

Terms and Conditions

Conditions of contract for grant of a licence by Retail Concessions Limited ("RCL") for concessionaire to occupy retail space at the Retailer's Premises

1. (a) On formation of this contract, the Concessionaire (as defined on RCL's order form) is granted a licence, subject to the further terms and conditions herein (the "Conditions"), to occupy a retail space (called "the Site") at the Retailer's Premises (as defined on RCL's order form) for the Period of Occupation (as defined on RCL's order form) and the Concessionaire shall pay the contract price (defined as the Total Amount Due on RCL's order form).

(b) These Conditions, the Concessions Agreement Particulars and RCL's order form (together called "the Contract Documents") shall constitute the whole of the contract between the Concessionaire and RCL and all orders are placed and accepted under the Contract Documents alone.

(c) The offer to grant a licence to occupy the Site which comprises an invitation to treat is open for acceptance by the Concessionaire for a period of seven days only from the date of RCL's order form, provided that RCL has not previously withdrawn it. A contract will only be formed when RCL has, at RCL's office in Harlow in Essex, received the Concessionaire's returned order, these Conditions and the declaration referred to in clause 11, each duly signed and has notified the Concessionaire, whether orally or in writing, of its receipt. Only orders signed on RCL's printed order form shall bind RCL.

(d) The rights granted by this contract constitute a licence to occupy the Site and the Concessionaire shall not be entitled to nor shall it claim exclusive possession of the Site or any part thereof. This contract shall not grant any tenancy to the Concessionaire by the Retailer or RCL and shall not create any Lessor/Lessee or Landlord/Tenant relationship. Both RCL, the Retailer and their employees, agents and representatives shall have the right to enter the Site at all times and for all purposes without notice.

(e) The Site may only be used for the proposed use as defined on RCL's order form and for no other use or promotional purposes.

(f) The Concessionaire shall, in its conduct of its business at the Site, comply with all statutes, By-laws, Regulations and any other requirements of any Government or competent authority and with all applicable codes of practice or conduct and with any and all regulations, policies and practices notified by the Retailer in relation to the use and occupation of the Site and the Retailer's Premises.

(g) The Concessionaire shall at no time share possession of the Site with any person other than RCL and the Retailer, nor shall it assign, sub-licence, charge or otherwise transfer (or attempt to do any of the above) any of its rights under this contract.

(h) The Contract Documents exclude any other terms and conditions which the Concessionaire might seek to impose, even though such other terms and conditions may be submitted in a later document and/or purport to exclude or supersede any terms and conditions inconsistent with them, or may be contained in any offer, acceptance or counter offer, made by the Concessionaire.

(i) No variation of these Conditions is permitted except where expressly agreed by RCL in writing, any such variation to be subject to the prior written consent of the Retailer in its absolute discretion. The date stated on RCL's written agreement to such variation shall be conclusive in any dispute as to the date of such variation.

 2. The Concessionaire agrees, in consideration of the Retailer consenting to the grant of this Licence, that:-
 - (a) it will hold the Retailer, its officers, employees and agents indemnified in the same manner and in the same terms as it agrees to indemnify RCL in clause 8 of these Conditions;
 - (b) it will comply with all rules, policies and practices laid down by the Retailer, and notified to the Concessionaire in relation to its occupation of or conduct in the Site and the Retailer's Premises or any part thereof; and
 - (c) it warrants to RCL that it shall have in effect and maintain in effect the insurances specified below and shall provide a copy of the policy to RCL and/or the Retailer on request:
 - i. Public Liability Insurance to a minimum of £2,000,000.00 per occurrence or other amount notified as being required by the Retailer;
 - ii. Employer's Liability Insurance to a minimum of £10,000,000.00 per occurrence or other amount notified as being required by the Retailer;
-

Terms and Conditions

Conditions of contract for grant of a licence by Retail Concessions Limited ("RCL") for concessionaire to occupy retail space at the Retailer's Premises

3. (a) No cancellation or postponement of the commencement of occupation of the Site by the Concessionaire is permitted except where expressly agreed by RCL in writing. The date stated on RCL's written agreement to such cancellation or postponement shall be conclusive in any dispute as to the date of such cancellation or postponement.

