms of Service (“TOS”)

Farmer

Updated: 16th May 2017

1. PARTIES

- 1.1 The Services are provided by Animal Disease Tracking Ireland Limited, trading as VirtualVet, an Irish-registered company with company registration number 602502 and registered office at Grenan Upper, Kilmacthomas, County Waterford, Ireland (“VirtualVet”, “us” or “we”) to you and/or your company (“Farmer” or “you”).

2. ACCEPTANCE

- 2.1 BY CLICKING THE “I ACCEPT” BUTTON, OR COMPLETING THE REGISTRATION PROCESS AND/OR USING THE SERVICES, YOU AGREE TO BE BOUND BY THESE TOS. If you are signing up to use the Services on behalf of a company or other entity, you must have the authority to bind that company or other entity to these TOS. If the Farmer is not willing to be bound by these TOS, you should not complete the registration process and should not use the Services.

3. MODIFICATION

- 3.1 These TOS may be updated and modified at any time in our sole discretion. Acceptance of updates and modifications will be confirmed by (i) continued use of any part of the Services thirty (30) days after the modified TOS have been posted to VirtualVet website or (ii) your indication of agreement to the updated terms by email or otherwise. In accepting this Agreement, you confirm that you have the authority to bind you or your company to these TOS.

4. THE SERVICES

- 4.1 VirtualVet has developed the VirtualVet Platform, which it makes available to certain persons or entities via the internet for recording all on-farm animal treatments, including herd health records, animal treatment outcomes and disease recording (the “Services”).

5. FARM INFORMATION REQUEST

- 5.1 Where a third party (e.g. An Bord Bia, the Department of Agriculture, Food and the Marine, meat processors or marts (a “Quality Approval Entity”)) has made a request for you to share information with that third party (Farm Information Requests) and you accept such a request, you permit VirtualVet to share that information with the relevant Quality Approval Entity.
- 5.2 VirtualVet shall, for the Term, provide you with the ability to review and approve Farm Information Requests sent by Quality Approval Entities through VirtualVet Platform subject to the terms of this Agreement.
- 5.3 The Farmer acknowledges that the approval of a Farm Information Request may result in disclosing data that shows that the Farmer fails to meet the standards of the Quality Approval Entity (e.g. a set standard in order to obtain a bonus payment). VirtualVet has no liability in respect of the consequences of such disclosures.

6. FARMER DATA AND QUALITY APPROVAL DATA

- 6.1 Farmer Data, which relates to your data where you have not selected the status Remedy Book Ready, is owned and controlled by You. VirtualVet Data is owned and controlled by VirtualVet. Quality Approval Data, data which has been made available to a Quality Approval Entity by Farmer’s approval of data sharing with the Quality Approval Entity, is owned by and controlled by both the Quality Approval Entity and VirtualVet. You may modify, delete or remove Farmer Data at any time up to the point of selecting the status “Remedy Book Remedy”. If you wish to modify, delete or remove VirtualVet Data or Quality Approval Data, please contact us. Please note that in certain circumstances this data may not be modified, deleted or removed, for example, where it is required for audit or compliance purposes.
- 6.2 Farmer Data will consist of the following data (this may be updated from time to time):
- (a) Farmer name;
 - (b) Authorised User name(s);
 - (c) address;
 - (d) email address;
 - (e) phone number(s);
 - (f) contact preferences;
 - (g) herd number(s);
 - (h) type of verification documentation provided;
 - (i) animal identification numbers;
 - (j) medicine;

- (k) dosage;
- (l) withdrawal period, if applicable;
- (m) date and time of dispensing;
- (n) conditions treated; and
- (o) outcomes.

