DATED 2024

 MILTON KEYNES COUNCIL

AND

MyMiltonKeynes Limited

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OPERATING AGREEMENT FOR THE BUSINESS IMPROVEMENT DISTRICT IN CENTRAL MILTON KEYNES

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**THIS DEED** is made the day of 2024

**BETWEEN**

(1) **MILTON KEYNES COUNCIL** of Civic Offices, 1 Saxon Gate East, Central Milton Keynes, MK9 3EJ (‘‘the Council"); and

(2) MY**MILTONKEYNES LIMITED** (the "BID Company") registered as company limited by guarantee (company number 4260537) in England whose registered office is at Suite 301, Midsummer Place 417 Saxon Gate East, Milton Keynes, United Kingdom, MK9 3GB

Together known as ‘‘the Parties’’ and ‘‘Party’’ shall be construed accordingly.

**RECITALS**

1. The Council is the billing authority for the purposes of the Local Government Act 2003 and is responsible for the imposition, collection, recovery and application of the BID Levy and administering the BID Revenue Account which shall be used towards the operation of the BID within the area in the local authority and the funding of the BID Arrangements
2. 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
3. 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 Term.

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 the transfer 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 HEREBY AGREED:**

1. **Definitions**

**Administrative Expenses** means costs incurred by the Council and/or its agents in the imposition, administration, collection and recovery of the BID Levy and all reasonable costs incurred by the Council arising out of compliance with its obligations under this Agreement and the Regulations during each year of the duration of this Agreement;

**Agreement** means this agreement between the Parties and includes all the schedules, any documents incorporated as part of the operation of this agreement and any subsequent amendments made to the Agreement by the Parties.

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

1. the total amount of the BID Levy collected during the relevant Financial Year;
2. details of the success rates for the collection of the BID Levy;
3. the Council’s proposals (if any) to help improve its efficiency in the collection and enforcement of the BID Levy;
4. details of those BID Levy Payers who have paid the BID Levy and those who have not paid the BID Levy; and
5. the Council’s proposals for bad or doubtful debts

**Bad or Doubtful Debts** for the purposes of this Agreement means any unpaid Bid Levy in respect of which the Council has sought recovery in accordance with clause 8.3 of this Agreement and that Bid Levy remains unpaid;

**the BID** has the meaning given in the Regulations that is the Business Improvement District;.

**BID Area** means the area within which the BID operates as edged red on the plan attached to this Agreement in Schedule 1;

**BID Arrangements** means those arrangements to be put in place pursuant to section 41 of the Local Government Act 2003 for the operation of the BID Company;

**BID Ballot** shall have the same meaning given in the Regulations.

**BID Business Plan** means the BID Company Business Plan 2022 - 2027;

**the BID Company’s Report** means a report for each BID Financial Year to be prepared by the BID Company which detail the following:

1. The total income and expenditure of the BID Levy;
2. Other income and expenditure of the BID Company not being the BID Levy;
3. A statement of actual and pending deficits; and
4. The various initiatives and scheme within the BID Business Plan 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;

**the BID Company’s Termination Notice** means a notice to be served by the BID Company on the Council pursuant to clause 12.2;

**BID Levy Payer(s)** means the non-domestic rate payers who are liable for paying the BID Levy;

**BID Levy Rules** means the rules set out in the BID Business Plan, which defines how the BID Levy will be calculated, details of Exempt or Discounted Properties and other requirements related to the BID Levy. For the sake of clarity these have been set out in Schedule 3 of this Agreement.

**BID Proposals** has the same meaning as in the Regulations;

**BID Revenue Account** means the account to be set up in accordance with Regulation 14 of the Regulations;

**BID Term** means 1st June 2022 to 31st May 2027;

**BID Financial Year** means the period from 1 June to 31 May (inclusive)

**the Council’s Termination Notice** means the notice to be served by the Council on the BID Company pursuant to Clause 12.1;

**Chargeable Day** means any one of the following days:

1 June 2022

1 June 2023

1 June 2024

1 June 2025

1 June 2026

**Commencement Date** is the 1st June 2022 which is the date when the BID Arrangements come into force.

**Contributors** means other persons or organisations, other than the BID Levy Payers who make voluntary contributions or funds available to the BID Company;

**Demand Notice** means a notices which is compliant with the provisions of paragraph 3 of Schedule 4 of the Regulations and which is issued by the Council to a BID Levy Payer in respect of an amount payable for a Hereditament;

**Enforcement Expenses** means the costs which are incurred by the Council in obtaining Liability Orders and Summons and all associated administrative expenses which may be incurred in recovering unpaid BID Levy, including Bailiff charges;

**Electronic Communication** means a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa):

1. by means of a telecommunication system (within the meaning of the Telecommunications Act 1984); or
2. by other means but while in electronic form.

