

Terms and Conditions of Engagement of Assessors



1. Assessor's Obligations

- A. The Assessor undertakes to perform its obligations arising from the Agreement with due care, skill and diligence in the provision of the Services and generally in the carrying out of its obligations under the Agreement and in the appointment, supervision, monitoring and retention of its employees, agents, [Key Personnel] and subcontractors. The Assessor shall require its employees, agents, [Key Personnel] and subcontractors to exercise due care, skill and diligence in the provision of Services and generally in the carrying out of obligations allocated by the Assessor under the Agreement. In particular, the Assessor is advised of the Code of Conduct for Assessment Teams.
- B. The Assessor warrants that he will use his best endeavours to perform the Services in a manner consistent with the statutory purposes and functions of the Authority as INAB (hereafter INAB, the Client) and in accordance with the objectives and interests of the Client.
- C. In consideration of the payment of the Charges and subject to clause 4 the Assessor shall:
1. provide the Services according to Schedule A and in accordance with the Client's written directions and the terms of the Agreement;
 2. comply with and implement any policies, procedures, guidelines and/or any project governance protocols issued by the Client from time to time and notified to the Assessor;
 3. comply with all local security arrangements as notified to it by the Client;
 4. provide the Services in accordance with good industry practice and comply with all applicable laws with particular but not exclusive regard to the requirements of the Safety Health and Welfare at Work Act 2005, the General Data Protection Regulation (Regulation (EU) 2016/679) and any implementing legislation including the Data Protection Act 2018 ("Data Protection Law"), the Freedom of Information Act 2014 and employment legislation. The Assessor will be responsible for compliance with all statutory requirements of an employer, and without prejudice to the generality of the foregoing shall be solely responsible in law for the employment, remuneration, taxes, immigration and work permits of all personnel retained for the purposes of complying with the Agreement;
 5. provide the Services in accordance with any health and safety requirements or regulations in force at the site(s) where the Services are to be performed;
 - 6.(i) The Assessor shall provide, at its own cost, all equipment and materials ("Equipment") necessary for the provision of the Services including all necessary health and safety equipment/personal protective equipment

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- 6.(ii) required by applicable law and regulations relating to Health and Safety (“Equipment”), except where supplied onsite.

All Equipment required by or used by the Assessor for the provision of the Services shall be operated at the Assessor’s own risk and the Client shall have no liability for any loss of or damage to any Equipment, or any loss, damage or injury resulting from the use or operation of such Equipment.

- 6.(iii) The Assessor shall indemnify and keep indemnified the Client for and in respect of any losses, claims, demands, damages or expenses which the Client may suffer arising from damage or injury to any person, property or premises as a result of the operation or use of the Equipment.

- D. The Assessor is the prime contractor under the Agreement and the Assessor assumes full responsibility for the delivery of the Services and shall assume all the duties, responsibilities and obligations associated with the position of prime contractor.
- E. During the Agreement the Assessor shall be an independent contractor and not the employee of the Client. Neither Party shall have any authority to bind or commit the other. Nothing herein shall be deemed or construed to create a joint venture, partnership, and/or fiduciary or other relationship between the Parties for any purpose. The officers, employees, agents, [Key Personnel], or sub-contractors of the Assessor are not and shall not hold themselves out to be (and shall not be held out by the Assessor as being) servants or agents of the Client for any purposes whatsoever. The Assessor acknowledges that no relationship of employment arises pursuant to the Agreement and that the Client will have no employers’ liability in respect of any matter arising from the supply of the Services by the Assessor.
- F. The Assessor shall indemnify and keep indemnified the Client against any claim (including but not limited to, a claim for income tax, PRSI (employees contribution), Universal Social Charge or any other income tax levy BUT EXCLUDING any interest or penalties comprised in any such claim or any costs or expenses incurred in defending such claim) which may be made against the Client arising out of a determination that the Assessor or any of its officers, agents, servants, employees, [Key Personnel] or sub-contractor is/are actually an employee of the Client. The Assessor’s liability under the said indemnity shall be reduced by the amount of any deduction made by the Client in respect of the Assessor’s income tax liability (including, for example, any amounts deducted by the Client as Professional Services Retention Tax).
- G. Nothing in the Agreement shall give the Assessor the right to make any reference whatsoever to the Client [or INAB] in any literature or document in any form or medium other than for the purposes of communications of notices pursuant to the Agreement [or for the Assessor’s internal management and/or administrative purposes.]

