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**United Kingdom-Shrewsbury: Poultry  
2017/S 175-358585**

**Contract notice**

**Services**

Directive 2014/24/EU

**Section I: Contracting authority**

I.1) **Name and addresses**

Shropshire Council  
Shirehall, Abbey Foregate  
Shrewsbury  
SY2 6ND  
United Kingdom  
Contact person: [REDACTED] Procurement Manager  
Telephone: +44 1743252992  
E-mail: [procurement@shropshire.gov.uk](mailto:procurement@shropshire.gov.uk)  
NUTS code: UKG22

**Internet address(es):**

Main address: [www.shropshire.gov.uk](http://www.shropshire.gov.uk)

I.1) **Name and addresses**

Shropshire Council is purchasing on behalf of itself and any wholly owned local authority company or other entity that is deemed to be a contracting authority by virtue of the Council's involvement  
Shirehall, Abbey Foregate  
Shrewsbury  
SY2 6ND  
United Kingdom  
E-mail: [procurement@Shropshire.gov.uk](mailto:procurement@Shropshire.gov.uk)  
NUTS code: UKG22

**Internet address(es):**

Main address: [www.shropshire.gov.uk](http://www.shropshire.gov.uk)

I.2) **Joint procurement**

The contract involves joint procurement

I.3) **Communication**

The procurement documents are available for unrestricted and full direct access, free of charge, at: <http://www.delta-esourcing.com/tenders/UK-UK-Shrewsbury:-Poultry./8R92Z285X5>  
Additional information can be obtained from the abovementioned address  
Tenders or requests to participate must be submitted electronically via: <http://www.delta-esourcing.com/tenders/UK-title/8R92Z285X5>  
Tenders or requests to participate must be submitted to the abovementioned address

I.4) **Type of the contracting authority**

Regional or local authority

- I.5) **Main activity**  
General public services

**Section II: Object**

II.1) **Scope of the procurement**

II.1.1) **Title:**

RMCS 021 — Supply and Delivery of Marinated Chicken Products.  
Reference number: RMCS 021

II.1.2) **Main CPV code**

15112000

II.1.3) **Type of contract**

Services

II.1.4) **Short description:**

Shropshire Council is seeking a Contractor for the supply and delivery of marinated chicken products commencing on 1.3.2018 for an initial period of 3 years with the option to extend for a further period of up to 2 years.

II.1.5) **Estimated total value**

Value excluding VAT: 550 000.00 GBP

II.1.6) **Information about lots**

This contract is divided into lots: no

II.2) **Description**

II.2.1) **Title:**

II.2.2) **Additional CPV code(s)**

15112000

II.2.3) **Place of performance**

NUTS code: UKG22

Main site or place of performance:

Shropshire CC.

II.2.4) **Description of the procurement:**

You are invited to tender for the provision of supply and delivery of fresh marinated chicken products direct to individual establishments administered by Shropshire Council (Shire Services) being located in Shropshire, Hereford, Worcester, Staffordshire, West Midlands and North Wales.

The contract will be for an initial period of 3 years commencing on 1.3.2018 with the option to extend for a further period of up to 2 years.

Please note other geographical areas (and sites) may be amended to this arrangement should new business be obtained (or lost) by the Contracting Authority.

II.2.5) **Award criteria**

Criteria below

Quality criterion - Name: Quality / Weighting: 50

Cost criterion - Name: Price / Weighting: 50

II.2.6) **Estimated value**

Value excluding VAT: 550 000.00 GBP

II.2.7) **Duration of the contract, framework agreement or dynamic purchasing system**

Start: 01/03/2018

End: 28/02/2021

This contract is subject to renewal: yes

Description of renewals:

The contract can be extended for a further period of up to 2 years.

**II.2.10) Information about variants**

Variants will be accepted: yes

**II.2.11) Information about options**

Options: no

**II.2.12) Information about electronic catalogues**

**II.2.13) Information about European Union funds**

The procurement is related to a project and/or programme financed by European Union funds: no

**II.2.14) Additional information**

**Section III: Legal, economic, financial and technical information**

**III.1) Conditions for participation**

**III.1.1) Suitability to pursue the professional activity, including requirements relating to enrolment on professional or trade registers**

List and brief description of conditions:

See tender documents.

**III.1.2) Economic and financial standing**

List and brief description of selection criteria:

See tender documents.

Minimum level(s) of standards possibly required:

See tender documents.

**III.1.3) Technical and professional ability**

List and brief description of selection criteria:

See tender documents.

Minimum level(s) of standards possibly required:

See tender documents.

**III.1.5) Information about reserved contracts**

**III.2) Conditions related to the contract**

**III.2.1) Information about a particular profession**

**III.2.2) Contract performance conditions:**

See tender documents.

**III.2.3) Information about staff responsible for the performance of the contract**

**Section IV: Procedure**

**IV.1) Description**

**IV.1.1) Type of procedure**

Open procedure

**IV.1.3) Information about a framework agreement or a dynamic purchasing system**

**IV.1.4) Information about reduction of the number of solutions or tenders during negotiation or dialogue**

**IV.1.6) Information about electronic auction**

**IV.1.8) Information about the Government Procurement Agreement (GPA)**

The procurement is covered by the Government Procurement Agreement: no

**IV.2) Administrative information**

**IV.2.1) Previous publication concerning this procedure**

**IV.2.2) Time limit for receipt of tenders or requests to participate**

Date: 11/10/2017

Local time: 12:00

**IV.2.3) Estimated date of dispatch of invitations to tender or to participate to selected candidates**

**IV.2.4) Languages in which tenders or requests to participate may be submitted:**

English

**IV.2.6) Minimum time frame during which the tenderer must maintain the tender**

**IV.2.7) Conditions for opening of tenders**

Date: 11/10/2017

Local time: 12:00

Place:

Shirehall, Shresbury.

**Section VI: Complementary information**

**VI.1) Information about recurrence**

This is a recurrent procurement: yes

Estimated timing for further notices to be published:

5 years.

**VI.2) Information about electronic workflows**

**VI.3) Additional information:**

The contracting authority considers that this contract may be suitable for economic operators that are small or medium enterprises (SMEs). However, any selection of tenderers will be based solely on the criteria set out for the procurement.

For more information about this opportunity, please visit the Delta eSourcing portal at:

<https://www.delta-esourcing.com/tenders/UK-UK-Shrewsbury:-Poultry./8R92Z285X5>

To respond to this opportunity, please click here:

<https://www.delta-esourcing.com/respond/8R92Z285X5>

GO Reference: GO-2017911-PRO-10997863.

**VI.4) Procedures for review**

**VI.4.1) Review body**

Shropshire Council

Shirehall

Shrewsbury

SY2 6ND

United Kingdom

Telephone: +44 1743252992

E-mail: [procurement@shropshire.gov.uk](mailto:procurement@shropshire.gov.uk)

Internet address: [www.shropshire.gov.uk](http://www.shropshire.gov.uk)

**VI.4.2) Body responsible for mediation procedures**

Shropshire Council

Shirehall, Abbey Foregate  
Shrewsbury  
SY2 6ND  
United Kingdom  
E-mail: [procurement@shropshire.gov.uk](mailto:procurement@shropshire.gov.uk)  
Internet address: [www.shropshire.gov.uk](http://www.shropshire.gov.uk)

VI.4.3) **Review procedure**

VI.4.4) **Service from which information about the review procedure may be obtained**

Shropshire Council  
Shirehall, Abbey Foregate  
Shrewsbury  
SY2 6ND  
United Kingdom  
E-mail: [procurement@Shropshire.gov.uk](mailto:procurement@Shropshire.gov.uk)  
Internet address: [www.shropshire.gov.uk](http://www.shropshire.gov.uk)

VI.5) **Date of dispatch of this notice:**

11/09/2017

personal info

## Commissioning & Procurement

Shirehall, Abbey Foregate  
Shrewsbury, SY2 6ND



**Tel:** (01743) 252993

**Fax:** (01743) 255901

Please ask for: [REDACTED]

Email: [procurement@shropshire.gov.uk](mailto:procurement@shropshire.gov.uk)

Dear Bidder

### **RMCS 021 – THE SUPPLY & DELIVERY OF MARINATED CHICKEN PRODUCTS**

#### **SHROPSHIRE COUNCIL**

You have been invited to tender for the above requirement. With this letter please find copies of the following documents:

1. Instructions for Tendering & Special Terms and Conditions
2. Shropshire Council Standards Goods Contract
3. Tender Response Document
4. Appendix A – Pricing Schedule and Product List
5. Appendix B – Establishment List 2017
6. Appendix C – Food additives to be avoided

Tenders should be made on the enclosed Tender Response Document. Your Tender must be completed, signed and returned together with a signed copy of the 'Instructions for Tendering' through our Delta Tenderbox. You are recommended to keep a copy of all tender documents and supporting documents for your own records.

Please pay particular attention to the points below concerning the returning of tenders.

#### Returning of Tenders

- The deadline for returning tenders is **noon on 11<sup>th</sup> October 2017**, any tenders received after this time will not be accepted
- Tenders are to be submitted through Delta, our electronic tender portal
  - Please ensure that you allow yourself at least two hours when responding prior to the closing date and time, especially if you have been asked to upload documents. If you are uploading multiple documents you will have to individually load one document at a time or you can opt to zip all documents in an application like WinZip. Failure to submit by the time and date or by the method requested will not be accepted.
  - Once you upload documentation ensure you follow through to stage three and click the 'response submit' button. Failure to do so, will mean the documents won't be viewable by the Council.

Tenders **cannot** be accepted if:

- Tenders are received by post, facsimile or email
- Tenders are received after **12 noon on the given deadline**

### European Requirements

In accordance with the EU Procurement Directive, Shropshire Council will accept equivalent EC member or international standards in relation to safety, suitability and fitness for purpose. Where a particular brand of article or service has been referred to in the tender document, alternatives or equivalents which achieve the same result will be equally acceptable. In these cases Shropshire Council will take into account any evidence the tenderer wishes to propose in support of the claim that the product or service is equivalent to the named types.

All tender documents and any accompanying information must be submitted in English. A Contract Notice in respect of this requirement was dispatched on **11<sup>th</sup> September 2017** to appear in the Supplement to the Official Journal of the European Union.

### Freedom of Information

Under the provisions of the Freedom of Information Act 2000 from 1 January 2005, the public (included in this are private companies, journalists, etc.) have a general right of access to information held by public authorities. Information about your organisation, which Shropshire Council may receive from you may be subject to disclosure, in response to a request, unless one of the various statutory exemptions applies.

Therefore if you provide any information to Shropshire Council in the expectation that it will be held in confidence, you must make it clear in your documentation as to the information to which you consider a duty of confidentiality applies. The use of blanket protective markings such as “commercial in confidence” will no longer be appropriate and a clear indication as to what material is to be considered confidential and why should be given.

### Other Details

Please note that if supplementary questions are raised by any tenderer prior to the closing of tenders and Shropshire Council decides that the answers help to explain or clarify the information given in the Tender Documents, then both the questions and the answers will be circulated to all enterprises invited to submit a tender.

**Please also note that Shropshire Council is committed to achieving Social Value outcomes through all its procurement activity, specific requirements for this contract are set out within the Tender Response Document and in addition for your further information the council's Social Value Framework guidance can be found at [www.shropshire.gov.uk/doing-business-with-shropshire-council](http://www.shropshire.gov.uk/doing-business-with-shropshire-council).**

As part of its sustainability policy, Shropshire Council encourages tenderers to minimise packaging, particularly presentational or retail packaging.

Shropshire Council is purchasing on behalf of itself and any wholly owned local authority company or other entity that is deemed to be a contracting authority by virtue of the Council's involvement

Please also note that Shropshire Council is committed to achieving Social Value outcomes through maximising the social, economic and/or environmental impact of all its procurement activity. Specific requirements for this contract are set out within the Tender Response

personal info

Document and in addition for your further information the council's Social Value Framework guidance can be found at [www.shropshire.gov.uk/doing-business-with-shropshire-council](http://www.shropshire.gov.uk/doing-business-with-shropshire-council).

If you have any queries relating to this invitation to tender, please contact me on telephone number 01743 252993.

Yours faithfully



Procurement Manager  
Commissioning & Procurement  
Enc





## **INSTRUCTIONS FOR TENDERING**

**RMC 021 – Supply & Delivery of  
Marinated Chicken Products**

**Contract Description:**

You are invited to tender for the provision of supply and delivery of fresh marinated chicken products direct to individual establishments administered by Shropshire Council (Shire Services) being located in Shropshire, Hereford, Worcester, Staffordshire, West Midlands and North Wales.

The contract will be for an initial period of 3 years commencing on 1<sup>st</sup> March 2018 with the option to extend for a further period of up to 2 years.

Please note other geographical areas (and sites) may be amended to this arrangement should new business be obtained (or lost) by the Contracting Authority.

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## **1.0 Invitation to Tender**

- 1.1** You are invited to tender for the supply and delivery of marinated chicken products as detailed in the Tender Response Document. The contract will be for an initial period of **3 years** commencing on the **1<sup>st</sup> March 2018** with the option to extend for a further period of up to 2 years.
- 1.2** Tenders are to be submitted in accordance with the Standard Goods Contract Terms and Conditions of Shropshire Council and the instructions outlined within this document.
- 1.3** Tenders must be submitted in accordance with the following instructions. Tenders not complying in any particular way may be rejected by Shropshire Council (the Council) whose decision in the matter shall be final. Persons proposing to submit a Tender are advised to read the Invitation to Tender documentation carefully to ensure that they are fully familiar with the nature and extent of the obligations to be accepted by them if their Tender is accepted.
- 1.4** The Invitation to Tender documents must be treated as private and confidential. Tenderers should not disclose the fact that they have been invited to tender or release details of the Invitation to tender document other than on an “in confidence” basis to those who have a legitimate need to know or who they need to consult for the purpose of preparing the tender as further detailed in these Instructions for Tendering.
- 1.5** Tenderers shall not at any time release information concerning the invitation to tender and/or the tender documents for publication in the press or on radio, television, screen or any other medium without the prior consent of the Council.
- 1.6** The fact that a Tenderer has been invited to submit a tender does not necessarily mean that it has satisfied the Council regarding any matters raised in the pre-tender questionnaire submitted. The Council makes no representations regarding the Tenderer’s financial stability, technical competence or ability in any way to carry out the required services. The right to return to any matter raised in any pre-tender questionnaire submitted as part of the formal tender evaluation is hereby reserved by the Council.
- 1.7** The Invitation to Tender is issued on the basis that nothing contained in it shall constitute an inducement or incentive nor shall have in any other way persuaded a tenderer to submit a tender or enter into a Contract or any other contractual agreement.
- 1.8** Shropshire Council is purchasing on behalf of itself and any wholly owned local authority company or other entity that is deemed to be a contracting authority by virtue of the Council’s involvement.

## **2.2 Terms and Conditions**

- 2.1** Every Tender received by the Council shall be deemed to have been made subject to the Standard Goods Contract Terms and Conditions of Shropshire Council and these Instructions for Tendering unless the Council shall previously have expressly

agreed in writing to the contrary.

- 2.2** The Tenderer is advised that in the event of their Tender being accepted by the Council, they will be required to undertake the required services.

### **3.0 Preparation of Tenders**

#### **3.1 Completing the Tender Response Document**

- 3.1.1** Tenders should be submitted using the 'Tender Response Document' following the instructions given at the front of the document. The Tenderer's attention is specifically drawn to the date and time for receipt of Tenders and that no submission received after the closing time will be considered.

- 3.1.2** All documents requiring a signature must be signed;

- a) Where the Tenderer is an individual, by that individual;
- b) Where the Tenderer is a partnership, by two duly authorised partners;
- c) Where the Tenderer is a company, by two directors or by a director and the secretary of the company, such persons being duly authorised for the purpose.

- 3.1.3** The Invitation to Tender Documents are and shall remain the property and copyright of the Council

#### **3.2 Tender Preparation and Costs**

- 3.2.1** It shall be the responsibility of Tenderers to obtain for themselves at their own expense all information necessary for the preparation of their Tender. No claim arising out of want of knowledge will be accepted. Any information supplied by the Council (whether in the Tender Documentation or otherwise) is supplied only for general guidance in the preparation of tenders.

- 3.2.2** Any Tenderer considering making the decision to enter into a contractual relationship with the Council must make an independent assessment of the Tender opportunity after making such investigation and taking such professional advice as it deems necessary.

- 3.2.3** Tenderers will be deemed for all purposes connected with their Tender submission where appropriate to have visited and inspected the Council, its assets, all the locations in respect of the delivery of the services/supplies/works and to have satisfied themselves sufficiently as to the nature, extent and character of the services supplies/works sought, and the human resources, materials, software, equipment, machinery, and other liabilities and other matters which will be required to perform the contract.

- 3.2.4** The Council will not be liable for any costs incurred by Tenderers in the preparation or presentation of their tenders.

- 3.2.5** Tenderers are required to complete all pricing schedules in the Invitation to tender documents. The terms "Nil" and "included" are not to be used but a zero or figures must be inserted against each item. Unit rates and prices must be quoted in pounds sterling and whole new pence.

- 3.2.6** It shall be the Tenderer's responsibility to ensure that all calculations and prices in the Tender documentation are correct at the time of submission.
- 3.2.7** The Tenderer is deemed to have made him/herself acquainted with the Council's requirements and tender accordingly. Should the Tenderer be in any doubt regarding the true meaning and intent of any element of the specification he is invited to have these fully resolved before submitting his Tender. No extras will be allowed for any loss or expense involved through any misunderstanding arising from his/her failure to comply with this requirement.
- 3.2.8** Any Tender error or discrepancy identified by the Council shall be drawn to the attention of the Tenderer who will be given the opportunity to correct, confirm or withdraw the Tender.
- 3.2.9** The Tender Documents must be treated as private and confidential. Tenderers should not disclose the fact that they have been invited to tender or release details of the Tender document other than on an In Confidence basis to those who have a legitimate need to know or whom they need to consult for the purpose of preparing the Tender.

### **3.3 Parent Company Guarantee**

It is a condition of contract that if the tendering company is a subsidiary then its Ultimate Group/Holding Company must guarantee the performance of this contract and provide a letter to that effect signed by a duly authorised signatory of the Ultimate Group/Holding Company if requested to do so by the Council. Where the direct parent company cannot provide an adequate guarantee in the opinion of the Council, the Council will look to another group or associate company, with adequate assets, to be the guarantor. In cases where the contract is with a Joint Venture Company (JVC) or a Special Purpose Vehicle (SPV) company, which may have two or more parent companies and which may not be adequately capitalised or have sufficient financial strength on its own to support the risk and obligations it has under the contract, 'joint and several' guarantees / indemnities from the parent companies of the JVC or SPV may be sought.

### **3.4 Warranty**

The Tenderer warrants that all the information given in their Tender and if applicable their Request to Participate Questionnaire is true and accurate. The information provided will be deemed to form part of any contract formed under this contract.

The Tenderer warrants that none of their current Directors have been involved in liquidation or receivership or have any criminal convictions

### **4.0 Tender Submission**

- 4.1** Tenders must be submitted strictly in accordance with the letter of instruction accompanying this Invitation to Tender. Tenders must be submitted by the deadline of **noon, 11<sup>th</sup> October 2017**.
- 4.2** No unauthorised alteration or addition should be made to the Specification and Tender Response Document, or to any other component of the Tender document.

If any such alteration is made, or if these instructions are not fully complied with, the Tender may be rejected.

- 4.3 Qualified tenders may be submitted, but the Council reserves the right not to accept any such tender. The Council's decision on whether or not a Tender is acceptable will be final.
- 4.4 Tenderers should note that their Tender must remain open and valid and capable of acceptance for a period of at least 90 days.
- 4.5 Tenderers should note that Tenders and supporting documents must be written in English and that any subsequent contract, which may or may not be entered into, its formation, interpretation and performance, shall be subject to and in accordance with the laws of England and subject to the jurisdiction of the Courts of England and Wales.
- 4.6 Where Tender submissions are incomplete the Council reserves the right not to accept them.

## 5.0 **Variant Bids**

- 5.1 The Council is interested in alternative solutions which would provide and develop opportunities for savings in service costs, service improvement or other financial benefits. In particular, the Council wishes to encourage solutions which also deliver benefits and added value to the local economy, residents and the business community.
- 5.2 Tenderers may submit, at their discretion, a Tender offering a different approach to the project as a "Variant Bid". However, to permit comparability, at least one bid must be submitted strictly in accordance with the Invitation to Tender Documents (the "Compliant Tender"). Any Tender variant proposed must clearly state how it varies from the requirements of the Compliant Tender Documents, and be explicit in demonstrating the benefits that will accrue to the Council from adopting this approach. Tenderers will be required to identify which submission, in their view, demonstrates best value to the Council.
- 5.3 Variant Bids must contain sufficient financial and operational detail to allow any Variant Bid to be compared with the standard Tender, permitting its considerations in written form.

## 6.0 **Tender Evaluation**

- 6.1 The Tenderers may be called for interview to seek clarification of their tender or additional or supplemental information in relation to their tender. The presentations will not carry any weighting to the final score achieved by Tenderers, but will be used to clarify and moderate issues raised in the Tenderer's submissions. Any areas of discrepancy between submissions and information gained from the presentations will be reviewed and scores previously awarded will be amended if necessary.
- 6.2 If the Council suspects that there has been an error in the pricing of a Tender, the Council reserves the right to seek such clarification, as it considers necessary from the Tenderer in question.

## **7.0 Clarifications**

**7.1** Tenderers are responsible for clarifying any aspects of the tendering process and/or the Invitation to Tender documents in the manner described below.

**7.2** If you are unsure of any section and require further clarification, please contact via our Delta Tenderbox.

**7.3** Where appropriate, the Authorised Officer named above may direct the Tenderer to other officers to deal with the matter.

**7.4** All queries should be raised as soon as possible (in writing), in any event not later than **4<sup>th</sup> October 2017**.

**7.5** All information or responses that clarify or enhance the tendering process will be supplied to all Tenderers on a uniform basis (unless expressly stated otherwise). These responses shall have the full force of this Instruction and where appropriate the Conditions of Contract. If a Tenderer wishes the Council to treat a question as confidential this must be expressly stated. The Council will consider such requests and will seek to act fairly between the Tenderers, whilst meeting its public law and procurement duties in making its decision.

