

8 September 2020

**INVITATION TO TENDER**

**for the provision of training and advisory support services to food and drink businesses for  
“SCOTLAND’S FOOD & DRINK BUSINESS DEVELOPMENT ACADEMY”**

**QUOTE Reference: SFD\_DEVACAD20\_SP\_01**

You are hereby invited by Scotland Food & Drink (SF&D) to quote for the provision of services detailed in this invitation to tender (ITT).

Your response must be in accordance with this ITT, and include specification of requirements, evaluation and price summary.

Your quotation must be received by 12.00pm on Tuesday 29<sup>th</sup> September 2020.

Scotland Food & Drink is not bound to accept the lowest price or any quote and shall not be bound to accept the supplier as a sole supplier. Prices quoted shall remain firm for the duration of the contract. Value Added Tax (VAT) should be shown separately.

It is your responsibility to obtain at your own expense any additional information necessary for the preparation of your response, and you will be responsible for any expenses incurred by you during the tendering process.

If your response does not accord with all the requirements of this ITT, it may not be considered.

Enquiries should be emailed to [ukmd@foodanddrink.scot](mailto:ukmd@foodanddrink.scot) noting the Quote Reference in the subject line.

Tender quotations should be submitted to [capability-tender@foodanddrink.scot](mailto:capability-tender@foodanddrink.scot)

**Scotland Food & Drink**

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## **PART 1 – TECHNICAL SPECIFICATION**

### **Introduction – About Scotland Food & Drink**

Scotland Food & Drink (SF&D) is the industry leadership body tasked with driving responsible, profitable growth of the country's farming, fishing, and food and drink to £30 billion by 2030 (Ambition 2030). Working collaboratively with Government and industry, we support businesses to thrive and grow. We are a membership organisation with over 400 businesses and organisations at our heart. Our mission is bold yet simple. We want Scotland to be the best place in the world to do business.

### **Background**

The programme “Scotland’s Food & Drink Business Development Academy” is implemented by Scotland Food & Drink from April 2020 to March 2023. It is part of Scotland’s Home Advantage Strategy, delivered by The Scotland Food & Drink Partnership, and supported by Scottish Government.

### **Objectives**

The vision is to build a sustainable, resilient food and drink supply chain in Scotland that is future fit and prepared for trading in UK markets. The Business Development Academy’s objective is to achieve increased commercial business capability and leadership capacity by upskilling and disseminating best practices, by:

- Building a solid foundation to enable businesses to market their products with confidence
- Strengthening the critical business skills to accelerate businesses in their chosen markets
- Building step-change commercial capacity to expediate scale
- Aligning specialists and experts to the different need states of SME’s
- Providing practical support and information at the point of need

The overall aim of the Academy is to develop confidence in Scotland’s supply chain capability, build reputation with the trade, and gain a competitive edge in local, regional and rest of UK markets.

### **Target audiences**

- Early stage businesses
- Mid-life stage growth businesses
- Established, highly ambitious businesses

### **Expected results**

The expected results of the Academy are:

- Increased skills of SME’s of good practices in a range of business topics essential to trading in UK markets, with a view to embedding in business
- Increased capacity of commercial expertise to drive change and increase in sales at local, regional, and national level
- Awareness of the growth opportunities for businesses within the food and drink market
- Increased engagement of businesses with Scotland Food & Drink
- A better understanding of the SF&D Partnership and support services available to businesses
- An active, supportive, and interconnected ecosystem of specialists, with a collaborative mind set and common aim to support growth of Scottish food and drink

- Support of Scotland's food and drink sector strategy: Ambition 2030; and UK strategy: Home Advantage, and contribution toward results

## **Budget**

The total budget for this tender will not exceed £492,000 for the duration of the contract. Scotland Food & Drink is not bound by any minimum purchase requirement.

Further development programmes will be addressed as separate tenders.

## **Programme management**

The Programme will be managed by Scotland Food & Drink on behalf of The Scotland Food & Drink Partnership.

It will mobilise for the management of the programme a Project Lead and a Project and Digital Support Officer, based remotely/at The Scotland Food & Drink office in Edinburgh.

The project implementation team is composed of SF&D staff, Partnership stakeholders and appointed contractor(s).

## **Scope of Services**

### **General Information**

A programme of training and advisory support will be delivered in Scotland to help food and drink businesses to develop and grow in UK grocery and foodservice markets. The training approach will combine the deep knowledge of external specialists from commercial enterprise, with Scotland Food & Drink's internal expertise and the input of our industry partners, to deliver a range of training, resources and support that is market focused and commercially orientated to support businesses to sell themselves, build brands, innovate and compete.

The Academy will align to the different life stages and needs of businesses, and will be delivered as separate activities, as follows:

- Foundation Skills Programme
- Essential Skills Programme
- Advanced Commercial Skills Programme

Scotland Food & Drink seeks to appoint supplier(s) to support the delivery of the activities. This opportunity is for a framework which will be split into 3 lots. Providers may tender for individual lots or all 3 lots. It is anticipated that the framework will commence October 2020 for a period of 2½ years (March 2023) with the option to extend beyond this timeframe. This is subject to funding and output performance, which will be reviewed against the tender criteria throughout, and at each programme end point.

This is a national programme available to businesses in all regions of Scotland; therefore, capacity to deliver is essential. An estimated 200 businesses will access support over the 2½-year period. The estimated split per programme is as follows:

Lot	Activity	No. Businesses per Activity	No. Activity over 2 ½ Year
1	Foundation Skills Programme	22	5
2	Essential Skills Programme	20	3
3	Advanced Commercial Skills Programme	15	2

It should be noted that a degree of flexibility is expected, which should be factored into the response.

