

Section B – Application Requirements

The auction is open to ALL who have fully completed the application form and have provided proof of address.

Note - you do not need a vehicle/trailer in place to participate in the auction.

Once satisfied all sections of the application have been completed, Council will pass your details to the auctioneer for registration purposes. If you wish to bid online or via the telephone the auctioneers office will explain the process and provide the relevant details to assist. Each participant in the auction will have a unique I.D. number attributed to their name and address.

Note - If you bid at auction, either in person, online or via the telephone and are the highest bidder and secure a licence to trade you have entered into a legal binding contract. If you do not have a vehicle/trailer available to trade from immediately you are still liable for the fee.

Section C – Trading Requirement

Before trading can commence, the trader must have supplied Council with the following.

- a) Proof of ownership of vehicle/trailer or permission from the owner.
- b) Photograph of the vehicle/trailer.
- c) Insurance cover for the vehicle/trailer.
- d) Public liability insurance to the sum of £10m.
- e) Environmental Health Registration under Regulation (EC) No 852/2004 of the Hygiene of Foodstuffs Article 6 (2) (Registration) and Annex II Chapter 3 Regulation (EC) No 852/2004 (General Hygiene Requirements)
- f) Where operators use LPG, the successful applicant must provide a Gas Safety inspection certificate before 1st June 2024 (A certificate will only be considered valid where it is provided by an approved GAS SAFE Registered engineer and the inspection has occurred within 12 months of 1st June 2024 see <https://www.gassaferegister.co.uk>.)

DRAFT

DATED

CONCESSIONARY LICENCE

relating to [INSERT area/Site]

between

CAUSEWAY COAST AND GLENS BOROUGH COUNCIL

and

Party 2

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This licence is dated [DATE]

Parties

- (1) **CAUSEWAY COAST AND GLENS BOROUGH COUNCIL** of Cloonavin, 66 Portstewart Road, Coleraine, in the County of Londonderry BT52 1EY (the “Council”); and
- (2) **[INSERT NAME]** of **[INSERT ADDRESS]** (the “Licensee”).

RECITALS:

- A. The Council has identified a number of sites within the Council Estate suitable for granting of concessionary licences for the sale of various goods
- B. The Council invited prospective licensees to bid for the sites by way of a competitive e-auction process.
- C. The Licensee was successful in its bid to be granted this Concessionary Licence to trade and sell the Goods at the Site subject to the terms and conditions set out below.

It is hereby agreed as follows

1. DEFINITIONS AND INTERPRETATION

The following definitions and rules of interpretation apply in this licence.

1.1 Definitions:

Commencement Date:	from and including [INSERT DATE].
Concessionary Licence:	means the rights granted by the Council under a licence for a licensee to exploit the trading of and selling of various goods and products on Council lands for a fee over an agreed period of time.
Council Estate:	means all open lands owned by the Council.
Delegated Officers:	means [TBC].
Excluded Dates:	means [INSERT ANY DATES WHICH THE LICENCEE IS NOT PERMITTED TO EXERCISE THEIR RIGHTS].
Goods:	means the items set out in Schedule [TBC].
Licence Fee:	means the sum of £[INSERT AMOUNT] per annum.
Licence Period:	means the period from and including the Commencement Date until the date on which this Concessionary Licence is determined in accordance with clause 14
Permitted Use:	means to use the Site only for the purpose of selling the Goods at the Site from the Trading Unit and in accordance clause 5.
Regulatory Approvals:	means all necessary licences, certificates, permits, consents and authorisation from all relevant government bodies, agencies or regulatory authorities as required to ensure ongoing statutory compliance.
Rights:	mean the rights granted to the Licensee and set out in Schedule []
Service Media:	means all media for the supply or removal of electricity, water, sewage, and all other services and utilities and all structures, machinery and equipment ancillary to those media.
Site:	the land delineated on the map attached to this Concessionary Licence and more particularly described in Schedule 1.
Trading Hours:	[DELETE IF NOT REQUIRED]
Trading Unit:	means the unit from which the Goods will be sold at the Site and which is more particularly described in Schedule 4. The unit can take the form of either

- a) A motorised propelled vehicle with wheels that can be driven to the location to trade Goods and then driven away again after trading has ended, or
- b) A trailer or converted horsebox type receptacle on wheels that can be towed to the location to trade the permitted goods and then towed away again after the trading has ended, or
- c) A static unit specific only to the further and additional requirements as set out Schedule 4

Utilities Fee: means all monies due and owing in respect of usage by the Licensee in accordance this Concessionary Licence of the Service Media

VAT: means value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement tax and any similar additional tax.

