



City of
BRADFORD
METROPOLITAN DISTRICT COUNCIL



**BRADFORD
BID**

Dated.....*31st January*..... 2019

BID LEVY OPERATING AGREEMENT

City of Bradford Metropolitan District Council

and

Bradford Business Improvement District Ltd

Agreement

THIS DEED is made on the 31st January.....2019

BETWEEN

- (1) **City of Bradford Metropolitan District Council**, City Hall, Bradford, BD1 1HY ("the Council")

- (2) **Bradford Business Improvement District Ltd** (Company No: 11642698) whose registered office is Bradford BID, Assembly Bradford, 20 North Parade, Bradford, West Yorkshire BD1 3HT ("the BID Company")

Recitals

- A The Council is the billing authority for the purposes of the Local Government Act 2003 and is responsible for collecting the BID Levy and administering the BID Revenue Account which shall be used towards the operation of the BID within the area of the Council and the funding of the BID Arrangements.
- B The BID Company is responsible for the operation of the BID and for using the BID Levy for the purposes of achieving the objectives and aspirations set out in the BID Arrangements.
- C The BID Company has recruited two members of staff, a Bid Manager and a BID support Officer.
- D The Council has undertaken to support the BID Company's operating costs by making a financial contribution to the value of employer pension contributions for the roles of the Bid Manager and the BID Support Officer.
- E Both parties wish to confirm the arrangements by which the BID Levy shall be collected together with general arrangements as to the relationship to be established between the Council and the BID Company for the duration of the BID.
- F The purpose of this Agreement is to:
 - Establish the procedure for **setting** the BID Levy;
 - Confirm the basis upon which the Council or its agents will be responsible for **collecting** the BID Levy;
 - Set out the **enforcement** mechanisms available for collection of the BID Levy;
 - Set out the procedures for **accounting and transference** of the BID Levy;
 - Provide for the **monitoring and review** of the collection of the BID Levy;
 - Confirm the manner in which the Council's **expenses** incurred in collecting the BID Levy shall be paid;

- Set out the support the Council will provide to the BID Company in relation to its employee obligations and costs; and
- Set out the **invoicing** procedure for the employment support provided by the Council

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1. Definitions

Alteration Proposal means the same as the BID Proposal save that 'plan' shall be replaced with 'altered plan';

Annual Costs means the Annual Cost defined in Appendix C to this Agreement;

Annual Report means a report to be prepared by the Council or its agent which details the following:

- (a) The total amount of BID Levy collected during the relevant Financial Year;
- (b) Details of the success rate for the collection of the BID Levy;
- (c) The Council's proposals (if any) to help improve its efficiency in the collection and enforcement of the BID Levy;
- (d) Details of those BID Levy Payers who have paid the BID Levy and those who have not paid the BID Levy; and
- (e) The Council's proposals for Bad or Doubtful Debts;

Bad or Doubtful Debts shall have the same meaning as further described in Part 2 of Schedule 3 of the Regulations;

BID means the Business Improvement District which is proposed to be managed and operated by the BID Company and is covered by the BID Area;

BID Area means that area within which the BID operates as defined within the BID Proposal;

BID Arrangements means those arrangements to be put in place pursuant to the Regulations for the operation of the BID;

BID Company Report means a report for each Financial Year to be prepared by the BID Company which details the following:

- (a) The total income and expenditure of the BID Levy;
- (b) Other income and expenditure of the BID Company not being the BID Levy;
- (c) A statement of actual and pending deficits; and
- (d) The various initiatives and schemes upon which the BID Levy has been expended by the BID Company;

BID Levy means the charge to be levied and collected within the BID Area pursuant to the Regulations and Appendix A to this Agreement;

BID Levy Payer(s) means the National Non-Domestic Rate Payers responsible for paying the BID Levy;

BID Levy Rules means the rules set out in Appendix A which sets out how the BID Levy will be calculated, details of Exempt or Discounted Properties and other requirements related to the BID Levy (as may be amended by a successful alteration ballot);

BID Proposal means the business plan voted for by the BID Levy Payers which sets out the objectives and projects of the BID;

BID Revenue Account means the account which the Council will set up in accordance with Regulation 14 in order to hold BID Levy payments before payment to the BID Company in accordance with regulations and accounting codes of practice including Schedule 3 of the Regulations;

BID Term means the period of five years from the Commencement Date;

Chargeable Period means each Financial Year during the BID Term;

Commencement Date means 1st December 2018;

Commercially Sensitive Data: means information of a commercially sensitive nature relating to a party, its intellectual property rights or its business or which that party has indicated to the other the party that, if disclosed by the other party would cause the party significant commercial disadvantage or material financial loss;

Contributors means the BID Levy Payers or other contributors making voluntary contributions to the BID;

Controller, Processor, Data Subject, Personal Data, Personal Data Breach, Data Protection Officer have the meanings given in the GDPR;

Data Loss Event means any event that results, or may result, in unauthorised access to Personal Data held by the BID Company under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach;

Data Protection Legislation means any Applicable Law relating to the processing, privacy, and use of Personal Data, as applicable to the Council and the BID Company, including but not limited to:

(a) in the United Kingdom:

(i) the Data Protection Act 2018 and the Privacy and Electronic Communications (EC Directive) Regulations 2003, SI 2003/2426, and any laws or regulations implementing Directive 95/46/EC (Data Protection Directive) or Directive 2002/58/EC (ePrivacy Directive), the Law Enforcement Directive (Directive (EU) 2016/680 (LED)); and/or

(ii) the General Data Protection Regulation (EU) 2016/679 (GDPR), and/or any corresponding or equivalent national laws or regulations (Revised UK DP Law); and

