

SCHEDULE 1

GENERAL TERMS & CONDITIONS – Medical Devices

DEFINITIONS

In these General Terms & Conditions, unless the context otherwise requires the following words and expressions shall have the following meaning:-

“**Affiliate**” of a person means any other person that directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with, such person.

“**Appeal**” means a request by the Client for reconsideration of any adverse decision made by NSAI related to the Client’s desired Certification status for the Subject Matter, as provided for in Clause 16.

“**Applicable Law**” means any law applicable to a Party and shall include without limitation, common law, statutes, statutory instruments, bye-laws, rules, codes, regulations, decisions, proclamations, notices, EU/EC directives and regulations, constitutions, instruments, rules of court, and also includes without limitation any regulatory requirements and/or constraints as may be imposed on the Parties from time to time including (without limitation) any regulations and procedures and requirements of any relevant governmental bodies relating to the performance or receipt of the Certification Services.

“**Application**” or “**RFQ**” means a request made by the Client in relation to Certification including, by way of a request for quotation, an application for Certification, an application for extension to Certification, and where relevant an application for renewal or reinstatement of Certification.

“**Certificate**” means a certificate which may be issued to the Client by NSAI pursuant to Clause 5 to confirm that the Subject Matter fulfils the requirements of the Relevant Scheme/Standard and “**Certification**” shall be construed accordingly.

“**Certification Criteria**” means the criteria specified in the Relevant Scheme/Standard to be complied with by the Subject Matter in order to qualify for the Certification sought or held including, without limitation, any relevant standards, guidelines or laws.

“**Certification Mark**” means any trade mark, certification mark, conformity assessment mark, design or device owned or controlled by NSAI to identify itself or a Relevant Scheme/Standard which the Client may be permitted by NSAI to use in respect of the Subject Matter pursuant to this Contract.

“**Certification Services**” means the conformity assessment services including any assessments, evaluations, audits or surveillance activities described in Schedule 2 (Special Terms & Conditions) which are to be provided by NSAI (remotely or otherwise) pursuant to this Contract.

“**Client**” means the applicant for or the holder of Certification as identified in the Application and Quotation Letter, and any Affiliate of the Client that is listed in an Application.

“**Contract**” means the Application/RFQ and the Quotation Letter as signed by both Parties, including these General Terms and Conditions and the Special Terms and Conditions (in Schedule 2), as may be amended from time to time, in accordance with the terms of this Contract.

“**Control**” means, in relation to a person, the power (whether direct or indirect) to direct or cause the direction of its affairs, whether by means of holding shares, possessing voting power, exercising contractual powers or otherwise.

“**Data protection Legislation**” means all laws relating to processing of personal data and privacy, including (but not limited to) the Data Protection Acts 1988 to 2018, the General Data Protection Regulation (the GDPR), the Electronic Communications Data Protection Directive (2002/58/EC), the

European Communities (Electronic Communications Networks and Services)(Privacy and Electronic Communications) Regulations 2011 and all applicable Irish laws and regulations relating to the processing of personal data and privacy, including (where applicable) any amending and replacing legislation and the guidance and codes of practice issued by the Data Protection Commission and all applicable similar or related legislation in any competent jurisdiction and Controller, Processor, Data Subject, Personal Data, Personal Data Breach, Processing and Appropriate Technical and Organisational Measures are as defined in the Data Protection Legislation and Process shall be constructed accordingly.

"Fees" means the fees payable by the Client to NSAI in consideration for the provision of the Certification Services, pursuant to this Contract.

"IPR" means any and all intellectual property rights of any nature anywhere in the world whether registered, registrable or otherwise, including patents, utility models, trade-marks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how and any other intellectual property rights which subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the "look and feel" of any websites.

"NSAI" means The National Standards Authority of Ireland as established by the National Standards Authority of Ireland Act of 1996.

"NSAI Brand Guidelines" means the guidelines relating to the use of NSAI logo(s) referred to in the Appendix.

"NSAI Personnel" means any employee, officer, agent or servant of NSAI, including for the avoidance of doubt any independent contractor engaged by NSAI to assist in the provision of the Certification Services to the Client.

"Parties" means the Client and NSAI and a 'Party' means either one of them.

"Quotation Letter" means the letter issued by NSAI to the Client following an Application by the Client (which the Client and NSAI have signed and which forms part of this Contract).

"Relevant Scheme/Standard" means the scheme/standard and/or Applicable Law against which NSAI provides certification in respect of the Subject Matter pursuant to this Contract, as more particularly specified in the Quotation Letter and/or Schedule 2 (Special Terms and Conditions).

"Subject Matter" means a specific product, process, service, material, system or technique which is the subject of an Application.

"Working Day" means a day other than a Saturday, Sunday or a public holiday or bank holiday in Ireland.

Interpretation

1. The headings in these General Terms & Conditions are for convenience only and shall not affect the interpretation or construction hereof.
2. Unless the context otherwise requires, a reference to any clause, sub-clause or appendix is to a clause, sub-clause or appendix (as the case may be) of or to these General Terms & Conditions.
3. Any reference to a Schedule is to a schedule to the Quotation Letter. Any reference to an Appendix is to an appendix to these General Terms and Conditions.

4. In the event of any conflict or inconsistency between the documentation comprising this Contract, the following order of precedence shall apply:
 1. Quotation Letter
 2. Special Terms & Conditions
 3. General Terms & Conditions
 4. RFQ/Application
5. Any reference to a 'person' shall be construed as a reference to any individual, firm, company, corporation, undertaking, government, state or agency of a state, or any association or partnership (whether or not having separate legal personality).
6. References to any statute or other similar legislative instrument shall be construed as a reference to the statute or instrument as amended, modified, consolidated or extended.
7. The singular includes the plural and vice versa.

1 COMMENCEMENT

- 1.1 This Contract shall commence upon the date that the Client returns the signed Quotation Letter to NSAI.
- 1.2 This Contract shall continue in full force and effect until it is terminated in accordance with the provisions hereof.
- 1.3 It is acknowledged that more than one Certificate may be granted by NSAI to the Client under this Contract and that the Contract may be extended with the agreement of both Parties.