(b) The Concessionaire will, in the event of the agreed cancellation or postponement of the commencement of occupation of the Site by the Concessionaire, fully indemnify RCL and the Retailer against all expenses incurred up to the time of such cancellation or postponement and shall also pay by way of liquidated damages, a proportion of the contract price agreed to be paid by the Concessionaire under this contract to RCL forthwith in accordance with the following scale:

Postponement/amendment charges

Postponement accepted less than seven days before the agreed commencement date - 50% of the total contract price.

Postponement accepted between 7 days and less than 28 days before the agreed commencement date - 20% of the total contract price.

Cancellation charges

Cancellation accepted less than 14 days before the agreed commencement date - 100% of the total contract price.

Cancellation accepted between 14 days and less than 28 days before the agreed commencement date - 50% of the total contract price.

Cancellation accepted between 28 days and less than 84 days before the agreed commencement date - 25% of the total contract price.

-
4. The contract price quoted on RCL's order form is exclusive of VAT, which the Concessionaire shall be additionally liable to pay at the same time and in the same manner as the contract price.

-
5. Neither RCL nor the Retailer shall not be liable to the Concessionaire by reason of any representations (unless fraudulent), or any implied warranty, conditions or other terms, or any duty at common law, or under the express terms of this contract, for any indirect, special or consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of RCL, the Retailer or their employees, agents, or otherwise) which arise out of or in connection with the grant of this licence to occupy the Site by RCL, and the entire liability of RCL, under or in connection with this contract as damages or otherwise, shall not exceed the contract price and, in particular, RCL shall not be liable for any loss whatsoever or howsoever arising caused by its inability or failure to make the Site available on the due date. The Concessionaire must immediately notify RCL in case of any difficulty experienced when attending the Site to commence occupation under the terms of this contract. The entire liability of the Retailer, which arises out of in connection with the grant of this licence to occupy the Site by RCL, shall not exceed the contract price and, in particular, the Retailer shall not be liable for any loss whatsoever or howsoever arising caused by its inability or failure to make the Site available on the due date.

-
6. (a) RCL shall not be liable for any failure or inability to make the Site available, arising from circumstances outside its control and shall be entitled to terminate this contract in such circumstances by written notice to the Concessionaire.

(b) Non-exhaustive illustration of such circumstances would be damage or works being undertaken to any part of the Site or the Retailer's Premises resulting in the use and occupation of the Site being impractical or dangerous, act of God, war, riot, explosion, abnormal weather conditions, fire, flood, strike, lockouts, government action or regulation (UK or otherwise), accidents and shortage of materials, labour or manufacturing facilities.

(c) Should RCL be prevented from making the Site available due to any of the above circumstances it shall give the Concessionaire written notice of this fact as soon as reasonably practicable after becoming aware of it.

(d) If this contract and the rights granted under it are terminated under this clause 6, RCL will refund any payment which the Concessionaire has already made to it on account of the contract price (subject to deduction of any amount RCL may be entitled to claim from the Concessionaire under this contract), but RCL will not be liable to compensate the Concessionaire for any loss or damage caused by the failure to make the Site available.

Terms and Conditions

Conditions of contract for grant of a licence by Retail Concessions Limited ("RCL") for concessionaire to occupy retail space at the Retailer's Premises

7.
 - (a) All sums due and payable under these Conditions must be paid in full and in cleared funds no later than 14 days before the Commencement Date.
 - (b) Time for payment shall be of the essence. If payment is not made on the due date then RCL shall be under no obligation to make the Site available to the Concessionaire and may terminate this contract which shall be of no further force and effect save that the Concessionaire shall remain liable to pay the contract price in full.
 - (c) RCL reserve the right to charge interest at 20 per cent per annum on all overdue accounts, such interest being deemed to accrue on a day to day basis from the due date for payment under clause 7 (a)
 - (d) The Concessionaire shall have no right to make any deductions from or set off (statutory or otherwise) against any sums payable under this contract.
 - (e) If the Concessionaire (being a company) has a petition presented for its winding up or passes a resolution for voluntary winding up, otherwise than for the purpose of a bona fide amalgamation or reconstruction or compounds with its creditors or has a receiver or administrator appointed over all or any part of its assets or (being an individual) becomes bankrupt or insolvent or enters into any arrangement with his creditors or if the Concessionaire commits a material or serious breach of this contract (and in the case of such a breach being capable of remedy, fails to remedy it within seven days of receiving notice to do so), it will be deemed to have repudiated the contract and RCL may thereafter terminate this contract save that the Concessionaire shall remain liable to pay the contract price in full.
 - (f) RCL reserves the right at any time in their discretion to demand a deposit or other security for payment under this contract which is to be paid in full no later than 14 days prior to the Commencement Date
 - (g) Any person signing an order and these Conditions for or on behalf of the Concessionaire warrants to RCL that he or she is fully authorised and empowered to enter into this contract.

