

# **BID Operating Agreement with the Welwyn Hatfield Borough Council**

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Date:

## **OPERATING AGREEMENT**

between

**THE Welwyn Hatfield Borough Council (WHBC)**

and

**THE Welwyn Garden City BID LIMITED (WGCBL)**

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# BID Operating Agreement with the Welwyn Hatfield Borough Council

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## OPERATING AGREEMENT

Dated the: [DATE]

Between

**Welwyn Hatfield Borough Council (WHBC)**

Address: Campus East, The Campus, Welwyn Garden City, Hertfordshire AL8 6AE

And

**THE [WELWYN GARDEN CITY] BID LIMITED (WGCBL)** Registered Company Limited by Guarantee in England with company registration number [NUMBER]

Registered Address: [ADDRESS]

### 1. Background

- 1.1 Part 4 of the Local Government Act 2003 and the Business Improvement Districts (England) Regulations 2004 ('BID Statutory Provisions') provide a legislative framework for the establishment and operation of a business improvement district ('BID').
- 1.2 The WGCBL has proposed the formation of a BID for Welwyn Garden City town centre. The detailed proposals are set out in the BID Business Plan 2017 to 2022. The establishment of the BID is subject to approval by eligible persons in the ballot held in accordance with the BID Statutory Provisions.
- 1.3 The BID ballot was concluded on 27<sup>th</sup> October 2016 with a YES vote.
- 1.4 The WGCBL is the BID body for the purposes of the BID Regulations and is a company limited by guarantee and will start trading from 1<sup>st</sup> April 2017. The BID period will last 5 years commencing 1<sup>st</sup> April 2017
- 1.5 The Welwyn Garden City Business Improvement District will enable the businesses in that area to identify, invest in and implement specific services and facilities to improve their common trading environment. A fundamental principle of BID legislation is that such services and facilities should be additional to (not in substitution for) those already provided by the Welwyn Hatfield Borough Council (WHBC).
- 1.6 WGCBL is legally and operationally responsible to the businesses in the Welwyn Garden City BID area for all BID activities. The elected BID Board represents the views of the businesses that have voted for the BID and acts on their behalf. The Board is responsible for the appointment of direct employees or management agency or similar to project manage, to identify, implement and monitor the proposed services, reporting to it on progress.
- 1.7 WHBC's commitment to the Welwyn Garden City BID and the working relationships between WHBC and WGCBL are set out in the Memorandum of Understanding.

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- 1.8 The Memorandum of Understanding is supported by this BID Operating Agreement and a series of Baseline Statements, each benchmarking a specific service provided by WHBC to the BID area. The WHBC pledges that it will continue to provide services from the 1st April 2017 to the 31<sup>st</sup> March 2022 (“BID Term”) to the BID Area as far as it is able to the current standards though it is recognised that it is not the intention to restrict or impede the natural development of WHBC’s services. The WHBC specifically agrees that it does not intend to reduce or otherwise negatively adjust its services or additional resources in response to new services provided by the BID.
- 1.9 The services currently provided by WHBC services include all those listed in Schedule 3 and Individual Baseline Statements. The Operating Agreement sets out the parameters for the working relationship between WGCBL and WHBC, given that WHBC is the billing authority for the purposes of Local Government Act 2003 and is responsible for collecting the BID Levy.
- 1.10 WHBC also pledges to collaborate and work with WGCBL in the design, development and delivery of services which may have an impact upon businesses in the BID area.
- 1.11 WHBC will provide additional operational support to the BID in a number of ways. These are set out in Schedule 4.

## **2. The purpose of this Operating Agreement**

- 2.1 WHBC is the billing authority for the purposes of the Local Government Finance Act 1988 and the BID Statutory Provisions and is responsible for collecting the BID Levy and administering the BID Revenue Account for the Welwyn Garden City BID.
- 2.2 WGCBL 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.
- 2.3 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 WHBC and WGCBL for the duration of the BID.
- 2.4 The purpose of this Agreement is to:
  - Establish the procedure for setting the BID Levy ;
  - Confirm the basis upon which WHBC 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 level of WHBC service provision and support for the BID and role in supporting the realisation of the BID proposal and business plan.