2 NSAI'S FUNCTIONS AND SERVICES

- 2.1 The Certification Services to be provided by the NSAI to the Client in respect of the Subject Matter are set out in this Contract and are more fully described in the Quotation Letter and in Schedule 2 (Special Terms & Conditions). Subject to compliance by the Client with this Contract, NSAI will:
 - (a) assess and evaluate the Client's application for Certification in respect of the Subject Matter against the Certification Criteria; and
 - (b) grant Certification, where, in the sole opinion of NSAI, the Subject Matter meets the Certification Criteria considered relevant by NSAI and the Client otherwise complies with this Contract and any other conditions or requirements that NSAI considers appropriate.
- 2.2 The Certification Services shall be provided on a non-exclusive basis and in accordance with Applicable Law and the Certification Criteria. The Client acknowledges and agrees that the Certification Services may be performed by NSAI remotely, at the discretion of the NSAI, and the Client shall fully co-operate with the NSAI so as to facilitate remote provision of the Certification Services. Such co-operation includes but is not limited to the Client providing NSAI Personnel with live video feed.
- 2.3 NSAI has endeavoured to estimate time and costs for the provision of Certification Services in the Quotation Letter and reserves the right to amend arranged time schedules where appropriate for the proper provision of the Certification Services. Where time schedules are amended, NSAI shall not be held liable for any loss, cost or expense arising to the Client or any other person from any non-compliance with or amendment of the time schedules.
- 2.4 NSAI may, subject to the requirement to give reasonable notice in writing to the Client, make such changes to the provisions of these General Terms and Conditions as it deems

appropriate. The amendments to the Contract shall be binding once signed by both Parties and the Client agrees to promptly provide a signed agreement to NSAI. In circumstances where the Client does not accept such amendments to the Contract, it shall have the right to terminate this Contract with the provision of 14 (fourteen) days' written notice to NSAI.

- 2.5 NSAI may amend the Certification Criteria initially specified in any particular case at any time during the period of assessment of the relevant Application or during the currency of any existing Certification on the basis that the requirements of Applicable Law, national or international standards or guidelines or schemes or relevant sectoral practices have altered or that NSAI for any other reason, in its absolute discretion considers a change in the Certification Criteria to be necessary or advisable. In such circumstances NSAI will notify the Client of the relevant changes and will provide the Client a reasonable time to adjust to the changes.
- 2.6 In the event of grant of a Certificate, NSAI may conduct such surveillance of the ongoing compliance of the Subject Matter with the Certification Criteria as NSAI considers appropriate.
- 2.7 NSAI Personnel shall exercise due care in complying with any safety regulations applicable to the Client's premises and which are made known to NSAI Personnel in advance in accordance with Clause 3.7.
- 2.8 NSAI reserves the right to fulfil its obligations under Applicable Law by taking any steps it considers necessary including conducting unannounced audits of the Client. NSAI may also, at its sole discretion, conduct audits of the Client at short notice or unannounced to investigate complaints, review significant changes, follow up on suspended or restricted Certificates or for any other reason it considers may be required to protect the integrity of NSAI's Certification operations or to protect NSAI's reputation.
- 2.9 Where applicable to a Relevant Scheme/Standard and as explained in Schedule 2, NSAI reserves the right to select the audit team members or to sub-contract specific tasks as part of the delivery of the Certification Services. In such case, the Client will be notified in advance and given an opportunity to submit reasonable objections to use of one or more of the audit team members or the sub-contractor. If the Client raises an objection to the audit team members or the sub-contractor, NSAI will endeavour to provide a solution to the Client's reasonable satisfaction in order to provide the Certification Services. If no agreement can be reached, the Certification Services in question shall not be provided and this Contract shall be construed accordingly. NSAI will remain liable for all subcontracted obligations under the Contract and all acts and omissions of its subcontractors in carrying out its obligations under the Contract.
- 2.10 NSAI reserves the right to discontinue the provision of Certification Services in respect of certain Subject Matter where it establishes, in its reasonable opinion, that:
- (a) the Client has abandoned the Application in respect of the Subject Matter; or
 - (b) the Client delays unduly to meet its obligations under Clauses 3.3, 3.5 or 3.6;
 - (c) continuing the provision of the Certification Services would involve an unacceptable risk to NSAI Personnel; or
 - (d) it becomes apparent that Certification is unlikely to be granted for the Subject Matter under assessment.

In such event NSAI shall refund to the Client an amount equal to any advance Fees paid less the value of work done and expenses incurred by NSAI up to the date of discontinuance.



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- 2.11 NSAI may alter a Certificate where, in its absolute discretion, it considers such changes are necessary to reflect a change in the relevant Certification Criteria or to reflect or describe more accurately the Subject Matter of the Certification or any aspect, feature, use or installation of the Subject Matter of the Certification.
- 2.12 NSAI warrants that the Certification Services will be performed with due care, skill and diligence in accordance with recognised commercial practices and standards by appropriately qualified and trained personnel.
- 2.13 As of the date of this Contract, NSAI warrants that it holds the relevant accreditation and authorisations to provide the Certification Services. In the event that NSAI no longer holds the relevant authorisations or accreditation, it shall cease to provide the Certification Services and promptly notify the Client.

3 CLIENT'S GENERAL OBLIGATIONS

- 3.1 The Client shall comply with all of its obligations and responsibilities under this Contract and shall act at all times in accordance with Applicable Law.
- 3.2 In consideration of the provision of the Certification Services, the Client shall pay the Fees in accordance with the provisions of Clause 8.
- 3.3 The Client shall grant or ensure that there are granted to NSAI Personnel all such rights of access to any premises and areas deemed necessary by NSAI for the purpose of allowing NSAI to provide the Certification Services under this Contract. The right of NSAI Personnel to such free access shall not be conditional upon the execution of any other contract, waiver or release which in any way purports to affect the legal rights of NSAI Personnel or the rights or obligations of NSAI.
- 3.4 On request, the Client shall allow NSAI Personnel exercising rights granted under Clause 3.3 to be accompanied by certain person(s) (including but not limited to those persons representing any of NSAI's accreditation bodies, certification scheme owners and regulatory authorities) for the purpose of witnessing the provision of Certification Services. The rights and protections given by the Client to such persons shall be no less than those afforded to NSAI Personnel under this Contract.
NSAI may cancel any, planned or unannounced, audit at any time if the safety and security of NSAI or Regulatory Authority personnel cannot be assured.
- 3.5 The Client acknowledges that it bears the entire responsibility to give to NSAI such information, assistance and co-operation as NSAI considers necessary to provide the Certification Services and the Client agrees to promptly provide, or arrange to have promptly provided by third parties, upon the reasonable request of NSAI the following:
- (a) all such information, assistance and co-operation;
 - (b) any and all existing materials, products, items, details of quality control arrangements and site installation procedures, performance data, tests, studies, evaluations or reports;
 - (c) such access to the Client's personnel, computer systems, facilities, records, data and information, or those of any relevant third party as may be reasonably determined by NSAI;
 - (d) any additional test reports, studies or evaluations reasonably required by NSAI to be carried out.
- 3.6 In particular, and without limitation, the Client shall at its own expense promptly do or arrange to have done the following upon request from NSAI:



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- (a) prepare, package and dispatch items needed by NSAI for its assessment or for verification purposes; and
 - (b) collect any item delivered or dispatched to NSAI within 15 (fifteen) calendar days of being requested by NSAI to do so; and
 - (c) everything necessary to enable NSAI to assess whether a Certificate should be granted or, if already granted, maintained, amended, suspended, restricted or withdrawn.
- 3.7 The Client shall be responsible for ensuring that NSAI Personnel entering on its premises are informed of the health and safety requirements pertaining and agrees to provide, at the Client's expense, training for NSAI Personnel in the safety procedures applying at the Client's premises as well as all necessary protective equipment. Where NSAI Personnel may be required to undertake specialist training in advance of carrying out the Certification Services under this Contract, the Client must disclose this to NSAI in advance. The Client shall bear all costs, expenses and liabilities for and in connection with compliance with the health and safety requirements including, but not limited to, all costs, expenses and liabilities for the supply, provision (and such supply and provision is the responsibility of the Client) and maintenance of all personal protective equipment and clothing required for the NSAI Personnel for the proper, safe and efficient execution and completion of the Certification Services.
- 3.8 The Client shall be responsible for ensuring that NSAI Personnel are not subject to bullying, sexual harassment and harassment in accordance with Applicable Law. Such actions will constitute a breach of this Contract which may result in suspension, restriction or withdrawal of a Certificate pursuant to Clause 5.5 or termination of this Contract pursuant to Clause 10.1(a).
- 3.9 The Client shall promptly notify NSAI in writing of any change affecting any information given by the Client to NSAI as part of its Application, or where Certification has been granted, of any matter affecting the ability of the Subject Matter to comply with the Certification Criteria immediately after the occurrence of the said change or matter or if this is not possible at least within 10 (ten) Working Days of the Client becoming aware of the said change or matter. This shall include but is not limited to changes in legal, commercial, ownership or organisation status, the organisation, key personnel, resources and location, scope of certification including where applicable changes in the manufacture or installation or other aspects of the Subject Matter.
- 3.10 The Client shall notify NSAI in writing of any change of ownership or control of the Client or any sale by the Client of its business or any other event by which the control of the business of the Client will be transferred or changed, in advance of said change, sale or event taking place and shall confirm to NSAI in writing the occurrence of any such change, sale or event immediately upon its taking effect, or if this is not possible, at least within 5 (five) Working Days of the said change, sale or event.
- 3.11 The Client shall implement any necessary corrective actions that may be required by NSAI from time to time to ensure compliance with the Certification Criteria and to remedy any instance of non-conformity with Certification Criteria and, in any event, shall implement such corrective actions by the time limits specified by NSAI for such implementation, and shall inform NSAI when such corrective actions have been implemented.
- 3.12 The Client shall, if notified under Clauses 2.4 and 2.5, implement in a timely manner any changes by the time specified by NSAI for such implementation and shall inform NSAI when such adjustments have been made.
- 3.13 The Client shall comply with the provisions of the Appendix of these General Terms and Conditions in relation to claims of Certification and use of the Certification Marks and shall make all written material utilising Certification Marks and other means of displaying Certification Marks available to NSAI Personnel at all reasonable times.



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- 3.14 Where for an existing Certification the Subject Matter is unable for any reason to comply with the Certification Criteria or other provision of this Contract, the Client shall immediately apply to NSAI for suspension or withdrawal of the Certificate provided that in the event of there being no objective justifiable cause to consider the inability to comply as being temporary the Client shall apply for withdrawal of the Certificate.
- 3.15 For the avoidance of doubt, the duty to apply for suspension or withdrawal as outlined in Clause 3.14 applies even where the cause of the inability to comply is not due to any fault of the Client.
- 3.16 Without prejudice to Clause 3.14 the Client may choose to apply for suspension or withdrawal of an existing Certificate at any time during its validity period as stated therein.
- 3.17 Any breach of the obligation in Clause 3.9 to inform NSAI and/or keep NSAI informed may lead to the suspension, restriction or withdrawal of a Certificate pursuant to Clause 5.5 and/or termination of this Contract pursuant to Clause 10.1(a).
- 3.18 Without prejudice to any general legal obligations of the Client in relation to the maintenance of records, records of all information required to be kept by NSAI under the Certification Criteria or otherwise should be kept so that such information is accessible by NSAI from the Client (irrespective of whether the Client is or is not the originator of the information) for any period as required by the Certification Criteria, or for a minimum of 5 years unless NSAI requires otherwise.

4 CLIENT WARRANTY, REPRESENTATION AND INDEMNITY FOR INFORMATION GIVEN TO NSAI

- 4.1 The Client warrants and represents that all information provided to NSAI (including in its Application) to enable NSAI to provide the Certification Services is true, accurate and complete and not misleading. The Client acknowledges and agrees that NSAI is entitled to assume that all information provided by the Client (including in its Application) is true, accurate and complete and that, subject to Clause 2.9, NSAI is not under any obligation to investigate or confirm the truth, accuracy or completeness of any information provided by the Client. The Client will use its best endeavours to ensure that its employees, contractors or any person or body authorised by the Client to act on its behalf, will not make any false, inaccurate, incomplete or misleading statement to the NSAI.
- 4.2 The Client warrants and represents that the information it provides to NSAI for the purposes of any register provided by NSAI or otherwise will not infringe any IPR, publicity, privacy or other rights of any third party or any other Applicable Law including but not limited to Data Protection Legislation.
- 4.3 Without prejudice to any other right or remedy the NSAI may have hereunder or at law, the Client shall indemnify, defend and hold harmless NSAI and NSAI Personnel 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/or representation given at Clause 4.1 or 4.2 above, except to the extent that such claims, liability, damages and/or costs results from NSAI's breach of contract, negligence or wilful misconduct.
- 4.4 Without prejudice to any other provision of this Contract, the Client acknowledges and agrees that the scope and limitation of Certification is as set out in the Certificate and in particular acknowledges and agrees that Certification has no bearing on and does not relieve the Client of its obligation to:
- (a) inform itself of and ensure the Client complies with all appropriate health and safety and where applicable product safety laws and any common law or other duty of care in relation to sale, supply, maintenance or installation of the Subject Matter in individual contracts of supply to the Client's customers, and

- (b) where applicable ensure that the Client has the legal right (under regulation, third party IPR or other rights) to manufacture, import, distribute or install (as appropriate) the Subject Matter of the Certificate.

4.5 The Client warrants to the NSAI that it has not lodged an application for EU conformity assessment and certification of the Subject Matter with any other EU notified body.

5 CERTIFICATION

5.1 The Certification Services shall be carried out as described in Schedule 2 (Special Terms & Conditions). If the Client is successful in meeting the requirements of a Relevant Scheme/Standard the Client shall be granted a Certificate in respect of the Subject Matter in question and Client information may be placed on a register in accordance with Clause 9.

5.2 Following the grant of any Certificate and where applicable, the Client shall make all written material utilising the Certification Mark(s) and other means of displaying the Certification Mark(s) available at all reasonable times for inspection by NSAI Personnel.

5.3 The Client acknowledges that it has no automatic right to the grant of a Certificate.

5.4 NSAI shall refuse to grant a Certificate if in its reasonable opinion:

- (a) the certification process has not been successful in meeting the requirements of the Certification Criteria of the Relevant Scheme/Standard;
- (b) the Client has failed to disclose any information to NSAI that may affect NSAI's decision to grant the Certificate;
- (c) the Client has failed to comply with its obligations under this Contract; or
- (d) the Client has failed to pay any Fees due to NSAI under this Contract.