8. The Concessionaire indemnifies RCL against all and any actions, claims liabilities, expenses (including legal expenses) and demands, and all losses, damages and costs (whether incurred by or awarded against RCL) of any nature however, that RCL may sustain or incur as a result, whether directly or indirectly, arising out of the Concessionaire's use and occupation of the Site under these Conditions (including without limitation any breach of these Conditions) and any losses or expenses arising out of any third party demand, claim or action (including any claim alleging infringement of third party rights). Notwithstanding the generality of the foregoing, RCL reserve the right to require a security deposit (in addition to any deposit mentioned in clause 7 (f) above) at any time at their discretion which shall be distributed, if at all, by RCL in meeting any actions, claims, costs and demands of any nature howsoever arising out of the Concessionaire's use and occupation of the Site. Any sum not so distributed shall be returned to the Concessionaire eight weeks after termination of the Period of Occupation.

9. During its occupation of the Site, the Concessionaire shall procure that itself and its contractors, agents, employees and invitees comply at all times with the following additional conditions:
 - (a) Display equipment, stock and other materials may not be delivered or erected on Site until the first day of the Period of Occupation and is to be removed by the close of business on the last day of Period of Occupation. The Concessionaire will ensure that deliveries of stock are only made through the "goods received" entrance of the Premises if applicable to the Concession and be responsible for acceptance of deliveries and their prompt removal to the Site. If the Concessionaire fails to remove any equipment, stock or other materials of any description belonging to the Concessionaire from the Site and the Retailer's Premises on or before the expiry of the Period of Occupation, it shall be liable to pay an additional charge equivalent to one week's booking fee for any period of delay in removal of up to one week and thereafter on a weekly basis, an amount equivalent to one week's booking fee for any subsequent week or part of a week that the property is not removed.
 - (b) The size and position of the Site and the nature of any exhibition or display proposed by the Concessionaire to be contained therein is at the discretion of the Retailer's site manager. If so demanded by RCL or the Retailer, the Concessionaire shall immediately remove any part of the Concessionaire's display, advertising or promotional material or stock from the Site if any of the same is deemed to be offensive, illegal or exhibited or offered for sale in breach of any law or regulation including without limitation, any laws protecting intellectual property rights.

Terms and Conditions

Conditions of contract for grant of a licence by Retail Concessions Limited ("RCL") for concessionaire to occupy retail space at the Retailer's Premises

(c) The Concessionaire must maintain the Site and the surrounding area in a safe, clean and tidy condition and ensure that the Site is left as found at the end of the Concessionaire's occupation. If the Site or the area in its immediate vicinity is damaged in any way, the Concessionaire must immediately notify the Retailer's site manager.

(d) The Concessionaire must ensure that the Site is manned by not more than two people at all times throughout the Retailer's trading hours. The Concessionaire's staff must at all times restrict themselves to the Site area whilst conducting business and otherwise to the publicly accessible common parts of the Retailer's Premises. The Concessionaire must ensure that the concession is only operational during the Retailer's trading hours.

(e) The Concessionaire and its contractors, employees and agents are not at any time to interfere with the use and enjoyment of the whole or any part of the Retailer's Premises by the Retailer and any other occupiers, customers and invitees and shall indemnify the Retailer against any loss or damage to any of the Retailer, occupiers, customers or invitees or their property caused by any act or default of the Concessionaire or any of its contractors, employees, agents and invitees.