## Expected Services

### General

Scotland Food & Drink is looking for consultants to support the design, development and delivery of training and advisory support throughout the implementation of the Academy activities. Tenderers are required to provide deliverables per programme, as outlined. Scotland Food & Drink views this detail as in principle and would welcome creative recommendations that may add value and impact to this approach.

Each lot is detailed below.

### LOT 1 - Foundation Skills Programme

The supplier will need to demonstrate that they have expertise, knowledge, and experience in training and supporting a range of early stage businesses in the food and drink sector. They must also show a good understanding of the operating environment in retail and foodservice, including an awareness of the current and emerging marketplace challenges.

The training should include, but not limited to, the following subject areas:- business planning; consumer research; proposition development/refinement (benefits value); data to insight (why, what, how on a budget, how to use); understanding markets (channel dynamics and opportunities); gap analysis; NPD approaches; food safety compliance; supply chain, logistics and efficiencies; marketing (fundamentals; branding, packaging and communications, incl. traditional and social marketing; what & when to market to achieve business goals and customer loyalty); commercial understanding (pricing and margins); sales strategies (incl. digital activities); targeting customers (incl. understanding buyer motivators, preparation and pitching, incl tradeshow).

Suppliers must:-

- provide a highly interactive learner experience
- deliver real world insights with initial emphasis on post-Covid and Brexit implications
- utilise industry networks to highlight opportunities and support available
- share best practice using specialists and exemplars
- offer practical tools and templates
- encourage peer to peer knowledge transfer
- advise on opportunities in domestic markets
- supply recommendations and work with delegates on the development of an actionable plan

The methodology for the training will be based on a one-to many and one-to-one approach, delivered in an online environment.

The output is an agreed tactical plan for implementation that will improve the realisation of business benefits following implementation.

### Strategic Summary and Deliverables

Strategic Objective: Market Penetration  
 Audience Profile: Early stage, entry level businesses: entrepreneurs and generalists of food and drink manufacturers who are active in the local market and looking to build knowledge  
 Aim: Build confidence and inspire growth  
 Solution: A series of interactive webinars and light support  
 Outcome: Stimulated growth in wider markets. Sustainable profitable growth

Programme Positioning:  
 An introduction to the essential skills required to grow a food and drink business in local markets

Design Elements:  
 Cohort 1-many  
 Virtual live: 6 modules  
 1:1 support (c4hrs)  
 Access to experts and support networks  
 Practical tools and templates

No	Modules
0	Strategic Context
1	Planning
2	MI and Market
3	Research and Product (inc. NPD)
4	Supply Chain (inc. Technical)
5	Marketing
6	Selling

Duration: 12 weeks

- Outputs (per programme):
- 22 Businesses upskilled
  - Better understand fundamentals and development opportunities
  - Connected network
  - Peer to peer learning
  - Action plan developed with each business

Qualification Criteria:  
 Businesses will be selected as part of a self-diagnostic and application process. This will be managed by Scotland Food & Drink

### Lot 2 - Essential Skills Programme

For lot 2, the supplier will need to demonstrate that they have the relevant expertise, knowledge, and experience in training mid-life stage growth businesses in the food and drink sector. This course will deliver greater depth (compared to Lot 1) and more commercial focus, with an emphasis on defending and growing market share, through a penetration or product development strategy. Suppliers will, therefore, need to demonstrate a deep knowledge of the UK retail and foodservice marketplace, including the increasingly competitive challenges facing businesses post Covid and in preparation for Brexit, as well as other emerging political and environmental implications.

As with Lot 1, the training methodology will be delivered as part of a structured one-to many and one-to-one approach, delivered online with elements that may be delivered in person (subject to pertaining Government guidance in respect of Covid19).

The course will cover, but not limited to, the following topics: consumer and shopper insights (incl. changes in consumer, shopper/diner behaviour), impacts on market (channel and customer conditions) and implications/opportunities for brands; data and insight as imperatives to trading with larger customers, and to aid strategy planning, innovation and defending/building credible brand category arguments; new approaches to NPD/innovation (incl. policy implications, ie. health; societal, ie. purpose, environmental, digital, etc.), food safety management and compliance, and, logistics and supply chain efficiencies; commercial marketing (incl. goal orientated marketing, new approaches, examples from FMCG and non-industry innovators) and sales strategies (incl. digital activities); managing costs, price increases and negotiating; implications of Brexit; targeting and servicing new markets and customers (differentials, competitive nature, how to succeed); dealing with national buyers (incl. current and emerging strategies, priorities, GSCOP).

Suppliers must:-

- provide a highly interactive learner experience
- deliver real world insights with an emphasis initially on post-Covid and Brexit implications
- utilise industry networks to highlight opportunities and support available, as well as establish new connections for same
- share best practice using specialists and exemplars (inc. FMCG brands and non-industry)
- offer commercial guidance
- advise on opportunities in rest of UK markets
- supply business recommendations and work with delegates on the development of an actionable plan

The output is an agreed tactical plan for implementation that will improve the realisation of business benefits following implementation.

This course is viewed as an access point to Scotland Food & Drink’s Market Intelligence service, with the opportunity for businesses to secure one to one category planning support.