Where a Certificate in respect of any Relevant Scheme/Standard is refused, this shall not necessarily affect any separate certification process that is being conducted pursuant to this Contract in respect of any other Relevant Scheme/Standard, although it is hereby acknowledged that the same grounds for refusal may apply to more than one certification process.

5.5 Without prejudice to any other provision in this Contract, NSAI may withdraw, restrict or suspend an issued Certificate, if in its reasonable opinion:

- (a) the Subject Matter fails to meet or continue to meet the requirements/conditions of the Relevant Scheme/Standard;
- (b) the Client has failed to disclose any information to NSAI that may have affected NSAI's decision to grant the Certificate;
- (c) the Client has failed to comply with Clause 3.12 within the period specified in notifications;
- (d) the Client has failed to comply with any of its other obligations under this Contract;
- (e) the Subject Matter exposes users, operators or third parties to unforeseen risks;
- (f) the Client has failed to pay any Fees due to NSAI under this Contract; or

- (g) the Client has used any Certificate (or Certification Mark) contrary to the provisions of this Contract, the Appendix or otherwise in a manner that may be misleading or which brings the NSAI into disrepute.

Where a Certificate in respect of any Relevant Scheme/Standard is withdrawn, restricted or suspended, this shall not necessarily affect the on-going validity of any other Certificate granted pursuant to this Contract, although it is hereby acknowledged that the same grounds for withdrawal, restriction or suspension may apply to more than one Certificate.

- 5.6 If not terminated earlier through voluntary or involuntary withdrawal a Certificate shall expire on the expiry date set down in that Certificate.
- 5.7 A Certificate shall terminate on its expiry date notwithstanding any application for review or renewal made (but not granted by NSAI) prior to the end of the validity period of that Certificate.
- 5.8 The Client shall, upon suspension or withdrawal of a Certificate, continue to comply with the provisions of the Appendix.
- 5.9 The Client shall, upon withdrawal of a Certificate, deliver up all copies of the Certificate in question to NSAI.
- 5.10 The Client must for a minimum of six (6) months notify its customers to whom it has previously provided the Subject Matter of a withdrawn Certificate, prior to providing any such further Subject Matter to such customer and any new customers who expect or might reasonably expect such Subject Matter to be the subject of a valid Certificate, and require its customers to amend any representations made by the said customers in relation to the Certificate accordingly.

6 STATEMENTS & PUBLICITY

6.1 Statements

- (a) the Client shall not, directly or indirectly, make any representation or do anything, whether by act, omission, statement or implication that might lead any person to believe that a Certificate has been or will be granted by NSAI to it where no such Certificate has been granted;
- (b) the Client shall not make any statement to the press or make any other public announcement in connection with any matters referred to in this Contract, without the prior consent in writing of NSAI, excluding the making of statements or announcements by the Client confirming its certification status.

6.2 Publicity

- (a) the Client shall not publicise details of the way in which NSAI performs the Certification Services or conducts or executes its operations and shall not do anything that could reasonably be considered to bring the NSAI, NSAI Personnel, NSAI's operations or the Certification Services into disrepute;
- (b) NSAI shall not do anything that could reasonably be considered to bring the Client, Client's personnel or a Client's operations into disrepute.

7 CONFIDENTIALITY

7.1 Subject to Clause 7.2, each Party undertakes to the other Party:-

- (a) to keep confidential all information concerning the business, affairs, operations, processes and procedures of the other Party that it shall have obtained or



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received or may obtain and receive as a result of the discussions leading up to or the entering into or performance of this Contract and the Certification Services contemplated by this Contract together with any other information that is expressly designated to be treated as confidential ("**Confidential Information**");

- (b) to exercise the same degree of care and discretion to avoid unauthorised disclosure, publication or dissemination of all Confidential Information as it exercises to protect its own confidential information, taking all appropriate technical, organisational and security measures in line with best industry practice to protect against unauthorised access to Confidential Information, and not to copy or permit others to copy any information except as reasonably necessary to undertake this Contract, all of which copies shall be treated in accordance with this standard;
- (c) not without the other Party's prior written consent, disclose Confidential Information of that other Party in whole or in part to any other person;
- (d) to use the Confidential Information solely in connection with provision and/or receipt of the Certification Services; and
- (e) not to publish or cause to be published orally or in writing to the public or any section of the public any of the Confidential Information or any matter concerning the Contract or the internal affairs of the other Party whether confidential or not without the prior written permission of the other Party.

7.2 The undertaking in Clause 7.1 does not apply to Confidential Information:

- (a) that has been published and made available to the public as part of delivery of the Certification Services (e.g. content of certificates) or as part of the Register referred to in Clause 9; or
- (b) provided to NSAI in circumstances such that the Client may reasonably be understood to have given permission for the disclosure; or
- (c) which at any time is or comes into the public domain, other than in breach of the terms of this Contract; or
- (d) which was lawfully in the possession of a Party without obligations of confidentiality owed to the other Party or which is independently developed by a Party; or
- (e) which is required to be disclosed by law or by any governmental or other regulatory, statutory or parliamentary authority or accreditation authority, or by a court or other authority of competent jurisdiction; or
- (f) which is disclosed by NSAI to a public body in the interests of protecting against a serious threat to public health or safety or to the environment or which NSAI reasonably considers to be in the public interest.

(provided that, in the case of sub-clauses 7.2.(e) or 7.2.(f) above, the disclosing Party shall exercise its best efforts to so notify the other Party before or at the time of making the required disclosure).

7.3 The provisions of this Clause shall survive following the termination or expiry of this Contract.

7.4 The Parties hereby agree that damages are an insufficient remedy for breach of this Clause 7 and shall not oppose the other Party in seeking equitable relief for such breach including by way of injunction.

8 FEES

8.1 The Client shall pay to the NSAI the Fees within 30 (thirty) calendar days of the date of issue of an NSAI invoice.

8.2 The Fees shall be invoiced in accordance with the terms of the Quotation Letter and where specified shall be payable in advance.

8.3 Where specified in the Quotation Letter an annual registration fee and/or surveillance fee may be charged.

8.4 NSAI Fees are subject to value added tax ("**VAT**") which, if payable, shall be charged at the rate and in the manner for the time being prescribed by Irish law.

8.5 NSAI Fees are subject to review from time to time. The Client's obligation shall be to pay the Fees at the rate that is effective at the date the relevant Fee is incurred, provided that NSAI notifies the Client in advance of the change of rate of the Fees.

8.6 NSAI reserves the right to levy additional fees in respect of (i) additional work necessitated by any change in the Client's instructions or any failure of the Client to comply with NSAI's requirements, with the Certification Criteria or with this Contract or (ii) in respect of work that NSAI considers to be in excess of the level usually required for the type of Certification Services involved.

