

DATED _____ **2021**

**THE MAYOR AND BURGESSES OF THE
LONDON BOROUGH OF BEXLEY**

AND

BEXLEYHEATH BUSINESS PARTNERSHIP LIMITED

**[DRAFT] BUSINESS IMPROVEMENT DISTRICT
OPERATING AGREEMENT**

DRAFT

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THIS DEED is made the
BETWEEN

day of 2021

- (1) **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF BEXLEY** of Civic Offices, 2 Watling Street, Bexleyheath Kent DA6 7AT (the "Council"); and
- (2) **BEXLEYHEATH BUSINESS PARTNERSHIP LIMITED** registered as a Company Limited by Guarantee having no share capital in England with Registered Company Number 7398915 and whose Registered Office is situate at Management Suite, Broadway Shopping Centre, Bexleyheath, England, DA6 7JN (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 BID Arrangements.
- C By an agreement dated 28 September 2017, as varied by deed of variation dated 28 May 2019, the Parties agreed arrangements for the second BID term which expires on 30 September 2021. The BID term has been extended from 1 October 2021 following a renewal ballot and this Agreement applies to the new BID Term. 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 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.

IT IS AGREED as follows:

1. Definitions

1.1 In this Agreement, except where the context requires otherwise the following expressions shall have the meanings hereby ascribed to them:

“Annual BID Company Report”

means a report prepared by the BID Company for each Financial Year which details:

- (i) total income and expenditure arising from the BID Levy;
- (ii) other income and expenditure of the BID Company;
- (iii) a statement of actual and pending deficits; and
- (iv) the various initiatives and schemes upon which the BID Levy has been expended by the BID Company.

“Annual Council Report”

means a report prepared by the Council which details:

- (i) the amount of the BID Levy collected during the relevant Financial Year;
- (ii) the total amount of interest earned on any part of the BID Levy whilst held in the BID Revenue Account
- (iii) the success rate for the collection of the BID Levy;
- (iv) the Council’s proposals (if any) to help improve its efficiency in the collections and enforcement of the BID Levy;
- (v) those BID Levy Payers who have not paid the BID Levy; and
- (vi) the Council’s proposals for Bad or Doubtful Debts.

- “Bad or Doubtful Debts”** - has the meaning given in Part 2 of Schedule 3 of the Regulations.
- “Enforcement Agent”** - means an Enforcement Agent employed by the Council or on behalf of the Council through a contractor.
- “Enforcement Agent’s Fees”** - means the additional charges added to a BID Levy by an Enforcement Agent.
- “Ballot Result Date”** - means the 16TH July 2021, being the date upon which a successful ballot result has been declared in favour of putting in place the BID arrangements.
- “BID”** - has the meaning given in the Regulations that is the Business Improvement District and is that area within which the BID operates (the “BID Area”) as edged red on the plan attached to this Agreement in Schedule 1.
- “BID Arrangements”** - has the meaning given by Section 41 of the Local Government Act 2003.
- “BID Board”** - means members of the board of directors of the BID Company.
- “BID Company’s Termination Notice”** - means the notice served by the BID Company on the Council pursuant to Clause 12.8
- “BID Levy”** - means the charge levied and collected within the BID pursuant to the Regulations.
- “BID Levy Payer(s)”** - means the hereditaments liable for paying the BID Levy.
- “BID Levy Rules”** - means the rules set out in Schedule 2.
- “BID Revenue Account”** - means the account kept in accordance with Regulation 14 of the Regulations.
- “BID Term”** - means 1st October 2021 to 30th September 2026
- “Chargeable Period(s)”** - means any one of the following periods:
01.10.21 – 30.09.22
01.10.22 – 30.09.23
01.10.23 – 30.09.24
01.10.24 – 30.09.25
01.10.25 – 30.09.26

