

Dated

2024

**BUSINESS IMPROVEMENT DISTRICT
LEVY OPERATING AGREEMENT**

SOUTH HOLLAND DISTRICT COUNCIL

- AND -

[NAME OF BID COMPANY]

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Agreement

THIS AGREEMENT is made the _____ day of _____ 2024

BETWEEN

- (1) **South Holland District Council** of Council Offices, Priory Road, Spalding, Lincolnshire, PE11 2XE (the “**Council**”)
- (2) **[NAME OF BID COMPANY]**, Company Registration No. **[XXXXXXX]** whose registered address is situated at **[INSERT REGISTERED COMPANY ADDRESS]** (the “**BID Company**”)

(each known as a “Party” and together the “Parties”)

Recitals

- A The Council is the billing authority for the purposes of the Local Government Act 2003 and the Regulations 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 BID Arrangements.
- C 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.
- D The purpose of this Agreement is to:
 - set out the BID Arrangements
 - establish the procedure for setting the BID Levy;
 - confirm the basis upon which the Council will be responsible for collecting the BID Levy;
 - set out the enforcement mechanisms 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.

IT IS NOW HEREBY AGREED as follows:

1. Definitions and Interpretation

1.1 In this Agreement unless the context otherwise requires the following provisions shall have the meanings given to them below:-

Agreement means this written agreement between the Council and the BID Company consisting of these clauses and the attached Appendices.

Annual Report means a report to be prepared by the Council 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; and
- (c) the Council's proposals (if any) to help improve its efficiency in the collection and enforcement of the BID Levy.

Appeal Notice means a notice to be served by the BID Company in accordance with clause 7.2.

Appendix means the appendix attached to, and forming part of, this Agreement.

Ballot Result Date means the date upon which a successful ballot result has been declared in favour of putting in place the BID Proposal.

BID means the business improvement district which operates within the BID Area and which is managed and operated by the BID Company in accordance with the Regulations.

BID Area means the area identified within Appendix C.

BID Arrangements means the BID arrangement (set out within Appendix A) put in place by the BID Company pursuant to the BID Proposal for the operation of the BID in accordance with the Regulations.

BID Company Report means the report for each Financial Year to

	<p>be prepared by the BID Company which details the following:-</p> <ul style="list-style-type: none"> (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 Company's Termination Notice	means the notice to be served by the BID Company on the Council pursuant to clause 12.7.
BID Levy	means the charge to be levied and collected within the BID Area pursuant to the Regulations.
BID Levy Payers	means the non-domestic rate payers responsible for paying the BID Levy.
BID Levy Rules	means the rules (set out in the 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 plan voted for by the BID Levy Payers which sets out the objectives of the BID and identifies the various projects which will be undertaken using funds raised via the BID Levy.
BID Revenue Account	means the account to be set up by the Council in accordance with Regulation 14 of the Regulations and operated in accordance with Schedule 3 of the Regulations.
BID Term	means the period of five (5) years from the Commencement Date, which may be extended pursuant to clause 2 (Commencement).
Chargeable Period	means Financial Year (or part Financial Year) running from April to March each calendar year.
Commencement Date	means 1 September 2024.

Confidential Information

means any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person, trade secrets, intellectual property rights and know-how of either Party. Confidential Information shall not include information which:-

- (i) was public knowledge at the time of disclosure (otherwise than by breach of clause 9 (Confidentiality));
- (ii) was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;
- (iii) is received from a third party (who lawfully acquired it) without restriction as to its disclosure; or
- (iv) is independently developed without access to the Confidential Information.

Council's Costs

means the Council's costs administering and collecting the BID Levy as set out within Appendix B.

Council's Termination Notice

means the notice to be served by the Council on the BID Company pursuant to clause 12.1.

Crown

means the government of the United Kingdom (including the Northern Ireland Executive Committee and Northern Ireland Departments, the Scottish Executive and the National Assembly for Wales), including, but not limited to, government ministers, government departments, government and particular bodies and government agencies.

Demand Notice

means a notice served upon every person

	who is liable for the BID Levy as required by the Regulations.
Demand Notice Information	means the contents of which are as set out in paragraph 3 of Schedule 4 of the Regulations provided by the BID Company to the Council.
Enforcement Costs	means the Council's enforcement costs incurred in relation to Appendix B.
Enforcement Notice	means a notice to be served on the Council by the BID Company in accordance with clause 7.2.
Environmental Information Regulations	means the Environmental Information Regulations 2004 and any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.
Financial Year	means the financial year for the BID Company which runs from April to March.
FOIA	means the Freedom of Information Act 2000 and any subordinate legislation made under this 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.
Information	has the meaning given under section 84 of the Freedom of Information Act.
Law	means any applicable Act of Parliament, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Parties are bound to comply.
Liability Order	means an order obtained from the Magistrates Court which is a legal demand for payment of liabilities owed.
Monitoring Group	means the group as described at clause 8 (Accounting Procedures and Monitoring).
Month	means calendar month.
NNDR	means National Non-Domestic Rates.

