

Dated

OPERATING AGREEMENT

WEST BERKSHIRE DISTRICT COUNCIL (the "Council")

- and -

**NEWBURY BUSINESS IMPROVEMENT DISTRICT COMMUNITY INTEREST
COMPANY (the "BID Company")**

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Operating Agreement

**THIS DEED is made the 14th day of June 2012
BETWEEN**

(1) WEST BERKSHIRE DISTRICT COUNCIL, Council Offices, Market Street,
Newbury, Berkshire RG14 5LD (the "Council"); and

(2) Newbury Business Improvement District Community Interest Company
registered as a community interest company in England and Wales with
number 06977701 whose registered office is at The Town Hall Market Place,
Newbury, Berkshire, RG14 5AA

Recitals

- A. The Council is the billing authority for the purposes of the Local Government Act 2003 and is responsible for collecting the BID Levy and administering the BID Revenue Account which shall be used towards the operation of the BID within the area of the Council and the funding of the BID Arrangements.
- B. The BID Company is responsible for the operation of the BID and for using the BID Levy for the purposes of achieving the BID Arrangements.
- C. Both parties wish to confirm the arrangements by which the BID Levy shall be collected together with general arrangements as to the relationship to be established between the Council and the BID Company for the duration of the BID.
- D. The purpose of this Agreement is to:

- establish the procedure for setting the BID Levy;
- confirm the basis upon which the Council will be responsible for collecting the BID Levy;
- set out the enforcement mechanisms available for collection of the BID Levy;
- set out the procedures for accounting and transfer of the BID Levy;
- provide for the monitoring and review of the collection of the BID Levy;

It is agreed as follows:

1. Definitions

<p>“Administrative Expenses”</p>	<p>Means costs incurred by the Council in the administration, collection and recovery of the BID Levy.</p>
<p>“Annual Report”</p>	<p>Means a report prepared by the Council which details</p> <ul style="list-style-type: none"> (i) the amount of the BID Levy collected during the relevant Financial Year; (ii) 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;

	<p>(iv) those BID Levy Payers who have paid the BID Levy and those who have not paid the BID Levy;</p> <p>(v) the Council's proposals for Bad or Doubtful Debts</p>
“Appeal Notice	Means a notice served by the BID Company in accordance with Clause 9.2.
“Bad or Doubtful Debts”	Has the meaning given in the Regulations.
“Bailiff”	Means a bailiff employed by the Council or on behalf of the Council through a contractor.
“BID”	Has the meaning given in the Regulations that is the Business Improvement District and is that area within which the BID operates as edged red on the plan attached to this Agreement in Schedule 1.
“BID Arrangements”	Has the meaning given by s41 of the Local Government Act 2003.
“BID Company Report”	Means a report prepared by the BID Company for each Financial Year which details:

	<p>(a) total income and expenditure arising from the BID Levy;</p> <p>(b) other income and expenditure of the BID Company;</p> <p>(c) a statement of actual and pending deficits; and</p> <p>(d) The various initiatives and schemes upon which the BID Levy has been expended by the BID Company.</p>
“BID Levy”	Means the charge levied and collected within the BID pursuant to the Regulations.
“BID Levy Payer(s)”	Means the non-domestic rate payers liable for paying the BID Levy.
“BID Levy Rules”	Means the rules set out in Schedule 2.
“BID Revenue Account”	Means the account kept in accordance with Regulation 14.
“BID Term”	Means 1st June 2012 to 31 st May 2017
“Chargeable Period(s)”	Means any one of the following periods: - 01/06/12 - 31/05/13

	<p>- 01/06/13 – 31/05/14</p> <p>- 01/06/14 – 31/05/15</p> <p>- 01/06/15 – 31/05/16</p> <p>- 01/06/16 – 31/05/17</p>
"Committal"	Means an order made by Magistrates' Court for a BID Levy Payer to be committed to prison for failure to pay the BID Levy.
"Contributors"	Means the BID Levy Payers and payers of a contribution or funds paid or made available to the BID Company which do not form part of the BID Levy.
"Demand Notice"	Has the meaning given in the Regulations.
"District Auditor's Costs"	Means the sum charged by the District Auditor (or other such external body as required under any amendment to current or future legislation) in carrying out an audit of the BID Revenue Account
"Effective Date"	Means within the meaning of Regulation 17 of the Non-Domestic Rating (Alteration of Lists and Appeals Regulations) 1993.

