

**Terms of use for the use of the Pet Health Database ("PHD Platform") for
veterinarians
(Version July 2023)**

1. Subject of the agreement

PetHealthData AG (hereinafter "**PHD AG**"), domicile address: c/o Tierärztliche Treuhandstelle TVS AG, Bogenstrasse 7, 9000 St. Gallen, office: Hostig 6, 8132 Hinteregg, operates the Pet Health Database (hereinafter "**PHD platform**"), a digital animal health platform on which both veterinarians and pet owners can digitally manage animal health data.

These Terms of Use constitute the agreement (hereinafter "**Agreement**") governing the rights and obligations between PHD AG as provider of the PHD Platform and the veterinarian (hereinafter "**Veterinarian**" or "**User**") as user of the PHD Platform.

2. Functionality

The PHD platform is provided to the User as a web-based software solution.

The PHD Platform enables veterinarians to digitally manage information about animals they treat (e.g., vaccination data, radiographs, veterinary certificates, etc., hereinafter "**Data related to animals**").

In order for Users to use the PHD platform, they must purchase a license and create a user account ("**Veterinarian account**"). When creating the veterinarian account, the veterinarian must upload a clearly legible scan copy of his veterinarian diploma as well as at least GLN No., surname, first name, date of birth and a postal address. After the successful verification of these details and documents by PHD AG, the Veterinarian account applied for by the Veterinarian will be activated.

Data related to animals can be uploaded by the veterinarians themselves as well as by the animal owners. Veterinarians can view, upload and also download the data related to animals for an animal on the PHD platform.

PHD AG is allowed to use the data related to animals uploaded by the Veterinarian on the PHD platform for research purposes and, in this context, PHD AG is also allowed to disclose it to third parties (e.g. universities, research institutes, other veterinarians).

PHD AG reserves the right to block the User's access to the PHD platform or their user account for a limited or unlimited period of time if the User violates the present Terms of Use.

The Veterinarian may request PHD AG to deactivate their Veterinarian account at any time. To do so, they must send a registered letter to the above-mentioned PHD AG office.

3. License

PHD AG grants the User the right ("**License**") to use the PHD Platform in accordance with the present Terms of Use. The License hereby granted is transferable, terminable, non-exclusive and non-sublicensable.

The User undertakes and agrees that their use of the PHD Platform shall at all times be in accordance with the Terms of Use and all applicable legal requirements. The User shall take reasonable measures to prevent unauthorized access to or use of the PHD Platform and shall notify PHD AG immediately of any such unauthorized access or use. Subject to the foregoing, the User shall not (i) make the PHD Platform available to any third party in any form; (ii) sell, assign, sublicense, lend, rent or lease its license; (iii) modify, translate, reverse engineer, decrypt, disassemble or otherwise attempt to create derivative works from the PHD Platform, subject to the right to decrypt pursuant to Art. 21 of the Federal Act on Copyright and Related Rights, modify, translate, reverse engineer, decrypt, decompile, disassemble, create derivative works from, or otherwise attempt to determine or view the source code of the PHD Platform or the underlying ideas or algorithms of the PHD Platform; (iv) integrate or merge the PHD Platform with any other software program; and (v) otherwise misuse the PHD Platform in any way.

Any upgrades, updates, patches, error corrections (bug-fixes) or subsequent versions of the PHD Platform offered or made available by PHD AG at a later point in time shall be deemed to be part of the PHD Platform of PHD AG covered by these Terms of Use and their use shall also be governed by the provisions of these Terms of Use as long as they are not subject to a separate license agreement.

The storage space provided to the User per license on the PHD Platform is limited. PHD AG may, in its sole discretion, make changes or updates to the PHD Platform at any time and without notice (for example, regarding application structure, storage space, modules, features, security, technical configurations, etc.). PHD AG also reserves the right to discontinue certain functions or modules of the PHD Platform or the entire PHD Platform at any time. In this case, the User is not entitled to any refund of license fees.

4. Licence fees

Subject to other agreements between the Parties, the Veterinarian may use the PHD Platform free of charge.

Invoices of PHD AG are due for payment within 30 days from the date of the invoice. In the event of late payment, the User shall owe PHD AG interest on arrears of 5% p.a. and the statutory consequences of default shall also apply.

