



Rialtas na hÉireann  
Government of Ireland



Corphobairt Leader  
Phort Láirge  
Waterford Leader  
Partnership



# Waterford Local Action Group (LAG)

## Letter of Offer

### LEADER PROGRAMME 2014-2020

Coiste um Fhorbairt Pobail Aitiúil  
Phort Láirge  
Waterford Local Community  
Development Committee

# LCDC



Waterford Leader Partnership CLG  
Dungarvan, Co Waterford  
Tel No. 058 44077  
E-mail: [claire.connor@wpl.ie](mailto:claire.connor@wpl.ie)  
18-04-2021

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Date: 29<sup>th</sup> March 2021

O'Connell Whiskey Merchants Ltd  
Attn: Dáithí O'Connell  
Mountain View, Stradbally, Co. Waterford

Coiste um Fhorbairt Bheag Airgid  
Phoirt Lárge  
Waterford Local Community  
Development Committee



Project Ref. No: 31LDRWAT113885 / Project Title: Installation of maturation storage, bottling and blending equipment in existing unit

Dear Mr O'Connell,

With reference to the above project application being financed under LEADER as part of Ireland's Rural Development Programme 2014 – 2020, which is part-financed under Priority 1B of the Rural Development Programme by the European Agricultural Fund for Rural Development, I wish to inform you that Waterford LAG (Waterford Local Community Development Committee) at their meeting of 25<sup>th</sup> March 2021, approved the above referenced project for funding under the Rural Development LEADER Programme 2014 – 2020 Local Objective 2 Economic & Enterprise Development S.A 2.1. supporting existing enterprises with investment in new technology, details of which are set out in the Letter of Offer which is attached (2 copies). The aim of LEADER is to foster local development in rural areas. Acceptance of this offer of funding must be made by signing and returning 1 copy of the attached Letter of Offer within 15 working days from the date of this letter to Waterford LEADER Partnership CLG, Lismore Business Park, Lismore, Co Waterford. Acceptance Letter must be returned before 21<sup>st</sup> April 2021.

Failure to return the signed Letter of Acceptance, accompanied by any specific documentation, within the timeframe specified will result in the lapsing of the grant offer and no grant aid will be payable. No project works can commence until the signed Letter of Offer has been returned to this office. Please sign and retain the 2<sup>nd</sup> copy of the Letter of Offer for your records.

Yours sincerely,

Signed on behalf of LAG  
Mr Don Tuohy Chief Officer to Waterford LCDC

ag forbaire ar bpobal  
developing our communities



## LEADER Programme 2014-2020

### (Letter of Offer)

Project Ref. No. 31LDRWAT113885

1. Waterford Local Development Committee (LCDC), as LAG, has responsibility for the delivery of the LEADER Programme 2014-2020 within County Waterford. Waterford LEADER Partnership CLG (WLP) has responsibility for implementing the Rural Development (LEADER) Programme 2014-2020 on behalf of Waterford LCDC. Waterford City & County Council (WC&CC) are the financial partners for the programme.

2. The LEADER Programme 2014-2020 Operating Rules set out the rules and regulations for the programme. All initiatives/projects funded under the LEADER Programme 2014-2020 must be in compliance with these rules and regulations, including the two EU framework Regulations:

(a) The Common Provisions Regulation (EU Regulation 1303/2013) sets out a single framework for the implementation of the five European Structural Investment Funds, which facilitates a more co-ordinated approach to the delivery of the funds.

(b) LEADER is governed more specifically by the EAFRD EU Regulation 1305/2013, which details the types of supports for rural development, including LEADER.

3. The Promoter(s) agrees to abide by all rules and regulations of the LEADER Programme 2014-2020, including any amendments implemented over the lifetime of the programme.

### IT IS HEREBY AGREED AS FOLLOWS

#### **1. Duration and Agreement to Funding:**

Subject to the terms detailed herein, this Letter of Offer shall commence from the date of Acceptance and shall continue in force until 29<sup>th</sup> March 2022 ("the Project Term"). All assistance must be drawn-down **prior** to the project completion date. All projects must commence within two months from the contract date of issue (i.e. 29<sup>th</sup> May 2021) failure to do so without LAG approval will render the offer null & void.

#### **2. Project Costs**

The table overleaf sets out the specific costs which will be funded under the LEADER Programme 2014-2020 for the project:

The reallocation of funds within a project between the specified costed investments included in the grant offer, to a maximum of 10% (provided that the original project will still be delivered and the procurement process is not compromised), must be authorised and

Received costs must adhere to this. If expenditure on a project proves higher than approved an increase in grant aid shall not be given. Where there is more than one element of a project which is approved for funding, each individually stated item is eligible to the amount specified above in the schedule of costs.

The grant aid payable in respect of the work(s) set out in the application will not exceed 50%, to a maximum of €80,992.50 of the approved received costs, whichever is the lesser.

| Sources of funding                                                               |                       | Cost Ex VAT(€) |
|----------------------------------------------------------------------------------|-----------------------|----------------|
| LEADER Programme                                                                 |                       | €80,992.50     |
| Donation of Property                                                             |                       |                |
| Voluntary Labour                                                                 |                       |                |
| Own resources:                                                                   | Cash/Money in account | €80,992.50     |
|                                                                                  | Loan/Bridging Finance |                |
| Other Public funding from Non EU Sources (Local Authority, Fáilte Ireland, etc.) |                       |                |
| Total cost of project                                                            |                       | €161,985       |

**3. Funding Approved**

The table below sets out the breakdown of public and private finances, including the maximum percentage for LEADER Programme 2014-2020 funds, for the project:

| Total Costs                                 |  | Costs Ex VAT           |
|---------------------------------------------|--|------------------------|
| Nature of Contract / Goods / Item / Element |  | Supplier               |
| Blending equipment                          |  | Barison Industry       |
| RO Water Set                                |  | Celtic Water Solutions |
| Bottling Line                               |  | Bruni Erben            |
| Lifting & Handling Equipment                |  | Forklift Services      |
| Cask Racking & Mobile Shelving              |  | Thistle Systems        |
| Stainless Steel                             |  | EnviroSafe Ireland     |
|                                             |  | 8,600                  |
|                                             |  | 49,870                 |
|                                             |  | 17,950                 |
|                                             |  | 46,725                 |
|                                             |  | 33,940                 |
|                                             |  | 4,900                  |
|                                             |  | €161,985               |

approved in writing by the LAG before the relevant expenditure is incurred. This cannot be done retrospectively. Any reallocation within a project in excess of £5,000 shall only be done with express LAG approval. Funding may only be reallocated to items approved by the LAG and as per the original funding offer. **New elements cannot be introduced to projects after formal approval by the LAG.**

Payment of grant aid will also be subject to compliance with any Special Conditions contained in this Letter of Offer. Evidence of compliance with any Special Conditions must be provided as part of the grant claim documentation submitted.

