

Dated

BID LEVY OPERATING AGREEMENT

Cherwell District Council

And

Banbury Business Improvement District Ltd

Agreement

THIS DEED is made on the

2017

BETWEEN

- (1) **CHERWELL DISTRICT COUNCIL** of Bodicote House, Bodicote, Banbury, OX15 4AA (“the Council”)
- (2) **BANBURY BUSINESS IMPROVEMENT DISTRICT LIMITED (Company No: INSERT)** whose registered office is TO BE CONFIRMED (“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 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:
 - 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.

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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 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 and doubtful debts

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

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

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 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 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 April 2018

Commercially Sensitive Information: means information of a commercially sensitive nature relating to the BID Company, its intellectual property rights or its business or which the BID Company has indicated to the Council that, if disclosed by the Council would cause the BID Company significant commercial disadvantage or material financial loss.

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

Data Protection Legislation means the Data Protection Act 1998, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (*SI 2000/2699*), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of personal data and privacy as may come in to force from time to time, including where applicable the guidance and codes of practice issued by the Information Commissioner.

Data Processor shall have the same meaning as set out in the Data Protection Act 1998.

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 class or 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.

Managed Shopping Centres means a group of hereditaments paying a management charge to occupy such.

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 [who shall be a Council officer] and 1 representative from the BID Company.

NNDR means National Non-Domestic Rates.

Personal Data shall have the same meaning as set out in the Data Protection Act 1998

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

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

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

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

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 after the Ballot Result 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 BID Proposal, 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 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 provided, 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.

3.2 The Council may – subject to full Council approval - provide a bridging loan, in tranches, up to a maximum of £50,000 to the Banbury BID Company if it is able to demonstrate the need to cover the set-up, operational and project costs of the BID between November 2017 and the end of March 2018 to be entirely repaid to the Council via the levy collection by December 2018. The loan would be subject to an appropriate legal agreement being entered into to govern the drawdown loan facility and all financial requirements being satisfied including interest to be charged at a commercial rate.

4 Setting the BID Levy

4.1 As soon as is reasonably practicable following the Ballot Result Date the Council shall:

(i) Calculate the BID Levy due from each BID Levy Payer in accordance with the BID Levy Rules; and

(ii) Confirm in writing to the BID Company the BID Levy payable by each BID Levy Payer.

5 The BID Revenue Account

5.1 As soon as is reasonably practicable following the Ballot Result Date 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 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 and any other details which the Council may reasonably require.

5.3 The Council, within twenty (20) Working Days of receipt of an invoice for the BID Levy, which for the avoidance of doubt shall not be subject to VAT, will pay to the BID Company each month of every Financial Year during the BID Term a sum equal to the monies collected in that month and properly credited to the BID Revenue Account but, subject to clause 5.4 below, net of any cost incurred by the Council by way of collection and refunds.

5.4 The Council shall, prior to making any payment to the BID Company pursuant to clause 5.3 above, deduct the agreed annual cost incurred by it in the collection of the BID Levy of the annual BID Levy for each Financial Year and any further agreed adjustments from payments properly credited to the BID Revenue Account.

- 5.5 The Council will meet a proportion of the annual revenue costs to collect the BID levy for a period of five years with a grant of no more than £45,000 (to be paid to the BID Company in annual tranches of £9,000) to cover the difference between the annual cost estimated to be £24,000 and the proposed charge to the BID Company of £15,000.
- 5.6 Annually the Council will, by no later than the 30th of June of each Financial Year during the BID Term, pay to the BID Company or receive from it the balance of monies having taken account of the monthly account payments (net of refunds) and balance on the BID Revenue Account at the end of each Financial Year of the BID Term.
- 5.7 All sums will be subject to the addition of Value Added Tax (VAT) where applicable under VAT legislation and regulations in force at the time.
- 5.8 The BID Company and the Council as appropriate will issue VAT receipts, where applicable under VAT legislation and regulations in force at the time.

6 Collecting the BID Levy

- 6.1 As soon as reasonably practicable following the Ballot Result Date 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. The Council will use its sole discretion to determine whether a debt is collectable and notify the BID Company accordingly.
- 6.7 In the event that the Council exercises its discretion under clause 6.6 above to determine that a debt is not collectable then the BID Levy shall be amended accordingly.

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

- 7.1 Procedures for the enforcement and recovery of the BID Levy will be in line with the Council's enforcement procedure for NNDR 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 Within 21 Working Days of the end of the first quarter of the Financial Year (a Quarter) after the Commencement Date and every Quarter thereafter, (subject to the correct IT systems/ software being set up and available/ready to use) for the duration of BID Term the Council shall provide the BID Company with:

- (i) The rateable value for each BID Levy Payer;
- (ii) The amount of the BID Levy for each BID Levy Payer;
- (iii) The amount of the BID Levy collected for each BID Levy Payer;
- (iv) Details of BID Levy Payers who have not paid the BID Levy;
- (v) Details of Reminder Notices issued; and
- (vi) Details of any further action taken to recover any sum unpaid.

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 & 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 Termination

10.1 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.

10.2 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.

10.3 In the event that the parties cannot reach agreement in relation to the issues detailed in clauses 10.1 or 10.2 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.

10.4 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 £5 for each BID Levy Payer (having already deducted a reasonable sum for the administration of such refund) to:

10.4.1 calculate the amount to be refunded to each BID Levy Payer;

10.4.2 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

10.4.3 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.

10.5 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 10.4 above.

10.6 The BID Company shall not be permitted to terminate the BID Arrangements where:

10.6.1 The works or services under the BID Arrangements are no longer required; or

10.7.1 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 served a termination notice on the Council and thereafter carried out a process of consultation, which shall form part of the termination notice and be approved by the Council in writing, with all relevant representatives of the BID Area.

