

## INAB Terms and Conditions

---

### 1. Definitions

- 1.1 “**Accreditation**” means a third-party attestation related to a conformity assessment body conveying formal demonstration of its competence to carry out specific conformity assessment tasks.
- 1.2 “**Accreditation Criteria**” means the criteria specified by INAB to be complied with by the Organisation in order to qualify for the Accreditation sought or held including, without limitation, any relevant standards, guidelines or regulations.
- 1.3 “**Accreditation Guidelines**” means guidelines issued by INAB or any other body, including but not limited to, the International Accreditation Forum (IAF), the International Laboratory Accreditation Co-operation (ILAC) and the European co-operation for Accreditation (EA), setting out the recommended practices and procedures to be followed in order to comply with Accreditation Criteria.
- 1.4 “**Appeal**” means a request by the Organisation for reconsideration of any adverse decision made by INAB related to the Organisation’s desired Accreditation status.
- 1.5 “**Application**” means any application in relation to Accreditation made by the Organisation including an application for Accreditation, an application for extension to Accreditation, and where relevant an application for renewal or reinstatement of Accreditation.
- 1.6 “**Conformity Assessment**” means a demonstration that specified requirements relating to a product, process, system, person or body are fulfilled. It includes activities such as testing, inspection, and certification as well as the accreditation of conformity assessment bodies.
- 1.7 “**Conformity Assessment Body - CAB**” means a body that performs conformity assessment services and that can be the object of accreditation.
- 1.8 “**Contract**” means the agreement in place between INAB and the Organisation as to Accreditation comprised by the Application or Applications, these Terms and Conditions, the documents, standards, guidelines, Accreditation Criteria, Accreditation Guidelines, regulations or other materials imported into the agreement between the parties by the Application or Applications or by these Terms and Conditions.
- 1.9 “**Data Protection Legislation**” means the Data Protection Acts 1988 and 2003 (as amended or replaced from time to time) and all Irish and European Union laws and regulations (with direct effect) relating to the processing of personal data and privacy and applicable to INAB and/or the Organisation.
- 1.10 “**INAB**” means the Irish National Accreditation Board, a division of the Health and Safety Authority.

- 1.11 **“INAB Appeals Committee”** means the committee established by INAB to hear and determine appeals against decisions of INAB.
- 1.12 **“INAB Accreditation Symbol”** means a symbol comprising the INAB Logo together with the registration number, Accreditation standard and reference to the scope of Accreditation in respect of the Organisation.
- 1.13 **INAB Logo”** means the symbol used by INAB to identify itself or a particular Accreditation scheme.
- 1.14 **“Organisation”** means the applicant for, or holder of, Accreditation.
- 1.15 **“Related Body”** means a body which is linked to the Organisation by common ownership or directors, contractual arrangement, common elements in the name, informal understanding or other means such that the related body has a vested interest in the outcome of an assessment of an Application or the fact or circumstances of an Accreditation or has an input into the activities of the Organisation so as to be relevant to the assessment of an Application or the circumstances of an Accreditation.
- 1.16 **“Terms and Conditions”** means the terms and conditions herein.
- 1.17 **“Withdrawal”** means the termination, suspension or resignation, whether voluntary or involuntary of the Organisation’s Accreditation.
- 1.18 In these Terms and Conditions where the context so admits.
- (a) The singular includes the plural and vice versa
  - (b) Words referring to persons shall include firms, companies, and corporations and vice versa.
  - (c) Reference to any statute or statutory provision shall include any statute or statutory provision which amends, extends, consolidates or replaces the same and shall include any instruments orders plans regulations permissions and directions or other subordinate legislation for the time being made issued or given under the relevant statute or statutory provision.
  - (d) Headings to clauses appearing in these Terms and Conditions are included for ease of reference only and shall not have any effect on the construction or the interpretation of these Terms and Conditions.
  - (e) Unless the context otherwise indicates, reference to clauses, sub-clauses, recitals or schedules, are to clauses and sub-clauses of, and recitals and schedules to, these Terms and Conditions.

## 2. **INAB functions**

- 2.1 In consideration of and subject to, payment of INAB’s fees by the Organisation in accordance with clause 5 of these Terms and Conditions and subject to compliance by the Organisation with the Contract, INAB will:
- (a) ascertain and specify the Accreditation Criteria;
  - (b) assess any Application made against the Accreditation Criteria to determine whether Accreditation is warranted;
  - (c) grant Accreditation, where, in the sole opinion of INAB, the Organisation meets the Accreditation Criteria considered relevant by INAB and otherwise complies

with the Contract and any other pre-conditions that INAB in its sole discretion considers appropriate; and

