

Funding Agreement – EXECUTION VERSION

DATED

2nd July

2015

TRANSPORT FOR LONDON

and

GARDEN BRIDGE TRUST

DEED OF GRANT

relating to

**THE GARDEN BRIDGE
PROJECT**

CONTENTS

1.	DEFINITIONS AND INTERPRETATION.....	6
2.	REPRESENTATIONS AND UNDERTAKINGS.....	6
3.	PROCUREMENT.....	9
4.	GENERAL OBLIGATIONS OF THE TRUST.....	9
5.	CONTRACTORS AND SUB-CONTRACTORS.....	100
6.	VARIATIONS.....	11
7.	INDEMNITY.....	111
8.	INSURANCE.....	111
9.	PROJECT PROGRESS AND PROJECT MANAGEMENT.....	122
10.	PROJECT DOCUMENTATION AND REPORTING.....	133
11.	AUDIT.....	144
12.	STANDARDS IN PUBLIC LIFE.....	155
13.	EQUAL OPPORTUNITIES AND DIVERSITY.....	16
14.	ADDITIONAL PROJECT FUNDING SOURCES.....	166
15.	LIMITATION ON THE USE OF GRANT.....	166
16.	PAYMENTS OF GRANT.....	177
17.	REDUCTION, SUSPENSION AND WITHHOLDING OF GRANT.....	188
18.	REPAYMENT.....	188
19.	INTEREST ON LATE REPAYMENT OF GRANT.....	19
20.	PROPERTY AND WORKS.....	19
21.	PROJECT IP.....	19
22.	VALUE ADDED TAX.....	200
23.	TERMINATION / EVENTS OF DEFAULT.....	200
24.	CONSEQUENCES OF TERMINATION.....	211
25.	NOVATION.....	211
26.	FREEDOM OF INFORMATION, CONFIDENTIALITY AND TRANSPARENCY.....	22
27.	LAW AND JURISDICTION.....	25
28.	CONFLICTS OF INTEREST.....	25
29.	ILLEGALITY AND SEVERABILITY.....	26
30.	WAIVER.....	26
31.	AMENDMENTS TO AGREEMENT.....	26
32.	NOTICES.....	277
33.	NO PARTNERSHIP/ AGENCY/EMPLOYMENT.....	288
34.	FORCE MAJEURE.....	28
35.	ENTIRE AGREEMENT & COUNTERPARTS.....	29
36.	EXCLUSION OF THIRD PARTY RIGHTS.....	29
37.	RELATIONSHIP OF TFL AND TRUST.....	29

Funding Agreement – EXECUTION VERSION

Particulars of Funding

1. DATE OF AGREEMENT: *2nd July* 2015

2. TfL: TRANSPORT FOR LONDON, a statutory corporation of 42-50 Victoria Street, London SW1H 0TL (and its statutory successors assigns and transferees)

3. TRUST: GARDEN BRIDGE TRUST, a charitable company limited by guarantee (company no. 08755461) whose registered office is at 50 Broadway, London SW1H 0BL

4. COMMENCEMENT DATE: the date of this Agreement

5. GRANT: £60,000,000 less the Amount Spent to Date distributed and payable as specified in Schedule 2

6. PROJECT (for which Grant payable): The construction of the Garden Bridge and ancillary activities (more particularly set out in the Specification at Schedule 3)

7. TRUST BANK ACCOUNT
NAME OF BANK: Citibank, N.A Citigroup Centre, Canary Wharf, 33 Canada Square, London, E14 5LB
BRANCH NAME AND ADDRESS: Garden Bridge Trust - GBP Collections
ACCOUNT NAME: 18-50-08
BANK SORT CODE: 17173342
ACCOUNT NUMBER:

Funding Agreement – EXECUTION VERSION

8. CONTACT DETAILS

(FOR NOTICES)

TfL

Attention: Richard de Cani

Title: Managing Director, Planning

Tel: 0203 054 7098

Fax: 0203 054 4276

Email (not valid for notices):
decaniri3@tfl.gov.uk

Address: Transport for London, Windsor
House, 42-50 Victoria Street,
London SW1H 0TL

Trust

Attention: Bee Emmott

Title: Executive Director

Tel: 0207 7257 9430

Fax: N/A

Email (not valid for notices):

bee.emmott@gardenbridge.london

Address: Somerset House
New Wing
Strand
London
WC2R 1LA

9. TfL REPRESENTATIVE (FOR
CONTRACT MANAGEMENT
ISSUES)

Richard de Cani

Title: Managing Director, Planning

Tel: 0203 054 7098

Fax: 0203 054 4276

Email (not valid for notices):
decaniri3@tfl.gov.uk

Address: Transport for London, Windsor
House, 42-50 Victoria Street,

Funding Agreement – EXECUTION VERSION

London SW1H 0TL

10. TRUST PROJECT MANAGER

Anthony Marley

Title: Project Director

Tel: 0207 2579432

Fax: N/A

Email (not valid for notices):anthony.marley@garden
bridge.london

Address: Somerset House
New Wing
Strand
London
WC2R 1LA

DEED OF GRANT

DATED

2nd July

2015

PARTIES

- (1) **TRANSPORT FOR LONDON**, a statutory corporation of 42-50 Victoria Street, London SW1H 0TL (and its statutory successors assigns and transferees) ("**TfL**" or "**we**" or "**us**"); and
- (2) **GARDEN BRIDGE TRUST**, a charitable company limited by guarantee (company no. 08755461) whose registered office is at 50 Broadway, London SW1H 0BL (the "**Trust**" or "**you**").

BACKGROUND

- (A) A new footbridge incorporating a garden has been proposed in central London, connecting Temple with the South Bank across the River Thames (the "**Garden Bridge**").
- (B) The Trust (a company limited by guarantee, registered as a charity with the Charity Commission) has been established to deliver the Garden Bridge.
- (C) The Mayor of London is supportive of the Garden Bridge project (the "**Project**") and has committed £30,000,000 (thirty million pounds) funding towards it. On 27 June 2014 he delegated certain of his powers to TfL and directed TfL to exercise its own powers and the delegated powers so as to provide £30,000,000 (thirty million pounds) of funding towards the Project.
- (D) The Secretary of State for Transport has agreed, under the terms of a letter dated 12 November 2014, to provide additional funding of £30,000,000 to TfL under section 101 of the Greater London Authority Act 1999, on the basis that TfL will apply this additional funding towards the Grant. TfL and the Department for Transport ("**DfT**") have agreed that TfL will provide each of TfL's and DfT's contributions to the Trust on a pari passu basis, taking into account the amounts already spent by TfL on the Project. No additional funding beyond this amount will be available from DfT in respect of the Project.

Funding Agreement – EXECUTION VERSION

(E) TfL has already provided some funding towards the Project (the “**Amount Spent to Date**”) and, accordingly, the net amount of funding available from TfL (including the sums referred to in paragraph (D)), is £60,000,000 less the Amount Spent to Date (the “**Grant**”). This deed of grant, including the schedules (the “**Agreement**”) sets out the basis on which TfL will provide the Grant to the Trust in respect of the Project.