- 6.3 In collecting and verifying the data received at clause 6.2, VirtualVet may request copies of documents which contain information which is not required by VirtualVet for Farmer to use the Services. Where VirtualVet requires verification documentation, e.g. a copy of a letter confirming the herd number, we ask Farmers to redact any data that is not relevant so that no excess Personal Data is provided. Where VirtualVet receives excess Personal Data, our policy is to record the type of document which was used to verify the required data and then destroy or delete our copy of the document.
- 6.4 Farmer is responsible for verification of any data input or imported into the Platform whether by Farmer or by VirtualVet on Farmer's behalf. Farmer is responsible for the consequences of sharing data with any approved Quality Approval Entity.
- 6.5 In the event of any loss or damage to Farmer Data or Quality Approval Data, your sole and exclusive remedy shall be for VirtualVet to use reasonable commercial endeavours to restore the lost or damaged data from the latest back-up of such data maintained by VirtualVet. VirtualVet shall not be responsible for any loss, destruction, alteration or disclosure of data caused by any third party.
- 6.6 VirtualVet may use certain Aggregated Data for internal business purposes such as testing, optimisation, support, trend analysis and diagnostics. VirtualVet may also use Aggregated Data derived from your data for its external business purposes such as in the preparation of whitepapers for publication, data mapping and creation of business intelligence. Aggregated Data on a county-by-county basis may be provided to pharmaceutical companies with respect to outbreak, treatments and outcomes. VirtualVet will never disclose or publish aggregated statistics identifying an individual Farmer without the Farmer's prior consent. Farmers will be given the opportunity to indicate whether they are happy to be contacted by pharmaceutical companies for sales or research purposes (e.g. participation in clinical trials). VirtualVet will not disclose or publish Personal Data relating to any individual.
- 6.7 The Farmer hereby grants to VirtualVet a perpetual, irrevocable, royalty-free, fully paid, fully transferrable, worldwide license during the Term and after termination to permit VirtualVet to maintain, use, reproduce, modify, create derivative works of, distribute, display and publish Aggregated Data for VirtualVet's business purposes, for trend identification, report generation, diagnostics and support.

7. PERSONAL DATA

7.1 By agreeing to these terms, the Farmer also agrees to our Privacy Statement and Cookie Policy available on the Website. The Farmer's employees and third party service providers must be informed of and give their consent to the processing of data contemplated under this Agreement, the Privacy Statement and Cookie Policy where relevant.

7.2 SECURITY OF PROCESSING

VirtualVet agrees to take measures required pursuant to applicable data protection legislation, including the General Data Protection Regulation (GDPR), where applicable, relating to security of processing – taking into account the state of the art, costs of implementation, and the nature, scope, context and purposes of processing, as well as the risk of varying likelihood and severity for rights and freedoms of natural persons, appropriate technical and organisational measures to ensure a level of security appropriate to the risk (e.g. pseudonymisation, encryption, ongoing confidentiality, ability to restore availability and access to personal data and processes for regular testing of the security measures). In assessing the level of security, VirtualVet agrees to take account of the risks presented by the processing, from accidental or unlawful destruction, adherence to approved codes of conduct or certification mechanisms and steps taken to ensure that persons processing the personal data do not process except on the instructions of the controller (unless required to do so by law).

7.3 PERSONAL DATA

- (a) With respect to the Farmer Data that constitutes Personal Data, the parties record their intention that the Farmer, shall be the 'data controller' and VirtualVet shall be a 'data processor' as such terms are defined under EU data protection legislation including the GDPR, where applicable.
- (b) With respect to the Quality Approval Data that constitutes Personal Data, the parties record their intention that the Quality Approval Entity, the originator of the Farm Information Request, shall be the 'data controller' and VirtualVet shall be a 'data processor' as such terms are defined under EU data protection legislation including the GDPR, where applicable.
- (c) Where VirtualVet processes personal data when performing its obligations under this Agreement:
 - (i) VirtualVet will not transfer Personal Data outside the European Economic Area (EEA) unless specifically requested to do so by the data controller (note that the data controller may be a Quality Approval Entity and VirtualVet may not be able to stipulate that Quality Approval Entities keep the Quality Approval Data in the EEA);
 - (ii) You hereby consent to VirtualVet's transfer of relevant Personal Data to VirtualVet's subcontractors, third party providers, relevant Quality

Approval Entities and agree that VirtualVet may lawfully use, process and transfer your personal data in accordance with this Agreement on your behalf;

(iii) You shall ensure that any relevant third parties, such as your Authorised Users, have been informed of, and have given their consent to, such use, processing, and transfer contemplated under this Agreement and as required by all applicable data protection legislation, including the GDPR, where applicable and you must provide appropriate and sufficiently prominent notice to, and obtain the appropriate consent from any relevant third parties regarding the collection, use and disclosure of their personal data, including, at a minimum, through privacy policies.

