

DATED this 1st day of August 2017

Service Contract

between

THE FOOD SAFETY AUTHORITY OF IRELAND

- and -

THE NATIONAL STANDARDS AUTHORITY OF IRELAND

Revision 1 – 02/05/2019

THIS SERVICE CONTRACT is made this 1st day of August 2017 **BETWEEN:**

THE FOOD SAFETY AUTHORITY OF IRELAND, established in Ireland pursuant to the Food Safety Authority of Ireland Act, 1998 (hereinafter referred to as the "Authority") having its principal place of business at Abbey Court, Lower Abbey Street, Dublin 1; and **THE NATIONAL STANDARDS AUTHORITY OF IRELAND** having its principal place of business at Northwood, Santry, Dublin 9 (hereinafter referred to as the "Official Agency").

1. Interpretation

In this Service Contract, unless the context otherwise requires -

“**Act**” means the Food Safety Authority of Ireland Act, 1998 [No. 29 of 1998] as amended;

“**Authority**” means the Food Safety Authority of Ireland;

“**Commencement Date**” means the 1st Day of August 2017;

“**Food Legislation**” means the Food Legislation set out in Schedule 1 of this Service Contract;

“**Year**” means any 12 month period commencing on 1st January.

2. The Authority is the Competent Authority responsible for the enforcement of all food legislation. An Official Agency carrying out functions under a Service Contract shall be acting on behalf of and as an agent for the Authority.
3. For the purposes of section 48(5) of the Act, this Service Contract shall be in force for a period from the commencement date to 31st December 2020. The Service Contract may be subject to review, modification or amendment, and may be extended for further periods by agreement.
4. For the purposes of section 11(2) of the Act, it is agreed that the Official Agency shall carry out in its functional area on behalf of and as an agent for the Authority the determination of compliance with food legislation outlined in Schedule 1.
5. For the purposes of section 48(3) of the Act, and having had regard to the resources available to the Official Agency, the Authority has specified the following matters to the Official Agency and the Official Agency has agreed to those matters
 - (a) the objectives and targets for food inspection the Authority wishes the Official Agency to meet, and the timeframe for achieving those targets and objectives.
 - (b) any other matters which the Authority considers necessary.

The matters referred to in (a) and (b) are set out in Schedule 2 of this Service Contract.

6. The Official Agency has indicated to the Authority that, for the purposes of section 48(4) of the Act, the means by which it proposes to meet the matters specified by the Authority in Schedule 2 of this Service Contract are those set out in Schedule 3 of this Service Contract. The Official Agency agrees to collect data and report to the Authority as detailed in Schedule 4.
7. In accordance with the provisions of *Regulation (EC) No. 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with food law, animal health and animal welfare rules*, the Official Agency may delegate a task or function to a third party subject to the agreement of the Authority
8. Without prejudice to the provisions of food legislation, the activities to be undertaken on behalf of the Authority shall be directed towards bringing about a general acceptance amongst producers, manufacturers and distributors of the principle that, in respect of any food or food contact material placed on the market, the primary responsibility for the safety and suitability of the food for human consumption or the food contact material is borne by them individually or, as appropriate, collectively and as a consequence, each of the persons mentioned shall take all reasonable steps to ensure, in so far as that person is concerned, the safety and hygienic standard of that food or food contact material.
9. The Authority and the Official Agency agree to review and amend this contract in the event of changing circumstances.

IN WITNESS WHEREOF the Authority and the Official Agency have caused their respective Seals to be affixed hereto.

Signed on behalf of the Food Safety Authority of Ireland

Dr Pamela Byrne
Chief Executive

DATE

Signed on behalf of the National Standards Authority of Ireland

Ms Geraldine Larkin
Chief Executive

DATE

SCHEDULE 1

List of the Food Legislation contained in the First Schedule to the Act for which the Official Agency has responsibility

Duties and responsibilities for food safety activities for the Official Agency will derive from the following list of legislation.

When

- (a.) the Minister for Health makes an order amending the First Schedule of the Act , or
- (b.) any Act passed by the Oireachtas or any statutory instrument made thereunder or regulation made under the European Communities Act, 1972, is deemed to be food legislation for the purposes of the Food Safety Authority of Ireland Act, 1998,

the new legislation may be inserted by the Authority into this Schedule.

A reference to an enactment (including any instruments made thereunder) shall be construed as a reference to that enactment as amended, adapted, extended or replaced by or under any subsequent enactment, including the Food Safety Authority of Ireland, Act 1998.