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## 3. Definitions

3.1 The **Annual Budget Report** means a report to be prepared by WHBC which details the estimated BID Revenue Account and supporting budget assumptions for the following BID financial year.

3.2 The **Monthly Monitoring Report** means a report to be prepared by WHBC after the end of each month which summarises the following, where appropriate:

- The BID Revenue Account monitoring statement;
- The amount of BID Levy billed for BID Levy Payers;
- The BID Levy collected in relation to BID Levy Payers;
- Outstanding unpaid sum of those BID Levy Payers who have not paid the BID Levy;
- Amount of BID levy outstanding covered by Reminder Notices issued throughout that period;
- Amount of BID levy outstanding covered by Liability Orders obtained or applied for by WHBC;

Details of any aspect of the above would be made available to WGCBL upon request if there were particular queries or issues to discuss.

- Details of changes to the occupiers of hereditaments in the BID area and levy due would be made available upon request.

3.3 **The Annual Accounts Report** means a report to be prepared by WHBC which details the following:-

- The BID Revenue Account Outturn Statement which includes the total amount of BID Levy collected during the relevant BID Financial Year;
- Details of the percentage collection rate for the BID Levy;
- WHBC's recommendations (if any) to help improve any efficiency measures in the collection and enforcement of the BID Levy;
- Details of those BID Levy Payers who have paid the BID Levy and those who have not paid the BID Levy; and
- WHBC's recommendations for bad or doubtful debts.

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

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- 3.5 the **Monthly Levy Payment** means the sum of the BID levy collected in the previous calendar month.
- 3.6 **the Ballot Result** means the announcement of the ballot was declared in accordance with paragraph 17 of Schedule 2 of the Regulations and could see a result in favour of putting in place the BID Arrangements (a **“Successful Ballot Result”**) announced on the 28<sup>th</sup> October 2016.
- 3.7 **the Individual Baseline Statements** means the individual agreements related to each service in the area as outlined in Schedule 3.
- 3.8 **the BID** means the Business Improvement District which operates within the BID Area.
- 3.9 **the BID Area** means the area of Welwyn Garden City specified in the BID Arrangements, the streets of which are listed in Schedule 2.
- 3.10 **the BID Arrangements** means those arrangements to be put in place pursuant to the BID Statutory Provisions for the operation of the BID set out in the following documents:-
- BID proposals set out in the BID Business Plan 2015 to 2020 which, if approved in the statutory ballot, will form the basis of the BID arrangements referred to in the BID Statutory Provisions;
  - A Memorandum of Understanding entered into between WHBC and WGCBL;
  - This Operating Agreement;
  - Individual Baseline Statements setting out current levels of service provided by WHBC.
- 3.11 **WGCBL** means The Welwyn Garden City BID Limited.
- 3.12 **“WGCBL's Annual Accounts”** means a profit and loss report and balance sheet for the relevant BID Financial Year
- 3.13 **WGCBL's Report** means a report for each BID Financial Year to be prepared by WGCBL which includes the **‘WGCBL's Annual Accounts’** and details the following:-
- The total income and expenditure of the BID Levy;
  - Other income and expenditure of WGCBL not being the BID Levy;
  - The various initiatives and schemes upon which the BID Levy has been expended by WGCBL; and
  - Recommendations for the operation of the BID for the following financial year.
- 3.14 **the BID Levy** means the charge to be levied and collected from BID Levy Payers within the BID area pursuant to the Regulations.
- 3.15 **BID Levy Payer(s)** means the non-domestic rate payers responsible for paying the BID Levy.