(iv) Due to the nature of email and similar communications services, we cannot guarantee that Personal Data sent by such services will remain within the EEA or in countries with an 'adequate level of protection' as this will depend on many factors including your email provider. We have, however, chosen suppliers that host and store data within the European Economic Area to minimize the possibility of transfers outside the European Economic Area. In contacting us outside the Platform you expressly agree to any transfer of Personal Data outside the EEA.

(d) With respect to the United Kingdom's plans to leave the EEA, please note that VirtualVet may process data relating to the Services in the United Kingdom. VirtualVet will monitor the situation with respect to transfers of Personal Data. If required, legally adequate and commercially reasonable, VirtualVet will put in place an 'adequacy measure' relating to transfers to the United Kingdom after Brexit.

7.4 VirtualVet reserves the right to transfer information (including your personal data) to a third party in the event of a sale, merger, liquidation, receivership or transfer of all or substantially all of the assets of VirtualVet's business provided that the third party agrees to adhere to VirtualVet's terms relating to personal data and provided that the third party only uses your personal data for the purposes that it has been provided it to VirtualVet. You will be notified in the event of any such transfer and will be afforded an opportunity to opt-out.

8. AUTHORISED USE

8.1 Subject to the restrictions set out in this clause 6 and the other terms and conditions of this Agreement, VirtualVet hereby grants you a non-exclusive, non-transferable right to use the Services during the Term solely to make records with respect to herd health, treatments and disease and review, approve and indicate approval to disclose information in response to Farm Information Requests.

8.2 You shall keep a secure password for your use of the Services and frequently change your password in line with password management good practice. You must keep your password confidential;

8.3 You shall not access, store, distribute or transmit any Viruses, or any material during the course of your use of the Services that:

- (a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
- (b) facilitates illegal activity;
- (c) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
- (d) in a manner that is otherwise illegal or causes damage or injury to any person or property;

and VirtualVet reserves the right, without liability or prejudice to its other rights to you, to disable your access to any material that breaches the provisions of this clause. In line with the above, you shall permit VirtualVet to monitor the Services to identify unusual or unpermitted behaviour on VirtualVet Platform;

8.4 You shall not:

- (a) except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties:
 - (i) and except to the extent expressly permitted under this Agreement, attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit or distribute all or any portion of VirtualVet Platform and/or Software (as applicable) in any form or media or by any means; or
 - (ii) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software;
- (b) access all or any part of the Services and Platform to build a product or service which competes with the Services and/or the Platform; or
- (c) use the Services and/or Platform to provide services to third parties; or
- (d) subject to clause 27.1, license, sell, rent, lease, transfer, assign, distribute, display, disclose, sub-license, loan, translate, merge, adapt, vary, modify or otherwise commercially exploit, or otherwise make the Services and/or Platform available to any third party except the Authorised Users, or
- (e) attempt to obtain, or assist third parties in obtaining, access to the Services and/or Platform, other than as provided under this clause 6.
- (f) make, nor to permit any party to make, any use of the Software other than to avail of the Services;

- (g) make alterations to, or permit the Software or any part of it to be combined with, or become incorporated in, any other programs;
- (h) create Derivative Works based on the whole or any part of the Software;
- (i) provide or otherwise make available the Software in whole or in part (including object and source code), in any form to any person without VirtualVet's prior written consent;
- (j) use the Software in any unlawful manner, for any unlawful purpose; or
- (k) infringe VirtualVet's or its licensor's Intellectual Property Rights or those of any third party in relation to their use of the Software or Platform.

8.5 The Farmer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Platform and, in the event of any such unauthorised access or use, promptly notify VirtualVet.

