

OPERATING AGREEMENT

Dated 18 November 2022

Blackpool Council
(the Council)

Blackpool BIDs Limited
(the BID Company)

Contents

1	Definitions	2
2	Statutory Authorities	5
3	Commencement	5
4	Setting the BID Levy	5
5	The BID Revenue Account	6
6	Debits from the BID Revenue Account	6
7	Collecting the BID Levy	7
8	Procedures available to the Council for enforcing payment of the BID Levy	8
9	Enforcement Mechanisms for non-collection of the BID Levy by the Council	8
10	Accounting Procedures and Monitoring	9
11	Termination	10
12	Confidentiality	13
13	Notices	13
14	Data Protection	13
15	Miscellaneous	14
16	Exercise of the Council's powers	14
17	Contracts (Rights of Third Parties)	14
18	Arbitration	14

Schedules

Schedule 1 – The BID Levy Rules	17
Schedule 2 – The Baseline Agreement	18
Schedule 3 – Exchequer Services Agreement	19
Schedule 4 - Processing, Personal Data and Data Subjects	20

Operating Agreement

Dated 18 November 2022

Between

1. **BLACKPOOL COUNCIL** (the Council) of Number One Bickerstaffe Square, Talbot Road, Blackpool FY1 3AH and
2. **BLACKPOOL BIDs LTD** (the BID Company) registered as a company limited by guarantee in England with number 13506605 whose registered office is at Number One Bickerstaff House, Talbot Road, Blackpool, Lancashire FY1 3AH

Recital

s

- 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 Proposal
- 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 Proposal
- C Both parties wish to confirm the arrangements by which the BID Levy shall be collected 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 way the Council's expenses incurred in collecting the BID Levy shall be paid

It is agreed:

1 Definitions

the Annual Report means a report to be prepared by the Council which details the following: -

- (i) the total amount of BID Levy collected during the relevant Financial Year.
- (ii) details of the success rate for the collection of the BID Levy.
- (iii) the Council's proposals (if any) to help improve its efficiency in the collection and enforcement of the BID Levy; and
- (iv) details of those BID Levy Payers who have paid the BID Levy and those who have not paid the BID Levy.
- (v) the Council's proposals for bad or doubtful debts

the Appeal Notice means a notice to be served by the BID Company in accordance with clause 9.2

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

the Baseline Agreement means the draft Agreement annexed at Schedule 2

the BID means the Business Improvement District which operates within the areas published within the Town Centre and Tourism BID Business Plans and which is managed and operated by Blackpool BIDs Limited.

the BID Company's 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 Blackpool BIDs Limited
-

the 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 11.8

BID Levy Payer(s) means the non-domestic rate payers responsible for paying the BID Levy

the BID Levy Rules means the rules set out in the Schedule 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)

the BID Proposal means the plan voted for by the BID Levy Payers which sets out the objectives of the BID and identifies the various projects which will be undertaken using funds raised via the BID Levy.

the BID Revenue Account means the account to be set up in accordance with Regulation 14 and operated in accordance with Schedule 3 of the Regulations

the BID Term means the period of 5 years from 1st April 2021 until 31st March 2026

The Exchequer Services agreement means the draft Agreement annexed at Schedule 3

the Council's Termination Notice means the notice to be served by the Council on the BID Company pursuant to Clause 11.1

the Contributors means the BID Levy Payers or other Contributors making voluntary contributions to the BID's company.

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

Hereditament shall have the same meaning as defined in the Regulations

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):

(a) by means of a telecommunication system (within the meaning of the Telecommunications Act 1984); or

(b) by other means but while in electronic form

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 provided that such costs shall not exceed the value of the total BID Levy collected against any one BID Levy Payer

the Enforcement Notice means a notice to be served on the Council as specified in Clause 9

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. Blackpool BIDs Limited Finance & Governance group will consider Council recommendations and make the final decision in this matter.

the 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

the Financial Year means the financial year for the BID Company which runs from 1st April to 31st March

the First Priority Payment means the first 6 monthly 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 the total value of the BID Levy collected in any one Financial Year]

Liability Order means an order obtained from the Magistrates Court

the 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) such group to consist of Head of Revenues, Benefits and Customer Services, Exchequer Services Manager, representing Blackpool Council and the Managing Director of Blackpool BIDs Limited.

the Operational Date means the date upon which the BID Proposal 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 11.1 or 11.8 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.
- (c) confirmation that all BID Levy Payers who attend will be permitted to make representations

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)

the Reminder Notice means the notice to be served pursuant to Clause 8.1

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, Section 1 of the Localism Act 2011, and all other enabling powers.

3 Commencement

3.1 This Agreement is conditional upon and shall not take effect until the Operational Date.

3.2 If the BID Proposal is not approved by the BID Levy Payers on the Ballot Result Date, then this Agreement shall determine and cease to be of any further effect between the parties

3.3 This Agreement shall terminate on the expiry of the BID Term and when full and final collection of outstanding levy due within the BID term.