**Strategic Summary and Deliverables**

Strategic Objective: Market Penetration and Product Development  
 Audience Profile: Mid-life stage growth businesses: general, functional, and commercial management of food and drink manufacturers and processes who are seeking to accelerate market share growth outside the local market  
 Aim: Prepare businesses to defend and grow market share  
 Solution: An interactive workshop-based training programme with personalised mentoring  
 Outcome: Improved leadership skills. Significant sustainable profitable growth

Programme Positioning:  
 A deep dive approach to defending and accelerating share growth in regional and UK markets

Design Elements:  
 Cohort 1-many  
 Virtual live: 4 modules  
 1:1 coach (8 hrs)  
 Access to experts  
 Best practice guides

No.	Modules
0	Strategic Context
1	MI and Market
2	Research and Product (inc. NPD)
3	Supply Chain (inc. Technical)
4	Commercial Sales and Marketing

Duration: 6 months

Outputs (per programme):

- 20 Businesses upskilled
- Greater knowledge of trading imperatives, and, best practice strategy and market planning
- Connections with experts
- Action plan developed with each business

Qualification Criteria:

Businesses will be selected as part of a self-diagnostic and application process. This will be managed by Scotland Food & Drink

### Lot 3 – Commercial Excellence Programme

Suppliers bidding for lot 3 will have to demonstrate that they have in-depth expertise, knowledge, and a solid track record of working with established, highly ambitious FMCG businesses, specifically, in training individuals with a commercial remit. This is a step change programme to build commercial capacity and excellence at national account level, fast-tracking future sales leaders, and inspiring confidence in the marketplace. The supplier will, therefore, need to demonstrate strong commercial acumen, a deep understanding of managing national accounts, and experience in mentoring high-performance individuals. The trainers will be reputable within the industry, and likely have worked for FMCG multi-nationals, as well as SME businesses.

The delivery methodology for this course will be one-to-many and one-to-one, delivered using a combination of techniques, both online and in person. This programme will adopt an intensive applied learning approach, with the expectation that delegates agree a defined commercial project with their business to work on throughout the course. Delegates will be supported by a highly experienced executive commercial coach. The course content will cover the following in-depth areas: Category Management, Negotiating and Commercial Sales to support the drive towards significant sustainable profitable growth in UK national accounts. It is envisaged that this course will also involve practical in-market visits with non-industry senior-level national buyers.

Suppliers must:-

- provide an interactive learner experience
- deliver real world insights
- utilise industry networks, to highlight opportunities and support available, as well as establish new connections for same
- share best practice using specialists and exemplars (inc. non-industry)
- offer commercial guidance
- advise on opportunities in national markets
- supply recommendations and collaborate on development of an actionable commercial project plan

### Strategic Summary and Deliverables

Strategic Objective: Market Development

Audience Profile: Established, highly ambitious businesses: commercial specialists of food and drink manufacturers and processes who want to build their commercial capacity of national account managers to scale in UK markets (existing channels and new national markets)

**Aim:** Build commercial capacity and develop the next generation of sales professionals in Scotland

**Solution:** An intense applied learning programme with support of a high calibre industry mentor in UK markets

**Outcome:** Highly advanced commercial leadership skills. High impact sustainable profitable growth in national UK accounts.

**Programme Positioning:**  
An intense training programme to build excellence in commercial sales and negotiating

**Design Elements:**

Cohort 1-many  
Physical and virtual:  
Applied learning  
3 days training  
1.5 days mentor  
High calibre industry mentor  
Face time with non-industry national buyers

No.	Modules
0	Strategic Context
1	MI Category Management
2	Negotiating
3	Commercial

**Duration:** 1 year

**Outputs (per programme):**

- 15 Businesses upskilled
- Significant growth and depth of knowledge in the key commercial skills required to impact sales
- Increased pool of effective, success-driven and commercially orientated sales professionals
- Connections with high impact executive leads
- Bespoke commercial projects supported and implemented with each business
- Projected revenue growth impact for businesses

## PART 2 - SPECIFICATION OF REQUIREMENTS

### Scope of Services

The successful contractor will assume responsibility for the services outlined below.

1. Programme Planning & Development
  - 1.1 Proposed approach and provision of a schedule with agreed timeline for key deliverables
  - 1.2 Design of programme, including framework and syllabus
  - 1.3 Suggest innovative ideas to enhance the programme and overall quality
  - 1.4 Recommend qualification process and criteria for delegates
  - 1.5 Collaborate with the project team to finalise the programme, course content, and logistics, including guest speakers
  - 1.6 Work with the project team on requirements for venues and equipment, including web conferencing and meeting facilities, rooms and catering, ensuring bookings are in place for all components of the programme
  - 1.7 Training personal to have technical competence and confidence in using SF&D's software platform (Go To Webinar and Go To Meeting) to deliver online elements of the course; attend training session with software provider, if required.
  - 1.8 Ongoing programme administration
2. Marketing and Communications
  - 2.1 Collaborate with the project team to agree post-registration communication process to manage enquiries from delegates
  - 2.2 Work within agreed guidelines in all delegate communications
  - 2.3 Scotland Food & Drink branded template to be used for presentations, and Scotland Food & Drink logo to be featured as solus brand on all programme materials, handouts, and other documentation including attendance sheets and written reports
3. Delegate Management
  - 3.1 Respond to delegate queries during the programme in the appropriate timely, effective, and efficient manner
  - 3.2 Work with SF&D to ensure programme(s) are fully booked, following up with delegates as required to ensure attendance at all training sessions in accordance with agreed plan
  - 3.3 Gather information from participants to allow training to be tailored to the needs of delegates
4. Delivery
  - 4.1 Manage delivery of all aspects of the project
  - 4.2 Ensure all activities run to schedule
  - 4.3 Discuss with the project team the methodology, content and materials that will be used for the training, agreeing any amendments to the approved programme
  - 4.4 Develop training content; handouts and reference material to be delivered and distributed to participants; approve with project team prior to programme delivery
  - 4.5 Develop one-to-one support schedule and assign a mentor to each participant
  - 4.6 Provide all delegate material and resources required for programme
  - 4.7 Ensure attendance records are maintained for each element of the programme, utilising SF&D's software, wherever applicable