- (d) monitor ongoing compliance with the Accreditation Criteria and adjust or withdraw the Organisation's Accreditation as appropriate.
- 2.2 INAB may amend the Accreditation Criteria initially prescribed by it in any particular case at any time during the period of assessment of the relevant Application or during the currency of any existing Accreditation on the basis that the requirements of applicable national or international standards or guidelines or schemes or relevant sectorial practices have altered or that INAB for any other reason, in its absolute discretion considers a change in the Accreditation Criteria to be advisable. In such circumstances, INAB shall give due notice of the relevant changes and will accord the Organisation a reasonable time to adjust to the relevant alterations.
- 2.3 INAB may, in its absolute discretion, but subject to the requirement to give reasonable notice to the Organisation, make such changes to the provisions of the Contract as it deems appropriate and the Organisation shall be bound by the Contract as amended.
- 2.4 INAB shall take all reasonable care to ensure that, in performing its obligations under this Agreement, it does not disrupt the operations of, or save as may be reasonably unavoidable, inconvenience the Organisation, its employees, agents or any other contractor or other person (including customers of the Organisation).
- 2.5 From time to time, INAB enters into agreements with national authorities for the purposes of information exchange. The template agreement, AG4 is available on the INAB website.

### 3. **The Organisation's obligations**

- 3.1 The Organisation shall comply with all of its obligations and responsibilities under the Contract.
- 3.2 The Organisation shall pay INAB's fees in accordance with its obligations in clause 5 of these Terms and Conditions.
- 3.3 The Organisation shall afford INAB and/or its representatives, agents or subcontractors all such information, assistance and co-operation as INAB considers necessary to enable INAB to carry out its functions under the Contract and shall at its own expense, provide or arrange to have provided any tests, studies, evaluations or reports required by INAB and shall conduct or arrange to have conducted any additional tests, studies, evaluations or reports required by INAB and provide the results of same to INAB. In particular, but without limitation the Organisation shall:
- (a) do everything necessary to enable INAB to assess the competence of the Organisation;
  - (b) prepare, package and dispatch items needed by INAB for its assessment or for verification purposes;
  - (c) participate in any programme of proficiency testing and/or inter-laboratory comparison that INAB considers appropriate
- 3.4 The Organisation shall comply with the record-keeping obligations imposed by clause 6 of these Terms and Conditions.
- 3.5 The Organisation shall grant INAB all such rights of access to its premises and all areas thereof for the purpose of witnessing the Organisation's activities and for any other purpose as INAB considers necessary for the purposes of carrying out its functions under the Contract.

- 3.6 The Organisation shall grant INAB all such access to the Organisation's computer systems, facilities, records, and information (and where necessary shall use its best endeavours to facilitate access to those of a Related Body) as INAB may require for the purposes of carrying out its functions under the Contract.
- 3.7 Where the Organisation has or has sought Accreditation, in respect of any service that is wholly or partly provided on the premises of the Organisation's client or clients, the Organisation shall procure, in its own contractual arrangements with its clients, the consent of its clients to INAB's entry onto the said premises to witness the Organisation's conduct in the supply of the services which are the subject of Accreditation or of the Organisation's application for Accreditation.
- 3.8 For so long as the Organisation holds Accreditation, it must observe and comply with, and ensure that any employees, agents and sub-contractors involved in the accredited activity, observe and comply with the Accreditation Criteria and the Contract. In particular, but without limitation, it shall provide each member of its staff involved in the Organisation's accredited functions with clear, documented, up-to-date instructions pertaining to his/her duties or responsibilities.
- 3.9 The Organisation acknowledges the importance of Accreditation Guidelines in assisting the Organisation in demonstrating its compliance with relevant Accreditation Criteria and undertakes to keep itself informed of the Accreditation Guidelines that are relevant to its Accreditation and any changes thereto. INAB may, but shall not be obliged to notify the Organisation of the relevant Accreditation Guidelines or any changes thereto and the decision of INAB in any particular case to draw the Organisation's attention to any particular Accreditation Guideline shall not affect the Organisation's obligation to keep itself informed of, and, in so far as possible, to comply with the Accreditation Guidelines or otherwise achieve the objective of the Accreditation Guidelines in question in an equally effective manner.
- 3.10 The Organisation shall inform INAB of any change affecting any information given in its Application and/or, if Accreditation has already been granted, of any matter affecting the Organisation's ability to comply with the Accreditation Criteria or the Contract, immediately after the occurrence of the said change or matter or, if this is not possible, at the latest within two working days of the said change or matter.
- 3.11 The Organisation shall notify INAB in writing of any change of ownership or control of the Organisation or any sale by the Organisation of its business or any other event by which the control of the business run by the Organisation will be transferred or changed, in advance of the said change, sale or event taking place and shall confirm to INAB in writing the occurrence of any such change, sale or event immediately upon its taking effect, or if this is not possible, at the latest within two working days of the said change, sale or event.
- 3.12 The Organisation must take the steps directed in clause 17.5 of these Terms and Conditions if it becomes aware of any inability to comply with the Accreditation Criteria.
- 3.13 The Organisation shall implement in a timely manner any necessary corrective actions that may be required by INAB from time to time to ensure compliance with Accreditation Criteria and to remedy any instance of nonconformity with Accreditation Criteria and, in any event, shall implement such corrective actions by the time limits specified by INAB for such implementation, and shall inform INAB when such corrective actions have been implemented.
- 3.14 The Organisation shall, if a notice is received under clauses 2.2, 2.3, 5.3 or 7.3 of the Terms and Conditions, implement in a timely manner any adjustments that may be necessary and, in any event, shall implement such adjustments by the time specified by INAB for such implementation and shall inform INAB when such adjustments have been made.