“Enforcement Notice”	Means a notice served on the Council in accordance with Clause 9.
“Financial Year”	Means the financial year for the BID Company which runs from 1st June to 31st May.
“Head of Finance”	Means the Head of Finance or his nominated deputy for the Council
“Hereditament”	Has the meaning given in the Regulations.
“Liability Order”	Has the meaning given in the Regulations.
“Monitoring Group”	Means the group whose members are representatives from the Council and the BID Company.
"NDR"	Means Non-Domestic Rates under the Local Government Finance Act 1988.
“NDR Discretionary Relief”	Means relief which a local authority has a discretion to grant under s47 of the Local Government Finance Act 1988.
“NDR Hardship Relief”	Means relief which a local authority has a

	discretion to grant under s49 of the Local Government Finance Act 1988.
“NDR Mandatory Charitable Relief”	Means relief which a local authority must grant under s43 of the Local Government Finance Act 1988.
“NDR Payer”	Means the person or organisation who has a liability to pay the NDR.
“NDR Regulations”	Means the regulations made pursuant to Part II of the Local Government Finance Act 1988.
“NDR (Section 44A) Partly Occupied Relief”	Means a NDR allowance under s44A of the Local Government Finance Act 1988.
“NDR Small Business Rate Relief”	Means a NDR allowance under S43 of the Local Government Finance Act 1998 and the Non-Domestic Rating (Small Business Rate Relief) (England) Order 2004.
“NDR Transitional Phasing”	Means the transitional arrangements under s57 of the Local Government Finance Act 1988 and the Local Government Act 2003.

<p>“Proposal(s)”</p>	<p>Means the plan voted for by the BID Levy Payers in a ballot which sets out the objectives of the BID and identifies the various projects which will be undertaken using funds raised by the BID Levy and/or Voluntary Contributions to achieve those objectives and “Renewal Proposals” has the same meaning save that “ballot” shall be replaced with “renewal ballot” and “Alteration Proposals” has the same meaning save that “ballot” shall be replaced with “alteration ballot”.</p>
<p>“Rating List”</p>	<p>Means within the meaning of s41 of the Local Government Finance Act 1988.</p>
<p>“Regulations”</p>	<p>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).</p>
<p>“Reminder Notice”</p>	<p>Means the notice served pursuant to Clause 9.1.</p>

“Single Instalment Due Date”	Means the date by which the Bid Levy as set out in the Demand Notice must be paid.
“Sum(s) Unpaid”	Means the amount of the BID Levy which is unpaid after the Single Instalment due date
“Valuation Officer”	Means the person appointed by the Commissioners of the Inland Revenue to compile and maintain the Valuation List.
“Voluntary Contributions”	Means any contribution or funds paid or made available to the BID Company which do not form part of the BID Levy.
“Winding-Up”	Means an order pursuant to s125 of the Insolvency Act 1986.

2. Statutory Authorities

2.1. This Agreement is made pursuant to Part 4 of the Local Government Act 2003 and Section 111 of the Local Government Act 1972 and all other enabling powers.