“Committal”	- means an order made by Magistrates’ Court for a BID Levy Payer to be committed to prison for failure to pay the BID Levy.
“the Council’s Termination Notice”	- means the notice to be served by the Council on the BID Company pursuant to Clause 12.1
“Contributors”	- means the BID Levy Payers and payers of a contribution or funds paid or made available to the BID Company which do not form part of the BID Levy.
“Demand Notice”	- has the meaning given to it in the Regulations.
“the Enforcement Expenses”	- means the costs which are incurred by the Council in issuing a Reminder Notice, obtaining Liability Orders and associated administrative expenses which may be incurred in recovering unpaid BID Levy.
“the Exceptions”	- means the circumstances agreed between the Council and the BID Company in which the Council shall not be required to seek to enforce payment of the BID Levy where a BID Levy Payer has failed to make payment pursuant to a Demand Notice.
“the Exempt or Discounted Properties”	- means those class or classes of properties as identified in the BID Levy Rules contained at Schedule 2 which shall be exempt from any requirement to pay the BID Levy or are permitted a discount on the BID Levy..
“Financial Year”	- means the financial year for the BID Company which runs from 1 st October to 30 th September.
“the First Priority Expenses	- means the administrative expenses incurred by the Council in respect of all reasonable costs arising out of compliance with its obligations under this Agreement and the Regulations provided that such costs shall not exceed 5% of the total value of the BID Levy raised at the 1 st October in any one Financial Year
“Hereditament Start Date”	- means the date when the amendment to the Valuation List takes effect.
“Hereditament”	- has the meaning given in the Regulations.
“Liability Order”	- has the meaning given in the Regulations.

- “Monitoring Group”** - means the group set up to monitor the collection and enforcement of the BID Levy and whose members consists of 2 representatives from the Council and 2 representatives from the BID Company
- “the Operational Date”** - means the date upon which the BID Arrangements come into force.
- “the Public Meeting”** - means the meeting to be held of all BID Levy Payers pursuant to the Public Meeting Notice
- “the Public Meeting Notice”** - means a notice to be served pursuant to Clause 12.1 or 12.8 by either the Council or the BID Company which provides the following: -
 (a) confirmation that either party is considering terminating the BID;
 (b) details of the venue where the Public Meeting will be held; and
 (c) confirmation that all BID Levy Payers who attend will be permitted to make representations.
- “Proposal(s)”** - means the plan voted for by the BID Levy Payers in a ballot which sets out the objectives of the BID and identifies the various projects which will be undertaken using funds raised by the BID Levy and/or Voluntary Contributions to achieve those objectives and ‘Renewal Proposals’ has the same meaning save that ‘ballot’ shall be replaced with ‘renewal ballot’ and “Alteration Proposals” has the same meaning save that “ballot” shall be replaced with “alteration ballot”.
- “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).
- “Reminder Notice”** - means the notice served by the Council to any BID Levy Payer regarding non-payment of the BID Levy pursuant to Schedule 3 of this Agreement.
- “Single Instalment Due Date”** - means the date by which the Bid Levy as set out in the Demand Notice must be paid.
- “Sum(s) Unpaid”** - means the amount of the BID Levy which is unpaid after the Single Instalment Due Date.

- “Summons”** - means the document issued by the Magistrates’ Court upon Complaint by the Council regarding unpaid BID Levy.
- “Valuation List”** - means a list of all National Non –Domestic Rate Hereditaments in the local authority
- “Valuation Officer”** - means the person appointed by the Commissioners of Her Majesty’s Revenues and Customs to compile and maintain the Valuation List
- “Winding-Up”** - means an order pursuant to Section 125 of the Insolvency Act 1986
- “Write Off(s)”** - means a decision by the BID Company that an unpaid BID Levy will not be recovered.

1.2 Where reference is made to a Clause, Part, or Recital such reference (unless the context requires otherwise) is a reference to a clause, part, plan, or recital attached to this Agreement.

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

1.4 References to Acts of Parliament or to any Order, Regulation, Statutory Instrument or the like shall be deemed to include a reference to any amendment or re-enactment of the same.

1.5 This Agreement shall be governed by and construed in accordance with English Law and the parties agree to submit to the exclusive jurisdiction of the English Courts.

2. Statutory Authorities

2.1 This Agreement is made pursuant to Section 2 and Part IV of the Local Government Act 2003, Section 111 of the Local Government Act 1972 and Section 1 of the Localism Act 2011 and all other enabling powers.

3. Commencement

3.1 This Agreement shall take effect from the Ballot Result Date and in any event shall determine and cease to be of any further effect in the event that:

3.1.1 the BID Company fails to secure approval of the Proposals, Renewal Proposals or Alteration Proposals in a ballot, renewal ballot, alteration ballot or re-ballot;

3.1.2 the Secretary of State declares void a BID ballot, renewal ballot, alteration ballot or re-ballot;

3.1.3 the Council exercises its veto and there is no successful appeal against the veto;

3.1.4 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 re-ballot in which event this Agreement shall continue until the expiry of the BID Term set out in the Renewal Proposals, Alteration Proposals or the Proposals set out in the re-ballot provided, in relation to Renewal Proposals and Alteration Proposals the Council consents to such continuation;

3.1.5 the Council exercises its discretion to terminate the BID Arrangements in exercise of its powers under Regulation 18 of the Regulations.