- 3.15 The Organisation must comply with the provisions of clause 7 of these Terms and Conditions in relation to claims of Accreditation and use of the INAB Accreditation Symbol.
- 3.16 The Organisation shall afford its clients reasonable assistance and co operation to enable them to monitor the Organisation's performance of its obligations under its contract with the said clients. The said co-operation shall include but not be limited to the Organisation:
- (a) undertaking or facilitating any reasonable checks to enable the client to verify the capability of the Organisation;
  - (b) affording the client or its representative reasonable access (subject to the confidentiality of work for other clients) to relevant areas of the Organisation, for the witnessing of activities performed for the client;
  - (c) preparing, packaging and despatch of test pieces, samples or other items needed by the client for verification purposes.
- 3.17 In circumstances where the Organisation is seeking Accreditation for regulatory purposes, the Organisation agrees that it shall keep the relevant regulatory / competent authority / national authority informed at all times of its applicant/accreditation status (and of any change in such status). The Organisation shall provide evidence of such correspondence to INAB on request.
- 3.18 Where a regulatory / competent authority / national authority / scheme owner provides feedback to the Organisation (either verbal or written), this feedback shall be processed through the quality management system processes and made available to INAB at each assessment.

#### 4. **Prevention of confusion on the market for conformity assessments**

- 4.1 Accreditation bodies on the one hand and certification bodies on the other hand both engage in conformity assessment. Accreditation bodies, however, assess the competence of CABs while CABs assess the conformity of products, services and suppliers to specifications and/or requirements. The Organisation acknowledges, therefore, that Accreditation is qualitatively different from certification to specific requirements of a particular standard and in acknowledgement of the distortion of the market that would arise out of public confusion as to the significance of Accreditation as distinct from certification the Organisation agrees not to do anything whether by act, omission or statement whether directly or indirectly which may cause or increase confusion amongst the public in respect of this distinction and to make reasonable efforts to dispel any public confusion that does arise in respect of this distinction.

#### 5. **Fees and charges**

- 5.1 The Organisation shall pay INAB's fees within 30 days of receipt of each properly submitted and properly due invoice.
- 5.2 The Organisation shall make its payment of fees to The Health & Safety Authority, Accounts Department, Metropolitan Building, James Joyce Street, Dublin 2.
- 5.3 INAB's fees are detailed in INAB's schedule of fees and are subject to review from time to time. The Organisation's obligation will be to pay INAB's fees at the rate that is effective at the date the fee is incurred. A schedule of INAB's fees is available on the INAB website where INAB shall post any increase in INAB's fees three months before the coming into effect of any such increase and a hard copy may be requested from INAB.
- 5.4 INAB reserves the right to levy additional fees in respect of additional work necessitated by any failure of the Organisation to comply with INAB requirements or with the Contract

or in respect of work that INAB considers to be in excess of the level usually required for the type of matter involved.

5.5 INAB reserves the right to cancel confirmed visits at any time prior to such visit in the event that any outstanding fees payable by the Organisation remain unpaid.

5.6 In the event that the Organisation cancels any confirmed visit by INAB to its premises (or any other premises, including the premises of any client of the Organisation) without giving at least six weeks notice to INAB or in the event that INAB cancels any confirmed visit in accordance with clause [5.5] above, a cancellation fee comprising the sum of the expenses incurred for such a visit plus 50% of the relevant INAB fee shall be payable by the Organisation to INAB.

## 6. **Record keeping**

6.1 Without prejudice to the Organisation's general legal obligations in relation to the maintenance and making available of its records, the Organisation shall keep, for a minimum period of 5 years, and upon request, make readily available to INAB, records of all information, reports, original observations, calculations and derived data that are stipulated in any applicable Accreditation Criteria or are otherwise required to be kept by INAB.

6.2 Such records as are required to be held by the Organisation under this clause 6 shall be in a form which allows speedy and accurate checks to be made.

