

BVD (BOVINE VIRAL DIARRHOEA)

NATIONAL CONTROL PROGRAMME

General Terms & Conditions of Participation/Designation of Laboratories

1. The warranties, representations and acknowledgements herein contained are deemed to be made by the Laboratory and to take effect upon the application by the Laboratory for designation pursuant to the Laboratory Designation Criteria; the remaining terms and conditions hereof apply upon and take effect in the event of that designation being made.
2. In these Terms and Conditions:-
 - (i) “BVDIG” means:-
 - (a) the members from time to time of the Bovine Viral Diarrhoea Implementation Group (BVDIG) and such other person or persons, whether natural or legal persons or state bodies as BVDIG may from time to time specify in writing, whether pursuant to any assignment or delegation, in whole or part or parts, of their rights and entitlements under or pursuant to these terms and conditions or otherwise; and
 - (b) without limiting the foregoing, shall for the purpose of entitlement to the benefit of any authorities, indemnities, representations or warranties hereunder or in the Laboratory Designation Criteria include the foregoing persons and any individuals who may at any time have ceased to be members of the BVDIG and each one or more of them.
 - (ii) “Laboratory Designation Criteria” means the criteria prepared and published from time to time by and on behalf of the BVDIG for designation of laboratories participating in the Programme.
 - (iii) “Programme” means the national BVD control programme coordinated by the BVDIG.
 - (iv) “Laboratory” means the proprietor of a Laboratory, whether a legal or natural person or partnership, on whose behalf application or agreement has been made for designation as a laboratory for the provision of BVD Test results.
 - (v) “BVD Test(s)” means the conduct and provision of BVD virus and antibody analysis tests in accordance with the Laboratory Designation Criteria and such other tests and services as may be specified from time to time by BVDIG for inclusion in the Programme.

- (vi) "Purchaser" means any farmer, producer, keeper, processor or other person requiring and agreeing with the Laboratory to pay for any BVD Tests.
- (vii) Reference herein to the singular shall include the plural and vice versa, except where the context otherwise requires. Words connoting one gender shall also be deemed to include the other genders.
- 3. The Laboratory agrees that for the duration of the Programme commencing on the 1st of January 2012 that it will provide BVD Tests to requesting Purchasers in compliance with these terms and conditions and the Laboratory Designation Criteria and in accordance with the price list provided to AHI by the Laboratory for publication in connection with the Programme.
- 4. The Laboratory agrees that BVDIG and AHI or any such persons as BVDIG may authorise from time to time to publish the price list (whether on a website or otherwise) at its or their absolute discretion for inspection by possible Purchasers.
- 5. The Laboratory will indemnify BVDIG and AHI or any other such authorised person in respect of any loss, damage or claim arising from any failure by the Laboratory to provide BVD Test services to any requesting Purchaser in accordance with the price list for the time being so published.
- 6. The Laboratory agrees, confirms and acknowledges that any such price list and any other information supplied by the Laboratory to BVDIG or AHI or any such authorised person may be published or not by BVDIG or AHI or any such authorised person at the absolute discretion of BVDIG or AHI or any such person as appropriate, and with or without other information.
- 7. The Laboratory will promptly comply with, perform and observe the Laboratory Designation Criteria at all times.
- 8. The Laboratory:-

 - (i) will ensure and procure as part of its terms and conditions of trade with each Purchaser that:-

 - (a) all necessary and irrevocable authorisations, consents and approvals are directly or indirectly obtained from each Purchaser for the use and retention of all samples for all purposes in accordance with the Laboratory Designation Criteria and these terms and conditions and for such other purposes as may from time to time be required by BVDIG; and
 - (b) all use, processing, copying and publication of information and materials (whether comprising Laboratory test results or otherwise) relating to the samples and all BVD Tests for that Purchaser by BVDIG or such other persons as it may designate for any such purposes as they may require is fully and irrevocably authorised and permitted.
 - (ii) shall comply with the requirements of data protection law and such guidelines as may be issued by the Data Protection Commissioner from

time to time to enable full compliance by the Laboratory with these terms and conditions and the Laboratory Designation Criteria from time to time and the use and processing of all information arising from the performance of or in relation to BVD Tests for all purposes by the BVDIG or AHI from time to time.

- (iii) will forward without delay when obtained all data relating to and results of all BVD Tests to ICBF and/or such person or persons as BVDIG may from time to time specify.
- 9. The Laboratory will ensure that it provides and maintains at all times appropriately qualified staff and facilities required to ensure full compliance with the Laboratory Designation Criteria.
- 10. The Laboratory will immediately inform BVDIG and AHI of any change in circumstances (including without limiting the foregoing any refusal of or change in accreditation) which alters or may alter or may be likely to alter or affect its compliance with the Laboratory Designation Criteria or with its capacity to provide BVD Test services to Purchasers in compliance with these terms and conditions and in accordance with the Laboratory Designation Criteria.
- 11. The Laboratory will perform the provision of BVD Test services and its obligations under these terms and conditions and the Laboratory Designation Criteria diligently and in good time with all necessary resources and save with the prior consent in writing of BVDIG the Laboratory will not assign, transfer or subcontract any work or services relating to the provision of BVD Tests and all such work shall be carried out by its own employees.
- 12. The Laboratory will be responsible for identifying, obtaining, maintaining and complying with all necessary legal regulations, consents, approvals, registers and records including without limitation authorisations, licenses, permits, permissions, approvals, consents (including consent to use, processing and disclosure of any data) filings, registrations and other matters which otherwise are required in the provision of the BVD Tests; in the event that any such consents or approvals are revoked or suspended by any person the Laboratory will immediately inform BVDIG and AHI.
- 13. The Laboratory will comply with all applicable laws in relation to the provision of the BVD Tests and compliance with these terms and conditions and the Laboratory Designation Criteria and it will be a matter for the Laboratory to ensure that it identifies all compliance obligations in this respect.
- 14. The Laboratory:-
 - (i) will at all times maintain Professional Indemnity Insurance to levels customary in the industry in accordance with good professional practice and furnish copies of policies to BVDIG on request.
 - (ii) will indemnify BVDIG and all the members from time to time thereof and AHI and each one or more of them in respect of any claim for damages arising from disclosure or publication of the results of the BVD Tests or any services provided in connection with the Programme.