Public Meeting	means the meeting to be held with BID Levy Payers pursuant to a Public Meeting Notice.
Public Meeting Notice	means a notice to be served pursuant to clause 12 (Termination of BID Arrangement) by the Council which provides the following:- <ul style="list-style-type: none"> (a) confirmation that either party is considering terminating the BID; (b) details of the venue where the public meeting will be held; (c) confirmation that all BID Levy Payers who attend will be permitted to make representations.
Rateable Value	means the value given to each non-domestic property by the Valuation Office Agency which is used by local authorities to calculate a property's applicable business rate.
Regulations	means the Business Improvement Districts (England) Regulations 2004.
Reminder Notice	means the reminder notice to be served by the Council to BID Levy Payers in relation to outstanding BID Levy payments.
Single Instalment Due Date	means the date which the BID Levy is due from the BID Levy Payers.
Request for Information	shall have the meaning set out in FOIA or the Environmental Information Regulations as relevant (where the meaning set out for the term "request" shall apply).
Working Day	means Monday to Friday of any calendar week excluding public holidays in England.
Valuation Office Agency	means the executive agency which provides the Government with the valuations and property advice needed to support taxation and benefits.

1.2 The interpretation and construction of this Agreement shall be subject to the following provisions:

- (a) words importing the singular meaning include where the context so admits the plural meaning and vice versa;
- (b) words importing the masculine include the feminine and the neuter;

- (c) reference to clauses and Appendices are to the clauses and Appendices of this Agreement; references to paragraphs are to paragraphs of the relevant Appendices;
- (d) the appendices form part of this Agreement and shall have effect as if set out in full in the body of this Agreement and any reference to the Agreement includes the Appendices;
- (e) reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted;
- (f) reference to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;
- (g) the words “include”, “includes” and “including” are to be construed as if they were immediately followed by the words “without limitation”; and
- (h) headings are included in this Agreement for ease of reference only and shall not affect the interpretation or construction of this Agreement.

1B Statutory Authorities

1B.1 This Agreement is made pursuant to Part 4 of the Local Government Act 2003 and Section 111 of the Local Government Act 1972 and all other enabling powers including those set out in the Regulations.

2 Commencement

2.1 This Agreement shall take effect from the Commencement Date and shall continue in force until six (6) Months after the expiry of the BID Term unless it is otherwise terminated in accordance with clause 2.2, or otherwise lawfully terminated, or extended under clause 2.3.

2.2 The Agreement shall determine and cease to be of any further effect in the event that:-

- (a) the Secretary of State declares void the BID ballot or any renewal ballot;
- (b) the Council exercises its veto and there is no successful appeal against the veto; and
- (c) the Council or the BID Company terminate the BID Arrangements in accordance with and subject to clause 12 (Termination of BID Arrangement).

2.3 If, by the end of the BID Term a renewal BID ballot is held and is successful then subject to the BID Company receiving the Council’s consent the BID Term set out within this Agreement shall be extended in accordance with the renewal BID proposal.

2.4 The expiry or termination of this Agreement shall be without prejudice to the Council enforcing its powers and rights under the Regulations and/or this Agreement (in its absolute discretion) in connection with the administration, collection and recovery of

the BID Levy payable in respect of any period up to the expiry or termination of this Agreement, refunds to BID Levy Payers, the keeping and administration of the BID Revenue Account and the Council's Costs.

3 Setting the BID Levy

3.1 The Council shall within one (1) Month of the Commencement Date:-

- (a) calculate the BID Levy for each BID Levy Payer in accordance with the BID Levy Rules for the initial Chargeable Period; and
- (b) confirm in writing to the BID Company the BID Levy payable across the BID Area for the initial Chargeable Period.

4 The BID Revenue Account

- 4.1 As soon as reasonably practicable the Council shall keep a BID Revenue Account in accordance with applicable Law and provide written confirmation to the BID Company of the same.
- 4.2 As soon as reasonably practicable following the Ballot Result 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 (subject to clauses 4.3 – 4.4) and any other details which the Council may reasonably require.
- 4.3 The BID Company shall arrange to invoice the Council for the BID Levy amounts confirmed as credit by the Council each Month within the BID Revenue Account minus five percent (5%), any estimated BID Levy Payer refund calculated by the Council and any Enforcement Costs incurred.
- 4.4 Following receipt of the BID Company's invoice in accordance with clause 4.3 the Council shall (subject to clause 12 (Termination of BID Arrangement)) within (fourteen days (14) Working Days of receipt of such applicable undisputed invoice) pay the BID Company the BID Levy amount set out within such invoice to be utilised by the BID Company on account for the services provided to and for the benefit of the BID Levy Payers in accordance with the BID Arrangements.
- 4.5 Annually the Council shall pay to the BID Company (subject to clause 12 (Termination of BID Arrangement)) or receive from it the balance of monies having taken account of the Monthly on account payments (in accordance with clauses 4.3 – 4.4) and balance in the BID Revenue Account at the year end. The final payment to be made by 30 June following the applicable Chargeable Period.
- 4.6 All sums shall be exclusive of Value Added Tax (VAT). VAT shall be charged where applicable in accordance with the Law relating to VAT in force at the time.
- 4.7 The BID Company shall issue VAT receipts, where applicable under Law for monies received within seven (7) Working Days of receipt of the BID Levy.
- 4.8 The BID Company shall be liable to pay the Council the Council's Costs incurred each Chargeable Period in accordance with Appendix B.
- 4.9 The BID Company shall be liable to pay the Council any Enforcement Costs incurred in accordance with Appendix B (and not deducted from the BID Levy pursuant to clause 4.3) within thirty (30) calendar days of receipt of the Council's invoice

requesting payment.