- 4.8 Agree evaluation methodology with project team
  - 4.9 Collate ongoing delegate feedback, and agree any modifications to programme with SF&D
  - 4.10 Evaluate training and write report on the training outcomes
  - 4.11 Present reports, documentation, and all training materials at end of the programme to SF&D
  - 4.12 Ensure agreed branding is displayed on all programme material
5. Training Programme
- 5.1 Deliver the training in accordance with the agreed schedule and syllabus
  - 5.2 Manage contributors, including guest speakers and briefings for same
  - 5.3 Respond to feedback from delegates, implementing process of continuous improvement
6. Mentoring
- 6.1 Manage the 1:1 meeting schedule and all bookings, utilising SF&D's meeting software to ensure accurate data capture and effective communication with delegates
  - 6.2 Deliver one-to-one support sessions to each delegate in accordance with the agreed schedule
  - 6.3 Promote mentoring support at the training sessions to encourage active participation
  - 6.4 Provide personalised advisory support to each delegate, responding to feedback; ensure relevant and actionable advice is available throughout the programme
  - 6.5 Work with each delegate to develop an actionable plan for their business
7. Reporting Requirement & Financial Management
- 7.1 Attend inception meeting with project team
  - 7.2 Maintain regular phone and email communication throughout the project
  - 7.3 Provide an invoice schedule at the start of the project
  - 7.4 Provide delegate attendance record of each element of the programme
  - 7.5 Provide an evaluation report on the programme, to include an individual assessment on each of the delegates and their training outcomes, indicating how this can be further improved
  - 7.6 Provide copies of all materials and documents developed for the purpose of the programme (workshop presentations; handouts, attendance records, training notes etc.) within 4 weeks of the end of the programme.
  - 7.7 Provide a project end report and final invoice at the end of the programme
8. Monitoring and Evaluation
- 8.1 Work with SF&D to ensure success of the project can be monitored, measured and evaluated
  - 8.2 In consultation with SF&D, coordinate distribution and collection of delegate feedback utilising any interim findings and insight to ensure continuous improvement throughout the programme
  - 8.3 Attend a post-event evaluation project team meeting
9. General
- 9.1 Provide appropriate staff resources and support throughout the duration of the programme
  - 9.2 Ensure all Health & Safety standards are adhered to and the equal opportunity assessment plan is in place.

- 9.3 Ensure all personal information is handled in accordance with General Data Protection Regulations
- 9.4 Provide proof of insurance

10. Post-programme

- 10.1 Issue pre-agreed post-event feedback requests to all delegates
- 10.2 Prepare a post project report reviewing the process, lessons learned and outcomes
- 10.3 Finalise all financial management tasks
- 10.4 Submit all end of project documentation to SF&D

Out of Scope

1. Business and Delegate Selection  
Scotland Food & Drink will manage business and delegate selection, implementing a process for identifying and qualifying participants.
2. Fees  
Scotland Food & Drink will collect delegate fees.
3. Online Delivery Platform & Venues  
Scotland Food & Drink will make available venues, catering, and equipment, including web conference and meeting facilities required for delivery of the programme. Any charges will be settled by Scotland Food & Drink.
4. Programme Communications  
SF&D will hold overall responsibility for development and delivery of the communication plan.
5. Programme Evaluation  
SF&D will conduct an independent evaluation at the end of the programme

**Outputs and Milestones**

The programme is expected to achieve the following outputs.

- 200 businesses access market insight
- 200 businesses connected with industry specialists
- 200 businesses supported with personalised advice
- 200 businesses supported to develop an action plan

The expected timeline and key milestones for the project are as follows:

Tender Out	08 September 2020
Tender Close	29 September 2020
Contractor Appointed	30 September 2020
Inception Meeting	05 October 2020
Essential Skills Programme (no. 1 of 3):	November 2020 – April 2021
Foundation Skills Programme (no. 1 of 5):	February 2021 – March 2021
Advanced Commercial Skills Programme: (no. 1 of 2)	April 2021 – November 2021
Review	Within 4 weeks of end date

It should be noted that the above dates are viewed by Scotland Food & Drink as 'in principle' dates, and we would welcome a tender submission that challenges our timescales and make alternative suggestions to support the deliverables.

## PART 3 - TENDER EVALUATION

### **Contract Management**

All tender submissions must show exactly how outputs will be profiled for delivery throughout the project and how they will be accurately measured, recorded and reported.

Attendance at monthly project meetings will be required and written performance reports, financial analysis and target delivery will be reported to the Project Lead monthly.

### **Tender Evaluation Criteria**

#### **Financial Standing**

Summary extract of accounts for previous three years.

#### **Price & Quality**

All submissions from providers will be scored on both price and quality. The contract will be awarded to the provider who receives the highest total score. The overall price: quality split for this tender will be 40%: 60% respectively.

Any mandatory requirements or thresholds identified in the brief must be met before the submission will be evaluated further. You must address each of the evaluation criteria in your submission in order to receive a score.

Please note that submissions will not be considered further if the above requirements are not met.