(b) any judicial or administrative interpretation of any of the above, any guidance guidelines, codes of practice, approved codes of conduct or approved certification mechanisms issued by any relevant Supervisory Authority;

Demand Notice shall have the same meaning ascribed to it as further set out in paragraph 3 of Schedule 4 of the Regulations;

EIR means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations;

Exempt or Discounted Properties means those classes of properties as identified in the BID Levy Rules which shall be exempt either from any requirement to pay the BID Levy or are permitted a discount on the BID Levy;

FOIA means the Freedom of Information Act 2000, and any subordinate legislation made under the Act from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation;

Financial Year means the financial year for the Council which runs from 1st April to 31st March in the following year;

Information has the meaning given under section 84 of FOIA;

Initial employees means the BID Manager and Bid Support Officer appointed as a result of a recruitment exercise by the BID Company in December 2018;

Managed Shopping Centre means a centre within which the businesses located pay additional fees for services provided by their landlord. The Managed Shopping Centres in the BID Area will be identified on the Demand Notice;

Monitoring Group means the group to be set up to monitor the collection and enforcement of the BID Levy and consisting of 1 representative from the Council and 1 representative from the BID Company;

National Non-Domestic Rate, National Non-Domestic Rate Payers and Local Non-Domestic Rating List have the meanings given in the Local Government Finance Act 1988;

NNDR means National Non-Domestic Rates

Public Meeting means a public meeting held pursuant to regulation 18(1)(a)(ii) of the Regulations;

Regulations means The Business Improvement Districts (England) Regulations 2004 and such amendments to those regulations which may be made by the Secretary of State pursuant to Section 48 of the Local Government Act 2003 (from time to time) and terms defined in the Regulations shall have the same meaning when used in this Agreement;

Reminder Notice means the notice to be served pursuant to Clause 9.1 for the total amount outstanding;

Renewal Proposal means the same as the BID Proposal save that 'plan' shall be replaced with 'renewed plan';

Request for Information means a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the EIR;

Salary Cost(s) means the full salary costs of the Initial Employees based on salary levels agreed by the BID Company and will include employer national insurance contributions but will not include employer pension contributions;

Shared Personal Data means the Personal Data to be shared between the parties under this Contract;

Single Instalment Due Date means the date the BID Levy will be payable, in one lump sum, 14 days after the date of issue of the Demand Notice;

VAT means value added tax in accordance with the provisions of the Value Added Tax Act 1994; and

Working Day means any day of the week other than a Saturday, a Sunday or a bank holiday.

2 Statutory Authorities

2.1 This Agreement is made pursuant to Part IV of the Local Government Act 2003 and Section 111 of the Local Government Act 1972 and all other enabling powers.

3 Commencement and Determination

3.1 This Agreement shall not take effect until the Commencement Date and in any event shall determine and cease to be of any further effect in the event that:

- (i) The BID Company fails to secure approval of the Renewal Proposals or Alteration Proposals in a ballot, renewal ballot, alteration ballot or rebalot;
- (ii) The Secretary of State declares void a BID ballot, renewal ballot, alteration ballot or rebalot;
- (iii) The Council exercises its veto and there is no successful appeal against that veto;
- (iv) The BID Term expires save where the BID Company secures approval of Renewal Proposals in a renewal ballot or Alteration Proposals in an alteration ballot or proposals in a rebalot in which event this Agreement shall continue, subject to a review of the terms of this Agreement by the parties to ensure that the terms of this Agreement accord with the Renewal Proposal or the Alteration Proposal or other proposals as appropriate, until the expiry of the BID Term set out in the Renewal Proposals, Alteration Proposals or the proposals set out in the rebalot AND PROVIDED THAT, in relation to Renewal Proposals and Alteration Proposals the Council consents to such continuation; or
- (v) The Council exercises its discretion to terminate the BID Arrangements in exercise of powers under regulation 18 of the Regulations.

4 The BID Levy and the Council's Other Responsibilities

4.1 The Council is responsible for:

- (i) Calculating the BID Levy due from each BID Levy Payer in accordance with the BID Levy Rules; and
- (ii) Confirming in writing to the BID Company the BID Levy payable by each BID Levy Payer.

4.2 The Council is also responsible for

- (i) Providing a payroll service to the BID Company for the Initial Employees only. The Council shall process the Salary Costs and employer pension contributions of the Initial Employees via its own payroll service for such time as they work for the BID Company and shall recoup the Salary Costs from the BID Company in accordance with clause 10 of this Agreement; and
- (ii) Providing a financial contribution to cover the employer pension contribution costs of the Initial Employees or any staff of the BID Company who may be recruited to replace the Initial Employees. For such time as the Initial Employees work for the BID Company this shall be done directly via the Council's payroll service. For any staff recruited to replace the Initial Employees once they have left their employ, the Council will make a financial contribution to the BID Company equivalent to the employer pension contribution costs only.

4.3 For the avoidance of doubt, the Council will:

- (i) Not provide a payroll service for any additional or replacement employees to the Initial Employees that may be recruited by the BID Company;
- (ii) Not provide a financial contribution to the employer pension contributions of any of the BID company's staff other than the Initial Employees or their replacements.

5 The BID Revenue Account

5.1 The Council shall create a collection system and keep a BID Revenue Account in accordance with the Regulations and accounting codes of practice in force at the time and provide written confirmation to the BID Company.

5.2 As soon as reasonably practicable following the Commencement Date the BID Company shall provide the Council with details of its bank account into which the BID Levy shall be transferred from the BID Revenue Account and any other details which the Council may reasonably require.