4 Setting the BID Levy

4.1 Immediately upon 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 annually by each BID Levy Payer
- (iii) enter into the Baseline Agreement with the BID Company
- (iv) enter into Service Agreement for Exchequer Services

5 The BID Revenue Account

5.1 Within 30 days from the Ballot Result Date the Council shall set up the BID Revenue Account and provide written confirmation to the BID Company once this has been carried out together with details of the account number sort code and any other details which the BID Company may specify

5.2 Within 30 days from the Ballot Result Date the BID Company shall provide the Council with details of its own bank account into which the BID Levy shall be transferred from the BID Revenue Account

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.
- (ii) the Enforcement Expenses; or

6.2 After six months within the Financial Year (throughout the BID Term) the Council shall provide an invoice to the BID Company for payment of the First Priority Expenses

6.3 Upon the expiry of 6 months in the Financial Year (throughout the BID Term) the Council shall provide quarterly invoice(s) for its reasonable administrative expenses incurred in carrying out its obligations under this Agreement and the Regulations

6.4 The BID Company shall pay the said invoices within 28 (twenty-eight days) from the date of receipt

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

6.7 The Council shall be entitled to recover the Enforcement Expenses from the BID Company as and when they are incurred and shall provide an invoice to the BID Company which provides a detailed breakdown of the costs incurred.

6.7 The BID Company shall arrange for any invoiced Enforcement Expenses 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 notwithstanding clause 6.1 the Council shall be permitted to recover the invoiced Enforcement Expenses directly from the BID Revenue Account.

7 Collecting the BID Levy

7.1 Within 14 (fourteen) days of the Ballot Result Date the Council shall confirm in writing to the BID Company: -

- (i) the means by which the BID Levy Payer shall be billed for the BID Levy; and

- (ii) the date when the BID Levy shall first be collected (such date to be on or after the Operational Date)

7.2 Pursuant to clause 7.1(ii) the Council shall serve the Demand Notices 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 The Council shall maintain a list which identifies payment and/or non-payment of the BID Levy and shall make this available to the BID Company upon request.

7.4 The Council shall liaise with the BID Company in carrying out quarterly reviews 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:

- (a) serve an updated list of BID Levy payers upon the BID Company.
- (b) serve a Demand Notice (or alter any existing Demand Notice if appropriate) on the relevant BID Levy Payer

7.5 The Council shall use all reasonable endeavours to collect the BID Levy on the date specified (pursuant to clause 7.1(ii) above) and thereafter on a regular basis and in accordance with the procedure set out in Schedule 4 of the Regulations

7.6 The Council shall use all reasonable endeavours to take all reasonable steps for collecting the BID Levy which are consistent with its usual procedures for the collection of non-domestic rates

7.7 At quarterly intervals thereafter the Council shall transfer all sums then credited to the BID Revenue Account to the BID Company's own bank account as specified in Clause 5.2 above and provide written confirmation of the sum transferred.

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

8.1 In the event that the BID Levy is not paid within 14 days from the date that it becomes payable then the Council shall serve a Reminder Notice on such relevant BID Levy Payer which shall: -

- (i) identify the sum payable.
- (ii) provide a further 14 days for payment to be made.

(iii) state that in the event of non-payment after this 14-day period then legal action will be taken.

- (iv) confirm that the Council will make an application to the Magistrates Court for a Liability Order to recover the unpaid sum together with interest and costs.

- 8.2 If after a further 7 (seven) days from the payment date stated in the Reminder Notice the outstanding sum of the BID Levy has not been paid the Council shall 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 the Non-Domestic Rating (Collection & Enforcement) (Local Lists) Regulations 1989 (as amended)

9 Enforcement Mechanisms for non-collection of the BID Levy by the Council

- 9.1 In the event that the Council is not enforcing payment of the BID Levy pursuant to Clause 8 above the BID Company shall serve the Enforcement Notice on the Council requesting that:

-

- (i) it serves a Reminder Notice; or
- (ii) it obtains a Liability Order pursuant to Clause 8.2 above

within 14 (fourteen) days of receipt of such Enforcement Notice and the Council shall thereafter provide written confirmation of the action taken to recover the unpaid BID Levy

- 9.2 If after being served an Enforcement Notice the Council fails to take the requested action within the specified time frame then the BID Company shall serve an Appeal Notice to the Chief Executive of the Council. Such notice shall: -

- (i) detail the sum which remains unpaid.
- (ii) confirm that the Council has failed to use the enforcement mechanisms available to it under this Agreement to recover the sum; and
- (iii) request a meeting take place between the Chief Executive, relevant officers of the Council and BID Company to achieve a solution and/or agree a strategy to recover the outstanding sum such meeting to take place in any event no later than 28 (twenty-eight) days from service of the Appeal Notice

- 9.3 In the event that the Council fails to take any of the steps requested by the BID Company pursuant to clauses 9.1 and 9.2 (above) the Council shall (within 28 days of receipt of written notice from the BID Company which specifies the amount of BID Levy outstanding) pay the specified sum into the BID Revenue Account and provide written confirmation to the BID Company that this has been done.

