

MEAT INSPECTION - CONTRACT FOR SERVICES

Contract No.

THIS SERVICES AGREEMENT is made as of [insert date]

BETWEEN:

Minister for Agriculture, Food and the Marine of Agriculture House, Kildare Street, Dublin 2; (“Customer”)

and

(“Contractor”).

Together the “Parties”

WHEREAS:

- A. By contract notice dated 2nd June 2017, which is hereby incorporated by reference into this Agreement (“Customer’s Contract Notice”), the Customer invited responses for the provision of certain meat inspection services at Kepak, Drumquin, Tiermaclane, Ennis, Co. Clare (“Services”).
- B. The Contractor submitted a response to the Customer’s Contract Notice on [insert date] which is hereby incorporated by reference into this Agreement (“the Contractor’s Submission”). The Contractor has represented to the Customer that he is qualified to provide the Services and has considerable skill, knowledge and experience in that field.
- C. The Contractor agrees to provide the Services in accordance with the Customer’s Contract Notice and Contractor’s Submission and upon the terms and conditions hereafter set forth in this agreement (“Agreement”).

IT IS AGREED as follows:

- 1.1 In consideration of the fee per hour (€64.49) (“Fee”) the Contractor agrees to carry out the meat inspection services (or any part of them) (“Services”) at Kepak, Drumquin, Tiermaclane, Ennis, Co. Clare, in accordance with the Customer’s Contract Notice of 2nd June 2017 and in the manner set out in the Contractor’s Submission. The Fee may be increased or decreased during the term of the Agreement at the sole discretion of the Customer.
- 1.2 Payment will be made monthly in arrears subject to submission of a Tax Clearance certificate under Clause 1.4 below and the completion of the Customer’s payment formalities including provision of bank details.
- 1.3 The Fee shall include any and all expenses incurred by the Contractor in the performance of the Services. The Customer shall not be liable to pay costs or expenses incurred by the Contractor in the provision of the Services. Save as provided for in this Clause 1 the Customer shall have no further or other financial obligations or liability under or arising out of this Agreement.

- 1.4** The Customer must be in possession of the Contractor's current Tax Clearance Certificate and such details as may be required by the Customer to confirm the Contractor's tax status. The Contractor shall comply with all domestic and EU taxation law and requirements including but not being limited to the terms of Circular 43/2006 issued by the Department of Finance, a copy of which is available at www.irlgov.ie/finance. All payments under this Agreement will be conditional upon the Customer being in possession of a valid tax clearance certificate.
- 1.5** The Fee shall be discharged as provided for in this Clause 1 subject to the retention by the Customer in accordance with clause 523 of the Taxes Consolidation Act, 1997 of any withholding taxes payable to the Contractor. Any and all taxes applicable to the provision of the Services will be the sole responsibility of the Contractor and the Contractor so acknowledges and confirms.
- 1.6.1** The Contractor shall hold and comply with, for the Term of the Agreement all necessary consents including but not being limited to authorisations, qualifications, licences, permits, permissions, approvals, certificates, exemptions, certifications, filings, registrations and all other matters official or otherwise which are required in the provision of the Services ("Necessary Consents").
- 1.6.2** In the event that any Necessary Consents expire, are revoked or suspended, the Customer may suspend the Agreement from the date of the expiration, revocation or suspension. In the event that any such Necessary Consent is not reinstated within 10 working days from the date of suspension or revocation the Customer may by notice in writing terminate with immediate effect.
- 1.7** The Contractor providing the Services must be fluent in both the spoken and written forms of the English language to the level required to provide the Services.
- 1.8** The Contractor shall remain competent to deliver the Services including having the necessary physical fitness to perform the Services for the Term of the Agreement. The Customer will require a medical certificate attesting to the Contractor's physical ability to fully perform the Services in a meat plant environment during the Term of this Agreement and may suspend or terminate this Agreement with immediate effect in the absence of such certification.
- 1.9** The Contractor is obliged to attend (without payment), in advance of supplying the Services, an induction course (approved by the Customer) on ante mortem and post-mortem systems and procedures; and will be required to undergo subsequent training at his/her own cost as deemed necessary by the Customer to ensure that the Contractor has the necessary competence.
- 1.10** The competency of the contractor in the provision of meat inspection services, as detailed in EU Regulation 854/2004, will be visually assessed and documented on an ongoing basis by the Department. Failure to satisfy the Department as regards the necessary level of competency may result in the suspension or termination of the contract.

2. Term and Relationship

- 2.1** This Agreement shall commence on the date of this Agreement and continue in full force and effect for 6 months unless terminated earlier in accordance with this Agreement. This Agreement may be extended by up to 13 weeks.