8.6 The rights provided under this clause 6 are granted to the Farmer only, and shall not be considered granted to any subsidiary or holding company of the Farmer.

9. SERVICES

VirtualVet shall, during the Term, provide the Services to the Farmer on and subject to the terms of this Agreement.

10. CHARGES AND PAYMENT

10.1 The Platform is provided free of charge on the standard service (where VirtualVet may use Aggregated Data for its business purposes).

10.2 VirtualVet may introduce fees and charges relating to the Services at a future date on 30-days' notice to Farmers.

11. SERVICE UPDATES

11.1 VirtualVet will update the Services and add new or different features and functionality on a regular basis. Provided the Farmer has complied with this Agreement, the Farmer will be granted access to the updated versions of features to which it has subscribed. Optional or new features and functions may be subject to fees. VirtualVet may also adjust or delete certain features from time to time.

11.2 The Farmer acknowledges that compatibility of updates of VirtualVet Platform could be affected by VirtualVet's incorporation of new versions of operating systems or other third party software or technology such as new versions of internet browsers and that the Farmer is obligated to provide an adequate and compatible operating environment.

11.3 Where the Services are provided without charge, VirtualVet reserves the right to commence charging for the Services at a future date.

12. THIRD PARTY PROVIDERS

12.1 In the event you instruct VirtualVet to transfer, on your behalf, your Personal Data to third parties including Quality Approval Entities, or, for example, with respect to third party integrations or farm management platforms, we disclaim all responsibility for the actions of such third parties or for loss, damages or claims arising as a result of deploying such integrations involving your Personal Data or making a transfer of your Personal Data on your behalf. We make no representations or warranties as to the suitability of such third party for receipt of your Personal Data or of the suitability of its third-party services to process your Personal Data.

13. VIRTUALVET'S OBLIGATIONS

13.1 VirtualVet undertakes that the Services will be performed substantially in accordance with the Documentation and with reasonable skill and care.

13.2 The undertaking at clause 13.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to VirtualVet's instructions, or modification or alteration of the Services by any party other than VirtualVet or VirtualVet's duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, VirtualVet will, at its expense, use reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Farmer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Farmer's sole and exclusive remedy for any breach of the undertaking set out in clause 13.1. Notwithstanding the foregoing, VirtualVet:

- (a) does not warrant that the Farmer's use of the Services will be uninterrupted or error-free; or that the Services and/or the information obtained by the Farmer through the Services will meet the Farmer's requirements; and
- (b) is 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 the Farmer acknowledges that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

13.3 This Agreement shall not prevent VirtualVet from entering similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this Agreement.

13.4 VirtualVet warrants that it has and will maintain all necessary licences, consents, and permissions necessary for the performance of its obligations under this Agreement.

14. THE FARMER'S OBLIGATIONS

The Farmer shall:

- (a) provide VirtualVet with:
 - (i) all necessary co-operation in relation to this Agreement; and
 - (ii) all necessary access to such information as may be required by VirtualVet;to provide the Services, including but not limited to your data, security access information and configuration services;
- (b) comply with all applicable laws and regulations with respect to its activities under this Agreement;
- (c) carry out all other Farmer responsibilities set out in this Agreement in a timely and efficient manner;
- (d) obtain and shall maintain all necessary licences, consents, and permissions necessary for VirtualVet, its contractors and agents to perform their obligations under this Agreement, including without limitation the Services;
- (e) ensure that its network and systems comply with the relevant specifications provided by VirtualVet from time to time; and
- (f) be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to VirtualVet's data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Farmer's network connections or telecommunications links or caused by the internet.

15. PROPRIETARY RIGHTS

- 15.1 The Farmer acknowledges and agrees that VirtualVet and/or its licensors own all Intellectual Property Rights in the Services. Except as expressly stated herein, this Agreement does not grant the Farmer any rights to, or in, patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Services.
- 15.2 The Farmer acknowledges VirtualVet's licensor's ownership of relevant trademarks or other rights and will take no action which would infringe such trademarks.
- 15.3 Unsolicited ideas or product feedback will automatically become the property of VirtualVet, without any compensation to the Farmer and VirtualVet may use or distribute submissions and their contents for any purpose and in any way without any obligations of confidentiality or otherwise.