Working Days: means a day other than a Saturday, Sunday, or public holiday in Northern Ireland when Council Offices are open for business.

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this licence.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 The Schedules form part of this Concessionary Licence and shall have effect as if set out in full in the body of this Concessionary Licence. Any reference to this Concessionary Licence includes the Schedules.
- 1.5 Unless otherwise specified, a reference to legislation or a legislative provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.6 A reference to **writing** or **written** excludes e-mail.
- 1.7 Any obligation on a party not to do something includes an obligation not to allow that thing to be done and an obligation to use reasonable endeavours to prevent that thing being done by another person.
- 1.8 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. Licence to occupy

- 2.1 Subject to the terms of this Concessionary Licence, the Council permits the Licensee to enter onto the Site at the discretion of the Licensee to exercise the Rights for the Licence Period and for the purposes of the Permitted Use save for the Excluded Days.
- 2.2 The Council and the Licensee hereby acknowledge that:
- (a) the Licensee shall enter upon the Site as a licensee and that no relationship of landlord and tenant is created between the Council and the Licensee by this Concessionary Licence;
 - (b) the Council and its Delegated Officers retains control, possession and management of the Site and the Licensee has no right to exclude from the Site the Council, its Delegated Officers or any other persons authorised by the Council;
 - (c) this Concessionary Licence is personal to the Licensee and is not assignable and the Rights may only be exercised by the Licensee or the Licensee's employees;
 - (d) any Delegated Officers or any other persons authorised by the Council may attend at or enter onto the Site for any purpose so far as is not inconsistent with the Licensee's use of the Site for the Permitted Use;

3. Licence Fee

The Licensee shall pay the Council the Licence Fee either:

- 3.1 in advance with any VAT on the following date[s]:
- Commencement Date;
- 1st year Anniversary of the Commencement Date; and the
- 2nd year anniversary of the Commencement Date, or
- 3.2 by way of six equal instalments payable by direct debit on or before.
- | | |
|------------|-------------|
| Payment 1. | 31st April |
| Payment 2. | 31st May |
| Payment 3. | 30th June |
| Payment 4. | 31st July |
| Payment 5. | 31st August |

Payment 6. 30th September

in each year of the Licence Period.

- 3.3 The Licensee shall agree in writing with the Delegated Officers no later than [TBC] days prior to the Commencement Date the preferred method of payment in accordance with clauses 3.1 or 3.2 for the purposes of this Concessionary Licence.

4. Utilities Fee

- 4.1 The Licensee shall pay to the Council the Utilities Fee no later than [TBC] Working Days from the date on the invoice issued by the Council for the total amount due and owing for usage of the Service Media for the period stated therein.
- 4.2 Invoices for usage of the Service Media will be issued on a quarterly basis, following agreement between the parties as to the meter reading to be applicable from the Commencement Date.
- 4.3 Quarterly meter readings will be taken by Delegated Officers and the amount due and owing will be determined in accordance with the appropriate rates to be calculated by the Council and determinable by the Meter Point Reference Number (MPRN) allocated to the Site. The determination of the amount due and owing by the Council will be full and final.