**7.6** Except as directed in writing by the Authorised Officer, and confirmed in writing to a Tenderer, no agent or officer or elected Member (Councillor) of the Council has any express or implied authority to make any representation or give any explanation to Tenderers as to the meaning of any of the Tender Documents, or as to anything to be done or not to be done by a Tenderer or to give any warranties additional to those (if any) contained in the ITT or as to any other matter or thing so as to bind the Council in any way howsoever.

## **8.0 Continuation of the Procurement Process**

**8.1** The Council shall not be committed to any course of action as a result of:

- i) issuing this Invitation to Tender;
- ii) communicating with a Tenderer, a Tenderer's representative or agent in respect of this procurement exercise;
- iii) any other communication between the Council (whether directly or through its agents or representatives) and any other party.

**8.2** The Council reserves the right at its absolute discretion to amend, add to or withdraw all, or any part of this Invitation to Tender at any time during the tendering stage of this procurement exercise.

**8.3** At any time before the deadline for receipt of tender returns the Council may modify the Invitation to Tender by amendment. Any such amendment shall be numbered and dated and issued by the Council to all participating tenderers. In order to give prospective Tenderers reasonable time in which to take the amendment into account in preparing its Tender return, the Council may in its sole discretion, extend the deadline for submission of the tender returns. The Council reserves the



right to amend, withdraw, terminate or suspend all or any part of this procurement process at any time at its sole discretion.

## **9.0 Confidentiality**

- 9.1** All information supplied by the Council in connection with or in these Tender Documents shall be regarded as confidential to the Council unless the information is already within the public domain or subject to the provisions of the Freedom of Information Act 2000.
- 9.2** The Contract documents and publications are and shall remain the property of the Council and must be returned upon demand.
- 9.3** Tenderers shall ensure that each and every sub-contractor, consortium member and/or professional advisor to whom it discloses these papers complies with the terms and conditions of this ITT.
- 9.4** The contents of this Invitation to Tender are being made available by the Council on condition that:
- 9.4.1** Tenderers shall at all times treat the contents of the Invitation to tender and any related documents as confidential, save in so far as they are already in the public domain and Tenderers shall not, subject to the provisions relating to professional advisors, sub-contractors or other persons detailed below, disclose, copy, reproduce, distribute or pass any of the contents of the Invitation to tender to any other person at any time or allow any of these things to happen;
- 9.4.2** Tenderers shall not use any of the information contained in this Invitation to tender for any purpose other than for the purposes of submitting (or deciding whether to submit) the tender; and
- 9.4.3** Tenderers shall not undertake any publicity activity within any section of the media.
- 9.5** Tenderers may disclose, distribute or pass this Invitation to tender to their professional advisors, sub-contractors or to another person provided that:
- 9.5.1** this is done for the sole purpose of enabling an Invitation to tender to be submitted and the person receiving the Information undertakes in writing to keep the Invitation to Tender confidential on the same terms as if that person were the Tenderer; or
- 9.5.2** the Tenderer obtains the prior written consent of the Council in relation to such disclosure, distribution or passing of the Invitation to Tender; or
- 9.5.3** the disclosure is made for the sole purpose of obtaining legal advice from external lawyers in relation to the procurement or to any Contract(s) which may arise from it; or
- 9.5.4** the Tenderer is legally required to make such a disclosure.
- 9.6** The Council may disclose detailed information relating to the Invitation to Tender to its officers, employees, agents, professional advisors or Governmental organisations and the Council may make any of the Contracts and procurement documents available for private inspection by its officers, employees, agents, professional advisors, contracting authorities or Governmental organisations.

## **9.7 Transparency of Expenditure**

Further to its obligations regarding transparency of expenditure, the Council may be required to publish information regarding tenders, contracts and expenditure to the general public, which could include the text of any such documentation, except for any information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act to be determined at the absolute discretion of the Council.

## **10.0 Freedom of Information**

**10.1** Please note that from 1 January 2005 under the provisions of the Freedom of Information Act 2000, the public (included in this are private companies, journalists, etc.) have a general right of access to information held by public authorities. One of the consequences of those new statutory responsibilities is that information about your organisation, which Shropshire Council may receive from you during this tendering process may be subject to disclosure, in response to a request, unless one of the various statutory exemptions applies.

**10.2** In certain circumstances, and in accordance with the Code of Practice issued under section 45 of the Act, Shropshire Council may consider it appropriate to ask you for your views as to the release of any information before we make a decision as to how to respond to a request. In dealing with requests for information under the Act, Shropshire Council has to comply with a strict timetable and it would therefore expect a timely response to any such consultation within five working days.

**10.3** If, at any stage of this tendering process, you provide any information to Shropshire Council in the expectation that it will be held in confidence, then you must make it clear in your documentation as to the information to which you consider a duty of confidentiality applies. The use of blanket protective markings such as "commercial in confidence" will no longer be appropriate and a clear indication as to what material is to be considered confidential and why should be given.

**10.4** Shropshire Council will not be able to accept that trivial information or information which by its very nature cannot be regarded as confidential should be subject to any obligation of confidence.

**10.5** In certain circumstances where information has not been provided in confidence, Shropshire Council may still wish to consult with you as to the application of any other exemption such as that relating to disclosure that will prejudice the commercial interests of any party. However the decision as to what information will be disclosed will be reserved to Shropshire Council.

For guidance on this issue see: <http://www.ico.gov.uk>

## **11.0 Disqualification**

**11.1** The Council reserves the right to reject or disqualify a Tenderer's Tender submission where:

**11.1.1** The tenderer fails to comply fully with the requirements of this Invitation to tender or is in breach of clause 15 of the Council's General Terms and Conditions relating to Bribery and Corruption or is guilty of a serious or intentional or reckless

misrepresentation in supplying any information required; or

**11.1.2** The tenderer is guilty of serious or intentional or reckless misrepresentation in relation to its tender return and/or the procurement process.

**11.1.3** The tenderer directly or indirectly canvasses any member, official or agent of the Council concerning the award of the contract or who directly or indirectly obtains or attempts to obtain information from any such person concerning any other Tender or proposed Tender for the services. The Canvassing Certificate must be completed and returned as instructed.

**11.1.4** The Tenderer :

- a) Fixes or adjusts the amount of his Tender by or in accordance with any agreement or arrangements with any other person; or
- b) Communicates to any person other than the Council the amount or approximate amount of his proposed Tender (except where such disclosure is made in confidence in order to obtain quotations necessary for preparation of the Tender for insurance purposes); or
- c) Enters into an agreement or arrangement with any other person that he shall refrain from tendering or as to the amount of any Tender to be submitted; or
- d) Offers or agrees to pay or give or does pay or gives any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any Tender or proposed Tender for the services any act or omission.

**11.2** Any disqualification will be without prejudice to any other civil remedies available to the Council and without prejudice to any criminal liability which such conduct by a Tenderer may attract. The Non-Collusive Tendering Certificate must be completed and returned as instructed.

**11.3** The Council reserves the right to disqualify an Applicant from further participating in this procurement process where there is a change in the control or financial stability of the Tenderer at any point in the process up to award of a contract and such change of control or financial stability has a materially adverse effect on the Tenderer's financial viability or ability to otherwise meet the requirements of the procurement process.

## **12.0 E-Procurement**

As part of its procurement strategy Shropshire Council is committed to the use of technology that can improve the efficiency of procurement. Successful Tenderers may be required to send or receive documents electronically. This may include purchase orders, acknowledgements, invoices, payment advices, or other procurement documentation. These will normally be in the Council's standard formats, but may be varied under some circumstances so as not to disadvantage

small and medium suppliers.

### **13.0 Award of Contract**

#### **13.1 Award Criteria**

The Award Criteria has been set out within the Tender Response Document accompanying this invitation to tender. The Council is not bound to accept the lowest or any Tender.

#### **13.2 Award Notice**

The Council will publish the name and addresses of the successful Tenderers in the Official Journal of the European Union (OJEU) where appropriate. The Contracting Authority reserves the right to pass all information regarding the outcome of the Tendering process to the Office of Fair Trading to assist in the discharge of its duties. Additionally, the Council will adhere to the requirements of the Freedom of Information Act 2000 and Tenderers should note this statutory obligation.

#### **13.3 Transparency of Expenditure**

Further to its obligations regarding transparency of expenditure, the Council may also be required to publish information regarding tenders, contracts and expenditure to the general public, which could include the text of any such documentation, except for any information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act to be determined at the absolute discretion of the Council.

### **14.0 Value of Contract**

Shropshire Council cannot give any guarantee in relation to the value of this contract

### **15.0 Acceptance**

**15.1** Tenders must be submitted strictly in accordance with the terms of the Council's Invitation to Tender documentation and acceptance of the tender shall be conditional on compliance with this Tender Condition.

**15.2** The Tender documentation including, the General and Special Terms and Conditions of Contract, the Tender Response document, these Instructions to Tender, together with the formal written acceptance by the Council will form a binding agreement between the Contractor and the Council.

**15.3** The Tenderer shall be prepared to commence the provision of the supply and delivery of marinated chicken products on the start date of the contract being **1<sup>st</sup> March 2018**.

### **16.0 Payment Terms**

**16.1** **Tenderers should particularly note** that the principles governing public procurement require that, as far as is reasonably possible, payments for Goods,

Works or Services are made after the provision. Therefore any indication of a pricing strategy within a Tender which provides for substantial payments at the outset of the Contract will be examined carefully to decide whether or not a Tender in such form can be accepted. If in the opinion of the Council such substantial payments appear excessive in relation to the requirements of the Contract the Council reserves, without prejudice to any other right to reject any Tender it may have, the right to require the Tenderer to spread such proportion of the costs as are considered excessive over the duration of the Contract.

## **17.0 Liability of Council**

- 17.1** The Council does not bind himself to accept the lowest or any tender.
- 17.2** The Council does not accept any responsibility for any pre-tender representations made by or on its behalf or for any other assumptions that Tenderers may have drawn or will draw from any pre-tender discussions.
- 17.3** The Council shall not be liable to pay for any preparatory work or other work undertaken by the Tenderer for the purposes of, in connection with or incidental to this Invitation to Tender, or submission of its Tender response or any other communication between the Council and any other party as a consequence of the issue of this Invitation to Tender.
- 17.4** The Council shall not be liable for any costs or expenses incurred by any Tenderer in connection with the preparation of a Tender return for this procurement exercise, its participation in this procurement whether this procurement is completed, abandoned or suspended.
- 17.5** Whilst the Tender Documents have been prepared in good faith, they do not purport to be comprehensive nor to have been formally verified. Neither the Council nor any of its staff, agents, elected Members, or advisers accepts any liability or responsibility for the adequacy, accuracy or completeness of any information given, nor do they make any representation or given any warranty, express or implied, with respect to the Tender Documents or any matter on which either of these is based (including, without limitation, any financial details contained within the Specification and Contract Documentation). Any liability is hereby expressly disclaimed save in the event of fraud, or in the event of specific warranties provided within the Contract Documentation.
- 18.0** The Contractor agrees that where requested in writing during the term of any Agreement for the supply Goods Works or Services it will ensure that an appropriately authorised representative of the Contractor shall attend a Committee meeting of the Council upon being invited to do so by the Council.

## **19.0 Special Terms and Conditions**

### **19.1 Operation of Contract**

Tenderers are required to submit prices on the basis of a cost plus price. This price is to include all expenses incurred in the delivery of all ordered items to each

establishment and any other costs associated with the execution of the contract.

For evaluation purposes, prices must be detailed in Appendix A – Pricing Schedule and Product List. Prices to be tendered should be those applying at 1<sup>st</sup> March 2018.

## **19.2 Acceptance of Tender**

- a) The acceptance of any tender or part of any tender, will create a Standing Offer for the contractor(s) to supply and deliver marinated chicken to the Authority in accordance with the terms and conditions contained herein the General Terms and Conditions and at the prices agreed.
- b) The Contracting Authority reserves the right to purchase goods of the type specified from other suppliers if it deems necessary.

## **19.3 Award of Contract**

The Contracting Authority will have the following options to award this arrangement;

- i. A single contractor to cover all requirements

## **19.4 Values/Quantities**

Any values or quantities given in this invitation to tender are estimates and for guidance only. The Contracting Authority is not bound by these estimates and there are no maximum or minimum limits to the orders that may be placed by the Contracting Authority. The Contracting Authority can give no guarantees in respect of the likely values to be seen under any contract.

## **19.5 Prices**

The basis of the arrangement will be a fixed price on a termly basis

The Contractor will be required to submit new prices at least two weeks prior to a new school terms.

Any queries or disputes relating to these prices must be raised prior to their implementation on the first day of the relevant term.

In exceptional circumstances, the Council may consider price increase requests. One month's notice in writing of any such increase to these prices must be given to the General Manager, Shire Services, and their written agreement received before any increases can be applied.

Tenderers are required to submit prices for the complete range of products specified and should be all inclusive but exclusive of VAT.

The tendered prices must be exclusive of VAT and must include all packing and delivery charges (including bags, cases, cans, drums and other containers).

The Contracting Authority reserves the right for its nominated representative to inspect the Contractor's purchasing arrangements, insurance policies, invoices, accounts and all other relevant contract documents during the month following submission of the tender and at any time during the period of the Standing Offer Arrangement.

## **19.6 Price Verification**

19.6.1 The prices quoted as at 1st March 2018 form the basis of the Arrangement but as prices obviously will change during the lifetime of the arrangement, the procedure for price variation will be as follows:-

19.6.2 For the supply of Marinated Chicken

Price variations for marinated chicken will be implemented at termly intervals, the Contractor giving the Contracting Authority 14 days prior written notice of change.

19.6.3 In order to verify any price movements the Contracting Authority or its representatives will notify the Contractor of those products they wish to see invoices for and will arrange to visit the supplier during the fourteen days prior to implementation. They may also on such visits require sight of provision invoices or any other invoices for goods supplied.

19.6.4 For supply of all products, the contractor will be required to provide termly lists of marinated chicken prices within 3 days of their becoming effective. These price lists will show the effective date of the changes, the period covered, the Contractor's product reference number, pack size and price. Sufficient copies of these price lists will be required to be supplied by the Contractor for circulation within the Authority.

**19.7 Specification**

- a) Goods supplied shall be of very good quality and be fit for the purpose for which they are to be used.
- b) The Contractor will be asked by the Contracting Authority to supply only raw meat under the terms of this Standing Offer Arrangement. No orders for any cooked meat products are to be taken and supplied to any sites.
- c) Goods supplied must conform as to quantity, quality and description with the particulars stated in the Standing Offer Arrangement and the purchase order.
- d) All goods supplied must be at least to the standard specified in any appropriate British Standard Specification or British Code of Practice or EU Equivalents. Where specifications or Codes of Practice are amended during the period of offer the Contractor must supply to the new standard.
- e) All marinated chicken products supplied against this Standing Offer Arrangement shall, in all respects, where relevant, comply with the requirements of:
  - I. The Food Safety Act 1990
  - II. The Trade Descriptions Act 1968
  - III. The Weights and Measures Act 1985
  - IV. The Food Safety and Hygiene (England) Regulations 2013
  - V. Food Information Regulations 2014
  - VI. The Meat Products (England) Regulations 2014
  - VII. The Quick Frozen Foodstuffs (England) Regulations 2007
  - VIII. The Materials and Articles in Contact with Food (England)

## Regulations 2012

and any other legislation applicable (and any other enactments or regulations made under or kept in being by the above Acts) or EU equivalent legislation relating to chicken as if such products were for retail sale. Products must comply with all legislation relating to composition, standards, labelling and advertising of food.

- f) The Contracting Authority reserves the right to prohibit any foodstuff or ingredient which they consider to be detrimental to health.
- g) **Mechanically recovered meat or connective tissue of any kind must not be included in any of the offered products.**
- h) **No head meat of any kind is permitted in any product that forms part of this Standing Offer Arrangement. The meat as a minimum must be leg or thigh meat with no skin, bone or sinew. The product must be fresh meat not reshaped or processed.**
- i) Meat and meat products shall be produced from animals which are born, reared, transported and slaughtered in full compliance with the legislative requirements of one of the EU countries and accredited by an assurance scheme qualifying to European EN45011 standards and greater. The purchasing authority also requires that meat and meat products can be demonstrated to meet relevant animal welfare, feed safety, food quality and environmental criteria.
- j) All packages must be marked with the correct description of the packaged item including any allergens (as per The Food Information Regulations 2014), and where appropriate, a list of the ingredients giving the meat content and a best before date, where applicable, must also be shown.
- k) All fresh meat shall be supplied in a fresh condition and shall not have been subject to deep freeze.

### **19.8 Variation of Specification**

The Contractor shall not alter the specification of any goods, except as directed in writing by the Contracting Authority but the Contracting Authority has the right, from time to time, during the execution of the Standing Offer Arrangements by notice in writing to direct the Contractor to add or omit, or otherwise vary, the goods and the Contractor shall carry out such variations and be bound by the same conditions, so far as applicable, as though the said variations were stated in the original Standing Offer Arrangement.

Where the Contractor receives any such direction from the Contracting Authority which would occasion an amendment to the Standing Offer price, the Contractor shall, with all possible speed, advise the Contracting Authority in writing to that effect giving the amount of any such amendments, ascertained and determined at the same level of pricing as that contained in the Contractor's tender.

If, in the opinion of the Contractor, any such direction is likely to prevent the Contractor from fulfilling any of his obligations under the Standing Offer Arrangement, he shall notify the Contracting Authority and the Contracting Authority shall decide with all possible speed, whether or not the same shall be carried out and shall confirm his instructions in writing and modify the said



obligations to such an extent as may be justified. Until the Contracting Authority so confirm their instructions they shall be deemed to have not been given.

**19.9 Food Safety**

The Contractor is required to hold and maintain a Food Safety accreditation such as STS/SALSA/BRC or equivalent for the duration of this contract.

**19.10 Additives**

The products supplied must not include any of the colours/additives contained in the list in Appendix C of the Tender Response document. Any synthetic colours/additives, of the type listed, that are contained in any product supplied must be declared to the Contracting Authority in writing and permission obtained from the Contracting Authority in advance of supply.

**19.11 Food Safety**

The Contractor is required to hold and maintain a Food Safety accreditation such as STS or equivalent for the duration of this contract.

**19.12 Genetically Modified Foods**

All goods supplied under this arrangement must not contain genetically modified ingredients. A written assurance must be given to this effect.

In addition, the foodstuffs (or their constituents) must comply with the Novel Foods and Novel Food Ingredients Regulations 1997, and also EC Regulations No 248/97 and 1139/98.

**19.13 Irradiation**

Where the Contracting Authority proposes to supply foodstuffs (or their constituents) which have been subject to ionising radiation this must be notified in writing to the Contracting Authority and their specific written approval obtained prior to supply.

**19.14 Animal Welfare Considerations/Farm Assured Standards/Quality Assurance**

All meat used for the production of items listed to satisfy the Standing Order Arrangement must meet the standards described by a recognised UKAS approved Farm Assurance Scheme i.e. Red Tractor Scheme

The Contractor is required to maintain this (or equivalent) standard for the duration of the contract. Should any Quality Standard Mark held by the Contractor elapse, this can be grounds for termination of contract

Meat shall be produced from animals which are born, reared and slaughtered in full compliance with all British legislative requirements on animal welfare or the relevant legislative requirements of other EU Member States to equivalent effect.

The Contractor will also co-operate fully at all times with Public Protection or any other nominated representative of the Contracting Authority by allowing them access to all relevant information and personnel to enable them to undertake periodic audits of their Quality Standard Mark.

**19.15 Samples**

The Contracting Authority (or a nominated representative) may ask for samples

from the range of tendered products, for testing evaluation and analysis. The results of such an analysis, evaluation etc were the tender to be accepted, would act as a basis of the contract to which all future supplies must comply.

Samples may be called for at regular intervals during the contract period, and these are to be provided free of charge.

#### **19.16 Analysis**

The Contracting Authority will be at liberty to apply any tests or cause any analyses to be made for the purpose of ascertaining the quality of marinated chicken products being supplied. Should the result of such test or analyses indicate that the marinated chicken products are not equal to the standard specified, the charges for such tests or analyses shall be met by the Contractor.

The Contractor will also co-operate fully with the Contracting Authority (or their nominated representative) by allowing them access to their premises, and, whilst there, allowing them access to any relevant other documentation and process procedures, and also the freedom to take any samples required to ascertain that products comply with all relevant regulations and conditions of contract. The Contractor must ensure that these facilities are available whether the Contractor is the manufacturer of the product supplied or not.

#### **19.17 Inspection of Goods and Premises**

- a) The Contractor will allow the Contracting Authority, any of its staff and appropriate personnel to inspect any delivery ticket and to check the quality and/or quantity of the goods at the premises of the Contractor, before despatch, during transit or at the place of delivery. The Contractor, his agents and servants shall give the Contracting Authority and its staff all reasonable assistance to enable them to check the quantity and/or quality of the goods or to inspect the Contractor's premises.
- b) The Contracting Authority may submit samples of the goods to a public analyst or to a recognised testing house for examination. If the goods submitted are certified not to be of the quality or specification ordered, the Contracting Authority may reject the whole consignment from which the samples were taken. In addition, samples may be taken in the manner prescribed by the Food Safety Act 1990 by the Trading Standards Service.

The rights of the Contracting Authority under the Standing Offer Arrangement will not be prejudiced if analyses or tests are not carried out

#### **19.18 Orders**

- a) The Contractor will be required to provide printed order forms for use by the Authority. These will list the items agreed by the Contracting Authority in consultations with representatives in the Authority's user departments. A separate price list will be made available to indicate the range of additional items that may be ordered by establishments.
- b) The Contracting Authority may place orders for the supply of goods at the terms agreed at any time during the period of offer and the placing of each order constitutes an acceptance of the Standing Offer and thus creates a contract for the supply of those items so ordered.
- c) The Contractor may be required to introduce a system of electronic ordering during the lifetime of the arrangement. Any such system will be in

accordance with a format/procedure determined by the Authority and at no cost to the Authority.

- d) The Contracting Authority will not hold itself responsible or be liable for payment for goods unless requisitioned by an official order signed by an authorised officer of that Authority. In the case of any emergency the Contractor will supply on the oral instruction given on behalf of the Authority which will be confirmed by the Authority on an official order. If the Contractor does not receive such confirmation within two days he should notify the appropriate Head of Service or establishment.