10.7 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 10.4 above.

11 Freedom of Information

11.1 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.

11.2 The BID Company acknowledges that the Council may be required under the FOIA and EIRs to disclose Information (including Commercially Sensitive Information) 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 Information and/or any other information is exempt from disclosure in accordance with the FOIA and/or the EIRs.

12 Data Protection

- 12.1 The BID Company shall comply with any notification requirements under the Data Protection Legislation and both parties will duly observe all their obligations under the Data Protection Legislation, which arise in connection with the Agreement.
- 12.2 Notwithstanding the general obligation in [clause 12.1](#), where the BID Company is processing Personal Data as a Data Processor for the Council, the BID Company shall ensure that it has in place appropriate technical and contractual measures to ensure the security of the Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under the Seventh Data Protection Principle in Schedule 1 to the Data Protection Act 1998; and
- (a) provide the Council with such information as the Council may reasonably require to satisfy itself that the BID Company is complying with its obligations under the Data Protection Legislation;
 - (b) promptly notify the Council of any breach of the security measures required to be put in place pursuant to [clause 12.2](#); and
 - (c) ensure it does not knowingly or negligently do or omit to do anything which places the Council in breach of the Council's obligations under the Data Protection Legislation.
- 12.3 The provisions of this clause shall apply during the continuance of the Agreement and indefinitely after its expiry or termination.

13 Force Majeure

- 13.1 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.

14 Equalities

- 14.1 The BID Company shall perform its obligations under this Agreement (including those in relation to the BID Arrangements) in accordance with:
- (i) the Equality Act 2010 or other relevant legislation, or any statutory modification or re-enactment thereof (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy, maternity or otherwise);
 - (ii) the Council's equality and diversity policy as provided to the BID Company from time to time; and
 - (iii) any other requirements and instructions which the Council reasonably imposes in connection with any equality obligations imposed on the Council at any time under applicable equality law.

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 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 11 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 Notices

17.1 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 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

17.2 A notice may be served by;

- (a) Delivery to the Head of Strategic Planning and the Economy 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.

17.3 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 Contracts (Rights of Third Parties)

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

19 Severance

- 19.1 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.
- 19.2 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.

20 Governing Law and Jurisdiction

- 20.1 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.

21 Miscellaneous

- 21.1 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.
- 21.2 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.
- 21.3 References to the Council include any successors to its functions as a local authority.
- 21.4 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.
- 21.5 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.

IN WITNESS whereof this Agreement has been duly executed and delivered as a deed on the date set out above

EXECUTED as a DEED by)

CHERWELL DISTRICT COUNCIL)

by affixing its Common Seal in)

the presence of)

Authorised Signatory

EXECUTED as a DEED by)

BANBURY BUSINESS)

IMPROVEMENT DISTRICT)

acting by:)

..... Director

in the presence of:

Witness signature:

Witness name:

Witness address:

.....

Witness occupation:

Appendix A

BID Levy Rules

1. Bid Term and Chargeable Periods

The BID Term will be for 5 years covering the period 1st April 2018 to 31st March 2023 inclusive. Liability for the BID Levy will commence from 1st April 2018. The Chargeable Period will be from 1st April 2018 to 31st March 2019 and then 1st April to 31st March for each subsequent Financial Year.

2. BID Levy

- The BID Levy applies to all Non Domestic Rating hereditaments wholly within the BID Area, with the exception of those with a rateable value of less than £4,750, which will be exempt
- The BID Levy rate will be 1.5% of the rateable value in the Local Non Domestic Rating List excluding those within Managed Shopping Centres which would be subject to a 1.125% 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 current Local Non Domestic Rating List for the relevant date. The relevant date will be:

- For existing hereditaments the first day of the Chargeable Period each year
- For new hereditaments the date of the alteration schedule on which the property enters the rating list and then the 1st day of the Chargeable Period each year

Where changes to the entry in the Local Non Domestic Rating List are made the relevant date will be as follows:

- Increases in rateable value – date of the alteration schedule on which the higher value enters the rating list
- Splits, mergers and other reconstitutions - date of the alteration schedule which changes the rating list
- Reductions in rateable value and deletion of entries – date of the alteration schedule which changes the rating list if in the current Chargeable Period otherwise the 1st day of the current Chargeable Period
- For properties increasing to £4,750 and above or reducing to below £4,750 - date of the alteration schedule which changes the rating list if in the current billing period otherwise the 1st day of the current Chargeable Period
- Rateable values in the 2017 Local Non Domestic Rating List will apply to the BID levy from 1st April 2018. For hereditaments existing on 31st March 2018 the relevant date will be 1st April 2018

- Where a hereditament is deleted from the Local Non Domestic Rating List but then re-entered on a later alteration schedule with the same effective it will be treated as not having been deleted.

4. Liability

- The BID Levy will be charged to the Non Domestic Rate payer 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
- Where a BID Levy payer is liable to pay the BID Levy for less than a year the amount of BID Levy will be calculated on a daily basis pro-rate to the full Chargeable Period
- Where there is a new Non Domestic Ratepayer in respect of a property within the BID Area they will be liable for the BID Levy from the date they become the ratepayer
- Where a Non Domestic Ratepayer in respect of a property within the BID Area ceases to be liable for rates they will cease to be liable for the BID Levy from the date they cease to be the ratepayer

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 Council will issue a BID Levy adjustment notice where the BID Levy Payer ceases to be liable or as a result of changes in the Local Non Domestic Rating list
- Where a BID Levy Payer has paid the Bid Levy for all or part of the Chargeable Period and ceases to be liable to pay the BID Levy or the amount of BID Levy is reduced, the Council shall refund any overpayment