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| **SPECIAL TERMS & CONDITIONS**  **Invitation to apply for Gateshead Council Mobile Concessions Opportunities**  **Period: 28th June 2018 for a period of 60 months** |

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**SPECIAL TERMS AND CONDITIONS**

**1. INDEMNITY AND LIABILITY** (Additional provision – indirect and consequential loss)

1.1 Clause E2.3 of the Standard Terms and Conditions of Contract for the purchase of Concession shall be deleted and the following clause shall have effect:

E2.3 The Concessionaire shall indemnify the Council in full for any direct or indirect loss of or damage to the real or personal property of the Council or any third party, including all Liabilities against or incurred by the Council (including legal expenses on an indemnity basis) arising from the Concessionaire’s negligence, any defect or fault in the Concession or any act or omission of the Concessionaire in delivering the Concession

**2. LICENCE TO OCCUPY COUNCIL’S PREMISES**

2.1 ’Premises’ means any land or premises (including temporary buildings) made available to the Concessionaire by the Council in connection with the Contract.

2.2 Any Premises shall be made available to the Concessionaire free of charge and shall be used by the Concessionaire solely for the purpose of performing its obligations under the Contract. The Concessionaire shall have the non-exclusive use of such premises as licensee and shall vacate the same on completion, termination or abandonment of the Contract.

2.3 The Concessionaire shall not use the Premises for any purpose or activity other than the provision of the Contract.

2.4 Should the Concessionaire need modifications to the Premises, these modifications shall be subject to prior approval and shall be carried out by the Council at the Concessionaire’s expense. The Council shall undertake approved modification work without undue delay. Ownership of such modifications shall rest with the Council.

2.5 The Concessionaire shall (and shall make sure that their employees, servants, agents, suppliers or sub-contractors) observe and comply with such rules and regulations as may be in force at any time for the use of such Premises as determined by the Council. The Concessionaire shall pay the cost of making good any damage caused by the Concessionaire, his employees, servants, agents, suppliers or sub-contractors other than fair wear and tear. For the avoidance of doubt, damage includes damage to the fabric of the buildings, plant, fixed equipment or fittings there.

2.6 The parties agree that there is no intention on the part of the Council to create a tenancy of the Premises of whatsoever nature in favour of the Concessionaire or its employees, servants, agents, suppliers or sub-contractors and that no such tenancy has or shall come into being despite any rights granted under the Contract. The Council retains the right at any time to use in any manner the Council sees fit any Premises it owns or occupies

 3. **WARRANTY (ADDITIONAL PROVISIONS)**

3.1       In addition to clause B6 of the Standard Terms and Conditions the Concessionaires shall also warrant to the Council that all Employees of the Concessionaires (as defined in the Standard Terms and Conditions) shall exercise safe driving practices whilst driving on Council premises and shall at all times adhere to the speed limits specified on Council premises.

3.2 In the event that the Employees are found to be driving in an unsafe manner or driving in excess of the speed limits:-

3.2.1 the Council shall inform the Concessionaires in writing of the details of the breach;

3.2.2 the Concessionaires shall ensure that the Employee found to be in breach of this clause 1.1 shall not be entitled to carry out the provision of the Concession under this Contract;

3.2.3 the Council shall be entitled to prohibit entry to the Council premises of any Employee that shall have been reported to the Concessionaires under this clause1; and

3.2.4 in the event of persistent breaches of this clause 1, the Council shall be entitled to terminate the Contract in whole or in part at anytime during the Contract Period (including an option to extend) upon servicing one months notice in writing on the Concessionaires.

**4. Termination (additional provisions)**

4.1 The Council reserve the right to terminate the Contract with immediate effect by notice in writing to the Concessionaires on or at any time if:

4.1.1 a County Court Judgment is recorded against the Concessionaires;

4.1.2 The Concessionaires fails to achieve a level 3 in their concession food hygiene inspection.

**5. Street Trading**

5.1. Street Trading shall be conducted in such a manner as not to cause:

(a) obstruction of the street or danger to persons using it. It should be noted by traders that the holding of Street Trading Consent does not preclude the Highway Authority or the Police from taking action to remove any obstructions on the highways.

(b) nuisance or annoyance (whether to persons using the street or otherwise).

5.2. Consent Holders are prohibited from setting out their goods or advertising material on the surface of the carriageway or pavement.

5.3. A Consent Holder shall not street trade within the vicinity of any premises selling articles/goods of a similar nature.

5.4. A Consent Holder shall not trade in any street designated by the Council as

a “Prohibited Street”.

5.5 Street Trading is restricted to the location indicated on the Consent. Mobile Street trading within Consent Streets is restricted to a 15 minute duration, after which the Van/Cart/Barrow or vehicle must be moved a minimum distance of 200 metres before street trading again, return is prohibited within 2 hours. Longer time periods to street trade may be considered with prior written approval.