#### **19.19 Storage and Delivery**

- a) Upon receipt of official orders from the Contracting Authority, the Contractor will supply and deliver the goods required in accordance with the agreed prices and conditions. The Contractor must, at all times, comply with any statutory requirements in force at that time.
- b) Deliveries must be made fully in accordance with the requirements of the Contracting Authority. All vehicles used for the delivery of services should conform to Euro IV emission standards or be a low emission vehicle (as defined by exemption from the London congestion charge. Use of pre Euro and Euro I, II & III vehicles will not be acceptable in any circumstances.
- c) Shropshire is a rural, sparsely populated county with some schools accessible by narrow country lanes only which can be difficult to navigate for an inappropriate vehicle. All tenderers must ensure they have a fleet which can ensure delivery to sites within the stipulated timescales regardless of location or frequency.

- d) Storage and Delivery

Carcass meat must be transferred from chill to cutting room, and returned to chill within a maximum of 2 hours.

Cold storage temperatures must not be allowed to fluctuate.

#### Vehicles

Vehicles delivering chilled foodstuffs should comply with relevant sections of The Food Hygiene Regulations 2013 (as amended). Regulation 852/20042 - Hygiene of Foodstuffs.

All meat must be delivered in temperature controlled vehicles, in which the temperature must not exceed 5°C

- e) The Contractor will exercise due care and attention when making deliveries to the Contracting Authority. Where possible, all delivery vehicles should be fitted with reverse warning hooters, and drivers must ensure the highest standards of safety during deliveries.
- f) Deliveries may be required one, two, three or four times monthly depending on each sites requirements (and Contractor's minimum order values).

Deliveries to school kitchens must be made on Mondays to Fridays between the hours of 9.00 am and 2.00 pm. No deliveries outside these hours will be permitted unless agreed with the Authority where local arrangements are put in place.

Deliveries to other establishments will be required to be made on Mondays

to Fridays at times agreed with a responsible officer at each establishment.

Most school kitchens will only normally require deliveries during term times (approximately 38 weeks per year) but occasional deliveries during school holidays may be required.

Some school kitchens and other establishments will require a delivery service for the full 52 weeks of the year.

Additionally, a delivery will be required to all schools within a very short time frame at the start of September (leading up to the start of the new academic year) every year during this arrangement.

- g) The goods ordered are to be delivered free of charge at the risk of the Contractor, to the delivery point(s) specified in the purchase order. The goods must be off loaded by the Contractor and placed in position as directed. If goods are incorrectly delivered, the Contractor will be held responsible for any additional expense incurred in delivering the goods to their correct destination.

**Important - No alternative products should be substituted without the prior written approval of the Authority's representative.**

**All alternative or substitute items are to be charged at the same price as the contracted item.**

- h) The risk on the goods will remain with the Contractor until the goods are delivered and accepted. Notwithstanding, any receipt issued, the goods will not be deemed to have been accepted until the Authority's representative has had a reasonable opportunity to examine them.
- i) If the Contractor requires the return of any container in which the goods are delivered, the Contractor will clearly indicate the requirement on the container, delivery note and invoice. Containers will be returned by the Authority only at the Contractor's expense. There will be no liability on the part of the Authority for any loss of, or damage to, containers and it will be the Contractor's responsibility to remove all containers on subsequent deliveries.
- j) All containers, basket and trays etc used by the Contractor in the performance of the contract shall be capable of being sterilised before re-use where appropriate and shall be kept in a clean state to prevent the risk of contamination of the goods being supplied.
- k) For the purpose of this contract all deliveries made will be deemed to be retail sales.
- l) The personal hygiene of the driver must be of the highest standard and clean protective clothing must be worn. Smoking will not be permitted during the actual delivery. The vehicle interior shall be maintained in a clean hygienic condition as should all the storage equipment used in the vehicle. The Contractor shall ensure that the interior is cleaned daily.

All contractor's personnel entering an establishment, must be easily identifiable by way of an identity badge showing their name, photograph and which company they represent.

- m) All deliveries, where required must comply with The Food Safety and Hygiene (England) Regulations 2013.

## **19.20 Delivery Notes**

All supplies of marinated chicken made to individual establishments against this contract must be accompanied by a delivery note from the supplier stating (as appropriate):

THE CONTRACTOR'S NAME AND ADDRESS

THE DELIVERY POINT ADDRESS

THE PURCHASE ORDER NUMBER AND THE DATE OF DELIVERY

COUNTRY OR ORIGIN OF PRODUCT SUPPLIED

DESCRIPTION OF THE PRODUCT SUPPLIED

THE CORRECT WEIGHT

THE CORRECT NET UNIT PRICE AS DETAILED IN THE TENDER SCHEDULE OR SUBSEQUENT AMENDMENTS

AN INVOICE BEARING THE SAME INFORMATION AS THE DELIVERY NOTE WITH ALL PRICES CALCULATED AND TOTALLED MUST BE SENT DIRECT TO THE ESTABLISHMENT/DELIVERY POINT TO WHICH THE GOODS WERE DELIVERED

One copy of the delivery note is to be retained by the representative of the Authority, authorised to accept delivery. The other copy is to be signed and returned to the Contractor by the said representative.

## **19.21 Payment**

### a) School Kitchens

Payment in respect of deliveries to school kitchens may be made to the Contractor by electronic payment system.

The Contractor will be required to offer an extra discount to the Contracting Authority for payment ahead of the Contractor's normal trading terms on the implementation of a direct billing system.

The processing of credit notes will also be included in this electronic payment system.

### b) Other Establishments

Payment in respect of deliveries to other establishments will be made in accordance with the following, although during the lifetime of the arrangement it is possible that they may also wish to make payment by electronic payment as detailed in a) above.

- Invoices

An invoice bearing the same information as the delivery note, together with all prices calculated and totalled, must be sent with the goods direct to the individual establishment/delivery point.

Payment of the invoices will be due at the end of the next complete calendar month following date of delivery, or as otherwise agreed by the Authority and the Contractor.

- Credit Notes

In the event of non-delivery of goods identified as damaged at the time of receipt, or not delivered for any other reason, the driver will be required to issue an instant credit note in respect of the items concerned. This procedure will ensure that no delay in payment occurs whilst awaiting

credit.

#### **19.22 Information to be supplied**

The Contractor will supply the following information:

- (a) Lists produced weekly (for products) showing Contractor's reference number, pack size and price inclusive of the agreed on cost.
- (b) Data on a monthly basis of all products purchased by the individual Authority showing the quantity and value for that month both for individual items and in total.
- (c) Data on a monthly basis of all products purchased by the Authority showing the quantity and value accumulated throughout the year, both for individual items and in total and also giving details of product delivered to individual establishments using the arrangement.

This information should be presented throughout the period of the contract, in a format which is acceptable to Shropshire Council.

Should the Contractor fail to provide the required usage information, the Contractor will be deemed to be in breach of contract. It is considered that such a breach will be sufficient for the contract to be terminated.

- (d) There may be requirements during the period of the Standing Offer Arrangement for the Contractor to provide other statistical information.
- (e) Sufficient copies of any or all of the above information may be required from the Contractor for circulation to user Authority.

#### **19.23 Packaging**

All food products must be packaged and wrapped sufficiently to protect the product from damage and contamination during storage and delivery. Where a manufacturer has recommended a particular storage method, this shall be adhered to by the Contractor. All packaging in contact with food is to comply with The Materials and Articles in Contact with Food (England) Regulations 2012.

Damaged or broken packaging of food will not be accepted. All prepared products must comply with the Food Information Regulations 2014 as amended, and, if not already included, must have the particular specified in Regulation (5) of these Regulations printed on the packaging together with an indication of quantity in accordance with the current Weights & Measures Legislation.

#### **19.24 Rejection of Goods**

- (a) The Contracting Authority or its representatives have the power to reject any goods if in their opinion, the Contractor has not complied with all Terms and Conditions relating to the Standing Offer Arrangement.
- (b) Where possible notice of rejection will be given on the day of delivery, by any means considered appropriate by the Contracting Authority.
- (c) In the event of rejection the Contractor will:
  - (i) immediately replace the goods with those of the required quality/specification;
  - (ii) remove the rejected goods at the Contractor's own expense within 7 days of rejection.

Any rejected goods which have not been removed within 7 days will be disposed of by the Contracting Authority and the Contractor will be charged with all expenses incurred. The Contracting Authority will not be liable for any loss or expenses suffered by the Contractor as a result of disposal. Any replacement or removal of goods shall not prejudice any other action that the Contracting Authority may take.

**19.25 Power to Purchase Elsewhere**

If the Contractor fails to deliver the goods on time or if he fails to comply with any of the Terms and Conditions relating to the Standing Offer Arrangement, the Contracting Authority will be entitled to purchase elsewhere. The Contractor may offer alternative goods after discussion with the Contracting Authority. Any additional costs incurred by the Contracting Authority over the agreed price will be repaid by the Contractor without prejudice to any other action that may be taken.

**19.26 Establishment Listing**

- (a) The Authority reserves the right to withdraw or include any establishments either on a temporary or permanent basis to this arrangement as necessary.
- (b) Details of establishments covered by the standing offer arrangement are detailed in Appendix B and are correct at the present time, but may alter to take account of any changes and other legislation which may occur during the lifetime of the standing offer arrangement
- (c) Schedule only contains secondary/middle schools as these sites will be the primary user of the items covered under this agreement. Shire Services also provide catering services to approximately 145 primary schools. Accounts for these sites will be set-up on needs basis only upon instruction from the Contracting Authority.

**19.27 Delegation**

The Contractor shall not delegate the whole or part of this Standing Offer Arrangement to any other person or company without the prior approval of the Contracting Authority.

**19.28 Counter Inflation Legislation**

It is a requirement that the Contractor shall not breach any Counter Inflation and/or Price Legislation in force at the time.

**19.29 Sustainability**

The contractor will at all times use their best endeavours to assist the Contracting Authority and operate themselves in a manner which meets the aims and objectives set out in the sustainable policies of Shropshire Council, copies of which are available on the Council's website.

**19.30 Extension of Arrangement**

Subject to satisfactory service being received, this standing offer arrangement shall apply for a period of up to 3 years. The Contracting Authority reserves the right to extend the arrangement at their total discretion for a further period of up to 2 years.

**20.0 Declaration**

We, as acknowledged by the signature of our authorised representative, accept

these Instructions to Tender as creating a contract between ourselves and the Council. We hereby acknowledge that any departure from the Instructions to Tender may cause financial loss to the Council.

Signed (1) ..... Status.....

Signed (2) ..... Status.....

(For and on behalf of .....)

Date .....



DATE: .....20.....

SHROPSHIRE COUNCIL (1)

[.....] (2)<sup>1</sup>

Contract Ref: RMCS 021

Contract for the supply and delivery of Marinated Chicken Products

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<sup>1</sup> Insert Contractor's name



	partnership or company (and company shall include a company which is a subsidiary, a holding company or a company that is a subsidiary of the ultimate holding company of that company) in which the Council has a shareholding or other ownership interest; OR any other body that substantially performs any of the functions of the Council that previously had been performed by the Council.
'Authorised Officer'	means the representative appointed by the Council to manage the Contract on its behalf
'Best Practice'	means in accordance with the best practice within the industry of the Contractor
'Bribery Act'	the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.
'Commencement Date'	1 <sup>st</sup> March 2018
'Commercially Sensitive Information'	comprises the information of a commercially sensitive nature relating to the Contractor, its Intellectual Property Rights or its business which the Contractor has indicated to the Council in writing that, if disclosed by the Council, would cause the Contractor significant commercial disadvantage or material financial loss;
'Confidential Information'	any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of the Council or the Contractor, including Intellectual Property Rights, together with all information derived from the above, and any other information

	clearly designated as being confidential (whether or not it is marked as “confidential”) or which ought reasonably to be considered to be confidential, and the Commercially Sensitive Information;
‘Contractor’	means the party named above and includes its employees, servants and agents acting on its behalf
‘Contract Documents’	means all of the documents annexed to, contained and referred to within this Agreement
‘Contractor Personnel’	all employees, agents, consultants and contractors of the Contractor and/or of any Sub-contractor paid or unpaid;
‘Contractor’s Representative’	means the representative appointed by the Contractor to manage the contract on its behalf
‘Council’	means the party named above and includes its employees, officers, servants and agents acting on its behalf
‘Delivery Date’	means the date by or on which the Goods shall be delivered as specified in an Order
‘Delivery Location’	means the address to which the Goods are to be delivered as specified in an Order
‘EIR’	means the Environmental Information Regulations 2004 (as may be amended from time to time.)
‘Employment Checks’	means the pre-appointment checks that are required by law and applicable guidance, including without limitation,

	verification of identity checks, right to work checks, registration and qualification checks, employment history and reference checks.
<b>Estimated Annual Contract Value</b>	<b>means the estimated annual contract value relating to this Agreement<sup>7</sup></b>
'Exempt Information'	means any information or class of information (including but not limited to any document, report, Agreement or other material containing information) relating to this Agreement or otherwise relating to the parties to this Agreement which potentially falls within an exemption to FOIA (as set out therein)
'Expiry Date'	shall be the later of the Initial Expiry Date or the last day of any agreed extension period further to clause 2 below
'FOIA'	means the Freedom of Information Act 2000 and all subsequent regulations made under this or any superseding or amending enactment and regulations; any words and expressions defined in the FOIA shall have the same meaning in this clause
'FOIA notice'	means a decision notice, enforcement notice and/or an information notice issued by the Information Commissioner.
'Goods'	means fresh marinated chicken products
<b>Individual Sites</b>	<b>means the sites listed in the Schedule of Delivery in Schedule 2 of this Agreement<sup>8</sup></b>
<b>Initial Expiry Date<sup>9</sup></b>	means 28 <sup>th</sup> February 2021

<sup>7</sup> Delete if this is a term contract and no annual values are specified for this contract

<sup>8</sup> Delete if the Contractor is not required to deliver to different establishments

<sup>9</sup> Delete this definition if the contract is for a fixed term and not

**Initial Term<sup>10</sup>**

means a period of three commencing on the Commencement Date and expiring on the Initial Expiry Date

**Intellectual Property Rights**

means all patents, registered and unregistered designs, copyright, trade marks, know-how and all other forms of intellectual property wherever in the world enforceable

**Option to Extend<sup>11</sup>**

means the Council's option to extend the Initial Term by a period of up to two years commencing from and including the date following the Initial Expiry Date

**Order**

means an official order placed by the Council for authorized officers from the Individual Sites<sup>12</sup> to the Contractor for the supply of Goods in accordance with the terms of this Agreement

**Order Number**

means the reference number to be applied to an Order by the Contractor

**Parties**

the Contractor and the Council and 'Party' shall mean either one of them

**Prohibited Act**

the following constitute Prohibited Acts:  
(a) to directly or indirectly offer, promise or give any person working for or engaged by the Council a financial or other advantage to:  
(i) induce that person to perform improperly a relevant function or activity; or  
(ii) reward that person for improper performance of a relevant function or activity;  
(b) to directly or indirectly request, agree to receive or accept any financial

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capable of being extended

<sup>10</sup> Delete this definition if the contract is for a fixed term and not capable of extension

<sup>11</sup> Delete this definition if there is no option to extend this contract

<sup>12</sup> Delete if schools or other sites are not permitted to place Orders direct with contractor

or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement;  
(c) committing any offence:  
(i) under the Bribery Act;  
(ii) under legislation creating offences concerning fraudulent acts;  
(iii) at common law concerning fraudulent acts relating to this Agreement or any other contract with the Council; or  
(d) defrauding, attempting to defraud or conspiring to defraud the Council.

'Public body'	as defined in the FOIA 2000
'Receiving Party'	means a party to this Agreement to whom a Request for Information is made under FOIA, and who thereafter has overall conduct of the request and any response
'Regulatory Bodies'	those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Agreement or any other affairs of the Council and "Regulatory Body" shall be construed accordingly;
'Request for Information'	means a written request for information pursuant to the FOIA as defined by Section 8 of the FOIA
<b>Special Conditions</b>	<b>means the conditions relating to the supply of Goods as required by the Council in relation to this Agreement set out in Schedule 1<sup>13</sup></b>
'Specification'	means the specific description of the

<sup>13</sup> Delete if there are no Special Conditions to be specified

	goods to be supplied by the Contractor as set out in Schedule [.....] <sup>14</sup> to this Agreement
<b>Standing Offer Arrangement</b>	<b>means the arrangement created by this Agreement between the Council and the Contractor<sup>15</sup></b>
'Sub-contract'	any contract or agreement, or proposed contract or agreement between the Contractor and any third party whereby that third party agrees to provide to the Contractor the Goods or any part thereof, or facilities or services necessary for the provision of the Goods or any part of the Goods
'Sub-Contractor'	Means the third parties that enter into a Sub-Contract with the Contractor
'Tender'	means the tender dated [.....] <sup>16</sup> submitted by the Contractor and accepted by the Council annexed to this Agreement in Appendix 1
'Term'	Means the period commencing on the Commencement Date and expiring on the Expiry Date
'Trading Standards Service'	means the Trading Standards Service of Shropshire Council
'Working Day'	means any day other than a Saturday, Sunday or public holiday in England and Wales

## 1.2 Interpretation

In this Agreement unless the context otherwise requires:

### 1.2 Interpretation

In this Agreement unless the context otherwise requires:

1.2.1 words importing any gender include every gender

<sup>14</sup> Insert Schedule Number

<sup>15</sup> Delete this definition if not required

<sup>16</sup> Insert date of Tender



- 1.2.2 words importing the singular number include the plural number and vice versa
- 1.2.3 A person includes an individual, firm, company, corporation, unincorporated body of persons, or any state or any agency of any person.
- 1.2.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.2.5 A reference to a holding company or subsidiary means a holding company or subsidiary as defined in section 1159 of the Companies Act 2006. In the case of a limited liability partnership which is a subsidiary of a company or another limited liability partnership, section 1159 of the Companies Act 2006 shall be amended so that:
  - (i) references in sub-sections 1159(1)(a) and (c) to voting rights are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and
  - (ii) the reference in sub-section 1159(1)(b) to the right to appoint or remove a majority of its board of directors is to the right to appoint or remove members holding a majority of the voting rights.
- 1.2.6 references to numbered clauses and schedules are references to the relevant clause in or schedule to this Agreement
- 1.2.7 reference in any schedule to this Agreement to numbered paragraphs relate to the numbered paragraphs of that schedule
- 1.2.8 any obligation on any Party not to do or omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done
- 1.2.9 the headings to the clauses, schedules and paragraphs of this Agreement are not to affect the interpretation
- 1.2.10 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.2.11 where the word 'including' is used in this Agreement, it shall be understood as meaning 'including without limitation'
- 1.2.10 Where any statement is qualified by the expression so far as the Contractor is aware or to the Contractor's knowledge or any similar expression, that statement shall be deemed to include an additional statement that it has been made after due and careful enquiry.
- 1.2.12 A reference to writing or written includes faxes but not e-mail, unless otherwise specifically agreed.

## **2. Term:**

- 2.1** It is agreed between the Parties that this Agreement will be for the Initial Term commencing on the Commencement Date and ending on the Initial Expiry Date Expiry Date.
- 2.2** It is further agreed between the Parties that the Council may exercise its Option to Extend this Agreement at the expiry of the Initial Term for a further period of up to two years commencing on 1<sup>st</sup> March 2021
- 2.3** If the Council decides to exercise its Option to Extend the Initial Term it

shall notify the Contractor in writing at least 6 months in advance of the expiry date of the Initial Term. Where the Parties agree a further extension after the Initial Term the provisions of this Agreement between the Council and the Contractor shall be the terms of the extended Agreement, save for any variations agreed between the Parties to apply to the extended contract term.

2.4 If the Council decides that it does not wish to exercise its Option to Extend then this Agreement shall terminate on the Initial Expiry Date and the provisions of clause 32 (Consequences of Termination) shall apply

**3. Estimated Annual Contract Value:**

3.1 The Estimated Annual Contract value of the Standing Order Arrangement is [.....]<sup>17</sup> [(insert figure represented in words)]<sup>18</sup>

3.2 The Parties agree that the Council is not bound by the Estimated Annual Contract Value and that there are no maximum or minimum limits to the Orders that may be placed by the Council to the Contractor

3.3 The Parties agree that the Council shall not give any guarantee as to the likely values to be seen under the terms of this Agreement

**4. Standing Offer Arrangement**

4.1 The effect of this Agreement will be to create a Standing Offer Arrangement under which any Order placed will create a binding contract for the supply of the Goods as specified in the Order within the terms of this Agreement.

4.2 The Council is not bound to order any Goods from the Contractor and may purchase Goods of the type specified from other suppliers if it so desires.

**5. Orders and Goods**

5.1 The Contractor shall provide the Goods to the Council in consideration of the Council paying the Agreed Price(s) to the Contractor, subject to the provisions of this Agreement

5.2 The Contractor shall supply the Goods in accordance with the Council's Order(s). Each Order shall:

5.2.1 be given in writing or, if given orally, shall be confirmed within [.....]<sup>19</sup> Working Days. If no such confirmation is received by the

<sup>17</sup> Insert sum represented in figures if retaining this sub-clause

<sup>18</sup> Insert figure represented in words if retaining this sub-clause

<sup>19</sup> Insert number of days e.g. three

- Contractor within [.....]<sup>20</sup> days, the Contractor should notify the Council accordingly
- 5.2.2** specify the type and quantity of the Goods ordered
- 5.2.3** (unless the Parties agree that the Council may specify the date and location after placing the Order) specify the Delivery Date and Delivery Location. If the Delivery Date and/or the Delivery Location are to be specified after the placing of an Order, the Council shall give the Contractor reasonable advance notice of the relevant information
- 5.2.4** The Council shall not be responsible or be liable for payment for Goods unless they are requisitioned by an official Order signed by an authorised officer of the Council or authorized officer of the Individual Sites<sup>21</sup>
- 5.3** The Contractor shall provide the Goods in such places and locations as agreed with the Council in accordance with clause 5.2 above and the terms of this Agreement.
- 5.4** The Contractor shall assign an Order Number to each Order received from the Council and notify such Order Numbers to the Council. Each Party shall use the relevant Order Number in all subsequent correspondence relating to the Order
- 5.5** The Council may within [...] days<sup>22</sup> of placing an Order amend or cancel an Order by written notice to the Contractor. If the Council amends or cancels an Order, its liability to the Contractor shall be limited to payment to the Contractor of all costs reasonably incurred by the Contractor in fulfilling the Order up until the date of receipt of the notice of amendment or cancellation, except that where an amendment or cancellation results from the Contractor's failure to comply with its obligations under this Agreement the Council shall have no liability to the Contractor in respect of it.
- 5.6** Goods supplied under the terms of this Agreement shall be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and be fit for the purpose for which they are to be employed and as held out by the Contractor or made known by the Contractor to the Council and:
- 5.6.1** conform to the Specification;
- 5.6.2** comply with all applicable statutory and regulatory requirements;
- 5.7** Goods supplied must conform as to quantity, quality and description with the particulars stated in the Standing Offer Arrangement and an Order.