8.7 NSAI reserves the right to terminate any Certification Services or increase Fees or levy additional fees where additional work arises and this is necessitated as a result of information provided by the Client during the assessment or as part of its Application being subsequently determined in NSAI's reasonable opinion to be false, misleading, inaccurate or incomplete.

8.8 The Client shall not be entitled to retain or defer payment of any sums due to NSAI on account of any dispute, counterclaim or set off which it may allege against NSAI.

8.9 The Client shall notify NSAI in writing if the Client decides to postpone or cancel a scheduled activity (the "**Notification**"). The Client shall be liable to pay to NSAI a postponement/cancellation fee if the Notification is received by NSAI less than 30 (thirty) calendar days prior to the date of such scheduled activity. The amount of such fee shall be as follows:

- (a) if the Notification is received less than 30 (thirty) calendar days but more than 7 (seven) calendar days prior to any scheduled activity, the postponement/cancellation fee shall be 50% of the cost of the scheduled activity;



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- (b) if the Notification is received less than 7 (seven) calendar days prior to any activity, the postponement/cancellation fee shall be 75% of the cost of the scheduled activity.
- 8.10 Without prejudice to any other provision herein, in the event any Fees outstanding to NSAI remain unpaid beyond the period specified in Clause 8.1, NSAI reserves the right to:
- (a) cancel confirmed arrangements with the Client at any time prior to those arrangements taking place, including such meetings, surveillance or monitoring arrangements forming part of the Certification Services; and/or
 - (b) restrict a Certificate; and/or
 - (c) suspend a Certificate; and/or
 - (d) withdraw a Certificate; and/or
 - (e) treat the non-payment of the Fees as a material breach of this Contract which may result in termination of this Contract pursuant to Clause 10.1(a).

9 REGISTERS

- 9.1 NSAI may publish and maintain a register of certified clients to whom it grants certification and licences certification marks (the "**Register**") which may contain information in relation to the Client, such as the name and address of the Client, and the Subject Matter of Certification including the Relevant Scheme/Standard to which it is certified, where applicable.
- 9.2 The Register may be maintained in hard copy or electronic form and made available to the public on-line or otherwise.
- 9.3 NSAI shall, in its absolute discretion, determine what information in relation to the Client and its certification status should be included in the Register from time to time, and the NSAI shall from time to time review the information and may require further information from the Client for the purposes of inclusion in the Register.
- 9.4 The Client shall be obliged to provide any information that NSAI requests in relation to the Client, its proposals, its staff, its business, the status of its Certification etc. for inclusion in the Register.
- 9.5 The Client shall ensure that the information which it gives to NSAI generally in response to specific requests for information for the purposes of the Register is accurate and not misleading. The Client further undertakes to immediately inform NSAI of any inaccuracy which appears in the Register and of any change which occurs, which necessitates an amendment of the Register listing for the Client within 3 (three) Working Days of the said inaccuracy coming to the Client's attention or of the change occurring whichever is relevant.
- 9.6 In the event of withdrawal of the Client's Certification, either voluntarily or involuntarily, the listing in respect of that Client shall be immediately removed or amended (as may be applicable) from the Register.
- 9.7 All details of the status and circumstances of the Client's Certification (including but not limited to withdrawal, restriction or suspension of Certification) will be kept by NSAI in whatever form NSAI (at its sole discretion) deems appropriate and may be made available by NSAI to any person on request.



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- 9.8 NSAI shall have sole control over the format, composition and distribution of the contents and the pages of the Register and the positioning of any entry relating to any Client with the Register.
- 9.9 NSAI shall not be liable for any internet or telecommunication failure, computer virus, third party interference or effect of any third party software or hardware that may interrupt or delay access to any electronic register or cause any other problems or losses.
- 9.10 NSAI shall not be liable to the Client for any loss or damage including injury to reputation suffered by the Client as a result of the appearance or non-appearance for any reason whatsoever in the Register, the positioning of the Client relative to any other NSAI client in the Register, or as a result of the use by the public or any person of the Register or of any information kept by NSAI pursuant to Clause 9.5 above.
- 9.11 NSAI may at any time review the Register and may remove any listing or part of any listing for the Client if it considers, in its sole discretion, that it is appropriate to do so.
- 9.12 Unless required to by Applicable Law, NSAI may in its sole discretion and without liability to the Client, decide not to provide or decide to cease to provide a register.
- 9.13 NSAI gives no representations or warranties express or implied in relation to the accuracy, reliability, up-to-date nature or completeness of the Register and excludes liability for any damage or loss suffered by the Client as a result of any inaccuracies, errors or omissions in the Register.

10 CONTRACT TERMINATION

- 10.1 Without prejudice to any other rights which NSAI may have under this Contract or under Applicable Law, NSAI shall be entitled to terminate this Contract in whole or in respect of a particular Certificate or Certification Service with written notice but without any liability or compensation to the Client if:
- (a) the Client shall at any time be guilty of any serious or persistent misconduct or any material breach or non-observance of any of the terms and conditions herein contained; or
 - (b) all Certificates issued pursuant to this Contract have been withdrawn in accordance with their terms; or
 - (c) there is any failure by the Client to comply with the provisions of the Appendix; or
 - (d) there is a failure by the Client to pay any Fees due in accordance with Clause 8.1; or
 - (e) the Client being a company ceases to carry on business in the normal course or enters into liquidation, whether compulsory or voluntary other than for the purposes of amalgamation or reconstruction, or compounds with its creditors generally or has a receiver, examiner or liquidator appointed over all or any of its assets or if a petition is presented or a meeting is convened for the purpose of considering a resolution for winding up or suffers execution or distress or takes or suffers any similar action in consequence of debt or becomes unable to pay its debts as they fall due within the meaning of relevant insolvency legislation or events analogous to any of the foregoing occur in any jurisdiction.
- 10.2 NSAI shall be entitled to terminate this Contract in whole or in respect of a particular Certificate or Certification Service where its accreditation or authorisation to provide the Certification Service or Certification Services, as applicable, is withdrawn or lost.

- 10.3 Either Party may, without cause, terminate this Contract upon giving not less than 90 (ninety) calendar days' written notice to the other Party.
- 10.4 This Contract shall automatically terminate if all Certificates issued hereunder expire and are not the subject of any new Application or the Parties have not otherwise agreed to continuing the contractual relationship prior to the final expiry date.
- 10.5 Any notice of intention to terminate this Contract shall specify the proposed termination date.
- 10.6 The termination of this Contract shall not affect provisions which are expressed to survive termination and shall be without prejudice to any rights or obligations which have accrued and are owing prior to such termination. In particular, but without limitation, termination of this Contract shall not relieve the Client of its obligation of indemnity and shall not excuse the Client from paying any Fees owing to NSAI.
- 10.7 Upon termination of this Contract for any reason:
- (a) NSAI shall immediately discontinue the provision of any Certification Services to the Client pursuant to this Contract;
 - (b) the Client shall be removed from any register pertaining to the Certificate(s) granted pursuant to this Contract;
 - (c) any licence to use Certification Mark(s) granted pursuant to this Contract shall be immediately withdrawn and any Certificate granted to the Client pursuant to this Contract shall be immediately withdrawn and the Client shall have no further right or entitlement to avail of such Certificate(s) or Certification Mark(s) or to use same in the course of its business or otherwise;
 - (d) the Client shall refrain from making any reference to or using any Certificate(s) or Certification Mark(s) issued pursuant to this Contract or any other form or reference to NSAI on or in connection with its Subject Matter which is no longer subject to Certification;
 - (e) NSAI shall have the right to acquire possession of any written material utilising the Certificate(s) or Certification Mark(s) issued pursuant to this Contract, and any other form or reference to NSAI, which in its judgement was used in connection with any Subject Matter which is no longer subject to certification.
- 10.8 Upon termination of any individual Certificate, the provisions of Clause 10.6 shall apply in respect of that Certificate only.
- 10.9 The foregoing provisions are without prejudice to any other rights or remedies that NSAI may have hereunder or at law.