**the Exceptions** means the circumstances 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 exceptions shall be as agreed by the Parties and documented in schedule 5 to this Agreement and will include any amendments made by the Parties from time to time;

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

**Hereditament** shall have the same meaning as defined in the Regulations;

**Liability Order** has the meaning given in the Regulations;

**Monitoring Group** means the group to be set up to monitor the collection and enforcement of the BID Levy (as referred to in Clause 11); the group is to consist of representatives of the Council and the BID Company;

**NNDR** means National Non-Domestic Rates under the Local Government Finance Act 1988;

**Proposal** 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 Contributions to achieve those objectives and “Alteration Proposals” has the same meaning save that “ballot” shall be replaced with “alteration ballot”;

**the Levy Payers Meeting** means the meeting to be held of all BID Levy Payers pursuant to a Notice issued under clause 12.3;

**the Regulations** means the Business Improvement Districts (England) Regulations 2004 and such amendments made by the Secretary of State pursuant to Section 48 of the Local Government Act 2003 (from time to time);

**Revaluation** means the revaluation of the rateable values of all business and non-domestic property in England and Wales which takes place from time to time;

**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 process issued in the Magistrates’ Court upon Complaint by the Council or by the County Court upon application by the Council regarding unpaid BID Levy;

**Valuation List** means a list of all NNDR properties in the local authority area;

**Winding Up** means an order pursuant to s125 of the Insolvency Act 1986;

**Write Off** means a decision by the Council that an unpaid BID Levy will not be recovered;

**Working Day** means any day of the week other than a Saturday, a Sunday or a Bank Holiday;

**Data Processor** shall have the same meaning as set out in the UK GDPR .

**Data Protection Legislation**: the UK General Data Protection Regulations (2016/679 EU) as retained by the European Union (Withdrawal) Act 2018 (the UK GDPR); Law Enforcement Directive (Directive (EU) 2016/680)  and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner;

**Personal Data** shall have the same meaning as set out in the UK GDPR;

**Staff** means all persons employed by the BID to perform its obligations under the Agreement together with the BID's servants, agents, suppliers and Sub-Contractors used in the performance of its obligations under the Agreement;

1. **Statutory Authorities**
	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 provisions.
2. **Commencement**
	1. This Agreement shall be effective from the Commencement Date and in any event shall determine and cease to be of any further effect in the event that:
		1. The BID Term expires; or
		2. Either Party exercises its discretion to terminate the BID Arrangements in exercise of powers under Clause 12.
3. **Setting the BID Levy**
	1. As soon as possible prior to each Chargeable Day, the Council shall:
4. calculate the BID Levy in accordance with the Regulations and the BID Levy Rules.
5. confirm in writing to the BID Company the BID Levy payable annually by each BID Levy Payer.

4.2 Subject to clause 4.1 being complied with the Council agrees to carry out the services contained in the Baseline Agreement set out in Schedule 2 the final version of which is to be agreed between the Parties hereto

1. **The BID Revenue Account**
	1. Pursuant to Clause 47 of the Local Government Act 2003, the Council shall maintain a BID Revenue Account.
2. **Payments of the Council’s Administrative Expenses**
	1. The Council shall invoice the BID Company in advance for the administrative charges as set out below. This will be done on an annual basis at the start of each BID Year. The invoice shall provide the BID Company with a breakdown of the costs incurred including VAT.
	2. The expected annual administrative charges will include the following:
3. Cost of collection of BID levy based upon circa 420 bills raised will be £13,761 per annum.
	1. These charges may be adjusted on an annual basis.