5.3 The Council shall, on the 31st December, 31st of January and 28th February in each year of the BID Term, issue a statement to the BID Company of the BID Levy sums collected by it in that month. Thereafter it shall issue such a statement on a quarterly basis on the 31st May, 31st August and 30th November in each year of the BID term, provided always that if an amount of £5,000.00 (five thousand pounds) or greater is collected before the end of any given quarter, it shall issue an extra statement to the BID Company to that effect.

5.4 Upon receipt of a statement from the Council under clause 5.3 the BID company shall within 5 working days issue a VAT invoice to the Council for the amount set out in the statement.

5.5 The Council will pay the BID company invoice within 12 working days.

5.6 In managing the BID Revenue Account the Council will at all times comply with the service levels set out in the service specification at Appendix B to this Agreement.

6 Collecting the BID Levy

- 6.1 As soon as reasonably practicable the Council shall confirm in writing to the BID Company the anticipated date of the despatch of Demand Notices for the initial Chargeable Period and the anticipated Single Instalment Due Date.
- 6.2 The Council shall serve a Demand Notice on each BID Levy Payer and thereafter shall continue to calculate the BID Levy and serve such Demand Notices as are relevant on BID Levy Payers throughout the BID Term.
- 6.3 The Council shall maintain a list of those BID Levy Payers who have paid the BID Levy and those BID Levy Payers who have not paid the BID Levy and shall make the list available to the BID Company upon its reasonable request.
- 6.4 The Council shall serve a Demand Notice or, as necessary, an amended Demand Notice on a BID Levy Payer as soon as reasonably practicable after the Council receives notice of a change that affects liability for the BID Levy.
- 6.5 The Council shall use all reasonable endeavours to collect the BID Levy throughout the BID Term.
- 6.6 The Council is not liable to pay the BID Company any sums not collected and/or which are written off.
- 6.7 Any sums which remain outstanding following a Demand Notice will be managed in consultation between the Council and the BID Company, with the BID Company having the ultimate authority to determine any enforcement or other action to be taken by the Council on its behalf. The BID Company will at its sole discretion have the ability to determine whether a debt is to be written off.
- 6.8 In collecting the BID Levy the Council will at all times comply with the service levels set out in the service specification at Appendix B to this Agreement.

7 Procedures available to the Council for enforcing payment of the BID Levy

- 7.1 Subject to clause 6.7 above, the procedures for the enforcement and recovery of the BID Levy will be in line with the Council's enforcement procedure for NNDR, which may be provided on request to the BID Company, and the Regulations, subject to agreed exceptions, and the Council shall comply with these enforcement procedures (where appropriate) in enforcing payment of the BID Levy against BID Levy Payers.

8 Enforcement Mechanisms in the event that the Council fails to enforce collection of the BID Levy

- 8.1 In the event that the Council fails to enforce payment of the BID Levy pursuant to Clause 7 the BID Company shall be entitled to:
 - (i) Require the Council to provide written confirmation of the action it is taking in relation to the sum which remains unpaid;

- (ii) Question whether the Council has failed to use the enforcement mechanisms available to it under this Agreement to recover the sum which remains unpaid; and
- (iii) Provide written notice requesting that a meeting of the Monitoring Group take place in order to achieve a solution and/or agree a strategy to recover the sum which remains unpaid, such meeting to take place no later than 28 (twenty-eight) days from the date of the request.

9 Accounting Procedures and Monitoring

- 9.1 Subject to the correct IT systems/ software being set up and available/ready to use, the Council shall from the Commencement Date and for the duration of the BID Term provide the BID Company with a monthly report setting out the Monitoring Information detailed at Appendix B to this Agreement
- 9.2 Within one month of the start of each Financial Year the parties shall agree the dates when there will be meetings of the Monitoring Group and there will be at least two such meetings in each Financial Year throughout the duration of the BID Term and on all other occasions further meetings of the Monitoring Group shall be arranged by the service of written notice by either party, such notice to be served no less than twenty eight (28) days prior to the date of the proposed meeting (or such lesser period as may be agreed by the parties or may be necessary in the case of an emergency).
- 9.3 At each meeting the Monitoring Group shall:
- (i) Review the effectiveness of the collection and enforcement of the BID Levy; and
 - (ii) If required by either party review and assess information provided by the parties.
- 9.4 Within 1 (one) month from the date of receipt of the Annual Report in each Financial Year (for the duration of the BID Term) the BID Company shall provide a BID Company Report to the Council.
- 9.5 The BID Revenue Account will be subject to the normal internal and external audit arrangements of the Council and the Council will make available to the BID Company and its appointed auditors such information as requested by the BID Company and its appointed auditors that they are able to request under legislation and the Regulations.

10 Annual Cost and Salary Cost Payments

Annual Cost

- 10.1 The Parties have agreed the Annual Cost incurred by the Council in the collection of the BID Levy as set out at the Annual Revenue Costs Breakdown in Appendix C to this Agreement which shall remain fixed for the BID Term

10.2 The Council, shall issue a VAT invoice to the BID Company annually in March for the Annual Cost, which will be paid partially in arrears and partially in advance.

10.3 The BID Company shall pay the invoice within 30 days of receipt.

Salary Cost

10.4 The Council will invoice the BID Company on a quarterly basis in arrears for the Salary Costs. All invoices will be inclusive of VAT.

10.5 The BID Company shall pay all invoices within 30 days of receipt

11 Termination

11.1 Where the Council is contemplating terminating the BID Arrangements under regulation 18(1)(a) of the Regulations it shall serve written notice on the BID Company and in addition to its obligations to hold a Public Meeting, shall meet with the BID Company as soon as is reasonably practicable to discuss and review the following:

- (i) The basis of the Council's concerns that the BID Company has insufficient funds to meet its liabilities for that period;
- (ii) The level of insufficient funds;
- (iii) Alternative means by which the insufficiency of the funds can be remedied in accordance with regulation 18(1) (a) (i) of the Regulations; and
- (iv) An appropriate period to resolve the issue.