If public or state funding is in any way obtained by the Promoter(s) for the same or similar purpose as defined in this Letter of Offer, without the express agreement of the Minister in charge of the LEADER Programme 2014-2020, then this Letter of Offer shall be immediately null and void. Also if after the Letter of Offer the applicant obtains public or state funding for the same or similar purposes as defined in this Letter of Offer then Letter of Offer will be null and void.

Where any dispute in relation to this offer arises, then the Special Conditions take precedence over the General Conditions contained in this offer.

The tax affairs of Contractors/Suppliers must be in order prior to the Promoter(s) making any payments. Should a Contractor/Supplier tax affairs not be in order at the time of payment it likely will deem the grant aid for that payment ineligible.

The Promoter(s) is required to submit a short written report on the activities, the outcomes and the outputs which occurred during the implementation of the project funded in advance of the final project claim.

## SPECIAL CONDITIONS SPECIFIC TO THE PROJECT FUNDED UNDER THIS LETTER OF OFFER

1. As the bank account from the investor is in the name of Thomas and his wife both should sign the letter of commitment.
2. The letter of commitment should be strengthened.

3. Acceptance of this offer of grant aid indicates that the bridging finance / loan, etc provided at application stage is still in place and valid.

4. Projects with a Publicity Element (e.g. Publicity Materials): The assistance of Waterford Local Community Development Committee, Waterford Leader Partnership CLG, Waterford City & County Council, Dept. of Rural and Community Development and the EU **must be acknowledged** on all marketing materials.

5. Feasibility Studies: Two copies of the completed publication must be provided to Waterford Leader Partnership CLG (WLP) – one printed and one electronic copy. The assistance of the LEADER Programme 2014-2020 **must be prominently acknowledged** in the publication.

6. All Training Projects: The following documents must be submitted before grant payment will be made
  - Trainer details
  - Course attendance sheets;
  - Contact details of trainees;
  - Age and gender profile of trainees;
  - Location of training
  - Training plan / Course outline / Copy of Training materials;
  - End of course report / Evaluation of training, including materials;
  - Outline of the participants' achievements (e.g. certification);
  - Photograph of Training Group

7. Asset Register for projects where equipment has been funded: An asset register must be maintained for all grant aided equipment including, where available, product serial numbers. This Asset Register must be kept available for inspection at all times.
8. All grant aid outlined in the Letter of Offer is subject to Waterford LCDC receiving

- payment for the project from the Department of Rural & Community Development
9. In all cases of grant aid under Diversification into non-agricultural activities the applicant must supply a copy of the EU Single Farm Payment form. In addition to this in the case of an application from a member of a farm family rather than the actual farmer, the applicant must submit written permission from the farmer owner to carry out the diversification activities. This permission must also include a statement that the applicant is exercising the agricultural activity on the farm at the time of the support application. Diversification into non-agricultural activities is to significantly increase the percentage of holdings where the fixed assets of the farm are utilized in any non-agricultural activity by a member of the farm household for economic gain.

## **GENERAL CONDITIONS FOR ALL PROJECTS FUNDED UNDER THE LEADER PROGRAMME 2014-2020**

### **1. Eligible Conditions**

With the exception of inter-territorial and trans-national activity Waterford LCDC will operate only in the geographic area covered by the map appended to the agreement with the Minister, i.e. the area of County Waterford. All projects funded by Waterford LCDC under the LEADER Programme 2014-2020 must be based in and/or take place within this area and must remain based in County Waterford.

### **2. Applicable Dates**

Project activity undertaken or commenced, or the purchase of goods or services engaged by a project applicant prior to the date of the signed Acceptance of the Letter of Offer, shall not be eligible for LEADER funding.

### **3. Equality of Opportunity**

Aid will not be given to a project or promoter which operates any policy of discrimination against persons on grounds of gender, sexual orientation, marital or parental status, religion, age, disability, race, colour, nationality and national or ethnic orientation, including membership of the travelling community, even if the discrimination is not complained of.

### **4. Disabled Access**

Where appropriate, all projects should provide access for disabled persons. Disabled access must be in compliance with the Dept. of Environment, Community and Local Government Building Regulation, 1997 and 2000, especially Building Regulations 2000 Technical Guidance Document M - Access for People with Disabilities.

### **5. Adequate Funds to Complete the Project (Evidence of Matching Funds and Bridging Finance)**

The Promoter(s) must provide written confirmation, with the signed Acceptance of the Letter of Offer, that the required Private Matching Funding for the Project given at application stage, e.g. savings, loan etc. and public matching funding, where appropriate, is still in place.

In addition, it is imperative that the Promoter(s) demonstrates that adequate resources or bridging finance facilities are in place to deliver the project. At a minimum, where phased payments have been agreed with the Promoter(s), evidence of 20% of the total project costs must be provided.

Promoters who cannot provide current satisfactory evidence of Private Matching Funding and Bridging Finance will render this offer null & void.

## 6. Tax Clearance

Before any grant payment is made, Promoters will have to provide evidence that their tax affairs are in order. Promoters must also provide evidence of tax compliance for all contractors/supplier carrying out work on the project. Tax Clearance Certificates must be current at the time of payment. Further information on Tax Clearance Certificates is available from <http://www.revenue.ie/en/online/tax-clearance.html>. Payment must not be made if evidence of tax compliance cannot be provided on completion of work or at payment stage.