**7**. **Collecting the BID Levy**

7.1. The Council shall use all reasonable endeavours to collect the BID Levy on the Chargeable Day and thereafter on an annual basis throughout the BID Term in a manner consistent with its usual procedures for the collection of NNDR and in accordance with the procedure set out in Schedule 4 of the Regulations.

7.2. Pursuant to clause 7.1 the Council shall serve a Demand Notice or Amended Demand Notice on each BID Levy Payer and thereafter shall continue to calculate the BID Levy and serve the Demand Notices throughout the BID Term.

7.3. It is the responsibility of the Council to ensure that the BID Levy Rules are applied accurately.

7.4. The Council shall maintain a list which identifies payment and/or non-payment of the BID Levy which shall be made available to the BID Company at intervals of not less than once a quarter.

7.5. In readiness for billing the BID levy each year, the Council shall liaise with the BID Company to carry out a review of each Hereditament within the BID Area and in the event of any change in the occupier of each Hereditament or the merger or division of a Hereditament (or provision of an additional Hereditament) shall serve an updated list of BID Levy Payers upon the BID Company. Such changes will be reflected in the next annual calculation of the BID Levy and subsequent Demand Notices.

7.6. The BID Company shall be responsible for reviewing any appeals received against the payment of the BID Levy and the application of the BID Levy Rules.

7.7. Notwithstanding clauses 7.4 and 7.5 information provided to the BID Company pursuant to clauses 7.4 and 7.5 shall not include the provision of any Personal Data other than that which the Council may provide pursuant to the Regulations

1. **Procedures available to the Council for enforcing payment of the BID Levy**
	1. In the event that the BID Levy is not paid in full within fourteen days from the Chargeable Day, then (subject to the Exceptions or as may otherwise be agreed by the Parties) the Council shall, at no cost to the BID Company, serve up to two reminder notices (‘Reminder Notices’) on the defaulting BID Levy Payer, each of which shall:
2. identify the sum payable;
3. provide a further 14 (fourteen) days for payment to be made; and
4. confirm the Council may thereafter make an application to the Magistrates Court for a Liability Order to recover the unpaid sum (together with costs)
	1. In the event that the BID Levy is not paid in full within 14 (fourteen) days of the service of a Reminder Notice in accordance with clause 8.1, then the Council shall as soon as practically possible inform the BID Company of such further failure to pay (subject to the Exceptions). The BID Company should provide any comments within 5 working days of the list being provided and the Council will then consider these before deciding whether to make an application to the Magistrates Court for a Liability Order. The Council will normally then make an application to the Magistrates Court for a Liability Order to recover the outstanding sum of the BID Levy as is permitted by the Regulations and by the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989, as amended. The Council will bear the cost of any application for summons and will recover these costs from the revenue generated through any such action.
	2. In the event that the BID Company requests that the Council does not undertake the full range of recovery action against a defaulting BID Levy Payer (as outlined in 8.1 and 8.2) the Council may Write Off the outstanding Bad or Doubtful Debt. Should any outstanding Enforcement Expenses remain unrecovered by the Council due to a request for the cancellation of recovery action by the BID Company, the Council will recover these costs from the BID Company.
	3. In the event that, after all recovery action has taken place, any portion of the BID Levy is still unrecovered, the Council may Write Off such unrecovered portion as Bad or Doubtful Debt by agreement with the BID company. Any related Enforcement Expenses which remain unrecovered by the Council will be chargeable to the BID Company.
	4. Where payments become due to the Council pursuant to clause 8.3 and 8.4, the Council must provide an account of the proposed charges to the BID Company. The Council will provide a VAT invoice to the BID Company to request payment of these charges.
5. **Refunds on the BID Levy**

9.1 Refunds will be payable by the Council on the BID Levy in the event of the over payment of the Levy by a BID Levy payer. Examples of reasons for over payment include:

9.1.1 Payment of same Levy bill more than once in error

9.1.2 Where Hereditaments within the BID are split or merged prior to the Chargeable Day, and one or more of the properties are removed from the ratings list, but the BID Levy bill relating to these removed properties has already been paid.

9.2. In the event that refunds become due to a Levy Payer on the basis of the reasons set out in 9.1 these shall be payable only upon receipt of a written request from the Levy Payer, or their agents.