3.2 From 1 October 2021, the agreement between the parties dated 28 September 2017 shall determine and that part of Clause 3.1.4 which purported to continue the agreement following a re-ballot shall cease to have effect.

4. Setting the BID Levy

- 4.1 As soon as possible upon the Ballot Result Date the Council shall:
- 4.1.1 calculate the BID Levy for each BID Levy Payer in accordance with the BID Levy Rules; and
 - 4.1.2 confirm in writing to the BID Company the BID Levy payable annually by each BID Levy Payer.

5. The BID Revenue Account

- 5.1 By no later than 1st October 2021 the Council shall keep a BID Revenue Account within the Council's General Fund and provide written confirmation to the BID Company of the same. By no later than 1st October 2021 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.
- 5.2 The Council shall pay BID Levy funds to the BID Company, upon presentation of valid invoices from the BID Company, according to the following schedule:
- 5.2.1 on 15th October in each BID Year (or the soonest working day thereafter)_a maximum of 70% of the BID Levy payable for that BID year
 - 5.2.2 on 15th April in each BID Year (or the soonest working day thereafter) a maximum of 25% of the BID Levy payable for that BID year
 - 5.2.3 a final payment as soon as possible after the end of the BID Year which is to consist of the remaining 5% of billed BID Levy – net of debt unrecovered as at end of the BID Year and any refunds payable by the Council under clause 5.3.
- 5.3 In the event that a BID Levy Payer is entitled to a repayment of a BID Levy pursuant to paragraph 8(4) of Schedule 4 of the Regulations, the Council shall repay the BID Levy Payer from the BID Revenue Account. The Council will retain a maximum of 5% of the BID Levy payable for that BID year for the purposes of paying these refunds. In the event that there are insufficient funds

available from the retained BID Levy monies to pay the BID Levy Payer the Council shall request such repayment sum from the BID Company and the BID Company shall pay the repayment sum to the Council forthwith and the Council shall thereafter repay the repayment sum to the BID Levy Payer. If the BID Company does not pay the repayment sum to the Council the Council shall be under no obligation to repay the BID Levy Payer and all such obligations shall fall on the BID Company.

- 5.4 The payments of the BID Levy funds by the Council to the BID Company (as defined in 5.2) shall be subject to Value Added Tax (VAT) at the appropriate rate in force at the time of invoicing.

6. Debits from the BID Revenue Account

- 6.1 The Council shall not debit directly from the BID Revenue Account:-

- (i) the First Priority Expenses; or
- (ii) any deductions which in the Council's opinion are Bad or Doubtful Debts.

- 6.2 The Council shall be entitled to recover the costs it incurs in billing and collecting the BID levy from the BID company, plus Value Added Tax (VAT) at the appropriate rate in force at the time of invoicing. The costs, excluding any set up costs, are £TBC per annum in year 1, on the basis that the Council or its agent will retain the first £3,000 of any costs awarded by the Courts in the event of non-payment of the BID levy. An inflationary increase will be applied on each anniversary of the service in line with the average increase of RPIX (Retail Price Index) during the previous 12 months. The Council shall also be entitled to recover from the BID Company its additional costs arising from any request from the BID Company to commence bankruptcy or winding-up action against a BID Levy Payer. All Magistrates' Court fees will be paid by the Council and reclaimed from the BID company.

- 6.3 The annual charge as set out in 6.2 will be payable by the BID Company to the Council in advance, in one instalment on 15th October in each BID Year.

The Council shall provide one invoice per annum for this charge to be payable by the BID Company.

6.4 This clause is not used.

6.5 This clause is not used.

6.6 The BID Company shall pay the invoice referred to in 6.3 within 28 days from the date of receipt.

6.7 In the event that the BID Company fails to pay the said invoice within the prescribed time period then, notwithstanding Clause 6.1, the Council shall be permitted to recover the invoiced costs directly from the BID Revenue Account.

6.8 The Council shall not seek to recover the Enforcement Expenses from the BID Company provided that the Council is permitted full discretion in determining which non-payment of any BID Levy it shall pursue. Should the BID Company require the Council to pursue any BID Levy that the Council has decided not to pursue, the Council shall be entitled to invoice the BID Company for the Enforcement Expenses incurred by the Council in pursuing such BID Levy, providing that the Council does not recover such Enforcement Expenses from the BID Levy Payer themselves.