6.3 INAB or its duly authorised representative shall have the right at any reasonable time during business hours to enter onto the Organisation's premises or the premises of a Related Body of the Organisation and to assess any matter affecting Accreditation generally and to inspect and audit the said records of the Organisation and any other book, record or invoice relating to the Organisation's accredited activities or those activities for which the Organisation has applied for Accreditation or relating to the Organisation's non-accredited activities, if INAB believes, in its sole discretion, that the Organisation's non-accredited activities or the manner in which such activities are being carried out impacts or may impact in any way on the Organisation's Accreditation or accredited activities as a result of diversion of the Organisation's resources, use of the INAB Accreditation Symbol or otherwise howsoever and INAB or its duly authorised representative shall be entitled to take copies or extracts from any such records and shall have the right to interview any officer, employee, servant or agent of the Organisation and shall be entitled to the full assistance and co-operation of the Organisation and its officers, employees, servants or agents.

## 7. **Claims of Accreditation and use of INAB Accreditation Symbol**

7.1 The Organisation acknowledges INAB's full ownership of the INAB Accreditation Symbol and the INAB Logo.

7.2 Upon grant of Accreditation by INAB and subject to the other provisions of this clause 7, the Organisation may use the INAB Accreditation Symbol and/or refer to its Accreditation status. The Organisation may not under any circumstances (including, but not limited to, any Application) use the INAB Accreditation Symbol or make reference to Accreditation by INAB in advance of being accredited by INAB. The Organisation may not under any circumstances use the INAB Logo.

7.3 In using the INAB Accreditation Symbol, and/or in making reference to Accreditation by INAB the Organisation shall comply strictly with the INAB regulations as to use of the INAB Accreditation Symbol and/or reference to Accreditation by INAB that are applicable at any given time and shall make such modification to the said use as may be required from time to time by changes in the said INAB regulations. INAB shall notify the Organisation of any changes in this respect and accord reasonable time to the Organisation to adapt its use in accordance with any such change. The regulations as to use of the INAB Accreditation

Symbol and/or reference to Accreditation by INAB are available on the INAB website and a hard copy may be requested from INAB.

- 7.4 In referring to its Accreditation status, the Organisation shall be specific as to who has granted any Accreditation claimed by it.
- 7.5 The Organisation shall ensure that no party is misled, as to the fact, extent or limitations of the Organisation's Accreditation or the impact of the use of sub-contractors on the Organisation's right to claim Accreditation for the relevant activity, either as a result of the Organisation's positioning of the INAB Accreditation Symbol or as a result of some other use of the INAB Accreditation Symbol and/or reference to Accreditation by INAB on advertisements, quotations for work, reports produced for clients, documentation used in relation to subcontractors or correspondence with clients or as a result of any other act, omission or statement of the Organisation.
- 7.6 The Organisation shall not use the fact of Accreditation or the existence of an Application in any way that could reasonably be considered to be misleading or bring the scheme into disrepute and, in particular, but without limitation, must not represent by any means to its clients that Accreditation implies that any particular product or service provided by the Organisation is approved by INAB or any other body and shall expressly state in all contracts with its clients that Accreditation in no way implies that any particular product or service is approved by INAB or any other body.
- 7.7 The Organisation shall, in its contractual arrangements with its clients, require such clients to refrain from any misrepresentations as to the Organisation's Accreditation status or any misleading acts or statements in relation to the significance of Accreditation and in particular from any representation that the fact of Accreditation of the Organisation who has carried out the conformity assessment of such client's products or services implies that the products or services are approved by INAB and the Organisation shall ensure that its clients abide by their obligations in this respect.
- 7.8 The Organisation shall ensure that its clients do not use the Organisation's INAB Accreditation Symbol.
- 7.9 The Organisation shall not refer to its Accreditation as 'certification' and shall place a similar restriction on all its clients and shall ensure that its clients abide by their obligations in this respect.
- 7.10 The Organisation shall not refer to and shall ensure that its clients do not refer to any activity carried out by the Organisation as Accreditation.
- 7.11 The Organisation shall not use the INAB Accreditation Symbol and/or make reference to Accreditation by INAB in such a way as to imply that INAB accepts responsibility for the activities carried out under its Accreditation.
- 7.12 INAB shall have the right in its absolute discretion to limit an Organisation's use of the INAB Accreditation Symbol and/or reference to Accreditation by INAB on any materials during the currency of the Organisation's Accreditation.
- 7.13 In the event that the Accreditation of the Organisation is suspended, either voluntarily or involuntarily, the Organisation shall immediately cease to use the INAB Accreditation Symbol and/or reference to Accreditation by INAB on reports, certificates, labels, or other documentary outputs relating to specific activities for clients falling within its suspended Accreditation. INAB shall have the right to limit more generally the Organisation's use of the INAB Accreditation Symbol and/or references by it to Accreditation by INAB that it considers may be misleading or improper in light of the suspension.
- 7.14 Upon termination of the Organisation's Accreditation, the Organisation shall immediately discontinue all use of the INAB Accreditation Symbol and/or reference to Accreditation by INAB on or in relation to the activities falling within its terminated Accreditation including on all specific reports, certificates, labels or other documentary outputs relating to

specific activities for clients activities falling within its terminated Accreditation and also on all documentation, brochures, advertising and publicity material relating to activities falling within its terminated Accreditation generally and shall ensure that all of the Organisation's clients immediately discontinue reference to Accreditation by INAB in respect of those activities in all documentation, brochures, advertising and publicity material that such clients may generate.