9.3. The amounts paid out will be deducted from the BID Revenue Account – and the payments made to the BID Company will be net of these refunds.

1. **Payment of the BID Levy to the BID Company**
	1. The Council shall pay the BID Levy to the BID Company in accordance with the Regulations:

i. For the first three quarters in each BID Year (starting 1 June, 1 September and 1 December) 25% of the total BID Levy billed.

ii. On 1st of March, any further balance collected less any repayments to BID Levy Payers under clause 9 of this Agreement.

iii. On 30 April, any further balance collected less any repayments to BID Levy Payers under clause 9 of this Agreement.

iv. Periodically, the Council may apply to the BID Company for agreement to write off aged debts. Should the BID Company request further reconciliation for all or some of the debts incurred, the Council reserves the right to levy an administration charge to cover staffing which may be required to administer these aged debts. At the end of the BID Financial Year the Council will reconcile all the BID Levy monies from bills related to the BID Financial Year.

* 1. The BID Company shall issue to the Council an invoice on each occasion that payment of the BID Levy income is due, such amount to have VAT applied in addition.
	2. The BID Company shall provide the Council with details of its own bank account into which the BID Levy shall be transferred electronically.
	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 and in the event that the Council has paid such BID Levy to the BID Company including all of the contingency relating to that BID Levy the Council shall request such repayment sum from the BID Company and the BID Company shall pay the repayment sum to the Council by way of reduction in the quarterly payments, as scheduled in 10.1, and the Council shall thereafter repay the repayment sum to the BID Levy Payer.
	4. The BID Company shall only spend the BID Levy in accordance with and for the purposes stated in the BID Proposals; except that if the BID Proposals are altered then from the date that the alteration takes effect the BID Company shall only spend the BID Levy in accordance with and for the purposes of the altered BID Proposals.
	5. In the event of an overpayment by the Council to the BID Company, the Council will subtract the owed amount from the next scheduled payment of the BID Levy. In the event that the overpayment falls due after the Council has paid the last quarterly payment within the BID Term, the BID Company shall reimburse the Council forthwith..
1. **Accounting Procedures and Monitoring**
	1. In addition to the information outlined in clause 7.5, every quarter during the BID Term, the Council shall provide the BID Company with a breakdown of:
2. the amount of the BID Levy for each individual BID Levy Payer

(ii) the BID Levy collected in relation to each BID Levy Payer

(iii) details, (together with the outstanding unpaid sum) of those BID Levy Payers who have not paid the BID Levy during the course of that period, PROVIDED THAT this clause shall not apply to the provision of any Personal Data other than that which the Council may provide pursuant to the Regulations

11.2 The BID Company shall keep up to date and accurate records of any funds received from Contributors.

11.3 The BID Company may request information from the Council which it

considers relevant for the operation of the BID Arrangements and the Council shall where it holds such information consider a disclosure to the BID Company and shall not unreasonably withhold such information. This provision shall not operate to force the Council to disclose information which it would otherwise not be able to disclose but for the provisions of this clause 11.3.

11.4. At the end of each financial year, the BID company will provide the Council with annual accounts as submitted to Companies House and information as to:

1. the amount received by the BID Company from Contributors and BID Levy Payers;
2. the total expenditure of the BID Company.

11.5. The Parties shall maintain the Monitoring Group.

11.6. The Monitoring Group shall meet no less than quarterly in any BID Financial Year.

11.7. At each meeting, the Monitoring Group shall:

1. Review the effectiveness of the collection and enforcement of the BID Levy; and
2. Review and assess the information provided by the Parties regarding the progress being made in achieving the aims set out in the BID Business Plan.

