

MEMORANDUM OF UNDERSTANDING

BETWEEN THE

COMMONWEALTH OF AUSTRALIA

as represented by the

**Department of Industry, Innovation, Climate Change, Science, Research &
Tertiary Education
ABN 74 599 608 295**

AND THE

**NATIONAL ASSOCIATION OF TESTING
AUTHORITIES, AUSTRALIA
ABN 59 004 379 748**

This *MEMORANDUM OF UNDERSTANDING* is made

this *21st* day of *May* 2013

BETWEEN

The *COMMONWEALTH OF AUSTRALIA* as represented by the Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education (**the Commonwealth**)
ABN 74 599 608 295,

AND

THE NATIONAL ASSOCIATION OF TESTING AUTHORITIES, AUSTRALIA (NATA)
(ABN 59 004 379 748), a company incorporated in Victoria limited by guarantee, having its
Head Office at 7 Leeds Street, Rhodes, NSW 2138.

Background :

A. The Commonwealth and NATA (the **Participants**), in collaboration, desire to assist the wider Australian community by facilitating the availability of competent services to provide reliable results of measurement, test, inspection and similar technical activities. The parties recognise that confidence in the reliability of such results is a prerequisite for sound decision making by government, business and individuals. It contributes to efficiency in the public and private sectors, the competitiveness of Australian industry in domestic and international markets and the general welfare of all Australians.

The Participants agree and acknowledge that this Memorandum of Understanding (MoU) terminates and replaces the MoU between the Commonwealth of Australia and NATA dated 1 April 2008.

B. The Commonwealth:

- (i) aims to promote an appropriate and internationally recognised infrastructure for inspection, testing, measurement, proficiency testing schemes, reference material production and certification, based on accreditation;
- (ii) aims to encourage the ongoing development of that infrastructure to meet the changing needs of industry and consumers in Australia's public and national interest;
- (iii) recognises the value of accreditation systems in providing confidence in testing, measurement, inspection and related activities;
- (iv) recognises NATA as Australia's key organisation for the development of knowledge, international experience and recognition in accreditation of inspection bodies, testing and measurement laboratories, proficiency testing scheme providers and producers of reference materials;

- (v) recognises NATA's role in accrediting facilities that play a crucial role in assuring public health, safety and environmental quality; and
- (vi) looks to NATA to provide leadership and guidance.

Paragraph 1 Definitions

- 1.1 General terms used in this MoU will have the meaning given in the definitions contained in the current versions of International Organization for Standardization/International Electrotechnical Commission (ISO/IEC) Guide 2: "Standardization and related activities - General vocabulary" and ISO/IEC 17000: "Conformity assessment - Vocabulary and general principles" unless the context otherwise requires.
- 1.2 The following terms and their definitions will apply for the purpose of this MoU:
 - 'Accredited Service Provider'** means an accredited laboratory, a producer of reference materials, an inspection body or a provider of proficiency testing schemes.
 - 'Good Laboratory Practice'** means the OECD system designed to ensure the Mutual Acceptance of Data related to the safety of industrial chemical substances and preparations. Note: GLP relates to laboratory recognition, not accreditation.
 - 'Laboratory'** means a facility engaged in testing, measurement, calibration and associated activities producing technical data in all scientific and technical fields disciplines.
 - 'Reference Material'** means material, sufficiently homogeneous and stable with respect to one or more specified properties, which has been established to be fit for its intended use in a measurement process.
 - 'Inspection Body'** means a body carrying out inspection services.

Paragraph 2 General Provisions

- 2.1 This MoU encompasses the accreditation by NATA of laboratories, inspection bodies, proficiency testing scheme providers and producers of reference materials. It also encompasses the activities of NATA in its participation in international and regional fora.