11.2 Where the Council is contemplating terminating the BID Arrangements under regulation 18(1)(b) of the Regulations it shall, in addition to the consultation requirements contained in the aforesaid regulation 18(1)(b), serve written notice on the BID Company and shall meet with the BID Company as soon as is reasonable practicable to discuss and review the following:

- (i) The service it is no longer able to provide and the reasons why the service cannot be provided;
- (ii) The options available to the BID Company including alternative means of providing the services;
- (iii) Alternative services; and
- (iv) The period in which the issue is to be resolved.

11.3 In the event that the parties cannot reach agreement in relation to the issues detailed in clauses 11.1 or 11.2 above, the Council shall cause a Public Meeting to be held and subject to consideration of representations made by any BID Levy Payer at the Public Meeting the Council shall be permitted to terminate the BID Arrangements provided that notice by the Council to terminate the BID shall be provided to the BID Company no less than twenty eight (28) days prior to termination taking place.

- 11.4 Upon termination of the BID Arrangements the Council shall review whether there is a credit in the BID Revenue Account and in the event that there are sufficient funds in the BID Revenue Account amounting to a refund of at least £10 for each BID Levy Payer (having already deducted a reasonable sum for the administration of such refund) to:
- 11.4.1 calculate the amount to be refunded to each BID Levy Payer;
 - 11.4.2 ensure that the amount to be refunded is calculated by reference to the amount payable by each BID Levy Payer for the last Chargeable Period; and
 - 11.4.3 make arrangements for the amount calculated to be credited against any outstanding liabilities of each BID Levy Payer or, where there are no such liabilities, refunded to the BID Levy Payer.
- 11.5 Upon termination of the BID the Council shall notify the BID Levy Payers of such termination in accordance with regulation 18(6) of the Regulations together with confirmation as to whether any part of the BID Levy is to be repaid to BID Levy Payers in accordance with clause 11.4 above.
- 11.6 The BID Company shall not be permitted to terminate the BID Arrangements where:
- 11.6.1 The works or services under the BID Arrangements are no longer required; or
 - 11.6.1 The BID Company is unable, due to any cause beyond its control, to provide works and services which are necessary for the BID to continue,
- unless and until it has undertaken consultation with the Council and relevant representatives of the BID Area following which consultation it shall serve a termination notice on the Council which shall be accepted by the Council in writing.
- 11.7 Upon termination of the BID Arrangements the BID Company shall notify the Council of such termination in accordance with regulation 18(6) of the Regulations together with confirmation as to whether any part of the BID Levy is to be repaid to BID Levy Payers in accordance with clause 11.4 above.

12 Freedom of Information

- 12.1 The BID Company acknowledges that the Council is subject to the requirements of the FOIA and the EIRs and the BID Company shall:
- (a) provide all necessary assistance and cooperation as reasonably requested by the Council to enable the Council to comply with its obligations under the FOIA and EIRs;
 - (b) transfer to the Council all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within 2 Working Days of receipt;
 - (c) provide the Council with a copy of all Information belonging to the Council requested in the Request for Information which is in its possession or control in the form that the

Council requires within 5 Working Days (or such other period as the Council may reasonably specify) of the Council's request for such Information; and

(d) not respond directly to a Request for Information unless authorised in writing to do so by the Council.

12.2 The BID Company acknowledges that the Council may be required under the FOIA and EIRs to disclose Information (including Commercially Sensitive Data) without consulting or obtaining consent from the BID Company. The Council shall take reasonable steps to notify the BID Company of a Request For Information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Agreement) the Council shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Data and/or any other information is exempt from disclosure in accordance with the FOIA and/or the EIRs.

13 Data Protection

13.1 It is agreed and acknowledged by the parties that they each act as Controller for Personal Data relevant to this Agreement.

13.2 The Council is the Data Controller for the Personal Data that it holds and shares with the BID Company under this Agreement as described in Appendix D ("the Council's Personal Data"). Where the BID Company Processes the Council's Personal Data in performance of this Agreement, the BID Company carries out such Processing as a Data Processor.

13.3 The BID Company is the Data Controller for the Personal Data that it holds and shares with the BID Company under this Agreement as described in Appendix E ("the BID Company's Personal Data"). Where the Council Processes the BID Company's Personal Data in performance of this Agreement, the Council carries out such Processing as a Data Processor.

13.4 As Controllers in common the Council and the BID Company agree to share and Process the Personal Data on the terms set out in this clause 13 and the appendices to this Agreement and the parties will comply with all the requirements of the Data Protection Legislation throughout the duration of this Agreement.

13.5 The parties agree that the sharing of Personal Data is necessary for the purposes of this Agreement as defined in Appendices D and E ("the Agreed Purpose") and they shall not Process Shared Personal Data other than for the Agreed Purpose.

13.6 Each party will Process all Personal Data as set out in Appendices D and E.

13.7 Each party will implement appropriate technical and organisational measures to

(a) prevent:

(i) unauthorised or unlawful Processing of the Shared Personal Data; and

(ii) the accidental loss or destruction of, or damage to, the Shared Personal Data; and

(b) ensure a level of security appropriate to:

(i) the harm that might result from such unauthorised or unlawful Processing or accidental loss, destruction or damage; and

(ii) the nature of the Shared Personal Data to be protected

in such a manner that all Processing will meet the requirements of the Data Protection Legislation and ensure the protection of the rights of Data Subjects .