6.9 The BID Company shall arrange for any Enforcement Expenses invoiced by the Council pursuant to Clause 6.8 above, to be paid within 28 days from the date of such invoice. In the event the BID Company fails to pay the said invoices within the prescribed time period then the Council shall be permitted to recover the invoiced Enforcement Expenses directly from the BID Revenue Account.

7. Collecting the BID Levy

7.1 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.

7.2 Pursuant to Clause 7.1 above the Council shall serve a Demand Notice on each BID Levy Payer and thereafter shall continue to calculate the BID Levy and serve a Demand Notice throughout the BID Term.

7.3 The Council shall maintain a list of 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.

7.4 The Council shall serve a Demand Notice or 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.

7.5 The Council shall use all reasonable endeavours to collect the BID Levy throughout the BID Term and to continue to collect any outstanding BID Levy remaining at the end of the BID Term as consistent with its usual procedures for the collection of non-domestic rates.

7.6 The BID Levy, as set out in the issued Demand Notices or amended Demand Notices, shall not be subject to Value Added Tax (VAT).

8. Procedures available to the Council for enforcing payment of the BID Levy

8.1 Procedures for the enforcement and recovery of the BID Levy are set out in Schedule 3 and the Council shall comply with these enforcement procedures (where appropriate) in enforcing payment of the BID Levy against BID Levy Payers.

9. Accounting Procedures and Monitoring

9.1 By 1st October 2021 the parties shall set up the Monitoring Group.

- 9.2 By 31st October 2021 and every month thereafter (for the duration of BID Term) the Council shall provide the BID Company with:
- (i) the amount of the BID Levy collected for each BID Levy Payer; and
 - (ii) details of BID Levy Payers who have not paid the BID Levy.
- 9.3 By 31st October 2021 and every 3 months thereafter (for the duration of the BID Term) the Council shall provide the BID Company with:
- (i) details of Reminder Notices issued;
 - (ii) details of Liability Orders made or applied for;
 - (iii) details of agreements made, if any, between the Council and BID Levy Payers where it has been agreed that payment of a Demand Notice can be made over a period of 3 months or more from the date of such Demand Notice.
- 9.4 By 1st October 2021 the parties shall agree the dates when there will be meetings of the Monitoring Group and there will be at least 2 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 on the other such notice to be provided no less than 28 days prior to the date of the proposed meeting (or lesser if otherwise agreed or in cases of emergency) and provided further that such meetings can be dispensed with altogether upon the written agreement of both the Council and the BID Company
- 9.5 At each meeting the Monitoring Group shall:
- 9.5.1 review the effectiveness of the collection and enforcement of the BID Levy; and
 - 9.5.2 if required by either party review and assess information provided by the parties pursuant to Clauses 9.2 and 9.3 above and make recommendations provided they are permitted by the Regulations and

the terms of this Agreement.

9.6 Within 2 months after the end of each Financial Year (and within 2 months after the termination of the BID, howsoever effected) the Council shall provide an Annual Council Report to the BID Company.

9.7 Within 1 month from the date of receipt of the Annual Council Report in each Financial Year (including within 1 month after receipt of the Annual Council Report provided following termination of the BID) the BID Company shall provide an Annual BID Company Report to the Council.

10. Confidentiality and Freedom Of Information

10.1 Both 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 save for the Council shall be permitted to divulge to third parties involved in recovering the BID Levy such information about BID Levy Payers as is necessary for such third parties to undertake recovery of the BID Levy and this obligation shall survive the termination or lapse of the BID Arrangements.

10.2 The BID Company acknowledges that the Council is subject to the requirements of the Freedom of Information Act 2000 ("the FOIA") and other statutory requirements and the BID Company agrees to assist and co-operate with the Council to enable the Council to comply with its obligations under the FOIA.

10.3 The BID Company acknowledges that notwithstanding Clause 10.1 above any information the BID Company or the Council deem confidential is indicative only of the status of such information and that the Authority may nevertheless

disclose such information if required in compliance with its obligations under the FOIA.

10.4 The BID Company shall: -

10.4.1 transfer to the Council any Request for Information (as defined in the FOIA) received as soon as practicable after receipt and in any event within 2 working days of receiving such Request for Information;

10.4.2 provide the Council with a copy of all Information (as defined in Section 84 of the FOIA) in its possession or power in the form that the Council requires within 5 working days (or such other period as the Council may specify) of the Council requesting that Information; and

10.4.3 provide all necessary assistance as reasonably requested by the Council to enable the Council to respond to a Request for Information within the time for compliance set out in Section 10 of the FOIA.