Paragraph 3 Recognition

- 3.1 Except with respect to therapeutic goods (as defined by the *Therapeutic Goods Act 1989* (Cth)), the Commonwealth:
 - 3.1.1 recognises NATA as the national authority for laboratory accreditation;
 - 3.1.2 recognises NATA as the national authority for the accreditation of producers of reference materials;
 - 3.1.3 recognises NATA as a peak authority for the accreditation of proficiency testing scheme providers; and

- 3.1.4 recognises NATA as a peak authority for the accreditation of inspection bodies; and
- 3.1.5 recognises NATA as Australia's compliance monitoring authority for facilities undertaking non-clinical health and environmental safety studies in accordance with the OECD Principles of Good Laboratory Practice.
- 3.2 This MoU recognises the close relationship that exists between NATA and its New Zealand counterpart organisation, International Accreditation New Zealand (IANZ).
- 3.3 The Commonwealth recognises NATA as the Australian member of the International Laboratory Accreditation Cooperation (ILAC), the Asia Pacific Laboratory Accreditation Cooperation (APLAC) and the OECD Working Group on Good Laboratory Practice.
- 3.4 The Commonwealth recognises that NATA may need to retain or enter into new complementary business activities as a means of supporting the range of its accreditation activities.

Paragraph 4 NATA Undertakings

- 4.1 NATA will provide national leadership by delivering accreditation programs that facilitate a network of accredited facilities to meet national interest and public benefit objectives as identified by NATA's government, industry, professional and community stakeholders.
- 4.2 NATA will prepare, publish and, where appropriate, review and revise its procedures, accreditation criteria and key performance indicators to ensure that these will:
 - 4.2.1 conform with international standards;
 - 4.2.2 facilitate maintenance of NATA's signatory status to the ILAC and APLAC Mutual Recognition Arrangements;
 - 4.2.3 meet national and public interest requirements;
 - 4.2.4 conform with Australia's obligations in the World Trade Organization under the Agreement on Technical Barriers to Trade and in bilateral Free Trade Agreements;
 - 4.2.5 facilitate international trade;
 - 4.2.6 satisfy the requirements for public health, safety and environmental protection;
 - 4.2.7 enhance the quality and performance of products, materials and related services; and
 - 4.2.8 be suitable for uniform reference in Australian governments' laws, regulations and public purchasing contracts.
- 4.3 NATA, in developing and implementing its corporate objectives, will seek to provide community benefits and improve the competitiveness of the Australian economy by facilitating a world class innovative testing, measurement and inspection system.

- 4.4 In seeking to develop international compatibility and uniformity of testing, measurement and calibration throughout Australia, NATA will seek consensus and a fair and acceptable balance of all relevant interests in its work, and encourage full participation which reflects not only sound and modern technical practice but also takes full account of the needs of manufacturers, service providers and users.
- 4.5 NATA will recognise and cooperate with other key infrastructure bodies including Standards Australia, the National Measurement Institute and the Joint Accreditation System of Australia and New Zealand and will participate in meetings with these bodies on a regular basis as a means of ensuring ongoing relevance of its accreditation programs.
- 4.6 NATA will continually evaluate ways in which its services can be provided more efficiently and, consistent with international standards, apply innovative techniques to its accreditation process with a view to minimising costs to industry.
- 4.7 NATA will involve industry in its accreditation system, encourage all facilities (including Commonwealth, State and Territory) to be accredited and promote recognition of the system by all potential users.
- 4.8 NATA will encourage accredited service providers to identify the specific needs of industry where NATA accreditation would assist in improving export performance.
- 4.9 NATA will actively engage with stakeholders to ensure that NATA's planned activities are brought to the attention of the widest possible audience of relevant interest.
- 4.10 NATA will assist the Commonwealth in attaining the objectives of the *National Measurement Act 1960 (Cth)*. In particular, NATA will:
 - 4.10.1 promote the use by its accredited service providers of the legal units of measurement prescribed under the Act;
 - 4.10.2 collaborate with the National Measurement Institute in the dissemination of Australia's primary and secondary standards of physical measurement; and
 - 4.10.3 collaborate with the National Measurement Institute in matters pertaining to chemical, biological, legal and physical metrology.
- 4.11 NATA will facilitate a competitive proficiency testing services market by publicly identifying proficiency testing requirements for accreditation purposes and by encouraging any appropriately accredited scheme providers to undertake such proficiency testing activities.
- 4.12 NATA will ensure that proficiency testing requirements for accredited service providers are fit for purpose through consultation with all stakeholders, including consumers of accredited services where practical.
- 4.13 NATA will ensure that the use of proficiency testing results at an appropriate level is an integral part of its accreditation programs where possible, and require accredited facilities participating to inform NATA of the results of such participation.
- 4.14 NATA will continue to make accessible and transparent its complaints handling process.