5. User

- 5.1 The Licensee shall use the Site only for the purpose of the Permitted Use.
- 5.2 The Licensee shall not sell any other items from the Trading Unit other than the Goods as set out in Schedule

6. Obligations of the Licensee

The Licensee hereby agreed and undertakes to:

- 6.1 To pay the Licence Fee and the Utilities Fee;
- 6.2 To ensure the Licensees' employees and agents abide by the terms and conditions **of this** Concessionary Licence;
- 6.3 To keep the Site and the immediate area of not less than a radius of 200 metres clean, tidy and clear of any rubbish generated as a direct result of the Permitted Use during and at end of any period of Permitted Use;

- 6.4 To obtain all necessary Regulatory Approvals for the Permitted Use and ensure that such Regulatory Approvals are in force and valid throughout the Licence Period;
- 6.5 To Maintain and display at all times on the Trading Unit and throughout the Licence **Period** a current Black & Green (Hygiene Rating Scheme) certificate
- 6.6 to observe any rules and regulations the Council makes and notifies to the Licensee from time to time affecting the Site and the Permitted Use including but not limited to those in relation to environmental protection as set out in clause 7.
- 6.7 To co-operate with the Delegated Officers, servant and agents of the Council with regard to the maintenance of the Site and in particular in any decision taken by the Delegated Officers, servants or agents in their sole discretion to close access to the Site in the event of any public safety concerns arising in respect of the Site and or surrounding area.
- 6.8 Not to carry out any dangerous, offensive, noxious, noisome, illegal, or immoral trade or activity, to engage in any criminal activity, or at any time to encourage anyone else to do so;
- 6.9 Not to in any way impede any delegated officers, servants, or agents of the Council in the exercise of its right of possession and control of the Site.
- 6.10 Not to display any advertising, signboards, inscriptions, flags, banners, placards, posters, signs or notices at the Site without the consent of the Delegated Officers or any planning consent which may be required;
- 6.11 To co-operate with the Delegated Officers, servant and agents of the Council with regard to the maintenance of the Site and in particular in any decision taken by the Delegated Officers, servants or agents in their sole discretion to close access to the Site in the event of any public safety concerns arising in respect of the Site and or surrounding area.
- 6.12 At the end of the Licence Period leave the Site in the same manner state and condition as it was at the Commencement Date.

7. Environmental Protection

- 7.1 For the purposes of this clause, the following are defined as follows:-
 - “single-use plastic cutlery” means
 - (a) any item that is designed or intended to be used as, or in the same way as, a knife, fork, spoon or chopstick,
 - (b) made wholly or partly from plastic, and
 - (c) not designed or intended to be re-used;

“single-use polystyrene food or drink container” means a receptacle such as a box, with or without a lid or cover, that is—

- (a) made wholly or partly from expanded or foamed extruded polystyrene
- (b) not designed or intended to be re-used; and
- (c) used to contain food or drink that is ready to be consumed without further preparation.

7.2 In exercising the Rights for the Permitted Use, the Licensee shall not supply or make available to the public single use plastic cutlery for use with any Goods and shall not supply or make available any single-use polystyrene food or drink containers.

7.3 Save for any Goods which are pre-packed, the Licensor shall only supply and make available Goods in containers made from bio-degradable or compostable products.

7.4 The Delegated Officers may at any time during the Licence Period visit the Site for the purposes of determining, adherence by the Licensee to the provisions of this clause 7.

7.5 The provisions of this clause 7 shall only come into and take effect from the 1st April 2025

8. Alterations, additions and planning applications

8.1 The Licensee shall not make any alteration or addition to the Site or install or permit to be installed any permanent fixture or fitting.

8.2 The Licensee shall not make any application for planning permission or apply for any planning permission in respect of the Site save in respect of those matters set out in Schedule [TBC]

9. Insurance

9.1 The Licensee shall not to do anything that may vitiate in whole or in part any insurance effected by the Council.

9.2 The Licensee shall maintain at its own cost throughout the Licence Period the following insurances:

- i. Public Liability Insurance for £[INSERT AMOUNT]
- ii. Employees Liability Insurance £[INSERT AMOUNT]
- iii. Any other Insurance required to be maintained under applicable law and against all risks normally insured against by prudent persons carrying on a similar business to that of the Licensee, including but not limited to any such insurance as may be necessary in respect of the Trading Unit.