<sup>20</sup> Insert number of days e.g. three

<sup>21</sup> Delete if not applicable

<sup>22</sup> Specify number of days

- 5.8** All Goods supplied must be at least to the standard specified in any appropriate British Standard Specification or British Code of Practice. Where specifications or Codes of Practice are amended during the period of this Agreement the Contractor must supply the Goods to the new standard.
- 5.9** All Goods shall only be supplied by the Contractor unless otherwise agreed in writing between the Parties
- 5.10** The Contractor shall ensure that the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition. All packages must:
- 5.10.1** be marked with the correct description of the packaged item;
  - 5.10.2** where appropriate, show a list of the ingredients contained and give details of the minimum meat content where applicable
  - 5.10.3** where packages contain food products: All foods must be packaged and wrapped sufficiently to protect the product from damage and contamination during storage and delivery. All packaging in contact with food is to comply with the Materials and Articles in Contact with Food (England) Regulations 2012. Damaged or broken packaging of food will not be accepted. All prepared products must comply with the Food Labelling Regulations 1996/1499 as amended, and, if not already included, must have the particular specified in Regulation (5) of these Regulations printed on the packaging together with an indication of quantity in accordance with the current Weights & Measures Legislation.
  - 5.10.4** All frozen food products shall include the statement "Do not Refreeze".
  - 5.10.5** Damaged or broken packaging of food will not be accepted by the Council<sup>23</sup>
  - 5.10.6** Where a manufacturer has recommended a particular storage method, this shall be adhered to by the Contractor.
  - 5.10.7** Where required the Contractor must split catering packs at no additional cost to the Council
- 5.11** The Contractor shall obtain and maintain in force for the Term all licences, permissions, authorisations, consents and permits needed to manufacture and] supply the Goods in accordance with the terms of this Agreement and

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<sup>23</sup> Delete and replace with the words "not used" if Goods are non-food items

shall provide evidence of so doing to the Council upon request.

**5.12** The Contractor shall comply with all applicable laws, enactments, orders, regulations and other instruments relating to the manufacture packing, packaging, marking, storage, handling and delivery of the Goods.

**5.13** The Council shall have the right to enter the Contractor's premises to:

**5.13.1** inspect the manufacturing facilities and the equipment used by the Contractor in the manufacture of the Goods

**5.13.2** inspect and take samples of the raw materials, the packaging and the Goods and may submit such samples to a public analyst or to a recognized testing house for examination or as prescribed by the Food Safety Act 1990 by the Trading Standards Service.

**5.13.3** inspect quality and/or quantity of raw materials and packaging OR Goods before dispatch or to inspect during transit or at the place of delivery. The Contractor shall give the Council all reasonable assistance to enable it to check the quantity and/or quality of the Goods or to inspect the Contractor's premises

**5.14** Inspections carried out pursuant to clause 5.13 above shall be carried out during business hours on reasonable notice to the Contractor

**5.15** If following an inspection the Council reasonably considers that the Goods are not or are not likely to be as warranted under clause 5.6, the Council shall inform the Contractor and the Contractor shall immediately take such action as is necessary to ensure that the Goods are or will be as warranted under clause 5.6. The Council shall have the right to reject the whole consignment from which samples were taken. The Council shall also have the right to re-conduct inspections and take further samples after the Contractor has carried out its remedial actions. The rights of the Council under the Standing Order Arrangement or this Agreement will not be prejudiced if analyses or tests are not carried out.

**5.16** If any Goods supplied to the Council do not comply with clause 5.6 or are otherwise not in conformity with the terms of this Agreement, then, without limiting any other right or remedy that the Council may have, the Council may reject those Goods and:

**5.16.1** require the Contractor to repair or replace the rejected Goods with those of the required quality and specification at the Contractor's expense and risk within [....]<sup>24</sup> Working Days of being requested to do so; or

**5.16.2** require the Contractor to repay the price of the rejected Goods in full (whether or not the Council has previously required the Contractor to

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<sup>24</sup> Insert number of days

repair or replace the rejected Goods); and

**5.16.3** claim damages for any other costs, expenses or losses resulting from the Contractor's delivery of Goods that are not in conformity with the terms of this Agreement

**5.16.4** In the event that Goods are rejected, the Contractor will remove the rejected Goods at his own expense within [.....]<sup>25</sup> days of rejection. Where possible notice of rejection will be given on the Delivery Date.

**5.16.5** Any rejected Goods which have not been removed within [.....]<sup>26</sup> days will be disposed of by the Council and the Contractor will be re-charged for the costs of such disposal. The Council will not be liable for any loss or expenses suffered by the Contractor as a result of such disposal. Any replacement or removal of Goods shall not prejudice any other action that the Council may take.

**5.17** The Council's right and remedies under this clause 5 are in addition to the rights and remedies available to it in respect of the statutory conditions relating to description, quality, fitness for purpose and correspondence with sample implied into this Agreement by the Sale of Goods Act 1979.

**5.18** The terms of this Agreement shall apply to any repaired or replacement Goods supplied by the Contractor.

**5.19** If the Contractor fails to promptly repair or replace rejected Goods in accordance with this clause 5, the Council may, without affecting its rights under clause 5.16.3 obtain substitute Goods from a third party supplier, or have the rejected Goods repaired by a third party and the Contractor shall reimburse the Council for the costs it incurs in doing so.

**5.20** If the Parties dispute whether any Goods comply with clause 5.6 either Party may invoke the dispute resolution procedures set out in clause 33 (Disputes)

**6** **Not Used**

**7** **Title/Risk**

**7.1** Property and risk in the Goods will remain with the Contractor until the Goods are delivered to the Delivery Location specified in the Order (or as subsequently agreed in accordance with clause 5.2.3 above) and the Council has signed a delivery note for them, whereupon title will pass to the Council, without any limitation, constraint or encumbrance.

**7.2** If payment for the Goods is made prior to delivery, property in the Goods

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<sup>25</sup> Insert number of days

<sup>26</sup> Insert number of days

shall pass to the Council once payment has been made and the Goods have been unconditionally appropriated by the Council. In these circumstances the Contractor will set aside the Goods and store them separately from similar goods held at the Contractor's premises specified in the Order and ensure that they are securely, clearly and visibly marked with the wording "Property of Shropshire Council" so as to identify those Goods as having been unconditionally appropriated by the Council to whose order they are held

- 7.3** The Contractor will allow the Council's Authorised Officer reasonable accompanied access to its premises specified in the Order to verify compliance with clause 7.2 herein and will immediately rectify any non-compliance as identified by the Council's Authorised Officer
- 7.4** The Contractor will indemnify the Council for any loss of or damage to the Goods until delivered to the Delivery Location.
- 7.5** Without prejudice to this indemnity the Contractor will have appropriate and adequate insurance cover against any such loss or damage with a reputable insurer until the time that title in the materials or Goods passes to the Council and they are delivered to the Delivery Location and the Contractor shall provide the Council with certified copies of the relevant policy upon request.

**8. Delivery**

- 8.1** The Contractor shall deliver the Goods in accordance with the following terms:
  - 8.1.1** The Council shall specify the time and place for the delivery of the Goods
  - 8.1.2** The Contractor shall use its best endeavours to deliver the Goods by the time and dates agreed by the Parties. The Contractor shall not deliver an Order more than [...] <sup>27</sup> Working Days in advance of the Delivery Date without the prior written consent of the Council
  - 8.1.3** Deliveries may be required weekly, twice weekly or fortnightly as agreed.
  - 8.1.4** The Goods shall only be delivered by the Contractor
  - 8.1.5** Upon receipt of official Orders from the Individual Sites, the Contractor will supply and deliver the Goods required in accordance with the agreed prices and conditions under the terms of this Agreement. The Contractor must, at all times, comply with any

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<sup>27</sup> Insert number of days

statutory requirements in force at that time.

- 8.1.6** Deliveries must be made fully in accordance with the requirements of the individual site. All vehicles used for the delivery of services should conform to Euro IV emission standards or be a low emission vehicle (as defined by exemption from the London congestion charge). Use of pre Euro and Euro I & II vehicles will not be acceptable in any circumstances. Vehicles delivering frozen foodstuffs should comply with relevant sections of UKAFFP Code of Practice
- 8.1.7** All deliveries must be made in a vehicle that complies with the 'The Food Safety (General Food Hygiene) Regulations 1995' and any subsequent amendments.
- 8.1.8** The Contractor will exercise due care and attention when making deliveries to the Delivery Locations. Where possible, all delivery vehicles should be fitted with reverse warning hooters, and drivers must ensure the highest standards of safety during deliveries.
- 8.1.9** The Goods ordered are to be delivered free of charge at the risk of the Contractor, to the Delivery Location specified in the Order. The Goods must be off loaded by the Contractor and placed in position as directed by the Council's representative at the Delivery Location. If Goods are incorrectly delivered, the Contractor will be held responsible for any additional expense incurred in delivering the Goods to their correct destination.
- 8.1.10** Goods must not be delivered and left unattended by the Contractor. Its delivery driver must obtain a signed delivery note for all Goods delivered from the Council's representative in attendance at the time of delivery. The Council disclaims all responsibility for the security of Goods delivered and left at a Delivery Location by the Contractor where a signed delivery note has not been obtained.
- 8.1.11** The risk on the Goods will remain with the Contractor until the Goods are delivered and accepted. Notwithstanding, any receipt issued, the Goods will not be deemed to have been accepted until the Council has had a reasonable opportunity to examine them following delivery or, in the case of a latent defect in the Goods, until a reasonable time after the latent defect has become apparent.
- 8.1.12** If an Order is not delivered on or by the specified Delivery Date then, without limiting any other right or remedy the Council may have, the Council may:
- i) refuse to take any subsequent attempted delivery of the



Order

ii) terminate this Agreement with immediate effect  
iii) obtain substitute Goods from another supplier and recover from the Contractor any costs and expenses reasonably incurred by the Council in obtaining substitute Goods. Subject to clause 15 (Indemnity) claim damages for any other costs, expenses or losses resulting from the Contractor's failure to deliver the Order on the Delivery Date, provided that the Contractor shall have no liability for any failure or delay in delivering an Order to the extent that such failure or delay is caused by the Contractor's failure to comply with its obligations under this Agreement.

- 8.1.13** If the Contractor requires the return of any container or other packaging in which the Goods are delivered, he will clearly indicate the requirement on the container and/or packaging, delivery note and invoice. Containers and/or packaging will be returned by the Council only at the Contractor's expense. There will be no liability on the part of the Council for any loss of, or damage to, containers or packaging and it will be the Contractor's responsibility to remove all containers or packaging on subsequent deliveries.
- 8.1.14** All containers, basket and trays etc used by the Contractor in the performance of this Agreement shall be capable of being sterilised before re-use where appropriate and shall be kept in a clean state to prevent the risk of contamination of the Goods being supplied.
- 8.1.15** For the purpose of this Agreement all deliveries of Goods made will be deemed to be retail sales
- 8.1.16** The personal hygiene of the driver must be of the highest standard and clean protective clothing must be worn. Smoking will not be permitted during the actual delivery. The vehicle interior shall be maintained in a clean hygienic condition as should all the storage equipment used in the vehicle. The Contractor shall ensure that the interior is cleaned daily.
- 8.1.17** All Contractor's Personnel entering a Delivery Location must be easily identifiable by way of an identity badge showing their name, photograph and which company they represent.
- 8.1.18** All deliveries, where required must comply with the Provision of the Food Safety (Temperature Control) Regulations 1995.
- 8.1.9** The Contractor shall provide Vehicle temperature and Product temperature recording print outs at the time of delivery upon request by the Council/Individual Site's representative taking

delivery at the Delivery Location.

## 8.2 **Delivery of Frozen Goods** ~~Not Used~~<sup>28</sup>

In addition to the matters referred to in clause 8.1 above, the following provisions will also apply in relation to the delivery and storage of frozen goods:

**8.2.1** All frozen products must be quick frozen. Storage prior to delivery to a Delivery Location should be at 0°F (-18° C) for no longer than three months. Longer periods of storage must be at -20°F (-29°C). Cold storage temperatures must not be allowed to fluctuate. The temperature of frozen products at the time of delivery must not be higher than 5°F (-15°C).

**8.2.2** At no time during either preparation or delivery shall the temperature of frozen meat rise above -15°C.

Carcass meat must be transferred from chill to cutting room, and returned to chill or freezing within a maximum of 2 hours.

Boxed frozen products must be reduced to an internal temperature of -18°C or below within 24 hours of being boxed.

**8.2.3** Frozen meat shall not be frozen for more than one year and must have been frozen by means of specialist freezing equipment such as blast freezer.

**8.2.4** All deliveries must be (-15°C) or below in order to be accepted otherwise the delivery will be rejected.

**8.2.5** Under no circumstances should products which are re-frozen be delivered to any Delivery Location supplied under this Agreement.

## 8.3 **Deliveries to specific Establishments:** ~~Not Used~~<sup>29</sup>

**8.3.1** All deliveries to school kitchens must be made on Mondays to Fridays between the hours of 9.00 am and 2.00 pm. No deliveries outside these hours will be permitted unless agreed with the Council.

<sup>28</sup> Delete words "Not Used" if Goods include frozen goods. If there are no frozen goods being supplied, retain words "Not Used" and delete all text under 8.2 and subsequent sub-clauses 8.2.1-8.2.5

<sup>29</sup> Delete words "Not Used" if deliveries are being made to school or other sites. If deliveries are not being made to school or other sites, retain words "Not Used" and delete subsequent text under 8.3.1 - 8.3.3

**8.3.2** Most school kitchens will only normally require deliveries during term times (approximately forty weeks per year) but occasional deliveries during school holidays may be required. Other establishments will require a delivery service for the full 52 weeks of the year.

**8.3.3** A delivery will be required to all schools on the same day in September (usually the day prior to the start of term) every year during the term of this Agreement.

#### **8.4. Delivery Notes:**

**8.4.1** All deliveries of Goods must be accompanied by a delivery note, in duplicate, from the Contractor stating:

**8.4.1.1** The Contractor's name and address

**8.4.1.2** The delivery point address

**8.4.1.3** The Order Number

**8.4.1.4** The date of delivery

**8.4.1.5** A description of the Goods being delivered including where applicable the number or weight of each item and (as appropriate) a warning "Do Not Re-freeze"<sup>30</sup>; and

**8.4.1.6** Where the Goods are being delivered by instalments, the outstanding balance of the Goods to be delivered

**8.4.2** One copy of the delivery note is to be retained by the representative of the Council authorised to accept delivery. The other copy is to be signed and returned to the Contractor by the said representative.

#### **9 Prices**

**9.1** All prices accepted under this Agreement will remain firm for the period indicated on the Tender Response Document or as agreed ('price firm period')

**9.2** Any requests to increase prices for periods outside the price firm period, must be made in writing to the Council giving at least 28 days' notice. No increase can be implemented until accepted in writing by the Council. Quoted prices must be inclusive of all delivery charges and packing charges and be exclusive of VAT

**9.3** All price decreases will be passed on immediately as and when they occur by the Contractor to the Council

**9.4** The Council shall be entitled to the Contractor's standard discount for

<sup>30</sup> Delete if no frozen goods being supplied

prompt payment.

- 9.5** The Contractor shall not breach any counter inflation or price legislation in force at any time
- 9.6** In order to verify any price movements the Council will notify the Contractor of those products it wishes to see invoices for both in terms of invoices issued by suppliers to the Contractor and discount statements and invoices issued to the Council and shall make arrangements to visit the Contractor by giving written notice for this purpose. The Contractor shall allow the Council to inspect and take copies of all relevant records and materials relating to the supply of Goods as may be reasonably required. All disputes concerning the price of Goods shall be resolved in accordance with clause 33 (Disputes)

**10 Data to be supplied to the Council [Not Used]<sup>31</sup>**

In addition to the requirements of clause 9.7 and 9.8 above,<sup>32</sup> the Contractor shall also supply the following information to the Council:

**10.1** Data on a monthly basis of all products purchased by Individual Sites and the Council indicating the quantity and value for each month of each individual item ordered together with a total amount for all of the Goods ordered

**10.2** Data on a monthly basis of all products purchased by the Council indicating the quantity and value accumulated throughout the year both for individual items and a total amount for all of the Goods ordered together with details of the Goods delivered to Individual Sites.

**10.3** Any other statistical information required by the Council to be provided by the Contractor

All Data supplied by the Contractor to the Council in accordance with this clause 10 during the Term shall be supplied in a format acceptable to the Council.

**11 Payment Terms:**

- 11.1** Payment shall be made by the Council to the Contractor within 30 days of receipt of an undisputed invoice
- 11.2** The Contractor shall not charge, and the Council shall not be liable, for any expenses, charges, costs, or fees except as set out in this Agreement

<sup>31</sup> Delete words "Not Used" if this clause is required. Retain words "Not Used" if this clause is not required and delete subsequent text of clause 10 in its entirety

<sup>32</sup> Delete this wording if Goods are non-food items and the remainder of the clause is required.

- 11.3** Unless otherwise agreed in writing by the Council, the Contractor will pay any of its appointed Sub-Contractors within the time period specified in the Sub-Contract but in any event no later than 30 days from receipt of an undisputed invoice.
- 11.4** If a Party fails to make any payment due to the other under this Agreement by the due date for payment ("due date") then, without limiting the other Party's remedies under clause 31 (Termination) the defaulting Party shall pay interest on the overdue amount at the statutory rate of 8% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after Judgment. The defaulting Party shall pay interest together with the overdue amount. This clause shall not apply to payments the defaulting Party disputes in good faith.
- 11.5** If the Council disputes any invoice or statement or monies due, the Council shall immediately notify the Contractor in writing. The Parties shall negotiate in good faith to attempt to resolve the dispute promptly. The Contractor shall provide all such evidence as may be reasonably necessary to verify the disputed invoice or request for payment. If the Parties have not resolved the dispute within 30 days of the Council giving notice to the Contractor, the dispute shall be resolved in accordance with clause 33 (Disputes) Where only part of an invoice is disputed, the un-disputed amount shall be paid on the due date as set out in clause 11.1.
- 11.6** All payments payable to the Contractor or the Council under this Agreement shall become due immediately on its termination. This clause 11.7 is without prejudice to any right to claim for interest under the law or under this Agreement

## **12 The Council's Obligations**

- 12.1** To enable the Contractor to perform its obligations under this Agreement the Council shall:
- a) Co-operate with the Contractor and ensure that the Council's staff, agents and representatives co-operate with and assist the Contractor as is reasonable and appropriate;
  - b) Provide the Contractor with any information reasonably required by the Contractor;
  - c) Comply with such other requirements as may be otherwise agreed between the Parties.
- 12.2** Save as provided in this Agreement, no representations, warranties or

conditions are given or assumed by the Council in respect of any information which is provided to the Contractor by the Council and any such representations, warranties or conditions are excluded, save to the extent that such exclusion is prohibited by law.

**13. Authorised Officer and Contractor Representative:**

- 13.1 The Authorised Officer shall be appointed by the Council to act in the name of the Council for the purposes of the contract evidenced by this Agreement.
- 13.2 The Contractor shall appoint a Contractor Representative to act in the name of the Contractor for the purposes of the contract evidenced by this Agreement
- 13.3 The Parties shall notify each other in writing of any replacement Authorised Officer or Contractor Representative or if any person ceases to be either the Authorised Officer or Contractor Representative.
- 13.4 The Authorised Officer shall monitor on behalf of the Council the supply of Goods by the Contractor and act as liaison officer with the Contractor's Representative in respect of the operation of the contract. Any issues raised by the Authorised Officer with regard to the supply of the Goods shall in the first instance be addressed and dealt with by the Contractor's Representative on the Contractor's behalf.

**14. Insurance**

- 14.1 The Contractor shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover, or in accordance with any legal requirement for the time being in force, in respect of all legal liability which may be incurred by the Contractor, arising out of the Contractor's performance of this Agreement, including death or personal injury, loss of or damage to property or any other loss, and unless otherwise agreed with the Council such policy or policies of Public Liability and Employers Liability insurance shall provide for a minimum indemnity limit of £5,000,000 (FIVE MILLION POUNDS).
- 14.2 If appropriate and requested in writing, the Contractor may also be required to provide Product Liability insurance of at least £2,000,000 (TWO MILLION POUNDS) cover for any one claim.<sup>33</sup>
- 14.3 The Contractor shall hold and maintain the insurances required under this Agreement for a minimum of 6 years following the expiration or earlier termination of this Agreement
- 14.4 The Contractor warrants that it has complied with this clause 14 and shall provide the Council with certified copies of the relevant policy documents (including any warranties or exclusions) together with receipts or other evidence of payment of the latest premiums due under those policies prior to the commencement of this Agreement and annually thereafter during the Term.

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<sup>33</sup> Delete and replace with the words "Not Used" if Product Liability insurance is not required

- 14.4** The Contractor shall:
- (a) do nothing to invalidate any insurance policy
  - (b) notify the Council if any policy is (or will be) cancelled or its terms are (or will be) subject to any material change

**14.5** For the avoidance of doubt, the terms of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under this Agreement.

**14.6** Where the minimum limit of indemnity required in relation to any of the insurances is specified as being "in the aggregate":

**14.6.1** if a claim or claims which do not relate to this Agreement are notified to the insurers which, given the nature of the allegations and/or the quantum claimed by the third party(ies), is likely to result in a claim or claims being paid by the insurers which could reduce the level of cover available below that minimum, the Contractor shall immediately submit to the Council:

- (i) details of the policy concerned; and
- (ii) its proposed solution for maintaining the minimum limit of indemnity specified; and

**14.6.2** if and to the extent that the level of insurance cover available falls below that minimum because a claim or claims which do not relate to this Agreement are paid by insurers, the Contractor shall:

(i) ensure that the insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified for claims relating to this Agreement;

or

(ii) if the Contractor is or has reason to believe that it will be unable to ensure that insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified, immediately submit to the Council full details of the policy concerned and its proposed solution for maintaining the minimum limit of indemnity specified.