5 Collecting the BID Levy

- 5.1 Following the Ballot Result Date both Parties shall agree the anticipated annual date of the despatch of Demand Notices and the anticipated Single Instalment Due Date for the initial Chargeable Period. Thereafter, both Parties shall agree the anticipated annual date of the despatch of Demand Notices and the anticipated Single Instalment Due Date for each Chargeable Period.
- 5.2 The Council shall serve a Demand Notice on each BID Levy Payer (which shall include the applicable Demand Notice Information provided to the Council by the BID Company) and thereafter the Council shall continue to calculate the BID Levy and serve a Demand Notice (which shall include the applicable Demand Notice Information provided to the Council by the BID Company) annually throughout the BID Term.
- 5.3 The BID Company shall provide the Council with updated Demand Notice Information in relation to each Demand Notice upon request by the Council within ten (10) Working Days. Should the Council upon review of the Demand Notice Information provided by the BID Company (in accordance with clause 5.2 and 5.4) suspect that the information provided by the BID Company is incomplete and/or not compliant with the Regulations the BID Company shall resolve such issues to the Council's satisfaction and reissue the Demand Notice Information to the Council within five (5) Working Days of being notified by the Council.
- 5.4 In the event that the Council receives notice of a change that affects a BID Levy Payer's liability for the BID Levy and the Council is satisfied with the notice provided, the Council shall serve an amended Demand Notice (which shall include the applicable Demand Notice Information provided to the Council by the BID Company) on each applicable BID Levy Payer within thirty (30) Working Days after the Council has approved such notice of change.
- 5.5 Subject to clause 7.3 the Council shall use reasonable endeavours to collect the BID Levy throughout the BID Term.

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

- 6.1 The procedure for the enforcement and recovery of the BID Levy shall be in line with the enforcement provision for NNDR and the Council shall comply with these enforcement provisions (as it deems appropriate) in enforcing payment of the BID Levy against BID Levy Payers.

7 Enforcement Mechanisms In The Event That The Council Fails to Enforce Collection of the BID Levy

- 7.1 In the event that the Council fails to enforce payment of the BID Levy pursuant to clause 6 (Procedures available to the Council for enforcing payment of the BID Levy) the BID Company shall be entitled to serve an Enforcement Notice on the Council (subject to clause 7.3 and clause 7.4) requesting that:-
 - (a) the Council serve a Reminder Notice or
 - (b) in the event that the Council has already served a Reminder Notice, that the Council applies for a Liability Order

and the Council shall thereafter provide written confirmation of the action it shall take to comply with the Enforcement Notice.

7.2 If the Council fails to provide written confirmation of the action it is taking in relation to the Enforcement Notice (served by the BID Company pursuant to clause 7.1) within twenty one (21) Working Days the BID Company shall be entitled to serve an Appeal Notice on the Council's Assistant Director of Strategic Growth and Development and such notice shall:

- (a) detail the amounts of unpaid BID Levy;
- (b) confirm that the Council has failed to use the enforcement mechanisms available to it under this Agreement to recover the unpaid BID Levy; and
- (c) include 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 unpaid BID Levy such meeting shall take place no later than twenty eight (28) Working Days from the date of the Appeal Notice.

7.3 Clause 7.1 and 7.2 shall not apply and the Council shall not be obligated to take any enforcement action where one of the following circumstances arise in relation to a BID Levy Payer's failure to pay the BID Levy:-

- (a) the applicable BID Levy Payer has absconded;
- (b) insolvency proceedings have commenced in relation to the applicable BID Levy Payer
- (c) the applicable BID Levy debt for any year is under twenty five pounds (£25) and therefore too low to make application for a Liability Order;
- (d) the applicable BID Levy Payer's liability is disputed;
- (e) the Council is unable to establish liability;
- (f) a future payment arrangement with the applicable BID Levy Payer is in place;
- (g) a legal challenge is pending against the actual BID;
- (h) Magistrates refuse to issue a Liability Order against the applicable BID Levy Payer for any reason;
- (i) The Council is prohibited by Law from enforcement action; or
- (j) The Council reasonably consider that enforcement action would otherwise be undesirable.

7.4 The Council shall (in its absolute discretion) be entitled to stop all enforcement and recovery action against any BID Levy Payer for any unpaid BID Levy three (3) Months after the end of the BID Term.