A Tax Clearance Certificate must be provided by promoters and/or suppliers/contractors for payments that exceed €10,000 (including VAT) in a 12-month period prior to the current payment date (not including construction operations – see below).

It is particularly important to note that all relevant suppliers/contractors must have a valid tax clearance certificate on the date of your payment to them or else the payment will be deemed ineligible. This can be verified by:

a) Using the supplier's tax registration number & TCAN (tax clearance access number) to confirm that tax clearance has issued **on the date/s you make your payments to the supplier**. A printout from ROS should be attached to the invoice/s when submitting your claim. (This printout cannot be obtained retrospectively – it must be printed on the date of the payment.)

b) The supplier may provide you with a paper tax clearance certificate from Revenue for the relevant payment dates.

### Payments in relation to construction operations

Separate arrangements apply to payments for construction operations that exceed €650<sup>1</sup>. The Promoter(s) must obtain the following from contractors engaged on the funded works and include with the grant claim, including phased claims:

- name, address, tax reference number and tax district of each contractor; and
- the tax clearance number of each contractor; and
- the expiry date(s) of the tax clearance certificate(s).

<sup>1</sup> as defined in section 530 of the Taxes Consolidation Act, 1997 (as amended)

Alternatively, a copy of the contractors TCC – current at the time of payment by the Promoter to the contractor – will suffice.

The Promoter must comply with all relevant Tax Clearance requirements.

The website <http://www.finance.gov.ie/publications/guidelines/update-tax-clearance-procedures> provides an update on tax clearance procedures, with reference to Dept. of

Finance Circulars 43/2006 and 44/2006.

The website <http://www.revenue.ie/en/tax/rct/subcontractor.html> provides information on

Relevant Contracts Tax (RCT) for sub-contractors.

#### Non-resident suppliers/contractors

Non-resident suppliers/contractors must also provide an Irish Tax Clearance Certificate. Further guidance on Tax Clearance for non-residents is available on the Revenue website at

<http://www.revenue.ie/en/business/running/tax-clearance.html>.

Payments to non-resident suppliers or contractors who have not provided a valid Tax Clearance Certificate will be deemed ineligible.

Documents referred to above must be current at the time of payment, i.e. Promoters TCC – current at the time of payment of grant aid or phase of grant aid; Contractors/Suppliers TCC – current at the time of payment by promoter to contractor/supplier.

## **7. VAT**

The default position for all promoters will be that they are registered for VAT. VAT is not eligible for funding with the exception of non-recoverable VAT when it is genuinely and definitively borne by the beneficiaries. For VAT to be eligible under the LEADER Programme 2014-2020, Promoter(s) must provide recent written confirmation from the Revenue Commissioners that they are not registered for VAT. This must be provided at the time of application and before each payment is made. The decision to fund the VAT element of the project costs shall be the right of the LAG.

## **8. Procurement/Tendering Procedures**

Public Procurement Procedures must be adhered to throughout. Full Public Procurement is required prior to any change of use being considered by the LAG.

## **9. Legal Provisions; Consents, etc.**

All works shall be carried out in accordance with the provisions of relevant statutes, regulations and bye-laws, and the onus of obtaining all consents, permissions, and compliance's etc, including planning permission for use/change of use, consent to enter on or interfere with land, other property or right of any other person or person's rests with the Promoter(s).

The Promoter(s) shall obtain and ensure that all works are carried out in compliance with all necessary permissions required by the Local Government (Planning and Development) Acts 1963 to 1993 and any other Statutory Legislation or Regulation that may be appropriate or applicable. The Promoter(s) shall furnish satisfactory evidence of compliance with the said permission(s), together with compliance with the Building Control Act 1990 and the Buildings Regulations (where appropriate) together with evidence that the works have been carried out to the satisfaction of the Fire Officer. The Promoter(s) shall also, where appropriate, furnish a Fire Safety Certificate.

The LAG will require, where relevant, a report by an independent qualified Engineer or Architect certifying the following. **The promoter/s is liable for any and all certification costs. Each certification will cost €350 plus VAT. If certification is required at phase payment stage then each phase payment will cost €350 plus VAT.**

- The work is done and the value paid represents good value for money.
- The work done complies with planning permission and all current building regulations such as disabled access, etc.
- Fire safety regulations have been complied with.

## **10. Evidence of Title, Leasehold or Permission to use Property**

Acceptance of this offer indicates that the Evidence of Title, Leasehold or Permission to use Property provided with the application form is still valid.

## **11. Insurance**

Neither the Minister, any official of the Department, LAG nor its Partners will be in any way liable for any damage, loss or injury to persons, animals or property in the event of any occurrence relating to construction or other activities funded through the LEADER Programme 2014-2020 and the Promoter(s) shall fully indemnify the Minister and Department of Rural and Community Development, Waterford LCDC, Waterford City & County Council, Pobal and WLP CLG, in relation to any such damage, loss or injury howsoever occurring during the development works or other activities.

the promoter, as the LAG may determine, shall be reimbursed to the LAG or withheld Programme 2014-2020 then all or such portion of the grant aid paid or to be paid to other respect which would be in conflict with the terms or the spirit of the LEADER

- Any breach occurs of any of these conditions imposed by the LAG or occurs in any business, and/or
- Any material change occurs in the condition of the Promoter(s) or of its proposed aid under the LEADER Programme 2014-2020, and/or

misleading statement or withholds essential information for the purpose of obtaining The Promoter(s) or any person or body on his own or on its behalf makes a false or

right to revoke this offer of grant aid and deem this Letter of Offer null and void:

In the event that any of the following are found to have occurred, the LAG reserves the

## 12. Group Revocation of Grant Aid Offer

**Evidence of such insurance policies and endorsements must be furnished annually.**

deficiency shall be made good by the Promoter(s).