13.8 Each party shall ensure that it has legitimate grounds under the Data Protection Legislation for the Processing of Shared Personal Data.

13.9 Each PARTY in sharing Personal Data with the other, shall ensure that it provides clear and sufficient information to the Data Subjects, in accordance with the Data Protection Legislation, of the purposes for which it will Process their Personal Data, the legal basis for such purposes and such other information as is required by Article 13 of the GDPR including, if Shared Personal Data will be transferred to a third party, that fact and sufficient information about such transfer and the purpose of such transfer to enable the Data Subject to understand the purpose and risks of such transfer.

13.10 Each party in receiving Personal Data from the other, undertakes to inform the Data Subjects, in accordance with the Data Protection Legislation, of the purposes for which it will Process their Personal Data, the legal basis for such purposes and such other information as is required by Article 14 of the GDPR including, if Shared Personal Data will be transferred to a third party, that fact and sufficient information about such transfer and the purpose of such transfer to enable the Data Subject to understand the purpose and risks of such transfer.

13.11 The parties each agree to provide such assistance as is reasonably required to enable the other party to comply with requests from Data Subjects to exercise their rights under the Data Protection Legislation within the time limits imposed by the Data Protection Legislation.

13.12 Each party is responsible for maintaining a record of individual requests for information from Data Subjects, the decisions made and any information that was exchanged. Records must include copies of the request for information, details of the Data accessed and shared and where relevant, notes of any meeting, correspondence or phone calls relating to the request.

13.13 Subject to any statutory or stated retention periods, the parties shall not retain or Process Shared Personal Data for longer than is necessary to carry out the Agreed Purpose.

13.14 Any Personal Data that has been shared with a party shall, at the direction of the other, disclosing, party be returned or destroyed in the following circumstances:

(a) on termination of the Agreement;

(b) on expiry of the BID Term;

(c) once Processing of the Shared Personal Data is no longer necessary for the Agreed Purpose for which it was originally shared;

unless required by law to continue to store such Personal Data

13.15 If a party appoints a third party Processor to Process the Shared Personal Data it shall comply with Article 28 and Article 30 of the GDPR and shall remain liable to the other party for any breach, non-performance or non-observance of this clause 13 by such other Processor in the same way and to the same extent as if such breach, non-performance or non-observance had been committed by the appointing party.

13.16 A party may not transfer Shared Personal Data to a third party located outside the EEA unless it;

(a) complies with the provisions of Articles 26 of the GDPR (in the event the third party is a joint Controller); and

(b) ensures that

(i) the transfer is to a country approved by the European Commission as providing adequate protection pursuant to Article 45 of the GDPR;

(ii) there are appropriate safeguards in place pursuant to Article 46 of the GDPR; or

(iii) one of the derogations for specific situations in Article 49 of the GDPR applies to the transfer.

13.17 It is the responsibility of each party to ensure that its staff members are appropriately trained to handle and Process the Shared Personal Data in accordance with the technical and organisational security measures together with any other applicable national data protection laws and guidance and have entered into confidentiality agreements relating to the Processing of Personal Data.

13.18 Each party shall each comply with its obligation to report a Personal Data Breach to the other without undue delay and (where applicable) Data Subjects under Article 33 of the GDPR. The parties agree to provide reasonable assistance as is necessary to each other to facilitate the handling of any Personal Data Breach in an expeditious and compliant manner, including providing details of the nature of such Personal Data Breach, the categories and approximate number of Data Subjects concerned and the categories and approximate number of Personal Data records concerned, together with details of the likely consequences of the Personal Data Breach, and the measures taken or proposed to be taken to address the Personal Data Breach including, where appropriate, measures to mitigate its possible adverse effects.

13.19 In the event of a dispute or claim brought by a Data Subject concerning the Processing of Shared Personal Data against either or both parties, the parties will inform each other about any such disputes or claims, and will co-operate with a view to settling them amicably in a timely fashion.

13.20 Each party undertakes to indemnify the other and hold the other harmless from any claims, proceedings, actions, damages, costs, fines, expenses and any other liabilities which may arise out of, or in consequence of a breach or purported breach of the Data Protection Legislation or the performance or non-performance by that party of its obligations under this Agreement in relation to the Data Protection Legislation, including loss of or damage to property, financial loss arising from any breach of the Data Protection Legislation, or any other loss which is caused directly or indirectly by any act or omission of the Party arising from any breach of the Data Protection Legislation.

13.21 The provisions of this clause 13 shall apply during the Term of this Contract and indefinitely after its expiry.

14 Force Majeure

14.1 Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for twelve weeks, the party not affected may terminate this Agreement by giving fourteen days' written notice to the affected party.

15 Dispute Resolution

15.1 If a dispute arises between the Council and the BID Company in relation to any matter which cannot be resolved between the parties either party may refer such dispute to the dispute resolution procedure set out in Clause 15.2 and 15.3 below.

15.2 In the first instance each of the Council and the BID Company shall arrange for a senior representative to meet solely in order to resolve the matter in dispute. Such meetings shall be minuted and conducted in such manner and at such venue (including a meeting conducted over the telephone) as to promote a consensual resolution of the dispute in question.