11 CORRUPT PAYMENTS

- 11.1 Without prejudice to any other provision of this Contract, the Client shall not offer, or give or agree to give, any person employed by the NSAI any gift or consideration of any kind as an inducement or reward for doing, or for bearing to do, or having done, or forbore to do, any act in relation to the obtaining or performance of this Contract or for showing, or forbearing to show, favour or disfavour to any person in relation to this Contract. In the event of any breach of this Clause 11 or the commission of any offence by the Client or any of its personnel under the Criminal Justice (Corruption Offences) Act 2018 or the Ethics in Public Office Act, 1995 or under any legislation analogous to the foregoing in any applicable jurisdiction, NSAI may terminate this Contract pursuant to Clause 10.1(a). The decision of NSAI shall be final and conclusive in any dispute, difference or question arising

in respect of the interpretation of this Clause or the right of NSAI under this Clause to terminate this Contract.

12 INTELLECTUAL PROPERTY / CERTIFICATION MARKS

- 12.1 All IPR used or created by NSAI in the course of its performance of the Certification Services shall remain the property of NSAI. NSAI warrants, so far as it is aware, the IPR used in the provision of the Certification Services will not infringe the IPR of any other party. All IPR owned or licensed by the Client at any time before or during the term of the Contract shall remain the property of the Client, or its respective owners, and nothing in this Contract shall be deemed to grant ownership in the IPR of the Client to NSAI, other than a licence to access and use any IPR of the Client, as required to provide the Certification Services.
- 12.2 The Client acknowledges NSAI's full ownership of the NSAI Certification Mark(s) and the NSAI logo(s). The Client may not under any circumstances use the Certification Mark(s) otherwise than as permitted under this Contract or in writing by NSAI. The Client may not under any circumstances use the NSAI logo(s) other than in accordance with the NSAI Brand Guidelines.
- 12.3 Any document including but not limited to any report or Certificate or Certification Mark provided by NSAI to the Client and the copyright contained therein shall be and remain the property of NSAI and the Client shall not alter or misrepresent the contents of such documents in any way. The Client shall be entitled to take copies for its internal purposes only.
- 12.4 Where the Client is granted use of a Certification Mark, the Client shall comply strictly with the provisions of the Appendix (Conditions of Use of Certification Marks) and with any changes made to those provisions from time to time.
- 12.5 Certification Services provided in relation to grant of certification under EU Directives and EU Regulations shall not entitle the Client to use NSAI Certification Mark(s) on individual products.
- 12.6 Any failure to comply with the provisions of the Appendix may result in termination of this Contract pursuant to Clause 10.1(a).
- 12.7 In the event of changes to the provisions of the Appendix, NSAI will notify the Client of the relevant changes and will provide the Client a reasonable time to adjust to the changes.

13 INDEMNITY

- 13.1 The Client shall indemnify NSAI against liabilities to third parties and other costs (including reasonable legal fees) which NSAI may incur as a result of the Client's use or misuse of the Certification Mark(s), except to the extent that liability results from NSAI's breach of contract, negligence or wilful misconduct.
- 13.2 The Client shall indemnify NSAI in respect of any losses or damages which may reasonably be agreed by or awarded against NSAI in respect of the death of or personal injury to, any NSAI personnel, employee or agent, arising in the course of providing the Certification Services to the Client under this Contract insofar as such death or injury is attributable to the Client, except to the extent that such death or injury results from NSAI's breach of contract, negligence or wilful misconduct.
- 13.3 The Client shall indemnify NSAI against any and all claims, damages, costs, charges and expenses (including legal expenses) made against or incurred by NSAI arising from or incurred by reason of any failure of the relevant Subject Matter that is the subject of any Certificate issued by NSAI to be fit for purpose due to any lapse in compliance with the Certification Criteria of which the Client did not inform NSAI in writing, contrary to its obligations under Clauses 3.9 or 3.14 or by reason of any infringement or alleged



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infringement of any third person's rights by the Client or otherwise in the course of manufacturing, making, providing, installing, maintaining, using, distributing or importing such Subject Matter or by reason of any claims or representations as to certification made by the Client where NSAI has not yet issued a Certificate or by reason of any unjustified claims made by the Client as to the existence or scope of Certification, except to the extent that such claims, damages, costs, charges and expenses results from NSAI's breach of contract, negligence or wilful misconduct.

- 13.4 In all cases where indemnification arises under this Contract, the indemnified Party will promptly notify the indemnifying Party of a claim. The indemnifying Party may assume the defence of the claim or cause of action with legal counsel reasonably acceptable to the indemnified Party while keeping the indemnified Party reasonably informed as to the progress of the defence. Provided the indemnified Party is held harmless and its rights are not adversely affected, the indemnifying Party may control the defence and any compromise or settlement of any such claim or cause of action.
- 13.5 The Client shall obtain and maintain for the duration of this Contract and for 6 years following the termination of this Contract, all necessary insurance to cover its obligations under this Contract and shall comply with all terms and conditions applicable to such policies.
- 13.6 The Client shall on request produce evidence satisfactory to NSAI as NSAI may reasonably require that it is complying with its obligations under Clause 13.5. The Client shall notify NSAI promptly in the event that any of the insurances ceases to be available or maintained.
- 13.7 If the Client fails to obtain or maintain the insurance, the Client shall promptly inform NSAI. If the client has not remedied the situation within a reasonable period of being requested to do so by NSAI (not being more than 21 (twenty-one) calendar days), NSAI may arrange the required insurance cover for the whole or part of the period for which such cover is required, without being under any obligation so to do, and may recover such sums from the Client.
- 13.8 The Client shall be liable to pay the full amount of any deductibles or excess amounts payable under the policies of insurance required pursuant to Clause 13.5 in the event of a claim under any of the policies.