8 Accounting Procedures and Monitoring

8.1 The Council shall, by [XX] Working Days following the initial Single Instalment Due

Date and by the end of every Month thereafter (for the duration of BID Term) provide the BID Company with the following information:

- (a) the amount of the BID Levy due for the Chargeable Period;
 - (b) the amount of the BID Levy collected;
 - (c) the number and total value of Reminder Notices issued; and
 - (d) the number and value of Liability Orders made or applied for.
- 8.2 The Council and the BID Company shall form a Monitoring Group which shall consist of representatives from the Council's Strategic Growth and Development department and [XXXXXX] from the BID Company.
- 8.3 Within one Month from the Commencement Date the Parties shall agree the dates when the Monitoring Group shall meet. The Parties shall ensure that the Monitoring Group meet at least two (2) times each Financial Year (throughout the duration of the BID Term).
- 8.4 At each Monitoring Group meeting the Parties shall:
- (a) review the effectiveness of the collection and enforcement of the BID Levy; and
 - (b) if required by either Party review and assess any BID information provided by the Parties.
- 8.5 The Council shall provide an Annual Report to the BID Company within three (3) Months after end of each Financial Year (for the duration of the Bid Term).
- 8.6 The BID Company shall provide a BID Company Report to the Council within one (1) Month from the date of the BID Company's receipt of the Annual Report provided by the Council.
- 8.7 The BID Revenue Account will be subject to the normal internal & external audit arrangements of the Council. The BID Company shall make available to the Council and its appointed auditors such information as requested by the Council and its appointed auditors for assist with any audit of the BID Revenue Account and the BID Arrangement.
- 8.8 The Council shall make available to the BID Company and its appointed auditors such information as reasonably requested by the BID Company and its appointed auditors in relation to the BID Revenue Account in so far as it is able to do so under the Law.

9 Confidentiality

- 9.1 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Agreement, each Party shall:-
- (a) treat the other Party's Confidential Information as confidential and safeguard it accordingly; and
 - (b) not disclose the other Party's Confidential Information to any other person without the owner's prior written consent.

9.2 Clause 9.1 shall not apply to the extent that:-

- (a) such disclosure is a requirement of Law placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA pursuant to clause 9A (Freedom of Information);
- (b) such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
- (c) such information was obtained from a third party without obligation of confidentiality;
- (d) such information was already in the public domain at the time of disclosure otherwise than by a breach of this Agreement; or
- (e) it is independently developed without access to the other Party's Confidential Information.

9.3 The BID Company shall not use any of the Council's Confidential Information received otherwise than for the purposes of this Agreement.

9.4 Nothing in this Agreement shall prevent the Council from disclosing the BID Company's Confidential Information:-

- (a) to any Crown body or any other public body. All Crown bodies or public bodies receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other Crown bodies or other public bodies on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Crown body or any public body;
- (b) to any consultant, professional adviser, contractor, supplier or other person engaged by the Council;
- (c) to the extent that the Council (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
- (d) for the purpose of the examination and certification of the Council's accounts;

9.5 The Parties acknowledge that except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Agreement is not Confidential Information. The Council shall be responsible for determining in its absolute discretion whether any of the content of the Agreement is exempt from disclosure in accordance with the provisions of the FOIA.

9.6 Notwithstanding any other term of this Agreement, the BID Company hereby gives consent for the Council to publish the Agreement in its entirety (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted) including from time to time agreed changes to the Agreement, to the general public.

9A Freedom of Information

9A.1 The BID Company acknowledges that the Council is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and

cooperate with the Council to enable the Council to comply with its Information disclosure obligations.

9A.2 The BID Company shall transfer to the Council all Requests for Information that it receives as soon as practicable and in any event within two (2) Working Days of receiving a Request for Information:-

- (a) provide the Council with a copy of all Information in its possession, or power in the form that the Council requires within five (5) Working Days (or such other period as the Council may specify) of the Council's request; and
- (b) provide all necessary assistance as reasonably requested by the Council to enable the Council to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or Regulation 5 of the Environmental Information Regulations.

9A.3 The Council shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Agreement or any other agreement whether any Information is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations.

9A.4 In no event shall the BID Company respond directly to a Request for Information unless expressly authorised to do so by the Council.

9A.5 The BID Company acknowledges that the Council may, acting in accordance with the Secretary of State for Constitutional Affairs Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 (the "**Code**"), be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the BID Company or the BID in certain circumstances:-

- (a) without consulting the BID Company; or
- (b) following consultation with the BID Company and having taken their views into account.

provided always that where clause 9A.5(a) applies the Council shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the BID Company advanced notice, or failing that, to draw the disclosure to the BID Company's attention after any such disclosure.

9A.6 The BID Company shall ensure that all Information is retained for disclosure and shall permit the Council to inspect such records as requested from time to time.

10. Notices

10.1 Subject to clause 10.2 any notice or other written communication to be served or given to or upon any Party to this Agreement to the other shall be in writing (in accordance with clause 10.2) and shall be sent to the address shown at the head of this Agreement or such substitute address in England as may from time to time have been notified by that Party upon seven (7) days written notice.