IT IS AGREED

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement, unless the context requires otherwise, words and expressions set out in Schedule 1 shall have the meanings given to them in Schedule 1. Schedule 1 also includes certain rules of interpretation which apply to this Agreement.
- 1.2 The Particulars and the Schedules to this Agreement are incorporated into and form part of this Agreement.
- 1.3 If there is any inconsistency between the provisions of this Agreement, the Particulars and the Schedules, such provisions shall have the following order of precedence:
 - 1.3.1 the Particulars;
 - 1.3.2 the Specification at Schedule 3;
 - 1.3.3 the Schedules; and
 - 1.3.4 the main body of this Agreement.

2. REPRESENTATIONS AND UNDERTAKINGS

- 2.1 You represent and undertake to us as fundamental conditions of this Agreement that:
 - 2.1.1 you are validly existing and have the power to enter into this Agreement and that the execution of this Agreement by you has been validly authorised;

Funding Agreement – EXECUTION VERSION

- 2.1.2 the obligations imposed on you under this Agreement constitute valid legal and binding obligations enforceable against you in accordance with these terms;
- 2.1.3 neither the execution of this Agreement by you nor the performance of any of its obligations under it will:
- (a) conflict with or result in any breach of any law or enactment or any deed, agreement or other instrument, obligation or duty by or to which you are bound, unless otherwise agreed with you; or
 - (b) exceed any limitation on any of your powers or on the right or ability of your directors or officers to exercise such powers;
- 2.1.4 you are not in default under any law or regulatory obligation or under any deed, agreement, other instrument, obligation or duty by or to which you are bound so as to adversely affect your ability to perform your obligations under this Agreement;
- 2.1.5 no litigation, nor any administrative or arbitration proceedings before any court, tribunal, Government authority or arbitrator are taking place, pending or (to your knowledge, information and belief) are threatened against you, or against any of your assets, which might have a material adverse effect on your business, assets, condition or operations, or might affect adversely your ability to perform your obligations under this Agreement, other than those disclosed by you to TfL;
- 2.1.6 all information documents and accounts submitted by you or on your behalf to us for appraisal in relation to the Project or for the purposes of this Agreement were, when given, complete and accurate and not misleading. In addition no change has occurred since the date on which such information was given which renders the same untrue, incomplete, inaccurate or misleading in any respect, and there has been no material adverse change in your business, assets, operations or prospects since such information was given;

Funding Agreement – EXECUTION VERSION

- 2.1.7 none of your directors, trustees, officers, shareholders, managers or senior employees with responsibility for the delivery of the Project under this Agreement have been charged with or convicted of any criminal offence (other than road traffic offences not involving the imposition of a custodial sentence);
 - 2.1.8 no person having any charge or other form of security over your assets has enforced or started to enforce or given notice of an intention to enforce such security;
 - 2.1.9 you are not aware, after due enquiry, of anything which materially threatens the delivery and completion of the Project in accordance with this Agreement and the Programme;
 - 2.1.10 no Event of Default has occurred and is continuing;
 - 2.1.11 you have sufficient resources, including competent and qualified personnel, financial resources, premises and other resources as necessary, to progress the Project;
 - 2.1.12 you have not made any material changes to the Project, the Specification or the Programme, save as agreed in accordance with clause 6;
 - 2.1.13 any information you provide to us or our representatives in the future relating to this Agreement or the Project will be true, complete and accurate and not misleading in any way; and
 - 2.1.14 you have fully considered and, where appropriate, have taken professional advice in relation to the VAT treatment of payments (i) to be made to you by us under this Agreement; and (ii) to be made by you to Contractors and Sub-contractors in connection with the Project.
- 2.2 The representations and undertakings in clause 2.1 will be deemed to be repeated by you when each instalment of Grant is payable pursuant to clause 16 (Payments of Grant) as if made with reference to the facts and circumstances existing at the date of payment of the instalment of Grant and

Funding Agreement – EXECUTION VERSION

you acknowledge that we have relied on and will rely on this information in agreeing to pay the Grant and each instalment of it.

- 2.3 If you discover that any information given by you or on your behalf to us or our representatives in connection with the Project was, or has subsequently become, inaccurate, incorrect, incomplete or misleading, you must inform us of that fact immediately, in writing.
- 2.4 If at any time during the Project Period there is any change in relation to your circumstances such that would cause any of the representations and undertakings set out in clause 2.1 to be breached if they were to be repeated at that time, you must inform us of that fact, immediately in writing.

3. PROCUREMENT

- 3.1 In respect of the main construction contract for the Project, you will select a Contractor following an open, fair, transparent, robust and competitive procurement process and in accordance with all legal requirements.
- 3.2 For all procurements of works, equipment, goods and services, you will select a Contractor from the potential suppliers:
 - 3.2.1 on the basis of overall best value and suitable skills and experience;
 - 3.2.2 having regard to your equal opportunities obligations set out at clause 13 (Equal Opportunities and Diversity); and
 - 3.2.3 using a fair and appropriately documented decision-making process.

4. GENERAL OBLIGATIONS OF THE TRUST

- 4.1 You will manage and be responsible for the risks of costs overruns in relation to the Project.
- 4.2 If the Project is completed you will:
 - 4.2.1 actively raise funds on a continuing basis to meet the ongoing operation and maintenance of the Garden Bridge;

Funding Agreement – EXECUTION VERSION

- 4.2.2 be responsible for the ongoing operation and maintenance of the Garden Bridge, including all the related costs and in no circumstances shall payments from TfL to you pursuant to this Agreement exceed £60,000,000 (sixty million pounds), inclusive of the Amount Spent to Date:
- 4.2.3 make the Garden Bridge available for use by the public free of charge in accordance with the opening hours defined in the planning consents for the Garden Bridge, subject to:
- (a) any mechanisms set out or referred to in those planning consents for agreeing variations to the opening hours with the relevant planning authorities); and
 - (b) closure of the Garden Bridge for fundraising or community events, subject to your adherence to planning conditions relating to closure of the Garden Bridge.
- 4.3 Within three months of the end of each Operating Period you will provide us with a business plan demonstrating how operating and maintenance costs for the Garden Bridge in the subsequent Operating Period will be met. This business plan will be subject to the approval of the Mayor of London.

5. CONTRACTORS AND SUB-CONTRACTORS

- 5.1 You will supply on request by us a true, accurate and complete copy of any contract (or material variation to any contract) with a Contractor or with a Designer engaged in relation to the Project with an expected value in excess of £250,000.
- 5.2 You will not breach the terms of any contracts with your Contractors engaged in relation to the Project and you shall monitor and take reasonable steps to enforce proper performance of those contracts.
- 5.3 Notwithstanding any sub-contracting or appointment of a Contractor or Sub-contractor you will remain wholly responsible for the acts and omissions of all Contractors and Sub-contractors (insofar as they affect your ability to comply with your obligations under this Agreement) as if their acts or omissions were your own acts or omissions.

6. VARIATIONS

- 6.1 You will seek our prior written agreement to any change to the Programme which delays the completion date for the construction of the Garden Bridge by more than 12 months beyond the end of June 2018.
- 6.2 You will notify us in advance of any proposed material variation to the design of the Garden Bridge that has a negative impact on the Business Case. If (in our reasonably held opinion), and subject to clause 6.3, we consider that the proposed material variation would have a significant negative impact on the Business Case, then you will not proceed with that variation without our prior written agreement.
- 6.3 Any variation necessary to meet the requirements of one or more planning conditions will not be considered material for the purposes of clause 6.2.
- 6.4 Any request for our agreement under this clause 6 shall be made in writing with all supporting information and with as much advance notice as possible.
- 6.5 Any agreement given by us under this clause does not mean that we will become responsible for the matter agreed to nor (unless otherwise specified) does it reduce or vary any of your obligations under this Agreement.