- 9.3 The Licensee shall maintain, at its own cost, comprehensive or specific policies of insurance with a reputable insurance company established in the United Kingdom in respect of all compulsory insurances stated at clause 9.2 together with all insurances required to be maintained under applicable law and against all risks normally insured against by prudent persons carrying on a similar business to that of the Licensee,
- 9.4 The Licensee shall make available within 5 Working Days of their request to Delegated Officers all such insurances upon request at any time during the Licence Period and as the Council may in its sole discretion require.
- 9.5 The Licensee shall in addition:-
- 9.5.1 promptly notify the Council of any material changes in any policies of insurance or any circumstances affecting such policies of insurance
- 9.5.2 promptly pay the Council the cost of any insurance obtained by the Council should the Licensee fail to provide to the Council the requisite notices and/or receipts under clause 9.5 within 5 Working Days.

10. Compliance with Statutory Requirements

- 10.1 The Licensee shall comply with:
- 10.1.1 All rules and regulations governing the Licensee's use of the Site either by legislation or which the Council may make and notify to the Licensee in writing from time to time;
- 10.1.2 All laws relating to the Site and the Permitted Use, and without prejudice to this obligation, the Licensee shall comply with:-
- i. the Environmental Health Registration under Regulation (EC) No 852/2004 of the Hygiene of Foodstuffs Article 6 (2) (Registration) and Annex II Chapter 3 Regulation (EC) No 852/2004 (General Hygiene Requirements) as amended by The General Food Hygiene (Amendment) (EU Exit) Regulations 2019, and
 - ii. all laws, regulations and codes of practice in respect of the use of Liquefied Petroleum Gas where applicable.

11. Nuisance

- 11.1 The Licensee shall not:
- 11.1.1 use the Site or Mobile Vehicle in such a way as to cause any nuisance, damage, disturbance, annoyance, inconvenience or interference to the Council its Delegated Officers, or agents of the Council or to the users of the area or adjoining or neighbouring property including members of the general public;

- 11.1.2 cause or permit to be caused any damage to the Site or to any neighbouring or adjacent land of the Council its tenants, occupiers or licensees, or any owner or occupier of neighbouring property.

12. Indemnity

12.1 The Licensee shall indemnify the Council and keep the Council indemnified against all losses, claims, demands, actions, proceedings, damages, costs, expenses or other liability including personal injury death of the Licensee or any employee of the Licensee or invitee to the Site in any way directly arising from:

- (a) this Concessionary Licence;
- (b) the exercise of the Rights given in this Concessionary Licence and set out in Schedule [TBC];
- (c) any breach of the Licensee's obligations as set out in Clause 6

12.2 In the event of a receipt of any claim covered by the Licensee's policies, the Licensee shall immediately notify its insurance company or companies. At any time of becoming aware of any such claim, the Delegated Officers shall have the right to request in writing from the Licensee confirmation that such notification to its insurance company or companies has been made.

13. Limit of Councils liability

13.1 Subject to clause 13.2.1 the Council is not liable for any of the following:

- 13.1.1 the death of, or injury to the Licensee or any of its employees, or invitees to the Site arising directly from any negligent act, omission or default of the Licensee or any act, neglect or default of the Licensee's employees
- 13.1.2 damage to any property of the Licensee or that of the Licensee's employees or other invitees to the Site including loss or theft of Goods, assets, materials or money; or
- 13.1.3 any losses, claims, demands, actions, proceedings, damages, costs or expenses or other liability incurred by Licensee or the Licensee's employees, or other invitees to the Site in the exercise or purported exercise of the rights granted by Schedule [TBC]

13.2 Nothing in clause 13.1 shall limit or exclude the Councils liability for:

- 13.2.1 death or personal injury or damage to property caused by negligence on the part of the Council, its delegated officers, servants or agents or
- 13.2.2 Fraud or fraudulent misrepresentation; or

13.2.3 any matter in respect of which it would be unlawful for the Council to exclude or restrict liability.