## **15** Indemnity

**15.1** The Contractor shall indemnify the Council against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Council arising out of or in connection with:

- (a) The performance, defective performance or otherwise of this Agreement by the Contractor or the Contractor Personnel
- (b) Any claim made against the Council for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in

- connection with, the supply or use of the Goods
- (c) Any claim made against the Council by a third party arising out of, or in connection with, the supply of the Goods, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of this Agreement by the Contractor or the Contractor Personnel; and
  - (d) Any claim made against the Council by a third party for death, personal injury or damage to property arising out of, or in connection with, defective Goods, to the extent that the defect in the Goods is attributable to the acts or omissions of the Contractor or the Contractor Personnel
- 15.2** The Council shall indemnify the Contractor against all reasonable claims, costs and expenses which the Contractor may incur and which arise, directly from the Council's breach of any of its obligations under this Agreement.
- 15.3.** Nothing in this Agreement shall limit or exclude the liability of either Party for:
- (a) death or personal injury resulting from negligence; or
  - (b) fraud or fraudulent misrepresentation;
  - (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
  - (d) breach of section 2 of the Consumer Protection Act 1987; or
  - (c) the indemnities given in this clause 15

**16** **Confidentiality**

- 16.1** The Contractor will keep confidential the Confidential Information and any other information it becomes aware of by reason of the operation of this Agreement and shall not use divulge or communicate the same to any third party without the consent in writing of the Council. The Contractor shall implement appropriate organisational and technical measures to ensure the integrity and security of information obtained and shall at all times comply with the provisions of the Data Protection Act 1998 and shall provide the Council with evidence of such measures upon request. The Contractor shall use its reasonable endeavours to prevent the unauthorized publication or disclosure of any such information or documents. The Contractor shall ensure that its Contractor Personnel are aware of and comply with this clause and shall indemnify the Council against any loss or damage sustained or incurred as a result of any breach of confidence by such persons mentioned above.

**16.2** **NOT USED**

- 16.3** All pricing, terms and conditions between the Council and the Contractor are confidential between the Parties and may not be disclosed to any third party without the express permission of both Parties.
- 16.4** Each Party reserves all rights in its Confidential Information. No rights or



obligations in respect of a Party's Confidential Information other than those expressly stated in this Agreement are granted to the other Party or to be implied from this Agreement. In particular, unless otherwise expressly agreed in this Agreement no licence is hereby granted directly or indirectly under any patent, invention, discovery, copyright or other Intellectual Property Right held, made, obtained or licensable by either Party now or in the future.

**16.5** The provisions of this clause shall survive the expiration or termination of this Agreement.

**17. Agreement and Transparency**

**17.1** Further to the Local Government Transparency Code 2015 the Council is obliged to publish details of expenditure exceeding £500. The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Agreement and any associated tender documentation provided by the Contractor (the Tender Submission) is not Confidential Information. The Council shall be responsible for determining in its absolute discretion whether any of the content of the Agreement or the Tender Submission is exempt from disclosure in accordance with the provisions of the FOIA.

**17.2** Notwithstanding any other term of this Agreement, the Contractor hereby gives his consent for the Council to publish this Agreement and the Tender Submission in its entirety, including from time to time agreed changes to the Agreement, to the general public.

**17.3** The Council may consult with the Contractor to inform its decision regarding any exemptions but the Council shall have the final decision in its absolute discretion.

**17.4** The Contractor shall assist and cooperate with the Council to enable the Council to publish this Agreement and the Tender Submission.

**18. Assignment, Transfer and Sub-Contracting**

**18.1** Neither Party shall be entitled to assign, novate or otherwise dispose of any or all of its rights and obligations under this Agreement without the prior written consent of the other Party PROVIDED that the Council may, (a) assign any of its rights under this Agreement; or (b) transfer all of its rights or obligations by novation, to another person.

without the Contractor's consent where such assignment, transfer or novation is to an Associated Person of the Council;

**18.2** Any consent required under Clause 18.1 must not be unreasonably withheld or delayed and if not expressly refused within five Working Days shall be deemed given.

**18.3** The Contractor will not, without the written consent of the Council, sub-contract its right or obligations under this Agreement

**18.4** In the event that consent is given by either Party to the other Party to the

placing of Sub-Contracts, copies of each Sub-Contract and order shall be sent by the sub-contracting Party to the consenting Party immediately it is issued

- 18.5** Subject to clause 18.1, in the event that either Party wishes to assign its rights and obligations under this Agreement, the assignor must obtain a written undertaking from the assignee to the consenting Party that it will be bound by the obligations of the assignor under this Agreement.
- 18.6** Notwithstanding the Contractor's right to sub-contract pursuant to this clause 18, the Contractor shall remain responsible for all acts and omissions of its Sub-Contractors and the acts and omissions of those employed or engaged by the Sub-Contractors as if they were its own and shall be responsible for the work of the Sub-Contractor whose work shall be undertaken to the same standard as stated in the Specification.
- 17.7** Where 20% or more of the Contractor's overall workforce is made up of people from agencies (or not employed directly by the Contractor's) this may be considered assignment or subcontracting of the Contractor's obligations under this Agreement and require written consent of the Council which it shall be absolutely entitled to withhold.<sup>34</sup>

\*delete as appropriate

**18. Publicity**

The Contractor will not make any press or other release or public announcement in relation to this Agreement without the prior approval of the Council

**19. Prevention of Bribery**

- 19.1** The Contractor:
- a) shall not, and shall procure that all Contractor Personnel shall not, in connection with this Agreement commit a Prohibited Act;
  - b) warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Council, or that an agreement has been reached to that effect, in connection with the execution of this Agreement, excluding any arrangement of which full details have been disclosed in writing to the Council before execution of this Agreement.
- 19.2** The Contractor shall:
- a) if requested, provide the Council with any reasonable assistance, at the Council's reasonable cost, to enable the Council to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act;
  - b) the Contractor shall, within 10 Working Days of a request from the Council, certify to the Council in writing (such certification to be signed by an officer of the Contractor) the Contractor's compliance with this clause 19 and provide such supporting evidence of compliance with this clause 19 by the Contractor as the Council may reasonably request.
- 19.3** If any breach of clause 19.1 is suspected or known, the Contractor must notify the Council immediately.

<sup>34</sup> Delete this sub-clause if not required

- 19.4** If the Contractor notifies the Council that it suspects or knows that there may be a breach of clause 19.1, the Contractor must respond promptly to the Council's enquiries, co-operate with any investigation, and allow the Council to audit books, records and any other relevant documentation. This obligation shall continue for two years following the expiry or termination of this Agreement.
- 19.5** The Council may terminate this Agreement by written notice with immediate effect, and recover from the Contractor the amount of any loss directly resulting from the cancellation, if the Contractor or Contractor Personnel (in all cases whether or not acting with the Contractor's knowledge) breaches clause 19.1. At the Council's absolute discretion, in determining whether to exercise the right of termination under this clause 19.5, the Council shall give consideration, where appropriate, to action other than termination of this Agreement unless the Prohibited Act is committed by the Contractor or a senior officer of the Contractor or by an employee, Sub-Contractor or supplier not acting independently of the Contractor. The expression "not acting independently of" (when used in relation to the Contractor or a Sub-Contractor) means and shall be construed as acting:
- a) with the authority; or,
  - b) with the actual knowledge;  
of any one or more of the directors of the Contractor or the Sub-Contractor (as the case may be); or
  - c) in circumstances where any one or more of the directors of the Contractor ought reasonably to have had knowledge.
- 19.6** Any notice of termination under clause 19.5 must specify:
- a) the nature of the Prohibited Act;
  - b) the identity of the party whom the Council believes has committed the Prohibited Act; and
  - c) the date on which this Agreement will terminate.
- 19.7** Despite clause 33 (Disputes), any dispute relating to:
- a) the interpretation of clause 19; or
  - b) the amount or value of any gift, consideration or commission,
- shall be determined by the Council and its decision shall be final and conclusive.
- 19.8** Any termination under clause 19.5 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Council.

**20** **Warranties, liability and indemnities**

The Contractor warrants, represents and undertakes that:

- 21.1** it will supply the Goods with all due skill and diligence and in a good and workmanlike manner, and in accordance with the Best Practice within the industry of the Contractor

21.2 the Contractor's employees and agents will have the necessary skill, professional qualifications and experience to deliver the Goods in accordance with the Specification and Best Practice

21.3 it has full capacity and authority to enter into this Agreement

21.4 it has obtained all necessary and required licences, consents and permits to provide the Goods

**21.5 NOT USED**

21.6 The Contractor shall where appropriate take account of the Human Rights Act 1998 and shall not do anything in breach of it.

21.7 The Contractor will at all times in supplying the Goods to the Council comply with the provisions of the Health and Safety at work Act 1974 and provide evidence of doing so to the Council at any time upon request.

21.8 The Contractor warrants that none of its current Directors have been involved in liquidation or receivership or have any criminal convictions.

21.9 The Contractor agrees that where requested in writing during the term of this Agreement it will ensure that an appropriately authorised representative of the Contractor shall attend a Committee meeting of the Council upon being invited to do so by the Council

**22 Freedom of Information Act 2000 & Environmental Information Regulations 2004**

22.1 The Council will have regard to the relevant provisions of the FOIA and EIR in considering Freedom of Information requests. If a Contractor considers any information it supplies is either commercially sensitive or confidential in nature, this should be highlighted and the reasons for its sensitivity specified. The Contractor however acknowledges that any lists or schedules so provided are of indicative value only and that the Council may nevertheless be obliged to disclose such confidential information.

22.2 When considering any response to a Request for Information the Council will consult with the Contractor before making a decision on disclosure or the application of any appropriate exemption but any such decision will be at the absolute discretion of the Council. The Contractor shall provide all necessary assistance requested by the Council (within any time scale specified as reasonable by the Council and at the Contractor's expense) to enable the Council to respond to a Request for Information within the time for compliance as set out in section 10 of the FOIA. In no circumstances shall the Contractor respond directly to the party making the Request for Information unless expressly authorised to do so by the Council or unless

the Contractor is also a Public Body (see below)

- 22.3** The Contractor shall ensure that all information required to be produced or maintained under the terms of the Agreement, or by law or professional practice or in relation to the Agreement is retained for disclosure for at least the duration of the Agreement plus one year together with such other time period as required by the Agreement, law or practice and shall permit the Council to inspect such records as requested from time to time.
- 22.4** The Council shall in no event be liable for any loss, damage, harm, or detriment, howsoever caused, arising from or in connection with the reasonable disclosure under FOIA of any information (including Exempt Information) whether relating to this Agreement or otherwise relating to any other party.
- 22.5** Where the Contractor is a Public Body it acknowledges that such obligations and duties of the Council as set out above are reciprocal to the Contractor. The Council and the Contractor acknowledges and agrees that:
- a). as Public Bodies they are subject to legal duties under the FOIA and EIR which may require either party to disclose on request information relating to this Agreement or otherwise relating to the other party.
  - b). they are required by law to consider each and every Request for Information made under FOIA.
  - c). that all decisions made by the other pursuant to a request under the FOIA are solely a matter for the Receiving Party and at the discretion of the Receiving Party.
- 22.6** Notwithstanding anything in this Agreement to the contrary (including but without limitation any obligations or confidentiality), the Receiving Party shall be entitled to disclose information in whatever form pursuant to a request made under FOIA, save that in relation to any information that is Exempt Information the Receiving Party shall consult the other party before making any such decision and shall not
- (a) Confirm or deny that information is held by the other party, or
  - (b) Disclose information required

to the extent that in the Receiving Party's opinion the information is eligible in the circumstances for an exemption and therefore the Receiving Party

may lawfully refrain from doing either of the things described in part (a) and (b) of this clause.

**22.7** Each Party shall bear its own costs of:

- (a) assessing the application of any exemption under FOIA and/or
- (b) responding to any FOIA notice and/or
- (c) lodging any appeal against a decision of the Information Commissioner in relation to disclosure

**22.8** The Receiving Party shall in no circumstances be liable for any loss, damage, harm, or detriment, howsoever caused, arising from or in connection with the reasonable disclosure under FOIA of any Exempt Information or other information whether relating to this Agreement or otherwise relating to the other Party.

**22.9** The other Party shall assist the Party receiving the request as reasonably necessary to enable the Party receiving the request to comply with its obligations under FOIA.

**23. Equalities**

**23.1** The Contractor and any Sub-Contractor employed by the Contractor shall not unlawfully discriminate either directly or indirectly on such grounds as race or ethnic origin, disability, gender, sexual orientation, religion or belief, or age

- a) in the supply and provision of Services under this Agreement, and
- b) in its employment practices.

**23.2** Without prejudice to the generality of the foregoing, the Contractor shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 (or other relevant legislation, or any statutory modification or re-enactment thereof).

**23.3** In addition, the Contractor and any Sub-Contractor or person(s) employed by or under the control of the Contractor in providing Services to the Council will comply with the general duty imposed on local authorities by Section 149 of the Equality Act 2010 to eliminate discrimination, harassment and victimisation and promote equality of opportunity between persons who share a protected characteristic and those who do not share it and to foster good relations between persons who share a protected characteristic and those who do not share it

**23.4** The Contractor and any Sub-Contractor will take all reasonable steps to observe as far as possible the Codes of Practice produced by Equality and Human Rights Commission, which give practical guidance to Councils on the elimination of discrimination.

- 23.5** In the event of any finding of unlawful discrimination being made against the Contractor and any Sub-Contractor during the contract period, by any court or employment tribunal, or any adverse finding or formal investigation by the Equality and Human Rights Commission over the same period, the Contractor and any Sub-Contractor shall inform the Council of this finding and shall take appropriate steps to prevent repetition of the unlawful discrimination.
- 23.6** The Contractor and any Sub-Contractor employed by the Contractor will provide a copy of its policies to the Council at any time upon request. In addition, the Council may reasonably request other information from time to time for the purpose of assessing the Contractor's compliance with the above conditions.
- 24. Non-compliance**
- 24.1.** If the Council identifies areas of the Services which do not comply with the requirements of this Agreement (including any Schedules to this Agreement) it may send the Contractor a non-compliance notice detailing
- (i) the areas of non-compliance;
  - (ii) the action to be taken; and
  - (iii) the date by which the action must be taken (which for the avoidance of doubt must not be a date less than 14 days from the date of the notice).
- 24.2** If the Contractor fails to take any or all of the necessary action by the date given in the non-compliance notice, the Council may send the Contractor a final non-compliance notice detailing
- (i) the areas of non-compliance;
  - (ii) the action to be taken; and
  - (iii) the date by which action must be taken (which for the avoidance of doubt must not be a date less than 14 days from the date of the notice).
- 24.3** If, in the reasonable opinion of the Council, the Contractor fails to undertake all of the remedial actions in the final non-compliance notice by the due date this may be considered a material breach of this Agreement and the Council shall be entitled to take either of the following steps depending on the seriousness of the non-compliance (which in the event of dispute shall be determined in accordance with clause 33 Disputes):
- (a) to make arrangements to take its own corrective action either itself or through the appointment of another Contractor and to either:
    - (i) deduct all costs in connection therewith from any sums due or to become due to the Contractor under the terms of this Agreement;
- or
- (ii) to recover such sums from the Contractor as a debt;
- And/or
- (b) to terminate the Agreement in accordance with [clause 31](#) (Termination)

•Complete as appropriate – cross reference to Termination clause

**25 Waiver**

The failure by either Party to enforce at any time or for any period any one or more of the terms and conditions herein shall not be a waiver of them or of the right at any time subsequently to enforce all the terms and conditions of this Agreement.

**26 Sustainability**

The Contractor will at all times use its best endeavours to assist the Council and operate themselves in a manner which meets the aims and objectives set out in the sustainable policies of the Council, copies of which are available on the Council's website

**27 Audit And Monitoring**

The Contractor will allow access for the Council and its officers to all relevant information for the purposes of audit and the monitoring of this Agreement.

**28 Force Majeure**

**28.1** Neither the Council nor the Contractor shall be in breach of this Agreement nor liable for any failure or delay in performing their obligations under this Agreement where it is directly caused, arising from or attributable to acts, events, omissions or accidents beyond its reasonable control ("Force Majeure Event"), provided that:-

**28.1.1** any delay by a Sub-Contractor or supplier of the Party who is delayed will not relieve that Party from liability for delay except where the delay is beyond the reasonable control of the sub-contractor or supplier concerned; and

**28.1.2** staff or material shortages or strikes or industrial action affecting only the Party who is delayed will not relieve that Party from liability for delay.

**28.2** If a Party is subject to a Force Majeure Event it shall not be in breach of this Agreement provided that:-

**28.2.1** it promptly notified the other Party in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance; and

**28.2.2** it has used its reasonable endeavours to mitigate the effect of the Force Majeure Event, to carry out its obligations under this Agreement in any way that is reasonably practicable and to resume the performance of its obligations as soon as reasonably possible in which case the performance of that Party's obligations will be suspended during the period that those circumstances persist and that Party will be granted a reasonable extension of time for performance up to a maximum equivalent to the period of the delay.

**28.3** Save where that delay is caused by the act or failure to act of the other Party (in which event the rights, remedies and liabilities of the Parties will be those conferred by the other terms of this Agreement and by law):-



**28.3.1** any costs arising from that delay will be borne by the Party incurring the same; and

**28.3.2** either Party may, if that delay continues for more than 5 weeks, terminate this Agreement immediately on giving notice in writing to the other. Such termination shall be without prejudice to the rights of the parties in respect of any breach of this Agreement occurring prior to such termination.

## **29 Rights of Third Parties**

The parties to this Agreement do not intend that any of its terms will be enforceable by any person not a party to it by virtue of the Contracts (Rights of Third Parties) Act 1999 (or any amendment or re-enactment thereof).

## **30 Notices**

**30.1** Unless otherwise communicated to the Party in writing any notice to be given by either Party to the other may be served by fax, personal service or by post to the address of the other party that is the registered office or main place of business of the Contractor or if the Council, the Shirehall, Abbey Foregate, Shrewsbury SY2 6ND

**30.2** Notice sent by fax shall be deemed to be served on receipt of an error free transmission report, Notice given by letter shall be deemed to have been served at the time at which the letter was delivered personally or if sent by second class post shall be deemed to have been delivered in the ordinary course of post and if by first class post shall be deemed to have been delivered 48 hours after posting and acknowledged

## **31 Termination**

**31.1** Either Party may terminate this Agreement by giving to the other Party at least six months' notice in writing

**31.2** Either Party may terminate this Agreement by notice in writing to the other if:

**31.2.1** the other Party commits a material breach of this Agreement and, in the case of a breach capable of being remedied, fails to remedy it within 14 calendar days of being given notice in writing setting out the breach and indicating that failure to remedy the breach may result in termination of this Agreement.

**31.2.2** the other Party commits a material breach of this Agreement which cannot be remedied under any circumstances;

**31.2.3** the other Party commits a series of minor breaches which, when taken together, amount to a material breach;

**31.2.4** the other Party passes a resolution for winding up (other than for the purpose of solvent amalgamation or

reconstruction), or a court of competent jurisdiction makes an order to that effect;

**31.2.5** the other Party ceases to carry on its business or substantially the whole of its business; or

**31.2.6** the other Party is declared insolvent, or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or a liquidator, receiver, administrative receiver, manager, trustee or similar officer is appointed over any of its assets.

**31.3** Where notice to terminate is given pursuant to this clause 31, this Agreement shall terminate with effect on the date specified in the notice

### **32. Consequences of Termination**

**32.1** Other than as set out in this Agreement, neither Party shall have any further obligations to the other under this Agreement after its termination

**32.2** Any provision of this Agreement which expressly or by implication is intended to come into or continue in force on or after termination of this Agreement shall remain in full force and effect

**32.3** Termination of this Agreement, for any reason, shall not affect the accrued rights, remedies obligations or liabilities of the Parties existing at termination

**32.4** Notwithstanding its obligations in this clause 32 if a Party is required by law, regulation, or government or regulatory body to retain any documents or materials containing the other Party's Confidential Information, it shall notify the other Party in writing of such retention, giving details of the documents and/or materials it must retain.

**32.5** upon termination of this Agreement for any reason, the Contractor shall, at its own cost, deliver, and require that its employees, agents and sub-contractors deliver, to the Council all information and any other property of the Council which are in the possession or control of the Contractor or the Contractor's Personnel at the date of termination.

### **33. Disputes**

**33.1** If any dispute or difference shall arise between the parties as to the construction of this Agreement or any matter or thing of whatever nature arising under this Agreement or in connection with it then the same shall be dealt with as follows:-

**33.1.1** In the first instance a special meeting of both the Parties shall be arranged on 14 days written notice to the other party and the matter shall be discussed and the representatives shall use their reasonable endeavours to resolve the dispute

**33.1.2** If the dispute cannot be resolved in accordance with the preceding sub-clause then either one of the Parties may serve the Chief Executive of the Council and the Contractor or other authorised officer whose details have been notified to the Council, with notice of the dispute and those officers shall then appoint their

representative to adjudicate and use their reasonable endeavours to resolve the dispute within 21 days of receipt of such notice

33.1.3 If the dispute cannot be resolved in accordance with the preceding sub-clause then it shall be referred to a single arbitrator to be agreed between the Parties and failing such agreement within 14 days of the request of one Party to the other in writing that the matter be referred to arbitration such reference shall be to a single arbitrator appointed for that purpose on the written request of either Party by the President for the time being of the Law Society of England and Wales and any reference to arbitration under this clause shall be deemed to be a reference to arbitration within the meaning of the relevant Arbitration Acts and it is further agreed that if any matter is referred to arbitration then each Party will bear its own costs of such referral

#### **34 Governing Law And Jurisdiction**

It is the responsibility of the Contractor to comply with all relevant European and English legislation. This Agreement shall be governed by and construed in accordance with English law and the Parties agree to submit to the exclusive jurisdiction of the English and Welsh Courts

#### **35 Severance**

If any provision of this Agreement prohibited by law or judged by any court of competent jurisdiction to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement and shall not in any way affect any other circumstances of or the validity or enforcement of this Agreement.

#### **36 Parent Company Guarantee**

It is a condition of this Agreement that if the Contractor is a subsidiary company then its Ultimate Group/Holding Company must guarantee the performance of this contract and provide a letter to that effect signed by a duly authorised signatory of the Ultimate Group/Holding Company.<sup>35</sup>

#### **37 Amendments**

This Agreement may only be amended in writing signed by duly authorised representatives of the Parties.