7. INDEMNITY

- 7.1 You undertake to us to indemnify and keep us indemnified against all losses, costs, claims, expenses, demands and liabilities (including legal costs and expenses on a full indemnity basis) which we may suffer or incur as a result of any of your acts or omissions or those of your employees, agents, Contractors or Sub-contractors (whether permitted or otherwise) in carrying out the Project.

8. INSURANCE

- 8.1 You will take out and maintain or will procure the maintenance of insurances of a level appropriate for a Project of this size and complexity with a reputable insurance company or companies to cover your liabilities arising out of the Project and when requested by us you shall provide us with satisfactory evidence of such cover. These insurances shall include from the date the

Funding Agreement – EXECUTION VERSION

Works are commenced sufficient insurance to cover the cost of fully reinstating the Works in the event of loss or damage or total destruction (including demolition and site clearance).

- 8.2 If the Property or the Works or any materials or goods required to undertake the Works comprised in the Project are destroyed or damaged (other than as a necessary part of carrying out the Works) you will procure the rebuilding, reinstatement or replacement of the Property, Works, goods or materials in accordance with the provisions of this Agreement as soon as reasonably practicable.
- 8.3 You will not do or permit anything to be done which may render any policy or policies of insurance void or voidable.
- 8.4 For the avoidance of doubt your obligations in this clause 8 to take out and retain or procure the retention of insurances apply beyond the completion of the Garden Bridge and for as long as you maintain responsibility for the operation of the Garden Bridge.

9. PROJECT PROGRESS AND PROJECT MANAGEMENT

You will:

- 9.1 diligently progress the Project in accordance with the terms of this Agreement;
- 9.2 subject to meeting the post-contract award Conditions of Payment set out in Part 1 of Schedule 2, promptly and efficiently complete the Project in accordance with the Specification and the Programme and all other requirements for delivery of the Project;
- 9.3 comply with all relevant legislation, consents and any other requirements of any local or other authorities affecting the Project in carrying out the Project;
- 9.4 notify us in writing within 14 days of any change to the Total Project Cost where such change is 2 percent or more of the Total Project Cost as at the Commencement Date;
- 9.5 notify us immediately if you become aware of any issues that may affect delivery of the Project in accordance with the Specification and/or the

Funding Agreement – EXECUTION VERSION

Programme and/or any other requirements for the delivery of the Project or that may require any material changes to be made in relation to the Project;

- 9.6 attend or host periodic review meetings to discuss progress (no less than quarterly but more frequently if reasonably required by us);
- 9.7 co-operate fully and provide all information and assistance as reasonably required by us for the purpose of review of the Project, the Grant, and/or this Agreement;
- 9.8 appoint a Project Manager who will be our main contact point for the Project, and give us written details of the identity of the Project Manager from time to time;
- 9.9 ensure that you have in place appropriate procedures to identify and address risks that may arise in relation to the Project until it is completed, even if this is after the last instalment of Grant has been paid; and
- 9.10 immediately notify us of any claim brought against you, or your employees, directors, officers or agents arising out of or relating to your performance of the Project including any claim made against any Contractor or Sub-contractor of which you became aware.

10. PROJECT DOCUMENTATION AND REPORTING

10.1 You will:

- 10.1.1 keep full, proper and auditable records of the progress of the Project and take all reasonable steps to ensure the integrity and security of these records;
- 10.1.2 keep complete and accurate accounting records of all income and expenditure in relation to the Project. These records shall differentiate between funds received pursuant to this Agreement and other monies received by you in relation to the Project;
- 10.1.3 retain the Project records for a period of ten (10) years after the end of the Project Period;

Funding Agreement – EXECUTION VERSION

10.1.4 without prejudice to clause 11, permit us at all reasonable times and on giving you reasonable notice to inspect the Project and all Project records and take copies of them, if required; and

10.1.5 tell us where the records referred to in this clause are stored, and tell us if there is any change to the location of where the records are stored.

11. AUDIT

11.1 You will:

11.1.1 (upon reasonable notice) allow full access to your business premises and the Project records throughout the Project Period and during the period of ten (10) years after the end of the Project Period for us, our authorised representatives and other auditors which we may appoint from time to time, to audit, inspect and take copies of such documents in connection with the Project and the Grant;

11.1.2 provide oral and/or written explanations of relevant documents (or their absence);

11.1.3 provide unrestricted access to interview your relevant employees; and

11.1.4 provide, free of charge, all facilities that we may reasonably require for conducting such audit, inspection and examination, which may include but are not limited to facilities such as photocopying.

11.2 Where you sub-contract work in order to deliver any aspect of the Project, you will procure that we shall have access on reasonable notice (to be given to both the Trust and the Sub-Contractor) to relevant records and the ability to interview employees of any Contractor and/or Sub-contractor and you shall incorporate provisions equivalent to clause 11.1 in your agreement with Contractors and Sub-contractors. The provisions of this sub-clause 11.2 shall apply only to contracts with Contractors or Sub-contractors with an expected value of £500,000 or more;

Funding Agreement – EXECUTION VERSION

- 11.3 Without prejudice to clause 11.1, you will if requested to do so provide us with copies of your internal management accounts or financial records and provide oral and/or written explanations relating to the financial status of your business.

12. STANDARDS IN PUBLIC LIFE

- 12.1 You will ensure that you have at all relevant times appropriate financial accountancy and management information systems or arrangements in place to ensure financial regularity and propriety in the operation of your business.
- 12.2 You and all persons under your control will act in accordance with ethical business standards and will use appropriate procedures and controls to ensure that real or apparent impropriety is avoided and which prevents any action that may be in conflict or has the appearance of being in conflict with the best interests of the Project. This obligation will include precautions to prevent:
- 12.2.1 the making, providing or offering of gifts, inducements or entertainment of more than £50, save to the extent reasonably necessary, appropriate and proportionate for the purposes of fundraising; and
 - 12.2.2 payments, loans or considerations being made to our members or officers or members or officers of any other public or government or European body as an inducement or reward for any act in relation to or obtaining or delivering your obligations under this Agreement or for showing favour in relation to the Project.
- 12.3 You will inform us, immediately of becoming aware of the same, in writing, if you are charged or convicted (or being a company or body corporate, any of your directors, officers, employees or representatives are charged or convicted) of any criminal offence related to business, professional conduct or dishonesty.
- 12.4 You will not do anything in relation to the Project or the subsequent operation of the Garden Bridge that will harm our reputation or attract adverse publicity.

Funding Agreement – EXECUTION VERSION

You will do everything reasonably possible to ensure that your Contractors and Designers also do the same.

13. EQUAL OPPORTUNITIES AND DIVERSITY

- 13.1 You will comply with all applicable existing and future equal opportunities laws and regulations in relation to race, nationality, ethnicity, disability, sex, sexual orientation, age, religion or belief; and
- 13.2 You will take all reasonable steps to ensure that all Contractors and Designers engaged in connection with this Agreement comply with the requirements of clause 13.1.