15.3 If the meeting(s) referred to in Clause 15.2 does not resolve the matter in question then the parties will attempt to settle it by mediation in accordance with the Centre for Effective Dispute Resolution ("CEDR") Model Mediation Procedure or any other model mediation procedure as agreed by the parties. In such circumstances the following shall apply:

15.3.1 to initiate a mediation the parties may give notice in writing (a "Mediation Notice") to the other requesting mediation of the dispute and shall send a copy thereof to CEDR or an equivalent mediation organization as agreed by the parties asking them to nominate a mediator;

15.3.2 the mediation shall commence within 28 days of the Mediation Notice being served;

15.3.3 neither party will terminate such mediation until each of them has made its opening presentation and the mediator has met each of them separately for at least one hour. Thereafter paragraph 14 of the CEDR Model Mediation Procedure will apply (or the equivalent paragraph of any other model mediation procedure agreed by the parties);

15.3.4 neither party to the mediation will commence legal proceedings against the other until 30 days after such mediation of the dispute in question has failed to resolve the dispute provided that a party shall not be prevented from taking action to protect any limitation periods;

15.3.5 the parties will co-operate with any person appointed as mediator providing him with such information and other assistance as he shall require and will pay his costs, as he shall determine or in the absence of such determination such costs will be shared equally.

15.4 This Clause 15 is without prejudice to the rights of the parties to apply for injunctive relief or to the rights of the parties in any future proceedings.

16 Confidentiality

16.1 Subject to Clause 12 the Council and the BID Company shall keep confidential and not divulge to any person without the prior written consent of the other party all information (written or oral) concerning the business affairs of the other nor any information which has been exchanged about the BID Levy Payers or Contributors or about other third parties which it shall have obtained or received as a result of operating the BID and this obligation shall survive the termination or lapse of the BID Arrangements.

17 Commercially Sensitive Data

17.1 The parties shall not delete or remove any proprietary notices contained within or relating to the other party's Commercially Sensitive Data and shall not store, copy, disclose, or use the other party's Commercially Sensitive Data except as necessary for the performance or of its obligations under this agreement or as otherwise expressly authorised in writing by the other party.

17.2 To the extent that a party's Commercially Sensitive Data is held and/or processed by the other, the holding party shall supply that Commercially Sensitive Data to other party as requested in an open data format and any other format specified.

17.3 Upon receipt or creation by a party of any Commercially Sensitive Data and during any collection, processing, storage and transmission of any Commercially Sensitive Data, each party shall take all precautions necessary to preserve the integrity of the Commercially Sensitive Data and to prevent any corruption or loss of the Commercially Sensitive Data. This shall include performing secure back-ups of all Commercially Sensitive Data.

17.4 The parties shall ensure that any system on which the Commercially Sensitive Data is held, including back-up data, is a secure system.

18 Notices

18.1 Any notice or other written communication to be served or given to or upon any party to this Agreement by the other shall be in writing and shall be sent to the address provided for

above or such substitute address in England as may from time to time have been notified by that party upon 7 days' written notice.

18.2 A notice may be served by;

- (a) Delivery to the Chief Executive of the Council at the address of the Council specified above;
- (b) Delivery to the Company Secretary at the address of the BID Company specified above;
- (c) Registered or recorded delivery post to such addresses; or
- (d) Electronic Communication (provided that it is in legible form and is capable of being used for subsequent reference) to such addresses.

18.3 Any notice served shall be deemed to have been validly served or given at the time when in the ordinary course of business it would have been received.

18.4 The key points of contact for the BID Company shall be as set out in the service specification at Appendix B

19 Contracts (Rights of Third Parties)

19.1 The provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.

20 Severance

20.1 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

20.2 If one party gives notice to the other of the possibility that any provision or part-provision of this Agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

21 Governing Law and Jurisdiction

21.1 This Agreement, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

22 Variation

22.1 No variation of this Agreement shall be effective unless it is in writing and signed by the Council and the BID Company.

23 Assignment and Novation

23.1 This Agreement is personal to the parties and may not be assigned at law or equity by either party without the written consent of the other PROVIDED ALWAYS that this clause 16 shall not apply in the event of a novation of this Agreement by the Council to a wholly owned company.

24 Miscellaneous

24.1 For the avoidance of doubt where any part of this Agreement is incompatible with the Regulations or any other regulations which the Secretary of State may issue pursuant to Part IV of the Local Government Act 2003 then such part shall be struck out and the balance of this Agreement shall remain.

24.2 Nothing in this Agreement or implied in it shall prejudice or affect the rights discretions powers duties and obligations of the Council under all statutes bye-laws statutory instruments orders and regulations in the exercise of its functions as a local authority.

24.3 References to the Council include any successors to its functions as a local authority.

24.4 References to statutes bye laws regulations orders and/or delegated legislation shall include any such instrument re-enacting modifying, replacing or made pursuant to the same power.

24.5 The BID Company and the Council shall seek to reach an agreement on when the logo of each party shall be shown on advertising and branding material in respect of the joint projects of the parties and for this purpose the Council and the BID Company shall provide details regarding the size of their logo and guidelines for its use. For the avoidance of doubt neither party shall be entitled or permitted to use the logo of the other party on any material published by it without the prior written consent of the other party.

SIGNED by _____)

Duly authorised on behalf of the

CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL

SIGNED by _____)


Duly authorised on behalf of the

BRADFORD BUSINESS IMPROVEMENT DISTRICT LIMITED

Appendix A

BID Levy Rules

1. BID Term and Chargeable Periods

The BID Term will be for 5 years covering the period 1st December 2018 to 30th November 2023 inclusive. Liability for the BID Levy will commence from 1st December 2018. The Chargeable Period will be from 1st December 2018 to 30th November 2019 and then 1st December to 30th November for each subsequent Year.