10 Accounting Procedures and Monitoring

- 10.1 Within 1 (one) month from the Operational Date the Council and BID Company shall form the Monitoring Group

10.2 Every 3 (three) months (for the duration of BID Term) the Council shall provide the BID Company with a breakdown of: -

- (i) the amount of 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 those 6 (six) months.
- (iv) details of the Reminder Notices issued throughout that period; and
- (v) details of any Liability Orders obtained or applied for by the Council.

10.3 The Monitoring Group shall meet no less than twice in any one Financial Year and on all other occasions further meetings of the Monitoring Group shall be arranged by the agreement of both parties.

10.4 At each meeting the Monitoring Group shall

- (i) review the effectiveness of the collection and enforcement of the BID Levy; and
- (ii) if required, review and assess the information provided by the Council and the BID Company pursuant to Clause 10.2 and make any recommendations for implementation as may be agreed (and which are permitted by the Regulations and the terms of this Agreement)

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

10.6 Within 1 (one) month from the date of receipt of the Annual Report, the BID Company shall provide the BID Company Report to the Council

11 Termination

11.1 The Council shall not be permitted to terminate the BID Proposal 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 Proposal; 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 Proposal

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 11.2 or 11.3 (whichever is applicable)

11.2 Where the BID Termination Notice relates to Clause 11.1(i) both parties shall agree and/or discuss or review the following:

- (a) the Council is concerned 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) insufficient funds.
- (c) alternative means by which the insufficiency of the funds can be remedied; and
- (d) an appropriate time frame to resolve this issue.

11.3 Where the BID Termination Notice relates to clause 11.1(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 Proposal 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

11.4 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 Proposal 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

11.5 Upon termination of the BID Proposal, the Council and the BID Company will review the BID Revenue Account to determine how to deal with any residual funds and make sure any liabilities of the BID Company are met.

11.6 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.

- 11.7 The BID Company shall not be permitted to terminate the BID Proposal where:
- (a) the works or services under the BID Proposal 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.
- 11.8 Upon termination of the BID Proposal 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 11.5.
- 11.10 Twenty one [21] days prior to the expiry of the BID Term (notwithstanding any re-ballot and new BID term commencing) the Council shall provide the BID Company with a reconciliation of the BID Revenue Account (for its written Agreement) identifying (if any) all outstanding costs payable to the Council as a consequence of collecting the BID Levy, any outstanding Enforcement Expenses and any BID Levy monies not passed to the BID Company's account (pursuant to clause 7.7 above.)
- 11.11 Subject to the costs (pursuant to clause 11.10 above) being agreed and prior to the start of a new BID Term the Council shall deduct the Final Costs from any BID Levy and transfer any remaining BID Levy to the BID Company pursuant to clause 7.7

12 Confidentiality

- 12.1 Both the Council and the BID Company 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 other third parties which it shall have obtained or received because of operating the BID. This obligation shall survive the termination or lapse of the BID Proposal.

13 Notices

- 13.1 Any notices 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.

- 13.2 A Notice may be served by

13.2.1 delivery to the Chief Executive Officer of Blackpool Council at the Council's address specified above; or

13.2.2 delivery to the Managing Director at the BID Company's address specified above

13.2.3 registered or recorded delivery post

13.2.4 electronic communication (provided it is in legible form and is capable of being used for subsequent reference)

13.3 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.

14. Data Protection

14.1 Both parties will comply with all applicable requirements of the Data Protection Legislation.

14.2 This clause 25 is in addition to, and does not relieve, remove, or replace, a party's obligations under the Data Protection Legislation.

14.3 The parties acknowledge that for the purposes of the Data Protection Legislation, the Authority and Blackpool BIDs Ltd are independent Data Controllers.

14.4 Schedule 4 sets out the scope, nature and purpose of processing by the Authority, the duration of the processing and the types of Personal Data and categories of Data Subject.

14.5 Without prejudice to the generality of clause 14.1, the Authority will ensure that it has all necessary appropriate consents and notices in place to enable it to process personal data for the duration and purposes of this agreement.

15 Miscellaneous

15.1 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

15.2 The headings 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 dated

15.4 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

- 15.5 References to the Council include any successors to its functions as local authority
- 15.6 References to statutes, bye laws, regulations, orders, delegated legislation shall include any such instrument re-enacting or made pursuant to the same power

16 Exercise of the Council's powers

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

17 Contracts (Rights of Third Parties)

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

18 Arbitration

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

- 18.1 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
- 18.2 The parties shall jointly appoint the arbitrator not later than 28 (twenty-eight) days after service of a request in writing by either party to do so and each party shall bear its own costs
- 18.3 If the parties are unable to agree within 28 (twenty-eight) days as to 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.
- 18.4 in the event of a reference to arbitration, the parties agree to:
- 18.4.1 prosecute any such reference expeditiously and
 - 18.4.2 do all things or take steps reasonably necessary to enable the Tribunal to deliver any award (interim, final, or otherwise) as soon as reasonably practically
 - 18.4.3 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.
 - 18.4.4 The award shall be final and binding both parties and any person claiming through or under them.