10.2 Any notice or other written communication which is to be served or given by either Party to the other shall be given by electronic mail (confirmed by letter), or by letter (delivered by hand, first class post, recorded delivery or special delivery). Provided

the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given on the same Working Day if delivered by hand, two (2) Working Days after the day on which the letter was posted, or four (4) hours, in the case of electronic mail provided such notice is served no later than 1pm on any Working Day, otherwise such notice shall be deemed served the following Working Day, or sooner where the other Party acknowledges receipt of such letters or item of electronic.

11 Contracts (Rights of Third Parties)

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

12 Termination of BID Arrangement

12.1 Subject to clause 12.2 the Council may terminate the BID Arrangement where:

- (a) in the Council's opinion the BID Company will have insufficient finances to meet the BID Company's liabilities for the Chargeable Period for the purposes of the BID Proposal and the Council has:
 - (i) offered the BID Company a reasonable opportunity to arrange for financing the shortfall or for a reduction in the works or services under the BID Arrangements which is sufficient to offset the shortfall; and
 - (ii) given the BID Levy Payers an opportunity, at a Public Meeting, to make representations in relation to the termination of the BID Arrangement; or
- (b) the Council is unable, due to any cause beyond its control, to provide the works or services which are necessary for the BID to continue provided that the Council has consulted the BID Company and conducted a consultation with such representatives of the business community for the BID Area as the Council considers appropriate.

12.2 Where the Council seeks to terminate the BID Arrangements under either clause 12.1(a) or 12.1 (b) it shall serve a Public Meeting Notice on the BID Levy Payers and a Council Termination Notice on the BID Company at least twenty eight (28) prior to the Council's intended termination date. The Parties shall within fourteen (14) days from the date of service of both notices arrange to meet to discuss and/or agree to the provisions within clause 12.3 or 12.4 (whichever is applicable)

12.3 Where the Council's Termination Notice relates to clause 12.1(a) both Parties shall meet to discuss the following:

- (a) the Council is concerned that the BID Company has insufficient finances to meet its liabilities for the Chargeable Period and details of such concerns should be made available to the BID Company;
- (b) alternative means by which the insufficiency of the funds can be remedied; and
- (c) an appropriate time frame for the issue to be resolved.

12.4 Where the Council's Termination Notice relates to clause 12.1(b) both Parties shall meet to discuss the following:

- (a) the services or works which the Council is no longer able to provide together with confirmation and details as to why such works or services cannot be provided;
- (b) a review by both Parties as to whether such works or services are of such material importance to the BID that termination of the BID Proposal is the only option;
- (c) alternative means of procuring the services or works by third parties or increased funding from the BID Company;
- (d) alternative replacement services or works which will be acceptable to the BID Company: and
- (e) an appropriate time frame to resolve this issue.

12.5 Notwithstanding clauses 12.1, 12.2, 12.3 and 12.4 above, the Council shall (following the serving of a Public Meeting Notice in accordance with clause 12.2) arrange a Public Meeting to be held prior to the termination of the BID Arrangement.

12.6 In the event that the Parties cannot reach agreement in relation to the above and subject to consideration of representations made by any BID Levy Payer at the Public Meeting pursuant to clause 12.5 the Council shall be permitted to terminate the BID Arrangements provided that notice by the Council to terminate the BID Arrangement under clause 12.1 is provided to the BID Company no less than twenty eight (28) days prior to termination taking place.

12.7 The BID Company may terminate the BID Arrangements where:

- (a) the works or services under the BID Arrangements are no longer required; or
- (b) 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

if it has conducted a consultation with such representatives of the business community for the BID Area as the Council considers appropriate. before serving a BID Company's Termination Notice on the Council at least twenty eight (28) days prior to its proposed termination and has consulted with the Council.

12.7A Upon termination of the BID Arrangement in accordance with clause 12.7 the BID Company shall notify the Council of such termination in accordance with Regulation 18(5).

12.8 Upon termination of the BID Arrangement and/or expiry of the BID Term the Council shall review whether there is a credit in the BID Revenue Account and in the event that such credit exists and this amounts to a refund of a least five pounds (£5) for each BID Levy Payer (having deducted the Council's Costs) the Council shall:

- (a) calculate the amount to be refunded to each BID Levy Payer liable to pay the BID Levy immediately prior such termination of the Bid Arrangement;
- (b) ensure that the amount to be refunded in accordance with clause 12.8(a) is calculated by reference to the amount payable by each BID Levy Payer for the last Chargeable Period; and

- (c) make arrangements for the amount calculated to be credited against any outstanding NNDR liabilities of each BID Levy Payer or, where there are no such liabilities, for credit to be refunded to the applicable BID Levy Payer.

12.9 Upon termination of the BID Arrangement 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 the BID Levy Payers.

13 Dispute Resolution

13.1 The Parties shall attempt to negotiate a settlement to any dispute between them arising out of or in connection with this Agreement within twenty (20) Working Days of either Party notifying the other of the dispute.

13.2 Nothing in this dispute resolution procedure shall prevent the Parties from seeking from any court of the competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.