3. Commencement

3.1. This Agreement shall take effect on the date of this Agreement and in any event shall determine and cease to be of any further effect in the event that:

- a. the BID Term expires save where the BID Company secures approval of Renewal Proposals in a renewal ballot or Alteration Proposals in an alteration ballot or Proposals in a re-ballot in which event this Agreement shall continue until the expiry of the BID Term set out in the Renewal Proposals, Alteration Proposals or the Proposals set out in the re-ballot provided, in relation to Renewal Proposals and Alteration Proposals the Council consents to such continuation;
- b. The Council exercises its reasonable discretion to terminate the BID Arrangements in exercise of powers under regulation 18 of the Regulations.

4. Setting the BID Levy

- 4.1. As soon as possible after the date of this Agreement the Council shall:
- a. calculate the BID Levy for each BID Levy Payer in accordance with the BID Levy Rules; and

b. confirm in writing to the BID Company the BID Levy payable by each BID Levy Payer

5. The BID Revenue Account

5.1. As soon as is reasonably practicable from the date of this Agreement the Council shall keep a BID Revenue Account within the Council's General Fund and provide written confirmation to the BID Company of the same.

5.2. The Council shall pay to the BID Company, upon the expiry of the first month following the commencement of the BID Term and every month thereafter, the BID Levy collected in that month less a contingency and such contingency shall be determined as follows:

a. 1% of the BID Levy collected from 1st June 2012 to 31st May 2017;

5.3. The Council and the BID Company shall review the percentages set out at Clause 5.2 of this Agreement in respect of BID Levy collected from 1st April 2012 to 31st March 2017 every three months or such other period as may be agreed between the parties (for the duration of the BID Term) and the Council shall take reasonable account of any representations made by the BID Company. At the conclusion of such review, the percentages shall be the percentages set out at paragraph 5.2 unless both parties agree to change the percentages.

5.4. Unless otherwise agreed by both parties, the Council shall pay to the BID Company such contingency as the Council has retained as at 31st May of a financial year on 31st July of the following financial year and in the event that the BID does not continue beyond 31st

May 2017, the Council shall pay the BID Company any contingency (including interest that has accrued, if any) it has retained on 30th September 2017;

5.5. In the event that a BID Levy Payer is entitled to repayment of a BID Levy ("the Repayment Sum") pursuant to paragraph 8(4) of Schedule 4 of the Regulations and in the event that the Council has previously paid all or part of the Repayment Sum to the BID Company, the Council shall request all or part, as the case may be, of the Repayment Sum from the BID Company and the BID Company shall pay the sum so requested to the Council forthwith and the Council shall thereafter repay the Repayment Sum to the BID Levy Payer.

5.6. The BID Company shall issue to the Council a VAT invoice for the payment of the BID Levy income upon advice from the Council on the amount due.

5.7. Prior to receipt of payments from BID ratepayers the Council may make a loan or other finance available to the BID Company subject to the amount and repayment terms being agreed by the Head of Finance in his reasonable discretion.

6. Administrative Expenses, District Auditor's Costs.

6.1. The Council will manage the BID Levy at no cost to the BID Company save that the Council reserves the right to serve a notice on the BID Company in the event that the Council reasonably believes that management of the BID Levy requires the Council to provide more staff time than anticipated by the Council at the commencement of this Agreement and if after 28 days from the date

of the notice the amount of staff time has not reduced to the levels anticipated at the commencement of this Agreement the BID Company shall pay the Council's costs of providing more staff time.

6.2. In the event that the Districts Auditor makes a charge to the Council for payment of his reasonable costs arising from the District Auditor carrying out an annual audit of the BID Revenue Account, the BID Company shall pay such costs.

6.3. The BID Company shall pay the invoices referred to at Clause 6.1, 6.2 within 28 (twenty eight days) from the date of receipt unless otherwise agreed by the Council.

6.3.1. In the event that the BID Company fails to pay any or all of the said invoices within the said 28 (twenty-eight days) the Council shall be entitled to debit an amount equal to the said invoices from the BID Revenue Account and credit that amount in an account in the name of the Council.

7. Collecting the BID Levy

7.1. As soon as reasonably practicable following the date of this Agreement the Council shall confirm in writing to the BID Company the anticipated date of the despatch of Demand Notices for the initial Chargeable Period and the anticipated Single Instalment Due Date.