Signed by the parties (or their duly authorised representatives) on

19 December 2022

Signed by



Print name

S. JONES

duly authorised for and on behalf of
BLACKPOOL COUNCIL

Signed by



Print name

SUE GRINDRAD

duly authorised for and on behalf of
Blackpool BIDs Limited

Schedule 1 – The BID Levy Rules

This will set out the manner in which the BID Levy will be calculated – i.e. what was approved as the BID Proposal

- The BID term will be a period of five years from 1st April 2021 until 31st March 2026
- The BID Levy will be applied to rated properties in the BID District with a rateable value of £10,000 or more
- The levy will be a fixed rate of 1% rateable value as at 1 April 2021 using the 2017 list for all eligible rate payers
- Properties that come into the rating list during the BID term will be subject to the BID levy from the effective date that the property is brought into the rating list and the rateable value effective at that time
- Where the rateable value for an individual hereditament changes and results in a lower BID levy, then this comes into effect only from the start of the financial year in which the change is made and no refunds will be made for previous years. This is known as the closed year rule
- The levy will assume an annual growth rate for inflation of 3% to be applied 1 April each year [i.e., 1.25% in year 3 and 1.5% in year 5]
- There will be no VAT charged on the BID levy
- There is no distinction to be made between occupied or unoccupied hereditaments.
- The BID levy will not be affected by the small business rate relief scheme
- The BID levy will not be increased other than as specified in the levy rules
- The BID levy rules, and BID area cannot be altered without an alteration ballot

Schedule 2 – The Baseline Agreement

BASELINE AGREEMENT

Dated: 1st April 2021

BLACKPOOL COUNCIL
(the Council)

BLACKPOOL TOWN CENTRE BID LTD
(the BID Company)

Contents

1 Definitions	1
2 Statutory Authorities	2
3 Commencement	3
4 The Council's Obligations	3
5 Monitoring and Review	4
6 Joint Obligations	4
7 Licence	4
8 Termination	4
9 Confidentiality	5
10 Notices	5
11 Miscellaneous	5
12 Exercise of the Council's Powers	6
13 Contracts (Rights of Third Parties)	6
14 Arbitration	6
SCHEDULE 1 – The Standard Services	8
SCHEDULE 2 – BENCHMARK CRITERIA	9

Baseline Agreement for Provision of Standard Services

Dated

Between

- (1) **BLACKPOOL COUNCIL** (the Council) of Bickerstaffe House, One Bickerstaffe Square, Blackpool FY1 3AH and
- (2) **BLACKPOOL TOWN CENTRE BID LTD** (the BID Company) [registered as a company limited by guarantee in England with company number 3219849] whose registered office is at 97 Church Street Blackpool FY1 1HU

Recitals

A The Council is the local authority for the purposes of the Local Government Act 2003 and is responsible for providing the Standard Services within the BID Area

B The BID Company is responsible for the management and operation of the BID and for achieving the objectives and aspirations set out in the BID Proposal

C The purpose of this Agreement is to set out for the avoidance of doubt the Standard Services provided by the Council within the BID Area and to set the Benchmark Criteria against which the provision of the Standard Services is to be assessed.

It is agreed:

Definitions

Benchmark Criteria¹ means the standards and industry practices against which the provision of Standard Services is to be assessed the principles of which are set out in Schedule 2

BID Area means that area within which the BID operates (*the mapped area on Page 9 of the Business Proposal*)

BID means the Business Improvement District which is managed and operated by the BID Company

BID Proposal means the plan voted for by the BID Levy Payers which sets out the objectives of the BID

Complementary Services(s) means those services as set out in Schedule 1 of the Complementary Services Agreement

¹ It may well be that in setting out the Baseline criteria the actual "level" of service to be provided will already be set out (e.g., Bin collection 3 times a week between the hours of 0900-1100) in which case the Benchmark criteria may not be necessary.

Complementary Services Agreement(s) means the agreement entered into on between the Blackpool Council and Blackpool Town Centre BID Ltd or such further agreements as may be entered into by the BID Company for the provision of services within the BID Area which are complementary to the Standard Services.

Complementary Service Provider means the provider of a Complementary Service

Failure Notice means a notice served by the BID Company which:

- (a) sets out the Standard Service which the notice relates to.
- (b) states which of the Benchmark Criteria are not being adhered to by the contractor or provider of the Standard Service.
- (c) requests the Council to liaise directly with the provider or contractor for the purposes of securing compliance with the Benchmark Criteria

Operating Agreement means the agreement entered into on 1st April 2021 between the Council and the BID Company which sets out various procedures for the collection monitoring and enforcement of the BID Levy

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)

Standard Services means those services which are provided by the Council within the BID Area [and the remainder of its Borough] as set out in Part 1 of Schedule 1 which identifies those services which it is required to undertake as part of its statutory function as local authority and Part 2 of Schedule 1 which identifies those services undertaken which are additional services to those usually provided as part of its statutory function

