



## 1. Interpretation

1.1 In these terms and conditions the following words have the following meanings:

1.1.1 Company: Irish Cattle Breeding Federation Society Limited.

1.1.2 Conditions: these terms and conditions as added to or amended from time to time by the Company.

1.1.3 Contract: any contract between the Company and the Customer for the supply of the Services, incorporating these Conditions.

1.1.4 Customer: the person(s), firm or company who purchases the Services from the Company.

1.1.5 Know How: know how, trade secrets, confidential technical and proprietary industrial and commercial information and techniques in any form which may subsist anywhere in the world.

1.1.6 Intellectual Property: trademarks, service marks, trade names, patents, inventions, design rights, copyrights (including rights in computer software), rights of extraction relating to data bases, data base rights and all other similar proprietary rights which may subsist in any part of the world.

1.1.7 Price: the price stated in the Sign Up Form or such amended price as the Company notifies the Customer from time to time.

1.1.8 Services: the services known as HerdPlus and such ancillary services as are associated with it as agreed in the Contract to be supplied to the Customer by the Company (including any part or parts of them).

1.1.9 Sign Up Form: the application form for signing up for the Services whether located on the Company's website or otherwise.

1.2 In the Conditions references to any Statute or Statutory Provision, shall, unless the context otherwise requires be construed as a reference to a Statute or Statutory Provision as from time to time amended, consolidated, modified, extended, re-enacted or replaced.

1.3 In the Conditions references to the masculine include the feminine and the neuter and to the singular include the plural and vice versa as the context admits or requires.

## 2. Application of Terms

2.1 Subject to any variation under condition 2.3 the Contract shall be subject to these Conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Customer purports to apply under any purchase order, confirmation of order, specification or other document).

2.2 No terms or conditions endorsed upon, delivered with or contained within the Customer's order, confirmation of order, specification or other document will form part of the Contract

simply as a result of such document being referred to in the Contract.

2.3 These Conditions apply to all the Services and any variation to these Conditions and any representations about the Services shall have no effect unless expressly agreed in writing and signed by the Chief Executive of the Company.

2.4 The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Company which is not set out in the Contract.

2.5 Each order or acceptance of the Services by the Customer from the Company shall be deemed to be an offer by the Customer to purchase the Services subject to these Conditions.

2.6 No application made by the Customer shall be deemed to be accepted by the Company until an acknowledgement (written or otherwise) of membership is issued by the Company or (if earlier) the Company supplies the Services to the Customer.

2.7 The Customer must ensure that it completes the Sign Up Form accurately and the Company shall not be liable in any way for any failing of the Customer in this regard.

## 3. Services

3.1 The Company agrees to supply and the Customer agrees to purchase the Services for the Price subject to these Conditions until the Contract is terminated.

3.2 The Services to be provided shall be as described in the Company's website (at [www.icbf.com](http://www.icbf.com)) under the HerdPLUS section, from time to time.

3.3 All examples, illustrations, descriptive matter or advertising issued by the Company or contained in the Company's catalogues or brochures or website (except for the specific description of the Services) are issued or published for the sole purpose of giving an approximate idea of the Services. They will not form part of this Contract.

3.4 Unless otherwise agreed in writing by the Company, the Services shall, depending upon the type of service and at the Company's sole discretion, be made available through the Company's website or be delivered by the Company to the Customer by regular mail.

3.5 Subject to these Conditions, the Company will not be liable, for any direct, indirect or consequential loss (all three of which terms include without limitation pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss, costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Services (even if caused by the Company's negligence) nor will any delay entitle the Customer to terminate or rescind the Contract.

## 4. Payment

4.1 Payment for the Services must be made by the Customer to the Company prior to the initial provision of the Services and thereafter on or prior to the anniversary of that date in each year that the Services are provided.

4.2 Time for payment shall be of the essence of the Contract.

4.3 No payment shall be deemed to have been received until the Company has received cleared funds.

4.4 The Customer shall make all payments due under the Contract in full without any deduction whether by way of set off, counterclaim, discount, abatement or otherwise.

## 5. Limitation of Liability

5.1 The following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents, and sub-contractors) to the Customer in respect of:

5.1.1 any breach of these Conditions

5.1.2 any use made by the Customer of any of the Services and

5.1.3 any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.

5.2 All warranties conditions and other terms implied by statute or common law are to the fullest extent permitted by law excluded from the Contract.

5.3 Nothing in these conditions excludes or limits the liability of the Company:

5.3.1 for any matter which would be illegal for the Company to exclude or attempt to exclude as a liability; or

5.3.2 for fraud or fraudulent misrepresentation.

5.4 Subject to conditions 5.2 and 5.3:

5.4.1 the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of this Contract shall be limited to the Price paid by the Customer; and

5.4.2 the Company shall not be liable to the Customer for any pure economic loss, loss of profit, loss of business, depletion of good will or otherwise, in each case whether direct, indirect or consequential or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract.

## 6. Acknowledgement and Consent

6.1 The Customer acknowledges and accepts that the Company intends to obtain Data (as defined in condition 6.4 below) relating to animals which the Customer (as a HerdPlus user) either owns now, has previously owned or acquires in the future from various sources and to use such Data in providing its services and carrying out its activities.

6.2 By entering into the Contract for the Services the Customer agrees that the Company may obtain such Data from any source, including the Customer, and use such Data in any way and for any purpose it deems appropriate and consents to and authorises the obtaining of such Data and such use of the Data by the Company.