10.5 Notwithstanding Clause 10.1 above, the Council shall be responsible for determining at its absolute discretion whether the Information is exempt from disclosure or the Information is to be disclosed in response to a Request for Information.

11. Notices

11.1 Any notice or other written communication to be served or given to or upon any party under this Agreement shall be in writing and shall be sufficiently served if served personally on the addressee, or if sent by prepaid first class recorded delivery post or facsimile transmission to the address provided for above or such substitute address in England as may from time to time have been notified by that party to the other.

11.2 Any notice served in accordance with Clause 11.1 above shall, subject to proof to the contrary, be deemed to have been received by the addressee on

the second business day after the date of posting or on successful transmission as the case may be.

12. Termination

12.1 The Council shall not be permitted to terminate the BID Arrangements because:

- (i) in its opinion there are insufficient finances available to the BID Company to meet its liabilities for the chargeable period for the purposes of the BID Arrangements; or
- (ii) the Council is unable, due to any cause beyond its control to provide the works or services which are secured as part of the BID Arrangements

unless and until it first serves the Public Meeting Notice on the BID Levy Payers and the Council's Termination Notice on the BID Company and within 14 (fourteen) days from the date of service of such notice both parties shall arrange to meet where the purpose of such meeting shall be to discuss and/or agree all or any of the following set out in Clause 12.2 or 12.3 (whichever is applicable).

12.2 Where the Council Termination Notice relates to Clause 12.1(i) both parties shall agree and/or discuss or review the following:

- (a) the concerns of the Council that the BID Company has insufficient finances to meet its liabilities for that period and details of such concerns should be made available to the BID Company;
- (b) the insufficiency of funds;
- (c) alternative means by which the insufficiency of the funds can be remedied; and

(d) an appropriate time frame to resolve this issue.

12.3 Where the Council Termination Notice relates to Clause 12.1(ii) both parties shall agree and/or discuss or review the following:

(a) the services or works which it 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 material importance to the BID so that termination of the BID Arrangements is the only option;

(c) alternative means of procuring the said services or works by third parties or increased financial funding from the BID Company;

(d) alternative replacement services or works which will be acceptable to the BID Company ;

(e) an appropriate time frame to resolve this issue.

12.4 Notwithstanding Clauses 12.1, 12.2 and 12.3 above, the Council shall cause a Public Meeting to be held.

12.5 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 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 28 days prior to termination taking place.

12.6 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 (five pounds) for each BID Levy Payer (having already deducted a reasonable sum for the administration of such refund) to:

- (a) calculate the amount to be refunded to each BID Levy payer;
- (b) 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
- (c) 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.

12.7 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 12.6

12.8 The BID Company shall not be permitted to 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

unless and until it has served the BID Company's Termination Notice on the Council and thereafter carried out a proper consultation with all relevant representatives of the BID Area as considered appropriate by the Council.

12.9 Upon termination of the BID Arrangements the BID Company shall notify the Council of such termination in accordance with Regulation 18(5) and the Council shall notify the BID Levy payers pursuant to Regulation 18(6) together with confirmation as to whether any part of the BID Levy is to be repaid to BID Levy payers in accordance with Clause 12.6.

13. Miscellaneous

13.1 For the avoidance of doubt where any part of this Agreement is incompatible with the Regulations or any other regulations which the First 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.

13.2 The headings appearing in this Agreement are for ease of reference only and shall not affect the construction of this Agreement.

13.3 For the avoidance of doubt the provisions of this Agreement (other than those contained in this Clause) shall not have any effect until this document has been dated.

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 statutes bye-laws statutory instruments orders and regulations in the exercise of its functions as a local authority.

15. Assignment

15.1 The Council shall be entitled to assign the benefit of this Agreement or any part thereof providing that the Council shall give prior written notice of any assignment to the BID Company. Within 14 days of receipt of such notice the BID Company shall, by notice in writing either:

15.1.1 provide its consent to the assignment (such consent not to be unreasonably withheld); or

15.1.2 withhold such consent and serve notice on the Council requiring the Council to serve a Public Meeting Notice on the BID Levy Payers and Council Termination Notice on the BID Company and thereafter requiring that the parties act in accordance with the provisions contained in Clauses 12.4 to 12.9 above; or

15.1.3 withhold such consent and refer the issue to be determined by Arbitration in accordance with Clause 17 below.