Standard Services Review Panel means the panel to be set up consisting of John Blackledge, Director of Community and Environmental Services, Jez Evans, Head of Waste and Environmental Operations and Tim Coglean, Head of Public Protection and The Chair of the Board and Operations Manager from the BID Company

Statutory Authorities

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

Commencement

3.1 The terms of this Agreement shall take effect upon the date of this Agreement

The Council's Obligations

4.1 The Council agrees to the following:

4.1.1 to provide the Standard Services within the BID Area at its own cost

4.1.2 in the event that the Council is unable to continue to provide all or any part of the Standard Services within the BID Area on account of its being statutorily barred from doing so in respect of any of those Standard Services set out in Part 1 of Schedule 1 or its having insufficient funds to secure the provision of any of those Standard Services set out in Part 2 of Schedule 1 it shall carry out the following for the BID Company:

- (a) identify which part or parts of the Standard Services it is unable to provide.
- (b) provide a detailed explanation of why such identified Standard Service is to be withdrawn; and
- (c) state the date upon which the Council will cease to operate the identified Standard Service.

4.1.3 to implement such recommendations in the carrying out or provision of the Standard Services as may be made by the Standard Services Review Panel

4.1.4 Upon receipt of a Failure Notice from the BID Company to carry out a review of the performance of the contractor or provider of the Standard Service and to use reasonable endeavours to secure the improvement of the Standard Service from the contractor or provider to meet the Benchmark Criteria and in the event of a continued failure by such provider or contractor to meet the Benchmark Criteria to consult with the BID Company with regard to the appointment of an alternative contractor or provider for the relevant Standard Service.

4.1.5 not to remove or change any contractor(s) responsible for providing the Standard Services without first serving no less than [2] months' written notice on the BID Company stating:

- (a) the removal or alteration of such contractor.
- (b) the Standard Service which such contractor is responsible for providing; and
- (c) the details of the new contractor appointed to provide the Standard Services(s)

Monitoring and Review

- 5.1 The Council and the BID Company shall set up the Standard Services Review Panel within 28 days from the date of this Agreement the purpose of which shall be to:
 - 5.1.1 monitor the carrying out of the Standard Services
 - 5.1.2 make any recommendations required pursuant to paragraph 5.1.1 (above) to the Council and the BID Company.
 - 5.1.4 review any Failure Notices served by the BID Company and steps which should be taken to secure the proper carrying out of the Standard Services.
 - 5.1.5 identify the need for any improvement or alteration to the Standard Services and/or Benchmark Criteria
- 5.2 [In the event that the Council is also providing Complementary Services pursuant to the Complementary Services Agreement the Council and the BID Company agree that the Standard Services Review Panel shall carry out all duties and obligations as set out in paragraphs 6.1.1 to 6.1.8 of the Complementary Services Agreement.]

Joint Obligations

- 6.1 Both the Council and the BID Company agree:
 - 6.1.1 For the purposes only of monitoring the standard services to review and take account of any representations or recommendations made to them by the Standard Services Review Panel and take such action as may be appropriate
 - 6.1.2 To carry out an annual review of the Standard Services to be provided and make such amendments to the level of services as may be required.

Licence

- 7.1 The Council hereby grants licence to the BID Company, its agents, or Complementary Service Provider to enter onto into or upon any land within the Council's Ownership or the highway for the purposes of the BID Company its agents or Complementary Service Provider carrying out any function or service required or secured (or any ancillary function) for the operation of the BID.

Termination

- 8.1 This Agreement shall be terminated upon any of the following occurring:

- (a) the expiry of the BID Term provided that in the event the BID is renewed after the BID Term this Agreement shall, subject to the consent of both parties and any variations they may agree, continue to remain in force and of full effect.
- (b) the early Termination of the BID and the giving of relevant notices as required by the Regulations and the Operating Agreement; or
- (c) the agreement of both parties

Confidentiality

9.1 Both the Council and the BID Company 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 about other third parties which it shall have obtained or received as a result of operating the BID. This obligation shall survive the termination or lapse of the provision of the BID

Notices

- 10.1 Any notice or other written communication to be served or given to or upon any party to this Deed 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.
- 10.2 A Notice may be served by
- 10.2.1 delivery to the Director of Community and Environmental Services at the Council's address or specified above.
 - 10.2.2 delivery to the Company Secretary at the BID Company's address specified above
 - 10.2.3 registered or recorded delivery post.
- 10.3 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.