- 7.15 INAB reserves the right to take the measures set out below where an Organisation uses the INAB Accreditation Symbol or refers to Accreditation in a manner that INAB considers, in its absolute discretion, to be misleading. Corrective actions shall include but not be limited to INAB:
- (a) withdrawing Accreditation;
  - (b) requiring the Organisation to notify all parties affected;
  - (c) notifying all parties affected; and
  - (d) instituting legal proceedings

## **8. Directory of accredited organisations**

- 8.1 INAB may, but for the avoidance of doubt shall not be under any obligation to the organisation to, publish and maintain a directory or directories of accredited organisations in the form of a hard copy directory and/or in the form of an electronic directory to be made available to the public on-line or otherwise. To the extent that INAB does make a directory available (the "**directory**"), the following provisions in this clause 8 apply.
- 8.2 INAB shall, in its absolute discretion, determine what information in relation to the Organisation and its Accreditation status should be included in the directory from time to time and may, from time to time review the matter and require further information for the purposes of inclusion in the directory.
- 8.3 The Organisation shall be obliged to provide any information that INAB requests in relation to the Organisation, its proposals, its staff, its business, the status of its Accreditation etc. for inclusion in the directory.
- 8.4 The Organisation shall ensure that the information which it gives to INAB generally and in response to specific requests for information for the purposes of the directory is accurate and not misleading. The Organisation further undertakes to immediately inform INAB of any inaccuracy which appears in the directory and of any change which occurs, which necessitates an amendment of the directory listing for the Organisation within three working days of the said inaccuracy coming to the Organisation's attention or of the change occurring whichever is relevant.
- 8.5 In the event of the Withdrawal of an Organisation's Accreditation, either voluntarily or involuntarily, the listing in respect of that Organisation shall be immediately removed or amended (as may be applicable) from the directory.
- 8.6 All details of the status and circumstances of the Organisation's Accreditation (including but not limited to Withdrawal of Accreditation) will be kept by INAB in whatever form INAB in its sole discretion deems appropriate and may be made available by INAB to any person on request.
- 8.7 INAB shall have sole control over the format, composition and distribution of the contents and the pages of the directory and the positioning of any entry relating to any organisation within the directory.
- 8.8 INAB will not be liable for any internet or telecommunications failure, computer virus, third party interference or effect of any third party software or hardware that may



interrupt or delay access to any electronic directory or cause any other problems or losses.

- 8.9 INAB shall not be liable to the Organisation for any loss or damage including injury to reputation suffered by the Organisation as a result of the appearance or non-appearance for any reason whatsoever in the directory, the positioning of the Organisation relative to any other organisation, or as a result of the use by the public or any person of the directory or of any information kept by INAB pursuant to the terms of clause 8.6 above.
- 8.10 INAB may at any time review the directory and may remove any listing or part of any listing for any organisation if it considers, in its absolute discretion, that it is appropriate to do so.
- 8.11 INAB may, in its sole discretion and without any liability to the Organisation, decide against providing or cease to provide the directory.
- 8.12 INAB gives no representations or warranties express or implied in relation to the accuracy, reliability, up-to-date nature or completeness of the directory and excludes liability for any damage or loss suffered by the Organisation as a result of any inaccuracies, errors or omissions in the directory.

## 9. **Warranty, Representation and Indemnity by the Organisation**

- 9.1 The Organisation warrants and represents that the information it provides to INAB will not infringe any intellectual property, publicity or privacy right of any other party or any other law or regulation including Data Protection Legislation.
- 9.2 The Organisation shall indemnify INAB, its officers, employees and agents from any and all third party claims, liability, damages and/or costs (including but not limited to legal fees) arising from a breach of the warranty and representation at Clause 9.1 above.

## 10. **Sub Contracting**

- 10.1 The Organisation acknowledges that subcontracting of an activity or elements of an activity will usually impact on the Organisation's right to claim Accreditation in respect of its activities and undertakes to pay particular attention to the requirements of the Accreditation Criteria in this respect.

## 11. **Review of INAB decisions**

- 11.1 In the event that the Organisation is dissatisfied with a decision of INAB not to grant Accreditation to the Organisation or an extension to the Organisation's scope of Accreditation, or to grant a more limited scope of Accreditation than that applied for by the Organisation or to suspend or terminate the Organisation's Accreditation or not to renew or reinstate the Organisation's Accreditation, the Organisation may appeal the matter to the INAB Appeals Committee.
- 11.2 Any Appeal taken pursuant to clause 11.1 above will be conducted in accordance with the relevant INAB procedures that are current on the date when the Appeal is made.
- 11.3 The Appeal procedure set out in this clause 11 shall be the sole procedure available to the Organisation to dispute any decision of INAB provided for in clause 11.1 and the decision of the INAB Appeals Committee as to an Appeal brought shall be final.