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- 3.16 **the BID Levy Rules** means the rules set out in Schedule 1 which sets out how the BID Levy will be calculated, details of Exempt Properties and other requirements related to the BID Levy.
- 3.17 **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 BID Regulations.
- 3.18 **the BID Term** means the period of five years commencing 1<sup>st</sup> April 2017.
- 3.19 **the Commencement Date** means the date this Operating Agreement comes into force .
- 3.20 **Confidential Information** means
- Any information provided by one party to the other or by a third party under or in connection with this agreement or the BID Arrangements which is notified in writing to the receiving party as being either a trade secret or sufficiently commercially sensitive to justify such information being kept confidential;
  - Personal data within the Data Protection Act 1998.
- whether written, electronic or oral.
- 3.21 **the Contributors** means the BID Levy Payers or other contributors making voluntary contributions to WGCBL.
- 3.22 **WHBC** means the Welwyn Hatfield Borough Council.
- 3.23 **Demand Notice** means the demand notice required to be served by paragraph 2 of Schedule 4 of the Regulations.
- 3.24 **Hereditament** shall have the same meaning as defined in the Regulations.
- 3.25 **the Exempt Properties** means those class or classes of properties as identified in the BID Levy Rules which shall be exempt from any requirement to pay the BID Levy.
- 3.26 **the BID Financial Year** means the period of 1<sup>st</sup> April to 31<sup>st</sup> March.
- 3.27 **Liability Order** means an order obtained from the Magistrates' Court.
- 3.28 **the Operational Date** means the date upon which the BID Arrangements come into force, 1<sup>st</sup> April 2017 following a Successful Ballot Result.
- 3.29 **the Public Meeting** means the meeting to be held of all BID Levy Payers pursuant to regulation 18(1) (a) (ii) of the Regulations.
- 3.30 **the Regulations** and the **BID Regulations** mean 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).

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3.31 **the Reminder Notice** means the notice to be served in respect of an unpaid levy.

3.32 **“Monitoring Group”** means a group formed from representatives from both WGCBL or its management and WHBC. At the least it should comprise of the BID Project Manager and the Manager of the NNDR team within WHBC.

## 4. Statutory Authorities

4.1 This Agreement is made pursuant to Part 4 of the Local Government Act 2003 and Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011, the BID Regulations and all other enabling powers.

## 5. Commencement

5.1 This Agreement takes effect at the start of the **BID Term (“Commencement Date”)**

5.2 If, at the end of the BID Term a renewal ballot is planned this Agreement will be reviewed and revised if appropriate in advance of the ballot. Should the renewal ballot be successful then the terms of the reviewed Agreement shall be of effect for the new BID term.

## 6. Setting the BID Levy

6.1 By the 1<sup>st</sup> March or as soon as reasonably practicable in the first financial year and 1<sup>st</sup> March or as soon as reasonably practicable in subsequent financial years WHBC shall:-

- Calculate the BID Levy due from each BID Levy Payer in accordance with the BID Levy Rules;
- Confirm in writing to WGCBL, as soon as practicable after billing, the BID Levy payable annually by each BID Levy Payer; and
- Provide the Annual Budget Report.

## 7. The BID Revenue Account

7.1 WHBC shall have in place for the 1<sup>st</sup> March in the first year and 1<sup>st</sup> March of each BID financial year, thereafter, a BID Revenue Account.

7.2 WGCBL shall provide WHBC with details of its bank account and sort code by 1<sup>st</sup> March in the first year and 1<sup>st</sup> March of each year thereafter, or the next available working day preceding the start of the BID financial year.

7.3 WHBC shall have set up in its Accounts Payable system by the 1<sup>st</sup> March of the first year and 1<sup>st</sup> March of each BID financial year thereafter, the WGCBL bank account and sort code details for payment by BACS, or other bank to bank transfer, of the monthly levy payments from the BID Revenue Account.



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## **8. Charges to WGCBL for WHBC services**

- 8.1 WGCBL shall reimburse WHBC's reasonable charges and expenses in performing its duties and obligations under this agreement. Initial costs are as set out in Schedule 5.
- 8.2 Costs to be charged by WHBC will be invoiced to WGCBL on monthly basis in the month following that in which they were incurred. WGCBL will pay invoices within a period of 30 days from the date of issue.
- 8.3 The BID Revenue Account will include the charge and the income from WGCBL.

