

Model specification clauses for food supply contracts

The document has been prepared by East Anglia Food Link with the Regional Centre of Excellence for the East of England, but they note that many of the paragraphs have been copied from DEFRA's work.

For use by East of England LEAs

FINAL Version (3.3)

Raising Production and Process Standards

The Contractor shall

1. Provide the Authority with credible assurance that all food provided meets current UK laws governing the sale and consumption of food, as covered by the Food Law Guide on the Food Standards Agency website <http://www.food.gov.uk/multimedia/pdfs/foodlaw.pdf>
2. Supply to the Authority unprocessed commodities¹, lightly processed foods and drinks,² and composite products³ produced in accordance with one or more of the following categories and shall supply the quantities for each commodity or item of food or drink listed under these categories, as identified in the Contractor's offer that was accepted by the Authority and forms the Contract⁴:
 - Category 1: Food produced in accordance with the standards set for the Red Tractor⁵ food assurance scheme or equivalent standard or, in the case of eggs in their shells, the Lion Egg standard or equivalent.

¹ Unprocessed commodities, such as fresh fruit and vegetables, honey, eggs, milk, cream, un-milled cereals etc.

² Lightly processed foods and drinks are food products that retain their raw recognisable form, such as meat, cheese, butter, powdered milk, flour, sugar etc.

³ Composite products containing several ingredients are covered by assurance schemes with, for example, the Red Tractor Licence permitting food businesses to use the Red Tractor Logo on pre-packed food. If the product contains several ingredients, then all ingredients must be assured with a 5% tolerance. In future, there will be a second option for Red Tractor Licensees allowing the Red Tractor Logo to be used on pack to signify that the Principal Ingredient (PI) of the product is 'assured'. URL: <http://www.nfuonline.com/x6735.xml>.

⁴ The authority will need to determine the level of weighting to be allocated for each category for the purpose of evaluating tenders. Tenderers need to know what the weightings are before they submit their offers. The authority should invite tenderers to specify what quantities of produce will be supplied under each category.

⁵ For foods that meet Red Tractor standards– see Assured Food Standards' web site at http://www.redtractor.org.uk/site/rt_page.php?section_id=1&page_id=3 and in the Appendix below. This also lists equivalent schemes.

- Category 2: Fruit, vegetables and cereals produced in accordance with the standards set for LEAF Marque food assurance scheme⁶ or equivalent. Meat and dairy products produced in accordance with the standard set for the RSPCA Freedom Foods scheme⁷ or equivalent.
- Category 3: Food produced in accordance with the requirements of EC Council Regulation 2092/919⁸ for organically produced food⁹.
- Category 4: Food produced in a manner that does not comply with categories 1, 2 or 3.¹⁰

If requested, the Contractor shall submit to the Authority evidence that the requirements for categories 1, 2 and 3 have been met. Furthermore, if requested by the Authority, the Contractor shall obtain and submit, at the Contractor's expense, independent verification that the evidence submitted to the Authority provides credible assurance that the Authority's requirements are being met.¹¹

Independent verification means that an evaluation is undertaken and reported by an individual or body whose organisation, systems and procedures conform to ISO Guide 65:1996 (EN45011:1998) - General requirements for bodies operating product certification systems or equivalent - and who is accredited to undertake such evaluations by a body whose organisation, systems and procedures conform to ISO 17011:2004 - General requirements for providing assessment and accreditation of conformity assessment bodies or equivalent.

3. Provide reports to the Authority (at the intervals and in a format agreed with the Authority) listing:
 - The different food items supplied to the Authority during the period
 - The total volume and value of each food item

⁶ The LEAF Marque provides consumers with assurance that the producer operates his or her business and production processes to Integrated Farm Management principles with high environmental standards.

⁷ RSPCA Freedom Foods is designed to ensure a higher level of animal welfare based on the Five Freedoms, as defined by the Farm Animal Welfare Council (FAWC).
(<http://www.rspca.org.uk/servlet/Satellite?pagename=RSPCA/FreedomFood/FreedomFoodHomepage>)

⁸ Details of approved UK organic certification bodies are given in the Appendix below.

⁹ The Government's "Action plan to develop organic food and farming in England" promotes the public procurement of organic food. URL: <http://www.defra.gov.uk/farm/organic/actionplan/index.htm>

¹⁰ It may not be feasible to expect Contractors to supply 100% farm assured or organic food for all the contract requirements.