5.6. At the end of each street trading period the van/cart/barrow shall be removed from the street trading location within one hour of the end of street trading time showed on their Consent.

5.7 A consent disc issued to the consent holder and should be displayed at all times. The Consent must be produced on demand to a Police officer or to a duly Authorised Officer of the Council.

5.8 The Consent Holder shall clearly display his/her name, address and the consent number in the immediate vicinity of the goods, which he is offering for sale.

5.9 The Consent Holder shall immediately notify the Council of any changes affecting the original Consent.

5.10 The Consent Holder shall street trade only in goods specified by the Consent.

5.11 This Consent shall be personal to the Consent Holder and shall not be transferred to any other person.

5.12. No person under the age of eighteen years shall be granted a Consent.

5.13 No person under the age of sixteen years shall be employed as an assistant.

5.14 The Consent Holder shall provide sufficient containers as may be necessary for the depositing of litter arising from his/her trade and ensure that the immediate vicinity of his/her van, car, barrow or other vehicle is kept free from litter at all times during which he is trading. All sites must be left free from litter and waste when trading has ceased.

5.15 All Street Trading units must be equipped with safe and adequate lighting for operation during the hours of darkness.

5.16. All Consent Holders must wear the Council consent badge, when Street Trading is taking place. The Council may also approve a maximum of 2 assistants. Consent badges for any assistants must be worn when Street Trading is taking place. Only approved Consent Holders and assistants may trade from the consent site. No one other than the Consent Holder and approved assistants may trade from the site at any one time.

5.17 No goods, other than those specified in the Consent, may be street traded without prior written consent of the Licensing Officer.

5.18 The use of loud speakers, horns, flashing lights or any other instruments used to attract customers’ attention is forbidden in Consent Streets without the prior written consent of the Licensing Officer.

5.19 Consent Holders have a duty of care in relation to their street trading sites and adjacent areas and must not damage in any way, either wilfully or by negligence, any part of the consent street including paved areas, signs, fencing etc.

5.20 No Street Trading shall be permitted during 18:00 to 06:00 hours without prior written consent of the Licensing Officer.

5.21 The holder of a Consent must provide the Council with proof of Public and Product Liability Insurance for a minimum sum of £5,000,000.

5.22 If the Consent Holder Street Trades from any Council land, he/she shall indemnify the Council from and against all loss, damage, costs, liabilities and claims whatsoever arising from its use and occupation of the land.

5.23 Concessionaires who are accepted onto the Approved List DO NOT have an automatic right to trade in the Gateshead Borough and must still comply with the Street Trading Policy and obtain the required licences for any event they are successful in securing.

**6. Generators**

6.1 Electrical generators will only be permitted with the prior consent of the Council.

6.2 Electrical generators must be run on diesel fuel, silent running and must be in good condition and fenced to a distance of 1.5 metres to prevent public access to them in order to prevent being a hazard. Generators must be placed on a suitable material to protect the ground against spillage of fuel or lubricants.

6.3 Concessionaires will be liable for the cost of cleaning generator spillage that may occur.

6.4 Concessionaires must ensure that a written generator risk assessment, and operator safe working practice training has been carried out, and a copy provided to the Council, together with evidence of the generators service history.

**7. Fire Safety & Training**

6.1 Concessionaires will be responsible for providing adequate and suitable firefighting equipment and have a written Fire Hazard Risk assessment and Employee fire prevention and evidence firefighting training has been carried out. A copy must be provided to the Council, together with the evidence of the Fire Fighting Equipment service history.

**8. Refuse**

8.1 Concessionaires will be responsible for the removal of all refuse from the site and must keep the allocated site for the concession event clean and tidy at all times.

**9. Assignment and sub-contracting (additional provisions)**

9.1 The Concessionaires shall identify each part of the Concession that it intends to sub- contract and the proposed sub-contractor for each item identified prior to seeking the Council’s consent to such sub-contracting.

9.2 The Council shall be entitled to impose conditions in relation to any consent to sub-contracting given including a requirement that a guarantee or other security be provided.

9.3 The Council requires as a condition precedent of consent the Concessionaires to obtain collateral warranties from any sub-contractor [or other member if part of a consortium arrangement] in a form prescribed by the Council and duly executed in the presence of the Council.

**10. Condition of Mobile Concessions/Site Location**

10.1 It will be at the discretion of the individual Service Catering Manager to decide if mobile concessions are suitable for each required location and or in a good standard of condition. The Service Catering Manager will advise concessionaires in regard to the allocated site for their mobile concession for each location. Concessionaires are not to change their site location without prior consent of the Service Catering Manager.

**11. Site Restrictions for Events**

11.1 Some events which are held in Gateshead are subject to trading restrictions. During these events concessionaires may be required to remove their mobile concession from the relevant location whilst the event takes place. Concessionaires will be advised of any such events by the Service Catering Manager.