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

7.3. The Council shall maintain a list of those BID Levy Payers who have paid the BID Levy and those BID Levy Payers who have not paid the

BID Levy and shall make the list available to the BID Company upon its reasonable request.

7.4. The Council shall serve a Demand Notice or amended Demand Notice on a BID Levy Payer as soon as reasonably practicable after the Council receives notice of a change that affects liability for the BID Levy.

7.5. The Council shall use best endeavours to collect the BID Levy throughout the BID Term.

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

8.1. Procedures for the enforcement and recovery of the Bid Levy are set out in the Section F of Schedule 2 and the Council shall comply with these enforcement procedures (where appropriate) in enforcing payment of the BID Levy against BID Levy Payers.

9. Enforcement Mechanisms In The Event That The Council Fails to Enforce Collection of the BID Levy

9.1. In the event that the Council fails to enforce payment of the BID Levy pursuant to Clause 8 the BID Company shall be entitled to serve an Enforcement Notice on the Council requesting that:

9.1.1. the Council serve a Reminder Notice or

9.1.2. In the event that the Council has already served a Reminder Notice that the Council applies for a Liability Order at the next available court date from the Schedule of hearings agreed with the Court for NDR and the Council shall thereafter provide written confirmation of the action it shall take to comply with the Enforcement Notice.

9.2. If the Council fails to provide written confirmation of the action it is taking in relation to the Enforcement Notice within 21 days of the issue of the Enforcement Notice the BID Company shall be entitled to serve an Appeal Notice on the Head of Finance of the Council and such notice shall:

9.2.1. detail the Sum Unpaid;

9.2.2. confirm that the Council has failed to use the enforcement mechanisms available to it under this Agreement to recover the Sum Unpaid; and

9.2.3. include written notice requesting that a meeting of the Monitoring Group take place in order to achieve a solution and/or agree a strategy to recover the Sum Unpaid such meeting to take place no later than 28 (twenty eight) days from the date of the Appeal Notice.

10. Accounting Procedures and Monitoring

10.1. Within 1 (one) month, or such other period as the parties may agree, from the date of this Agreement the parties shall set up the Monitoring Group meeting.

10.2. Each month (for the duration of BID Term) the Council shall provide the BID Company with:

- i) the amount of the BID Levy for each BID Levy Payer;
- ii) the amount of the BID Levy collected for each BID Levy Payer;
- iii) details of BID Levy Payers who have not paid the BID Levy;
- iv) Details of Reminder Notices issued;
- v) details of Liability Orders made or applied for;

vi) details of an agreement made, if any, between the Council and BID Levy Payers where it has been agreed that payment of a Demand Notice can be made over a period of 3 (three) months or more from the date of such Demand Notice.

10.3. Upon the expiry of the sixth month of the BID Term and every 6 (six) months thereafter (for the duration of the BID Term) the BID Company shall provide the Council in respect of the 6 (six) month periods with:

10.3.1. the amount of BID Levy received from the Council by the BID Company;

10.3.2. the amount received by the BID Company from Contributors excluding BID Levy Payers;

10.3.3. The total expenditure of the BID Company.

10.4. Within one month, or such other period as the parties may agree, from the date of this Agreement the parties shall agree the dates when there will be meetings of the Monitoring Group and there will be at least two such meetings in the first Financial Year of the BID Term and two for the remainder of the BID Term and on all other occasions further meetings of the Monitoring Group shall be arranged by the service of written notice by either party on the other such notice to be provided no less than 28 (twenty eight) days prior to the date of the proposed meeting (or lesser if otherwise agreed or in cases of emergency) and provided further that such meetings can be dispensed with altogether upon the written agreement of both the Council and the BID Company.