- 4.15 NATA will represent Australia in the International Laboratory Accreditation Cooperation (ILAC), the Asia Pacific Laboratory Accreditation Cooperation (APLAC), the OECD Working Group on Good Laboratory Practice and other such fora as may be agreed between the Participants from time to time.
- 4.16 NATA will maintain signatory status to the ILAC and APLAC Mutual Recognition Arrangements.
- 4.17 NATA will continue to develop and maintain links with foreign national accreditation bodies and maintain its operations in harmony with those foreign accreditation systems considered appropriate for development of reciprocal recognition agreements, bilateral or multilateral, which are considered in the national interest. In developing such reciprocal agreements, NATA will consult with the Commonwealth on the relevance of each agreement to the national interest or to the support of business efficiency and competitiveness and trade opportunities for Australian industry and services.
- 4.18 NATA will work in ILAC, APLAC and other international and regional fora to ensure that the national interest priorities of the Commonwealth, Australian industry and the wider Australian community in APEC, the WTO and other trade agreements and arrangements are taken into account.
- 4.19 In its role as Australia's representative under 4.15, NATA will represent any position determined and conveyed to NATA by the Commonwealth and take into account the priorities of Australian industry.
- 4.20 In representing the Australian view at international meetings, NATA will:
 - 4.20.1 ensure that it consults, as necessary, with other bodies including industry, government, other infrastructure bodies and consumer organisations;
 - 4.20.2 advise the Commonwealth in advance of the formation of Australian delegations to attend any international meetings;
 - 4.20.3 when requested, take account of Commonwealth views in formulating the brief and provide the Commonwealth with the brief for the Australian delegation prior to such meetings; and
 - 4.20.4 when requested, provide the Commonwealth with a report on the meeting within 90 days of the conclusion of the meeting.
- 4.21 NATA will be the national authority responsible for monitoring compliance with the OECD Principles of Good Laboratory Practice and will ensure that government agencies responsible for relevant Australian codes of practice are advised of changes so that there is ongoing harmony with those principles.
- 4.22 NATA will keep relevant Commonwealth agencies apprised of the outcomes of international engagements where they might impact significantly on trade policy or facilitation.
- 4.23 When requested by Commonwealth agencies, NATA will, in relation to its recognition under this arrangement:

- 4.23.1 Provide advice relating to the development and review of legislation, regulation and codes;
 - 4.23.2 Contribute to consultation processes; and
 - 4.23.3 Participate in relevant advisory committees and working groups.
- 4.24 NATA will provide and maintain on its website an accessible and searchable national database of accredited service providers in Australia, and will encourage increased community and industry access to its work and database.
- 4.25 NATA will promote an awareness of the importance of its work to quality and the public interest, in educational institutions, industry and the general community.
- 4.26 NATA will ensure that there is adequate separation from any commercial subsidiaries.
- 4.27 NATA will ensure that any such complementary business activities referred to in Paragraph 3.4 do not conflict with or divert attention from its core activities.
- 4.28 Where NATA intends to enter into an agreement with a Commonwealth agency for the purpose of providing accreditation services it will, in advance of concluding the agreement, advise the Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education of the terms and conditions of the agreement to ensure consistency with this MoU.
- 4.29 NATA will respond to concerns raised by Commonwealth agencies with respect to the performance or competence of NATA accredited service providers and those accredited by NATA's MRA partners and will provide timely feedback to the relevant agency on actions taken to address those concerns.