14 LIMITATION OF LIABILITY

- 14.1 The Client agrees that NSAI, in performing its functions in accordance with its objects and purposes, does not assume or undertake to discharge any responsibility of the Client to any other party or parties. The Client recognises that the opinions, findings, decisions and determinations of NSAI are based on its professional judgement, which is exercised in good faith, subject to the necessary limitations of practical operation and in accordance with its objects and purposes and the Client agrees that NSAI does not warrant or guarantee its opinions, findings, decisions or determinations will be recognised or accepted.
- 14.2 The Client agrees that any Certification Services provided by NSAI are designed to serve only as a check on the means which the Client exercises to determine conformity of the Subject Matter with the Relevant Scheme/Standard, and that the Client shall be not be relieved of its responsibility for its Subject Matter.
- 14.3 NSAI shall have no liability to the Client for any loss or damage arising out of NSAI's loss of accreditation or authorisation to provide the Certification Service or Certification Services, as applicable.
- 14.4 Nothing in this Contract excludes or limits:
- (a) either Parties' liability for fraud, fraudulent misrepresentation or theft by it or its agents or employees or, in the case of NSAI, by any sub-contractors or its agents or employees; and
 - (b) either Parties' liability for death or personal injury caused by its negligence or that of its employees or agents or, in the case of NSAI, by any sub-contractor or its agents or employees.
- 14.5 NSAI shall not be liable to the Client or any third party for any special, indirect or consequential damage or losses (including, without limitation, loss of profit, loss of revenue, loss of business, loss of goodwill, loss of savings, loss of reputation, and any indirectly arising damages, costs and expenses) of any kind whatsoever and howsoever arising.
- 14.6 NSAI shall not be liable to the Client or any third party for any incorrect results, reports or Certificates arising from unclear, erroneous, incomplete, misleading or false information provided to NSAI by the Client or any party who may provide information to NSAI to enable it to provide the Certification Services, including but not limited to relevant competent authorities, EU Commission or professional bodies. NSAI shall not be liable to the Client or any third party for not providing Certification.
- 14.7 Without prejudice to the foregoing, NSAI's entire liability (including any liability for the acts and omissions of its personnel, employees or agents) to the Client shall not, in aggregate, exceed the amount paid in Fees by the Client to NSAI in the twelve-month period preceding the act, omission or breach complained of.
- 14.8 Nothing in this Clause 14 shall confer any right or remedy upon the Client to which it would not otherwise be entitled.

15 FORCE MAJEURE

- 15.1 For the purposes of this Clause, a "**Force Majeure Event**" means any event outside of the reasonable control of either Party affecting its performance of its obligations under this Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party, including war, insurrection, riot, acts of terrorism, fire, explosion, flood, strike, lock-out, injunction, inability to obtain raw materials, containers, or transportation, accident, malfunction of machinery or apparatus,

national defence requirements, acts of government, local government or regulatory bodies, pandemic or acts of God.

- 15.2 If either Party is affected by a Force Majeure Event, it shall promptly notify the other Party of the nature and extent of the Force Majeure Event and its effect on the obligations of the affected Party.
- 15.3 Notwithstanding any other provision in this Contract, neither Party shall be deemed to be in breach of this Contract, or otherwise be liable to the other, for any delay in performance or the non-performance of any of its obligations under this Contract, to the extent that the delay or non-performance is caused by the occurrence of a Force Majeure Event, and of which it has notified the other Party, and the time for performance of that obligation shall be extended accordingly.
- 15.4 If the Force Majeure Event in question prevails for a continuous period in excess of one month, the Parties shall enter into bona fide discussions with a view to alleviating its effects, or agreeing upon such alternative arrangements as may be fair and reasonable.

16 APPEALS

16.1 In the event that the Client wishes to appeal a decision made by NSAI either:

- (a) not to grant a Certificate;
- (b) to restrict a Certificate;
- (c) to suspend a Certificate; or
- (d) to withdraw a Certificate,

it may invoke any relevant appeals process available to it under Applicable Law.

16.2 If no statutory appeals process exists in these circumstances, the Client shall serve written notice on NSAI of its intention to appeal within 30 (thirty) calendar days of receipt of the NSAI decision. The notice must be addressed to the Director of Medical Devices. Once notice of the Client's appeal has been received, the Director of Medical Devices will notify the Client of the procedure under which its appeal will be heard. Any such appeal will be heard by a committee (the "**Appeals Committee**") and will be conducted in accordance with the relevant NSAI procedures that are current at the time the appeal is made. The decision of the Appeals Committee shall be final and binding on the Parties.

17 DISPUTES

17.1 In the event of any dispute arising out of or relating in any way to the interpretation or enforcement of this Contract, the Parties will attempt in good faith to resolve any controversy or claim by negotiations between them.

17.2 Where a dispute cannot be resolved amicably in accordance with the preceding Clause, the Parties shall refer the dispute to mediation in accordance with the Centre for Effective Dispute Resolution ("**CEDR**") procedures then in force. The mediation process will be commenced by service by one Party on the other of a written notice that the issue is to be referred to mediation (the "**Mediation Notice**"). The Parties shall agree on a choice of mediator with at least ten years' experience in the relevant industry sector and who has sufficient knowledge and experience sufficient to comprehend the issues in dispute. The mediation will be in Dublin, Ireland. In the event that the Parties are unable to agree on a choice of mediator within 10 (ten) calendar days of the date of service of the Mediation Notice, the Parties shall accept a mediator nominated by CEDR. The costs of the mediation shall be shared equally between the Parties. The mediation will be concluded within 30 (thirty) Working Days of delivery of the Mediation Notice, unless otherwise agreed.



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- 17.3 In the event that the mediation process described in Clause 17.2 does not result in the settlement of a dispute or either Party is not satisfied with the outcome of the mediation, the dispute shall be referred to arbitration.
- 17.4 In the event that a Party wishes to refer a dispute to arbitration pursuant to Clause 17.3, it shall notify the other Party of this in writing and within 14 (fourteen) calendar days of such notice the Parties shall appoint an arbitrator by agreement or in default of agreement within such period the President for the time being of the Law Society of Ireland shall appoint an arbitrator within 14 (fourteen) calendar days of being requested to do so by a Party. The Arbitrator shall have power to open up, review and revise any opinion, requisition, certificate, notice, and decision of the Mediator in respect of the dispute and to determine any dispute which shall be submitted to him and of which notice shall have been given as aforesaid in the same manner as if no such opinion, requisition, certificate, notice or decision of the mediator in respect of the dispute had been given. Any and every referral shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act 2010, or any act amending the same. Neither Party shall be limited in the arbitration to the evidence or arguments previously put before the Mediator to obtain his decision.
- 17.5 Nothing contained in this Contract shall restrict any Party's freedom to:
- (a) commence legal proceedings where such proceedings are required urgently to preserve any legal right or remedy, to protect any Intellectual Property rights or rights in Confidential Information or otherwise to prevent irreparable harm; or
 - (b) bring enforcement proceedings in another jurisdiction on foot of an Irish order or to seek interim, protective or provisional relief in the courts of another jurisdiction.