possible and, in the event of such compensation being insufficient for that purpose, such compensation will be used to restore the grant aided assets so damaged or lost as soon as arrangements and/or public liability insurance. If damage or loss arises, the entire insurance for both the project implementation process and the 5-year durability period, self- insurance All applicants are required to confirm their responsibility and duty to effect and keep in force, into effect, if applicable.

and/or facilities funded, as appropriate. Insurance against theft and fire should also be put insurance and insurance against material damage to all capital items, buildings, equipment The Promoter(s) is required to put in place employer's liability insurance, public liability

broker or insurance company.

development works and, if necessary, seek professional insurance advice from an insurance contractor in relation to any damage or injury or other loss that might occur during the The Promoter(s) must obtain a suitable written indemnity from any contractor or sub- public liability insurance, in the event of any injury, loss, damage or other mishap occurring. the contractor or sub-contractor has appropriate insurance cover in place e.g. employers and development and is prepared to guard against them. The Promoter(s) must also ensure that contractor or any other contractor or sub-contractor understands the risks involved in the Where construction is undertaken by a contractor, the Promoter(s) must ensure that the

from the Promoter(s) as the case may be.

Where a false declaration is made intentionally by a Promoter(s), the relevant project will be excluded from receiving LEADER support and any amounts paid must be repaid.

The Promoter(s) will be excluded from receiving any further LEADER support in the relevant the EAFRD year and for the following year.

The LAG reserves the right to exclude such a person/Promoter(s) from further participation in the LEADER Programme 2014-2020 for such a period as it shall determine.

### **13. Disclaimer**

The LAG and its Partners accepts no liability for conditions imposed on Promoters by the terms of the Letter of Offer with the DR&CD, or any additional conditions introduced by the DR&CD from time to time.

The Promoter(s) accepts that neither the LAG and its Partners, the Minister and the Department of Rural & Community Development nor the EU Commission have any responsibility for the viability of any project or for the stability or soundness of any structure or materials used, or the adequacy for its purpose of any buildings or any facility grant aided by the LAG in connection with the project.

Promoters cannot hold the DR&CD liable for any claim arising out of any fraudulent or reckless statements or negligent misrepresentations by the LAG.

The LAG and its Partners shall not be liable in any way to the Promoter(s) or any other party for any term, condition, provision, implication, warranty or representation made for and on behalf of them unless same is contained within these general conditions or in the Letter of Offer issued herewith.

### **14. Heritage Project Requirements**

Specific Heritage Project Requirements apply in the case of projects affecting heritage. These projects are defined as those that will impact, or have potential to impact, upon structures, places or sites of heritage interest. Compliance with the Heritage Project Requirements must be certified by the expert designated in the application (e.g. archaeologist, architect, ecologist) prior to every payment from the LAG.

Project promoters must have due regard for all environmental considerations upon receipt of

Following submission, by the Promoter(s), of a fully and properly documented claim form with

This claim process requires the collection and retention of a series of documents relating to the items and service purchased during the implementation of the project.

All Promoters are required to complete a claim process in order to drawdown the funding approved. This is required so that the LAG can verify the payments for the goods and services and also to allow for a clear audit trail to see clearly that the transactions are complete and that the items, equipment or services are in place.

- Upon completion of the project or the funded element/phase of the project.

Grant payments can only be made in the following circumstances:

#### **16. Payment of Aid**

The LAG will assess all projects for compliance with *de minimis* rules. Where the LAG satisfies itself that the proposed project does not (i) involve promoters carrying out an economic activity, or (ii) does not meet all four State aid checks outlined above, the *de minimis* requirements do not apply.

Should a Promoter or project be found to have under-declared the level of aid previously approved/received, then this Letter of Offer shall be immediately null and void.

To comply with State Aid rules, the level of funding provided to a project promoter must not exceed the €200,000 ceiling for State aid, known as the *de minimis* ceiling. The rules governing *de minimis* aid are set down in Commission Regulation (EC) 1407/2013.

#### **15. State Aid and De Minimis**

The LAG reserves the right to refuse grant aid where it is of the opinion that the works proposed would cause damage to an environmentally sensitive area or to a structure or area of historical or archaeological importance

LEADER funding. The project promoter must ensure that they have complied with all relevant statutory obligations and obtained all necessary approvals. The project promoter must comply with all standard and special conditions detailed herein. The Department of Rural and Community Development will examine a sample of LEADER projects each year to verify that statutory requirements are being met and that the Heritage Project Requirements are being adhered to. Project promoters are advised that it is a condition of LEADER Programme 2014-2020 funding that they comply and co-operate with all such inspections.

all relevant supporting documentation, including original receipted invoices and the relevant bank statements, duly signed and dated by the Promoter(s). All payments must have already been made by the Promoter(s) and all goods/services received and available on site for inspection.

The following **original** documentation is required as part of the claim process:

- The Promoter(s) will be provided with a **claim form** and the details of all invoices, cheques, payments, etc. are recorded on this. The claim form must be dated and signed by the Promoter(s).
- The Promoter(s) should request, receive and retain **original and related receipted invoices** from all contractors, consultants or suppliers which detail the nature of the goods, equipment or services purchased, the invoice number, the contact details and VAT number for the supplier, etc and should not refer to such supplies in general or unspecific terms such as 'goods provided' or 'services provided'. Invoices must include VAT and this should be treated separately on the invoice, at the appropriate rate. Pro-forma invoices, order forms or statements of account from suppliers/contractors are not sufficient documentary evidence for a claim.
- The Promoter(s) must provide copies of **all payment documents**. These may include certified copies of cashed cheques, bank drafts, screen copy/printout of EFT payments authorisations, etc. Promoters are advised to keep any original copies of EFT or credit card payments documents, etc. which relates to the payments. These may be required should the project be the subject of an audit.
- **Original Bank Statements** showing payments leaving the Promoters bank account;
- All payments must be made by the Promoter(s) directly from the Promoter's bank account

The following items **must also** be submitted and valid at claim stage:

- Tax Reference Number and Tax Clearance Access Number, for the Promoter, Promoter should ensure their tax affairs are in order
- Evidence that the suppliers, contractors or consultants were tax compliant on **the date of payment.**
- A completed Electric Funds Transfer (EFT) Form, nominating the bank account into which the Promoter(s) wishes the grant to be paid. The Grant Supplier Payment Form once completed will be forwarded to Watford City & County Council Accounts Payable Department for processing.
- A completed Asset Register for all of the items/equipment purchased, including serial numbers and specifications (if applicable);

Following the inclusion of a declaration in the Promoters application form, LAGs are permitted to make phased payments to Promoters where it can be shown that it was necessary for the efficient and effective completion of the project. The minimum amount of for a phased payment is €1,000.

