



BASELINE AGREEMENT

Dated

**Name of the Council
(the Council)**

**Name of BID Company
(the BID Company)**

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Baseline Agreement for Provision of Standard Services

Dated

Between

- (1) **NAME OF THE COUNCIL** (the Council) of ** (address); and
- (2) **NAME OF THE BID COMPANY** (the BID Company) [registered as a company limited by guarantee in England with company number **] [whose registered office is at**]

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 are to be assessed.

It is agreed:

1 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 (*describe area or refer to a plan*)

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

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

[Complementary Services Agreement(s)] means the agreement entered into on between the (insert name of Provider) and (insert name of the BID Company) 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 ** 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 ** representatives from the Council [officers] and ** representatives from the BID Company

2 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

3 Commencement

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

4 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)

5 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.]

6 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.

7 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

8 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

9 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

10 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 _____ 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.

11 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

12 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

13 Contracts (Rights of Third Parties)

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

14 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

SCHEDULE 1 – The Standard Services

The purpose of this schedule is effectively to set the "baseline" for the services.

Part 1 should identify such services (within the relevant service area) which the Council is required to provide as part of this statutory duty (e.g. refuse, maintenance of highway etc.)

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.

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