## 12. **Confidentiality**

- 12.1 Information relating to the Organisation's processes, plans or intentions, know how, trade secrets and business affairs gained by INAB in the course of performing its functions under the Contract will be treated by INAB as confidential and subject to clause 8 of these Terms and Conditions such information will not be disclosed by INAB to third parties without the consent of the Organisation.

- 12.2 INAB may disclose the information referred in clause 12.1 above to the extent that:
- (a) such disclosure is required by the law of any relevant jurisdiction or for the purpose of any judicial proceeding;
  - (b) the information has come into the public domain through no fault of INAB;
  - (c) the circumstances are such that the Organisation may reasonably be understood to have given permission for the disclosure;
  - (d) such disclosure (including, but not limited to disclosure to its employees, servants, agents or sub-contractors, government departments or other accreditation bodies or associations) is necessary for the purposes of INAB's functions under the Contract or for INAB's internal procedures or obligations as a division of the Health & Safety Authority, government departments or other accreditation bodies or associations.

12.3 INAB is subject to the Freedom of Information Act 2014 (the "FOI"). In the event that INAB receives a request for information under the FOI relating to the Organisation, its Application or its Accreditation, it may consult with the Organisation before deciding what records are to be released in response to such a request pursuant to the FOI. This may include seeking submissions under the applicable section of the FOI where the records may contain confidential, commercially sensitive or personal information. INAB shall retain sole discretion in determining the disclosure required under the terms of the FOI.

### 13. **INAB Website**

13.1 Having regard in particular to (but not limited to) clauses 5.3, 7.3 and 20.1 of these Terms and Conditions, INAB does not guarantee that its website will be fault free or that the information contained on the said website will be correct and does not accept any liability for any damage or loss suffered by the Organisation arising as a result of the said website or the information contained therein (including any errors, inaccuracies or omissions in such information or any faults, interruptions or delays in connection with the website).

### 14. **Limitation of liability**

14.1 With the exception of the Organisation's obligations to indemnify INAB under clauses 9 and 15 of these Terms and Conditions and of the Organisation's duty to pay INAB's fees and charges as specified in these Terms and Conditions to the extent that such fees and charges are owed in the Contract between INAB and the Organisation (which obligations of indemnity and payment remain unaffected by this clause 14), and with the exception also of any liability of either party for death or personal injury, this clause 14 sets out the entire liability (including any liability for the acts and/or omissions of its employees, agents or sub-contractors) of each party to the other in respect of any and all breaches of its contractual obligations and any and all tortious acts or omissions including, but not limited to, negligence.

14.2 Subject to the exceptions provided for in clause 14.1 hereof, the entire liability of each party to the other will not, in aggregate, exceed the amount paid in fees pursuant to the Contract by the Organisation to INAB in respect of INAB's fees in the twelve-month period preceding the act, omission or breach complained of.

14.3 Neither party shall be liable to the other for any special, consequential or indirect loss. In this clause "*special consequential or indirect loss*" shall include, without limitation, loss of profit, loss of business, loss of goodwill and loss of savings.

14.4 Nothing in clauses 14.1, 14.2 and 14.3 hereof shall confer any right or remedy upon either party to which it would not otherwise be entitled.