### 17. Phased Payments

Under Regulation 885/2006, payment to Promoters may only be in the form of Electronic Funds Transfer (EFT). Payments are made only to bank accounts nominated by the Promoter(s), but cannot be the accounts of contractors, suppliers, etc. assessments.

The LAG reserves the right to appoint agents to independently verify and value any work for which grant aid is sought. The Promoter(s) will be liable for the costs of any such

### Please note - this list is not exhaustive

- Evidence of employers and public liability for the Promoter(s) and contractors and sub-contractors used by the promoter, and at final payment stage, evidence that the project is adequately insured by the Promoter;
- in respect of training, there is documentary evidence that the training course has been delivered, by whom it was delivered, the location and the rationale for material used, accompanied by signed and dated participant attendance records;
- for Heritage Projects, confirmation from the designated expert that the project is in compliance with the Heritage Project Rules;
- Valuation of land/property donated to the promoter, certified by suitably qualified person (e.g. engineer) (if applicable).
- Architects/Engineers certificate of compliance with relevant planning, building and fire regulations, and other statutory regulations.
- A copy of the signed and dated independent inspection report for capital investments, which verifies that the work has been satisfactorily completed and the works are in accordance with those approved in the grant offer.
- Inspection by the LAG as to the project's (or appropriate phase thereof) satisfactory completion.
- A short project implementation report; Template to be provided by the WLP Project Officer.
- Copies or photos or any materials, promotional materials produced, printed or published, etc. in the funded project;
- A completed, signed and dated Performance Indicator Form;

A claim for phased payment will not be processed by the LAG unless at least 20% of total eligible costs have been incurred by the promoter. No more than 5 phased payments may issue for any project. All relevant aspects of the project file must be completed before a phase payment is made e.g. tax clearance certificates, etc. In the of a case of a capital project where the total grant aid from the LAG is in excess of €100,000, the Promoter(s) must provide professional sign-off for **each phased payment**. If the project is not eventually completed all phased payments made must be repaid in full.

## 18. Irregularities, Exclusions and Deductions

### Calculation of Payment and Penalties

Article 63 of Commission Regulation (EC) No. 809/2014 applies in respect of irregularities, ineligible expenditure and deductions. This provides that payments will be calculated on the basis of amounts found to be eligible by the Administrative Checks. The body carrying out the Administrative Checks will examine payment claims received from the Promoter/beneficiary, and establish the eligible amounts.

The body performing the Administrative Check must establish:

- (a) the amount payable to the Promoter/beneficiary as per the payment claim and the funding approval; and
- (b) the amount payable to the Promoter/beneficiary upon examination of the eligibility of the expenditure in the payment claim.

If the amount established at (a) exceeds that established at (b) by more than 10%, an administrative penalty will be applied. The penalty will be the difference between the two amounts, but it will total no more than the amount of funding approved.

No penalty will be imposed on a Promoter where they can demonstrate they are not at fault for including the ineligible amount in the payment claim.

Penalties will also be applied to ineligible expenditure identified during *On-The-Spot Checks* carried out by the Department under Article 49 of Commission Regulation (EC) No. 809/2014. In these checks, the expenditure examined is the cumulative expenditure incurred by the relevant project or activity. Therefore, it is without prejudice to the results of the previous on-the-spot checks of the project(s) concerned and may involve a re-examination of material previously examined in the context of previous payments.

## 19. Application of Interest to Promoter Debts

Article 7 of Commission Regulation (EC) No. 809/2014 provides that the LAG must apply interest on overdue debts. Interest should be calculated for the period between the debt payment deadline indicated to the Promoter and the date of the repayment or the deduction. The prescribed deadline for payment of the debt must not exceed 60 days.

The interest applicable to debts is 3% per year. The commencement date for the calculation of interest is the date of notification of the debt to the Promoter.

## 20. Accountability for Grants from Exchequer Funds

Promoter must ensure adherence to Circular 13/2014 from the Department of Public Expenditure and Reform regarding Management of and Accountability for Grants from Exchequer Funds. A template will be provided which should be included in Annual Accounts, Financial Statements etc. This will be verified by the LAG during years in which you receive funding.

## 21. Audits and Controls

There is a rigorous control framework in place for EAFRD funding<sup>2</sup>. In accordance with this framework, the Department will conduct on-the-spot-controls on promoters and projects to check operational and administrative control procedures in place, and the systems in place to check aid applications and payment of funding to promoters;

The Paying Agency (DAFM), the European Commission, the European Court of Auditors and the Programme's Certifying Body may carry out on-the-spot inspections to verify that effective structures and controls are in place and that all activities are adequately documented. The Comptroller and Auditor General may also carry out visits to examine implementation generally.

## On-the-Spot-Controls

The Department will conduct on-the-spot-controls (i.e. checks) of the LAG and promoters in accordance with EU regulatory requirements<sup>3</sup>. These controls will be carried out on at least 5% of LEADER expenditure each year. They will focus on, but need not be limited to establishing that the LAG

- assesses and approves projects with due regard to its approved business and financial plans and in accordance with EU and national regulatory requirements and governance guidelines;
- allocates funds to projects with due regard to these plans and in accordance with EU

and national regulatory requirements;

## 26. Right of Appeal

- Should any LEADER Programme grant-aided assets be sold, leased or substantially changed within five years of the date of grant payment, the grant must be repaid in full (without the Departments prior written approval);
  - Should the Promoter(s) cease or relocate the activity outside of County Waterford within a period of five years of the date of the final grant payment, the grant must be repaid in full;
  - Should the Promoter(s)/beneficiary go into liquidation or receivership within a period of five years of the date of grant payment, the grant must be repaid in full;
- It is a condition of the offer of grant aid to a Promoter(s) that:

## 25. Durability of Investment and Repayment of Funding

Unless otherwise approved by the LAG, offers of grant aid, which have not commenced within two months from the date of issue of Letter of Offer will be deemed to be null and void. All projects must be fully complete and paid within twelve months of the offer date.