11.8. Within 1 (one) month after the date of the end of each BID Financial Year, the Council shall provide the Annual Report to the BID Company

11.9. The BID Company shall provide the BID Company Report to the Council two weeks prior to its Annual General Meeting.

11.10. The Council will provide at least one, and no more than two, representatives to the Board of the BID Company.

1. **Termination**

**12.1 Termination by the Council**

12.1.1 In accordance with the BID Regulations, the Council may terminate the BID Arrangements and this Agreement by giving the BID Company 28 days formal notice in writing. This should be preceded by an initial notice requiring information or requiring the BID company to rectify a particular situation

1. if it is of the reasonable opinion that the BID Company will not have sufficient finances to meet its liabilities for the current BID Financial Year **PROVIDED THAT** the Council may not issue a notice to terminate the Agreement under this clause 12.1(i) without first offering the BID Company a reasonable opportunity to finance any shortfall in the finances or a reduction in the works or services under the BID Arrangements to offset the shortfall; or
2. where the Council is unable due to any cause beyond its control to continue to provide any works or services which are necessary for the continuation of the BID Arrangements **PROVIDED THAT** the Council may not rely on the reasons stated in this Clause 12.1(ii) to terminate the Agreement without first consulting with and taking into account the views of the BID Company and of such representatives of the business community for the geographical area of the BID as the Council considers appropriate

**12.2 Termination by the BID Company**

12.2.1 The BID Company may terminate the Agreement by giving the Council 28 days formal notice in writing:

1. if the works or services provided under the BID Arrangements are no longer required; or
2. where the BID Company is unable due to any cause beyond its control to continue to provide works or services which are necessary for the BID Arrangements to continue

**PROVIDED THAT** the BID Company shall not issue a notice to terminate the Agreement either under clause 12.2(i) or 12.2(ii) without first consulting and taking into account the views of the Council and of such representatives of the business community for the geographical area of the BID as the Council considers appropriate.

**12.3** **The Levy Payers Meeting**

12.3.1 In addition to the requirements of clauses 12.1 and 12.2 above, where either the Council or the BID Company intends to terminate the Agreement for the reasons stated in Clause 12.1.1 (i) above (insufficient finances) or where the BID Company intends to terminate the Agreement for reasons stated in Clause 12.2.1 (i) above (the works or services under the BID Arrangements are no longer required) then the Council or the BID Company as the case may be shall arrange for a BID Levy Payers Meeting by serving a Levy Payers Meeting Notice on the other Party and the BID Levy Payers and the meeting shall take place no later than 14 days after service of that Notice.

12.3.2 The Levy Payers Meeting Notice shall contain the agenda for the meeting which shall be limited to the following items:

1. a review by all present of the inadequacy of works or services that can be done, why they cannot be done and whether those works and services are so fundamental that the BID cannot continue; and
2. whether other works or services will be an acceptable alternative to the BID Company; and
3. the financial position including whether there are sufficient funds to continue as well as whether additional funds can be raised.

12.3.3 . The Council or the BID Company may take into account any representations made by those present at the meeting, in particular, representations by BID Levy Payers, in deciding whether or not to issue a notice to terminate the Agreement. However, the BID Levy Payers cannot terminate the BID.

* 1. **Consequences of Termination**

12.4.1 In accordance with BID Regulations, the event of termination or end of the BID Arrangements howsoever occurring, the Council shall forthwith review whether there is any credit standing to the account of the BID Revenue Account. If there is sufficient credit to pay to each of the BID Levy Payer not less than £5 (after deduction of any outstanding administrative costs to include the costs of winding up of the BID Company), the Council shall:

1. calculate the amount to be refunded to each BID Levy Payer, and

(ii) ensure that the amount to be refunded is calculated by reference to the amount due from that Levy Payer for the last full chargeable period, and

(iii) arrange for the amount to be set against outstanding liabilities of that BID Levy Payer (if any), and

1. refund the net amount to the BID Levy Payer

12.4.2 Upon termination of the BID Arrangements for any reason, the Council shall notify each BID Levy Payer in writing of such termination in accordance with Regulation 18(6) and the Council shall simultaneously advise the BID Levy Payers of whether a re-payment is to be made of any part of the BID Levy in accordance with clause 12.4.1.

12.4.3 Where on the review of the BID Revenue Account in accordance with clause 12.4.1 above the Council finds that there is insufficient credit to pay each BID Levy Payer not less than £5 then the Council shall credit the balance of the Revenue Account to its general fund .

1. **Confidentiality**

13.1 Subject to Clause 19 below the Parties agree to keep confidential and not to 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 any third Parties which it shall have obtained or received as a result of operating the BID. This obligation shall survive the termination of this Agreement or lapse of the BID Arrangements.