14. ADDITIONAL PROJECT FUNDING SOURCES

- 14.1 You will notify us in writing, upon request, of the amounts of any other funding (additional to that provided for by this Agreement) and/or guarantees secured or offered for the Project as soon as it is approved. You will also notify us in writing, upon request, of the identity of other funders as soon as their funding is approved, save where the funder has specifically requested anonymity or where to do so would constitute a breach of the Data Protection Act 1998.
- 14.2 Where other funding (additional to that provided for by this Agreement) is secured or obtained for the Project such that total funding including the Grant available for the Project exceeds the Total Project Cost, we reserve the right to reduce the amount of Grant payable to the Trust by an amount equivalent to the amount in excess of the Total Project Cost.
- 14.3 For the avoidance of doubt, this clause 14 does not apply to funding for the ongoing operation and maintenance of the Garden Bridge.

15. LIMITATION ON THE USE OF GRANT

- 15.1 You will not claim or use any part of the Grant in respect of the following:
- 15.1.1 any activity other than the Project and as specified in Schedule 2;
- 15.1.2 support or assistance, whether directly or indirectly, for activities which are political or of an exclusively religious nature or which may

Funding Agreement – EXECUTION VERSION

bring TfL, the Greater London Authority or the Mayor of London into disrepute;

15.1.3 works, services, supplies or activities which a person has a statutory duty to provide (except with our prior written consent);

15.1.4 any recoverable VAT payable on any taxable supplies made to third parties in respect of the Project save as specifically authorised in writing in advance by us;

15.1.5 any amounts payable as a result of your default;

15.1.6 any loss or damage resulting from an insured risk; or

15.1.7 to create or build up material long-term financial reserves.

15.2 You will not use any part of the Grant such that, where additional funding is secured or obtained for the Project the total funding available for the Project including the Grant exceeds the Total Project Cost.

15.3 Your rights to the Grant pursuant to this Agreement are exclusive to you and are not assignable or transferable.

16. PAYMENTS OF GRANT

16.1 We will pay the Grant to you in accordance with the requirements of Schedule 2, subject to the Conditions of Payment. Payment of the Grant will be paid into the bank account specified in the Particulars or such other account as you notify to us in writing.

16.2 Unless we otherwise agree, we will not be liable to give (or as the case may be to continue to give) Grant (or any instalment of Grant):

16.2.1 unless the Conditions of Payment as set out in Schedule 2 in relation to the relevant instalment have been met;

16.2.2 if an Event of Default has occurred and is continuing; or

Funding Agreement – EXECUTION VERSION

16.2.3 if the representations and undertakings made in clause 2 do not remain true and correct in all material respects and are not misleading.

17. REDUCTION, SUSPENSION AND WITHHOLDING OF GRANT

17.1 We may reduce, suspend, or withhold some or all of the undisbursed portion of the Grant if:

17.1.1 an Event of Default occurs;

17.1.2 there has been an overpayment of Grant;

17.1.3 we reasonably believe that not all relevant laws have been complied with in all material aspects in the performance of the Project;

17.1.4 we have consented to a change in the Project which in our opinion (acting reasonably) reduces the amount of Grant needed;

17.1.5 any other circumstances arise or events occur that in our opinion (acting reasonably) adversely affect your financial standing or status or ability to deliver the Project in accordance with the requirements of this Agreement, or result in a risk that the Project will not be completed.

17.2 The provisions of this clause 17 are without prejudice to any other rights or remedies we have under this Agreement including those set out in clause 23 (Termination/Events of Default) or otherwise at law or in equity.

18. REPAYMENT

18.1 We may require part of the Grant to be repaid where:

18.1.1 There has been an overpayment of Grant, limited to the amount of the overpayment, save to the extent that the funds constituting the overpayment have been spent or legally committed and you did not know (and could not reasonably have known) that an overpayment had been made. For the avoidance of doubt where a payment is made that is not in accordance with the Payment Profile (either in

Funding Agreement – EXECUTION VERSION

terms of amount or timing of the payment) the Trust is deemed to have knowledge that this is an overpayment; or

18.1.2 Either of the circumstances set out in clauses 23.1.5 or 23.1.6 applies such that part of the Grant has been used for improper or fraudulent purposes, limited to the value attributable to such improper or fraudulent purposes.

18.2 Consequently, on receipt of notice requiring repayment of part of the Grant, you will repay to us the required part of the Grant within twenty (20) Working Days of demand being made for such repayment.

18.3 The provisions of this clause 18 are without prejudice to any other rights or remedies we have under this Agreement including those set out in clause 23 (Termination/Events of Default) or otherwise at law or in equity.

19. INTEREST ON LATE REPAYMENT OF GRANT

If you fail to re-pay to us any sums due under this Agreement within twenty (20) Working Days of demand, interest shall accrue at the Interest Rate on the amount due to be paid from the due date until payment is made, both before as well as after judgment having been obtained.

20. PROPERTY AND WORKS

You will not dispose of any interest in the Property or the Works without our prior written consent, and no charge shall be taken on any Property or Works without our prior written consent.

21. PROJECT IP

21.1 Subject to clause 21.2 you will provide to us each element of the Project IP within 14 days of its creation. You hereby grant to us a non-exclusive perpetual irrevocable world-wide royalty-free licence to use, copy and reproduce all such Project IP, with the right to grant sub-licences, for the purposes of the construction, modification, repair, maintenance and operation of the Garden Bridge.

Funding Agreement – EXECUTION VERSION

21.2 Where an element of the Project IP is not in the ownership or control of the Trust (“**Non-Trust Project IP**”), the Trust will use best endeavours to procure the grant of a licence of such Non-Trust Project IP to us on the terms set out in clause 21.1.

22. VALUE ADDED TAX

This Agreement is based on the fact that it is not a contract for services. Accordingly, the payment of Grant is not subject to VAT. If HM Revenue and Customs subsequently rule that VAT is payable, then the amount of the Grant shall be deemed to be inclusive of any VAT. We will not be obliged to make any further payment in addition to the Grant in respect of any VAT which may be payable in relation to this Agreement.

23. TERMINATION / EVENTS OF DEFAULT

23.1 Without prejudice to any other rights which we may have, we may give written notice to you terminating this Agreement with immediate effect if any of the following events (“**Events of Default**”) occur:

23.1.1 We have required that all or any part of the Grant be repaid in accordance with clause 18;

23.1.2 An Insolvency Event occurs;

23.1.3 You merge with or are taken over by another charity;

23.1.4 You transfer or assign or attempt to transfer or assign any rights, interests or obligations under this Agreement without our prior written consent;

23.1.5 There is financial irregularity impropriety or negligence in relation to the operation of the Project which is not rectified within the timescale reasonably specified by us (if any);

23.1.6 You are convicted (or being a company or body corporate, any of your directors officers or representatives are convicted) of a criminal offence related to business, professional conduct or dishonesty;

Funding Agreement – EXECUTION VERSION

- 23.1.7 You provide information which is incorrect, untrue or incomplete to an extent which we reasonably consider to be material;
- 23.1.8 You make representations and undertakings to us pursuant to clause 2.1 which are incorrect or untrue in a material respect;
- 23.1.9 You are in material breach of any of the obligations imposed on you by clauses 3.1, 4.3, 6.1, 8, 9, 10.1.1 to 10.1.4, 12, 13, 15 or 20 and (where such breach is capable of remedy) you have not remedied the breach to our reasonable satisfaction within the period specified by us in a notice; or
- 23.1.10 You are prevented from performing your obligations under this Agreement as a result of Force Majeure for a continuous period of not less than 84 days or for periods totalling in aggregate 140 days for the same cause of Force Majeure during the Project Period.