¹¹ For food packers or processors the evidence can take the form of a current licence to use the relevant food assurance scheme. However, if there is any doubt about the validity of the evidence provided, the buyer should require the supplier to provide independent verification that the Authority's requirements are being met

- The source of origin of each food item (preferably giving the locality or region if produced within the UK). For composite food items the source of origin should be for the principle ingredient.
4. Adhere to the Meat and Livestock Commission's public sector specifications for cuts of beef, lamb and pork as a means of improving process standards at <http://www.britishmeatfoodservice.com/foodservice/product/specifications.htm>

[These specs are currently being reviewed. So in the meantime I'd like to add a sentence here to the effect that "If the Contractor believes that any of these specifications are not practical this should be stated in the tender submission." – that is, we should avoid ruling out a supplier who does not meet every single criterion, some are more important than others. For example, it has been pointed out that the current spec says meat must be no more than 5 days old, whereas many butchers would argue for deliberately hanging meat much longer than that. But does that make tender evaluation too difficult?]

[The alternative might be to remove this clause and just put in some of the key criteria for the products being bought, eg fat content, meat content.]

5. Ensure that all meat is clearly labelled with country of origin and for:
- Beef and veal, in compliance with EC Council Regulation 1760/2000;
 - Pork, provide the Authority with credible assurance that the pork has been produced from pigs raised in accordance with UK welfare legislation or equivalent requirements
 - Ensure that the origin and species of fish and fillets including the commercial name, method of production (if caught at sea or inland waters or farmed) and catch area is clearly labelled
 - Clearly label any genetically modified products used, including the presence of any genetically modified ingredients used in the preparation of the food.

Environmental impacts: distribution

6. The contractor shall agree a delivery schedule with the Authority and implement procedures for switching off the engines of delivery vehicles when stationary on the Authority's premises for longer than two minutes.

Packaging

[Authorities should consider whether to include this section in any particular tender / contract. For example, in the case of greengrocery it will rightly support those greengrocers who make up "splits" in reusable plastic crates rather than disposable cardboard boxes. More generally it will encourage distributors of all kinds to use packaging that can be returned to manufacturers for reuse rather than having to be disposed of.]

7. The Contractor shall:

- Retain ownership of and take back all packaging materials unless otherwise agreed in writing by the parties;
- Collect any packaging left at the Authority's premises within the period agreed in writing between the parties. Where no period is specified the Contractor shall return to the Authority's premises within seven working days of the issue of notification in writing by the Authority that packaging is to be collected by the Contractor. Any packaging materials, which are not collected by the contractor within the agreed period will be disposed of by the Authority and the contractor will be charged for all the associated costs of disposal. Where exceptionally it is agreed in writing between the parties that the Authority is obliged to return packaging materials to the Contractor then the Authority accepts no liability in respect of the non-arrival at the Supplier's premises of empty packages returned by the Authority unless the Supplier shall within ten days of receiving notice from the Authority that the packages have been dispatched notify the Authority of such non-arrival.

Unless otherwise agreed in writing between the parties

- Use recycled materials in the manufacture of crates, pallets, boxes, cartons, cushioning and forms of packaging, where these fulfil other packaging specifications.
- If requested in writing to do so, produce evidence to satisfy the Authority that recycled materials have been used.
- Use packaging that is capable of recovery for further use or recycling.
- Review packaging specifications periodically to ensure that no unnecessary limitations on the use of recycled materials exist.

Nominated suppliers

8. *[For use in contracts for chilled or frozen distribution]*

- The Contractor shall comply with the authority's requirement to use "nominated suppliers".
- There will be no limit on the value of goods that can be bought from these suppliers.
- The margin that the distributor adds to the price of such supplies will be stated in the contract. The contractor will not charge any fees over and above that agreed margin, either to the authority or to the nominated supplier.
- The contractor shall allow "nominated suppliers" to deliver goods to the contractor's nearest depot to the point of delivery.

- “Nominated suppliers” may invoice the contractor at any time from delivery of goods onwards. The contractor will pay nominated suppliers within 30 days of invoice.

Fair treatment of suppliers

9. The Contractor shall have mutually agreed purchase contracts in place with its suppliers that state clearly:
 - (a) the price to be paid (or the means by which it is to be calculated and/or varied);
 - (b) the extent of the commitment to purchase (minimum price, quantity, timing and quality);
 - (c) the agreed payment timescale(s);
 - (d) any pre-finance/credit arrangements;
 - (e) the nature and extent of risk/reward sharing;
 - (f) the nature of the negotiating process and each party's rights;
 - (g) the duration of the agreement and any let-out clauses (if any); and
 - (h) the complaints procedure to be followed in the case of dispute, which must be independent and provide for confidentiality to be respected.

Appendix: UK selected assurance and quality schemes' web sites

Only buyers that procure directly from farmers and growers need to know about the various baseline farm assurance certification schemes listed below, as Red Tractor is the important point of reference on the supply side. It covers beef and lamb, pig-meat, chicken, dairy, fruit & vegetables and cereals. The criteria for Red Tractor standards are listed on the Assured Food Standards (AFS) web site.