1. **Notices**

14.1 Any Notice or other written communication to be served or given to or upon any Party to this Agreement or the other shall be in writing and shall be sent to the address stated above for the Parties or such other address in England as may from time to time be notified by that Party. Any notice served on the Council shall be marked for the attention of the Director, Environment and Property , and any notice served in the BID Company shall be marked for the attention of the Chief Executive.

14.2 A Notice may be served by

1. first class post; or by
2. electronic communication (provided that it is in legible form and is capable of being used for subsequent reference) to such addresses which shall require a confirmed read receipt, save that no court proceedings arising from this contract may be served electronically; or by
3. personal delivery

14.3 Any notice served by the Parties shall be deemed to have been received:

1. if served by first class post, on the next business day;
2. if served by Electronic Communication at the expiration of 2 hours after the time of dispatch if dispatched before 3.00pm on any business day and in any other case, at 10.00am on the following business day.
3. if served in person, at the time of service;
4. **Miscellaneous**

15.1 For the avoidance of doubt where any part of this Agreement is found to be inconsistent with the Regulations or any other regulations which the Secretary of State may issue pursuant to Part IV of the Local Government Act 2003 or any other law for the time being in force then such part shall be severed and the Parties agree that the remainder of the Agreement shall continue in full force and effect.

15.2 The heading appearing in this Agreement are for ease of reference only and shall not affect the construction of this Agreement

15.3 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 signed and delivered.

15.4 Where reference is made to a clause, schedule, plan or recital, such reference (unless the context requires otherwise) is a reference to a clause, schedule, plan or recital attached to this Agreement.

15.5 References to the Parties include any successors their functions.

15.6 References to a statute, statutory provision or statutory instrument shall include a reference to that statute, statutory provision or statutory instrument together with all rules and regulations made under it as from time to time amended, consolidated or re-enacted.

**16. Exercise of the Council’s Powers**

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

1. **Contracts (Rights of Third Parties)**

17.1 The provisions of the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement. No person who is not a Party to this Agreement shall have any right to enforce any term of this Agreement.

1. **Dispute Resolution**

18.1. Should any dispute arise between the Parties, it shall first be referred to the Chief Executive or the most senior personnel within each organisation at any given time of each Party and they shall use their best endeavours to resolve the issue by negotiation.

18.2. If the Chief Executives or such senior personnel of the Parties are unable to resolve the dispute within 28 days of the referral, then the Parties shall appoint a Mediator. If the Parties cannot agree on the identity of as Mediator, then they shall apply to the Centre for Effective Dispute Resolution (“CEDR”) to make such an appointment.

18.3. Within 14 days of the appointment of a Mediator, the Parties representatives shall meet together with the Mediator to agree a programme for the conduct of the mediation, including (but not limited to) a timetable, exchange of documents and the structure for meetings as well as the costs of the mediation.

18.4. All proceedings of the mediation shall be held in strict confidence and shall be Without Prejudice to any future proceedings that may become necessary.

18.5. Nothing in this mediation procedure shall prevent either Party from seeking from a Court of competent jurisdiction an interim order against the other Party either preventing or compelling the commission of some act.

18.6. If the Parties reach an agreed resolution of the dispute in the mediation, that Agreement shall be reduced to writing, signed by representatives of both Parties and shall be binding on both Parties.

18.7. If the mediation fails to achieve an agreed resolution, then the Parties hereby irrevocably agree that the dispute shall be referred to the English Courts.

18.8. The performance by the Parties of their obligations under the Agreement shall continue during the mediation process.

1. **Freedom of Information**

19.1 The BID Company acknowledges that the Council is subject to the requirements of the Freedom of Information Act 2000 (FOIA) and as such may be required to disclose information relating to this Agreement including information which may otherwise be confidential information of the Parties. The BID Company shall assist and cooperate as far as it is able with the Council (at the BID Company’s expense) to enable the Council to comply with its disclosure requirements as such and the Council shall notify the BID Company of any such requests.

19.2 The Council shall determine in its absolute discretion whether any information is exempt from disclosure in accordance with the provisions of FOIA or is to be disclosed in response to a request for information, and for the avoidance of doubt where the Council has received a request under the FOIA and it has notified the BID Company of the request, in no event shall the BID Company respond directly to a request for information connected with such a request to the Council unless expressly authorised to do so by the Council.