### 15. **Indemnity**

- 15.1 The Organisation acknowledges that the nature of Accreditation is confirmation of an Organisation's competence to provide services within the scope of Accreditation and that Accreditation is not a guarantee that the accredited Organisation will always choose to perform its contractual obligations to its own customers competently in individual cases. Accordingly, the Organisation shall indemnify INAB against any and all damages, costs, charges and expenses (including legal expenses) incurred by INAB in dealing with, responding to, defending, or being otherwise involved in, any claim, action, enquiry, investigation, or prosecution, brought or conducted, by any third party, regulatory or other body, and which claim, action, enquiry, investigation or prosecution relates to any failure or claimed failure of the Organisation to comply with the Accreditation Criteria or with any provision of the Contract, or to any infringement or breach by the Organisation in the course of its carrying out accredited activities of any third person's contractual or other rights or any duty of care owed by the Organisation to its customers or claimed infringement or breach of the aforesaid, or to any claim that the Organisation has made false or misleading claims or representations in relation to its Application or its Accreditation status.
- 15.2 For the avoidance of doubt, the indemnity at clause 15.1 hereof shall not apply to damages awarded against INAB to the extent that such damages relate to demonstrated breach by INAB of a duty of care owed to the public in respect of the accreditation granted to the Organisation or to the costs attributable to dealing with claims relating to any such breach.
- 15.3 In the event that INAB is entitled under any provision of these Terms and Conditions to indemnification by the Organisation for some of the damages, costs, charges or expenses incurred by INAB but not for the total amount thereof, the Organisation shall indemnify INAB for the portion thereof to which INAB is entitled.
- 16. Insurance**
- 16.1 The Organisation shall have in place insurance policies that are sufficient to cover its obligations under clauses 9 and 15 of these Terms and Conditions and shall comply with all the terms and conditions of such policies.
- 16.2 The Organisation shall prior to the granting of Accreditation supply to INAB all information and/or documentation necessary to demonstrate that the insurances specified in Clause 16.1 are in place and shall thereafter on a yearly basis (commencing the year after the year in which Accreditation was granted) throughout the currency of its Accreditation supply to INAB a written declaration confirming that the said insurances are current and in place, that all policies are fully paid up and the conditions thereof have been and are being complied with by the Organisation. Without prejudice to the foregoing the Organisation shall provide to INAB any information or documentation that INAB may reasonably request to evidence the said insurances.
- 17. Change in Accreditation status, suspension, resignation and termination of Accreditation**
- 17.1 The Organisation shall be subject to on-going monitoring by INAB of its compliance with the Accreditation Criteria.
- 17.2 Without prejudice to INAB's powers under clause 17.3 of these Terms and Conditions, INAB may immediately impose involuntary suspension of the Organisation's Accreditation in the event:
- (a) the Organisation, being an individual is declared bankrupt or enters into a composition with his creditors; or
  - (b) the Organisation being a company has a receiver, examiner or administrator appointed over the whole or any part of its assets or the Organisation is struck off the register of companies in the jurisdiction where it was incorporated or an order is made or a resolution passed for winding up of the Organisation (unless

such order or resolution is part of a voluntary scheme for the reconstruction or amalgamation of the Organisation as a solvent corporation and the resulting corporation, if a different legal entity, undertakes to be bound by the Accreditation Criteria and the Contract); or

- (c) of any change in structure, personnel, staff responsibility, equipment, premises or scope of activity of the Organisation that INAB considers, in its sole discretion, affects the Organisation's ability to comply fully or at all with the Accreditation Criteria; or
  - (d) of any change in the Accreditation Criteria applicable to the Organisation which the Organisation is not in a position to comply with fully, or at all, by the date designated by INAB; or
  - (e) that the Organisation breaches any Accreditation Criterion or the Contract
  - (f) that INAB considers that Accreditation has been or is likely to be brought into disrepute by the Organisation, its Related Bodies or its clients either as a result of accredited or non-accredited activities; or
  - (g) where in the reasonable view of INAB, the Organisation has made unreasonable or irresponsible use of sub-contracting; or
  - (h) the Organisation has engaged in any fraudulent or dishonest conduct or fails in any respect to comply with the laws of Ireland.
- 17.3 INAB may decide to terminate the Organisation's Accreditation immediately on written notice (such termination to be effective as and from the date of that notice) in any of the events set out at sub-clauses (a) through (h) of clause 17.2 or where it otherwise considers in its sole discretion that termination is warranted.
- 17.4 Subject to clause 17.5, 17.6 and 17.7 below, the Organisation may choose to resign or suspend its Accreditation at any time.
- 17.5 In the event that during the currency of its Accreditation, the Organisation is unable for any reason to comply with the Accreditation Criteria and/or the Contract, the Organisation shall immediately apply to INAB for voluntary suspension or resignation of its Accreditation PROVIDED THAT in the event of there being no objectively justifiable cause to consider the inability to comply as being temporary the Organisation shall apply for resignation of its Accreditation.
- 17.6 For the avoidance of doubt, the duty to apply for voluntary suspension or resignation as outlined in clause 17.5 above applies even where the cause for the inability to comply is not due to any fault of the Organisation itself, for instance where the voluntary suspension is necessitated by the relocation of the Organisation etc.
- 17.7 INAB may in its sole discretion refuse voluntary suspension or resignation and impose involuntary suspension or termination of the Organisation's Accreditation.
- 18. Consequences of suspension**
- 18.1 Upon suspension or voluntary suspension, the Organisation must notify its clients in writing of its new Accreditation status prior to undertaking work in an area for which the Organisation's Accreditation is under suspension or voluntary suspension and shall forward a sample copy of the said notification to INAB.
- 18.2 The Organisation shall, upon suspension or voluntary suspension, comply with the provisions of clause 7.13 of these Terms and Conditions.
- 19. Consequences of termination or resignation**