<b>Price Criteria</b>	<b>Weighting %</b>
Total tender cost ex VAT (i.e. number of days x contracted day rate for all work less any applicable discounts)	40%
<b>Total</b>	<b>40%</b>

<b>Quality Criteria</b>	<b>Weighting %</b>
Demonstrable depth of experience of development programme design and delivery to individuals within a commercial food and drink environment e.g. 2 previous examples of work relevant to this contract	20%
General understanding of the programme and capacity to deliver services as outlined in the specification of requirements	10%
Demonstrable expertise and experience of each of the proposed training personnel	14%

Operational proposal and methodologies, detailing your strategic approach to delivering a high-quality innovative training programme and advisory support tailored to the needs of participants, with an emphasis on providing market focused and commercially orientated insight	14%
Appropriate methods for evaluating programmes	2%
<b>Total</b>	<b>60%</b>

Each of the criteria will be scored using the scale below:

0 – Unacceptable – Nil or inadequate response. Fails to demonstrate an ability to meet requirement

1 – Poor – Partially relevant but generally poor response. Demonstrates some understanding of the requirement but contains insufficient/limited detail or explanation to demonstrate how the requirement will be met

2 –Acceptable – Relevant and acceptable response. Demonstrates a broad understanding of the requirement but lacks detail or explanation to demonstrate how the requirement will be met in certain areas

3 – Good – Relevant and good response. Sufficiently detailed to demonstrate a good understanding of the requirement and provides an explanation of how the requirement will be met

4 – Excellent – Completely relevant and excellent overall response. Comprehensive and clear and demonstrates a thorough understanding of the requirement and provides a concise and persuasive explanation of how the requirement will be met in full

It should be noted that we have not specified any word restrictions. Integral within your assessment will be your demonstrated ability to answer the questions in an open clear and concise manner.

**Scotland Food & Drink** may undertake, if deemed appropriate, meetings with tenderer(s) to clarify / verify their tender submissions.

## PART 4 - PRICE SUMMARY AND TEMPLATE

### Fees and Costs

Rates and prices shall be deemed inclusive of all additional expenses howsoever incurred. Whilst it is not a criterion for selection of providers, Scotland Food & Drink encourages additional expenses not to exceed 10% of the total contract value. Scotland Food & Drink also encourages providers to pay the Living Wage to their employees and to promote payment of the living wage throughout their supply chain.

### Price Summary Template

Tenderers are required to submit a firm price for the service detailed above ex VAT. All costs appropriate to the proposal must be included or summarised here. Costs which appear elsewhere in the proposal, but which are not summarised here will be presumed to have been waived.

Activity	Person Hours	Price £ (Ex VAT)
<b>Total Price (Ex VAT)</b>		£

Tenderers must also provide a breakdown of the staff involved in this contract and highlight the discounted rate that is being applied. This must also include any volume rebate or service credit mechanism which is being applied to this call-off contract.

Personnel	Grade	Hours Input	Activity	Hourly Rate £
				£
				£
				£
				£
				£
				£
				£
				£
				£

Details of any value for money savings achieved e.g. Company rate card less actual contracted rate multiplied by the number of hours.

**PART 5 – TERMS & CONDITIONS OF CONTRACT**

(1) **INSERT NAME OF SUPPLIER**

(2) **SCOTLAND FOOD & DRINK**

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**SUPPLIER DEVELOPMENT CONTRACT IN RELATION TO:**

**[INSERT NAME OF PROGRAMME]**

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**THIS AGREEMENT** is made between

- (1) [INSERT NAME] a company registered in England and Wales under number [INSERT CO NUMBER] whose registered office is at [INSERT REGISTERED OFFICE ADDRESS] (“the Service Provider”) and
- (2) SCOTLAND FOOD & DRINK a company registered in Scotland under number SC329083 whose registered office is at 1f1, Ratho Park One, 88 Glasgow Road, Newbridge, Edinburgh, United Kingdom, EH28 8PP (“the Client”)

**WHEREAS:**

- (1) The Service Provider has extensive experience, skill and knowledge in [insert description].
- (2) The Client wishes to deliver, with partner(s), the Programme and wishes to procure the Service Provider for the delivery of the Programme on terms contained in this Agreement.

**IT IS AGREED** as follows:

**Definitions and Interpretation**

In this Agreement, unless the context otherwise requires, the following expressions have the following meanings:

<b>“Business Day”</b>	means, any day (other than Saturday or Sunday) on which ordinary banks are open for their full range of normal business in Edinburgh;
<b>“Commencement Date”</b>	means the date on which provision of the Services will commence, as defined in Clause 8;
<b>“Confidential Information”</b>	means, in relation to either Party, information which is disclosed to that Party by the other Party pursuant to or in connection with this Agreement (whether orally or in writing or any other medium, and whether or not the information is expressly stated to be confidential or marked as such);
<b>“Data Protection Legislation”</b>	means 1) unless and until EU Regulation 2016/679 General Data Protection Regulation (“GDPR”) is no longer directly applicable in the UK, the GDPR and any national implementing laws, regulations, and secondary legislation (as amended from time to time), in the UK and subsequently 2) any legislation which succeeds the GDPR;
<b>“Excluded Services”</b>	means the services specifically excluded from the Services, as detailed in Schedule 1;
<b>“Programme”</b>	means [insert description of programme];

<b>“Services”</b>	means the services to be provided by the Service Provider to the Client in accordance with Clause 2 of this Agreement and as detailed in Schedule 1;
<b>“Term”</b>	means the term of this Agreement as defined in Clause 8;
<b>“Total Price”</b>	means the total sums payable for the Services as specified in Scheduled 2;

Unless the context otherwise requires, each reference in this Agreement to:

“writing”, and any cognate expression, includes a reference to any communication effected by electronic or facsimile transmission or similar means;

a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;

“this Agreement” is a reference to this Agreement as amended or supplemented at the relevant time;

a Clause or paragraph is a reference to a Clause of this Agreement, as appropriate; and

a "Party" or the "Parties" refer to the parties to this Agreement.

The headings used in this Agreement are for convenience only and shall have no effect upon the interpretation of this Agreement.

Words imparting the singular number shall include the plural and vice versa.

References to any gender shall include the other gender.

References to persons shall include corporations.