## **9. Collecting the BID Levy**

- 9.1 The BID Levy Payer shall be billed for the BID Levy; by a separate BID Levy bill sent out on the 1<sup>st</sup> March or as soon as reasonably practicable in the first year and by 1<sup>st</sup> March or as soon as reasonably practicable for future years..
- 9.1 The BID Levy is due for payment on the 1st April in the first year and the 1<sup>st</sup> April of each year thereafter.
- 9.2 The method of payment to WHBC is by direct debit, BACS, credit/debit card, cash, WHBC online payment facility or through the Post Office and PayPoint. Any changes made to the methods of payment will be made in time to affect the next billing period.
- 9.3 WHBC 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.
- 9.4 WHBC shall maintain a list which identifies payment and/or non payment of the BID Levy and shall make this available to WGCBL upon its reasonable request.
- 9.5 WHBC shall use all reasonable endeavours to collect the BID Levy on 1<sup>st</sup> April in the first year and then on the 1<sup>st</sup> April for all subsequent years and thereafter on an annual basis and in accordance with the procedure set out in Schedule 4 of the Regulations.
- 9.6 Cash received by WHBC shall be allocated to the correct account where known. Where not known and the intended allocation cannot be determined, WHBC reserve the right to allocate the cash in line with its standard procedures which initially shall be allocate to the oldest undisputed debt first and then in the proportion of the original debit.

## **10 Procedures available to WHBC for enforcing payment of the BID Levy**

- 10.1 In the event that the BID Levy is not paid within 7 days from the date that it becomes payable then (subject to the exceptions or as may otherwise be agreed between the parties) WHBC can serve a Reminder Notice on such relevant BID Levy Payer which shall:-

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- 10.1 If after a further 14 days from the payment date stated in the Reminder Notice the outstanding sum of the BID Levy has not been paid WHBC shall issue a Magistrates' Court Summons and make an application to the Magistrates' Court for a Liability Order to recover the outstanding sum of the BID Levy and additional court costs as is permitted by the Regulations and the Non Domestic Rating (Collection & Enforcement) (Local Lists) Regulations 1989 (as amended).
- 10.2 WHBC shall make recommendations to the BID Board on debts deemed to be 'Bad or Doubtful Debts'.
- 10.3 WHBC shall only write off Bad or Doubtful Debts on receipt of an approval in the form of a signed off authorisation from the designated BID Project Manager who will have had it approved by 2 designated BID Board Business Directors neither of which should be the WHBC representative on the Board.

## 11 Payment to WGCBL

- 11.1 On 1<sup>st</sup> April 2017 of the first part year levy collection and the 1<sup>st</sup> April or next available working day for each year thereafter WHBC shall pay WGCBL by BACS or other bank to bank transfer:
  - 11.1.1 WHBC's total levy due for WHBC properties within the BID area;
  - 11.1.2 WHBC shall inform the BID Company, upon expiry of the first month and every month thereafter, of the amount of BID levy monies collected.
  - 11.1.3 The BID Company shall raise an invoice, including VAT to the Council every month or more frequently should the BID Company and WHBC so agree. This invoice to be based on the information outlined in clause 11.1.2, for the total amount of BID levy monies received for the previous calendar month
  - 11.1.4 WHBC shall make a monthly Levy Payment by the 28<sup>th</sup> of the following month, or next available working day, the total amount of BID Levy money received for the previous month.

## 12 Performance Monitoring and Reporting

- 12.1 By 1<sup>st</sup> March or the next available working day, each year WHBC shall provide WGCBL with an **Annual Budget Report**.
- 12.2 Within 10 working days of the end of each calendar month WHBC shall provide WGCBL with the **Monthly Monitoring Report**.
- 12.3 Within 30 working days after the end of the BID financial year WHBC shall provide WGCBL with the pre-audited **Annual Accounts Report**.

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- 12.4 WHBC will supply a final **Annual Accounts Report** within 30 working days of external audit certification of its accounts for the financial year in question, which accounts include the BID Revenue Account which shall thereby be deemed to have been externally audited. If any further external audit is required in relation to the Annual Accounts Report, the cost of this shall be borne by WGCBL.
- 12.5 If, following audit, WHBC's accounts are amended such that there is any change in the amount of levy collected and payable to WGCBL, this shall be added to or deducted (depending on whether the amendment is an addition or reduction in the amount of levy collected) from the next payment of levy to be made by WHBC to WGCBL after the provision of the final **Annual Accounts Report** to WGCBL.
- 12.6 WGCBL will arrange an annual audit of the draft '**WGCBL Annual Accounts**'
- 12.7 Within 60 working days from the date of receipt of the final **Annual Accounts Report** WGCBL shall provide the final "**WGCBL's Report**" to WHBC.
- 12.8 Within one March from the **Commencement Date** the parties shall agree the dates when the **Monitoring Group** will meet during the first BID Financial Year of the BID Term. There will be at least two such meetings in each BID Financial Year (throughout the duration of the BID Term). Further meetings of the **Monitoring Group** shall be arranged by the service of written notice by either party no less than 28 days prior to the date of the proposed meeting, unless both parties agree that such meetings can be dispensed with altogether.
- 12.9 The parties shall annually review the operation of this Agreement at a date and time agreed between the parties and shall meet from time to time to:
- Review the effectiveness of the collection and enforcement of the BID Levy; and
  - If required, review and assess the information provided by WHBC and WGCBL and make any recommendations for implementation of changes as may be agreed (and which are permitted by the Regulations and the terms of this Agreement).