A reference to a Statutory Instrument shall be construed as a reference to that Instrument as amended, adapted, extended or replaced by any subsequent Statutory Instrument.

FOOD LEGISLATION	Acts and Statutory Instruments
Food Safety Authority of Ireland Act 1998 as amended	Act No.29 of 1998 S.I. No.184 of 2000 S.I. No.580 of 2002 S.I. No.735 of 2003 S.I. No.210 of 2004 S.I. No.827 of 2005 S.I. No.320 of 2006 S.I. No.839 of 2007 S.I. No. 494 of 2010 S.I.No.724 of 2011 S.I. No.390 of 2014 S.I. No. 107 of 2017 S.I. No. 568 of 2018
European Communities (General Food Law) Regulations 2007 to 2013	S.I. No.747 of 2007 S.I. No. 498 of 2010 S.I. No. 500 of 2011 S.I. No. 473 of 2012 S.I. No. 383 of 2013

EC (Official Control of Foodstuffs) Regulations, 2010 and 2011	S.I. No. 117 of 2010 S.I. No. 344 of 2011
European Union (Natural Mineral Waters, Spring Waters and Other Waters in Bottles or Containers) Regulations 2016	S.I. No. 282 of 2016
European Union (Plastics and other materials) (Contact with food) Regulations 2017 and 2018 Commission Regulation (EU) 2018/831 of 5 June 2018 amending Regulation (EU) No. 10/2011 on plastic materials and articles intended to come into contact with food	S.I. No. 49 of 2017 S.I. No. 257 of 2018 Commission Regulation (EU) 2018/831

SCHEDULE 2

The objectives, targets, timeframe and other matters relating to food inspection which the Authority has specified to the Official Agency

1. General Requirements

1.1 Introduction

The objectives, targets, timeframe and other matters relating to the Service Contract are described in this Schedule. The Official Agency agrees to fulfil all obligations regarding food safety as may be determined by the Authority from time to time.

The Official Agency agrees, generally, to implement official controls on natural mineral waters and food contact materials in line with the food legislation having regard to the above mentioned paragraphs in this clause.

1.2 Legislation

Duties and responsibilities for food safety activities for the Official Agency will derive from the legislation listed in Schedule 1. All staff involved in food control activities shall be provided with access to this legislation.

1.3 Official Controls

The Official Agency will carry out official controls to ensure compliance by food business operators and business operators dealing with food contact materials with the Food Legislation and other legislation as agreed.

Within its area of competence, the Official Agency shall ensure that official controls (verification, inspection, audit, sampling and analysis, monitoring and surveillance) are carried out regularly, on a risk basis and with appropriate frequency so as to achieve the objectives of this Service Contract and section 11(2) of the Act.

The Official Agency will ensure official controls are efficient, effective and are suitable to achieve the objectives of the relevant legislation.

The Official Agency shall comply with the relevant requirements of Regulation (EC) No. 882/2004. Over the duration of this contract the Official Agency will work in partnership with the Authority towards implementation of Regulation (EU) 2017/625 on Official Controls and Official Activities which will replace Regulation 882/2004.

1.4 Transparency

The Official Agency and the Authority must ensure that official control activities are carried out to a high level of transparency. Relevant information held by the Official Agency must be made available to the public and the Authority, as soon as possible, on the control activities of the Official Agency and their effectiveness.

Where there are reasonable grounds to suspect that a food or food contact material may present a risk to health the Official Agency and the Authority will ensure the public are informed to the fullest extent possible.

The Official Agency and the Authority must ensure that information acquired when undertaking official controls which by its nature is covered by 'professional secrecy in duly justified cases' is not disclosed to a third party. The Official Agency acknowledges that the information gained when undertaking official controls is confidential and may not be disclosed to third parties

during or after the expiry of the term of the service contract, except with the written consent of the Authority.

1.5 National Control Plan for Ireland (NCP)

The Official Agency shall work with the Authority and the other Official Agencies to achieve the relevant objectives of the single integrated multi annual national control plan (the NCP) which is prepared in accordance with the requirements of Regulation (EC) No. 882/2004. The specific objectives for Ireland for food are:

- Achieve compliance with food legislation and standards
- Ensure the coordinated and consistent enforcement of food legislation
- Ensure delivery of an effective and efficient food safety control system
- Contribute to EU harmonisation of food safety rules.

The Official Agency shall co-operate with the Authority in updating Ireland's NCP and in the preparation of the annual reports for Ireland. Revisions to this service contract will be reflected in the NCP.