Paragraph 5 Commonwealth Undertakings

- 5.1 The Commonwealth may, through a grant, provide financial assistance in relation to activities contributing in net terms to the welfare and wellbeing of the Australian community as a whole that would not occur if left entirely to the private market.
- 5.2 The Commonwealth will continue to:
- 5.2.1 advise other governments and relevant international conformance organisations that NATA is the nationally recognised body for laboratory accreditation and of reference material producer accreditation; and
 - 5.2.2 inform the laboratory and reference material producer communities and users of these accreditation services that NATA is the only accreditor recognised by the Commonwealth Government.
- 5.3 The Commonwealth and its agencies will, to the maximum extent possible, participate on relevant NATA technical and stakeholder advisory committees. Where Commonwealth officers assist NATA in furtherance of its work as members of Council or its committees, no recovery will be sought for the salary and salary-related costs involved.

- 5.4 Where Commonwealth officers assist NATA as technical assessors, no recovery will be sought for the salary and salary-related costs under normal circumstances. Where the burden on a Commonwealth agency is such that its own activities are compromised, restrictions on availability or payment covering salary and salary-related expenses may be negotiated.
- 5.5 The use of Commonwealth officers in assisting any other NATA activity that falls outside the scope of this MoU will require further agreement with the Commonwealth.
- 5.6 The Commonwealth will, to satisfy its own testing needs, consider fully the merits of using NATA Accredited Service Providers or service providers accredited by organisations with which NATA has a Mutual Recognition Agreement.
- 5.7 The Commonwealth will require NATA accreditation when the case for such a requirement has been established through the regulatory review processes required by the Office of Best Practice Regulation or its successor.
- 5.8 The Commonwealth will encourage other Australian governments and instrumentalities to adopt a similar approach to that indicated in Paragraph 5.6.
- 5.9 All Commonwealth facilities whose principal function is to provide calibration, measurement, testing or related services to either government or outside agencies will, as appropriate, obtain and maintain accreditation by NATA.
- 5.10 The Commonwealth will support NATA's efforts to achieve international harmonisation of standards and codes of practice on laboratory accreditation, accreditation of proficiency testing scheme providers, inspection body accreditation and accreditation of producers of reference materials.
- 5.11 The Commonwealth will, where appropriate, invite NATA to participate in national, regional and international intergovernmental discussions involving the standards and conformance infrastructure, unless there are reasons of confidentiality for not doing so. Where such discussions may give rise to intergovernmental agreements, the Commonwealth will, as appropriate, take into account NATA's views on how best to implement such agreements.
- 5.12 Commonwealth regulatory agencies will work with NATA as appropriate to ensure that facilities accredited by NATA or its Mutual Recognition Agreement partners maintain the required level of competence to satisfy relevant regulatory requirements.

Paragraph 6 Joint Undertakings

- 6.1 The Participants will, where appropriate, encourage service providers in all sectors of the Australian community to adhere to the principles of good laboratory and inspection practice embodied in NATA's criteria for accreditation, to have such adherence recognised through NATA accreditation and as necessary to incorporate use of accredited facilities in appropriate purchasing decisions, regulations, quality assurance requirements and operational procedures.
- 6.2 The Participants will promote understanding and awareness of the objectives and mechanisms of NATA's accreditation through educational, training and international

activities. Furthermore, NATA and the Commonwealth will seek to strengthen national information services on technical regulations and national and international laboratory, inspection, proficiency testing scheme provider and providers of reference material accreditation systems.

- 6.3 The Participants will conduct an annual internal review of their performance against the joint and individual undertakings.
- 6.4 The Participants will meet as often as necessary but at least annually to:
 - 6.4.1 Consider the outcomes of the internal reviews in 6.3; and
 - 6.4.2 Exchange information on current trends and anticipated needs with regard to accredited infrastructure.