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2. Delivery of the Services

The Assessor shall provide the Services at the time(s), to the location(s) and on the date(s) specified in Schedule A or otherwise agreed in writing between the Parties in accordance with clause 11.

3. Key Personnel

The Assessor undertakes and acknowledges that it is responsible for ensuring that all key personnel as specified in Schedule A ("Key Personnel"), assigned by it to provide the Services shall be available for the term of the Agreement. The Assessor acknowledges that the Key Personnel are essential to the proper provision of the Services to the Client. In the event that any of the Key Personnel assigned by the Assessor to provide the Services under the Agreement becomes unable to provide the Services for whatever reason then, the Assessor acknowledges and undertakes that it shall immediately notify the Client in writing of the inability of any Key Personnel and replace that person with a person of equivalent experience and expertise ("Replacement Personnel"). The Assessor shall provide to the Client such details as the Client may reasonably require in writing regarding any Replacement Personnel. The Client shall have absolute discretion as to the suitability of any proposed Replacement Personnel.

4. Payment

- A. Subject to the provisions of this clause 4 the Client shall pay and discharge the Charges (plus any applicable VAT). Invoices for the Charges and reimbursement of expenses must be completed within 30 days of completion of the Services.
- B. Discharge of the Charges is subject to:
1. Compliance by the Assessor with the provisions of the Agreement including but not limited to any milestones, compliance schedules and/or operational protocols in place pursuant to clause 11A from time to time;
 2. The furnishing by the Assessor of a valid invoice and such supporting documentation as may be required by the Client from time to time. Any Assessor pre-printed terms and conditions are hereby disallowed;
 3. Invoices for the Charges and reimbursement of expenses under the Agreement being submitted to the Client's Contact. All and any queries relating to the invoice and/or the Services for any billing period (including whether or not Services have been accepted, rejected, satisfactorily re-performed or as the case may be) must be raised by the Client's Contact within 14 calendar days of receipt of invoice. In circumstances where no queries are raised within the said 14 day period the invoice shall be deemed accepted. Upon resolution of any queries on the invoice to the satisfaction of the Client or upon such deemed acceptance the invoice shall be payable by the Client. Payment is subject to any rights reserved by the Client under

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Clause 4B.4; and

4. The Client being in possession of the Assessor's current Tax Clearance Certificate. The Assessor shall comply with all EU and domestic taxation law and requirements including but not limited to the terms of Circular 43/2006 issued by the Department of Finance, a copy of which is available at www.finance.gov.ie. The Assessor may supply the certificate and registration numbers, as they appear on the Tax Clearance Certificate, to facilitate on-line verification of their tax status by the Client.
- C. The provisions of the S.I. No. 580/2012 - European Communities (Late Payment in Commercial Transactions) Regulations 2012 apply to the Agreement. Incorrect invoices will be returned for correction with consequential effects on the due date of payment.
 - D. Wherever under the Agreement any sum of money is recoverable from or payable by the Assessor (including any sum which the Assessor is liable to pay to the Client in respect of any breach of the Agreement), the Parties may agree to deduct that sum from any sum then due, or which at any later time may become due to the Assessor under the Agreement or under any other agreement or contract with the Client. Any overpayment by either Party, whether of the Charges or of VAT or otherwise, shall be a sum of money recoverable by the Party who made the overpayment from the Party in receipt of the overpayment.
 - E. The Client (subject to the provisions of this clause 4) shall reimburse the Assessor's vouched expenses actually, properly and necessarily incurred in the supply of the Services, reimbursement of such expenses to be made in accordance with the criteria set out in Schedule A hereto. The decision of the Client on the propriety and necessity of any expenditure and on the admissibility of any claim for reimbursement thereof will be final and conclusive.
 - F. Charges shall be discharged as provided for in this clause subject to the retention by the Client in accordance with clause 523 of the Taxes Consolidation Act, 1997 of any withholding taxes payable to the Assessor. Any and all taxes applicable to the provision of the Services will be the sole responsibility of the Assessor and the Assessor so acknowledges and confirms.
The Client will retain Professional Services Withholding Tax on all expense and fee items at a rate of 20%. The PSWT is fully refundable from the Irish Revenue Service at www.revenue.ie
 - G. The Client will pay all invoices in Euro currency. Expenses incurred in other currencies shall be converted to Euro at the time sustained using the exchange weblink provided for in the INAB CRM IT system.