### **Provision of the Services**

With effect from the Commencement Date, the Service Provider shall, throughout the Term of this Agreement, provide the Services to the Client. The Service Provider shall not provide the Excluded Services.

The Service Provider shall provide the Services with reasonable skill and care, commensurate with prevailing standards in the Business Training sector in the United Kingdom.

The Service Provider shall act in accordance with all reasonable instructions given to it by the Client provided such instructions are compatible with the specification of Services provided in this Agreement.

The Service Provider shall be responsible for ensuring that it complies with all statutes, regulations, byelaws, standards, codes of conduct and any other rules relevant to the provision of the Services.

The Service Provider shall use all reasonable endeavours to accommodate any reasonable changes in the Services that may be requested by the Client, subject to the Client's acceptance of any related reasonable changes to the Fees that may be due as a result of such changes.

### **Client's Obligations**

The Client shall use all reasonable endeavours to provide all pertinent information to the Service Provider that is necessary for the Service Provider's provision of the Services.

The Client may, from time to time, issue reasonable instructions to the Service Provider in relation to the Service Provider's provision of the Services. Any such instructions should be compatible with the specification of the Services provided in this Agreement.

In the event that the Service Provider requires the decision, approval, consent or any other communication from the Client in order to continue with the provision of the Services or any part thereof at any time, the Client shall provide the same in a reasonable and timely manner.

If any consents, licences or other permissions are needed from any third parties such as landlords, planning authorities, local authorities or similar, it shall be the Client's responsibility to obtain the same in advance of the provision of the Services (or the relevant part thereof).

If the nature of the Services requires that the Service Provider has access to the Client's office or any other location, access to which is lawfully controlled by the Client, the Client shall ensure that the Service Provider has access to the same at the times to be agreed between the Service Provider and the Client as required.

Any delay in the provision of the Services resulting from the Client's failure or delay in complying with any of the provisions of this Clause 3 shall not be the responsibility or fault of the Service Provider.

## **Payment**

Payment for the Services shall be made as follows:-

The Client shall pay to the Service Provider [•]% of the Total Price on or before [insert date]

The Client shall pay to the Service Provider [•]% of the Total Price on or before [insert date]

The Client shall pay to the Service Provider [•]% of the Total Price on or before [insert date]

The Service Provider shall invoice the Client for payment due in accordance with the provisions of this Clause 4.

All payments required to be made pursuant to this Agreement by either Party shall be made within 30 Business Days of receipt by that Party of the relevant invoice.

All payments required to be made pursuant to this Agreement by either Party shall be made in GBP in cleared funds to such bank in United Kingdom as the receiving Party may from time to time nominate.

Where any payment pursuant to this Agreement is required to be made on a day that is not a Business Day, it may be made on the next following Business Day.

## **Indemnity and Insurance**

The Service Provider shall ensure that it has in place at all times suitable and valid insurance that shall include public liability insurance.

The Service Provider shall indemnify the Client against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by the Client arising out of or in connection with:

the Service Provider's breach or negligent performance or non-performance of this Agreement;

the enforcement of this Agreement; and

any claim made against the Client by a third party arising out of or in connection with the provision of the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of this agreement by the Service Provider and its employees.

This indemnity shall apply whether or not the Client has been negligent or at fault.

### **Confidentiality**

Each Party undertakes that, except as provided by sub-Clause 6.2 of this Agreement or as authorised in writing by the other Party, it shall, at all times during the continuance of this Agreement and after its termination:

keep confidential all Confidential Information;

not disclose any Confidential Information to any other party;

not use any Confidential Information for any purpose other than as contemplated by and subject to the terms of this Agreement;

not make any copies of, record in any way or part with possession of any Confidential Information; and

ensure that none of its directors, officers, employees, agents, sub-contractors or advisers does any act which, if done by that Party, would be a breach of the provisions of sub-Clauses 6.1.1 to 6.1.4 of this Agreement.

Either Party may:

disclose any Confidential Information to:

any sub-contractor or supplier of that Party;

any governmental or other authority or regulatory body; or

any employee or officer of that Party or of any of the aforementioned persons, parties or bodies;

to such extent only as is necessary for the purposes contemplated by this Agreement (including, but not limited to, the provision of the Services), or as required by law. In each case that Party shall first inform the person, party or body in question that the Confidential Information is confidential and (except where the disclosure is to any such body under sub-Clause 6.2.1.2 or any employee or officer of any such body) obtaining and submitting to the other Party a written confidentiality undertaking from the party in question. Such undertaking should be as nearly as practicable in the terms of Clause 6 of this Agreement, to keep the Confidential Information confidential and to use it only for the purposes for which the disclosure is made; and

use any Confidential Information for any purpose, or disclose it to any other person, to the extent only that it is at the date of this Agreement, or at any time after that date becomes, public knowledge through no fault of that Party. In making such use or disclosure, that Party must not disclose any part of the Confidential Information that is not public knowledge.

The provisions of Clause 6 of this Agreement shall continue in force in accordance with

their terms, notwithstanding the termination of this Agreement for any reason.

### **Force Majeure**

No Party to this Agreement shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, internet service provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.

In the event that a Party to this Agreement cannot perform their obligations hereunder as a result of force majeure for a continuous period to be defined in this Agreement, the other Party may at its discretion terminate this Agreement by written notice at the end of that period. In the event of such termination, the Parties shall agree upon a fair and reasonable payment for all Services provided up to the date of termination. Such payment shall take into account any prior contractual commitments entered into in reliance on the performance of this Agreement.

### **Term and Termination**

This Agreement shall come into force on the date of execution of this Agreement and shall continue until thirty days after delivery of the Programme, subject to the provisions of this Clause 8.