## 13. Termination of BID arrangements

### Termination by WHBC

- 13.1 So far as it considers it reasonably practicable to do so, where WHBC is contemplating terminating the BID Arrangements under regulation 18(1) of the Regulations it shall endeavour to first meet with WGCBL to discuss and review any issues, and put in an appropriate timescale to resolve them.
- 13.2 WHBC may terminate the BID Arrangements if, in its opinion, there are insufficient finances available to WGCBL to meet its liabilities for the chargeable period and WHBC has:-

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- Offered WGCBL a reasonable opportunity (three months) to arrange for financing the shortfall or for a reduction in the works or services under the BID Arrangements which is sufficient to meet the shortfall; and
- Given BID Levy Payers an opportunity, at a public meeting of BID Levy Payers, to make representations in relation to the termination of the BID Arrangements.

13.3 WHBC may terminate the BID Arrangements if it is unable, due to any cause beyond its control, to provide works or services which are necessary for the BID to continue and WHBC has:-

- Consulted with WGCBL formally in writing; and
- Conducted a consultation with such representatives of the business community for the geographical area of the BID as it considers appropriate;

13.4 WHBC shall notify WGCBL in writing of its intention to terminate the BID Arrangements at least 28 days before the date of termination.

## **Termination by WGCBL**

13.5 WGCBL may terminate the BID Arrangements where:-

- The works or services to be provided under the BID Arrangements are no longer required; or
- WGCBL is unable, due to any cause beyond its reasonable control, to provide works or services which are necessary for the BID to continue.

13.6 The WGCBL shall take no steps to terminate the BID Arrangements until:-

- It has consulted with WHBC as the Billing Authority, formally in writing; and

Conducted a consultation with such representatives of the business community for the geographical area of the BID as the authority considers appropriate;

13.7 WGCBL shall notify the WHBC in writing of its intention to terminate the BID Arrangements at least 28 days before the date of termination.

13.8 Any balances remaining in the BID Revenue Account will be dealt with in Accordance with BID Regulations 14 (3) (4) and (5). Any balances held by WGCBL at the time of termination and / or at the end of the BID Term (in so far as there has not been a successful ballot to continue the BID for a further term) less due legal obligations and creditors shall be passed to WHBC for WHBC to repay to the BID Levy Payers in a manner pursuant to Regulation 14 of the Regulations.

13.9 Where the BID Arrangements are terminated WHBC shall, as soon as is reasonably practicable give notice of the termination in writing to the BID Levy Payers pursuant to

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Regulation 18(6) of the Regulations and the notice shall include an explanation as to whether any part of the BID Levy is to be repaid to BID Levy payers under Regulation 14(4) of the Regulations.

13.10 Any termination of the BID Arrangements in accordance with this Clause 13 shall have the effect of terminating this Agreement.

## **14. Confidentiality and Access to Data.**

14.1 All parties will deal with confidential personal information in accordance with the Data protection Act 1998 and the General Data Protection Regulations. Subject to the following provisions, neither party shall disclose any Confidential Information (whether verbal, in writing or in electronic form).

14.2 Such Confidential Information or any part thereof may only be disclosed to or used by persons such as employees, sub-contractors and agents of a party who need to know the same for the purposes of performing its obligations under the BID Arrangements. Each party shall keep the Confidential Information secret and confidential and shall procure that such persons shall comply with substantially similar obligations of confidentiality as set out in this agreement.