15.4 VirtualVet confirms that it has all the rights in relation to the Services that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this Agreement.

16. CONFIDENTIALITY

16.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under this Agreement. A party's Confidential Information shall not be deemed to include information that:

- (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.

16.2 Each party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of this Agreement.

16.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this Agreement.

16.4 Neither party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.

16.5 The Farmer acknowledges that details of the Services, and the results of any performance tests of the Services, constitute VirtualVet's Confidential Information.

16.6 This clause 16 shall survive termination of this Agreement, however arising.

16.7 No party shall make, or permit any person to make, any public announcement concerning this Agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

17. INDEMNITY

- 17.1 The Farmer shall defend, indemnify and hold harmless VirtualVet and its successors, parents, subsidiaries, affiliates, officers, directors, employees and legal representatives (collectively the “**Indemnified Parties**”) against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with (a) the Farmer’s breach of this Agreement; (b) the unauthorized use of VirtualVet Platform or Software by the Farmer; or (c) any claim that VirtualVet Platform or Software or the use thereof infringes upon, misappropriates or violates any IPR of any third party, provided that such claim results from or related to (i) an unauthorized modification of VirtualVet Platform or Software; (ii) the combination of VirtualVet Platform or Software with software, hardware or equipment not provided by VirtualVet if VirtualVet Platform or Software alone would not be subject of such claim; or (iii) the unauthorized use of VirtualVet Platform or Software by the Farmer, provided that:
- (a) the Farmer is given prompt notice of any such claim;
 - (b) VirtualVet provides reasonable co-operation to the Farmer in the defence and settlement of such claim, at the Farmer’s expense; and
 - (c) the Farmer is given sole authority to defend or settle the claim.
- 17.2 VirtualVet shall defend the Farmer, its officers, directors and employees against any claim that the Services infringes any Ireland patent effective as of the Effective Date, copyright, trade mark, database right or right of confidentiality, and shall indemnify the Farmer for any amounts awarded against the Farmer in judgment or settlement of such claims, provided that:
- (a) VirtualVet is given prompt notice of any such claim;
 - (b) the Farmer provides reasonable co-operation to VirtualVet in the defence and settlement of such claim, at VirtualVet’s expense; and
 - (c) VirtualVet is given sole authority to defend or settle the claim.
- 17.3 In the defence or settlement of any claim, VirtualVet may procure the right for the Farmer to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate this Agreement on two Business Days’ notice to the Farmer without any additional liability or obligation to pay liquidated damages or other additional costs to the Farmer.
- 17.4 In no event shall VirtualVet, its employees, agents and sub-contractors be liable to the Farmer to the extent that the alleged infringement is based on:
- (a) a modification of the Services by anyone other than VirtualVet; or
 - (b) the Farmer’s use of the Services in a manner contrary to the instructions given to the Farmer by VirtualVet; or

- (c) the Farmer's use of the Services after notice of the alleged or actual infringement from VirtualVet or any appropriate authority.

17.5 The foregoing and clause 18.4(b) state the Farmer's sole and exclusive rights and remedies, and VirtualVet's (including VirtualVet's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

18. LIMITATION OF LIABILITY

18.1 This clause 18 sets out the entire financial liability of VirtualVet (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Farmer:

- (a) arising under or in connection with this Agreement;
- (b) in respect of any use made by the Farmer of the Services and Documentation or any part of them; and
- (c) in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.

18.2 Except as expressly and specifically provided in this Agreement:

- (a) the Farmer assumes sole responsibility for results obtained from the use of the Services by the Farmer, and for conclusions drawn from such use. VirtualVet shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to VirtualVet by the Farmer in connection with the Services, or the consequences of Farmer's disclosure of the Quality Approval Data to the Quality Approval Entity or any actions taken by VirtualVet at the Farmer's direction;
- (b) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by Applicable Law, excluded from this Agreement; and
- (c) the Services are provided to the Farmer on an "as is" basis.