- (iii) will indemnify and keep indemnified the BVDIG and each of the members of BVDIG from time to time and AHI, their servants and agents and each one or more of them against all and any actions, costs, expenses, claims, damages, demands or any other liabilities howsoever arising in respect of a breach of contract, negligence, loss or injury to any person or persons or any damage to any property howsoever arising from the provision by the Laboratory of BVD Tests or any of its services to any person.

15. The Laboratory agrees and acknowledges:-

- (i) that designation/approval of the Laboratory for the purposes of the Programme may be withdrawn at any time by BVDIG.
- (ii) that reference to the Laboratory as designated may be removed at any time from the AHI website and publications whether in connection with termination of designation or otherwise and that notice of cessation of approval or designation of the Laboratory may be published by AHI in its website and/or publications.

16. The Laboratory warrants:-

- (i) that (if it is represented as being a corporate body) it is legally constituted as a corporate body, or as appropriate an individual or partnership, is in good standing and is authorised to perform and deliver the BVD Tests to Purchasers in accordance with the Laboratory Designation Criteria and the terms and conditions hereof and to perform its obligations under these terms and conditions without restriction or limitation;
- (ii) that it has and will maintain full and adequate and sufficient resources and staff to meet the requirements for delivery of the BVD Tests and other services in accordance with the Laboratory Designation Criteria and terms and conditions hereof.

17. The Laboratory acknowledges and agrees:-

- (i) that it understands, acknowledges and agrees that the provision by it of BVD Tests and other services under the Programme will be supplied to Purchasers at the request of Purchasers and that the Purchaser so receiving the BVD Tests or other services shall be exclusively liable for payment of all fees and remuneration due to the Laboratory in respect of any such BVD Tests or services and that no fees, compensation or other payments shall be payable at any time for any reason by BVDIG or AHI to the Laboratory whether in respect of its performance of the terms of these terms and conditions, the Laboratory Designation Criteria or agreement or the supply of any BVD Tests or services to Purchasers or otherwise howsoever;
- (ii) that no representation is given that any BVD Test or other services will be required by any Purchasers or that there will be any or any minimum or maximum number of Purchasers;
- (iii) that no representation is or has been made by BVDIG or AHI or any members of BVDIG or AHI or any other person relating to or in connection with the Programme that any Purchasers requesting services from the

Laboratory will be in a position to pay or will pay any amounts due in respect of services provided by the Laboratory;

- (iv) that it has no expectation and no warranty is made that the Programme will be continued for any period of time or be developed for any purpose or maintained in its existing form;
 - (v) that BVDIG may amend, extend or terminate the Programme at any time at the absolute discretion of BVDIG as appropriate.
 - (vi) that its participation in the Programme shall not entitle it to any rights or acknowledgement or designation in respect of any new or compulsory scheme or Programme and it acknowledges that no representation is made by any person and it has no expectation that a compulsory BVD disease control/eradication scheme will be made at any time or at all.
18. Upon termination of its designation for any reason the Laboratory agrees to cease and not to refer to itself in anyway as a designated laboratory for the purposes of the Programme.
19. The Laboratory agrees to provide such electronic linkages to its website as BVDIG or AHI may require.
20. Any Laboratory which has a complaint against or dispute with BVDIG or AHI in relation to the Programme (and including inter alia these terms and conditions and the Laboratory Designation Criteria) or any matter arising in relation thereto shall in the first instance refer the complaint and dispute for investigation to the Chairman for the time being of BVDIG and shall provide all such information as the Chairman may require to investigate and if he shall deem fit to make a recommendation (by way of non-binding recommendation) for resolution of the complaint or dispute.

IMPORTANT NOTICE

BVDIG AND AHI ARE ACTING ONLY AS COORDINATORS OF THE NATIONAL BVD CONTROL PROGRAMME, NOT AS PURCHASERS OF BVD TESTS. PAYMENT OF ANY BVD TEST WILL BE THE SOLE RESPONSIBILITY OF THE PERSON REQUESTING THE TEST FROM THE LABORATORY. NEITHER BVDIG OR THE MEMBERS THEREOF OR AHI SHALL HAVE ANY LIABILITY WHATSOEVER TO ANY LABORATORY IN RESPECT OF ANY PAYMENT FOR ANY BVD TESTS OR OTHER SERVICES PROVIDED BY THAT LABORATORY.