1.6 Requests for Advice

The Official Agency agrees to respond to the Authority in a timely way to requests for advice and information on the food legislation.

1.7 Participation on Working Groups

The Official Agency may participate in the Authority's working groups, inter-agency working groups and expert working groups to

- produce Guidance Notes and Codes of Practice
- evaluate implications of existing and proposed legislation
- evaluate relevant food safety/scientific information
- produce other outputs including meeting reports as required

1.8 Service Plan

The Official Agency shall prepare a Service Plan each year with respect to official control activity. The content and format of the plan will be agreed by the Agency and the Authority by 31st March for each calendar year to which it applies. The Authority recognises that the plan will be subject to change in the light of changing circumstances and the current version will be available from the Official Agency on request at any time.

1.9 Data collection and reporting

The Official Agency shall collect and share data with the Authority as specified in Schedule 4.

1.10 Information Systems

The Official Agency shall keep up-to-date records of its official control activity (gathered in respect of Clause 1.8) in a computer database. The Authority and the Official Agency shall agree mechanisms for the electronic transfer of data from the Official Agency to the Authority, which may include the use by the Official Agency of a database developed by the Authority.

1.11 Continuing Professional Development

An Annual Training Strategy shall be developed by the Official Agency to include details of Continuing Professional Development to be provided by the Official Agency to all staff listed in Schedule 3. Induction training is to be provided for new staff by the Official Agency.

1.12 Third Party Complaints regarding the implementation of the Service Contract

The Official Agency shall provide information to the Authority on business operator or public complaints regarding the implementation of the service contract. The official agency shall co-operate with the Authority in any investigation regarding these complaints. Complaints received by the Authority will be notified to the Official Agency and will be managed through the liaison process.

1.13 Provision of Education / Dissemination of Information

In respect of the food legislation, the Official Agency agrees to provide education or disseminate information as requested by the Authority.

1.14 Rapid Alerts

Provisions shall be made by the Official Agency to deal effectively with incidents as requested by the Authority. The Official Agency shall maintain dedicated contact points for receipt of food alerts and exchange of information relating to incidents. The Official Agency shall facilitate the operation of and participate in the Rapid Alert System for Feed and Food as required.

1.15 Complaints relating to Food and Food Contact Materials

The Official Agency agrees to liaise with other Official Agencies, as required, in the follow up of complaints relating to food or to food contact materials made under the food legislation.

1.16 Out of hours emergency service

The Official Agency shall provide food control services outside of normal working hours to deal effectively with food-borne outbreaks and significant food safety incidents (collectively referred to hereafter as "incidents").

1.17 Contingency Planning

As a contingency, the Official Agency shall provide the Authority with a single central contact point for both office hours and out of office hours for emergency and crisis situations.

The Official Agency shall establish a dedicated contact point for receipt of food alerts and exchange of information relating to food incidents during normal office hours.

The contact point shall enable quick response at all times (including cover during leave periods). Details of the contact points (telephone and e-mail) shall be notified to the Authority and updated as necessary.

1.18 Missions of the European Commission

The Official Agency will cooperate with requests from the Authority with regard to EC Missions that are relevant to this service contract. The Official Agency shall take effective actions to resolve recommendations (if any) from EC Missions. The Official Agency will keep the Authority informed of the relevant activities.

1.19 Reports on Official Controls

The Official Agency shall draw up reports on the official controls that it carries out. These reports shall include a description of the purpose of the official control, the control methods applied, the results of the official control and, where appropriate, action that the business operator concerned is to take.

A report on the outcome of official controls in a premises shall be issued to the relevant business operator, and forwarded on a monthly basis to the Authority.

Where, during the course of official controls, the Official Agency identifies violations which may indicate fraudulent/deceptive practices in so far as they relate to food legislation, these will be investigated and notified promptly to the Authority.

1.20 Follow up of non-compliances

The Official Agency shall initiate follow up action following detection of non-compliances, in consultation as necessary with the Authority.

The Official Agency shall ensure documented procedures are in place regarding the follow-up of non-compliances. These procedures will be reviewed at liaison meetings to ensure that they are still in line with legislative requirements and best practice.

1.21 Internal Audit

The Official Agency shall implement self-check and verification systems to verify the ongoing effectiveness of its systems and processes associated with the administrative and technical elements of the official controls in accordance with Article 4(6) of Regulation 882/2004 and the guidelines contained in Commission Decision 2006/677/EC. These activities will be reviewed at liaison meetings with the Authority. The natural mineral water and food contact material schemes are administered through the Official Agency's core administrative management systems. These systems are accredited to ISO 17021.