18.3 Nothing in this Agreement excludes the liability of VirtualVet in any way which may not be excluded by law.

18.4 Subject to clause 18.2 and clause 18.3:

- (a) VirtualVet shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this Agreement; and
- (b) VirtualVet's total aggregate liability in contract (including in respect of the indemnity at clause 17.2), tort (including negligence or breach of statutory

duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be limited to €100.

19. TERM AND TERMINATION

19.1 This Agreement shall commence on the Effective Date and shall continue unless:

- (a) either party notifies the other party of termination, in writing, with at least 30 days' notice; or
- (b) otherwise terminated in accordance with the provisions of this Agreement;

and the period from the Effective Date until the date of termination as described above shall constitute the **Term**.

19.2 Without affecting any other right or remedy available to it, either party may terminate this Agreement with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of any other term of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 15 days after being notified in writing to do so;
- (b) an order is made for the winding up of the party, the party passes a resolution for winding up (other than for the purposes of a solvent reconstruction or amalgamation) or a liquidator of the party is appointed; or
- (c) an order is made for the appointment of an administrator of the party or an administrator of the party is appointed; or
- (d) the party enters into a compromise or arrangement with creditors; or
- (e) the party has a receiver, administrative receiver or manager appointed over all or any part of its assets or undertaking; or
- (f) the party is dissolved; or
- (g) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 19.2(b)-(f); or
- (h) the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

19.3 On termination of this Agreement for any reason:

- (a) all licences for the Services, the Platform and Software granted under this Agreement shall immediately terminate;
- (b) each party shall return and make no further use of any equipment, property, VirtualVet Platform, Software, Documentation and other items (and all copies of them) belonging to the other party. Upon request by VirtualVet, the Farmer will certify in writing that it has complied with this clause 19.3(b);

- (c) VirtualVet may destroy or otherwise dispose of any of the Farmer Data in its possession unless VirtualVet receives, no later than thirty days after the effective date of the termination of this Agreement, a written request for the delivery to the Farmer of the then most recent back-up of the Farmer Data. VirtualVet shall use reasonable commercial endeavours to deliver the back-up to the Farmer within 30 days of its receipt of such a written request, provided that the Farmer has, at that time, paid all fees and charges outstanding at and resulting from termination (whether or not due at the date of termination). The Farmer shall pay all reasonable expenses incurred by VirtualVet in returning or disposing of Farmer Data;
- (d) each of the parties shall immediately return or destroy (at the other party's option) all Confidential Information (excluding Quality Approval Data and Aggregated Data) of the other party in its possession or control; and
- (e) any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination shall not be affected or prejudiced.

20. FORCE MAJEURE

VirtualVet shall have no liability to the Farmer under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of VirtualVet 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 VirtualVet's or sub-contractors, provided that the Farmer is notified of such an event and its expected duration.

21. CONFLICT

If there is an inconsistency between any of the provisions in the TOS and the Privacy Statement and Cookie Policy, the provisions in the TOS shall prevail.

22. VARIATION

VirtualVet reserve the right to change or modify any of these TOS at any time, in our sole discretion. Updated service terms will apply from the earlier of (i) thirty (30) days after posting or (ii) your indication of agreement to the updated terms, via clickthrough or otherwise. Your continued use of any part of the Services following such effective date will constitute your acceptance of such changes or modifications.

23. WAIVER

No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

24. RIGHTS AND REMEDIES

Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

25. SEVERANCE

25.1 If any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

25.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

26. ENTIRE AGREEMENT

26.1 This Agreement constitutes the whole agreement between the parties and supersedes any previous arrangement, understanding or agreement between them relating to the subject matter it covers.

26.2 Each of the parties acknowledges and agrees that in entering into this Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this Agreement or not) relating to the subject matter of this Agreement, other than as expressly set out in this Agreement.

27. ASSIGNMENT

27.1 The Farmer shall not, without the prior written consent of VirtualVet, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.