- 19.1 The Organisation must promptly return its certificate of Accreditation to INAB following termination or resignation of its Accreditation.
- 19.2 The Organisation must for a minimum of six months notify its clients in writing of its new Accreditation status prior to undertaking activities for which the Organisation's Accreditation is resigned or terminated and require its clients to amend any representations made by the said clients in relation to the Organisation's Accreditation status accordingly.
- 19.3 The Organisation shall, upon termination or resignation, comply with the provisions of clause 7.14 of these Terms and Conditions.
- 19.4 The provisions of clauses 6 (Records Keeping), 7 (Use of INAB Symbol), 12 (Confidentiality), 3.13 (corrective action) 14 (Limitation of Liability) and 15 (Indemnity) of these Terms and Conditions shall survive termination or resignation of the Organisation's Accreditation and termination of the Contract.
- 19.5 Termination or resignation of the Organisation's Accreditation and/or the Contract shall not prejudice any right of either party which may have arisen on or before the date of termination.
- 19.6 Termination or resignation of its Accreditation by the Organisation will automatically terminate those Accreditations that require or are dependant on the continued existence of the terminated Accreditation.

## 20. Data Protection Notice

- 20.1 INAB may collect information, including personal data (within the meaning of the Data Protection Legislation) from the Organisation in connection with the Application. Such information may include details in relation to the Organisation's employees, including details of qualifications, training records and contracts of employment. This information may be used by INAB for the purposes of assessing the Application and for all purposes which are reasonably incidental to the administration of the Accreditation and/or for the purposes of INAB's functions including exercising its rights and performing its obligations under the Contract including, without limitation, any granting, renewal, withdrawal or suspension of the Accreditation. Such information may also be used for INAB's internal procedures or obligations to, including as a division of the Health and Safety Authority, or for its obligations to government departments/public authorities or other accreditation bodies or associations. INAB will retain such information, in accordance with its record retention policy, only for as long as required for the purposes described above.
- 20.2 INAB reserves the right to disclose your information to such third parties acting on its behalf as may be reasonably necessary in connection with the purposes described at clause 20.1 above, including to its employees, agents, or sub-contractors or government departments/public authorities or other accreditation bodies or associations. INAB will only disclose information to such third parties as strictly necessary in connection with the purposes described at clause 20.1 above.
- 20.3 To the extent that the information the Organisation provides to INAB is comprised of personal data relating to identifiable living individuals, the Organisation agrees to inform and obtain the consent of such individuals of the uses and disclosures of personal data referred to in this notice. The Organisation further agrees to inform them that they are entitled to access a copy of their personal data and to have any inaccurate or misleading data amended or erased by writing to INAB at: *INAB administration, Metropolitan Building, James Joyce Street, Dublin 1.*

## 21. Complaints

- 21.1 If the Organisation has a complaint in respect of any matter relating to INAB's performance of its functions under the Contract, other than a decision by INAB not to grant Accreditation to the Organisation or an extension to the scope of the Organisation's

Accreditation or to grant a more limited scope of Accreditation than that applied for by the Organisation or to suspend or terminate the Organisation's Accreditation or not to renew or re-instate the Organisation's Accreditation, for which the Appeal process in clause 11 of these Terms and Conditions is designed, the Organisation may address a complaint to INAB which will be dealt with in accordance with its then current procedures in relation to complaints which are available on INAB's website, or will be furnished by INAB in hard copy upon request.

**22. Nature and Limits of Accreditation**

22.1 The fact of Accreditation does not relieve the Organisation of the necessity of obtaining any regulatory approval that may be necessary to carry out the accredited activities or of satisfying any legal obligation that may be on the Organisation in respect of the accredited activities.

**23. Notices**

23.1 Any notice served under the Contract shall be sufficiently served if sent by recorded post or fax to the last known place of business of the addressee. Proof of recorded dispatch in the case of recorded post and receipt of a successful transmission report in the case of a facsimile transmission shall be conclusive evidence of receipt of the notice by the addressee.

**24. Governing Law & Jurisdiction**

24.1 The Contract shall be governed by and construed in accordance with the laws of Ireland and, without prejudice to clause 11 hereof, the parties hereto submit to the jurisdiction of the Irish courts for the resolution of disputes hereunder.

**25. Unenforceability**

25.1 In the event of any clause of the Contract or any part thereof being rendered void or unenforceable by any rule of law or any decision of an administrative body or court of competent jurisdiction, or in the event of any such clause or part of a clause being rendered or deemed to be a breach of any obligation owed by INAB to any statutory body, government department or international accreditation body, the clause or relevant part thereof shall be void or unenforceable to the extent only that it breaches the relevant law, decision, rule or regulation and no further. In such circumstances the infringing clause or part thereof shall apply with such modification as would be necessary to make it valid and effective.

**26. Waiver**

26.1 No relaxation, forbearance, delay or indulgence by either party in enforcing any of the terms and conditions of the Contract the granting of time by either party to the other shall prejudice, affect, or restrict the rights and powers of that party under the Contract nor shall any waiver by either party of any breach of the Contract operate as a waiver of or in relation to any subsequent or any continuing breach of the Contract.