6.3 In particular and without limiting the provisions of conditions 6.1 and 6.2, the Customer specifically consents to, authorises and agrees to the Company:

6.3.1 obtaining Data from DAFM, Teagasc, AI organisations, milk recording organisations, meat processors, veterinarians,

Animal Health Ireland, milk processors and such other sources as it deems appropriate;

6.3.2 using the Data for research activities (including in the publication of any such research) and for providing its various services; and

6.3.3 making the Data publically available and sharing or passing on the Data to any third party it deems appropriate including without limitation making the Data available online on the Company's website, passing the Data to marts in connection with proposed sales and passing the Data to farm software companies for use in their applications.

6.4 "Data" shall comprise such data relating to animals as the Company shall consider relevant including but not limited to its performance, health, meat quality and genetic make up and shall also include the herd details of the relevant animal.

6.5 The Customer releases the Company, its officers, employees and agents from any claims, losses, liabilities, damages, costs, expenses or the like that arise as a result of the use of the Data (including where such data is shared with third parties) and acknowledges that the Company shall not have any liability to the Customer in this regard.

6.6 Without prejudice to condition 11, the Customer shall indemnify and keep indemnified the Company, its officers, employees and agents (all together the "Indemnitees" and each an "Indemnitee") against any costs, claims, liabilities, losses, damages or expenses whatsoever and howsoever arising or that the Indemnitees or any Indemnitee may incur as a result of (i) the acts or omissions of the Customer or (ii) a breach by the Customer of this condition.

## 7. Assignment

7.1 The Customer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.

7.2 The Company may assign the Contract or any part of it to any person, firm or company.

## 8. Force Majeure.

The Company reserves the right to defer delivery of the Services, to cancel the Contract or to vary or reduce the Services provided to the Customer (without liability to the Customer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company including without limitation acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riots, civil commotion, fire, explosion, flood, epidemic, disease, blockouts, strikes or other labour disputes provided that if the event in question continues for a continuous period of in excess of 90 days the Customer shall be entitled to give notice in writing to the Company to terminate the Contract without any refund of the Price being due.

## 9. Termination

9.1 The Company may terminate this Contract at any time by written notice to the Customer without refund to the Customer if:

9.1.1 the Customer fails to pay for the Services when payment is due or otherwise breaches these Conditions; or

9.1.2 the Customer, in the sole opinion of the Company, uses the Services or the information given to the Customer as part of the Services in an inappropriate manner.

9.2 The Company may terminate the Contract at any time without reason by written notice to the Customer and in such circumstances shall refund a proportionate part of the Price.

9.3 The Customer may terminate this Contract at any time by written notice to the Company but shall not be entitled to a refund of any payment made by it in such circumstances.

## 10. Intellectual Property

10.1 The Customer acknowledges and accepts that (i) all rights to any Know How or Intellectual Property that the Company uses in providing the Services are the property of the Company or other third parties and the Customer has no rights whatsoever in or to such Know How or Intellectual Property and (ii) unauthorised use of such Know How or Intellectual Property is strictly forbidden.

10.2 The Customer may, with the written authorisation of the Company, reproduce the information provided by the Company by way of the Services subject to such conditions as the Company may impose including, without limitation, that acknowledgment is given as to the source of the information.

## 11. Indemnity

The Customer agrees to indemnify and keep indemnified the Company and its officers, employees and agents (all together the “**Indemnitees**” and each an **Indemnitee**”) from and against all proceedings, actions, costs, charges, claims, expenses, damages, liability, losses and demands whatsoever and howsoever arising as a result of the use by the Customer of the Services or that the Indemnitees, or any of them, may incur as a result of (i) any act, neglect, default or omission of the Customer, (ii) any breach by the Customer of the Contract or these terms and conditions, or otherwise howsoever.

## 12. Data Protection

Notwithstanding, but without prejudice to, the terms of the Company’s Privacy Statement (set out at the Company web site [www.icbf.com](http://www.icbf.com)) and without prejudice to condition 6, the Customer acknowledges and agrees that personal data comprising the details of the Customer’s herd including the name and address of the Customer/owner which is provided by the Customer when obtaining the Services from the Company may be used by the Company when Data is being compiled. The Customer understands that such personal data will be used in this way and specifically consents to, authorises and agrees to (i) the use of its personal data in the compilation of Data and (ii) the subsequent use of the Data (incorporating the personal data) by the Company, as provided for in condition 6.

## 13. General.

13.1 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.

13.2 If any provision of the Contract is found by any Court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality invalidity, voidness, voidability unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.

13.3 Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract will not be construed as a waiver of any of its rights under the Contract.

13.4 Any waiver by the Company of any breach of or any default under any provision of the Contract by the Customer will not be deemed a waiver of any subsequent breach or default and will in no way effect the other terms of the Contract.

13.5 The parties to this Contract do not intend that any term of this Contract will be enforceable by any person that is not a party to it.

13.6 The formation, existence, construction, performance, validity and all aspects of the Contract shall be governed by Irish Law.

13.7 Any dispute arising under or in connection with these Conditions or with the Contract shall be referred to arbitration by a single Arbitrator appointed by agreement.

13.8 None of the Conditions shall be deemed to effect or reduce the Customer’s rights under common law or the appropriate consumer legislation.

13.9 These Conditions shall continue to bind each party insofar as and as long as may be necessary to give effect to their respective rights and obligations.



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