Miscellaneous

- 11.1 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
- 11.2 The headings appearing in this Deed are for ease of reference only and shall not affect the construction of this Deed

- 11.3 For the avoidance of doubt the provisions of this Deed (other than those contained in this Clause) shall not have any effect until this document has been dated
- 11.4 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 Deed
- 11.5 References to the Council include any successors to its functions as local authority
- 11.6 References to statutes, bye laws, regulations, orders, delegated legislation shall include any such instrument re-enacting or made pursuant to the same power

Exercise of the Council's Powers

- 12.1 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 statute byelaws statutory instruments orders and regulations in the exercise of its functions as a local authority

Contracts (Rights of Third Parties)

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

Arbitration

- 14.1 The following provisions shall apply in the event of a dispute:
- 14.1.1 Any dispute or difference of any kind whatsoever arising between the parties hereto out of or in connection with this Agreement shall be referred to arbitration before a single arbitrator
- 14.1.2 The parties shall jointly appoint the arbitrator not later than 28 (twenty-eight) days after service of a request in writing by either party to do so
- 14.1.3 If the parties are unable to agree within 28 (twenty-eight) days as to 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
- 14.1.4 In the event of a reference to arbitration the parties agree to:
- (a) prosecute any such reference expeditiously; and
 - (b) do all things or take all steps reasonably necessary to enable the Tribunal to deliver any award (interim, final or otherwise) as soon as reasonably practicable

14.1.5 The award shall be in writing signed by the arbitrator

14.1.6 The award shall be final and binding both on the parties and on any persons claiming through or under them]

Signed by the parties [or their duly authorised representatives]

The Common Seal of [THE COUNCIL]) was hereunto
affixed in the presence of:)

Authorised Signatory



John Blackledge on behalf of Blackpool Council

The Common Seal of)
[THE BID COMPANY]) was
hereunto affixed in the
presence of:

Authorised Signatory



Michael Williams Chair of the
BID Board

Part 2 of the Schedule should set out those services which the Council provides as part of its "standard" routine, but which are above those provided as part of its usual statutory function. The point here being that the BID Company should nonetheless consider this part of the standard service provided by the Council in that BID Levy funds should not be used to fund initiatives which the Council has already committed itself to provide.

- i) To investigate complaints regarding graffiti in the public domain within 3 days.
- ii) To remove graffiti where appropriate on Council owned property within 7 days.
- iii) To use available powers to instigate the removal of graffiti from privately owned property or land.
- iv) To investigate customer complaints in relation to fly tipping on adopted and un-adopted areas of land within 7 days.
- v) To investigate customer complaints in relation to back street dumping within 3 days.
- vi) To carry out enforcement procedures in relation to back street dumping, with repeat offenders facing fixed penalty notice fines.
- vii) To investigate reports of abandoned vehicles within 24 hours and instigate removal procedures.
- viii) Environmental Enforcement Activities

Reactive response examples. The report of a "syringe" in a public open space will usually require a response within an hour of it being reported. The report of a dead animal on the roadside would require a varied response time depending on its location.

This list is not exhaustive and merely an example to assist users in categorising the request for service.

A: Emergency Response - Direct call to a NEAT Team Requiring Immediate Attention	<input type="checkbox"/> Dead animals on the highway <input type="checkbox"/> Syringes on the highway <input type="checkbox"/> Serious RTA, debris to be cleared
B: Rapid Response – Within 24 Hours	<input type="checkbox"/> Oil spillage or paint on the highway <input type="checkbox"/> Overflowing litter bins <input type="checkbox"/> Broken glass on the highway or Council owned land and playgrounds <input type="checkbox"/> Reports of abandoned vehicles <input type="checkbox"/> Dumped rubbish which may be a serious fire hazard
C: Priority Response – Within 3 Days	<input type="checkbox"/> Reports of fly tipping/dumping or rubbish <input type="checkbox"/> Reports of graffiti which are of a racial nature
D: Response – Within 7 Days	<input type="checkbox"/> General maintenance in respect of highway verge, soft landscaping. <input type="checkbox"/> General graffiti in open spaces clearly readable from the highway <input type="checkbox"/> Overhanging branches likely to cause injury
E: Low Priority Response – Within 1 Month	<input type="checkbox"/> Project type work which will require additional resources

PUBLIC PROTECTION DIVISION

- 1) Ensuring all licensing issues are “policed” appropriately e.g., pubs, clubs, taxis etc...
- 2) Managing and monitoring the CCTV system to ensure public safety, and to detect crime.**
- 3) Delivering Trading Standards functions regarding such issues as consumer safety, underage sales, credit, and goods and services being as described.
- 4) Ensuring workplace health and safety is maintained.
- 5) Delivery of food safety and hygiene education and enforcement in all relevant outlets, including in the night-time economy.
- 6) Utilisation of Civil Enforcement Officers to ensure free flow of traffic, road safety, and prevention of obstruction and ensuring parking compliance.
- 7) Ensuring planning law is complied with to ensure that poor appearance and abandonment of properties are addressed, as well as unauthorised development and change of use.
- 8) Addressing all forms of antisocial behaviour, including via the Public Space Protection Orders.
- 9) Ensuring that all rented accommodation is safe for habitation, and is free from hazards
- 10) Delivery of all public and environmental health interventions ranging from noise issues, waste on private land through to COVID-19 issues, and everything in between.