24. CONSEQUENCES OF TERMINATION

- 24.1 Termination or expiry of this Agreement (however caused) shall be without prejudice to any rights or liabilities accrued at the date of termination or expiry.
- 24.2 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement shall remain in full force and effect. However, we shall cease to have any obligation to pay any further amounts of Grant.
- 24.3 We may at our option exercise our rights to withhold or suspend all or any part of the Grant and/or require that all or any part of the Grant be repaid in accordance with clause 17 or clause 18.

25. NOVATION

We shall be entitled to novate this Agreement or any part thereof to any other body which is capable of performing any of the obligations required to be performed by us under this Agreement. You agree to provide all reasonable assistance and sign all documents (including a novation agreement) to give effect to such novation, provided

Funding Agreement – EXECUTION VERSION

that such novation shall not increase the burden of your obligations under this Agreement.

26. FREEDOM OF INFORMATION, CONFIDENTIALITY AND TRANSPARENCY

Freedom of Information

26.1 The Trust acknowledges that TfL:

26.1.1 is subject to the FOI Legislation and agrees to assist and co-operate with the Grantor to enable the Grantor to comply with its obligations under the FOI Legislation; and

26.1.2 may be obliged under the FOI Legislation to disclose Information without consulting or obtaining consent from the Trust.

26.2 Without prejudice to the generality of Clause 26.1, the Trust shall and shall procure that its Contractors and Designers shall:

26.2.1 transfer to the TfL Representative as appropriate (or such other person as may be notified by TfL to the Trust) each Information Request relevant to the Agreement or the Project or any member of the TfL Group that it or they (as the case may be) receive as soon as practicable and in any event within 2 Business Days of receiving such Information Request; and

26.2.2 in relation to Information held by the Trust on behalf of TfL, provide TfL with details about and/or copies of all such Information that TfL requests and such details and/or copies shall be provided within 5 Business Days of a request from TfL (or such other period as TfL may reasonably specify), and in such forms as TfL may reasonably specify.

26.3 TfL shall be responsible for determining whether Information is exempt information under the FOI Legislation and for determining what Information will be disclosed in response to an Information Request in accordance with the FOI Legislation. The Trust shall not itself respond to any person making an Information Request, save to acknowledge receipt, unless expressly authorised to do so by TfL.

Confidentiality

- 26.4 We agree to treat as confidential and not at any time for any reason to disclose or permit to be disclosed to any person or persons or otherwise make use of or permit to be made use of any Trust Confidential Information without your prior written consent, save that we may disclose the Confidential Information to those of our employees, contractors and agents as it may be reasonably necessary or desirable so to do in relation to this Agreement and the Project generally.
- 26.5 The obligation of confidence referred to in clause 26.4 shall not apply to any Trust Confidential Information received by TfL under this Agreement which:
- 26.5.1 is in the possession of and is at the free disposal of TfL or is published or is otherwise in the public domain prior to the receipt of such information by TfL; or
 - 26.5.2 is or becomes publicly available on a non-confidential basis through no fault or negligence of TfL; or
 - 26.5.3 is received in good faith by TfL from a third party who on reasonable enquiry by TfL claims to have no obligations of confidence to you in respect of it and imposes no obligations of confidence upon TfL; or
 - 26.5.4 is required to be disclosed by law, by any governmental or other regulatory authority (including, without limitation, by the legal obligations on TfL as a public body in respect of transparency and accountability, in particular, the legal obligations on TfL under FOI Legislation) or by a court or other authority of competent jurisdiction; or
 - 26.5.5 TfL (acting reasonably) deems necessary or appropriate to disclose in the course of carrying its public functions; or
 - 26.5.6 is required to be disclosed to the Mayor of London.
- 26.6 Unless we notify you otherwise, you will treat as confidential all documents and information provided by us to you or otherwise arising during or in connection with the Project or this Agreement ("**Confidential Information**")

Funding Agreement – EXECUTION VERSION

and the Confidential Information shall not be used by you except for the purposes for which it was made available. Confidential Information shall not (subject to the provisions of clauses 5 and 6) be disclosed by you to any other person without our prior written consent.

26.7 To the extent necessary to implement the provisions of this Agreement ("**Permitted Purpose**") you may disclose the Confidential Information to those of your employees, Contractors and Sub-contractors as it may be reasonably necessary or desirable so to do provided that before any such disclosure you shall use your best endeavours to make those employees, Contractors and Sub-contractors aware of your obligations of confidentiality under this Agreement and shall at all times procure compliance with those obligations by those employees, Contractors and Sub-Contractors.

26.8 The obligations imposed by this clause 26 shall not apply to any Confidential Information which:

26.8.1 at the time of disclosure is in the public domain;

26.8.2 after disclosure enters the public domain by publication or otherwise through no fault of your own;

26.8.3 is developed entirely independently of information disclosed or obtained under this Agreement and from a source lawfully disclosing such information;

26.8.4 is required to be disclosed by law; or

26.8.5 is lawfully made available to you from sources independent of us.

Transparency

26.9 The Trust acknowledges that TfL is subject to the Transparency Commitment. Accordingly, notwithstanding this Clause 26, the Trust hereby gives its consent for TfL to publish the Contract Information to the general public.

26.10 TfL may in its absolute discretion redact all or part of the Contract Information prior to its publication. In so doing and in its absolute discretion the Authority may take account of the exemptions/exceptions that would be available in

Funding Agreement – EXECUTION VERSION

relation to information requested under the FOI Legislation. TfL may in its absolute discretion consult with the Trust regarding any redactions to the Contract Information to be published pursuant to Clause 26.7. TfL shall make the final decision regarding publication and/or redaction of the Contract Information.

26.11 The provisions of Clause 26.4 to Clause 26.11 will survive any termination of this Agreement for a period of 6 years from termination.

27. LAW AND JURISDICTION

27.1 This Agreement shall be governed by and construed in accordance with English law and each party submits to the exclusive jurisdiction of the English courts.

27.2 Should a dispute between the parties arise out of or in connection with this Agreement then the TfL Representative and the Trust Project Manager (together, the “**Representatives**”) shall initially discuss and attempt to resolve the dispute. If the Representatives are unable to resolve the dispute to the satisfaction of both parties, either party may refer the dispute in writing to the Commissioner of Transport for London and to the chair of the trustees (together, the “**Senior Representatives**”) of the Trust for resolution. If the Senior Representatives are unable to resolve the dispute to the satisfaction of both parties within 14 days of the referral, then either party may then seek to resolve the dispute through the English courts.

27.3 Neither party shall be prevented from, or delayed in, seeking any order for specific performance or for interim or final injunctive relief as a result of the provisions of clause 27.2 and clause 27.2 shall not apply in any circumstances where such remedies are sought.