15.2 The BID Company shall not assign this Agreement or any part thereof or the benefit or advantage of this Agreement or any part thereof.

16. Contracts (Rights of Third Parties) Act 1999

16.1 No person who is not a party to this Agreement shall have the right to enforce any term of this Agreement which expressly or by implication confers a benefit on that person without the express prior agreement in writing of the parties hereto, which agreement must refer to this Clause 16.1.

16.2 Even if a person who is not a party to this Agreement has a right to enforce any term of this Agreement by virtue of Section 1 of the Contracts (Rights of Third Parties) Act 1999, the parties hereto may, notwithstanding Section 2 of the Contracts (Rights of Third Parties) Act 1999, vary or cancel this Agreement by agreement between them without requiring the consent of such third party.

17. Arbitration

17.1 The following provisions shall apply in the event of a dispute:

17.1.1 any dispute or difference of any kind whatsoever arising between the

parties hereto out of or in connection with this Deed shall be referred to arbitration before a single arbitrator;

17.1.2 the parties shall jointly appoint the arbitrator not later than 28 days after service of a request in writing by either party to do so and each party shall bear its own costs;

17.1.3 If the parties are unable to agree within 28 days the appointment of such arbitrator then such arbitrator (hereinafter referred to as “the Tribunal”) shall be appointed on the application of either party to the President for the time being of the Law Society.

17.2 In the event of a reference to arbitration the parties agree:

17.2.1 to prosecute any such reference expeditiously; and

17.2.2 to do all things or take all steps reasonably necessary in order to enable the Tribunal to deliver any award (interim, final or otherwise) as soon as reasonably practicable;

17.2.3 that the award shall be in writing signed by the Tribunal and shall be finalised within 21 (twenty one) days from the date of such award;

17.2.4 the award shall be final and binding both on the parties and on any persons claiming through or under them.

IN WITNESS whereof the parties have executed this Agreement as a Deed the day and year first before written

THE COMMON SEAL of the MAYOR)
AND BURGESSES OF THE LONDON)

BOROUGH OF BEXLEY was hereunto)
affixed as a deed in the presence of:-

Director

Deputy Director

Signed as a deed for the Bexleyheath Business
Partnership Limited

Director

Director/Secretary

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SCHEDULE 1 – BID AREA MAP



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SCHEDULE 2 – BID LEVY RULES

The BID process is governed by Government Legislation and Regulations (Part 4 of the Local Government Act 2003 and Statutory Instrument 2004 No. 2443). As such, once a majority vote has been achieved, the BID Levy becomes mandatory and enforceable on all defined ratepayers within the BID area.

The rules for the BID levy are as follows:-

1. The levy rate to be paid by each property or hereditament* is to be calculated as 1.3% of its rateable value.
2. The term of the BID will be for a period of 5 years from 1st October 2021 to 30th September 2026.
3. The BID Levy will be applied to all hereditaments within the BID area.
4. All hereditaments with a rateable value under £12,000 will be exempt from the BID Levy.
5. All new hereditaments entering the list after 1st April 2022 will be levied at 1.3% of the 2022 rating list value.
6. Any property that is split/merged or reorganised an effective date on or after 1st April 2022 will be subject to the 2022 rating list value.
7. When a hereditament is empty, the eligible ratepayer will be liable for the BID Levy with no void period, except in the case of listed buildings which will be exempt.
8. There will be no VAT charged on the BID Levy.
9. All BID Levy payments will be payable by one instalment in accordance with relevant legislation or any other frequency authorised by the Council.

*Hereditament means a rateable business unit

**SCHEDULE 3 - PROCEDURES FOR THE ENFORCEMENT AND RECOVERY OF
THE BID LEVY**

- 3.1 Where the BID levy has not been paid within 14 to 28 days of the date of the levy becoming due, a reminder notice will be issued requesting payment of the full amount. After a further 21 days, if payment has not been made, application will be made to the Magistrates' Court for the issue of a Liability Order, in order that payment of the debt can be enforced. This will result in costs being incurred by the BID Levy Payer.
- 3.2 Should a Liability Order be granted and full payment not made, then the debt may be passed to Enforcement Agents for enforcement which may result in further costs being incurred.
- 3.3 Should further action be necessary to recover the debt, this may include insolvency, committal or county court action all of which may result in additional costs being incurred.

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