18 DATA PROTECTION

- 18.1 NSAI is a Controller in respect of Personal Data obtained from Data Subjects for its own purposes, and shall comply with its obligations as a Controller under Data Protection Legislation and NSAI'S Privacy Notice which is notified to the Client from time to time and can be accessed [here](#).

19 MISCELLANEOUS AND GOVERNING LAW

- 19.1 Any failure by NSAI to insist upon observance or performance by the Client of the provisions of this Contract will not be deemed a waiver by NSAI of any such provision or the right to claim a violation by reasons of such failure. The payment of any sum by the Client to NSAI will not be deemed to be a waiver of such violation or any other violation. No waiver will be binding upon NSAI unless it is in writing and signed by NSAI. Any written waiver will apply only to the specific violation or to the instance specified, and a waiver of any violation will not be deemed a waiver of any other violation, whether or not similar to the violation waived. NSAI's rights and remedies hereunder will be cumulative and not exclusive of each other and may be pursued separately or concurrently as NSAI determines. In addition to those remedies set forth in this Contract, NSAI will be entitled to any and all remedies otherwise available to it in law or equity.
- 19.2 Without prejudice to any other provision of this Contract, the Client acknowledges the scope and limitations of Certification as set out in the Certificate and in particular that Certification has no bearing on and does not relieve the Client of its obligation to:
- (a) inform itself of and ensure that it complies with all appropriate health and safety and product safety laws and any common law or other duty of care in relation to sale, supply, maintenance or installation of the Subject Matter in individual contracts of supply of same to its customers; and



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- (b) ensure that the Client has the legal right (under regulation, third party intellectual property or other rights) to manufacture, import, distribute or install (as appropriate) the Subject Matter of the Certification.
- 19.3 No person who is not a Party to this Contract shall have any rights under or in connection with it.
- 19.4 If any provision of this Contract is held to be invalid or unenforceable in whole or in part, the unaffected parts of this Contract shall remain valid.
- 19.5 This Contract constitutes the entire agreement between the Parties in respect of its subject-matter and supersedes and extinguishes all prior negotiations, arrangements, discussions, course of dealings or agreement made between the Parties in relation to its subject-matter, whether written or oral.
- 19.6 Subject as expressly provided herein, neither Party shall assign this Contract without the prior written consent of the other Party such consent not to be unreasonably withheld.
- 19.7 The parties consent to the execution by or on behalf of each other party to this Contract and any ancillary documents or amendments to the Contract (the "**Documents**") by electronic signature, provided that such manner of execution is permitted by law and acknowledge that such electronic form shall constitute an original of each Document and may be relied upon as evidence of that Document.
- 19.8 Any notice whether required or permitted to be given by one Party hereto to the other under this Contract shall be in writing, delivered by one of the methods set out in sub-Clauses 19.8(a) to (e), and it shall be conclusive evidence of receipt of the notice by the addressee if signed by or on behalf of a duly authorised officer of the Party giving the notice and:-
- (a) if delivered by hand, at the time of delivery to the addressee or its duly authorised agent; or
- (b) if sent by pre-paid post, 4 (four) Working Days after posting if addressed to the Party to whom such notice is to be given at to the last place of business of the addressee; or
- (c) if sent by fax, receipt of a successful transmission report;
- (d) if sent by email, at the time of transmission; or
- (e) if sent by recorded post, proof of recorded despatch.
- 19.9 This Contract shall be governed by, and construed in accordance with, the laws of Ireland and the Parties hereto submit to the jurisdiction of the Irish court for the resolution of disputes hereunder. Nothing herein shall supersede the rights and obligations of the Parties under any Applicable Law.

APPENDIX

CONDITIONS FOR USE OF CERTIFICATES AND CERTIFICATION MARK(S)

Ownership

NSAI is also the owner of registered Certification Marks referred to in the NSAI Brand Guidelines (a copy of which has been provided to the Client) or otherwise made known to the Client.

NSAI is the owner and will remain at all times the owner of a Certificate issued under the Contract.

All IPR in the Certificate and Certification Mark(s) shall at all times remain vested in and be the absolute property of NSAI, notwithstanding any use of same by the Client under licence pursuant to the terms of this Contract.

NSAI retains the right to control the display or other use of the Certificate and the Certification Mark. NSAI shall have the right, on demand, to acquire possession of the Certificate and the Certification Mark and any or all advertising and promotional material, or other means of displaying the Certificate or the Certification Mark when in the judgement of NSAI, such action is warranted.

Rights of Use

Clients are entitled to use Certificates granted pursuant to the Contract in their business dealings in accordance with the conditions set down in this Appendix. Where, in relation to any Scheme/Standard it is provided that the Client may use a Certification Mark, NSAI will grant the Client a limited, non-exclusive right to use such Certification Mark in their business dealings during the period of validity of the relevant Certificate. Clients may only use the Certification Mark in association with the relevant Certificate. The rights of use expire on termination of the Certification through expiry, suspension, restriction or withdrawal of the associated Certificate.

The Certificate and right to use the Certification Mark cannot be sold, transferred, assigned, sub-licensed, lent or used as security by the Client.

Conditions of Use

The Client shall only use a Certificate and the Certification Mark(s) in strict accordance with the conditions of this Contract, this Appendix and any NSAI brand guidelines including but not limited to the NSAI Brand Guidelines provided or made known to the Client.

Where NSAI grants a Certificate or right of use of a Certification Mark pursuant to the General Terms & Conditions, it shall grant to the Client a limited, non-exclusive, paid up, royalty-free licence, during the period of validity of the Certificate to use the same solely as strictly necessary in connection with the Subject Matter for which it was granted by NSAI and not in connection with any other matter.

Under the terms of the National Standards Authority of Ireland Act 1996, NSAI is the owner of the Irish Standard Mark, which is based on the words 'Caighdeán Éireannach'.

The Client assumes sole responsibility for its use of any Certificate or Certification Mark granted to it pursuant to this Contract and agrees to ensure that its Subject Matter will continue to be in conformity with the Relevant Scheme/Standard for which Certification has been granted.

The Client agrees that its use of a Certificate or Certification Mark(s) constitutes its declaration that the Subject Matter has been assessed by NSAI in accordance with the Relevant Scheme/Standard and that the Subject Matter has been produced in accordance with same.

The Client shall not use a Certification Mark and/or refer to its Certification by NSAI in advance of being certified by NSAI.

In referring to its certification status, the Client shall be specific as to who has granted any certification claimed by it.

The Client shall not use a Certificate or Certification Mark(s) in any way that would tend to allow them to become generic, lose their distinctiveness, become liable to mislead the public or be materially detrimental to or inconsistent with the name, reputation or image of NSAI or which may bring the NSAI into disrepute.

The Client understands and accepts that NSAI may notify vendors, authorities, potential users, and others of an improper or unauthorised use of the Certificate or the Certification Mark, or any other improper or unauthorised reference to NSAI, when in the judgement of NSAI such notification is necessary in the interests of protecting against a serious threat to public health or safety or to the environment or otherwise in the public interest or for NSAI's own protection.