28. CONFLICTS OF INTEREST

28.1 You must ensure that your officers, directors, members, employees, Contractors and Designers avoid conflicts of interest with TfL, the Greater London Authority (including the Mayor of London) and the Project and your officers, directors, members and employees must declare any personal or financial interest or any interest of any person connected to them, in any

Funding Agreement – EXECUTION VERSION

matter concerning the awarding of the Grant or the Project. Any such officer, director, member, employee or connected person shall be excluded from any discussion or decision making process relating to the matter concerned. For the purpose of this Agreement "connected person" shall have the meaning given by section 839 of the Income and Corporation Taxes Act 1988.

28.2 If there are grounds for suspecting financial irregularity in any transaction (whether or not related to the Project), those grounds shall be notified to us immediately in writing. For this purpose "financial irregularity" includes, but is not limited to, fraud or other impropriety, mismanagement and the use of funding for purposes other than those for which it was provided.

28.3 Failure to comply with the provisions of this clause 28 shall constitute an Event of Default.

29. ILLEGALITY AND SEVERABILITY

If any provision of this Agreement (in whole or in part) is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed from the Agreement and the remaining provisions shall continue in full force and effect as if the Agreement had been executed without the invalid, illegal or unenforceable provision. In the event that in our reasonable opinion such a provision is so fundamental as to prevent the accomplishment of the purpose of the Agreement, we and the Trust shall immediately commence good faith negotiations to agree the terms of a mutually satisfactory provision to be substituted which as nearly as possible validly gives effect to their intentions as expressed in this Agreement.

30. WAIVER

A failure by any party to this Agreement to exercise any right or to enforce performance of any provision or term of this Agreement shall not be a waiver of that or any later default and no waiver shall be effective unless in writing.

31. AMENDMENTS TO AGREEMENT

No amendment or variation of this Agreement shall be effective unless made in writing.

32. NOTICES

- 32.1 Service of notices shall be in writing and delivered by hand or sent by fax or first class post (but not by email).
- 32.2 All formal notices which are required by law or under the terms of this Agreement to be served on the Grantee must be given to the person named in the Particulars.
- 32.3 Should there be any change in your business address, or address for service, you will notify us in writing, where practicable, in advance of any proposal to change address and, where this is not practicable, as soon as possible after this change takes effect.
- 32.4 Service shall be deemed to be effective:
 - 32.4.1 at the time of delivery, if delivered by hand between 0930 and 1630 on a Working Day, or if delivered before 0930 on a Working Day, at 0930 on that Working Day, and if delivered after 1630 on a Working Day or on a day which is not a Working day, at 0930 on the next Working Day;
 - 32.4.2 if transmitted by fax with confirmed answerback or acknowledgement of receipt, to have been served on the date and at the time of transmission if transmitted between 0930 and 1630 on a Working Day, or, if transmitted before 0930 on a Working Day, at 0930 on that Working Day, or if transmitted after 1630 on a Working Day or on a day which is not a Working day, at 0930 on the next Working Day thereafter;
 - 32.4.3 if posted by first class post to be served on the second Working Day following the date of posting.
- 32.5 All communications relating to the day to day management of the Project shall be given to the TfL Representative whose details appear in the Particulars.

33. NO PARTNERSHIP/ AGENCY/EMPLOYMENT

- 33.1 This Agreement does not create a relationship of partnership or agency between the parties and you must not represent yourself to others as a partner or agent of TfL.
- 33.2 You agree that we are not and shall not be an employer of any person receiving funding directly or indirectly under or as a result of this Agreement, including any person engaged to provide services or employed by you. You shall indemnify and keep us indemnified against all losses, costs, claims, expenses, demands and liabilities (including legal costs and expenses on a full indemnity basis) which we may suffer or incur as a result of any allegation finding or decision that we are the employer of any person receiving directly or indirectly under or as a result of this Agreement, including any person engaged to provide services or employed by you.

34. FORCE MAJEURE

- 34.1 For the purposes of this Agreement the expression "**Force Majeure**" shall mean any cause affecting or delaying the performance by either party of its obligations arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control including terrorism, war, fire, flood, or any disaster. Any act, event, omission, happening or non-happening will only be considered Force Majeure if it is not attributable to the wilful act, neglect or failure to take reasonable precautions of the affected party, its agents or employees.
- 34.2 No party shall in any circumstances be liable to the other for any loss of any kind whatsoever by reason of any failure or delay in the performance of its obligations which is due to Force Majeure. Each party shall use all reasonable endeavours to continue to perform or resume performance of, such obligations for the duration of such Force Majeure event.
- 34.3 If any party becomes aware of circumstances of Force Majeure which give rise to or which are likely to give rise to any such failure or delay on its part it shall immediately notify the other parties and if possible estimate how long such failure or delay shall continue.

Funding Agreement – EXECUTION VERSION

34.4 Any failure or delay by you due to a third party shall be regarded as a failure or delay due to Force Majeure only if such third party is prevented from or delayed in complying with its obligations as a result of circumstances of Force Majeure.

35. ENTIRE AGREEMENT & COUNTERPARTS

35.1 Save in respect of representations made to us by or on your behalf prior or to, and leading to the execution of this Agreement, this Agreement and the Schedules constitute the entire understanding between the parties to this Agreement in relation to the Grant and the Project and supersede all prior agreements relating thereto except in respect of any fraudulent misrepresentation of any party.

35.2 This Agreement may be executed in any number of counterparts or duplicates, each of which shall be an original, and such counterparts or duplicates shall together constitute one and the same agreement.

36. EXCLUSION OF THIRD PARTY RIGHTS

Unless expressly stated no part of this Agreement shall create rights in favour of any third party pursuant to the Contracts (Rights of Third Parties) Act 1999.

37. RELATIONSHIP OF TFL AND TRUST

37.1 Tfl has provided support (and will continue to provided support) to the Trust in relation to the Project outside the scope of this Agreement ("**Support**"). The Trust agrees and acknowledges (i) that the provision of Support by Tfl does not constitute the provision of services to the Trust and (ii) that Tfl does not owe any duty of care to the Trust in respect of the provision of Support.

37.2 The Trust agrees and acknowledges that information, documentation and other material relating to the Project ("**Information**") supplied by Tfl to the Trust within the context of Support is or has been provided in the spirit of cooperation and collaboration but that no warranty is given by Tfl as to its accuracy, and any reliance placed on Information received will be entirely at the risk of the Trust.

Funding Agreement – EXECUTION VERSION

37.3 The Trust also agrees that Tfl shall have no liability to the Trust for Losses relating to the provision of Support, whether arising in contract, tort (including negligence), under statute or otherwise save that nothing in this Agreement shall limit or exclude Tfl's liability for death or personal injury caused by its negligence or the negligence of any of its employees, agents or subcontractors or for any other liability which cannot be limited or excluded by law.