27.2 VirtualVet may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.

28. NO PARTNERSHIP OR AGENCY

Nothing in this Agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

29. NOTICES

29.1 Any notice required to be given under this Agreement shall be in writing and shall be delivered by hand or sent by pre-paid post or recorded delivery post to the other party at its address set out in this Agreement, or such other address as may have been notified by that party for such purposes, or sent by email to the other party's email address as set out in this Agreement.

29.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9 am on the first business day following delivery). A correctly addressed notice sent by pre-paid post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by email shall be deemed to have been received at the time of transmission (as shown by the timed printout obtained by the sender).

30. GOVERNING LAW

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of Ireland.

31. JURISDICTION

Each party irrevocably agrees that the courts of Ireland shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

32. INTERPRETATION

32.1 The definitions and rules of interpretation in this clause apply in this Agreement.

Aggregated Data: anonymous data records from any Personal Data by excluding information that makes the data personally identifiable to an individual.

Applicable Law: any law, statute, by-law, regulation, order, regulatory policy, guidance or industry code of practice, rule of court or directives, delegated or subordinated legislation in force from time to time.

Authorised Users: those employees, agents and independent contractors of the Farmer who are authorised by Farmer to use the Services.

Business Day: a day other than a Saturday, Sunday or public holiday in Ireland when banks in Dublin, Ireland are open for business.

Confidential Information: information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 16.5.

Derivative Works: any software programs, and copies thereof, which are based on or incorporate any part of the Software, including without limitation, any revision, modification, translation (including compilation or recapitulation by computer), abridgment, condensation, expansion, or any other form in which the Software may be recast, transformed or adapted.

Documentation: the documents made available to the Farmer by VirtualVet online via www.animaldiseasetracking.com and www.virtualvet.eu or such other web address notified by VirtualVet to the Farmer from time to time which sets out a description of the Services and the user instructions for the Services.

Effective Date: the date of this Agreement.

Farmer Data: the data input to the Services by the Farmer or VirtualVet (at the Farmer's request) up to the point the Farmer has selected the status Remedy Book Ready.

Farm Information Request: each request for information sent by the Quality Approval Entity to Farmers in accordance with this Agreement.

Intellectual Property Rights or "IPR": means all rights in intellectual property including, but not limited to, all such rights now existing or hereafter arising, filed or acquired patents or patent rights, rights associated with works of authorship including copyrights, trademark rights (and goodwill associated therewith), rights relating to the protection of trade secrets, moral rights, rights of publicity, authors' rights, contract and licensing rights and any other intellectual property rights or proprietary rights of any kind throughout the world resulting from activity in the industrial, scientific, technological, scientific, literary or artistic fields, including any and all extensions, renewals or reissuances of same and shall include such rights as now exist or are subsequently acquired.

Normal Business Hours: 9.00 am to 5.00 pm local Irish time, each Business Day.

Quality Approval Data: data which Farmer has confirmed ready for access by a Quality Approval Entity by selecting the status Remedy Book Ready.

Quality Approval Entity: the originating entity for each Farm Information Request, e.g. An Bord Bia, the Department of Agriculture, Food and the Marine, meat processors or marts.

Remedy Book Ready: the status selected by Farmer when the Farmer Data is verified by Farmer and the Farmer is ready to make the Farmer Data accessible by the Farmer's selected Quality Approval Entities.

Software: the online software applications provided by VirtualVet as part of the Services.

Term: has the meaning given in clause 19.1.

Virus: any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

Website: VirtualVet website, at the date of signature available at www.virtualvet.eu.

VirtualVet Platform: means the software as a service solution provided by VirtualVet to the Farmer under this Agreement via a website or app notified to the Farmer by VirtualVet from time to time and includes without limitation, access to the related tools and Documentation, the dashboard and administrative console, Software and any fixes, updates and upgrades provided as more particularly described in the Documentation.

- 32.2 Clause and paragraph headings shall not affect the interpretation of this Agreement.
- 32.3 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns.
- 32.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 32.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 32.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 32.7 A reference to a statute or statutory provision is a reference to it as it is in force as at the date of this Agreement.
- 32.8 A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of this Agreement under that statute or statutory provision.
- 32.9 A reference to writing or written includes e-mail.