14. Breach

- 14.1 Subject always to clause 13.5, in the event of a breach of this Concessionary Licence the appropriate Delegated Officer will serve notice to the Licensee specifying the breach which has occurred and providing a period of not less than five Working Days from receipt by the Licensee of the notice, (First Period) to remedy the breach (if capable of remedy)
- 14.2 If the identified breach is not remedied to the satisfaction of the Delegated Officer within the First Period, a second notice will be served to the Licensee providing a further five Working Days from receipt by the Licensee of the notice (Second Period) within which to remedy the breach
- 14.3 If the breach is not remedied within the Second Period the Delegated Officers will notify the Council who shall have the right to terminate this Concessionary Licence with immediate effect by giving written notice to the Licensee.
- 14.4 Examples of breaches of this Concessionary Licence may include but are not limited to the following;
- 14.4.1 the Delegated Officer becomes aware of any sale of items other the Goods as referred to in clause 5.2
 - 14.4.2 The Licensee fails to make payment of the Licence Fee or Utilities Fee within [TBC] Working Days following the date upon which the fees become due
 - 14.4.3 The Licensee in in breach of any planning consent applicable to the Site;
 - 14.4.4 Failure to adhere to the requirements set out in clause 7;
 - 14.5.4 The Licensee engages in advertising or promotion (without limitation) without obtaining the required written consent as referred to in Schedule []
 - 14.4.5 The Licensee has illegally discharged trade effluent without the Northern Ireland Environment Agency (NIEA) consent;
 - 14.4.6 Any unauthorised use of Service Media or other associated services by the Licensee.
 - 14.4.7 Any reported harassment or intimidation of Council Officers by the Licensee.
 - 14.4.8 Failure to adhere to any requirements set out or imposed by the Council necessary for ensuring the maintenance of any Blue Flag status applicable to the Site
- 14.5 Where a breach is determined by the Delegated Officers in their sole discretion to be a irremediable breach and/or a Material Breach, the Council shall have the option to terminate

this Concessionary Licence with immediate effect by giving written notice to the Licensee the Licensee shall be liable for any damages incurred by Council as a result of such irremediable breach and/or Material Breach

- 14.6 For the purposes of this clause "Material Breach" means
 - 14.6.1 a breach of any of the obligations set out in clause 13.7 or
 - 14.6.2 a breach that the Delegated Officers deem in their sole discretion to have or have the potential of a serious effect on the Council and any of its obligations or statutory functions as a public authority
- 14.7 Examples of a Material Breach of this Concessionary Licence may include but are not limited to:-
 - 14.7.2 The Licensee engaging in any activity inconsistent with the Permitted Use including the sale of illegal goods and or paraphernalia;
 - 14.7.3 If the Delegated Officer has cause to serve more than two First Period notices during the Licence Period;
 - 14.7.4 The Licensee has taken against it, any step or action towards its entering bankruptcy, administration, provisional liquidation or any composition or arrangement with its creditors under the Insolvency (Northern Ireland) Order 1989 as amended;
 - 14.7.5 The Licensee ceases to trade for any reason or dies, or by reason of illness or incapacity is no longer able to operate this Concessionary Licence.

15. Termination

- 15.1 Unless terminated earlier, this Concessionary Licence will come to an end at:-
 - 15.1.1 [INSERT DATE ON WHICH LICENCE TO END]; or
 - 15.1.2 Immediately on written notice given by the Council to the Licensee at any time in respect of a irremediable breach and/or a Material Breach of this Concessionary Licence
 - 15.1.3 Immediately on written notice given by the Council to the Licensee at any time in respect of a failure to comply with a Second Period notice15.1.4 by either party giving not less than 3 months written notice to the other party.
- 15.2 Termination of this Concessionary Licence shall not affect the rights of either party in connection with any breach of any obligation under this Concessionary Licence which existed at or before the date of termination.

- 15.3 In the event of this Concessionary Licence being determined whether by effluxion of time, notice, breach as set out in Clause 14 or otherwise;
- 15.3.1 the Council shall be entitled to retain all monies paid under the Licence Fee and Utilities Fee up to the date of termination; and
- 15.3.2 the Licensee shall forthwith pay and be liable for any and all arrears of Licence Fee or Utilities Fee due and owing at the date of termination.
- 15.4 the Licensee warrants that as at the date of signing this Concessionary Licence that it continues to meet the requirements set out in the XXXXXX tender documentation. If at anytime during the term of the Licence the Licensee no longer continues to meet the requirements set out in XXXX tender documentation the Council will be entitled to terminate the Concessionary Licence with immediate effect with no liability. The Licensee shall be obliged to notify the Council of any such change or anticipated change in its ability to meet the requirements without delay. The Council shall have the right to terminate for any misrepresentation by the Licensee during the auction process Furthermore, the Council shall be entitled to recover all losses associated with the auction and awarding of the Concessionary Licence from the Licensee to include the costs of any such further auction to select a replacement Licensee.