SCHEDULE 1

Definitions and interpretation

1. DEFINITIONS

“Amount Spent to Date” means the amount spent by TfL towards the Project, being £9,684,508 as at the Commencement Date;

“Business Case” means the business case supporting the Project agreed by TfL and DfT and submitted to DfT on 19 June 2014;

“Commencement Date” means the date of this Agreement, being the date on which all rights and obligations under this Agreement commence;

“Conditions of Payment” means the conditions that need to be met in relation to each instalment of the Grant, as set out in Schedule 2;

“Contract Information” (i) the Agreement in its entirety (including from time to time agreed changes to the Contract) and (ii) details of payments made to the Trust which shall consist of the Trust’s name, the expenditure account code, the expenditure account code description, the document number, the clearing date and the payment amount;

“Contractor” means any direct contractor of the Trust;

“Designer” means any Sub-contractor providing design services;

“Event of Default” means any of the events or circumstances described in clause 23;

“FOI Legislation” means the Freedom of Information Act 2000, all regulations made under it and the Environmental Information Regulations 2004 and any amendment or re-enactment of any of them; and any guidance issued by the Information Commissioner, the Ministry of Justice or the Department for Environment Food and Rural Affairs (including in each case its successors or assigns) in relation to such legislation;

Funding Agreement – EXECUTION VERSION

"**Force Majeure**" has the meaning given to it in clause 34;

"**Grant**" means the grant funding to be provided by us pursuant to this Agreement;

"**Information**" means information recorded in any form held by TfL or by the Trust on behalf of TfL;

"**Information Request**" means a request for any Information under the FOI Legislation;

"**Insolvency Event**" occurs if, in respect of the Trust:

- (a) a proposal for a voluntary arrangement is made under Part I of the Insolvency Act 1986 or your directors resolve to make such a proposal;
- (b) a petition for an administration order is presented under Part II of the Insolvency Act 1986 (as amended) or your directors resolve to present such a petition;
- (c) a receiver (including a receiver under section 101 of the Law of Property Act 1925) or manager or administrative receiver of your property (or part of it) is appointed;
- (d) a resolution for your voluntary winding up is passed under Part IV of the Insolvency Act 1986 (as amended) or a meeting of your creditors is called for the purpose of considering that it be wound up voluntarily (in either case, other than a voluntary winding up whilst solvent for the purposes of and followed by a solvent reconstruction or amalgamation);
- (e) a petition for your winding up is presented to the court under Part IV or by virtue of Part V of the Insolvency Act 1986 (as amended) or a resolution is passed that it be wound up by the court; or
- (f) an application is made under section 425 of the Companies Act 1985 (as amended) or a proposal is made which could result in such an application.
- (g) you enter or propose to enter into any arrangement, moratorium or composition with your creditors; or

Funding Agreement – EXECUTION VERSION

(h) you are dissolved, or removed from the Register of Companies, or cease to exist (whether or not you are capable of reinstatement or reconstitution);

"Interest Rate" means two per cent per annum above the base rate of HSBC plc (or such other clearing bank as we may stipulate from time to time) or if base rates cease to exist such other comparable rate as we (acting reasonably) shall determine or such rate as we may be required to apply from time to time;

"Losses" means all costs (including legal costs and costs of enforcement), expenses, liabilities (including any tax liability), injuries, direct loss (which term shall include loss of profit, loss of business and depletion of goodwill), damages, claims, demands, proceedings and judgements;

"Operating Period" means each five-year period commencing on the date of the opening of the Garden Bridge or, subsequently, commencing on the day following the expiry of the preceding Operating Period;

"Particulars" means the Particulars of Funding which constitute part of this Agreement;

"Payment Profile" means the profile of payment of instalments of the Grant by TfL as set out in Schedule 2;

"Personal Data" shall have the same meaning as set out in the Data Protection Act 1998;

"Programme" means the Project delivery timetable set out in Schedule 3 as varied from time to time;

"Project" means the project to be delivered by you as described in the Specification;

"Project IP" means as built drawings of the Garden Bridge and any other material reasonably necessary for the purposes of the construction, modification, repair, maintenance and operation of the Garden Bridge;

"Project Manager" means your project manager (whose contact details are set out in the Particulars) and their replacement from time to time as notified to us in accordance with clause 9;

Funding Agreement – EXECUTION VERSION

"Project Period" means the period from the Commencement Date to completion or termination of the Project;

"Property" means any property to be acquired using (whether wholly or partly) Grant monies or contributed or provided as part of the Project;

"Specification" means the specification set out in Schedule 3;

"Sub-contractor" means any direct contractor of a Contractor;

"TfL Representative" means the person appointed by TfL in relation to the Project and whose contact details are set out in the Particulars and their replacement from time to time as notified to you;

"Total Project Cost" means £175,515,000 (one hundred and seventy five million, five hundred and fifteen thousand pounds) inclusive of VAT being the total anticipated cost of the Project, subject to updates during the Project lifecycle (but not, for the avoidance of doubt, the costs of the ongoing operation and maintenance of the Garden Bridge);

"Transparency Commitment" means the transparency commitment stipulated by the UK government in May 2010 (including any subsequent legislation) in accordance with which TfL is committed to publishing its contracts, tender documents and data from invoices received;

"Trust Confidential Information" means:

- (i) all Personal Data; and
- (ii) any information relating to third party funding of the Trust disclosed by the Trust to TfL which is identified as confidential and in respect of which the Trust owes a duty of confidentiality to the relevant third party.

"Trust Project Manager" means the person appointed by the Trust in relation to the Project and whose contact details are set out in the Particulars and their replacement from time to time as notified to us;

Funding Agreement – EXECUTION VERSION

"VAT" means value added tax payable by virtue of the Value Added Tax Act 1994 and any similar tax from time to time in addition to it, replacing it or performing a similar fiscal function;

"Working Day" means a day on which clearing banks in the City of London are (or would be but for a strike, lock-out or other stoppage affecting a particular bank or banks generally) open during banking hours and "Working Days" shall be construed accordingly;

"Works" means any works comprising part or all of the Project.

2. INTERPRETATION

- 2.1 Headings in this Agreement are for convenience only and shall not affect the interpretation of this Agreement.
- 2.2 References to any gender shall include any other gender, and the singular shall include the plural, and vice versa, as the context admits or requires.
- 2.3 References to any statute or any section thereof or legislation generally shall, unless the context requires otherwise, be construed as a reference to that statute or statutory provision as from time to time amended, consolidated, modified, extended, or re-enacted, and include all instruments, orders, by-laws and regulations for the time being made, issued or given thereunder, or deriving validity therefrom, and any reference to law or legislation generally shall, unless the context requires otherwise, be construed as a reference to all law or legislation of England and Wales or the United Kingdom and directives and all other legislation of the European Union that are or is directly applicable to the United Kingdom.
- 2.4 "Including" shall be construed so as not to limit the generality of any words or expressions in connection with which it is used.
- 2.5 In this Agreement references to any clause, sub-clause, schedule or paragraph without further designation shall be construed as a reference to a clause, sub-clause, schedule or paragraph of/to this Agreement.

SCHEDULE 2

Part 1

Conditions of Payment

General Principles of Funding

General

The Payment Profile sets out the amounts to be paid by TfL under this Agreement, totalling £60,000,000 less the Amount Spent to Date (the “Grant”).

TfL and DfT have agreed that TfL will provide each of TfL’s and DfT’s contributions to the Trust on a pari passu basis, taking into account the amounts already spent by TfL on the Project. In relation to the pre-contract award phase, TfL’s contribution is reduced by an amount equivalent to the Amount Spent to Date.