** **CCTV** – The BID will second one of its officers to work five days per week within the CCTV control room, although more than one officer may be used to cover the full five days, at times as agreed by BID and the Council CCTV control room manager. Whilst carrying out this role, the officer will be managed and accountable to the Council CCTV control room manager, although they will remain a BID

employee and be accountable to BID. This arrangement will be for the five-year period of the BID unless agreed by either/both parties to terminate the arrangement

BID and the Council will co-fund an additional CCTV control room operator. The Council will provide fifty percent [50%] of annual salary towards the cost of this post plus 20% to cover on-costs; [To be invoiced annually]. BID will provide the remaining required funding. The post will be for the five-year period of the BID unless agreed by either/both parties to terminate the arrangement. This post, like the seconded BID officer, will be a BID employee, although whilst working within the Blackpool CCTV control room will be accountable to the Council CCTV control room manager.

Cover for BID staff annual holidays will be arranged by the CCTV control room manager.

All costs associated with the SIA and any other required training to work in a CCTV control room, in order for them to be compliant with current legislation and guidelines for both posts will be met by the Council.

SCHEDULE 2 – BENCHMARK CRITERIA

The purpose of this schedule is to set out the basic criteria against which the standard services are to be assessed. This should include the following: -

- (a) Specification of the work to be undertaken (e.g., if cleansing is stipulated how many times a week this is to take place etc)

Code of practice on litter and refuse 8am- 6pm

Grade A: No litter or refuse (Acceptable)

Grade B: Predominately free of litter and refuse apart from some small items (Acceptable)

Grade C: Widespread distribution of litter and/or refuse with minor accumulations (3hr Response)

Grade D: Heavily affected by litter and/or refuse with significant accumulations (1hr Response)

- (b) Any relevant industry standards which the Standard Services should meet

Measure performance by use of a localised Local Environmental Quality Standards survey at regular intervals. A, B, C, D visual assessment.

Schedule 3 - The Exchequer Services Agreement

Service Specifications

Exchequer Services

Section 1 - Introduction

Service Agreement between Blackpool Bid and Blackpool Council's Exchequer Services Team

1.1 Term: 5 years

Section 2 — Contact Details

Customer's Manager	Michael Williams
Designation	Managing Director
Office Address	Empress Buildings, 97 Church Street, Blackpool, FYI IHU
Office Telephone Number	01253 476204
Emergency Telephone Number	
Email Address	MichaelWilliams@wintergardensblackpoolCo.uk
Council's Manager	Carol Cunniffe
Designation	Exchequer Services Manager
Office Address	Municipal Buildings, Corporation Street, Blackpool, FYI INF
Office Telephone Number	01253 478595
Emergency Telephone Number	07766 858287
Email Address	carol.cunniffe@blackpool.gov.uk

Section 3 – Service

3.1 Scope of Service

We provide a comprehensive recovery service in respect of raising invoices, debt collection, recovery and monitoring of Blackpool BID (Blackpool Town Centre BID and Blackpool Tourism BID) monies.

The service provided includes the following:

Setting up customers for the Blackpool Bid and Tourism Bid from reports provided from both Blackpool Bid and Income and recovery.

Raising invoices to customers included in both Bids at the correct Percentage of the RV

Producing the various reminder letters and issuing them on a daily basis

Review outstanding debts and chase via telephone calls or pass to Income and Recovery for Summons action.

Reconciliation of payments received, ensuring allocated to correct invoices. Make suitable payment arrangements with customers where they are struggling financially and monitor and chase arrangements where customers default on them.

Processing of refunds where required.

Process Credit Notes for customers who have left part way through a year.

Process Write-Offs in line with the Corporate Write off Policy and ensure documents are appropriately authorised.

Maintenance of the database and development of the Debtors system.

Completion of Statutory returns as required by HM Customs & Excise and Inland Revenue and maintenance of associated records.

Provision of training and guidance for users.

The provision of a comprehensive enquiry service for the service user and external customers.

Provision of reports detailing debts raised and status of debts.

Responsibilities

The Corporate debt team is responsible for: Informing the Blackpool Bid that a debt is due to be passed for Summons action for collection via Income and Recovery

- Providing an update in relation to debts paid so Blackpool Bid can invoice the Council for monies due to them.

The Revenues team is responsible for:

Supplying the lists of debtors for invoicing

- Notification of any changes to rateable value or liability
- Recovery work for cases requiring a court summons

3.2 Frequency of Service

3.2.1 The frequency of the service is as follows:

The invoices will be issued between 16th April and 17th May each year and will include the reimbursement of court costs incurred for the previous year

3.2.2. Opening Times

Advice on the operation of the Debtors system and invoice related matters is available on all working days between 10am and 4pm. The contacts are:

Corporate Debt Team (based at Municipal Buildings)

Carol Cunniffe	Exchequer Services Manager	478595
Peter Staveley	Corporate Debt and Payment Manager	478513
	Michelle Cherry	
	Corporate Debt Court Officer	478588
Linda Jones	Corporate Debt Team Officer	477405
Sharon Thompson	Corporate Debt Team Officer	478596
Amy Atherton	Corporate Debt Team Officer	478573

Email: credit.control@blackpool.gov.uk

Advice on recovery action is available on all working days between 10am and 4pm. The contacts are:

Graeme Ruse	Principal Revenues Manager	478830
Andrew Johnson	Recovery Team Manager	478840
David Holmes	Compliance and Technical Manager	478836

3.3 Limitations and Exclusions from Service

The service is closed between Christmas and New Year, Weekends and Bank Holidays.

