



## Terms and Conditions

To the extent permitted by law, all dealings between the Australian Veterinary Semen Morphology (ABN 40645845103), referred to from here as AVetSM, and any Customer relating to the provision of Services are subject to the following terms and conditions.

1. Definitions In this agreement: Claims means any actions, claims, proceedings, demands or other liability. Customer means the person or entity listed as the "Submitter" or "Evaluating Vet Business" on the Bull Reporter Request or submission Form and who is liable to pay the Fees for the Services. Fees means the monies payable for the provision of the Services. Report means a report prepared AVetSM in Bull Reporter or other electronic or paper format as part of the provision of Services that may set out information in relation to testing methods, tests, results of testing and other information. Services means the diagnostic and analytical testing services to be provided by AVetSM. Specimen Advice/Submission Form/Bull Reporter Request means the form accompanying samples or sent electronically in reference to Testing Material. Testing Material means any sample or material, supplied by the Customer to AVetSM for the purposes of providing the Services.

2. Appointment The Customer appoints AVetSM, and AVetSM agrees to be appointed, to provide the Services in accordance with these terms and conditions.

3. Provision of Services a) AVetSM will use reasonable endeavours to provide the Services to the Customer in a timely manner. b) The Customer acknowledges that AVetSM may elect not to supply the Services if AVetSM considers that the provision of Services may pose a safety or health risk, or where the Testing Materials are not fit for testing (including by reason of contamination or insufficient sample size).

4. Customer obligations. The Customer must ensure that all information supplied to AVetSM is accurate and complete, and agrees that AVetSM is not obliged to check the accuracy or completeness of any information provided by the Customer.

5. Testing material a) The Customer is responsible for the Testing Material, including the sufficiency of its quantity and form, provision of adequate information in respect of any safety or health hazards and any special procedures in connection with the handling, testing, storage, transport, disposal of the Testing Material and all costs and expenses in connection with the delivery of the Testing Materials to AVetSM. b) The Customer acknowledges and agrees that: (i) AVetSM will not in any way be liable for any damage to the Testing Material; (ii) the Testing Material, once in the possession of AVetSM, becomes the property of AVetSM; (iii) Testing Material for semen morphology will be stored for up to 2 years if deemed by AVetSM to be received from Customer adequately preserved, of adequate volume and in suitable undamaged leak proof containers; (iv) the Testing Material may be altered, damaged or destroyed in the course of providing the Services or storage and AVetSM will not in any way be liable for such alteration, damage or destruction; (v) AVetSM is not obliged to return the Testing Material, whether in its original form or otherwise, to the Customer, unless otherwise agreed to be returned by AVetSM at the cost of the Customer; and (vi) AVetSM may in its absolute discretion, store, experiment upon, destroy or otherwise deal with the Testing Material, as it sees fit.

6. Warranties a) The Customer acknowledges that by its very nature the conduct of testing of samples and materials, including the provision of the Services, is not a field in which accurate or exact results will always be produced. In addition, the testing of Testing Materials, and results that may be obtained from the Services, may be impacted by a number of factors outside of the control of AVetSM. The Customer acknowledges that these matters all limit the ability of the Customer to rely upon the results and any Reports prepared by AVetSM. The Customer agrees that it will only rely upon such results and Reports for any specific purpose consented to by AVetSM in the Specimen Advice/Submission Form. b) To the extent permitted by law, AVetSM excludes all terms, conditions, warranties and guarantees either expressed or implied by law or statute.

7. Intellectual property a) All intellectual property rights in any documents, materials or Reports prepared by AVetSM in the course of providing the Services are owned by AVetSM. b) Subject to the payment of the Fees by the Customer in accordance with clause 11, AVetSM grants the Customer a perpetual, irrevocable, non-exclusive and royalty-free licence to use the Reports for the Customer's internal business purposes. c) If any Report is used in research projects, the Customer must ensure that AVetSM is acknowledged in any publications.