- 2.2 For the Term of this Agreement, the Contractor shall use all due care, skill and diligence in providing the Services (and in particular but not limited to the Customer's Contract Notice).
- 2.3 The Contractor shall comply with and implement any local security or health, safety and welfare or other arrangements, policies and or guidelines issued by the Customer and/or the management of the plant from time to time. Failure to do so may result in termination of the Agreement by the Minister by notice in writing with immediate effect.
- 2.4 The Contractor shall comply with all reasonable directions of the Customer.
- 2.5 During this Agreement, the Contractor shall be an independent contractor and not the employee of the Customer. Neither Party shall have any authority to bind or commit the other. Nothing herein shall be deemed or construed to create a joint venture, partnership, and/or fiduciary or other relationship between the Parties for any purpose. The Contractor, its officers, employees or agents are not and shall not hold themselves out to be (and shall not be held out by the Contractor as being) servants or agents of the Customer for any purposes whatsoever.
- 2.6 The Customer does not give any guarantee as to the actual value of work (if any) which may be required by the Contractor in connection with this Agreement. The Customer is not and will not be under any obligation to avail of this Agreement. Nothing in this Agreement shall preclude the Customer from purchasing the Services from a third party at any time during the Term of this Agreement.

3. Confidentiality

- 3.1 The Contractor undertakes to treat all information, reports or data, in whatever format, relating to the provision of the Services and all information supplied or made available to the Contractor ("Confidential Information") as confidential and will take all necessary steps to ensure that such confidentiality is maintained and its obligations under the Data Protection Acts 1988 and 2003 are met.
- 3.2 The Contractor undertakes to comply with all directions of the Customer with regard to the use and application of all Confidential Information. The Contractor agrees to execute a confidentiality agreement, in a form to be specified by the Customer, if so required by the Customer.
- 3.3 Upon termination or completion of the Agreement for any reason the Contractor shall return all Confidential Information to the Customer. For the avoidance of doubt the terms of this Clause 3 shall survive termination of this Agreement for any reason.
- 3.4 The Contractor acknowledges that the provisions of the Freedom of Information Act 1997 and 2003 may apply to this Agreement. In the event of the Customer receiving a request for information related to this Agreement, the Customer shall consult with the Contractor in respect of the request. The Contractor shall identify any information that the Contractor believes ought not be disclosed and the grounds for such belief and the Customer shall consider such views in advance of deciding whether the information may be disclosed. Irrespective of the views of the Parties final decision on disclosure rests with the Office of the Information Commissioner and ultimately the courts.

4. Warranties

The Contractor warrants, represents and undertakes that:

- A. s/he is entering into this Agreement with a full understanding of its material terms and risks and is capable of assuming those risks;
- B. s/he is entering into this Agreement with a full understanding of his/her obligations with regard to taxation, Hygiene Package requirements (including but not limited to the legislation set out at Clause 15 below, health and safety requirements, obligations under the Data Protection Acts 1988 and 2003, and dealing with any potential conflicts of interest and is capable of assuming and fulfilling those obligations;
- C. s/he is acquainted with and shall comply with legal requirements or such other laws, recommendations, guidance or practices as may affect the provision of the Services;
- D. s/he has taken all and any action necessary to ensure that it has the power to execute and enter into this Agreement;
- E. as at the date of this Agreement, all information contained in the Contractor's Submission remains true, accurate and not misleading; and
- F. s/he will advise the Customer in the event of any conflict or potential conflict of interest, in relation to animals under his/her ownership or care, or that of the practice of which s/he is a member, which comes to his/her attention during the Term of this Agreement and will comply with the Customer's directions in respect thereof.

5. Project Management

5.1 The Contractor will report to and liaise with the Official Veterinarian responsible for the plant for the Term of this Agreement. The Parties shall meet to discuss all matters relating to the provision of the Services and/or this Agreement as may be directed by the Customer. The contractor will be required to comply with all reasonable directions of the Customer, including documented procedural instructions which the Customer may issue from time to time, as they relate to provision of ante mortem and post mortem meat inspection services. The contractor will be required to use personal protective equipment which meets the Customer's specification.

5.2 The Contractor agrees and acknowledges that:

1. There is no obligation on the Customer to allocate any work under this Agreement;
2. The number of hours required (if any) per week varies and the Customer will decide the provision of Services and the hours required and the Contractor is not obliged to accept the offer of any work;
3. In the event of the plant closing or ceasing production no further Services will be required at that plant and no compensation will be paid in respect of such plant closure or production cessation and
4. The Customer will decide how many meat inspectors are required at the plant on a particular day and the Customer will allocate hours.