If the Client wishes to terminate this Agreement, they may do so at any time by giving to the Service Provider not less than one month written notice.

Either Party may immediately terminate this Agreement by giving written notice to the other Party if:

- any sum owing to that Party by the other Party under any of the provisions of this Agreement is not paid within 14 Business Days of the due date for payment;

- the other Party commits any other breach of any of the provisions of this Agreement and, if the breach is capable of remedy, fails to remedy it within 14 Business Days after being given written notice giving full particulars of the breach and requiring it to be remedied;

- an encumbrancer takes possession, or where the other Party is a company, a receiver is appointed, of any of the property or assets of that other Party;

- the other Party makes any voluntary arrangement with its creditors or, being a company, becomes subject to an administration order (within the meaning of the Insolvency Act 1986);

- the other Party, being an individual or firm, has a bankruptcy order made against it or, being a company, goes into liquidation (except for the purposes of bona fide amalgamation or re-construction and in such a manner that the company resulting therefrom effectively agrees to be bound by or assume the obligations imposed on that other Party under this Agreement);

- anything analogous to any of the foregoing under the law of any jurisdiction occurs in relation to the other Party;

- the other Party ceases, or threatens to cease, to carry on business; or

- control of the other Party is acquired by any person or connected persons not having control of that other Party on the date of this Agreement. For the purposes of Clause 8, "control" and "connected persons" shall have the

meanings ascribed thereto by Sections 1124 and 1122 respectively of the Corporation Tax Act 2010.

For the purposes of sub-Clause 8.4.2, a breach shall be considered capable of remedy if the Party in breach can comply with the provision in question in all respects.

The rights to terminate this Agreement shall not prejudice any other right or remedy of either Party in respect of the breach concerned (if any) or any other breach.

### **Effects of Termination**

Upon the termination of this Agreement for any reason:

any sum owing by either Party to the other under any of the provisions of this Agreement shall become immediately due and payable;

all Clauses which, either expressly or by their nature, relate to the period after the expiry or termination of this Agreement shall remain in full force and effect;

termination shall not affect or prejudice any right to damages or other remedy which the terminating Party may have in respect of the event giving rise to the termination or any other right to damages or other remedy which any Party may have in respect of any breach of this Agreement which existed at or before the date of termination;

subject as provided in Clause 9 of this Agreement and except in respect of any accrued rights neither Party shall be under any further obligation to the other; and

each Party shall (except to the extent referred to in Clause 6 of this Agreement) immediately cease to use, either directly or indirectly, any Confidential Information, and shall immediately return to the other Party any documents in its possession or control which contain or record any Confidential Information.

### **Data Protection**

11.1 All personal information that the Service Provider may use will be collected, processed, and held in accordance with the provisions of EU Regulation 2016/679 General Data Protection Regulation (“GDPR”) and the Client’s rights under the GDPR.

11.2 For complete details of the Service Provider’s collection, processing, storage, and retention of personal data including, but not limited to, the purpose(s) for which personal data is used, the legal basis or bases for using it, details of the Client’s rights and how to exercise them, and personal data sharing (where applicable), please refer to the Service Provider’s Privacy Notice as detailed in Schedule 2.

### **Data Processing**

In this Clause 11, “personal data”, “data subject”, “data controller”, “data processor”, and “personal data breach” shall have the meaning defined in Article 4, EU Regulation 2016/679 General Data Protection Regulation (“GDPR”).

1.2 Both Parties hereby shall comply with all applicable data protection requirements set out in the Data Protection Legislation. This Clause 11 shall not relieve either Party of any obligations set out in the Data Protection Legislation and shall not remove or replace any of those obligations.

For the purposes of the Data Protection Legislation and for this Clause 11, the Service Provider is the “Data Processor” and the Client is the “Data Controller”.

The type(s) of personal data, the scope, nature and purpose of the processing, and the duration of the processing shall be set out in a Schedule 4.

The Data Controller shall ensure that it has in place all necessary consents and notices required to enable the lawful transfer of personal data to the Data Processor for the purposes described in this Agreement and Schedule 4.

The Data Processor shall, with respect to any personal data processed by it in relation to its performance of any of its obligations under this Agreement:

Process the personal data only on the written instructions of the Data Controller unless the Data Processor is otherwise required to process such personal data by law. The Data Processor shall promptly notify the Data Controller of such processing unless prohibited from doing so by law.

Ensure that it has in place suitable technical and organisational measures (as approved by the Data Controller) to protect the personal data from unauthorised or unlawful processing, accidental loss, damage or destruction. Such measures shall be proportionate to the potential harm resulting from such events, taking into account the current state of the art in technology and the cost of implementing those measures. Measures to be taken shall be agreed between the Data Controller and the Data Processor and set out in Schedule 4.

Ensure that any and all staff with access to the personal data (whether for processing purposes or otherwise) are contractually obliged to keep that personal data confidential; and

Not transfer any personal data outside of the European Economic Area without the prior written consent of the Data Controller and only if the following conditions are satisfied:

The Data Controller and/or the Data Processor has/have provided suitable safeguards for the transfer of personal data;

Affected data subjects have enforceable rights and effective legal remedies;

The Data Processor complies with its obligations under the Data Protection Legislation, providing an adequate level of protection to any and all personal data so transferred; and

The Data Processor complies with all reasonable instructions given in advance by the Data Controller with respect to the processing of the personal data.