Documentation and inspection activities for all official controls shall be covered by the Official Agency's internal audit processes. In the case of recognition of natural mineral water, a full independent technical review of relevant documentation shall be performed prior to the extension of the period of source recognition.

1.22 Documented Procedures

The Official Agency shall carry out official controls in accordance with documented procedures. These procedures shall provide information and instructions for staff performing official controls. These procedures will be reviewed at liaison meetings.

1.23 Authorised Officers

The Official Agency shall ensure that all relevant staff are authorised appropriately by the Official Agency for the controls they carry out.

1.24 Additional Activities

The Official Agency will participate as agreed in activities relating to food or food contact materials that may be arranged by the Authority, in collaboration with the Authority or other agencies as appropriate. The Official Agency will undertake tasks as agreed and provide results to an agreed format and timescale.

2. Official Food Control Services to be provided

2.1 General

The Official Agency shall fulfil all obligations regarding food safety as may be agreed from time to time by the Authority and the Official Agency in the context of the food legislation.

The Official Agency shall allocate inspectors to carry out official controls in particular establishments as per legislative requirements and the Official Agency's documented procedures, at a frequency based on risk in line with the requirements in Article 3 of Regulation (EC) No. 882/2004.

The Official Agency shall supervise those establishments specified in the agreed supervisory arrangements. Where the Official Agency shares responsibility for premises with other Official

Agencies, local arrangements will be made to coordinate activities in consultation with the Authority.

2.2 Natural Mineral Waters

The Official Agency shall undertake the determination of compliance with food legislation by means of:

- (i) The recognition of the extraction of natural mineral waters pursuant to the food legislation;
- (ii) The assessment and sampling of natural mineral waters pursuant to its recognition and exploitation in accordance with the food legislation.

The Official Agency shall provide official food control services in premises requiring recognition for the extraction of natural mineral water, which will be set out in a list to be maintained by the Authority. Additions to or deletions from the list of premises will be notified to the Authority without delay.

The premises will be those subject to Regulation 4 of the European Union (Natural Mineral Waters, Spring Waters and Other Waters in Bottles or Containers) Regulations 2016.

Provisions as laid down in Part 5 of the European Union (Natural Mineral Waters, Spring Waters and Other Waters in Bottles or Containers) Regulations 2016 are applicable in so far as they relate to the enforcement of Regulations 4, 5 and 6(c).

2.3 Food contact materials

2.3.1 Scope

The Official Agency will undertake official controls in establishments (other than food establishments) that import, manufacture, distribute or supply (other than by retail) food contact materials, in accordance with the food legislation.

The Official Agency shall supervise and review all aspects of the operation of each establishment, to ensure compliance with legislative requirements. The Official Agency will, as part of its official controls, check the adequacy of migration and other testing carried out by the food contact material suppliers to ensure that their products comply with the food legislation. The official controls will also check sampling information supplied to food contact material suppliers by their suppliers of raw materials. The Official Agency will participate on request in relevant annual labelling programmes

The Official Agency shall keep a register of establishments in which it undertakes official controls and notify this list to the Authority electronically annually.

2.3.2 Risk-based frequency of official controls

On the basis of a risk assessment for the sector, the following minimum inspection frequencies will be achieved:

- Producers (manufacturers or converters) of food contact materials: 1 inspection/year
- Distributors or importers (with no production) of food contact materials: 1 inspection/2 years

Additional inspections may be conducted for individual establishments based upon a specific assessment of the results of official controls. The Authority and Official Agency will review the inspection frequency periodically in the light of experience gained and legislative changes.

2.3.3 Sampling

The Official Agency will participate on request in sampling plans for food contact materials taken as part of the official controls, with samples to be submitted by the Official Agency to official control laboratories specified by the Authority.

2.3.4 Establishments that recycle plastic food contact materials

Official controls in establishments that recycle plastics food contact materials will include audits of their recycling process in line with the relevant food legislation.

2.3.5 Export Certificates

Where the Authority issues export certificates for food contact materials or establishments to confirm their compliance with legislation, the Official Agency will, as part of its official controls, provide relevant information to the Authority on request.

3. Monitoring

3.1 Liaison

The Official Agency shall nominate person(s) to liaise with the Contract Manager in the Food Safety Authority of Ireland.

Liaison meetings shall be held annually or as required by either party.

Any matter pertaining to the Service Contract which becomes or is likely to become the subject of a disagreement between the Official Agency and the Authority shall in the first instance be dealt with through the liaison process. Issues not resolved by the parties to the liaison process may be referred to the Chief Executive of the Authority and the Chief Executive, or nominee, of the Official Agency.