(f) All personnel involved with the Concessionaire's business to be conducted from the Site must introduce themselves to the Retailer's site manager on first entering the Retailer's Premises and the Concessionaire must ensure that both statutory employment regulations and the Retailer's requirements are adhered to at all times and, in order to comply with health and safety regulations, ensure all personnel either:

- i. sign into the Premises upon arrival and sign out upon exit, making themselves known to the store or duty manager; or
- ii. provide the Store Manager with a staff rota on a weekly basis;

(g) The Retailer will at all times have total discretion over the Site and may terminate the Concessionaire's occupation of the Site at any time without notice or reason. In such circumstances this contract, and the licence granted hereunder shall also terminate forthwith, and a pro-rata repayment will be made in respect of the unexpired portion of the Period of Occupation. However, no refund will be made if the Concessionaire's occupation of the Site is terminated for breach of any of these conditions or any requirements of the Retailer regarding the occupation of the Site.

(h) Any display or promotional material can be moved by the Retailer's site manager to an alternative site or into storage. No responsibility can be accepted by either RCL or the Retailer for any loss or damage to any display equipment. (Whether caused by the negligence of RCL, the retailer or their respective employees or agent or otherwise).

(i) If applicable the Concessionaire shall be responsible for and bear the cost of:

- i. installing and operating an electronic point of sale till and other machinery required for operating the retail sales activities in the Concession;
- ii. the installation and rental and all other charges of its own telephones or other form of electronic communications equipment, which must not interfere with the equipment operated by the Retailer; and
- iii. the security of all takings, wages and other monies kept at the Concession or in transit to or from the Concession.

10. The Concessionaire shall not:

- (a) make any structural alterations or additions to the Site or any part of the Site;
- (b) make any non-structural alterations or additions to the Site or any part of the Site without the prior written consent of RCL and the Retailer.

11. 4 Week Option - YES/NO

(a) If the Concessionaire indicates YES to the 4 week option on RCL's order form, the Concessionaire shall have the option to continue the Period of Occupation on the same terms and conditions after the expiry of the Period of Occupation, save that this contract and the licence granted hereunder may be terminated at any time thereafter by the Concessionaire by 4 weeks notice, provided always that such notice cannot be given before the commencement of the extended period, and that RCL may terminate the extended period without notice or reason.

(b) If the Concessionaire does not indicate YES, or indicates NO, to the 4 week option, this contract and the licence to occupy the Site shall terminate at the date of the end of the Period of Occupation, and the Concessionaire shall vacate and remove all of its property, stock and other materials from the Site on that date.

Terms and Conditions

Conditions of contract for grant of a licence by Retail Concessions Limited ("RCL") for concessionaire to occupy retail space at the Retailer's Premises

12. It is not the intention of the parties to this Agreement to confer any benefit on a person who is not a party hereto except the parties agree and acknowledge that the Retailer or any parent or affiliate company of the Retailer shall have the right to enforce:
- (a) the rights or benefits of the Retailer (including without limitation the rights or benefits of any indemnity, limitation and/or exclusion of liability available to the Retailer) in this contract; and
 - (b) the rights or benefits of RCL (including without limitation the rights or benefits of any indemnity, limitation and/or exclusion of liability available to RCL) in this contract.

13. If any of the provisions of this contract are found by a Court or other competent authority to be void or unenforceable, that provision shall be deemed to be deleted from this contract and the remaining provisions shall continue to apply. The Concessionaire and RCL shall negotiate in good faith to agree the terms of a mutually satisfactory provision to be substituted for the provision found to be void or unenforceable.

14. This contract shall be governed by and construed in accordance with English law and all disputes arising in connection with the contract shall be submitted to the jurisdiction of the English courts. As stated in Clause 1 (c) of these Conditions, all contracts are made at Harlow in Essex and a course of action for any breach is agreed to arise at Harlow aforesaid.

WE AGREE TO BE BOUND BY THE ABOVE CONDITIONS AND THOSE SET OUT IN RCL'S ORDER FORM

Signed

Date

Full name

Position

For and on behalf of (Concessionaire's Company Name)