Baseline Farm Assurance Schemes	
Red Tractor ¹²	http://www.redtractor.org.uk/site/rt_page.php?section_id=1&page_id=3 .
Assured Combinable Crops	
APS – Assured Produce Scheme	
Assured British Pigs	
Assured Chicken Production Scheme	
Assured Produce	
ABM (Assured British Meat)	
National Dairy Farm Assurance Scheme (NDFAS)	
Other UK baseline schemes	
Farm Assured Welsh Livestock (FAWL)	http://www.welshlambandbeef.co.uk/Fawl/FawlProducer.htm
Genesis QA	http://www.genesisqa.com/
Lion Quality Scheme (eggs)	http://www.britegg.co.uk/
Northern Ireland Beef & Lamb Farm Quality Assurance Scheme	http://www.lmcni.com/
Quality Meat Scotland (QMS)	http://www.qmscotland.co.uk/members/schemes/assurance.html
Scottish Quality Cereals (SQC)	http://www.sqcereals.co.uk/

¹² Pigmear labelled with the Quality Standard Mark for pork, BPEX (<http://www.bpex.org.uk/lookforhemark/marketing>), and beef & lamb marked with the EBLEX mark (<http://www.eblex.org.uk/>) or Scottish and Welsh equivalents will all be produced to Red Tractor standards.

Recognised baseline Farm Assurance Schemes outside the UK	
EUREPGAP Horticulture <i>May be deemed equivalent to Red Tractor</i>	http://www.eurepgap.org/fruit/Languages/English/index.html
EUREPGAP – Integrated Farm Assurance Under development and still requiring analysis commodity by commodity.	http://www.eurepgap.org/farm/Languages/English/index.html
UK Enhanced Farm Assurance Schemes	
Linking Environment And Farming (LEAF)	http://www.leafuk.org/leaf/
RSPCA's Freedom Foods	http://www.rspca.org.uk/servlet/Satellite?pagename=RSPCA/RSPCARedirect&pg=welfarestandards
UK Approved Organic Certification Bodies	
Organic Farmers And Growers Ltd <i>Organic Certification UK2</i>	www.organicfarmers.org.uk
Scottish Organic Producers Association <i>Organic Certification UK3</i>	www.sopa.org.uk
Organic Food Federation <i>Organic Certification UK4</i>	www.orgfoodfed.com
Soil Association Certification Ltd <i>Organic Certification UK5</i>	http://www.soilassociation.org/certification
Bio-Dynamic Agricultural Association <i>Organic Certification UK6</i>	http://www.biodynamic.org.uk/
Irish Organic Farmers and Growers Association <i>Organic Certification UK7</i>	http://www.irishorganic.ie/
Organic Trust Limited <i>Organic Certification UK9</i>	http://www.organic-trust.org/
CMi Certification <i>Organic Certification UK10</i>	http://www.cmi-plc.com/en/index.php
Quality Welsh Food Certification Ltd <i>Organic Certification UK13</i>	mossj@wfsagri.net
Ascisco Ltd <i>Organic Certification UK15</i>	http://www.soilassociation.org/certification

Further clauses to develop in a later version of this document

I think we can agree on most of the issues but the areas of contention remaining are as follows:

- I've added back a requirement for reporting on the source of the food supplied (such a requirement was in a previous version of the PSFPI toolkit?). However, at this stage I've left the definition of "source" fairly loose, and most suppliers will take it to mean their immediate supplier. In a later version I'd like to be clearer that this should reflect the provenance all the way back to the farm.
- The "fair treatment of suppliers" paragraph is good. However, it will be noted that it only applies to the supplier's immediate source (which could be another wholesaler) rather than all the way up the supply chain. Can the requirement be extended in that way?
- Sustainable fish. We suggested a wording "Tenders should indicate which fish products they can offer which are certified by the Marine Stewardship Council or similar as being sustainable." DEFRA commented that "In theory it would be possible to specify "sustainable" fish but not by referring to MSC as the one means of defining the requirement. It might be possible to get away with "MSC or equivalent" but before trying that we would have to be sure that all the MSC criteria is allowable in a public sector contract. If there is some way of introducing MSC criteria into the specification then the next step is to decide how to reward the tenderers who are able to offer it. With timber we made sustainable timber a variant specification but that process means the tenderer can either offer none or all of his product at the higher standard. We could set minimum environmental criteria for the catching and processing of fish and award points for tenderers who exceed that requirement but it would require a methodology to measure the variations . This can get very complex and problematical – though not impossible. [Another option is to work in partnership with the appointed contractor who may see benefits in offering MSC fish or equivalent]". I'd like to bottom this one eventually but it's not a high priority for now.