3.2 Access

The Official Agency carrying out functions under this Service Contract shall be acting on behalf of and as an agent for the Authority. The Authority shall have access as required through the liaison link to the staff referred to in Schedule 3 and to all records, data and sites relevant to food safety duties pertaining to this contract, including financial records related to expenditure claimed from the Authority. Officers of the Official Agency shall have access as required through the liaison link to records relevant to the Official Agency held by the Authority.

3.3 Audit Techniques

The Authority may take such measures, as it considers appropriate to determine compliance by the Official Agency with the requirements of this Service Contract. This will include audit in accordance with Schedule 5 and the Official Agency agrees to cooperate with the Audit Inspections. The Official Agency will provide details of any relevant external audits of its service.

SCHEDULE 3

The Means by which the Official Agency proposes to meet the matters specified in this Service Contract

The Official Agency, as a competent authority, performing official controls shall meet a number of operational criteria. They shall maintain a sufficient number of suitably qualified and experienced staff and possess adequate facilities and equipment to carry out their duties properly.

The Official shall ensure economy and efficiency in implementation of the service contract.

The Official Agency will provide staff and all resources required to ensure delivery of service outputs/activity as outlined in Schedule 2.

1. Staffing Resource

List of all staff involved for the purposes of this contract:

Table 1. Staffing Resources

Titles / Grades	Total Number of Staff engaged in Official Control Activities	Total Number of WTE on Official Control Activities
Department Head	1	0.05
Senior Scientific Officer	3	0.65
Administration	1	0.05
TOTAL	5	0.75

SCHEDULE 4

Data collection and reporting

1. General Requirements for data collection and reporting

The Official Agency shall collect and store information generated from food control activities specified in Schedule 2. The data collected is to be maintained and all records are to be kept up to date.

Inspection reports are to be electronically transferred to the Authority, monthly.

2. Resources

Schedule 3 information shall be updated and discussed with the Authority at an annual liaison meeting.

The Official Agency shall maintain a current electronic list of staff involved in the Service Contract. The list shall include names, contact addresses, telephone numbers and email addresses for all officers. This list shall be submitted to the Authority annually.

3. Activities undertaken outside of returns outlined at 1

The Official Agency will submit, via electronic data capture, an annual Section 48(8) report to the Authority which will record details of:

- (a) Official Control Activities, including staffing
- (b) Food incidents/outbreaks
- (c) Participation on the Authority's working groups, inter- agency working groups and expert working groups and any other similar activity
- (d) Continual Professional Development undertaken by all staff listed in Schedule 3
- (e) Food Hygiene or safety education activities undertaken
- (f) Complaints regarding food or food contact materials
- (g) Complaints regarding the implementation of this Service Contract
- (h) Additional food safety activities as agreed

SCHEDULE 5

The Means by which the Authority proposes to audit the Service Contract

1. Legal Basis

Audits by the Authority of Official Agency activities shall be carried out under the provisions of Section 48 (9) of the Act.

2. General Requirements

The Authority's audits will verify where appropriate conformance by the Official Agency with this Service Contract and the relevant requirements of the National Control Plan for Ireland and compliance with food legislation. The Authority will take cognisance of internal audits performed by the Official Agency when developing its audit programmes.

3. Audit Programmes

The Authority shall provide details of the audits it intends to carry out on activities performed by the Official Agency through the circulation of Audit Programmes. As part of its audit programme planning process the Authority will take due regard of internal audits scheduled or conducted by the Official Agency under Clause 1.20 of Schedule 2 of the contract.

The Authority's Audit Programmes shall be risk based and circulated at a minimum of every six months following the commencement of the contract. Audits will be conducted in accordance with the Authority's Audit Charter and documented procedures.

4. Liaison

Liaison for the purpose of audit shall be through a representative(s) nominated by the Official Agency.

5. Access

The Official Agency shall allow the Authority's audit team access to its premises, relevant personnel, documents and records applicable to the audit. The Official Agency shall facilitate the Authority's audit team's access to those premises, personnel, documents and records of food and food contact material business operations applicable to the audit.

6. Corrective Action

Where audit findings indicate deficiencies in the controls, a corrective action plan shall be developed by the Official Agency in liaison with the Authority. The Authority will monitor implementation of the plan to ensure corrective action is adequate, appropriate and implemented in a timely manner. The Authority may, if it is deemed appropriate, verify closeout of findings through a supplementary audit.