13.3 If the dispute cannot be resolved by the Parties pursuant to clause 13.1 the dispute shall be referred to mediation pursuant to the procedure set out in clause 13.4.

13.5 The procedure for mediation and consequential provisions relating to mediation are as follows:-

- (a) a neutral adviser or mediator (the "**Mediator**") shall be chosen by agreement between the Parties or, if they are unable to agree upon a Mediator within ten (10) Working Days after a request by one Party to the other or if the Mediator agreed upon is unable or unwilling to act, either Party shall within five (5) Working Days from the date of the proposal to appoint a Mediator or within five (5) Working Days of notice to either Party that he is unable or unwilling to act, apply to the Centre for Effective Dispute Resolution ("**CEDR**") or other reputable mediation body to appoint a Mediator.
- (b) The Parties shall within ten (10) Working Days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the Parties may at any stage seek assistance from CEDR or other reputable mediation body to provide guidance on a suitable procedure.
- (c) Unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings.
- (d) If the Parties reach agreement on the resolution of the dispute, the agreement shall be reduced to writing and shall be binding on the Parties once it is signed by their duly authorised representatives.
- (e) Failing agreement, either of the Parties may invite the Mediator to provide a non-binding but informative opinion in writing. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to this Agreement without the prior written consent of both Parties.

- (f) If the Parties fail to reach agreement in the structured negotiations within twenty (20) Working Days of the Mediator being appointed, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the Courts.

14 Exercise of the Council's Powers

- 14.1 Nothing contained in this Agreement or implied in it shall prejudice or affect the rights discretions powers duties and obligations of the Council under all Laws in the exercise of its functions as a local authority.

15 Severability

- 15.1 If any provision of this Agreement shall be prohibited or adjudged by any Court to be unlawful, void or unenforceable, such provision shall, to the extent required, be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement and shall not in anyway affect the validity or enforceability of the remaining provisions of this Agreement.

16 Survival

- 16.1 Any clause contained in this Agreement that by its context is intended to survive termination shall survive termination of this Agreement.

17 Entire Agreement

- 17.1 This Agreement (including the Schedules) supersedes all prior writings, negotiations or understandings in respect hereof and the BID Company hereby agrees that in entering into this Agreement it has not relied on any representations or undertakings given by or on behalf of the Council save as set out in this Agreement.

18 Applicable Law

- 18.1 This Agreement shall be governed by the exclusive jurisdiction of the courts of England and Wales and both Parties agree that this Agreement and all non-contractual obligations and other matters arising from or connected with it are to be governed and construed according with the Law of England and Wales.

19 Counterparts

- 19.1 This Agreement may be executed in any number of counterparts provided that it shall not become effective until each Party has executed a counterpart and exchanged it with the other.

IN WITNESS OF the hands of the Parties or their duly authorised representatives:-

Signed for and on behalf of
SOUTH HOLLAND DISTRICT COUNCIL

.....
Authorised Signatory

Print name:.....

Signed for and on behalf of
[NAME OF BID COMPANY]
acting by:-

.....
Director's Signature

Print name:.....

APPENDIX A – BID ARRANGEMENT & BID LEVY RULES

1. The BID Regulations of 2004 (as amended), approved by the Government, sets out the legal framework within which BIDs will have to operate, including the way in which the levy is charged and collected, and how the ballot is conducted.

2. The BID levy rate or boundary area cannot be increased without a full alteration ballot (except in the case of the annual rate of inflation using CPI). This will be at the discretion of the Board and if applied will be done so only at the beginning of each annual charging period). However, if the BID Company wishes to decrease the levy rate or change the following,

- Type of BID Projects Undertaken
- Allocations and budgets for BID projects and between project headings
- Project Timescales
- BID Administration & Overhead Costs
- BID Governance & Management

during this term, it will do so through a consultation, which will, as a minimum, require it to write to all existing BID levy payers. If more than 25% object in writing, then the proposed course of action or changes will not proceed. The BID Directors, through the above consultation and then through majority voting (of Directors) will be able to make the changes.

3. The BID Levy will be calculated based on the Rateable Value of the hereditament on the chargeable date of 1st September in the first BID year, thereafter 1st April each year. Changes to Rateable Value after the chargeable date will come into effect from the start of the next chargeable date. There will be no in-year changes to Rateable Value or the BID Levy liability.