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5. Warranties, Representations and Undertakings

- A. The Assessor represents and warrants that he/she:
1. has the authority and right under law to enter into, and to carry out its obligations and responsibilities under the Agreement and to provide the Services hereunder;
 2. is entering into the Agreement with a full understanding of its material terms and risks and is capable of assuming those risks;
 3. is entering into the Agreement with a full understanding of its obligations with regard to taxation, employment and environmental protection and is capable of assuming and fulfilling those obligations;
 4. has acquainted him/herself with and shall comply with all legal requirements or such other laws, recommendations, guidance or practices as may affect the provision of the Services as they apply to the Assessor;
 5. has taken all and any action necessary to ensure that it has the power to execute and enter into the Agreement;
 6. is fully aware of the professional and technical qualifications required to carry out the Services;
 7. is, and any of its employees, agents, [Key Personnel], and subcontractors engaged by the Assessor in the course of performing the Services is/are, possessed of the requisite qualifications and are collectively capable of performing all the tasks defined expressly or implied in Schedule A;
 8. is a fit and proper person to perform the Services and that each of the employees, agents, [Key Personnel], and subcontractors engaged by the Assessor in the course of performing the Services is a fit and proper person to perform the Services;
 9. has fully answered all the questions put to the Assessor by the Client and has fully disclosed to the Client all matters known to the Assessor which might reasonably have influenced the Client in deciding whether to enter this Agreement;
 10. it owns, has obtained or is able to obtain, valid licences for all Intellectual Property Rights (as defined in clause 7 below) that are necessary for the performance of its obligations under the Agreement and for the Client to obtain the benefit of the Services for its business purposes; and
 11. it retains and shall maintain for the Term the following insurances:
 - i) Employers liability insurance:

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ii) Professional indemnity insurance :

iii) Public liability insurance:

The Assessor undertakes to advise the Client forthwith of any material change to its insured status, to produce proof of current premiums paid upon written request and where required produce valid certificates of insurance for inspection. The Assessor shall carry out all directions of the Client with regard to compliance with this clause 5A.11.

B. The Assessor undertakes to notify the Client forthwith of any material change to the status of the Assessor with regard to the warranties, representations and undertakings as set out at clause 5A and to comply with all reasonable directions of the Client with regard thereto which may include termination of the Agreement.

6. Remedies

A. The Assessor shall be liable for and shall indemnify the Client for and in respect of all and any losses, claims, demands, damages or expenses which the Client may suffer due to and arising directly as a result of the negligence, act or omission, breach of contract, breach of duty, insolvency, recklessness, bad faith, wilful default or fraud of the Assessor, its employees, agents, [Key Personnel] and/or subcontractors, or any of them or as a result of the Assessor's failure to exercise care as outlined in clause 1. The terms of this clause 6A shall survive termination of the Agreement for any reason.

B. Save in respect of fraud (including fraudulent misrepresentation), personal injury or death, neither Party will be liable for any consequential or indirect losses (including loss of profit, loss of revenue, loss of goodwill, indirectly arising damages, costs and expenses) of any kind whatsoever and howsoever arising even if such Party has been advised of their possibility.

C. Should the Client find itself obliged to order elsewhere in consequence of the failure of the Assessor to deliver Services, the Client shall be entitled to recover from the Assessor any excess prices which may be paid by the Client.

D. The Assessor shall not admit liability nor settle any claim nor incur any costs or expenses in connection with any claim without the prior written consent of the Client.