3.4 Variations

Should Blackpool Bid identify that they require variations to the service being provided then this should be discussed in the first instance with the Exchequer Services Manager or the Principal Revenues Manager. Where appropriate, variations to service provision can then be agreed.

Section 4 — Pricing Structure

4.1 Price

Total charge per annum is based on the number of businesses invoiced, setting up customers, setting up and issuing invoices, sending out reminders, issuing credit notes, setting up instalment plans, providing details of cases requiring summons to Income and

Recovery, providing basic reports and providing advice and guidance.

The charges are as follows for the next 5 years:

Blackpool Bid to be invoiced

2021/2022

£14,660 (includes £2k system costs) — Corporate Debt Team

£5,873 (includes EIK system costs) — Revenues Team

£57.50 per case referred for court action

2022/2023 to 2025/2026

£12,660 per year - Corporate Debt Team

£4,873 — Revenues Team

£57.50 per case referred for court action

2021/2022 to 2025/2026

Tourism Bid to be paid by Alan Cavill

£7,230 per year - Corporate Debt Team

£5,307 - Revenues Team

£57.50 per case referred for court action

4.2 Price review

The council reserves the right to review the charges if work undertaken changes or transactions increase significantly

4.3 Method of Payment

An invoice will be issued detailing the amount and the method of payment on an annual basis.

4.4 Payment Terms

Payment is due 30 days from the receipt of the invoice

4.5 Additional Charges

Additional charges would be discussed and agreed prior to undertaking additional work.

Section 5 — Performance Management and Review

5.1 Performance Standards

The Customer's Manager and Council's Managers will meet as agreed to review service provision and discuss and agree performance, outstanding works and set targets accordingly.

Subsequent dates will be agreed at this meeting. Additional "ad hoc" meetings may take place as and when required by either party.

We are committed to continuous improvement of the services to Blackpool Bids and welcome both your support and ongoing feedback

Section 6 - Complaints

6.1 Complaints

Should the client wish to make a complaint about the service provided within this contract, it should, in the first instance, be raised with the Council's Service Managers. The complaint will then be logged, and a meeting held between the parties to enable a resolution to the complaint.

If no resolution can be determined the matter will then be passed to the Head of Service and the client's representative(s) and dealt with within 10 working days.

Should there still be no satisfactory outcome; the complaint will be escalated to the Director of Resources who will make the final decision in collaboration with the client's representative. All complaints received will be recorded in the appropriate manner. Our response to Complaints will be as follows:

All complaints are recorded and followed up

- There are two outcomes — Either Immediate Action (short term) or Preventative Action (long term);
- Any disciplinary action will be dealt with by the Head of Service.
- New or reviewed procedures (if required) will be put in place and addressed at the next progress meeting;
- Report kept on file and monitored (if required) or signed off.

The service agrees to respond to information provided from the Customer Satisfaction Forms.

All complaints received will be recorded and monitored.

Section 7 — Customer Obligations

7.1 Blackpool Bids will ensure that: -

Information provided is accurate regarding customers and amounts to be invoiced.

Changes to the Blackpool Bid are notified to the Corporate Debt Team and Revenues Teams as quickly as possible.

Signature of Organisation:

Name Position Date

Signature of Service

Provider:

Name Carol Cunniffe - 

Position Exchequer Services Manager

Date 14/10/21

Schedule 4 Processing, Personal Data and Data Subjects

The Authority shall comply with any further written instructions which are agreed with Blackpool BIDs Ltd. Any such further agreements shall be incorporated into this Schedule.

Description	Details
Subject matter of the processing	The Council will invoice and recover the BID levy monies on behalf of the BID
Duration of the processing	The agreement will run for the course of the BID operating agreement and will include any follow up debt recovery work for the period 1 April 2021 to 31 March 2026.
Nature and purposes of the processing	<p>The processing will include extracting data from the Council's Business Rates system to calculate the BID levy due and then arrange for the collection of the levy through the Council's sundry debt system and through the courts, if required.</p> <p>Data will be securely transferred between the Council and the BID company for the purpose of recovering monies on behalf of the BID. Only relevant information about the BID levy and its recovery will be shared.</p> <p>Data will be stored on secure electronic systems.</p> <p>The purpose of the processing is that the Local Authority has a statutory obligation to administer any BID that is set up.</p>
Type of Personal Data	Business Name, rate payer name (where relevant), business address, amount of BID levy, amount of BID levy recovered, amount of BID levy outstanding
Categories of Data Subject	Businesses e.g., Limited company or liable taxpayers if not registered in a company name
Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	It will be the responsibility of both parties to delete data when no longer relevant in accordance with retention schedules. At the end of the BID term and when recovery of such debt has been exhausted, data will be deleted.