## 24. Expiry of Offer

<sup>2</sup> Commission Regulation (EC) No's 809/2014, 640/2014 and 907/2014  
<sup>3</sup> Regulation (EU) No 1306/2013; Regulation 809/2014 laying down the rules concerning on-the-spot controls.

Approval of aid will be withdrawn if the Promoter(s)/applicant fails to abide by the terms of the LEADER Programme 2014-2020, the conditions of the Letter of Offer, or if there is any material change in the circumstances of the project or Promoter(s) which would be in conflict with the terms or spirit of the LEADER Programme 2014-2020. In such event, all or such portion of aid given or to be given shall become repayable or withheld

## 23. Withdrawal of Aid

Inspections may be carried out at all reasonable times of the land, premises, plant, equipment or records relating to the project. The Promoter(s) shall grant access to the project funded at all reasonable times to the LAG and its Partners, Officials of the Dept. of Rural & Community Development and other relevant bodies.

## 22. Right of Entry

- authorises and records project payments
- reports to the Department as the delegated Paying Agency responsible for the Programme.

Promoters are advised that there is a right of appeal to all funding decisions.

### **Appeal to LAG Decisions**

All appeals by applicants and promoters to LAG decisions must be made to the LAG in the first instance. The LAG must notify the applicant or promoter, in writing, of the appeal decision within two months of the request. The applicant or promoter may appeal this decision, in writing, to the Department's Appeal Officer within 21 days of the LAG's decision. The applicant or promoter must use the template appeal request form (available on request). The Department will only directly consider the appeal to on the basis of:

- the processes and procedures followed by the LAG in reaching its original decision and carrying out the review; and
- the LAG's interpretation of the relevant national/EU regulatory requirements.

The Department Appeal Officer will notify the applicant or promoter of their decision within 21 days of receipt of the appeal. This decision will be final and will not be re-considered by the Department.

### **Decisions arising from On-the-spot-controls**

The LAG may seek a review (on the promoter's behalf), in writing, of any decision arising from on-the-spot-controls to the responsible District Inspector, in the first instance. The request must be submitted, together with all relevant documentation within one month of the original decision. The inspector must notify the LAG of their decision within 21 days of the request.

### **Appeal to the Department**

The LAG may appeal a District Inspector review decision to the Department's Appeal Officer(s) within 21 days of the review decision. The LAG will submit the appeal through the LEADER IT System. In making the appeal, the LAG must:

- state the grounds of appeal, referencing the relevant Operating Rule, Department Circular or EU Regulatory provisions or Circulars pertinent to their Appeal;
- identify the parts of the project file relevant to the Appeal, listing the relevant sections and page numbers;
- Provide scanned copies of additional documentation not included on the LEADER System, which supports the appeal (in some cases hard copies of these documents may be sought)

The Appeal Officer will notify the LAG of their decision within 21 days of the request. This decision will be final and will not be re-considered by the Department.

## **Decisions taken by the Department (LEADER Unit)**

### Review of LEADER unit decisions

The LEADER Unit may carry out reviews or checks as part of its Programme management role, which may identify ineligible activity and result in disallowances and penalties. The LAG may seek a review (on the promoter's behalf), in writing, of any decision by the Department arising from these checks. The LAG must request the review within 21 days of the original decision and submit any relevant supporting documentation (original and new) to support the request. The Department will notify the LAG of its decision within 21 days of the request.

### **Appeal of Review Decision**

The LAG may appeal the review decision to the Department's Appeal Officer(s) within 21 days of the review decision. The LAG must submit the appeal through the LEADER IT System. In making the appeal, the LAG must

- state the grounds of appeal, referencing the relevant Operating Rule, Department Circular or EU Regulatory provisions or Circulars pertinent to their Appeal;
- identify the parts of the project file relevant to the Appeal, listing the relevant sections and page numbers; and
- provide scanned copies of additional documentation not included on the LEADER System, which supports the appeal (in some cases hard copies of these documents may be sought).

The Appeal Officer will notify the LAG of their decision within 21 days of the request. This decision will be final and will not be re-considered by the Department. The LAG will then duly notify the Promoter of the outcome of the Appeal.

The statutory rights of the LAG or Promoter are not affected by the provisions of this section. It is in the Promoters best interest to provide any and all additional documentation as requested within the timeframe specified.

## 27. Information and Publicity requirements for LEADER Programme 2014-2020 Funded Projects

All Promoters must comply with the Programme's information and publicity requirements. Promoters must provide evidence (e.g. photographs) of compliance with the information and publicity requirements. **The following logos must be included on all posters, plaques:**

- "The European Agricultural Fund for Rural Development: Europe investing in rural areas" logo;
- The Union emblem and LEADER logo; and
- The Department's logo.
- Waterford LCDC logo
- Waterford Leader Partnership logo
- Waterford County Council logo

**Cost of the plaque €150 (inclusive of VAT) must be paid by the project promoter prior to first payment**  
Public support exceeding €10,000  
Where the LEADER funding exceeds €10,000, promoters must erect at least one plaque with information about the operation (minimum size A3), highlighting the LEADER funding received at a location readily visible to the public, such as the entrance area of a building.

**Cost of the plaque €150 (inclusive of VAT) must be paid by the project promoter prior to first payment.**  
Public support exceeding €50,000  
Where LEADER funding exceeds €50,000, the promoter must place an explanatory plaque at the project site with information about the project and highlighting the financial support from LEADER.