- 10.5. At each meeting the Monitoring Group shall:
- 10.5.1. review the effectiveness of the collection and enforcement of the BID Levy; and
- 10.5.2. If required by either party review and assess information provided by the parties pursuant to Clauses 10.2 and 10.3 above and make recommendations provided they are permitted by the Regulations and the terms of this Agreement.
- 10.6. Within 2 (two) months after the end of each Financial Year (for the duration of the Bid Term) the Council shall provide an Annual Report to the BID Company.
- 10.7. Within 1 (one) month from the date of receipt of the Annual Report in each financial year (for the duration of the Bid Term) the BID Company shall provide a BID Company Report to the Council.

11. Confidentiality

- 11.1. Both the Council and the BID Company shall keep confidential and not disclose to any person except their auditors or relevant advisers 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 BID Levy Payers or Contributors or about other third parties which it shall have obtained or received as a result of operating the BID and this obligation shall survive the termination or lapse of the BID Arrangements.

12. Notices

- 12.1. Any notice or other written communication to be served or given to or upon any party to this Agreement to the other shall be in writing and shall be sent to the address provided for above or such substitute address in England as may from time to time have been notified by that party upon 7 days written notice.
- 12.2. A notice may be served by;
 - 12.2.1. delivery to the Head of Finance at the address of the Council specified above; or
 - 12.2.2. delivery to the Chief Executive at the address of the BID Company specified above;
 - 12.2.3. registered or recorded delivery post to such addresses;
- 12.3. 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.

13. Miscellaneous

- 13.1. For the avoidance of doubt where any part of this Agreement is incompatible with the Regulations or any other regulations which the Secretary of State may issue pursuant to Part IV of the Local Government Act 2003 then such part shall be struck out and the balance of this Agreement shall remain.
- 13.2. The headings appearing in this Agreement are for ease of reference only and shall not affect the construction of this Agreement.

- 13.3. For the avoidance of doubt the provisions of this Agreement (other than those contained in this Clause) shall not have any effect until this document has been dated.
- 13.4. Where reference is made to a Clause, Part, Plan or Recital such reference (unless the context requires otherwise) is a reference to a clause, part, plan, or recital in or attached to this Agreement.
- 13.5. References to the Council include any successors to its functions as local authority.
- 13.6. References to statutes, bye laws regulations orders or delegated legislation shall include any such instrument re-enacting or made pursuant to the same power.

14. Exercise of the Council's powers

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

15. Contracts (Rights Of Third Parties)

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

16. Arbitration

- 16.1. The following provisions shall apply in the event of a dispute:
- 16.1.1. any dispute or difference of any kind whatsoever arising between the parties hereto out of or in connection with this Deed shall be referred to arbitration before a single arbitrator;

- 16.1.2. the parties shall jointly appoint the arbitrator not later than 21 (twenty one) days after service of a request in writing by either party to do so and each party shall bear its own costs;
- 16.1.3. If the parties are unable to agree within 21 (twenty one) days the appointment of such arbitrator then such arbitrator (hereinafter referred to as “the Tribunal”) shall be appointed on the application of either party to the President for the time being of the Law Society.
- 16.2. In the event of a reference to arbitration the parties agree:
 - 16.2.1. to prosecute any such reference expeditiously; and
 - 16.2.2. to do all things or take all steps reasonably necessary in order to enable the Tribunal to deliver any award (interim, final or otherwise) as soon as reasonably practicable;
 - 16.2.3. that the award shall be in writing signed by the Tribunal and shall be finalised within 21 (twenty one) days from the date of such award;
 - 16.2.4. The award shall be final and binding both on the parties and on any persons claiming through or under them.

THE COMMON SEAL of WEST BERKSHIRE DISTRICT COUNCIL was
hereunto affixed and authenticated by

Authorised signatory

EXECUTED AS A DEED)
by the BID Company acting by one Director)
in the presence of:)

SCHEDULE 1

SCHEDULE 2

BID LEVY RULES

(For BID Levy demanded on or after 1st April 2012)

INTRODUCTION

The following rules must be read in conjunction with the Regulations. Where the rules conflict with the Regulations the Regulations prevail.