- 6. Media**
No media releases, public announcements or public disclosures relating to this Agreement or its subject matter, including but not limited to promotional or marketing material, shall be made by the Contractor without the prior written consent of the Customer.
- 7. Indemnity**
The Contractor shall indemnify the Customer for and in respect of all and any claims arising directly as a result of the negligence, breach of contract, breach of duty, insolvency, recklessness, bad faith, wilful default or fraud of the Contractor its employees, sub-contractors or agents or any of them or as a result of the Contractor's failure to exercise care as outlined in Clause 3. For the avoidance of doubt the terms of this Clause shall survive termination of this Agreement for any reason.
- 8. Entire Agreement**
This Agreement constitutes the entire agreement and understanding of the Parties, and any and all other previous agreements, arrangements and understandings (whether written or oral) between the parties with regard to the subject matter of this Agreement are hereby excluded.
- 9. Amendments to Agreement**
- 9.1** Amendments to or modifications of this Agreement may be made only by mutual agreement of both Parties in writing and shall be subject to whatever approvals of appropriate authorities as may be required by law.
- 9.2** If any term or provision herein is found to be illegal or unenforceable, then such term or provision shall be deemed severed and all other terms and provisions shall remain in full force and effect.
- 10. Subcontracting and Assignment**
This Agreement or the benefit thereof may not be subcontracted by the Contractor.
- 11. Jurisdiction**
This Agreement shall in all aspects be governed by and construed in accordance with the laws of Ireland and the Parties hereby agree that the courts of Ireland have exclusive jurisdiction to hear and determine any disputes arising out of or in connection with this Agreement.
- 12. Termination**
- 12.1** This Agreement may be terminated by the Customer by serving ten (10) working days written notice to the Contractor. Neither Party shall be entitled to any additional amounts or compensation in the event that the Agreement is terminated.
- 12.2** The Customer shall have the right (in addition to any other rights which it has at law) to terminate this Agreement immediately and without liability for compensation or damages on the happening of any of the following:

- A. if the Contractor does not demonstrate a sufficient level of competency in the provision of meat inspection service or commits any serious breach or a series of breaches of any provision of this Agreement and/or the Hygiene Package and fails to remedy such breach(es) to the reasonable satisfaction of the Customer by the close of business on the same working day on which the serious breach or series of breaches occurred; and / or
- B. if the Contractor becomes insolvent, becomes bankrupt, is wound up, commences winding up, has a receiving order made against it, makes any arrangement with its creditors generally or takes or suffers any similar action as a result of debt, or an event having an equivalent effect; and/or
- C. if the Contractor does not demonstrate a sufficient level of competency and/or fluency in both the spoken and written forms of the English language as may be required to deliver the Services;
- D. if the Contractor is unable to provide services to the satisfaction of the Customer due to physical inability or ill health or presents a health and safety risk to Department employees or third parties

13. Waiver

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

14. Health and Safety

The Contractor shall comply with all obligations of the Safety Health and Welfare at Work Act 2005 including but not limited to abiding by Department and Plant Safety Statements.

15. Compliance with law

The Contractor shall comply with all applicable EU and Irish law including but not being limited to Regulations (EC) Nos 852/2004, 853/2004, 854/2004 and 882/2004 (as amended), the European Communities (Food and Feed Hygiene) Regulations 2009 (S.I. No. 432 of 2009) (as amended) and the Data Protection Acts 1988 to 2003.

16. Interpretation

References to clauses and schedules are to the clauses of, and Schedules to, this Agreement. The Schedules form part of, and are hereby incorporated by reference into, this Agreement. Any reference to this Agreement shall be deemed to include the Schedules. In the event of any contradiction between the documents comprised in this Agreement, the terms of this Agreement shall prevail over the Schedules and the provisions of Agreement shall prevail over the provision of the Customer's Contract Notice and the Contractor's Submission.

17. Notices

17.1 All notices or communications to be given under this Agreement ("Notice") shall be delivered in person at any location including at the plant or sent by e-mail to:

For the Customer:

[Name]

[e-mail address]

For the Contractor:

[Name]

[e-mail address]

17.2 All Notices shall be deemed to have been served as follows:

17.2.1 if personally delivered, at the time of delivery;

17.2.2 if communicated by e-mail transmission at the time of acknowledgement of transmission;

17.3 Each Party giving a Notice by hand shall promptly confirm such Notice by e-mail (if the addressee Party has furnished an e-mail address) to the person to whom such Notice was made without prejudice to the effectiveness or validity of the Notice which was delivered in accordance with clause 17.2.

18. Dispute Resolution

Subject to clause 11 and to the Parties' respective rights to apply to the courts upon any cause of action at any time, the Parties shall seek to resolve any disputes between them, arising out of or relating in any way to the issues covered by the Agreement, amicably.

IN WITNESS WHEREOF this Agreement has been executed by the Parties hereto as of the date first above written.

SIGNED by _____

in the presence of _____
Witness

SIGNED by _____

For and on behalf of _____
[Insert full name of Contractor]

in the presence of _____
Witness

SCHEDULE 1

THE SERVICES TO BE PROVIDED

Ante-mortem inspection tasks

Post-mortem inspection tasks

EU Regulations set out the inspection tasks that must be conducted both ante mortem and post-mortem where animals are slaughtered for human consumption.

These tasks are set out in the Regulations listed below and in particular in Annex I of Regulation (EC) No 854/2004.

The rules relating to hygiene in food of animal origin are set out in Regulations (EC) Nos 852/2004, 853/2004, 854/2004 and 882/2004 of the European Parliament and of the Council (as amended). These regulations are generally referred to as the 'Hygiene Package'.

The European Communities (Food and Feed Hygiene) Regulations 2009 (S.I. 432 of 2009) give effect to the EU Regulations in Irish law.

The Department of Agriculture, Food and the Marine is a competent authority for the purposes of these Regulations operating under service contract to the Food Safety Authority of Ireland.