Assist the Data Controller at the Data Controller's cost, in responding to any and all requests from data subjects in ensuring its compliance with the Data Protection Legislation with respect to security, breach notifications, impact assessments, and consultations with supervisory authorities or regulators (including, but not limited to, the Information Commissioner's Office);

Notify the Data Controller without undue delay of a personal data breach;

On the Data Controller's written instruction, delete (or otherwise dispose of) or return all personal data and any and all copies thereof to the Data Controller on termination of this Agreement unless it is required to retain any of the personal data by law; and

Maintain complete and accurate records of all processing activities and technical and organisational measures implemented necessary to demonstrate compliance with this Clause 11 and this Agreement and to

allow for audits by the Data Controller and/or any party designated by the Data Controller.

The Data Processor shall not sub-contract any of its obligations with respect to the processing of personal data under this Clause 11 and this Agreement.

### **No Waiver**

No failure or delay by either Party in exercising any of its rights under this Agreement shall be deemed to be a waiver of that right, and no waiver by either Party of a breach of any provision of this Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other provision.

### **Further Assurance**

Each Party shall execute and do all such further deeds, documents and things as may be necessary to carry the provisions of this Agreement into full force and effect.

### **Costs**

Subject to any provisions to the contrary each Party shall pay its own costs of and incidental to the negotiation, preparation, execution and carrying into effect of this Agreement.

### **Set-Off**

Neither Party shall be entitled to set-off any sums in any manner from payments due or sums received in respect of any claim under this Agreement or any other agreement at any time.

### **Assignment and Sub-Contracting**

This Agreement is personal to the Parties. Neither Party may assign, mortgage, charge (otherwise than by floating charge) or sub-licence or otherwise delegate any of its rights thereunder, or sub-contract or otherwise delegate any of its obligations thereunder without the written consent of the other Party, such consent not to be unreasonably withheld.

### **Time**

All times and dates referred to in this Agreement shall be of the essence of this Agreement.

### **Relationship of the Parties**

Nothing in this Agreement shall constitute or be deemed to constitute a partnership, joint venture, agency or other fiduciary relationship between the Parties other than the contractual relationship expressly provided for in this Agreement.

### **Non-Solicitation**

Neither Party shall, for the Term of this Agreement and for a period of twelve months after its termination or expiry, employ or contract the services of any person who is or was employed or otherwise engaged by the other Party at any time in relation to this Agreement.

Neither Party shall, for the Term of this Agreement and for a period of twelve months after its termination or expiry, solicit or entice away from the other Party any customer or client where any such solicitation or enticement would cause damage to the business of that Party.

### **Third Party Rights**

No part of this Agreement shall confer rights on any third parties and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.

Subject to Clause 20 of this Agreement, this Agreement shall continue and be binding on the transferee, successors and assignees of either Party as required.

### **Notices**

All notices under this Agreement shall be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice.

Notices shall be deemed to have been duly given:

when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; or

when sent, if transmitted by facsimile or e-mail and a successful transmission report or return receipt is generated; or

on the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid; or

on the tenth business day following mailing, if mailed by airmail, postage prepaid.

In each case notices shall be addressed to the most recent address, e-mail address, or facsimile number notified to the other Party.

### **Entire Agreement**

This Agreement contains the entire agreement between the Parties with respect to its subject matter and may not be modified except by an instrument in writing signed by the duly authorised representatives of the Parties.

Each Party acknowledges that, in entering into this Agreement, it does not rely on any representation, warranty or other provision except as expressly provided in this Agreement, and all conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

### **Counterparts**

This Agreement may be entered into in any number of counterparts and by the Parties to it on separate counterparts each of which when so executed and delivered shall be an original, but all the counterparts together shall constitute one and the same instrument.

### **Severance**

In the event that one or more of the provisions of this Agreement is found to be unlawful, invalid or otherwise unenforceable, that / those provision(s) shall be deemed severed from the remainder of this Agreement. The remainder of this Agreement shall be valid and enforceable.

### **Dispute Resolution**

The Parties shall attempt to resolve any dispute arising out of or relating to this Agreement through negotiations between their appointed representatives who have the authority to settle such disputes.

Nothing in this Clause 25 shall prohibit either Party or its affiliates from applying to a court for interim interdict relief.

The Parties hereby agree that the decision and outcome of the final method of dispute resolution under this Clause 25 shall not be final and binding on both Parties.

### **Law and Jurisdiction**

This Agreement (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in

accordance with, Scots law.

Subject to the provisions of Clause 25 of this Agreement, any dispute, controversy, proceedings or claim between the Parties relating to this Agreement (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the jurisdiction of the Scottish courts.

**IN WITNESS WHEREOF** this Agreement is signed as follows:

SIGNED by

<<Name and Title of person signing for the Service Provider>>

for and on behalf of [insert name of Service Provider]

In the presence of

<<Name & Address of Witness>>

SIGNED by

James Withers, Chief Executive Officer

for and on behalf of Scotland Food and Drink

In the presence of

<<Name & Address of Witness>>

## **SCHEDULE 1**

### **Services**

The Services shall include the delivery by the Service Provider of the following:-

**[INSERT]**

**SCHEDULE 2**

**Pricing**

**[INSERT]**

**SCHEDULE 3**

**[INSERT SERVICE PROVIDER'S PRIVACY NOTICE]**

## **SCHEDULE 4**

**[TO BE COMPLETED BY SERVICE PROVIDER]**

### **1. Data Processing**

#### **Scope**

#### **Nature**

<<Insert description of the nature of the processing to be carried out>>.

#### **Purpose**

<<Insert description of the purpose(s) for which the processing is to be carried out>>

#### **Duration**

<<Insert details of the duration of the processing>>.

### **2. Types of Personal Data**

<<List the types of personal data to be processed>>.

### **3. Categories of Data Subject**

<<List the categories of data subject>>.

### **4. Organisational and Technical Data Protection Measures**

<<Describe the organisational and technical measures to be implemented as referenced in 11.6.2>>.