Plaques and web pages must carry a description of the funded project or operation, as well as the information set out in Annex III of Regulation 808/2014. This information must include:

- "The European Agricultural Fund for Rural Development: Europe investing in rural areas" logo;
- The Union emblem and LEADER logo; and
- The Department's logo.

That information must be bilingual and cover at least 25% of the plaque or webpage. The costs associated with these may be included as eligible project costs.

## **Publications**

Publications (such as booklets, leaflets and newsletters) and posters about measures and actions funded by LEADER must clearly indicate the Programme and EU's contribution.

The EU logo must be displayed together with an explanation of the EU's role as per the following statement – "The European Agricultural Fund for Rural Development: Europe investing in rural areas"<sup>4</sup>. The LEADER logo and the Department's logo must also be displayed<sup>5</sup>.

Publications must include references to the body responsible for the content and to the Department.

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<sup>4</sup> part 2 in Annex III of Commission Implementing Regulation (EU) No 808/2014  
<sup>5</sup> part 2 in Annex III of Commission Implementing Regulation (EU) No 808/2014

## **Electronic information**

The requirements for Publications (above) also apply to information provided through electronic means (websites, databases) and audio-visual material.

Websites concerning LEADER must

- mention the contribution of the EAFRD at least on the home page;
- include a hyperlink to the European Commission website concerning EAFRD [http://ec.europa.eu/agriculture/rural-development-2014-2020/index\\_en.htm](http://ec.europa.eu/agriculture/rural-development-2014-2020/index_en.htm);
- include a hyperlink to the Department (with the Department's logo)

## **Production of a report as a final outcome for the Project**

Reports funded through LEADER must also comply with the information and publicity requirements set out above. They must display all the required logos including the Union emblem and LEADER logo prominently together with an explanation of the European Community's role as follows:

*"The European Agricultural Fund for Rural Development:  
Europe investing in rural areas"*

## **28. Publication of Beneficiaries**

Details of CAP beneficiaries will be published on the Department of Agriculture, Food and Marine's website<sup>6</sup>. In this regard, the CAP beneficiaries project and promoter details will include the name of the project promoter, the town where the promoter resides or is registered (including postal code if available) and the total amount of public funding received

by the promoter for the relevant year.  
In addition, the details of the project and project promoter may also be published on the Department and the LAG's website.

Promoters are advised that their data will be made public and that it may be processed by auditing and investigating bodies of the EU and the Ireland for the purpose of safeguarding the EU's financial interests. Applicants and Promoters are further advised of their rights under data protection legislation and the procedures applicable for exercising those rules

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<sup>6</sup> Article 111 of Commission Regulation (EC) No. 1306/2013

## 29. Evaluation of LEADER Programme 2014-2020

As a condition of this Letter of Offer, Promoters are required to provide information on their LEADER Programme 2014-2020 funded project(s) for the purposes of evaluation of the programme.

## 30. Networking

Promoters are required, as a condition of their grant approval, to participate in networking when requested by the LAG, most commonly by facilitating visits to their projects by individuals and groups.

## 31. National Standards

All projects must confirm to the relevant national standards, e.g. all tourism accommodation projects funded must conform to Fáilte Ireland Standards.

## 32. Contributions in Kind (i.e. Donation of Land & Buildings / Voluntary Labour)

As per Article 69 of Regulation 1303/2013, Contribution in Kind may be acceptable as a source of private matching funding. It is only eligible for community led projects and farm diversification (farmer's labour only) projects. Donations cannot constitute the full amount of private matching funding. At least 5% of the total eligible costs must be in actual expenditure. The value assigned to the donations must be included with the application for grant aid.

### a. Donation of Land or Real Estate

Regarding lease agreements and the donation of land or real estate, the Promoter may make a nominal cash payment of no more than €1 per annum to effect such leases. The value of the 'donated lease' must be certified by an independent qualified expert prior to the approval of the project by the LAG. The appropriate portion of the value of the donated lease or property is used to calculate claim amounts for a phase payments e.g. where 50% of the invoiced costs have been incurred then 50% of the value of the donation may also be used in calculating the claim amount.

## 33. Purchase of Land

The purchase of land, with or without buildings, may be eligible if the cost of the land does not exceed 10% of the other eligible project expenditure. This limit may be increased to 15% for derelict sites, and those formerly in industrial use, with buildings.

### **34. Secondhand Equipment**

Where a Promoter has been approved funding under the LEADER Programme 2014- 2020 for the purchase of secondhand-equipment, evidence of the following must be submitted to the LAG:

- a written declaration from the seller confirming the equipment's origin and that the equipment was not purchased with national or EU funds in the previous seven-year period; and
- the price of the equipment does not exceed its market value and is less than the cost of similar new equipment; and
- the equipment meets the technical specification required for the project and meets applicable norms and standards.

### **35. Data Protection**

The LAG and its Partners will process all data supplied by Promoters in accordance with the Data Protection Act of 1988 and 2003. The Promoter(s) consents to the LAG maintaining a computer record regarding his/her application and must sign the relevant form of consent as evidence of this.

The LAG, as the funder, reserves the right to learn from and/or disseminate to relevant third parties the results of reports, surveys, findings, business plans, statistical information and all media production gathered or created as a result of funding a project. The onus, therefore, is on the Promoter(s) to notify the LAG of any confidential aspects and to present and agree any confidentiality agreements which will need to be signed in advance of acceptance of the Letter of Offer.

### **36. Freedom of Information Act (FOI)**

The Freedom of Information (FOI) Acts, 1997 & 2003 and 2014, provide that, with effect from 21 April 1998, every person is entitled to:

- access official records held by Government Departments or other public bodies listed in the Act;
- have personal information held on them corrected or updated, where such information is incomplete, incorrect or misleading; and
- obtain reasons for decisions that directly affect them.

The full requirements and obligations of the Act, as well as guidance and template letters, can be accessed at [www.foi.gov.ie](http://www.foi.gov.ie).