5. Material warranty

PHD AG grants the User a license to use the PHD Platform on an "as is" and "as available" basis, without warranty of any kind. PHD AG also provides no warranty and disclaims all warranties of merchantability and fitness of the PHD Platform for a particular purpose, conformity with applicable regulations and data accuracy. Also excluded is any warranty for the availability of the PHD Platform and certain content on the PHD Platform.

6. Legal guarantee

PHD AG warrants that, to the best of its knowledge, it has the necessary rights to grant the User the rights to the PHD Platform in accordance with the provisions of these Terms of Use. However, if any third party claims that the use of the PHD Platform in accordance with these Terms of Use infringes its rights, the User shall promptly (i) inform PHD AG thereof and (ii) offer PHD AG the opportunity to defend itself, including by entering into a

settlement agreement. In doing so, the User shall support PHD AG to an appropriate and reasonable extent. The User shall not be entitled to acknowledge, settle or pay (either in part or in full) any such third party claim unless PHD AG expressly consents to such action in writing.

PHD AG may, at its option, procure for the User the right to continue using the PHD Platform or modify the PHD Platform accordingly in order to defend against third party claims. If none of these measures is possible for PHD AG, PHD AG shall be entitled to terminate this Agreement and in particular the license to use the PHD Platform contained herein with immediate effect. Upon PHD AG's declaration of termination, the User's right to use the PHD Platform shall terminate.

Any further warranty of title by PHD AG regarding the PHD Platform is excluded.

7. Intellectual property rights

For the purposes of these Terms of Use, intellectual property rights ("**Intellectual Property Rights**") shall mean all registered and unregistered rights worldwide relating to patents, copyrights, trademarks, domains, designs, software and its source and object code, web designs, graphics, photographs, animations, videos, texts, documentation and user manuals, databases and know-how, whether or not they can be protected.

All Intellectual Property Rights in the PHD Platform and in any further developments of the PHD Platform that may be created or arise under these Terms of Use (hereinafter referred to as "**New Intellectual Property Rights**") shall vest solely in PHD AG. The User agrees to (i) fully assign to PHD AG all rights to New Intellectual Property Rights, to the extent such rights do not originate with PHD AG, and hereby assigns to PHD AG, without encumbrance, all rights to New Intellectual Property Rights in the sense of a global advance disposition, at the latest, however, at the time such rights come into existence, and (ii) waives the exercise of any moral rights that may be associated with New Intellectual Property Rights.

8. Data usage

The veterinarian grants PHD AG a free, non-exclusive, transferable, sublicensable and temporally unlimited right to all content that the veterinarian uploads to the PHD Platform or publishes via the PHD Platform to use this content (namely Data related to animals) in accordance with the provisions of these Terms of Use (in particular for the operation of the PHD Platform). In particular, PHD AG is entitled to use the veterinarian's animal data for research purposes and in this context also to disclose it to third parties (e.g. universities, research institutes, other veterinarians, etc.).

9. Limitation of liability

Unless otherwise expressly provided in these Terms of Use, PHD AG shall only be liable for unlawful intent and gross negligence and only for direct damages caused by physical injury. Any further liability of PHD AG is excluded to the extent permitted by law. In particular, PHD AG shall not be liable for slight and medium negligence, lack of economic success, loss of profit or other consequential and direct damages. Furthermore, PHD AG is also not liable for any damages in connection with the use of the PHD platform, namely not for damages resulting from cyber-attacks. Furthermore, any liability of PHD AG for actions of auxiliary persons and contractual partners, which PHD AG engages for the fulfilment of these Terms of Use, is excluded to the maximum extent permitted by law.

10. Secrecy

Except as otherwise provided in these Terms of Use, the parties will treat all information and data provided or otherwise made available to them by the other party in connection with this Agreement as confidential (hereinafter "**Confidential Information**") and use it only for the purposes of this Agreement and the assertion of rights under this Agreement. The obligation to keep Confidential Information confidential shall not apply to confidential information which was already known before without an obligation to keep it confidential or which is or becomes generally known without this being the fault of the party receiving the confidential information.