2. BID Levy

- The BID Levy applies to all National Non Domestic Rating hereditaments wholly within the BID Area, with the exception of those with a rateable value of less than £12,000 which will be exempt
- The BID Levy rate will be 1.25% of the rateable value in the Local Non Domestic Rating List excluding those within Managed Shopping Centres
- Businesses in Managed Shopping Centres will be subject to a 0.94% BID Levy
- No discounts, exemptions or reliefs applicable to non-domestic rating will apply to the BID Levy

3. Rateable Value and Relevant Period

The BID Levy will be calculated using the rateable value for the hereditament in the 2017 Local Non Domestic Rating List for the relevant date. The relevant date will be:

- For existing hereditaments 1st September 2018
- Any new premises or new streets in the BID area raised after the BID is in force will be liable to pay a BID levy based on any new rateable value as shown in the 2017 local rating List. If the said hereditament is raised under the 2017 list this rateable value will be used in the calculation. However, if the said hereditament is raised only under the subsequent list the rateable value in that list will be used instead. The BID levy will be calculated on the basis of a Chargeable Period liability at the next yearly charging period rating list.
- Where a hereditament is split or merged the BID levy should be made on the revised entries shown in the 2017 local rating list. If the said hereditament is split or merged under the 2017 list those rateable values will be used in the calculation. However, if the said hereditament is split or merged only under the subsequent list those rateable values in that list will be used instead. The BID levy will be calculated on the basis of a Chargeable Period liability at the next yearly charging period rating list
- There will be no adjustments to the BID levy during the BID term for changes in rateable value. For the avoidance of doubt this includes any subsequent increases or reductions in rateable values entered in the local rating list with an effective date prior to or after the 1st September 2018 respectively.
- If a business' rateable value rises above £12,000 per annum, the business will be liable to pay the levy from the next year's charging period after the date the rise appears on the rating list.

- Equally if a business rateable value falls below £12,000 or the business is removed from the rating list, then the levy will cease to be payable from the next year's charging period when the business disappears from the list
- Any further education providers within the demise area will be capped at a £12,000 levy charge
- Where a hereditament is deleted from the Local Non Domestic Rating List but then re-entered on a later alteration schedule with the same rateable value it will be treated as not having been deleted

4. Liability

- The BID Levy will be charged to the Non Domestic Ratepayer of any hereditaments within the BID Area even though they may not have voted on the initial proposal
- New rateable hereditaments within the BID Area created during the lifetime of the BID will be subject to the BID Levy
- Vacant or partly occupied properties, properties undergoing refurbishment and those being demolished will be subject the full BID Levy, payable by the Non Domestic Ratepayer
- The BID levy is a 'chargeable day' rate based on rateable value that imposes the full year levy charge on the BID Levy payer on a fixed day of the year and then makes no refunds within the year as a result of any changes. For the purposes of the BID, the fixed day is 1 December in each Chargeable Period of the BID

5. Billing Collection and Enforcement of the Levy

Billing, Collection and Enforcement of the BID Levy will be in accordance with the legislation, rules and procedures for national non-Domestic Rating and The Business Improvement Districts (England) Regulations 2004

- The Council will issue a BID Levy Demand Notice to each BID Levy Payer
- The Demand Notice will request payment of the BID Levy in a single instalment for the Chargeable Period which will be no less than 14 days after the date of issue of the notice
- The Demand Notice will assume that the BID Levy Payer will remain liable for the BID Levy throughout the Chargeable Period
- The non-payment of the BID levy will be vigorously pursued via all available enforcement options. This will include: the preparation, issuing and serving of summonses; the use of enforcement agents; committal action and insolvency. All of these actions may incur additional costs for which the BID levy payer will be liable.

Appendix B

Service specification for collecting the BID Levy and managing the BID Revenue Account

Timescales and Service Standards

Further to clauses 5 and 6 of the Agreement above, the Council will, in collecting the BID Levy and administering the BID Revenue Account, comply with the following service standards and timescales:

Service Standards:

The Council will provide the services at a level of care and skill that it is reasonable for the BID Company to expect given the nature of the work and the resources available. In the event that external specialist advice is procured the Council will seek to ensure that the provider meets an equivalent standard.

Timescales:

Action	Timescale
1. Provision of a billing and collection service, including provision of a timetable to show the anticipated date of despatch of Demand Notices and the anticipated Single Instalment Date	Billing dates, posting dates and recovery timetables will be issued to the BID Company by 1 November each year of the BID
2. Meetings with the BID and/or a third party	Will take place quarterly, unless otherwise agreed.
3. Returning telephone calls with the BID	Within 5 working days.
4. Responding to emails and written correspondence with the BID	Within 5 working days
5. Provision of a first point of contact for Bid Levy Payers where the enquiry concerns payments, via telephone, e-mail and correspondence.	All contact will be dealt with in the Council's normal timeframes, which is within 10 days for written contact and either within the day for telephone calls or a timescale will be given for a return call

Monitoring Information

In addition to the above, the Council provide the following monitoring information:

1. Details of BID levy payers and amount of BID at the start of each billing year.
2. Provision of statistics to show the amount of BID Levy paid in month and year to date
3. Provision of statistics to show the amount of BID Levy unpaid in month and year to date
4. Details of any changes to hereditaments subject to levy which in turn alters the level of expected income from the BID levy.
5. Provision of statistics to show the number of Recovery Notices issued
6. Details of any levies written off, as agreed by the BID Company.