E. In respect of the Services supplied under the Agreement, the Assessor shall give the Client notice in writing immediately or as soon as practicable, of:

a) any claim made against the Assessor;

b) the receipt of notice from any party of an intention to make a claim against the Assessor;

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- c) any event which has happened which may give rise to a claim;
 - d) any reasonable suspicion the Assessor may have that the claim might be made against him.
- F. Except as otherwise expressly provided by the Agreement, all remedies available to either Party for breach of the Agreement are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

7. Intellectual Property Rights

- A. Intellectual Property Rights (“IPR”) means all patents and patent rights, trademarks and trademark rights, trade names and trade name rights, service marks and service mark rights, service names and service name rights, brand names, copyrights and copyright rights, trade dress, business and product names, logos, slogans, trade secrets, industrial models, utility models, designs, rights in confidential information, know-how, rights in the nature of unfair competition rights and rights to sue for passing off, and all pending applications for and registrations of patents, trademarks, service marks, and copyrights together with all connected and similar or analogous rights in any country or jurisdiction for the full term thereof.
- B. Pre-existing IPR means all IPR existing prior to the date of the Agreement and all IPR in any materials, acquired or developed by or for Assessor or Client independently of the Agreement, and any IPR in Assessor’s standard hardware and software products or modifications or updates to such products.
- C. All IPR title and interest in all reports, data manuals and/or other materials (other than software) (including without limitation all and any audio or audio visual recordings, transcripts, books, papers, records, notes, illustrations, photographs, diagrams) produced for the purposes of the Agreement (collectively “the Materials”) (or any part or parts thereof) shall vest in the Client and the Assessor so acknowledges and confirms. For the avoidance of doubt the Assessor hereby assigns all IPR, title and interest in the Materials (including by way of present assignment of future copyright) to the extent that any such IPR title or interest may be deemed by law to reside in the Materials to the Client absolutely.
- D. The Client grants to the Assessor a royalty-free non-exclusive licence to use the Client’s Pre-existing IPR for the Term to the extent necessary to enable the Assessor to fulfil its obligations under the Agreement. Save as expressly set out in this clause 7 all Pre-Existing IPR shall remain the sole property of the party who owned, acquired or developed such IPR.
- E. The Assessor shall waive or procure a waiver of any moral rights subsisting in copyright produced under or in performance of the Agreement.
- F. Nothing in the Agreement shall prohibit or be deemed to prohibit the Assessor from

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providing services similar to the Services to any party other than the Parties hereto. In no event shall the Assessor be precluded from independently developing for itself, or for others, materials which are competitive with, or similar to, the Services and to use its general knowledge, skills and experience, and any ideas, concepts, know-how, formats, templates, methodologies and techniques that are acquired or used in the course of providing the Services.

- G. Upon the termination of the Agreement for whatever reason, the Assessor shall immediately deliver up to the Client all the Materials prepared up to the date of termination. As an exception to its obligations under this clause 7G the Assessor may retain one copy of the Materials, in paper form, in the Assessor's legal files for the purpose of and only to the extent necessary for ensuring compliance with its obligations under the Agreement. The provisions of this clause 7 will survive the expiration or termination of the Agreement for any reason.

8. Confidentiality

- A. 1 The Assessor acknowledges that Confidential Information may be provided to them by the Client [and/or INAB] and that each item of Confidential Information shall be governed by the terms of the Agreement.
- 2 "Confidential Information" means:
- a) unless specified in writing to the contrary by the Client all and any information (whether in documentary form, oral, electronic, audio-visual, audio recorded or otherwise including any copy or copies thereof and whether scientific, commercial, financial, technical, operational or otherwise) relating to the provision of the Services and or relating to the Client an all and any information supplied or made available to the Assessor (to include employees, agents, [Key Personnel], subcontractors, customers and suppliers) for the purposes of the Agreement or any information which the Assessor (to include employees, [Key Personnel], agents, subcontractors, customers and suppliers) has exposure to in the course of performing the Agreement; and
 - b) any and all information which has been derived or obtained from information described in sub-paragraph 8A.2.(a).
- B Save as may be required by law (or any statutory regulation or order having the force of law) or for the purpose of any proceedings in court or any tribunal of fact or law, or by order, request, regulation of any person or body or authority with whose order or requests the Assessor is obliged to comply, the Parties agree in respect of the Confidential Information:
- a) to treat such Confidential Information as confidential and to take all necessary steps to ensure such that such confidentiality is maintained;
 - b) not, without the Client's prior written consent, to communicate or disclose any part of such Confidential Information to any person except:

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- i) to those employees, agents, subcontractor and other suppliers on a need to know basis; and/or
- ii) to the Assessor's auditors, professional advisors and any other persons or bodies having a legal right or duty to have access to or knowledge of the Confidential Information in connection with the business of the Assessor; and/or

Provided always that the Assessor shall ensure that all such persons and bodies are made aware, prior to disclosure, of the confidential nature of the Confidential Information and that they owe a duty of confidence to the Client, and shall use all reasonable endeavours to ensure that such persons and bodies comply with the provisions of the Agreement.

- C. The obligations in the Agreement will not apply to any Confidential Information:
1. in the Assessor's possession (with full right to disclose) before receiving it from the Client; or
 2. which is or becomes public knowledge other than by breach of this clause 8; or
 3. is independently developed by the Assessor with access to or use of the Confidential Information;
 4. is lawfully received from a third party (with full rights to disclose); or
 5. in the case of the Client by request of any person or body or authority whose request the Client or persons associated with the Client (including but not limited to the Legislature and/or the Executive and/or the Civil Service) considers it necessary or appropriate to so comply.
- D. Upon termination of the Agreement, for whatever reason, the Assessor shall, furnish to the Client, all Confidential Information or at the written direction of the Client to destroy in a secure manner all (or such part or parts thereof as may be identified by the Client) Confidential Information in its possession and shall erase any Confidential Information held by the Assessor in electronic form. The Assessor will upon request furnish a certificate to that effect should the Client so request in writing. As an exception to its obligations under this clause the Assessor may retain one copy of the Confidential Information, in paper form, in the Assessor's legal files for the purpose of ensuring compliance with its obligations under the Agreement. For the avoidance of doubt "document" includes documents stored on a computer storage medium and data in digital form whether legible or not.
- E. The Assessor shall not obtain any proprietary interest or any other interest whatsoever in the Confidential Information furnished to him by the Client and the

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Assessor so acknowledges and confirms.

- F. The Client's duties regarding confidentiality are subject to its obligations under law (or any statutory regulation or order having the force of law) including the Freedom of Information Act 2014, EU and Irish Government Procurement Procedures or any requirement for the Client to respond to questions, debates or other parliamentary procedures in or of the Oireachtas (the Irish Parliament), and the Client accepts no liability whatsoever in respect of information supplied by the Assessor (or the Assessor's employee's, agents, [Key Personnel], or sub-contractors)] which is subsequently released in accordance with this clause 8.F.
- G. In circumstances where the Client is subject to the provisions of the Freedom of Information Act, 2004, then in the event of the Client receiving a request for information related to the Agreement, the Client may consult with the Assessor in respect of the request. If consulted, the Assessor shall identify any information that is not to be disclosed on grounds of commercial sensitivity, and shall state the reasons for this sensitivity. The Client may consult the Assessor about this commercially sensitive information before making a decision on any Freedom of Information request received. The final decision on disclosure rests with the Office of the Information Commissioner and ultimately, the courts.
- H. Any theft or loss of Confidential Information shall be reported to the Client. Where appropriate, any such theft or loss should also be reported to An Garda Síochána.
- I. The terms of this clause 8 shall survive expiry, completion or termination for whatever reason of the Agreement.
- J. INAB is part of the Health and Safety Authority and as such the legal requirements of the Safety, Health and Welfare at Work Act 2005 apply; specifically section 73 (73.— (1) *Save as otherwise provided by law and subject to subsection (2), a person shall not, unless duly authorised by the Authority, disclose confidential information obtained by the person while performing or as a result of performing any functions as— (a) a member of the Authority, (b) a member of the staff (including the Chief Executive) of the Authority, (c) a member of an advisory committee, or (d) a consultant or adviser to the Authority or an employee of such person) and section 77 ((7) A person who contravenes section 73 commits an offence).*

9. Data Protection

- A. The Assessor acknowledges that in performing its obligations under this Agreement the Assessor may process Personal Data, as defined in Data Protection Law, on behalf of INAB. In such circumstances, the Assessor acknowledges that INAB is the controller and the Assessor is a processor, as each term is defined in Data Protection Law, and the Assessor agrees that:

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- the Assessor shall process personal information in relation to employees of the Organisation that is the subject of the assessment, which may include details in relation to employees' job titles, roles, qualifications, work experience, and training records on behalf of INAB in the context of performing its obligations under, and for the duration of, this Agreement. The obligations and rights of INAB shall be as set out in this Agreement;
- the Assessor shall process such Personal Data only in accordance with the documented instructions of INAB, including with regard to transfers of Personal Data to a third country and solely as strictly necessary for the performance of its obligations under this Agreement;
- the Assessor shall ensure that the persons authorised by the Assessor to process such Personal Data are bound by confidentiality obligations consistent with the Assessor's obligations under Data Protection Law;
- the Assessor shall implement such technical and organisational security measures as are required to comply with the data security obligations under Data Protection Law;
- the Assessor is authorised to engage sub-processors to undertake processing on its behalf, provided that it provides INAB with prior notice in writing containing details of the sub-processors that it engages and informs INAB of any intended changes concerning the addition or replacement of such sub-processors and provides INAB with a reasonable opportunity to object to such changes;
- where any sub-processor of the Assessor will be processing such Personal Data on behalf of INAB, the Assessor shall ensure that a written contract exists between the Assessor and the sub-processor containing clauses equivalent to those imposed on the Assessor in this clause. In the event that any sub-processor fails to meet its data protection obligations, the Assessor shall remain fully liable to INAB for the performance of the sub-processor's obligations;
- the Assessor shall inform INAB immediately in the event of receiving a request from a data subject to exercise the subject's rights under Data Protection Law and shall provide such co-operation and assistance as may be required to enable INAB to deal with such request in accordance with the provisions of Data Protection Law;
- the Assessor shall assist INAB by implementing appropriate technical and organisational measures to allow INAB to comply with requests from data

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subjects to exercise their rights under Data Protection Law;

- the Assessor shall assist INAB in ensuring compliance with applicable obligations in respect of security of Personal Data under Data Protection Law;
- the Assessor shall: (i) at the choice of INAB, delete or return all such Personal Data to INAB when the Assessor ceases to provide services relating to data processing; and (ii) delete all existing copies of such Personal Data unless EU law or the laws of an EU Member State require storage of the Personal Data;
- the Assessor shall: (i) make available to INAB all information necessary to demonstrate compliance with the obligations laid down in this clause; and (ii) allow for and assist with audits, including inspections, conducted by INAB or another party mandated by INAB, in order to ensure compliance with the obligations laid down in this clause, including its data security obligations under Data Protection Law, provided however that INAB shall be entitled, at its discretion, to accept adherence by the Assessor to an approved code of conduct or an approved certification mechanism to aid demonstration by the Assessor that it is compliant with the provisions of this clause;
- the Assessor shall inform INAB immediately if, in its opinion, it receives an instruction from INAB which infringes Data Protection Law;
- the Assessor shall notify INAB without undue delay, and in any event within twenty-four (24) hours, after becoming aware of any breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, such Personal Data and shall provide INAB with such co-operation and assistance as may be required to mitigate against the effects of, and comply with any reporting obligations which may apply in respect of, any such breach; and
- no such Personal Data shall be transferred outside of the European Economic Area by the Assessor or any of its agents or sub-processors without the prior written consent of INAB, which consent may be subject to terms and conditions (including, without limitation, that the data importer enters into model clauses in the form approved by the European Commission and, where relevant, complies with the provisions regarding sub-processors contained in such model contracts in respect of any sub-processors). The Assessor shall comply with the requirements of Data Protection Law in respect of transfers of such Personal Data outside the European Economic Area, to the extent that INAB consents to any

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such transfer.

- B. INAB may from time to time in the course of administering its business and exercising its legal obligations in connection with this Agreement, need to process personal data relating to Assessors. INAB will process such personal data in accordance with Data Protection Law. Further details in relation to what personal data is collected in relation to Assessors, and the purposes for which such data are used and may be disclosed by INAB are set out in the Data Protection Notice for Assessors, a copy of which is attached.