### **37. Health and Safety**

Promoters are advised of the need to acquaint themselves with the provisions of the Safety, Health and Welfare at Work Act 2005, Safety, Health and Welfare at Work

Construction Regulation 2006 and other relevant regulations. A general guide to the 2005 Act is available on the Health and Safety Authority website at

[http://www.hsa.ie/eng/Topics/Managing\\_Health\\_and\\_Safety/](http://www.hsa.ie/eng/Topics/Managing_Health_and_Safety/).

### **38. Evidence of Payment**

All project expenditure must be paid for directly from the applicant's bank account. Receipts must be signed, dated and refer to the invoice to which the payment relates. The Promoter(s) must have paid for the goods/services in advance of its receipt and subsequent claim.

### **39. Grant Aided Assets**

The Promoter(s) undertakes to maintain the project and the grant-aided assets as a facility for which the grant aid was approved for a period of five years from the date of the final payment of grant aid. In the event of there being a material change of ownership of the project or the grant aided assets or failure to maintain the project or the grant aided assets as a facility for which the grant aid was granted during the said five year period, then the LAG is entitled to the repayment of the full grant aid awarded.

#### Asset Register

The promoter must put safeguards in place to ensure that equipment and furniture items funded under the LEADER Programme 2014-2020 are not misappropriated. An Asset Register must be maintained by the Promoter(s) in respect of LEADER Programme 2014-2020 funded assets; a place of storage, where assets are available for inspection, should be designated and the LAG informed, in writing, of the location.

### **40. Performance Indicators (Outputs & Outcomes) and Monitoring of Projects**

The monitoring data (e.g. subthemes, local objectives and performance indicators) contained within the Local Development Strategy for County Waterford sets out the headings under which projects funded in this area will be monitored.

Promoters must provide a report upon completion of their project, detailing the project outcomes, outputs and impacts (required at final claim stage). This report must include a qualitative element, whereby progress, achievements and the learning associated will be

described briefly. The LAG will quality check the data i.e. that the data is accurate, consistent and realistic, prior to processing the final claim for the project.

The reporting timeframes (on outputs) will depend on the project type. In most cases, reporting will take place at the final payment stage. Information related to some outputs may not be available immediately upon completion of the project (e.g. a capital project to open a new service, where funding will have been spent and reported before the facility has opened). Promoters must provide information on these outputs from these projects no later than 12 months from the date of final payment.

#### **41. Job Creation Tracker**

An annual Job Creation Tracker letter will issue to Promoters each year. The letter shall request the Promoter(s) to confirm that they are still operating as funded and provide PPS numbers for all employees. In addition, the letter shall also request that the Promoter(s) update their previously submitted Performance Indicators. Financial Statements, as per the Project Special Conditions, must be furnished following receipt of the full grant amount.

#### **42. Administration, Hospitality & Entertainment Costs**

The administration, entertainment or hospitality costs of Promoters are not eligible for funding.

#### **43. Artificial Splitting of Projects (Fragmentation)**

The deliberate artificial splitting of projects that exceed the thresholds allowed is strictly not permitted. For a project to be considered eligible as a phased project, it must be stand-alone and operable in its own right.

In addition to the above, it is required that all projects are compliant with Council Regulation (EC, Euratom) No. 2988/95 on the protection of the European Communities financial interests. Particular attention should be given to Article 4.3 which states: ***"Acts which are established to have as their purpose the obtaining of an advantage contrary to the objectives of the Community law applicable in the case by artificially creating the conditions required for obtaining that advantage shall result, as the case shall be, either in failure to obtain the advantage or in its withdrawal."***

#### **44. Confidentiality**

The onus is on the Promoter(s)/beneficiary to notify the LAG and its Partners of any confidential aspects relating to the project and to present and agree any confidentiality agreements in advance of issue of Letter of Offer (grant offer).

The LAG and its Partners reserves the right to use any information or materials supplied to it by the Promoter(s), always providing that disclosure of such information in no way contravenes the letter or spirit of this Letter of Offer with respect to confidentiality.

The Promoter(s) shall not during the term of this Letter of Offer or at any time thereafter make use for its own purposes or disclose to any person (except as may be required by law) any information contained in any material provided to the Promoter(s) by the LAG and its Partners and/or Dept. of Rural & Community Development pursuant to this Letter of Offer where such information has been indicated to be confidential or might reasonably be deemed to be so.

The LAG and its Partners shall not during the term of this Letter of Offer or anytime thereafter, make use for its own purposes or disclose to any person (except as may be required by law) any information contained in any material provided to it by the Promoter(s) pursuant to this Letter of Offer where such information has been indicated to be confidential or might reasonably be deemed to be so.

The parties hereto agree to respect the confidentiality of information concerning the employees of either party which may, from time to time, become available to them and to abide by the provisions of the Data Protection Act 1988 and 2003 and the Freedom of Information Act, 1997 and 2003.

#### **45. Whole Agreement**

These conditions embody the entire agreement and understanding between the LAG and the Promoter.

This Letter of Offer constitutes the entire understanding between parties and supersedes all previous agreements, negotiations and discussions between the parties regarding the funds. This Letter of Offer shall in all respects be governed and construed in accordance with the laws of Ireland and the EU and shall be subject to the jurisdiction of the Irish and European court

**ACCEPTANCE OF LETTER OF OFFER**

**Project Ref. No: 31LDRWAT113885**

**Project Title:** Installation of maturation storage, bottling and blending equipment in existing unit

I accept the offer of Grant Assistance and I agree to be bound to the general and special conditions referred to therein and I acknowledge that I have read and I understand these conditions prior to the signing of this acceptance of the Letter of Offer. I further acknowledge my/our responsibilities towards the LAG in complying with their conditions before any grant payment can be made.

I also declare, as/on behalf of the project promoter, that work has not commenced on my/our project to date.

**Signed:**

**Project Promoter**

**Name:**

O'Connell Whiskey Merchants

**(Applicant/Business/Group)**

**Address:**

Union Road, Kilmacthomas

**Date:**

12/4/2021

**Signature Witnessed by:**



**Dated:**

12/4/2021