4. The BID Levy will be payable in full, in a single instalment within 14 days of the date on the BID Levy bill.

5. The BID Levy will be applied to all liable business ratepayers within the defined area with a rateable value of £2,500 and over. The following categories will be eligible: Advertising Right And Premises, Amusement Arcade And Premises, Badminton Hall And Premises, Bank And Premises, Beauty Salon, Beauty Salon And Premises, Betting, Shop And Premises, Bowling Alley And Premises, Bus Station And Premises, Cafe And Premises, Car Park, Car Park And Premises, Chiropodists And Premises, Clubs & Premises, Clubhouse & Premises, Clinic And Premises, Communication Station And Premises, Day Nursery And Premises, Escape Rooms And Premises, Funeral Parlour & Premises, Guest House And Premises, Gym And Premises, Hairdressing Salon And Premises, Hotel And Premises, Kiosk And Premises, Launderette And Premises, Library And Premises, Market And Premises, Museum And Premises, Office, Office And Premises, Offices, Offices for Wedding Ceremony Only & Premises, Offices, Training Rooms & Premises, Playing Field And Premises, Public Convenience, Public Conveniences (part exempt), Public House And Premises, Restaurant And Premises, Retail/Beauty Treatment & Education, Retail Warehouse And Premises, Salon And Premises, Shop, Shop And Premises, Shop, Workroom & Premises, Showroom And Premises, Sports Centre & Premises, Sports Therapy And Massage Clinic, Studio And Premises, Superstore And Premises, Surgery And Premises, Swimming Pool And Premises, Theatre And Premises, Veterinary Surgery And Premises, Youth Club

And Premises

6. The following exemptions to the BID Levy apply, subject to case-by-case assessment and decision by the BID Company in line with set application and verification process: • Non-retail charities with no paid staff, trading arm, income or facilities • Not-for-profit subscription and entirely volunteer-based organisations

7. The minimum levy amount or equivalent financial contribution payable will be £50 pa (except in the case of apportionment)

8. New Properties • The BID Levy will not apply from the effective date of entry into the rating list, it will only apply from the next chargeable date (1st April). • No adjustment in year for any subsequent changes to Rateable Value (even if relates to a successful appeal which demonstrates the original RV was wrong, or it relates to a delayed action or correction by the VOA).

9. Splits/Mergers • When a property is split, the BID Levy on the 'parent' property will cease on the effective date of the split and the charge apportioned on a daily basis up to that date.

- All 'Child' properties (with a property description detailed in the list categories in the BID proposal document) will be charged from the effective date of the split on a daily basis until the end of that financial year. Thereafter for full financial years from the next chargeable date (1st April).

- When properties are merged, the BID Levy on the 'parent' properties will cease on the effective date of the merge and the charge apportioned on a daily basis up to that date.

- The 'Child' property (with a property description detailed in the list categories in the BID proposal document) will be charged from the effective date of the merge on a daily basis until the end of that financial year. Thereafter for full financial years from the next chargeable date (1st April).

10.Deleted Properties • When a property is deleted, the BID Levy ceases from the date of the deletion and the charge is apportioned on a daily basis up to that date.

11.Changes to property description

- There will be no amendment to the BID Levy when a property description is changed by the Valuation Office Agency until the next chargeable date (1st April). • If the property description is changed to a property description which is not detailed in the list categories in the BID proposal document, the property will be removed from the BID Levy from the next chargeable date (1st April)

- If the property description is changed to a property description which is detailed in the list categories in the BID proposal document, the property will be added to the BID Levy from the next chargeable date (1st April)

12.Backdated Rateable Value Amendments

- The BID Levy will be calculated on the Rateable Value as at 1 April (or from start date of the BID in its first year). There will be no amendment to the BID Levy for previous years in the event of any backdated Rateable Value changes (even where they relate to a successful appeal which demonstrates the original Rateable Value was incorrect or relate to delayed action or correction by the Valuation Office Agency).

- Any changes to the Rateable Value will only become effective from the next chargeable date.

13.Refunds

- Credit balances generated through split/merger cases on ceased accounts ('parent' property) and that BID Levy payer is liable for one of the new accounts ('child' property) the credit balance will be transferred to clear/reduce the BID Levy on the

new account. Refunds will be available where payment is made by an organisation which the BID Company subsequently determines is exempt in line with its criteria.

- Where a credit balance is left on the closed account ('parent' property) and cannot be transferred that credit balance will be refunded to the BID Levy payer.
- Credit balances created through overpayment (including duplicate payment, or as a result of apportionment of liability due to vacation) will be refunded to the BID Levy payer.

- If the BID Levy payer has any other BID Levy liability the credit may be transferred to reduce/clear the balance on the other BID Levy account.

- Refunds to Charities/Non-Profit organisations who will be required to pay the BID Levy until the BID Company has verified eligibility for exemption.

14. The BID Levy will be apportioned when a BID Levy Payer vacates a property or their responsibility for a property ends. The BID Levy will transfer to the new party from the date their responsibility commences. The property owner, or the registered payer of NNDR, will be liable for any periods between.

15. Empty properties, those undergoing refurbishment or being demolished will be liable for the BID levy via the registered business ratepayer with no void period.

16. The BID levy will not be affected by the small business rate relief scheme, exemptions, relief, or discounts prescribed in the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 made under the Local Government Finance Act 1988.

17. VAT will not be charged on the BID levy.

18. The billing body is authorised to collect the BID levy on behalf of the BID Company.

19. The levy income will be kept in a separate ring-fenced account and transferred to the BID monthly.

20. Collection and enforcement arrangements will be like those for the collection and enforcement of non-domestic business rates. The Billing Authority will be ultimately responsible for any debt write off decision, and will have arrangements to inform the BID Company of values written off. The BID Company will make provision for bad debt. The BID area and the levy rate cannot be increased without a further ballot.