10. Force Majeure

- A. A 'Force Majeure Event' means an event or circumstance or combination of events and/or circumstances not within the reasonable control of the Affected Party (as defined in clause 9B below) which has the effect of delaying or preventing that Party from complying with its obligations under the Agreement including but not limited to acts of God, war, out-break of disease, insurrection, riot, civil disturbance, rebellion, acts of terrorism, government regulations, embargoes, explosions, fires, floods, tempests, or failures of supply of electrical power, or public telecommunications equipment or lines, excluding industrial action of whatever nature or cause (strikes, lockouts and similar) occurring at the Assessor (or subcontractor or agent) places of business.
- B. In the event of any failure, interruption or delay in the performance of either Party's obligations (or of any of them) resulting from any Force Majeure Event, that Party ("the Affected Party") shall promptly notify the other Party in writing specifying:
1. the nature of the Force Majeure Event;
 2. the anticipated delay in the performance of obligations;
 3. the action proposed to minimise the impact of the Force Majeure Event;
- and the Affected Party shall not be liable or have any responsibility of any kind for any loss or damage thereby incurred or suffered by the other Party; provided always that the Affected Party shall use all reasonable efforts to minimise the effects of the same and shall resume the performance of its obligations as soon as reasonably possible after the removal of the cause.
- C. Without prejudice to the Parties' respective rights under Clause 10, if the Force Majeure Event continues for 14 calendar days either Party may terminate at 14 days' notice.
- D. In circumstances where the Assessor is the Affected Party, the Client shall be relieved from any obligation to make payments under the Agreement save to the extent that payments are properly due and payable for obligations actually fulfilled

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by the Assessor in accordance with the terms and conditions of the Agreement.

11. Termination

- A. Notwithstanding the provisions of clause 12 and subject to the provisions of sub-clause 10B, the Agreement may be terminated by the Client by serving 10 calendar day written notice to the Assessor. For greater certainty, neither Party shall be entitled to any additional amounts or compensation in the event that the Agreement is terminated in accordance with this clause 10A.
- B. Either Party shall have the right (in addition to any other rights which it has at law) to terminate the Agreement immediately and without liability for compensation or damages on the happening of any of the following:
1. if the other Party commits any serious breach or a series of breaches of any provision of the Agreement and fails to remedy such breach(es) (if the breach(es) are capable of remedy) within 30 days after receipt of a request in writing from the other Party;
and/or
 2. if the other Party becomes insolvent, becomes bankrupt, is wound up, commences winding up, has a receiving order made against it, makes any arrangement with its creditors generally or takes or suffers any similar action as a result of debt, or an event having an equivalent effect.
 3. the Assessor engages in any conduct or activity which, in the reasonable opinion of the Client, is incompatible with the proper discharge of its duties under the Agreement.
 4. the Assessor becomes engaged or interested, whether directly or indirectly, in any capacity in the trade or business activities of any person, firm or company which has an interest in any organisation eligible for accreditation and/or GLP Compliance by the Client.
 5. the Assessor fails to perform his duties under clause 7 and 8 of the Agreement.

12. Contract Management

- A. The parties shall liaise on a regular basis to address any issues arising which may impact on the performance of the Agreement and to agree milestones, compliance schedules and operational protocols as required by the Client from time to time. If requested in writing by the Client the Assessor shall meet formally with the Client to report on progress and shall comply with all written directions of the Client.

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- B.** The Assessor agrees to:
1. liaise with and keep the Client fully informed of any matter which might affect the observance and performance of the Assessor's obligations, including the time scale of completion of the key components of the Services;
 2. comply with the reporting arrangements and protocols required by the Client from time to time;
 3. comply with all reasonable directions of the Client;
 4. Inform the Client in a timely manner of any conflicts of interest with the Organisation under assessment.

13. Disputes

Subject to clause 15A and to the Parties' respective rights to apply to the courts upon any cause of action at any time, the Parties shall seek to resolve any disputes between them, arising out of or relating in any way to the issues covered by the Agreement, amicably. The Parties may agree procedures and protocols for dispute resolution from time to time.