16 Notices

- 16.1 Except where this Concessionary Licence specifically states that a notice need not be in writing, any notice given under or in connection with this licence shall be:
- 16.1.1 in writing; and
- 16.1.2 given by hand or by pre-paid first-class post or other next Working Day delivery service at the address last known for the Licensee or the Site at a time when the Licensee is exercising the Rights.
- 16.2 Any notice required to be given under this Concessionary Licence shall be in writing and shall be deemed to have been received:
- 16.2.1 if delivered by hand, at the time the notice is left at the proper address;
- 16.2.2 if sent by pre-paid first-class post or other next Working Day delivery service, on the second Working Day after posting.
- 16.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

17 No warranties for use or condition

17.1 The Council gives no warranty that the Site is or will remain fit for the Permitted Use

17.2 The Licensee acknowledges that it does not rely on, and shall have no remedies in respect of, any representation or warranty (whether made innocently or negligently) that may have been made by the Delegated Officers, any servant or agent of the Council before the Commencement Date as to any of the provisions of this Concessionary Licence.

SCHEDULE 1

The SITE

SCHEDULE 2

Rights granted to the Licensee:

1. Unfettered right for the Licensee to enter upon the Site at any time save for the Excluded Days solely for the Permitted Use.
2. Subject to prior written consent being obtained from the Council and any special conditions, the Right to use the Service Media located at the Site during the Licence Period.

SCHEDULE 3

Additional Requirements

Advertising /Signage Boards

1. The Licensee must on all occasions, obtain written permission from the Council for all advertising and signage boards, (regardless of same being temporary).
2. Once written permission has been obtained by the Licensee from the Delegated Officers as set out above, it will then be the responsibility of the Licensee to apply for any necessary planning permission required for the erection of such advertising/signage boards on the Site
3. The Council gives no warranty that any written consent provided by it in respect of advertising and or signage boards is sufficient for any application made by the Licensee in respect of planning approval

Environmental Locations

1. The Council will not be responsible for the levelling and workings of sand where the Site is situated on or near a beach location.
2. The Council will not be responsible for providing a safe means of access or egress, (including recovery), to and from the Site.
3. The Council will not be responsibility for any loss of trading or inability of the Licensee to exercise the Rights by reason of weather, wholly unforeseen circumstances or acts of God.
5. Where the Site is situate on a beach with blue flag status the Licensee hereby acknowledges that it will at all times adhere to all such requirements as set out and imposed by the Council to ensure that all criteria of the Blue Flag status is met at all times.

SCHEDULE 4

Trading Unit

	Category of Information for non static unit	Licensee Details
1.	If a non static unit, Vehicle Registration Number	
2.	Type of Vehicle	
3.	Date of Manufacture	
4.	Photograph of vehicle	
5.	Proof of Ownership	
6.	Environmental Health Registration Certificate/number	

The Local Authority hereby defines a static unit/apparatus as the following:

- A A static unit that has no wheels or rotational fitted mechanisms to allow it's repositioning or removal from the said site instantly or as necessary.
- B Requires lifting gear/apparatus to move or reposition the said static unit.
- C A static unit that has arrived at the said site in sectional portions, or in components that are to be erected on the said site to form the said static unit/apparatus.
- D The said static unit/apparatus is defined by measurements, up to a maximum of 20ft container, specifically, 5.90 meters in length, 2.35 meters in width and 2.39 meters in height.
- E A static unit that is bolted, clamped, or fixed to the ground by those means implemented, whereby same being secured for the purposes of asserting permanent fixture. NOTE In the event that the said Trader carries out such actions, they will have to seek permission from the Local Authority and ensure the necessary scans of the ground is carried out and all making good all disturbed areas, as a consequence of doing same.

SCHEDULE 5

The Goods

SIGNED on behalf of the LICENSOR

.....

Chief Executive

SIGNED by [NAME of LICENSEE]:

.....

.....