#### **38 Agency, Partnership etc**

This Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in this Agreement. Neither Party shall have, nor represent that it has, any authority to make any

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<sup>35</sup> Delete and replace with the words "Not Used" if no parent company guarantee required

commitments on the other Party's behalf.

**39 Conflict of Terms**

If there is any ambiguity or inconsistency in or between the Contract Documents the Council shall determine, at its sole discretion, the priority of the documents.

**40 Entire Agreement**

This Agreement contains the entire agreement between the Parties relating to the subject matter and supersedes any previous agreements, arrangements, undertakings or proposals, oral or written.

**IN WITNESS** of this Agreement

Signed by and on behalf of  
**Shropshire Council**

..... Head of Legal Strategy & Democratic Services

..... Legal Services Manager

Signed by and on behalf of  
**(Contractor)**

..... Signature of authorised signatory      .....

..... Position in Company

Or

..... Director      .....

..... Director/Company Secretary

Print Name (s).....

**SCHEDULE 1**

### **SPECIAL CONDITIONS**

Insert special conditions as specified in the instructions to tender or as otherwise instructed by the client department. Include any terms which are specific to the contract that you are drawing up if applicable.

Schedule 2

**Schedule of Delivery/List of Individual Sites**

Appendix 1

**Tender and Tender Response Document**

### Appendix A - Pricing Schedule and Product List

**Please note:**

1. You must complete in full providing prices for all products listed
2. Prices should be all inclusive but exculsive of VAT

Item	Bag Size	Price Unit	Approx Annual Usage	Your Price (as per Price Unit column C)	Total Price
Chicken thigh meat (plain)	2.25kg	per bag	4000	£0.00	£0.00
Chicken thigh meat (marinated)	2.25kg	per bag	12500	£0.00	£0.00
Sauces*	1 litre	per litre	1000	£0.00	£0.00
				<b>TOTAL PRICE FOR BASKET OF GOODS</b>	<b>£0.00</b>

\* Sauces referred to here mean Mayonnaise, Garlic, Sweet Thai Chilli, BBQ, Yoghurt Mint etc

School Type	School Name	Address 1	Address 2	Address 3	Postcode
Secondary	Belvidere School - Technology College	Crowmere Road	Shrewsbury		SY2 5LA
Secondary	Bryn Eliau High School	Windsor Drive	Old Colwyn	Colwyn Bay	LL29 8HU
Secondary	Cardinal Griffin Catholic College	Cardinal Way	Stafford Road	Cannock	WS11 4AW
Middle	Catshill Middle School	Meadow Road	Catshill	Bromsgrove	B61 0JW
Secondary	Chantry High School	Martley	Worcester		WR6 6QA
Secondary	Charlton School	Severn Drive	Wellington	Telford	TF1 3LE
Secondary	Coppice Performing Arts School	Ecclestone Road	Wednesfield	Wolverhampton	WV11 2QE
Secondary	Dyson Perrins High School	Yates Hay Road	Malvern		WR14 1WD
Secondary	Eirias High School	Eirias Road	Colwyn Bay		LL29 7SP
Secondary	Hagley RC High School	Brake Lane	Hagley		DY8 2XL
Secondary	Hereford College of Arts (College Road)	College Road	Hereford		HR1 1EB
Secondary	Hereford College of Arts (Folly Lane)	Folly Lane	Hereford		HR1 1LU
Secondary	Idsall School	Coppice Green Lane	Shifnal		TF11 8PD
Middle	Ipsley RSA Academy	Winyates Way	Winyates	Redditch	B98 0UB
Secondary	John Masefield High School	Mabel's Furlong	Ledbury		HR8 2HF
Secondary	King Charles I Secondary School - Lower School	Lower School	Borrington Road	Kidderminster	DY10 3ED
Secondary	King Charles I Secondary School - Upper School	Upper School	Comberton Road	Kidderminster	DY10 1XA
Secondary	Lacon Childe School	Love Lane	Cleobury Mortimer		DY14 8PE
Secondary	Lakelands Academy	Oswestry Road	Ellesmere		SY12 0EA
Secondary	Mary Webb School & Science	Pontesbury	Shrewsbury		SY5 0TG
Secondary	Meole Brace School Science College	Longden Road	Shrewsbury		SY3 9DW
Secondary	Sir John Talbot's Technology College and Sixth Form	Tilstock Road	Whitchurch		SY13 2BY
Secondary	The Bewdley School and 6th Form Centre	Stourport Road	Bewdley		DY12 1BL
Secondary	The Corbet School - Technology and Language College	Eyton Lane	Baschurch	Shrewsbury	SY4 2AX
Secondary	The Marches Academy	Morda Road	Oswestry		SY11 2AR
Middle	Witton Middle School	Old Coach Road	Droitwich Spa		WR9 8BD
Secondary	Ysgol Emrys Ap Iwan	Faenol Avenue	Abergele	Conwy	LL22 7HW



# Food Additives to be avoided

Products supplied under the terms of this agreement must not contain any of the 13 Food Additives listed below that are in in bold.

The rest should be avoided where possible. Should any product/item contain any of the other additives listed below, this must be declared to the Contracting Authority in writing and permission obtained from the Contracting Authority in advance of supply.

## Colours

E102	Tartrazine
<b>E104</b>	<b>Quinoline Yellow</b>
<b>E110</b>	<b>Sunset Yellow FCF (Orange Yellow S)</b>
<b>E122</b>	<b>Carmoisine (Azorubine)</b>
E123	Amaranth
<b>E124</b>	<b>Ponceau 4R (Cochineal Red A, Brilliant Scarlet 4R)</b>
E127	Erythrosine B5
E128	Red 2G
E129	Allura Red AC
E131	Patent Blue V
<b>E132</b>	<b>Indigo Carmine (Indigotine)</b>
<b>E133</b>	<b>Brilliant Blue FCF</b>
E142	Green S
E150	Caramel (a) (b) (c) (d)
E151	Black PN (Brilliant Black BN)
E153	Carbon Black (Vegetable Carbon)
E154	Brown FK (Kipper Brown)
E155	Brown HT (Chocolate Brown HT)
E161(g)	Canthaxanthin
E173	Aluminium
E180	Pigment Rubine (Lithol Rubine BK)

## Flavour Enhancers

<b>E621</b>	<b>Monosodium glutamate (MSG)</b>
E622	Monopotassium glutamate (MPG)
<b>E635</b>	<b>Disodium 5-ribonucleotide</b>

## Sweeteners

<b>E950</b>	<b>Acesulfame K</b>
<b>E951</b>	<b>Aspartame</b>
E953	Isomalt
<b>E954</b>	<b>Saccharin</b>
E965	Maltitol (i), Maltitol (ii), Maltitol syrup
E966	Lactitol
E967	Xylitol

Other additives not allowed for infants and young children.

E310	Propyl gallate
E311	Octyl gallate
E312	Dodecyl gallate

## Preservatives

E210	Benzoic acid
E211	Sodium benzoate
<b>E220</b>	<b>Sulphur dioxide</b>
E249	Potassium nitrite
E250	Sodium nitrite
E251	Sodium nitrate
E252	Potassium nitrate
E282	Calcium propionate

Some preservatives, 'The Sulphites', are known to be a problem for asthmatics.

<b>E221</b>	<b>Sodium sulphite</b>
E222	Sodium hydrogen sulphite
E223	Sodium metabisulphite
E224	Potassium metabisulphite
E226	Calcium sulphite
E227	Calcium hydrogen sulphite
E228	Potassium hydrogen sulphite

## Anti-oxidants

E320	Butylated hydroxyanisole (BHA)
E321	Butylated hydroxytoluene (BHT)

## Flavourings

All flavourings unless clearly stated 'Natural' must be avoided. Flavourings do not have E numbers

Other additives that can be a problem for asthmatics or aspirin sensitive people.

E212	Potassium benzoate
E213	Calcium benzoate
E214	Ethyl 4-hydroxybenzoate
E215	Sodium ethyl 4-hydroxybenzoate
E216	Propyl 4-hydroxybenzoate
E217	Sodium propyl 4-hydroxybenzoate
E218	Methyl 4-hydroxybenzoate
E219	Sodium methyl 4-hydroxybenzoate
E230	Diphenyl
E231	Orthophenyl phenol
E232	Sodium orthophenyl phenol
E233	Thiabendazole
E234	Nisin
E235	Natamycin



## **Tender Response Document**

### **RMCS 021 - Supply & Delivery of Marinated Chicken Products**

Name of TENDERING  
ORGANISATION  
(please insert)

**Theo's Food Company Ltd**

# Shropshire Council Tender Response Document

## Contract Description/Specification

You are invited to tender for the provision of supply and delivery of fresh marinated chicken products direct to individual establishments administered by Shropshire Council (Shire Services) being located in Shropshire, Hereford, Worcester, Staffordshire, West Midlands and North Wales.

The contract will be for an initial period of 3 years commencing on 1<sup>st</sup> March 2018 with the option to extend for a further period of up to 2 years.

Please note other geographical areas (and sites) may be amended to this arrangement should new business be obtained (or lost) by the Contracting Authority.

## Instructions for the completion of this document

1. This document must be completed in its entirety with responses being given to all questions. If you are unsure of any section/question and require further clarification, please contact us via our Delta Tenderbox. You are recommended to keep a copy of all tender documents and supporting documents for your own records.
2. Tenderers must also complete and sign the four certificates in Sections A1 to A4. These must be signed;
  - a) Where the tenderer is an individual, by that individual;
  - b) Where the tenderer is a partnership, by two duly authorised partners;
  - c) Where the tenderer is a company, by two directors or by a director and the secretary of the company, such persons being duly authorised for the purpose.
3. All questions require specific responses from you relating to the organisation named in Section B Question 1.1 (a). All information supplied must be accurate and up to date. The Council reserves the right to refuse to consider your application if the Tender Response Document is not fully completed or is found to be inaccurate.
4. Where copies of certificates and other details are requested **a copy must** accompany the electronic copy of your Tender Response Document.
5. 500 word limit to each answer (including any referencing to additional attachments).
6. The Authority reserves the right to reject any organisation from the tender exercise where the tender response contains non-compliances with its stated specification.

## Contents

<b>Section</b>	<b>Description</b>	<b>Page</b>
A1	Form of Tender	7
A2	Non-Canvassing Certificate	8
A3	Non-Collusive Tendering Certificate	9
A4	Declaration of Connection with Officers or Elected Members of the Council	10
<b>You must sign all 4 certificates in sections A1 to A4</b>		
B Part 1	Supplier Information– For information only	13
B Part 2 Section 2	Grounds for <u>Mandatory</u> Exclusion	17
B Part 2 Section 3	Grounds for Discretionary Exclusion	19
Section C	Tender and Pricing Schedule	28

## **Evaluation Criteria**

Tenders will be evaluated on the answers provided in this 'Tender Response Document' in the Standard Selection Questionnaire part. The following criteria is made up of 'pass/fail' (selection) questions and 'weighted marked' (award) questions and shows how each section is to be marked.

### **Selection Criteria Pass/Fail Questions (Sections B Part 1 – Part 3)**

This information will be provided for proof of compliance and will be judged on a pass or fail basis. Applicants must comply with these issues to demonstrate their proven competency, financial stability, resources and other arrangements. Questions marked 'For information only' will not be assessed; however they must still be answered in full.

<b>Section / Question No.</b>	<b>Selection Criteria</b>
Section B Part 1	Supplier Information– For information only
Section B Part 2 Section 2	Grounds for <u>Mandatory</u> Exclusion
Section B Part 3 Section 3	Grounds for Discretionary Exclusion

In relation to discretionary exclusion grounds (section B part 3):-

**Financial viability:** Responses will be analysed and evaluated by the Authority's Audit sections and will include checks via an independent agency (currently Equifax).

If the financial analysis of the Applicant (please note financial information provided by consortium members will be evaluated to assess the Applicant consortium as a whole) gives cause for concern as to its ability to deliver the Contract, the Applicant will fail this section.

If the financial analysis of the Applicant does not give any cause for concern as to its ability to deliver the Contract – it shall be deemed to have passed the section.

Please note the Contracting Authority reserves the right to further check the Financial Stability and Capacity of an applicant prior to any award of contract in the manner set out above in order to ensure that they still pass that requirement.

For other Discretionary exclusion grounds: If in the opinion of the Contracting Authority the responses provided casts serious doubt on the Tenderer's ability to perform this contract, they may be excluded.

## **Award Criteria – Weighted Marked Questions**

Tenders will be evaluated on the answers provided in this Tender Response Document and judged against the criteria shown in the table below. The following award criteria is made up of 'Quality' and 'Price' and shows how each criteria is to be weighted against each other.

Section / Question No.	Award Criteria	Weighting / Max Marks Available
<b>Price 50% (500 marks)</b>		
Section F / Q 1.1	Price	50%/500 max marks
Section F / Q 1.2	Price	FIO
Section F / Q 1.3	Price	FIO
Section F / Q 1.4	Price	FIO
<b>Total for price</b>		50% /500 max marks
<b>Quality 30% (300 marks)</b>		
Section F / Q 2.1	Product	3% / 30 max marks
Section F / Q 2.2	Product	3% / 30 max marks
Section F / Q 2.3	Change of Price Procedure	Pass/Fail
Section F / Q 2.4	Order, Delivery and Quality procedures	2% / 20 max marks
Section F / Q 2.5	Order, Delivery and Quality procedures	2% / 20 max marks
Section F / Q 2.6	Order, Delivery and Quality procedures	2% / 20 max marks
Section F / Q 2.7	Order, Delivery and Quality procedures	1% / 10 max marks
Section F / Q 2.8	Order, Delivery and Quality procedures	2% / 20 max marks
Section F / Q 2.9	Order, Delivery and Quality procedures	2% / 20 max marks
Section F / Q 2.10	Food Safety	3% / 30 max marks
Section F / Q 2.11	Added Value and Social Value to be provided	3% / 30 max marks
Section F / Q 2.12	Added Value and Social Value to be provided	1% / 10 max marks
Section F / Q 2.13	Handling of Complaints	2% / 20 max marks
Section F / Q 2.14	Client Care	2% / 20 max marks
Section F / Q 2.15	Contract Implementation	2% / 20 max marks
<b>Total for Quality</b>		30% /300 max marks
<p>After the above criteria has been marked, a maximum* of 3 bids will then be selected to have their product quality assessed by taste.</p> <p>Tenderers will be given additional marks from the 200 marks shown below. This will then be added to the scores above to calculate a final score.</p> <p>* should the scoring be sufficiently close, we reserve the right to invite more than three bids through to the tasting assessment.</p>		

<b>Tasting 20% (200 marks)</b>		
Separate assessment	<ul style="list-style-type: none"> <li>• Appearance (cooked)</li> <li>• Flavour</li> <li>• Texture</li> </ul>	7.5% / 75 max marks 7.5% / 75 max marks 5% / 50 max marks
<b>Total for Tasting</b>		20% / 200 max marks

## Quality Questions/ Scoring Scheme

Questions within the quality sections shown above will be scored using the following scoring scheme. Each answer from the questions identified below will be given a mark between 0 and 10 with the following meanings:

<b>Assessment</b>	<b>Mark</b>	<b>Interpretation</b>
<b>Excellent</b>	<b>10</b>	<i>Exceeds the requirement. Exceptional demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures. Response identifies factors that demonstrate added value, with evidence to support the response.</i>
	<b>9</b>	
<b>Good</b>	<b>8</b>	<i>Satisfies the requirement with minor additional benefits Above average demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures. Response identifies factors that demonstrate added value, with evidence to support the response.</i>
	<b>7</b>	
<b>Acceptable</b>	<b>6</b>	<i>Satisfies the requirement. Demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures, with evidence to support the response.</i>
	<b>5</b>	
<b>Minor Reservations</b>	<b>4</b>	<i>Satisfies the requirement with minor reservations Some minor reservations regarding how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with limited evidence to support the response.</i>
	<b>3</b>	
<b>Serious Reservations</b>	<b>2</b>	<i>Satisfies the requirement with major reservations. Considerable reservations regarding how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with little or no evidence to support the response.</i>
	<b>1</b>	
<b>Unacceptable</b>	<b>0</b>	<i>Does not meet the requirement Does not comply and/or insufficient information provided to demonstrate how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with little or no evidence to support the response.</i>

The use of odd numbers indicates an answer's allocated mark lies between definitions.



The tender receiving the highest mark for Quality Criteria in total will receive the full 300 marks available for Quality. Other tenders will receive a percentage mark that reflects the difference in the marks between those tenders and the tender receiving the highest mark for Quality overall.

The tender receiving the highest mark for Tasting in total will receive the full 200 marks available for Tasting. Other tenders will receive a percentage mark that reflects the difference in the marks between those tenders and the tender receiving the highest mark for Tasting overall.

### **Price Evaluation and scoring**

The most competitively priced tender will receive the maximum mark for price being **500**. **Less competitive tenders** will receive a % of the maximum mark that represents the difference in cost between that tender and the most competitively priced tender.

The price on which tenders will be evaluated is calculated by adding together 'Your Price' multiplied by the weighting figure for each item within the pricing schedule.

The weighting figure is based on approximate annual usage.

The basis of how you should calculate your 'price per case' figure is contained within section **20.1 and 20.5 of the Special terms and conditions included in the Instructions to Tenderers** .

Note: the products listed in the pricing schedule are not exhaustive of the products that will be required as part of this contract. Other items will be required under this contract

## Section A: 1. Form of Tender

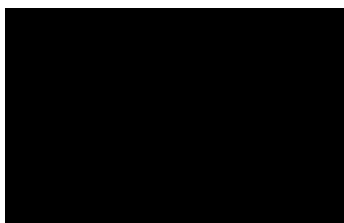
Form of Tender

### **Shropshire Council**

Tender for the supply and delivery of marinated chicken products

We confirm that this, our tender, represents an offer to Shropshire Council that if accepted in whole, or in part, will create a binding contract for the supply and delivery of marinated chicken products at the prices and terms agreed and subject to the terms of the invitation to tender documentation and the General Terms and Conditions, copies of which we have received.

Sign



N



Date [16<sup>th</sup> Oct 2017](#)

Designation [Creative Director](#)

Company [Theo's Food Company Ltd](#)

Address [Unit 45, Empire Industrial Park, Empire Close, Aldridge, West Midlands](#)

Post Code [WS9 8UY](#)

Tel No [01922 472422](#)

Fax No [01922 459505](#)

E-mail address



Web address [www.theos-uk.com](http://www.theos-uk.com)

**Section A:**  
**2. Non – Canvassing Certificate**

Non-Canvassing Certificate

**To: Shropshire Council (hereinafter called “the Council”)**

I/We hereby certify that we have not canvassed or solicited any member officer or employee of the Council in connection with the award of this Tender or any other Tender or proposed Tender for the Services and that no person employed by us or acting on our behalf has done any such act.

We further hereby undertake that I/We will not in the future canvass or solicit any member officer or employee of the Council in connection with the award of this Tender or any other Tender or proposed Tender for the Services and that no person employed by us or acting on my/our behalf will do any such act.

Signed (1)



Status [Creative Director](#)

Signed (2)

Status [CEO](#)

(For and on behalf of [Theo's Food Company Ltd](#))

Date [16<sup>th</sup> Oct 2017](#)

Non-collusive Tendering Certificate

**To: Shropshire Council (hereinafter called “the Council”)**

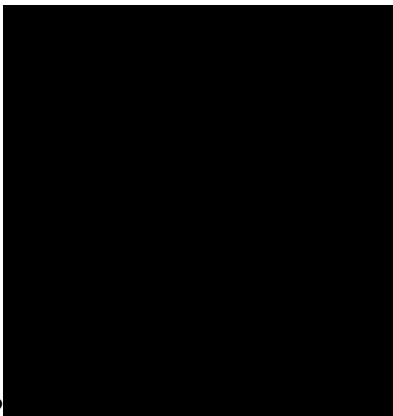
The essence of selective tendering is that the Council shall receive bona fide competitive Tenders from all persons tendering. In recognition of this principle:

I/We certify that this is a bona fide Tender, intended to be competitive and that I/We have not fixed or adjusted the amount of the Tender or the rates and prices quoted by or under or in accordance with any agreement or arrangement with any other person.

I/We also certify that I/We have not done and undertake that I/We will not do at any time any of the following acts:-

- (a) communicating to a person other than the Council the amount or approximate amount of my/our proposed Tender (other than in confidence in order to obtain quotations necessary for the preparation of the Tender for insurance); or
- (b) entering into any agreement or arrangement with any other person that he shall refrain from Tendering or as to the amount of any Tender to be submitted; or
- (c) offering or agreeing to pay or give or paying any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any other Tender or proposed Tender for the Services any act or omission.

Signed (1)



Status [Creative Director](#)

Signed (2)

Status [CEO](#)

(For and on behalf of [Theo's Food Company Ltd](#))

Date [16<sup>th</sup> Oct 2017](#)

**Section A:**  
**4. Declaration of Connection with Officers or Elected Members of the Council**

Are you or any of your staff who will be affected by this invitation to tender related or connected in any way with any Shropshire Council Elected Councillor or Employee?

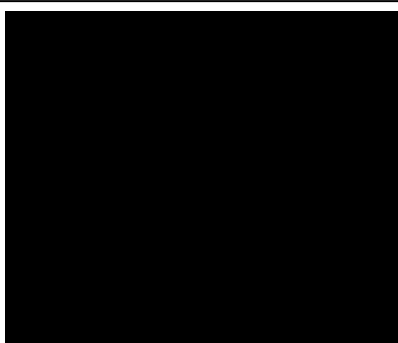

**No**

If yes, please give details:

Name	Relationship

***Please note:***

*This information is collected to enable the Council to ensure that tenders are assessed without favouritism. Whether or not you have a connection with elected members or employees will have no bearing on the success of your tender, but your tender will not be considered unless this declaration has been completed.*

Signed (1)		Status <a href="#">Creative Director</a>
Signed (2)		Status <a href="#">CEO</a>

(For and on behalf of [Theo's Food Company Ltd](#))

Date [16<sup>th</sup> Oct 2017](#)

## **SECTION B**

### **Standard Selection Questionnaire**

#### **Potential Supplier Information and Exclusion Grounds: Part 1 and Part 2.**

The standard Selection Questionnaire is a self-declaration, made by you (the potential supplier), that you do not meet any of the grounds for exclusion. If there are grounds for exclusion (there is an opportunity to explain the background and any measures you have taken to rectify the situation (we call this self-cleaning). For the list of exclusion please see [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/551130/List\\_of\\_Mandatory\\_and\\_Discretionary\\_Exclusions.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf)

A completed declaration of Part 1 and Part 2 provides a formal statement that the organisation making the declaration has not breached any of the exclusions grounds. Consequently, we require all the organisations that you will rely on to meet the selection criteria to provide a completed Part 1 and Part 2. For example, these could be parent companies, affiliates, associates, or essential sub-contractors, if they are relied upon to meet the selection criteria. This means that where you are joining in a group of organisations, including joint ventures and partnerships, each organisation in that group must complete one of these self-declarations. Sub-contractors that you rely on to meet the selection criteria must also complete a self-declaration (although sub-contractors that are not relied upon do not need to complete the self-declaration).