Paragraph 7 Legal Status of this Memorandum

- 7.1 The Participants do not intend to create any legally binding relationship or obligations by entering into this MoU.

Paragraph 8 Duration of MoU

- 8.1 This MoU has effect for a period of five (5) years from the date of its execution unless earlier terminated in accordance with Paragraph 11 or extended by agreement by both Participants.

Paragraph 9 Participant Representatives

- 9.1 Each of the Participants will from time to time nominate a representative to manage the relationship between NATA and DIICCSRTE. The details of the current DIICCSRTE Representative and the Representative from NATA will be notified in writing prior to the commencement date of this MoU. Any change to these details must be advised in writing by the relevant Participant. Any notice given by a Participant under the MoU must be in writing and addressed to the representative at the nominated address in Paragraph 12.

Paragraph 10 Variation

- 10.1 This MoU may be varied by agreement of the Participants at any time and any such variation will be set out in writing and signed by both Participants.

Paragraph 11 Termination

- 11.1 The Participants may terminate this MoU upon providing 12 months notice in writing to the other Participant.

Paragraph 12 Notices

- 12.1 Notices or communication by NATA to the Commonwealth about this MoU will, unless otherwise notified in writing by the Commonwealth to NATA, be addressed to the Commonwealth as follows:

General Manager
Trade and International Branch
Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education
GPO Box 9839
CANBERRA ACT 2601

- 12.2 Notices or communication by the Commonwealth to NATA will unless otherwise notified in writing by NATA to the Commonwealth, be addressed to NATA as follows:

Chief Executive Officer
National Association of Testing Authorities, Australia
7 Leeds Street
RHODES NSW 2138

Paragraph 13 Dispute Resolution

- 13.1 The Participants agree to use reasonable efforts to resolve by negotiation any problem that arises among them (Dispute). A Participant will not withdraw from this MoU until the following process has been exhausted.

- 13.1.1 If there is a Dispute between the Participants concerning this MoU, either Participant may give written notice of the Dispute to the other party which will state that it is a notice under this Paragraph and will specify the details of the Dispute concerned.
- 13.1.2 The relevant Participant's Representatives will endeavour in good faith to agree upon a resolution of the Dispute.
- 13.1.3 Should Participant's Representatives fail to reach a solution within 14 business days (or a time frame agreed between the Participants) the Dispute will be taken to Senior or Executive Management representatives of each of the Participants.
- 13.1.4 Senior or Executive Managers of the Participants will endeavour in good faith to agree upon a resolution of the Dispute.
- 13.1.5 Should senior or Executive Management Representatives fail to resolve the Dispute within 10 business days (or other time frame agreed by the Participants), the Dispute will be taken to:
- (i) The Secretary of DIICCSRTE;
 - (ii) The Chief Executive Officer of NATA.

Disputes will not be referred to any third party or tribunal for adjudication or arbitration.


Paragraph 14 Record Keeping

- 14.1 The Participants will document the administration of this MoU, and will disclose MoU records to the other Participant upon request in writing.

Signing Page

Executed as a Memorandum.

Signed for and on behalf of National Association of Testing Authorities by its duly authorised delegate in the presence of



Signature of witness

PETER WILLIAMS.

Name of witness (print)



Signature of delegate

Alastair Ross

Name of delegate (print)

Chair

Position of delegate

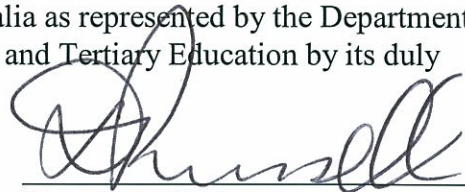
Signed for and on behalf of the Commonwealth of Australia as represented by the Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education by its duly authorised delegate in the presence of



Signature of witness

Margaret Waterton

Name of witness (print)



Signature of delegate

DR DON RUSSELL

Name of delegate (print)

SECRETARY

Position of delegate