14. Governing Law, Choice of Jurisdiction and Execution

- A.** The Agreement shall in all aspects be governed by and construed in accordance with the laws of Ireland and the Parties hereby agree that the courts of Ireland have exclusive jurisdiction to hear and determine any disputes arising out of or in connection with the Agreement.
- B.** Each of the Parties to the Agreement confirms that the Agreement is executed by their duly authorised officers.

15. Notices

- A.** Any notice or other written communication to be given under the Agreement shall either be delivered personally or sent by registered post or email or facsimile transmission. The Parties may from time to time agree primary and alternative contact persons and details for the purposes of this clause 14.
- B.** All notices shall be deemed to have been served as follows:
1. if personally delivered, at the time of delivery;
 2. if posted by registered post, at the expiration of 48 hours after the envelope containing the same was delivered into the custody of the postal authorities (and not returned undelivered); and
 3. if communicated by email or facsimile transmission, at the time of

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acknowledgement of transmission.

- C. No purported termination of the Agreement shall have any effect unless it is properly made in accordance with this clause 15.

16. Interpretation

In the Agreement, words denoting the singular number shall include the plural number also and vice versa.

17. Assignment and Subcontract

The Assessor shall not subcontract, assign, transfer or otherwise convey the agreement, and all or any part of its rights or obligations without the prior written consent of the Client.

18. Variation

The Client reserves to right to modify details of the Agreement, Schedule A and the Terms and Conditions herein on giving 30 days' notice.

19. Entire Agreement

The Agreement constitutes the entire agreement and understanding of the Parties, and any and all other previous agreements, arrangements and understandings (whether written or oral) between the Parties with regard to the subject matter of the Agreement (save where fraudulently made) are hereby excluded.

20. Severability

If any term or provision herein is found to be illegal or unenforceable, then such term or provision shall be deemed severed and all other terms and provisions shall remain in full force and effect.

21. Waiver

No failure or delay by either Party to exercise any right, power or remedy shall operate as a waiver of it, nor shall any partial exercise preclude further exercise of same or some other right, power or remedy.

22. Non-exclusivity

Nothing in the Agreement shall preclude the Client from purchasing services (or Services) from a third party at any time during the currency of the Agreement.

23. Media

No media releases, public announcements or public disclosures relating to the Agreement or its subject matter, including but not limited to promotional or marketing material, shall be made by the Assessor without the prior written consent of the Client.

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24. Conflicts, Registrable Interests and Corrupt Gifts

- A. The Assessor warrants that it has carried out a conflicts of interest check and is satisfied that it has no conflicts in relation to the Services and its obligations undertaken under the Agreement including but not limited to any relationships with and/or shareholdings and any business or other interests held by the Assessor (and/or the Assessor's spouse/civil partner where the Assessor is a natural person), which may in any way be likely to, or be perceived to be likely to, affect the independence and objectivity of the assessments provided pursuant to the Agreement.
- B. The Assessor hereby undertakes to advise the Client forthwith should any conflict or potential conflict of interest arise during the currency of the Agreement and to comply with the Client's directions in respect thereof.
- C. [The Assessor warrants that it has made enquiries of its employees, agents, [Key Personnel] and subcontractors engaged in the course of providing the Services and is satisfied that no conflicts arise in relation to such parties or individuals which may in any way be likely to, or be perceived to be likely to, affect the independence and objectivity of the assessments provided pursuant to the Agreement.]
- D. Any shareholding, business or interests acquired by the spouse/civil partner of an Assessor (where the Assessor is a natural person) shall be treated as being acquired by the Assessor.
- E. The Assessor shall not offer or agree to give any public servant or civil servant any gift or consideration or commission of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of this or any other public contract. Any breach of this clause 21B or the commission of any offence by the Assessor, any subcontractor, agent or employee under the Prevention of Corruption Acts, 1889 to 2010 shall entitle the Client to terminate the Agreement forthwith and to recover the amount of any loss resulting from such cancellation, including but not limited to recovery from the Assessor of the amount or value of any such gift, consideration or commission.

25. Relevant Document

- A. Applicable assessment documentation is available on www.inab.ie
- B. On signing the contract for service, the Assessor shall be provided with secure login details to the INAB system.
- C. Irish Legislation referred to within this contract may be found at www.irishstatutebook.ie