When completed, this form is to be sent back to the contact point given in the procurement documents along with the selection information requested in the procurement documentation.

#### **Supplier Selection Questions: Part 3**

This document provides instructions on the selection questions you need to respond to and how to submit those responses. If you are bidding on behalf of a group (consortium) or you intend to use sub-contractors, you should complete all of the selection questions on behalf of the consortium and/or any sub-contractors.

If the relevant documentary evidence referred to in the Selection Questionnaire is not provided upon request and without delay we reserve the right to amend the contract award decision and award to the next compliant bidder.

#### **Consequences of misrepresentation**

If you seriously misrepresent any factual information in filling in the Selection Questionnaire, and so induce an authority to enter into a contract, there may be significant consequences. You may be excluded from the procurement procedure, and from bidding for other contracts for three years. If a contract has been entered into you may be sued for damages and the contract may be rescinded. If fraud, or fraudulent intent, can be proved, you or your responsible officers may be prosecuted and convicted of the offence of fraud by false representation, and you must be excluded from further procurements for five years.

#### **Notes for completion**

1. The “authority” means the contracting authority, or anyone acting on behalf of the contracting authority, that is seeking to invite suitable candidates to participate in this procurement process.
2. “You” / “Your” refers to the potential supplier completing this standard Selection Questionnaire i.e. the legal entity responsible for the information provided. The term “potential supplier” is intended to

cover any economic operator as defined by the Public Contracts Regulations 2015 (referred to as the “regulations”) and could be a registered company; the lead contact for a group of economic operators; charitable organisation; Voluntary Community and Social Enterprise (VCSE); Special Purpose Vehicle; or other form of entity.

3. Please ensure that all questions are completed in full, and in the format requested. If the question does not apply to you, please state ‘N/A’. Should you need to provide additional information in response to the questions, please submit a clearly identified annex.
4. The authority recognises that arrangements set out in section 1.2 of the standard Selection Questionnaire, in relation to a group of economic operators (for example, a consortium) and/or use of sub-contractors, may be subject to change and will, therefore, not be finalised until a later date. The lead contact should notify the authority immediately of any change in the proposed arrangements and ensure a completed Part 1 and Part 2 is submitted for any new organisation relied on to meet the selection criteria. The authority will make a revised assessment of the submission based on the updated information.
5. For Part 1 and Part 2 every organisation that is being relied on to meet the selection must complete and submit the self-declaration.
6. For answers to Part 3 - If you are bidding on behalf of a group, for example, a consortium, or you intend to use sub-contractors, you should complete all of the questions on behalf of the consortium and/ or any sub-contractors, providing one composite response and declaration.

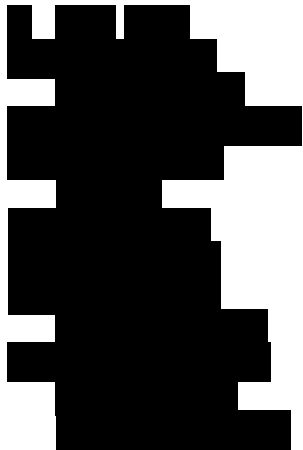
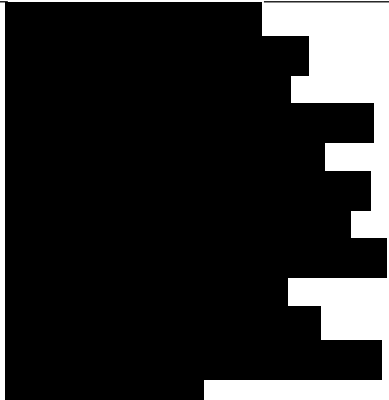
The authority confirms that it will keep confidential and will not disclose to any third parties any information obtained from a named customer contact, other than to the Cabinet Office and/or contracting authorities defined by the regulations, or pursuant to an order of the court or demand made by any competent authority or body where the authority is under a legal or regulatory obligation to make such a disclosure.

<sup>1</sup> See PCR 2015 regulations 71 (8)-(9)

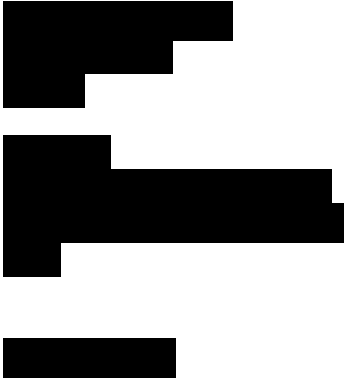
## Part 1: Potential supplier Information

Please answer the following questions in full. Note that every organisation that is being relied on to meet the selection must complete and submit the Part 1 and Part 2 self-declaration.

Section 1	Potential supplier information	
Question number	Question	Response
1.1(a)	Full name of the potential supplier submitting the information	<a href="#">Theo's Food Company Ltd</a>
1.1(b) – (i)	Registered office address (if applicable)	<a href="#">Unit 45, Empire Industrial Estate, Empire Close, Aldridge West Midlands. WS9 8UY</a>
1.1(b) – (ii)	Registered website address (if applicable)	<a href="http://www.theos-uk.com">www.theos-uk.com</a>

1.1(c)	Trading status a) public limited company b) limited company c) limited liability partnership d) other partnership e) sole trader f) third sector g) other (please specify your trading status)	Limited Company
1.1(d)	Date of registration in country of origin	03-10-2002
1.1(e)	Company registration number (if applicable)	0455 2101
1.1(f)	Charity registration number (if applicable)	N/A
1.1(g)	Head office DUNS number (if applicable)	N/A
1.1(h)	Registered VAT number	660 8094 29
1.1(i) - (i)	If applicable, is your organisation registered with the appropriate professional or trade register(s) in the member state where it is established?	Yes. Theo's Food Company holds many certification/registrations/licenses: 
1.1(i) - (ii)	If you responded yes to 1.1(i) - (i), please provide the relevant details, including the registration number(s).	Please see attached documents: BRC/STS, Red Tractor, HMB, Food for Life/Soil Association
1.1(j) - (i)	Is it a legal requirement in the state where you are established for you to possess a particular authorisation, or be a member of a particular organisation in order to provide the services specified in this procurement?	Yes
1.1(j) - (ii)	If you responded yes to 1.1(j) - (i), please provide additional details of what is required and confirmation that you have complied with this.	



1.1(k)	Trading name(s) that will be used if successful in this procurement.	Theo's Food Company Ltd
1.1(l)	Relevant classifications (state whether you fall within one of these, and if so which one) a) Voluntary Community Social Enterprise (VCSE) b) Sheltered Workshop c) Public Service Mutual	N/A
1.1(m)	Are you a Small, Medium or Micro Enterprise (SME) <sup>2</sup> ?	YES
1.1(n)	Details of Persons of Significant Control (PSC), where appropriate: <sup>3</sup> - Name: - Date of birth: - Nationality: - Country, state or part of the UK where the PSC usually lives: - Service address:  - The date he or she became a PSC in relation to the company (for existing companies the 6 April 2016 should be used): 06 April 2016 - Which conditions for being a PSC are met; - Over 25% up to (and including) 50%, - More than 50% and less than 75% Yes - 75% or more. (Please enter N/A if not applicable)	 N/A Yes N/A
1.1(o)	Details of immediate parent company: - Full name of the immediate parent company - Registered office address (if applicable) - Registration number (if applicable) - Head office DUNS number (if applicable) - Head office VAT number (if applicable) (Please enter N/A if not applicable)	N/A
1.1(p)	Details of ultimate parent company: - Full name of the ultimate parent company - Registered office address (if applicable) - Registration number (if applicable) - Head office DUNS number (if applicable) - Head office VAT number (if applicable) (Please enter N/A if not applicable)	N/A

Please note: A criminal record check for relevant convictions may be undertaken for the preferred suppliers and the persons of significant in control of them.

<sup>2</sup> See EU definition of SME - [https://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition\\_en](https://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition_en)

<sup>3</sup> UK companies, Societates Europae (SEs) and limited liability partnerships (LLPs) will be required to identify and record the people who own or control their company. Companies, SEs and LLPs will need to keep a PSC register, and must file the PSC information with the central public register at Companies House. See PSC guidance.

Please provide the following information about your approach to this procurement:

Section 1	Bidding Model																																																													
Question number	Question	Response																																																												
1.2(a) - (i)	Are you bidding as the lead contact for a group of economic operators?	<p>No</p> <p>If yes, please provide details listed in questions 1.2(a) (ii), (a) (iii) and to 1.2(b) (i), (b) (ii), 1.3, Section 2 and 3.</p> <p>If no, and you are a supporting bidder please provide the name of your group at 1.2(a) (ii) for reference purposes, and complete 1.3, Section 2 and 3.</p>																																																												
1.2(a) - (ii)	Name of group of economic operators (if applicable)	N/A																																																												
1.2(a) - (iii)	Proposed legal structure if the group of economic operators intends to form a named single legal entity prior to signing a contract, if awarded. If you do not propose to form a single legal entity, please explain the legal structure.	N/A																																																												
1.2(b) - (i)	Are you or, if applicable, the group of economic operators proposing to use sub-contractors?	No																																																												
1.2(b) - (ii)	<p>If you responded yes to 1.2(b)-(i) please provide additional details for each sub-contractor in the following table: we may ask them to complete this form as well.</p> <table border="1"> <tr> <td>Name</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Registered address</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Trading status</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Company registration number</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Head Office DUNS number (if applicable)</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Registered VAT number</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Type of organisation</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>SME (Yes/No)</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>The role each sub-contractor will take in providing the works and /or supplies e.g. key deliverables</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>The approximate % of contractual obligations assigned to each sub-contractor</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </table>		Name						Registered address						Trading status						Company registration number						Head Office DUNS number (if applicable)						Registered VAT number						Type of organisation						SME (Yes/No)						The role each sub-contractor will take in providing the works and /or supplies e.g. key deliverables						The approximate % of contractual obligations assigned to each sub-contractor					
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Contact details and declaration

I declare that to the best of my knowledge the answers submitted and information contained in this document are correct and accurate.

I declare that, upon request and without delay I will provide the certificates or documentary evidence referred to in this document.

I understand that the information will be used in the selection process to assess my organisation's suitability to be invited to participate further in this procurement.

I understand that the authority may reject this submission in its entirety if there is a failure to answer all the relevant questions fully, or if false/misleading information or content is provided in any section.

I am aware of the consequences of serious misrepresentation.

Section 1	Contact details and declaration	
Question Number	Question	Response
1.3(a)	Contact name	[REDACTED]
1.3(b)	Name of organisation	Theo's Food Company Limited
1.3(c)	Role in organisation	Creative Director
1.3(d)	Phone number	01922472422
1.3(e)	E-mail address	[REDACTED]
1.3(f)	Postal address	Unit 45, Empire Industrial Park, Empire Close, Aldridge, West Midlands, WS9 8UY
1.3(g)	Signature (electronic is acceptable)	[REDACTED]
1.3(h)	Date	16 <sup>th</sup> Oct 2017

## Part 2: Exclusion Grounds

Please answer the following questions in full. Note that every organisation that is being relied on to meet the selection must complete and submit the Part 1 and Part 2 self-declaration.

Section 2	Grounds for mandatory exclusion	
Question number	Question	Response
2.1(a)	<p><b>Regulations 57(1) and (2)</b>                      The detailed grounds for mandatory exclusion of an organisation are set out on the webpage (see link on page 11), which should be referred to before completing these questions.                      Please indicate if, within the past five years you, your organisation or any other person who has powers of representation, decision or control in the organisation been convicted anywhere in the world of any of the offences within the summary below and listed on the webpage.</p>	
	Participation in a criminal organisation.	No If Yes please provide details at 2.1(b)
	Corruption.	No If Yes please provide details at 2.1(b)

	Fraud.	No If Yes please provide details at 2.1(b)
	Terrorist offences or offences linked to terrorist activities	No If Yes please provide details at 2.1(b)
	Money laundering or terrorist financing	No If Yes please provide details at 2.1(b)
	Child labour and other forms of trafficking in human beings	No If Yes please provide details at 2.1(b)
2.1(b)	If you have answered yes to question 2.1(a), please provide further details. Date of conviction, specify which of the grounds listed the conviction was for, and the reasons for conviction, Identity of who has been convicted If the relevant documentation is available electronically please provide the web address, issuing authority, precise reference of the documents.	N/A
2.2	If you have answered Yes to any of the points above have measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion? (Self Cleaning)	N/A
2.3(a)	<b>Regulation 57(3)</b> Has it been established, for your organisation by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of any part of the United Kingdom or the legal provisions of the country in which the organisation is established (if outside the UK), that the organisation is in breach of obligations related to the payment of tax or social security contributions?	No
2.3(b)	If you have answered yes to question 2.3(a), please provide further details. Please also confirm you have paid, or have entered into a binding arrangement with a view to paying, the outstanding sum including where applicable any accrued interest and/or fines.	N/A

Please Note: The authority reserves the right to use its discretion to exclude a potential supplier where it can demonstrate by any appropriate means that the potential supplier is in breach of its obligations relating to the non-payment of taxes or social security contributions.

Section 3	Grounds for discretionary exclusion	
Question number	Question	Response
	<p><b>Regulation 57 (8)</b> The detailed grounds for discretionary exclusion of an organisation are set out on this webpage (see link on page 11), which should be referred to before completing these questions.</p> <p>Please indicate if, within the past three years, anywhere in the world any of the following situations have applied to you, your organisation or any other person who has powers of representation, decision or control in the organisation.</p>	
3.1(a)	Breach of environmental obligations?	No If yes please provide details at 3.2
3.1(b)	Breach of social obligations?	No If yes please provide details at 3.2
3.1(c)	Breach of labour law obligations?	No If yes please provide details at 3.2
3.1(d)	Bankrupt or is the subject of insolvency or winding-up proceedings, where the organisation's assets are being administered by a liquidator or by the court, where it is in an arrangement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under the laws and regulations of any State?	No If yes please provide details at 3.2
3.1(e)	Guilty of grave professional misconduct?	No If yes please provide details at 3.2
3.1(f)	Entered into agreements with other economic operators aimed at distorting competition?	No If yes please provide details at 3.2
3.1(g)	Aware of any conflict of interest within the meaning of regulation 24 due to the participation in the procurement procedure?	No If yes please provide details at 3.2
3.1(h)	Been involved in the preparation of the procurement procedure?	No If yes please provide details at 3.2
3.1(i)	Shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity, or a prior concession contract, which led to early termination of that prior contract, damages or other comparable sanctions?	No If yes please provide details at 3.2
3.1(j)	Please answer the following statements	
3.1(j) - (i)	The organisation is guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria.	No If yes please provide details at 3.2

3.1(j) - (ii)	The organisation has withheld such information.	No If yes please provide details at 3.2
3.1(j) –(iii)	The organisation is not able to submit supporting documents required under regulation 59 of the Public Contracts Regulations 2015.	No If yes please provide details at 3.2
3.1(j)-(iv)	The organisation has influenced the decision-making process of the contracting authority to obtain confidential information that may confer upon the organisation undue advantages in the procurement procedure, or to negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award.	No If yes please provide details at 3.2
3.2	If you have answered Yes to any of the above, explain what measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant	N/A

### Part 3: Selection Questions

Section 4	Economic and Financial Standing	
Question number	Question	Response
4.1	Are you able to provide a copy of your audited accounts for the last two years, if requested? If no, can you provide <b>one</b> of the following: answer with Y/N in the relevant box.	Yes
	(a) A statement of the turnover, Profit and Loss Account/Income Statement, Balance Sheet/Statement of Financial Position and Statement of Cash Flow for the most recent year of trading for this organisation.	N/A
	(b) A statement of the cash flow forecast for the current year and a bank letter outlining the current cash and credit position.	N/A
	(c) Alternative means of demonstrating financial status if any of the above are not available (e.g. forecast of turnover for the current year and a statement of funding provided by the owners and/or the bank, charity accruals accounts or an alternative means of demonstrating financial status).	N/A

4.2	Where we have specified a minimum level of economic and financial standing and/ or a minimum financial threshold within the evaluation criteria for this procurement, please self-certify by answering 'Yes' or 'No' that you meet the requirements set out.	N/A
Section 5	If you have indicated in the Selection Questionnaire question 1.2 that you are part of a wider group, please provide further details below: N/A	
Name of organisation		
Relationship to the Supplier completing these questions		N/A
5.1	Are you able to provide parent company accounts if requested to at a later stage?	
5.2	If yes, would the parent company be willing to provide a guarantee if necessary?	N/A
5.3	If no, would you be able to obtain a guarantee elsewhere (e.g. from a bank)?	N/A
Section 6	<b>Technical and Professional Ability</b>	
6.1	<p><b>Relevant experience and contract examples</b></p> <p>Please provide details of up to three contracts, in any combination from either the public or private sector; voluntary, charity or social enterprise (VCSE) that are relevant to our requirement. VCSEs may include samples of grant-funded work. Contracts for supplies or services should have been performed during the past three years. Works contracts may be from the past five years.</p> <p>The named contact provided should be able to provide written evidence to confirm the accuracy of the information provided below.</p> <p>Consortia bids should provide relevant examples of where the consortium has delivered similar requirements. If this is not possible (e.g. the consortium is newly formed or a Special Purpose Vehicle is to be created for this contract) then three separate examples should be provided between the principal member(s) of the proposed consortium or Special Purpose Vehicle (three examples are not required from each member).</p> <p>Where the Supplier is a Special Purpose Vehicle, or a managing agent not intending to be the main provider of the supplies or services, the information requested should be provided in respect of the main intended provider(s) or sub-contractor(s) who will deliver the contract.</p> <p>If you cannot provide examples see question 6.3</p>	

	Contact 1	Contact 2	Contact 3
Name of customer organisation			
Point of contact in the organisation			
Position in the organisation			
E-mail address			
Description of contract			
Contract Start date			
Contract completion date			
Estimated contract value			

6.2	<p>Where you intend to sub-contract a proportion of the contract, please demonstrate how you have previously maintained healthy supply chains with your sub-contractor(s)</p> <p>Evidence should include, but is not limited to, details of your supply chain management tracking systems to ensure performance of the contract and including prompt payment or membership of the UK Prompt Payment Code (or equivalent schemes in other countries)</p>



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6.3	If you cannot provide at least one example for questions 6.1, in no more than 500 words please provide an explanation for this e.g. your organisation is a new start-up or you have provided services in the past but not under a contract.	
	N/A	

Section 7	<b>Modern Slavery Act 2015: Requirements under Modern Slavery Act 2015</b>	
	Are you a relevant commercial organisation as defined by section 54 ("Transparency in supply chains etc.") of the Modern Slavery Act 2015 ("the Act")?	Yes
	If you have answered yes to question 7.1 are you compliant with the annual reporting requirements contained within Section 54 of the Act 2015?	Please see attached statement and Code of Practise

**7. Additional Questions**

Suppliers who self-certify that they meet the requirements to these additional questions will be required to provide evidence of this if they are successful at contract award stage.