14.3 The restriction on disclosure shall not apply to Confidential Information to the extent that it:-

- Is required to be disclosed by law (including under the Freedom of Information Act 2000) or by any governmental or other regulatory authority acting within the scope of its powers;
- Is or becomes part of the public domain through no fault of the receiving party;
- Is known to the receiving party prior to the disclosure by the disclosing party without an obligation to keep such Confidential Information confidential;
- Is subsequently furnished by the disclosing party to a third party without restriction on disclosure or use; or
- Is subsequently obtained by the receiving party from a third party without breach of any obligation of confidentiality owed to any third party or the disclosing party.

14.4 Each party shall use a high standard of care in dealing with the Confidential Information so as to maintain confidentiality and security of the Confidential Information.

14.5 Each party agrees that, in the performance of its respective obligations under this Operating Agreement, it shall comply with the provisions of the Data Protection Act 1998.

14.6 The obligations contained in clause 14 shall survive the termination or lapse of the BID Arrangements.

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## **15 Notices**

- 15.1 Any notice or other written communication to be served or given to or upon WHBC shall be valid or effective if it is sent by prepaid post or delivered by hand to the WHBC's Chief Executive at Civic Offices, Merrial Street, Newcastle under Lyme, Staffordshire ST5 2AG or such other WHBC offices or address as the Council may have notified to the WGCBL in writing.
- 15.2 Any notice to be served on WGCBL shall be valid and effective if sent by prepaid recorded post or delivered by hand to the registered office of WGCBL or delivered by hand to the Chairman or a Director (other than a Director nominated by WHBC) of WGCBL.
- 15.3 Any notice sent by recorded post shall be deemed to have been validly served on the second working day after posting. For these purposes a working day is any day on which WHBC's main administrative offices are open to the public.

## **16. Miscellaneous**

- 16.1 For the avoidance of doubt, in the event of any conflict between any provision in this Agreement and the BID Regulations the latter shall prevail.
- 16.2 If any provision of this Agreement shall become or shall be declared by any court or tribunal of competent jurisdiction to be invalid or unenforceable in any way whatsoever, such invalidity or unenforceability shall in no way impair or affect any other provision of the Agreement, which shall remain in full force and effect.
- 16.3 The headings appearing in this Agreement are for ease of reference only and shall not affect the construction of this Agreement.
- 16.4 References to WHBC include any lawful successors to its function as the Billing Authority for the purposes of the BID.
- 16.5 References to any enactment, order, regulation, code of practice or other similar provision shall be construed as a reference to any amendment, re-enactment, consolidation, variation, replacement or extension of the same from time to time and for the time being in force.

## **17. Exercise of WHBC's powers**

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

## **18. Contracts (Rights Of Third Parties)**

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18.1 The parties do not intend any third party to have the right to enforce any provision of this agreement under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

## **19. Dispute resolution**

19.1 In the event of any dispute arising out of or relating to the BID Arrangements, each party agrees not to commence legal proceedings without first attempting in good faith to resolve the dispute amicably and speedily having regard to the aims and objectives of the BID Arrangements.

19.2 Any dispute or difference of any kind whatsoever arising between the parties out of or in connection with this Agreement which cannot be resolved through normal business channels may be referred by either party to the Chairman of the WGCBL and the Chief Executive of WHBC (or their respective nominated senior representatives).

19.3 Any dispute which cannot be resolved under Clause 19.2 shall be referred to arbitration before a single arbitrator.

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

19.5 If the parties are unable to agree within 28 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.

19.6 In the event of a reference to arbitration the parties agree to:-

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

19.8 The award shall be in writing signed by the Tribunal and shall be finalised within 21 days from the date of such award.

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

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Signed on behalf of:

**Welwyn Hatfield Borough Council**

By

Authorised Officer

Signed on behalf of:

**The WELWYN GARDEN CITY BID Ltd**

By:

Authorised Person



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## **Schedule 1 – The BID Levy Rules**

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## **Schedule 2 - BID Area - list of streets**

### **Streets included in the BID Area**

The BID area includes any and all of the smaller business areas, courtyards and parks located off these roads that are located within the boundary of the defined BID area as per the shaded area on the map shown in section 5 in this Business Plan, even if they are not listed in the tables shown above .It will also include any roads yet to be constructed and named and any new development sites created within the shaded area of the map shown in section 5 in this Business Plan.