21. The levy rate or boundary area cannot be increased without a full alteration ballot. However, if the BID Company wishes to decrease the levy rate during the period, it will do so through a consultation, which will, as a minimum, require it to write to all existing BID levy payers. If more than 25% object in writing, then this course of action will not proceed.

22. The BID Board will meet at least six times a year. Every levy paying business or equivalent financial contributor will be eligible to be a member of the BID Company and attend General Meetings.

23. The BID Company will produce a set of annual accounts available to all company members.

24. The BID will commence on 01 September 2024 and will last for five years. At the end of five years a ballot must be held if businesses wish the BID to continue.

APPENDIX B – COUNCIL’S COST BREAKDOWN

1. Levy Collection Costs:

- 1.1 The Council shall charge the BID Company 3% of the total BID Levy due each Chargeable Period for its costs to collect and administer the BID Levy on behalf of the BID Company (“**Council’s Costs**”) in accordance with this Schedule and the terms and conditions of this Agreement.
- 1.2 The Council shall apply an annual rate of inflation to the Council’s Costs using the Consumer Price Index (“**CPI**”) in relation to each Chargeable Period (except the initial Chargeable Period) in accordance with paragraph 1.2A.
- 1.2A The annual rate of inflation to the Council’s Costs pursuant to paragraph 1.2 for each Chargeable Period (except the initial Chargeable Period) shall only apply to any increase of inflation and shall be calculated as follows:
- (a) The percentage increase in the CPI shall be calculated using the effective date of 1 October from the year prior, except for the first chargeable period where no inflation shall be applied.
- 1.3 The Council shall invoice the BID Company as set out within the Council’s Costs Table below and payment shall be due from the BID Company to the Council within thirty (30) calendar days.

Council’s Costs Table

Chargeable Period	Invoice date
1 September 2024 – 31 March 2025	From 31 January 2025
1 April 2025 – 31 March 2026	From 1 June 2025
1 April 2026 – 31 March 2027	From 1 June 2026
1 April 2027 – 31 March 2028	From 1 June 2027
1 April 2028 – 31 March 2029	From 1 June 2028
1 April 2029 – 31 August 2029	From 1 June 2029

2. Enforcement Costs

2.1 Enforcement Costs shall be:

Summons - £77.50
Liability Order - £5.00

and shall be deducted by the Council in accordance with clause 4.3 or paid by the BID Company in accordance with clause 4.9 when a summons is issued and liability order is

obtained as a result of the non-payment of the BID Levy by a BID Levy Payer.

- 2.2 The Enforcement Costs will be added to the BID Levy Payers BID Levy account and recovered subject to clause 7 (Enforcement mechanisms in the event that the Council fails to enforce collection of the BID Levy) as part of the BID Levy debt.
- 2.3 The Council shall be entitled to increase the Enforcement Costs identified above. The Council shall keep the BID Company informed of any changes to the Enforcement Costs.
- 2.4 In the event that the BID Levy Payer responsible for the BID Levy debt (including Enforcement Costs) makes full payment of such BID Levy debt the Council shall subject to the terms and conditions of this Agreement transfer the BID Levy debt collected from such BID Levy Payer to BID Company.

APPENDIX C – BID AREA



The list of streets below covers the BID area (in part or full)

Abbey Buildings
 Abbey Path
 Abbey Yard
 Albert Street (part)
 Albion Street (Part)
 Bath Lane
 Bedford Place
 Beechfield Gardens (part)
 Bond Street Court
 Bridge Street
 Britannia Gardens
 Broad Street
 Capella Close
 Castlefields
 Chambers Court
 Chancery Court (part)
 Chapel Lane
 Church Gate (part)
 Church Street (part)
 Commercial Road (part)
 Crackpool Lane
 Cross Street (part)
 Double Street
 Drapers Place
 Eaton Gardens
 Forge Close
 Foundry Lane
 Francis Street
 Georgian Court (part)
 Glenn Avenue
 Gore Lane
 Green Lane (part)
 Hall Place
 Haverfield Road
 Henrietta Street
 Hereward Road (part)
 Herring Lane
 High Street
 Hole in the wall Passage
 Holland Market
 Holland Road (part)

Jubilee Close
 Kings Road
 Knife Avenue
 Laws Close (part)
 London Road (part)
 Market Place
 McLaren Gardens
 New Road
 Paddock Green
 Park Road (part)
 Patriot Close
 Pennygate (part)
 Pied Calf Yard
 Pinchbeck road (part)
 Priory Road
 Red Lion Street
 Sandtone Gardens
 Sheep Market
 Short Street
 Spring Gardens
 Spring Street
 St Johns Road
 St Thomas Road (part)
 Station Approach
 Station Street
 Swan Street
 The Crescent
 The Green
 The Vista
 Thistle Gardens
 Tollgate (part)
 Truro Way
 Victoria Mews
 Victoria Street
 Victory Court
 Vine Street
 Walters Close
 West Parade (part)
 Westlode Street
 Willow Walk (part)
 Winfrey Avenue
 Winsover Road (part)