8. Liability a) To the extent permitted by law, AVetSM excludes all liability for any indirect or consequential loss or damage, or any loss of profit, business or goodwill. b) To the extent permitted by law, AVetSM's liability to the Customer is limited to, at AVetSM's option, supplying the Services again or paying the cost of having the Services supplied again. AVetSM is not liable to any third party that is not a Customer and excludes all liability whatsoever to such parties arising out of or in connection with the Services. c) The total liability of AVetSM, whether in contract, tort (including negligence), under statute or otherwise will not exceed the Fees paid by the Customer to AVetSM. d) AVetSM will not be liable for any breach, failure or other act or omission arising under or in connection with these terms and conditions to the extent that such breach, failure or other act or omission is caused or contributed to by the Customer, its employees, agents or contractors. e) The Customer acknowledges and agrees that AVetSM may be required to disclose or provide Testing Material, Reports and other materials received or generated by it under or in connection with these terms and conditions to any court, government body or regulator pursuant to any legal or other compulsory process. The Customer consents to such disclosure.

9. Publicity and use a) The Customer must not in any way represent that AVetSM supports, endorses or certifies the Customers' products, services, methods or business. b) The Customer acknowledges and agrees that any documents, materials or Reports prepared by AVetSM are not prepared for use in legal proceedings, arbitration, mediation, expert determination or in any other dispute resolution mechanism in any jurisdiction and the Customer must not use the materials for any such purpose. c) AVetSM cannot warrant that the Report and any test results will be admissible in any court proceedings, nor that any test results or communications as between AVetSM or the Customer will be protected by privilege for the purposes of any proceedings. d) The Customer must not alter then distribute or publish any documents, materials or Reports prepared by AVetSM.

10. Indemnity The Customer releases and indemnifies and continues to release and indemnify AVetSM, its officers, employees, contractors and agents against any loss or liability and all Claims (including the costs and expenses in defending the same): a) which may be brought against it or them in connection with the Services; b) in connection with any failure of the Testing Material to pass any tests; c) in connection with any import or export restrictions, prohibitions, sanctions or governmental action that might apply to the Customer, its goods or services as a result of the Testing Material passing or failing any tests; d) in connection with any testing of the Testing Material by the Customer or any third party which shows a different result to that provided by AVetSM; and

e) in connection with any breach of this agreement by the Customer. AVetSM holds on trust for its officers, employees, contractors and agents the rights under this release and indemnity.

11. Fees and reports a) The Customer must pay AVetSM the Fees. b) AVetSM may provide the Customer with an electronic copy of the Reports upon completion of the Services. c) The Customer must pay each AVetSM invoice within 30 days after receipt of that invoice.

12. Goods and Services Tax (GST) Unless otherwise advised by AVetSM, all dollar amounts referred to in this agreement are in Australian currency. GST will be applied in accordance with the A New Tax System (Goods and Services Tax) Act 1999 .

13. Dispute resolution The parties agree that if any dispute arises between them they will make a genuine effort to resolve it without resorting to litigation. Nothing in this clause will prevent either party from seeking urgent interlocutory relief from any courts.

14. Termination a) A party may terminate this agreement if the other party breaches a term of this agreement and does not remedy that breach within 14 days of notice in writing requesting it to remedy the breach. b) AVetSM may terminate this agreement immediately, by written notice to the Customer, if the Customer becomes, or in the reasonable opinion of AVetSM is likely to become, subject to any form of insolvency, administration, receivership, bankruptcy or liquidation. c) On termination, the Customer must pay AVetSM all Fees for work undertaken by AVetSM as at the date of termination.

15. General a) Neither AVetSM nor the Customer is liable for any failure to observe its obligations under these terms and conditions where such failure is wholly or substantially due to a force majeure event. b) Any notice given or made under these terms and conditions must be in legible writing, signed by the party giving or making it and left at the address or sent by prepaid security post to the address of the recipient party. c) AVetSM may assign or subcontract the Services or any part thereof in its absolute discretion. The Customer must not assign this agreement or any part thereof without obtaining AVetSM's prior written consent. d) The submission of Testing Material constitutes an acceptance of these terms and conditions by the Customer. e) AVetSM may amend these terms and conditions at any time and notification will be made by posting the amended terms and conditions on its website: [www.avetsm.com.au](http://www.avetsm.com.au).