Section 8	Additional Questions	
8.1	Insurance	
	Please self-certify whether you already have, or can commit to obtain, prior to the commencement of the contract, the levels of insurance cover indicated below: YES  Name of Insurance Company - <div style="background-color: black; width: 150px; height: 15px; display: inline-block;"></div> Date Policy Taken Out - <div style="background-color: black; width: 100px; height: 15px; display: inline-block;"></div> Expiry Date of Policy - <div style="background-color: black; width: 100px; height: 15px; display: inline-block;"></div> Policy Number - <div style="background-color: black; width: 100px; height: 15px; display: inline-block;"></div>  Employer's (Compulsory) Liability Insurance = £5Million  Public Liability Insurance = £5Million	

	*It is a legal requirement that all companies hold Employer's (Compulsory) Liability Insurance of £5 million as a minimum. Please note this requirement is not applicable to Sole Traders.
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8.2	<b>Skills and Apprentices 4–</b>	
a.	Please confirm if you will be supporting apprenticeships and skills development through this contract.	No
b.	If yes, can you provide at a later stage documentary evidence to support your commitment to developing and investing in skills, development and apprenticeships to build a more skilled and productive workforce and reducing the risks of supply constraints and increasing labour cost inflation?	N/A

<sup>4</sup> Procurement Policy Note 14/15– Supporting Apprenticeships and Skills Through Public Procurement  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/456805/27\\_08\\_15\\_Skills\\_Apprenticeships\\_PPN\\_vfinal.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/456805/27_08_15_Skills_Apprenticeships_PPN_vfinal.pdf)

### 8.3 – Compliance with equality legislation

For organisations working outside of the UK please refer to equivalent legislation in the country that you are located.		
1.	In the last three years, has any finding of unlawful discrimination been made against your organisation by an Employment Tribunal, an Employment Appeal Tribunal or any other court (or in comparable proceedings in any jurisdiction other than the UK)?	No
2.	In the last three years, has your organisation had a complaint upheld following an investigation by the Equality and Human Rights Commission or its predecessors (or a comparable body in any jurisdiction other than the UK), on grounds or alleged unlawful discrimination?  If you have answered “yes” to one or both of the questions in this module, please provide, as a separate Appendix, a summary of the nature of the investigation and an explanation of the outcome of the investigation to date.  If the investigation upheld the complaint against your organisation, please use the Appendix to explain what action (if any) you have taken to prevent unlawful discrimination from reoccurring. You may be excluded if you are unable to demonstrate to the Authority’s satisfaction that appropriate remedial action has been taken to prevent similar unlawful discrimination reoccurring.	No
3.	If you use sub-contractors, do you have processes in place to check whether any of the above circumstances apply to these other organisations?	N/A

### 8.4 – Environmental Management

1.	<p><b>Has your organisation been convicted of breaching environmental legislation, or had any notice served upon it, in the last three years by any environmental regulator or authority (including local authority)?</b></p> <p><b>If your answer to the this question is “Yes”, please provide details in a separate Appendix of the conviction or notice and details of any remedial action or changes you have made as a result of conviction or notices served.</b></p> <p><b>The Authority will not select bidder(s) that have been prosecuted or served notice under environmental legislation in the last 3 years, unless the Authority is satisfied that appropriate remedial action has been taken to prevent future occurrences/breaches.</b></p>	No
2.	<p><b>If you use sub-contractors, do you have processes in place to check whether any of these organisations have been convicted or had a notice served upon them for infringement of environmental legislation?</b></p>	N/A

### 8.5 – Health & Safety


1.	<p>Please self-certify that your organisation has a Health and Safety Policy that complies with current legislative requirements.</p> <p><a href="#">Please see H&amp;S statement attached</a></p>	Yes
2.	<p>Has your organisation or any of its Directors or Executive Officers been in receipt of enforcement/remedial orders in relation to the Health and Safety Executive (or equivalent body) in the last 3 years?</p> <p>If your answer to this question was “Yes”, please provide details in a separate Appendix of any enforcement/remedial orders served and give details of any remedial action or changes to procedures you have made as a result.</p> <p>The Authority will exclude bidder(s) that have been in receipt of enforcement/remedial action orders unless the bidder(s) can demonstrate to the Authority’s satisfaction that appropriate remedial action has been taken to prevent future occurrences or breaches.</p>	No
3.	<p>If you use sub-contractors, do you have processes in place to check whether any of the above circumstances apply to these other organisations?</p>	N/A

7.7 It is a requirement within the terms and conditions for this Contract that where requested in writing during the term of the Agreement that the Contractor will ensure that an appropriately authorised representative of the Contractor shall attend a Committee meeting of the Council upon being invited to do so by the Council. Please confirm your acceptance of this term by ticking the box below



**SECTION C – TENDER SCHEDULE**

1.	Pricing Schedule	
1.1	Pricing schedule – Appendix A <a href="#">Please see attached</a>	500
1.2	Settlement terms (additional discount): _____% for payment within _____ days from invoice date. [Redacted]	FIO
1.3	Indicate if you have a minimum order delivery and if so, the value of this order. [Redacted]	150
1.4	Submit a product catalogue detailing other products that you supply. <a href="#">Please see attached catalogue of 'fit for education' products</a>	FIO

2.	Tender Specification Response	Max Marks Available
	<b>Product</b>	
2.1	Please enclose a technical specification of the products you are offering. This should include the product name, product description, packing information, ingredients country of origin and nutritional information – <a href="#">Please see Specifications Education attachment</a>	30
2.2	Please list the variation of flavours you have available for: I. Marinated sliced thigh <a href="#">please see attached flavour list</a> II. Sauces e.g. <a href="#">please see attached Pantry list incl sauces</a>	30
	<b>Change of price procedure</b>	
2.3	Confirm you agree to the price verification procedure as detailed in section 20.6 within our Terms and Conditions.  If you are unable to comply with this section please outline why here and describe how you will inform us of any price variation.	Pass
	<b>Order, Delivery and Quality procedures</b>	
2.4	Please detail your company policy on the placing of orders and detail all available ways individual sites can place orders with your company that you would operate for our contract. <a href="#">Please see Orders and Delivery Procedures attachment</a>	20
2.5	Please state what your timescales are with respect to the placing of orders through to delivery of items to each of our individual sites. Also indicate minimum order times and state from which locations our orders will be processed and distributed from <a href="#">Please see Orders and Delivery Procedures attachment</a>	20
2.6	Please detail your policy on food storage at each location from where our products will be distributed from. Please include details such as size of storage areas and temperatures at each location. 	20

	<p>[REDACTED]</p>	
<p>2.7</p>	<p>Please list full details of your delivery fleet indicating types of vehicles, number, size, age, refrigeration and freezer functions, location/operating base and fleet renewal programme that you would use to operate our contract.</p> <p>[REDACTED]</p> <ul style="list-style-type: none"> <li>■ [REDACTED]</li> <li>■ [REDACTED]</li> <li>■ [REDACTED]</li> <li>■ [REDACTED]</li> </ul>	<p>10</p>
<p>2.8</p>	<p>In relation to the start of the school term each September, it is a requirement that all sites take a delivery within a small window that is no larger than 3 days. Please state how you will manage deliveries in order to achieve this within standard delivery times.</p> <p>[REDACTED]</p> <p>[REDACTED]</p>	<p>20</p>
<p>2.9</p>	<p>Please describe your quality control procedures at different stages, from the point of ordering through to delivery, that you would use to operate our contract. – [REDACTED]</p> <p>[REDACTED]</p>	<p>20</p>

	<b>Food Safety</b>	
2.10	<p>Please describe your food safety systems referencing, but not limited to, storage and delivery of food items along with any accreditations/awards/membership you may have in this area.</p> <p>[Redacted]</p>	30
	<b>Added Value and Social Value to be provided</b>	
2.11	<p>Please indicate any products or services you provide that may add value to this contract and help enhance the quality of the service we provide to our client e.g. detail any menu concepts/ideas; vegetarian/vegan alternatives; Halal products etc.</p> <p><a href="#">Please see attached Innovation document</a></p>	30
2.12	<p>Deriving Social Value outcomes from our contracting is important for Shropshire Council. Accordingly, please provide details of any economic, environmental or social benefits you will deliver if you are awarded the contract and undertake the required services</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>	10

	<p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p> <p>[Redacted]</p>	
	<p><b>Handling of complaints</b></p>	
2.13	<p>Please detail your company complaints procedure that you would operate for our contract and give examples of how this has been used to satisfactorily resolve any issues that have occurred recently with contracts that you currently hold.</p> <p>[Redacted]</p>	20
	<p><b>Client Care</b></p>	
2.14	<p>Please detail how your company would manage client relationships if you were successful in being awarded this contract</p> <p><a href="#">Please see attached Customer Relationships &amp; Contract Management documents</a></p>	20



	<b>Contract Implementation</b>	
2.15	This contract is due to commence on the 1 <sup>st</sup> March 2018. Please outline what support you would offer to us and how you would manage the mobilisation of this contract. <a href="#">Please see attached Support &amp; Mobilisation document and Contract Management</a>	20



personal & commercial info

**[REDACTED]**  
Theo's Food Company Limited  
Unit 45, Empire Industrial Park  
Empire Close  
Aldridge  
West Midlands  
WS9 8UY

Shropshire Council  
Shirehall  
Abbey Foregate  
Shrewsbury  
Shropshire SY2 6ND

Date: 7<sup>th</sup> December 2017

Emailed to: **[REDACTED]**

Dear Bidder

## RMCS 021 – SUPPLY AND DELIVERY OF MARINATED CHICKEN PRODUCTS

### SUBJECT TO CONTRACT

This is an Award Decision Notice pursuant to The Public Contracts Regulations 2015 (the "Regulations").

We are pleased to inform you that, following the evaluation process, Shropshire Council proposes to accept your offer to form part of the above proposed contract as set out in your recent tender.

However, this letter is not, at this stage, a communication of Shropshire Council's formal acceptance of your offer. A mandatory "standstill" period is now in force pursuant to the Regulations; this period will end at midnight on 18<sup>th</sup> December 2017

Subject to Shropshire Council receiving no notice during the standstill period of any intention to legally challenge the award process, the Council aims to conclude the award of the contract after the expiry of the standstill period.

The award criteria for this contract was set out in full in Invitation to Tender with quality accounting for 30%, tasting for 20% and price for 50% of the total marks.

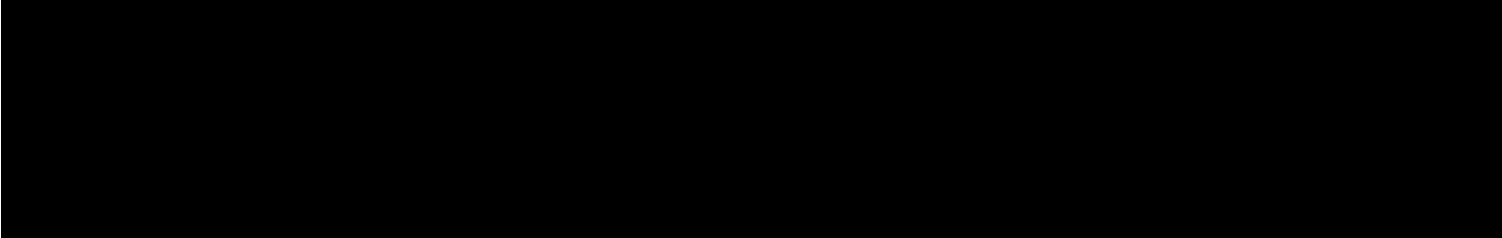
We can confirm that your tender received the following scores and ranking:-

Criteria	Your Weighted Score	Your Rank (out of all 3 tenders received)
Price (out of 500 marks)	■	■
Quality (out of 300 marks)	■	■
Tasting (out of 200 marks)	■	■■■■
Overall	■	■

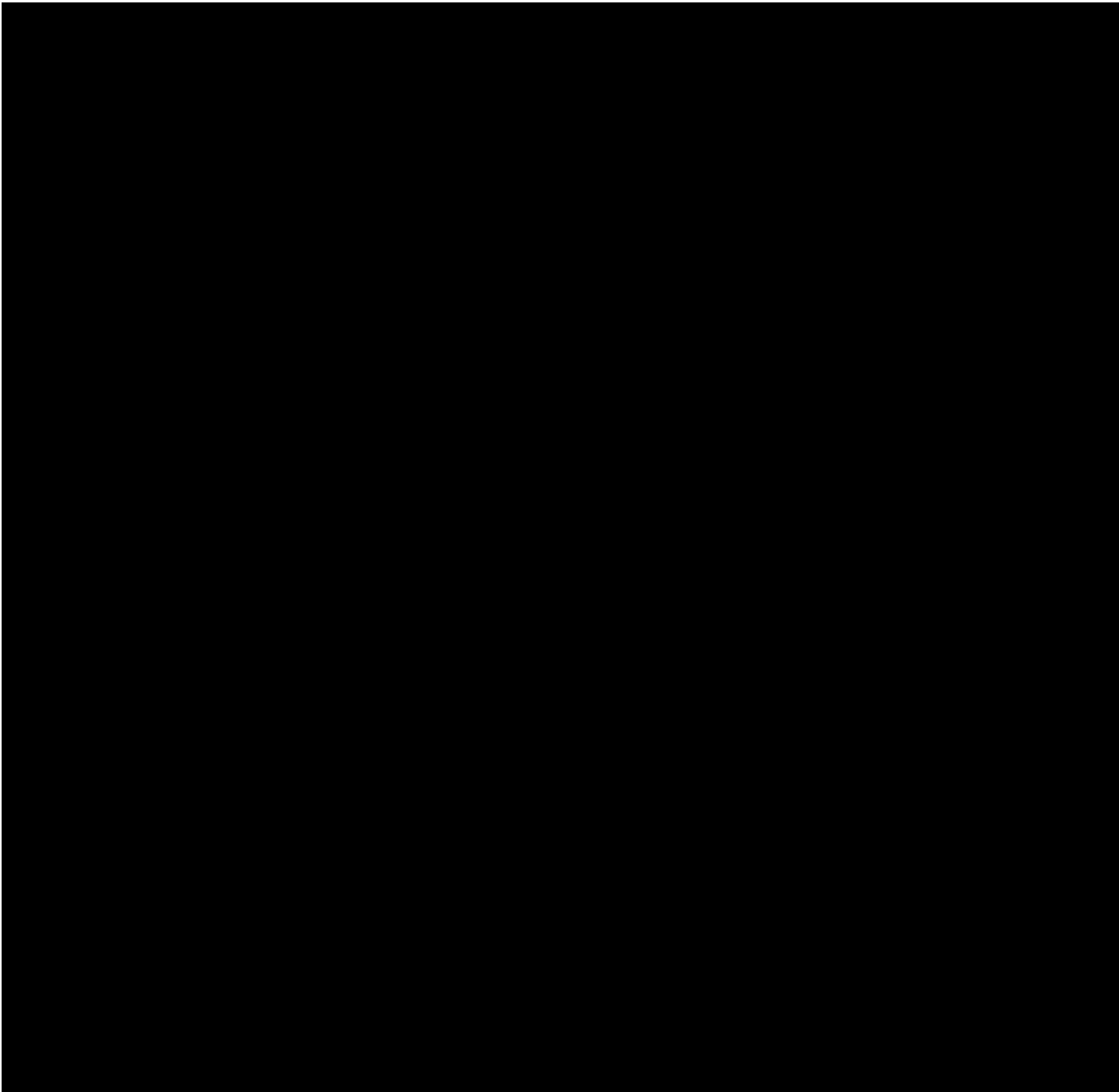


commercial info

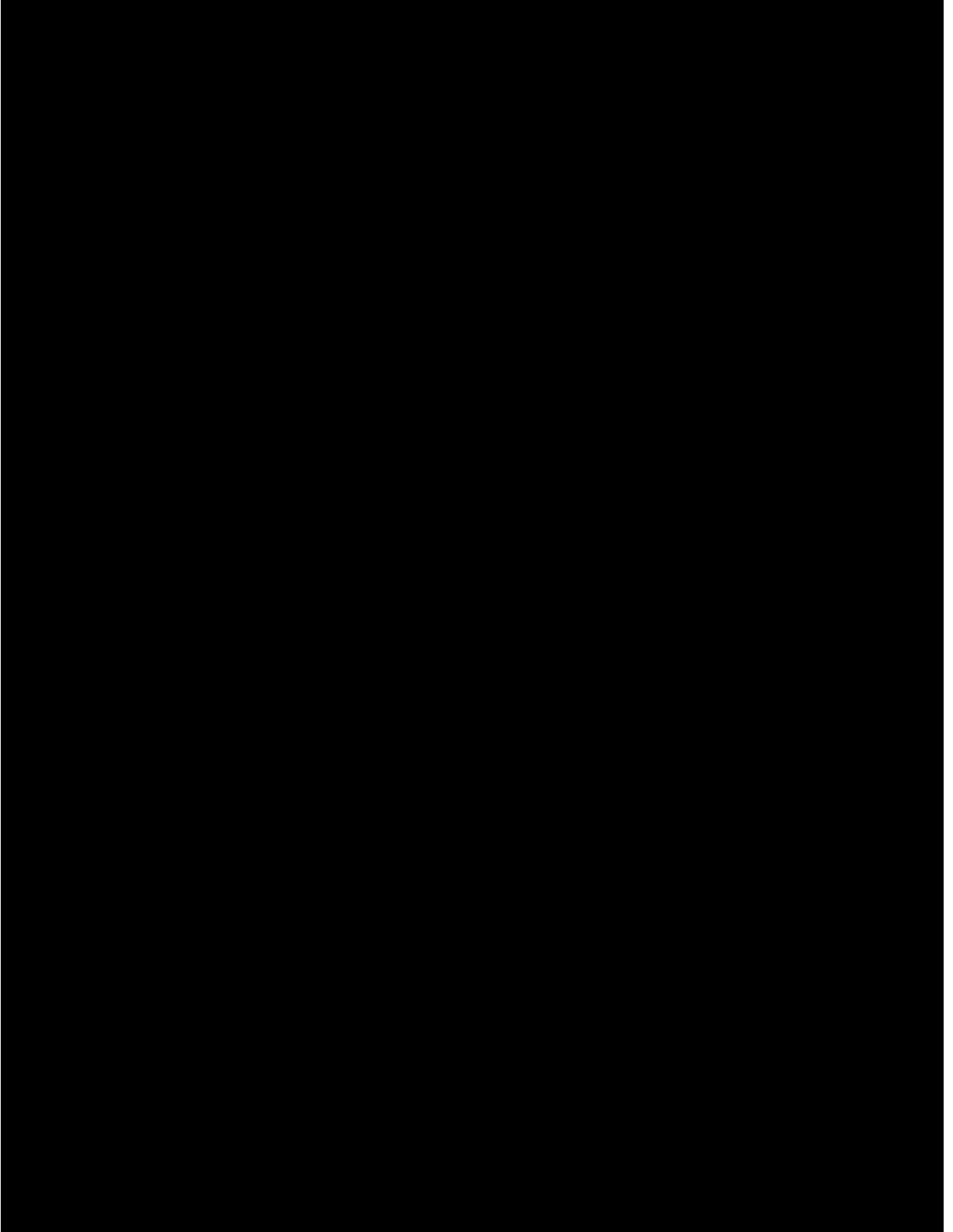
This award notification is also subject to you now providing copies of your relevant insurance certificates together with confirmation from your insurance brokers that:-



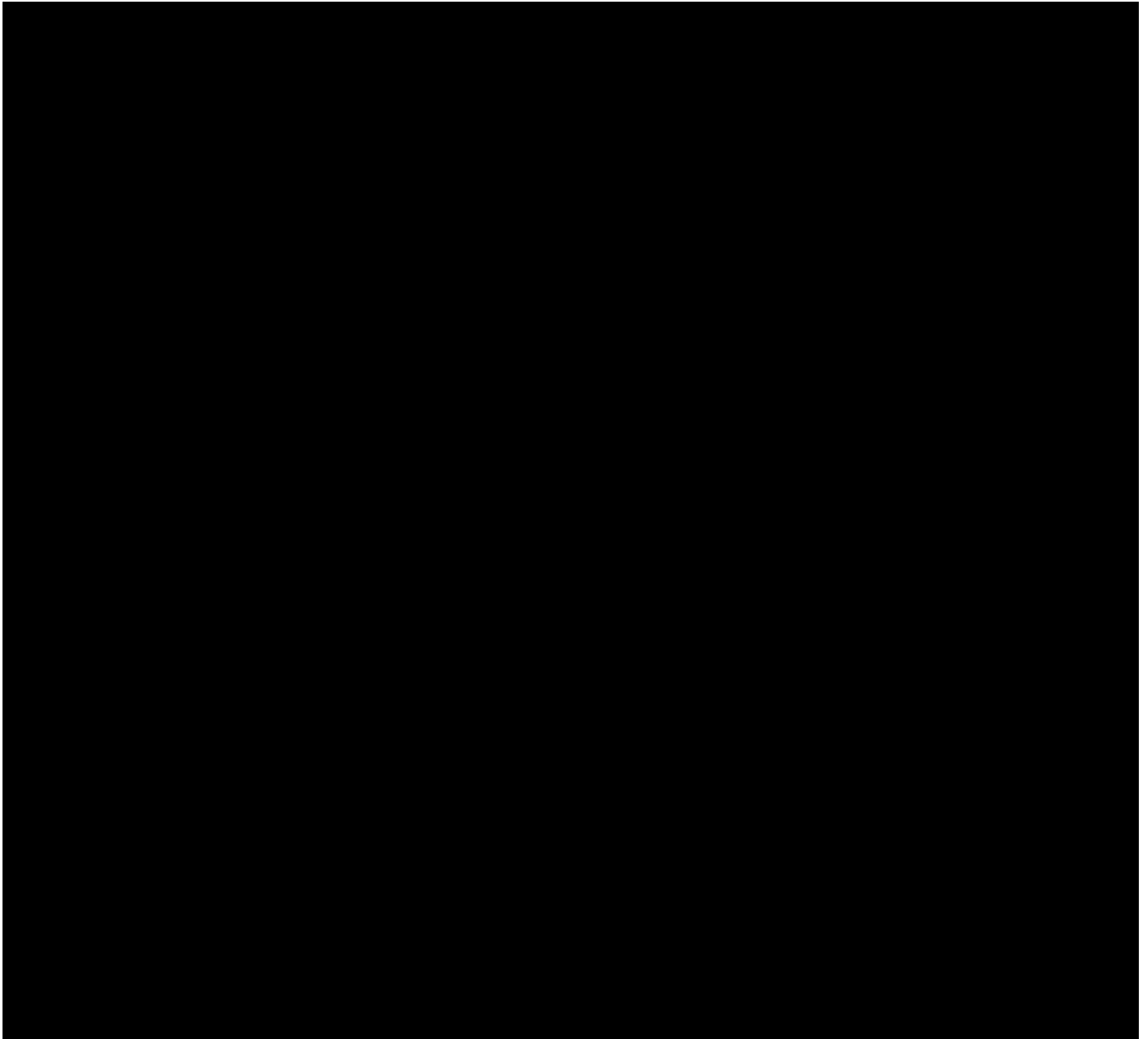
Please find details of the marks allocated to you for Quality and Tasting and reasoning behind the Quality and Tasting marks as follows:-



commercial info



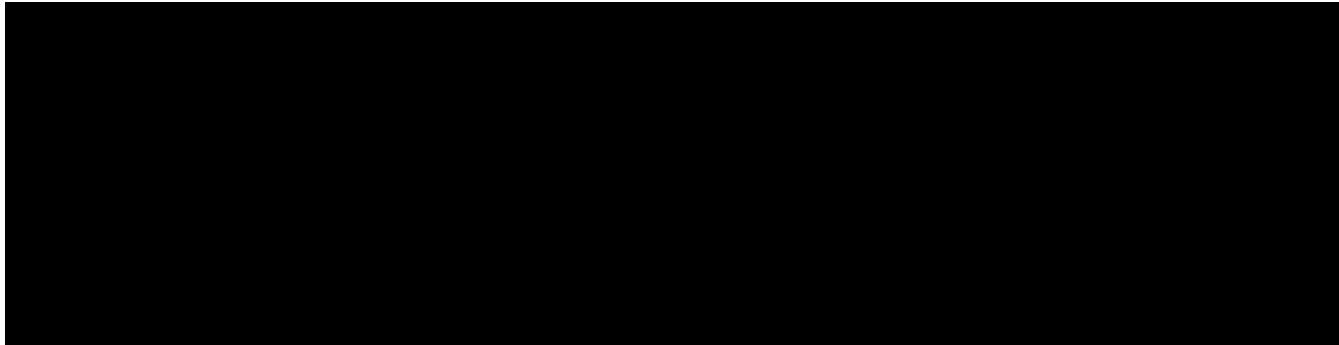
commercial info



personal info

We will be in touch with you again at the end of the standstill period.

Yours faithfully



General Manager  
Shire Services

Project Manager  
Shire Services