Section A

Hereditaments Subject to the BID Levy:

1. A BID Levy Payer will be subject to the BID Levy in respect of a Hereditament if on a particular day in a Chargeable Period the Hereditament is in:
 - 1.1. the BID area; and
 - 1.2. The BID RV is greater than £4,999

Section B

The BID Levy:

1. The BID Levy will be calculated for a Chargeable Period as follows:
2. $BID\ RV \times BID\ Multiplier \times (D/Y)$ where:
 - 2.1. the BID RV is:
 - 2.1.1. the rateable value of the Hereditament in the 2010 Rating List in relation to 1 April 2010¹
 - 2.1.2. in the event that there is no such rateable value, the BID RV will be the rateable value of the Hereditament in the 2010 Rating List ²

¹ Where the Valuation Officer has made an alteration to the rateable value of the Hereditament effective on 1st April 2010 the rateable value will be such altered rateable value. Where the valuation officer has made more than one such alteration the rateable value will be the most recent of such alterations.

- 2.1.3. In the event that there is no such rateable value, the BID RV will be the rateable value of the hereditament in the 2010 rating list.³
- 2.2. the BID Multiplier is:
1.0% for each of the years 2012/2013, 2013/2014, 2014/2015, 2015/2016 and 2016/2017,
- 2.3. D is:
- 2.3.1. the number of days in a Chargeable Period for which the BID Levy Payer is liable for the daily BID Levy;
- 2.4. Y is the number of days in the Chargeable Period, e.g. 365 for each year from 2012/2013, 2013/2014, 2014/2015 and 2016/2017 and 366 for 2015/2016.
- 2.5. The BID Levy will be rounded to the nearest penny. (NB. £0.005 will be rounded up to £0.01).
- 2.6. How the amount of the BID Levy is to be calculated cannot be altered during the BID Term without an alteration ballot.

Section C

Persons/Organisations Liable for the BID Levy:

- 3.1. The BID Levy will be a daily charge
- 3.2. Liability for the daily BID Levy will fall on the Occupier of the Hereditament on the particular day. For this purpose "Occupier" shall have the same meaning as under s65 of the Local Government Finance Act 1988 ("the 1988 Act")

² Where the Valuation Officer has made an alteration or alterations to the rateable value of the Hereditament, the rateable value will be the rateable value on the earliest Effective Date.

³ Where the Valuation Officer has made an alteration to the rateable value of the Hereditament, the rateable value will be the rateable value on the earliest Effective Date.

- 3.3. If a Hereditament is Unoccupied, the liability for the daily BID Levy will fall on the organisation/person entitled to possession on the particular day. For this purpose “Unoccupied” will have the same meaning as in Part III of the 1988 Act and “entitled to possession” will have the same meaning as in Part III of that Act.
- 3.4. A BID Levy for a Chargeable Period will be payable in advance upon service of a Demand Notice.

Section D

BID Levy Allowances:

- 4.1. BID Levy Payers will not receive an allowance towards their daily BID Levy in relation to Unoccupied Hereditaments. I.e. those responsible for unoccupied and part occupied hereditaments will be liable for the full BID levy.
- 4.2. Other exemptions relief or discount prescribed in the Non-Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989 made under the, Local Government Finance Act 1988, will not apply. The only exception is as detailed in 4.3
- 4.3. The following premises will be eligible to receive 50% relief from the BID levy:
- 4.3.1. Premises that are occupied wholly or mainly by a charity as retail or office accommodation for the charitable purposes of that charity and other charities;
- 4.3.2. Premises that are occupied wholly or mainly by clubs and societies that are not for profit and have no other means of income other than voluntary subscriptions