19.3 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 public authorities’ functions under Part 1 of FOIA, be obliged under FOIA to disclose information following consultation with the BID Company and having taken its views into account.

19.4 The BID Company shall ensure that all information produced in the course of or relating to this Agreement is retained for disclosure and shall permit the Council to inspect such records as requested from time to time.

19.5 The BID Company acknowledges that any lists of confidential information provided by it are of indicative value only and that the Council may nevertheless be obliged to disclose confidential information in accordance with this clause.

19.6 The obligations set out in clause 19 of this Agreement shall survive the termination of this Agreement or lapse of the BID Arrangements

**20 Data Protection**

20.1 The BID Company shall (and shall procure that any of its Staff engaged in relation to in this Agreement) 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 this Agreement.

20.2 Notwithstanding the general obligation in clause 20.1, 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 underArticle 5 (1) (f) of the UK General Data Protection Regulation, the Integrity and Confidentiality Principle and incorporated by the Data Protection Act 2018 ; 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; and

(b) promptly notify the Council of any breach of the security measures required to be put in place pursuant to clause 20.2; 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; and

(d) permit the Council’s representatives, on reasonable notice, access to its premises to ensure that the BID Company is complying with its data protection obligations under this Agreement

20.3 The provisions of this clause shall apply during the continuance of the Agreement and indefinitely after its expiry or termination.

**21 Insurance**

The BID Company shall throughout the BID Term take out and maintain with a reputable insurance company, relevant insurance policy with adequate amounts to cover risks that may materialise in the operation of the BID Arrangements. Such insurance shall include but not be limited to Employer’s Liability insurance to the value of £10,000,000 per claim and Public Liability Insurance to the value of £5,000,000 per claim.

**22. Compliance with the Law**

The Parties shall comply with all applicable laws in their performance of the obligations under this Agreement.

**23. Variation**

Any variation to this Agreement shall be in writing and signed by the Parties.

**24. No Partnership or Agency**

Nothing in this Agreement is intended to or shall be construed as creating a partnership between the Parties within the meaning of the Partnership Act 1890.

The BID Company shall not be or be deemed to be an agent of the Council and the BID Company shall not hold itself out as having authority or power to bind the Council in any way other than expressly conferred by this Agreement.

**25. Entire Agreement.**

This Agreement and any documents referred to in it constitute the entire agreement between the Parties and shall supersede any prior agreements or discussions between the Parties in relation to the subject matter of the Agreement.

**26. Law and Jurisdiction**

This Agreement shall be governed by the laws of England and Wales and the Parties hereby irrevocably to the jurisdiction of the English courts.

**SCHEDULE 1: BID AREA MAP**

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**SCHEDULE 2: LIST OF STREETS**

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**SCHEDULE 3: BASELINE STATEMENT**

The Services to be provided by the BID shall be in addition to any Council baseline services, including those funded (in part or in whole) by business rates. The Council agrees that it will not use the availability of BID levy to disproportionately reduce the baseline services within the BID area compared to any reductions applied elsewhere.

Please see separate document - SCHEDULE 3 BASELINE SERVICE AGREEMENT 2024.

**SCHEDULE 4: BID LEVY RULES**

From June 2022, the levy rate to be paid by each property or hereditament will be 1.25% of its rateable value as at the selected ‘chargeable day’ (1 June annually).

1. All non-domestic properties or hereditaments with a rateable value of £50,000 or more will be required to pay the levy.

2. The number of properties or hereditaments liable for the levy is approximately 422.

3. From 2023 onwards, the levy rate (1.25%) will be increased by the fixed rate of inflation of 3% per annum.

4. The levy will be charged annually in advance for each chargeable period to be June to May each year. No refunds will be made.

5. The owners of untenanted properties or hereditaments will be liable for payment of the levy.

6. Charitable organisations that are subject to relief on their business rates liability will not pay the levy that would otherwise apply.

7. Tenants within centre:mk, Midsummer Place, 12th Street, The Hub and Xscape will be charged a discounted rate of 1% (same inflationary provisions apply).

8. Businesses with a rateable value of greater than £2,000,000 will have their levy charge capped at £20,000 annually.