Key Contacts

The following officers will be key points of contact for the BID Company:

Business Co-ordinator – contact details to be provided to the BID Company upon appointment

Additional service level commitments:

- The Council will commit to having the required number of staff at the appropriate level to devote time to dealing with the billing, collection and enforcement of the BID Levy and all enquiries in relation to the BID whether that be from the BID Levy Payers or the BID Company and its representatives.
- The Council will not be involved with enquiries relating to legalities or setting up of the BID or any enquiries in relation to the ballot process for the BID, these enquiries should be dealt with by a representative from the BID Company.
- Target levy income collection rates are forecast between 90 - 94%, the council is committed to collecting the highest rate possible for the BID Company.
- The business rates department telephone calls are answered Monday to Thursday 08.30 to 16.45 and Friday 08.30 to 16.15
- It is proposed to undertake up to 5 reminder runs per Financial Year to encourage payment and increase collection.
- Anything else which both parties agree is required to ensure the smooth delivery of the collection of the BID Levy.
- The proposed interaction on a day to day basis between the BID Company and the Council's Business Coordinator – The Council will interact with the BID as and when required to do so.
- Attendance by Business Coordinator at BID Company board meetings as requested by the BID Company.
- The BID Company to be informed of any changes to any of the Council's Business Rates team arrangements

Appendix C

Annual Revenue Costs Breakdown

Annual charge (fixed for the BID Term) £20,000.00

There is also a software licence fee of £2,000.00 pa at the Commencement Date, the cost of which will be split between the number of BIDs the Council has within the district as at the time of the annual billing cycle, worked out proportionally for each BID based on the number of BID Levy Payers in each BID For the first year of this Agreement, the cost to the BID company will be £1,000.00.

This charge is broken down as follows:

- 1 Contribution to the role of Business Co-ordinator
- 2 Other Staffing costs
 - a. Dealing with customer contact as required from all contact channels
 - b. Running of IT processes and testing of software.
 - c. Production of statistical data
 - d. Dealing with customer contact as a result of Recovery action
 - e. Proactive outbound calling to recover sums owed
 - f. Attendance at Court
 - g. Reconciliation of payments and financial Management of the BID
- 3 IT costs including telephones
 - a. Bid Sync to main systems on a weekly basis to pick up any changes.
 - b. Cash receipting and payments posted to accounts on a daily basis
 - c. On line payments facility.
 - d. Software testing at Annual Billing and each time new software is released the Bid system will be tested.
 - e. Production of Recovery Notices
- 4 Printing, stationary and postage
 - a. Production of Annual Bills
 - b. production of weekly bills from any property or liability change
 - c. outgoing correspondence
 - d. Production of Recovery Notices

Appendix D

DATA PROCESSING INSTRUCTIONS from the Council to the BID Company

1. SUBJECT-MATTER OF PROCESSING:

In order to facilitate the calculation and collection of the Bid Levy, data from the Business Rates operating system will be used to identify the Bid Levy payer. This billing data will be shared with the BID Company as stated in 6.3 above and within the monitoring information within appendix B

2. DURATION OF THE PROCESSING:

The BID Company will retain the Personal Data relating to Service provision for a period not to exceed the end of the BID Levy Operating Agreement in November 2023, or upon the termination of the BID Levy Operating Agreement, or as required by statute. In the event that the BID is to be renewed and notice is given prior to the expiry of the BID Levy Operating Agreement, and prior agreement is made between the parties to the terms of any further BID Levy Operating Agreement or other similar Agreement for such renewal, then the Personal Data may be retained by the BID Company and its processing will be governed by such new agreement.

3. NATURE AND PURPOSE OF THE PROCESSING:

The BID company will use the data for their own management purposes, to forecast income and to make contact with BID Levy payers in the course of their activities in providing the benefits of the BID to those concerned. Part of their role is to meet with BID Levy payers to discuss issues and improvements that can be made to the overall BID offering, some of these discussion may involve discussion around the payment of the BID monies due and therefore assist the Council with its collection of income for the BID

4. TYPE OF PERSONAL DATA:

The data shared will be

- The name and full address of the ratepayer within the Bradford BID area – this can be the occupier or in the case of an empty property the owner (these take the form of company names or sole traders and may constitute personal data)
- A correspondence address where the ratepayer receives information other than at the property within the Bradford BID area including third parties acting as agents and or representatives.
- Property description code relating to the assessment (UPRN)
- BID account reference number
- Rateable value of the property.
- BID levy
- Financial details in relation to the BID levy

The information will be provided in an electronic form.

5. CATEGORIES OF DATA SUBJECTS:

Data subjects are Business Rates payers, both businesses and sole traders

6. PROCESSING INSTRUCTIONS

The Data shared with the BID Company will be used solely for the Purpose in accordance with the restrictions put in place by the Business Improvement Districts (England) Regulation 2004.

The Data will not be matched with any other personal data otherwise obtained from the Council, or any other source for reasons not pursuant to the Purpose unless specifically authorised in writing by the Council.

Access to the Data will be restricted only to those BID Company Personnel as necessary.

Appendix E

DATA PROCESSING INSTRUCTIONS from the BID Company to the Council

1. SUBJECT-MATTER OF PROCESSING:

The BID will provide the Council with information on Vacancy Rates, Footfall Data, information regarding BID Levy Payers and changes of personal information in relation to Initial Employees.

2. DURATION OF THE PROCESSING:

The Council will retain information received from the BID as required by statute.

3. NATURE AND PURPOSE OF THE PROCESSING:

The Council will use the data to update its information on Bid Levy Payers.

4. TYPE OF PERSONAL DATA:

- The name and address of the rate payer within the BID Area - this can be the occupier or in the case of any empty property the owner (these take the form of company names or sole traders and may constitute personal information).
- A correspondence address where the rate payer receives information other than at the property within the BID Area including third parties acting as agents and or representatives.
- Personal data in respect of Initial Employees.

5. PROCESSING INSTRUCTIONS:

The Data will be used by the Council in relation to the payment of BID Levy and Rates.

6. CATEGORIES OF DATA SUBJECTS:

- Business Rate Payers, both business and sole traders
- Personal Information for Initial Employees.