- 4.3.3. Premises that form part of a shopping centre where services already provided through service charge arrangements.
- 4.4. The Small Business Rate Relief scheme will have no effect in calculating the BID levy.
- 4.5. The Business Rate Deferral Scheme scheme will have no effect in calculating the BID levy.
- 4.6. BID Levy Payers will not receive a three month void exemption or any other empty rate exemption in relation to Unoccupied Hereditaments or Hereditaments that become Unoccupied during the BID Term.
- 4.7. If there is no NDR Payer in existence on a particular day such as in the case of an NDR unoccupied “listed” Hereditament no BID Levy is payable. For this purpose “Listed” will have the same meaning as under regulation 2(2) (d) of the Non-Domestic Rating (Unoccupied Property) Regulations 1989.
- 4.8. There will be no allowances applicable to the BID Levy corresponding to NDR Discretionary Relief, NDR Hardship Relief, NDR Section 44A (Partly Occupied) Relief, NDR Small Business Rate Relief or NDR Transitional Phasing.

Section E

Collection of the BID Levy:

- 5.1. The BID Levy for a Chargeable Period must be paid by the Single Instalment Due Date. The Demand Notice will be served as soon as practicable after the Council becomes aware of a BID Levy liability. The Council may serve a Demand Notice before the beginning of a

Chargeable Period in accordance with paragraph 5(2) of Schedule 4 of the Regulations.

5.2. The BID Company may authorise refunds to BID Levy Payers, as appropriate.

5.3. The BID Company may authorise write-offs, as appropriate.

Section F

Enforcement and Recovery of the BID Levy:

Stage 1

6.1. The Council will serve a Demand Notice at least 14 days before the Single Instalment Due Date

Stage 2

6.2. In the event that a BID Levy Payer does not pay the BID Levy by the Single Instalment Due Date in full the Council will serve a Reminder Notice at least 10 days thereafter on the BID Levy Payer for an amount equal to the Sum Unpaid. Such Reminder Notice must be in terms demanding payment of the Sum Unpaid within 7 days.

Stage 3

6.3. In the event that a BID Levy Payer does not pay the Sum Unpaid in full within 7 days from the date of the Reminder Notice the Council may apply to a Magistrates' Court for a Liability Order after 14 days of the date of the Reminder Notice.

Stage 4

6.4. In the event that a Magistrates Court makes a Liability Order the Council will instruct the Bailiff within a reasonable period thereafter to execute the Liability Order.

- 6.5. In addition to a Liability Order, the BID Company may request the Council to apply for a different order and such order may include an order for Committal and an order Winding Up a company, provided the BID Company first agrees to pay all or part of the Councils uncured costs in taking such action.

General Enforcement and Recovery Provisions

- 6.6. The Council may enter into an agreement with a BID Levy Payer for payment of a Sum Unpaid at any time after service of a Demand Notice and such agreements do not require the consent of the BID Company.
- 6.7. Costs recovered by the Council from a BID Levy Payer as a consequence of applying for and/or obtaining orders from a Magistrates Court will be retained by the Council to meet the costs of taking this action.
- 6.8. The Council will not charge the BID Company for work carried out by the Bailiff pursuant to this Agreement. The Bailiff will retain Statutory Levy Fees and charges within the meaning of Schedule 3 of the Non- Domestic Rating (Collection and Enforcement) (Local Lists) Regulations 1989.

Section G

Billing/Recovery documents:

- 7.1. The Council will use its best endeavours to agree with the BID Company the design of all Demand Notices and letters from the Council to BID Levy Payers.
- 7.2. The BID Company will produce the information required by paragraph 3(2) of Schedule 4 to the Regulations in respect of each BID Levy Payer in the form of an information leaflet which explains the BID Levy and such information leaflet will be served on the BID Levy Payer at the same time as the Demand Notice. The Council will advise the BID Company of the date by which such information leaflets must be delivered to the Council, the required volume and any specific delivery instructions and the BID Company will comply with such requirements.