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## **Schedule 3 – Individual Baseline Statements**

### **Individual Baseline Statements**

In full support of the above commitments, WHBC will draw up Baseline Statements relating to the specific services they are responsible for. These documents define the benchmarks for the provision of these services and the fact that any change will not disproportionately impact upon the BID area more than any other area outside the BID within the Borough's administrative boundary. They also cover how the services will be measured.

The Baseline Services are defined below:

- Christmas Lights
- Environmental Health
- Grounds Maintenance and Arboricultural services
- Markets
- Newcastle Partnership
- Off Street Parking
- Public Area CCTV
- Street Cleansing and waste

Further Services provided by Hertfordshire County Council may be the subject of Baseline Statements provided by that authority. Where this is the case, a separate Memorandum of Understanding will be agreed and signed by WGCBL. These services may include:

- Cycling
- Highways Maintenance
- On Street Parking Operations
- Public transport
- Highways lighting
- Tourism
- Trading Standards
- Highways Signs

The process of having creating the baseline agreements proves valuable to both the service providers and WGCBL. The development of these partnerships and the additional focus on the services provided in the area, will give tangible benefits over and above those derived from the projects outlined below.

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## **Schedule 4 – WHBC’s Operational Support for [WELWYN GARDEN CITY] BID**

WHBC’s support for the BID will take practical shape in the following specific ways:

- Conducting, through the WHBCs Democratic Services, the formal BID vote in accordance with current BID legislation and procedures
- Arranging for all WHBC hereditaments within the Welwyn Garden City BID area with a liability to business rates area to vote Yes in the formal BID vote
- Assuming a positive outcome to the BID vote, collecting the BID levy defined in the BID Business Plan from Welwyn Garden City town centre businesses and transferring the levy sums direct to WGCBL. WHBC proposes to make a charge for the BID levy collection and will pay the levy sums to WGCBL as set out in Section 11 of this agreement.
- Provide a Councillor to sit as a Director on the WGCBL Board
- Provide a senior council officer to act as adviser to the WGCBL Board and to provide a business-focused dynamic link on all BID matters with senior Council staff
- Paying the appropriate BID levy set out in the Business Plan in respect of all its own hereditaments within the Welwyn Garden City town centre BID area.

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## **Schedule 5 - WHBC Costs and charges plus 'in kind' support details.**

### **'In kind' support details**

Other initial one off 'in kind' support from WHBC includes legal input in setting up the Operating Agreement and other Heads of Service contributions in drawing up the Baseline Service Statements. WHBC has also borne the costs of the initial BID ballot.

### **Billing Authority Administration Charges**

The cost of raising demand notices for the bid levy and the maintenance of the billing system equates to a charge of £400 plus VAT and postage of the levy revenue billed in each year. WGCBL will reimburse WHBC with the amount of the total charges when invoiced. This amount could change based on fluctuating printing charges.

### **Summons and Liability Order Costs**

If the billing authority has to issue a summons for the non-payment of the BID levy and obtain a liability order from the Magistrates Court a cost of £107.00 will be added to the levy payers account. This cost is subject to change and will be retained by WHBC.

### **Enforcement Charges**

WHBC may pass levy payer accounts to an enforcement agent for collection. The enforcement agent has the power to uplift goods, and levy payers will incur further costs as follows: Levy payers will have to pay a £75.00 Compliance fee as soon as WHBC pass an unpaid account to the enforcement agent for collection. This fee is payable per individual Order. This fee will be amended in line with any legislative changes.

A further Enforcement fee of £235.00 will be due if the levy payer does not make arrangements to pay or defaults on payments and a visit becomes necessary. This is a one off fee regardless of the number of Liability Orders. This fee will be amended in line with any legislative changes.

The levy payer will have to pay a further £110.00 at the sale or disposal stage. This fee will be amended in line with any legislative changes.

A further 7.5% on enforcement and sale if the debt is over £1,500 excluding fees. This is only chargeable at the enforcement or sale/disposal stages. This fee will be amended in line with any legislative changes.

These costs could be subject to legislative changes. All of these costs will be retained by WHBC or the enforcement agent, as determined by WHBC.