11. Release from duty of confidentiality under data protection law

The User releases PHD AG from the obligation of confidentiality under data protection law pursuant to Art. 62 FADP and consents to the relevant data disclosures, if and to the extent they are necessary for the use of the PHD Platform. In particular, the User releases PHD AG from the obligation of confidentiality under data protection law (i) if this is necessary to protect the legitimate interests of the User and/or PHD AG (e.g. in connection with the enforcement of or defense against legal claims, collection of receivables, proceedings before domestic or foreign authorities or courts, etc.), (ii) for PHD AG's cooperation with suppliers and subcontractors inland and abroad to whom PHD AG has outsourced certain services or from whom PHD AG obtains certain products or services, or (iii) PHD AG is obligated to report user data in certain cases based on statutory provisions and other national and international regulations.

12. Responsibility of the User

The User is solely responsible for compliance with the laws, rules and regulations applicable to the User when using the PHD Platform.

The User is solely responsible for all content that he/she distributes or publishes via the PHD Platform or uploads to the PHD Platform. The User shall not upload or distribute through the PHD Platform any content that is unlawful, immoral or otherwise contrary to fundamental moral standards. The User is solely responsible for all necessary permissions to upload and publish content (in particular animal data) on or via the PHD Platform and hereby grants PHD AG permission to use, store and process such content in accordance with the provisions of these Terms of Use.

The User agrees to defend and fully indemnify PHD AG (including reimbursement of court costs and reasonable attorneys' fees) in the event that a third party asserts a claim against PHD AG in connection with the User's use of the PHD Platform.

13. Responsibility of the User for his IT infrastructure

The User is solely responsible for ensuring that its IT infrastructure meets the requirements for the proper use of the PHD Platform and is maintained accordingly. If the user's IT infrastructure does not meet these requirements, the User shall not be entitled to assert any rights under this Agreement against PHD AG.

14. Privacy

The purpose, nature and extent of the processing of the User's personal data by PHD AG are governed by these Terms of Use and the [Privacy Policy of PHD AG](#) for the PHD Platform.

The veterinarian is solely responsible for compliance with the data protection provisions applicable to him/her when using the PHD Platform. However, if and to the extent that the veterinarian receives personal data from PHD AG or via the PHD Platform, the veterinarian undertakes to process such personal data exclusively for those purposes that are required in connection with the use of the PHD Platform.

In addition, the parties will support each other in fulfilling data protection law requests of the data subjects (e.g., right to information, right to delete, etc.) and other data protection law requirements (e.g., obligation to report data security breaches).

15. Subcontractor

PHD AG shall be entitled to engage third parties, such as substitutes or auxiliary persons, for the performance of this Agreement, irrespective of whether they are domiciled in Switzerland or abroad.

16. Assignment and agreement transfer

PHD AG is entitled to transfer individual rights and/or obligations under this Agreement or the Agreement as a whole to third parties. PHD AG shall inform the User of this as soon as possible.

17. Adaptation of these terms of use

PHD AG reserves the right to adapt or change these Terms of Use at any time. In the event of such changes to these Terms of Use, PHD AG will inform Users of the changes within a reasonable period of time. These shall be deemed approved without objection within 30 days.

18. Agreement duration and termination

This Agreement is valid for an indefinite period of time and may be terminated by either party with one (1) month's notice in writing (e-mail is sufficient) to the end of each calendar month. In addition, either party may terminate this Agreement for cause with immediate effect in writing. Furthermore, after the breaching party has not remedied a breach of contract within a period of four weeks from the written request despite a written request by the non-breaching party, the non-breaching party may terminate this Agreement without notice.

If the User still has valid licenses when this Agreement is terminated, any license fees already paid will not be refunded to the User.

Upon termination of this Agreement, the User's license to use the PHD Platform will terminate and the User will no longer be able to access their Veterinarian Account.

19. Final provisions

This Agreement as well as any amendments and supplements to the Agreement must be made in writing in order to be valid. This formal requirement may only be waived by written agreement.

Should individual provisions or parts of this Agreement prove to be void or ineffective, this shall not affect the validity of the remainder of the Agreement. In such a case, the parties shall adapt the Agreement in such a way that the economic purpose intended by the void or ineffective part is achieved as far as possible.

This Agreement shall be governed exclusively by Swiss law. The provisions on conflict of laws, the UN Convention on Contracts for the International Sale of Goods (CISG) and any other intergovernmental agreements shall not apply. The ordinary courts of the city of St. Gallen shall have jurisdiction over all disputes arising out of, concerning or in connection with this Agreement.