Overriding Conditions of Payment

Conditions of Payment in respect of the entire Grant:

- TfL will contribute a maximum of £16,405,000 less the Amount Spent to Date for pre-construction activities. However, TfL will consider (in its absolute discretion) any requests from the Trust to vary the Payment Profile to increase the sums paid in the pre-construction phase provided that the Trust is able to demonstrate that the variation is necessary in order to maintain continuity of the Project during the pre-construction phase. To the extent that these contributions are not fully spent, they will be carried forward for use in the construction phase; and
- Funds are only to be spent on construction of the Garden Bridge, or on third party fees relating to pre-construction activities, namely; design, tendering and procurement, the carrying out of pre-construction surveys, investigations and tests, site preparation works such as utility diversions, obtaining of consents and acquiring of land in relation to the Garden Bridge. The Trust will be responsible for meeting all other costs, such as but not limited to, communications and fundraising, project team costs and expenses and trust management expenses.

Funding Agreement – EXECUTION VERSION

Payment of contribution

Sums to be paid by TfL to the Trust for pre-construction activities will be paid in instalments as set out in the Payment Profile. Any unpaid invoices in respect of liabilities incurred by TfL in its provision of Support for the Trust prior to the Commencement Date and in respect of which TfL becomes aware on or after the Commencement Date and were not therefore taken account of by TfL when calculating the Amount Spent to Date (“**Unpaid Invoices**”) shall be met by TfL. However, TfL reserves the right to make adjustments to the size of each instalment to take account of any variation to the value of the Amount Spent to Date after the Commencement Date (including in respect of Unpaid Invoices) to ensure that the overall Grant remains £60,000,000 less the Amount Spent to Date. TfL will notify the Trust of any Unpaid Invoices and any variation to the value of the Amount Spent to Date as soon as reasonably possible. Payments will commence within 10 days of the Commencement Date or within 10 days of satisfaction of the following Conditions of Payment (whichever is the later):

- The Trust has demonstrated to TfL’s satisfaction that they have key resources in place of sufficient skill and experience to take over day-to-day management of the project;
- The Trust has demonstrated to TfL’s satisfaction that appropriate governance arrangements are in place, including:
 - Financial authorities – How the Trust plans to manage and control the spending of funds. This includes setting up delegated authorities and processes of approval;
 - Reporting – Financial, project and fundraising reporting arrangements for both internal purposes and also for its external stakeholders, including TfL and Government, but also other key funders; and
 - Independent Review Systems – Best practice peer review / gate review systems for ensuring best practice / innovation / risk management is adhered to.
- The Trust has demonstrated to TfL’s satisfaction that appropriate arrangements are in place to take over or replace existing contractor or consultant arrangements from TfL; and

Funding Agreement – EXECUTION VERSION

- The Trust has demonstrated to TfL's satisfaction that it has appropriate plans in place to carry out the activities that need to be completed in order to successfully progress the Project, which notably should cover land acquisition, access right agreements and securing various consents, and has provided a detailed timetable of those activities with key milestone events and associated dates.

Sums to be paid by TfL to the Trust for construction activities will be paid in yearly instalments as set out in the Payment Profile. Payments will commence upon award of the main construction contract but subject to the following Conditions of Payment:

- The Trust has demonstrated to TfL's satisfaction that it has secured, or is able to secure, a sufficient level of funding, including the Grant from TfL, to cover the costs of construction of the Garden Bridge;
- The Trust has demonstrated to TfL's satisfaction that it has secured, or is able to secure, all necessary consents needed to deliver the Project;
- The Trust has demonstrated to TfL's satisfaction that an appropriate project "go/no go" gateway review has been passed, including proper assessment and management of risks;
- The Trust has demonstrated to TfL's satisfaction that it has appropriate plans in place for the operation and maintenance of the Garden Bridge;
- The Trust has demonstrated to TfL's satisfaction that it has secured a satisfactory level of funding to operate and maintain the Garden Bridge once it is built for at least the first 5 (five) years; and
- The Trust has demonstrated that these funds will only be used in respect of the construction of the Garden Bridge.

A final payment will be made by TfL to the Trust on practical completion of the main construction contract and will be subject to the following Conditions of Payment:

- Practical completion of the main construction contract has been attained; and
- The Trust has demonstrated that these funds will only be used in respect of the construction of the Garden Bridge.

Part 2

Payment Profile

Trigger	Amount	Estimated date of payment transfer
<i>Amount Spent to Date</i>	£9,684,508	N/A
<i>Pre-contract award payment profile</i>		
Within 10 days of Commencement Date	£8,478,922	6 July 2015
+ 1 month from trigger	£1,741,570	6 August 2015
<i>Construction payment profile</i>		
Within 10 days of award of the main construction contract (Trust to notify TfL of contract award)	£16,500,000	4 September 2015
+ 1 year from trigger	£10,000,000	4 September 2016
+ 2 years from trigger	£10,000,000	4 September 2017
<i>Final instalment payment profile</i>		
Within 10 days of practical completion of the main construction contract (Trust to notify TfL of practical completion)	£3,595,000	14 June 2018
Total Payment	£60,000,000	

SCHEDULE 3

SPECIFICATION AND PROGRAMME

1. Introduction

In early 2013, the Mayor of London asked TfL to assist in the delivery of a new pedestrian bridge across the River Thames in central London. As per the earlier 1996 scheme, the Garden Bridge will link Temple Underground station to the South Bank, and is intended to be an iconic structure which will also accommodate public space rather than act solely as a crossing.

The primary aim of the Garden Bridge is to provide an attractive traffic-free bridge as an alternative to the busy Waterloo and Blackfriars bridges, helping a modal shift towards walking and thereby reducing pressure on onward transport from Waterloo and improving the health of those who switch to walking. It is also intended to help the visitor economy in this part of London, improving access to the South Bank, linking currently quiet parts of Westminster and the City to the busier South Bank, and providing a visitor attraction in its own right.

The strategic objective is:

“to provide an iconic new pedestrian garden bridge across the River Thames, linking Temple Underground station to the South Bank, with construction and maintenance funded by third parties.”

A number of other objectives have been identified as follows:

- To improve the walking links between Temple station and the South Bank, and between Waterloo station and the Temple/Fleet Street area;
- To provide a new garden and amenity space over the River Thames, accessible to the general public;
- To encourage greater interaction between the visitor economy on either side of the Thames in this area;
- To encourage new visitor trips to this part of central London.

Funding Agreement – EXECUTION VERSION

2. Specification

The Project shall meet the requirements of the planning permissions granted by the London Borough of Lambeth and Westminster City Council, and any related planning conditions, as may be amended from time to time.

3. Programme

Activity	Date
Issue Industry Brochure	26 Sep 14
Stage 1: Prequalification – to shortlist suitable contractors	10 Oct 14 – 08 Dec 14
Stage 2: Preliminary bid - to get down to one preferred contractor	12 Dec 14 – 13 Apr 15
Stage 3: Final bid – to establish the contract sum	13 Apr 15 – 04 Sep 15
Contract Award	Sep 15
Construction starts	Sep 15
Construction ends/Bridge opens to public	June 18

Funding Agreement – EXECUTION VERSION

IN WITNESS whereof TfL and the Trust have duly executed and delivered this document as a Deed the day and year first before written

The common seal of)
TRANSPORT FOR LONDON)
was affixed to this deed)
in the presence of:)



.....
Authorised signatory *JUSTINE CURRY*

11966

Signed as a deed by GARDEN)
BRIDGE TRUST acting by)
PAUL DRING MORRELL, a director)
in the presence of) Director *PD*

Witness Signature *Shirley Morrell*

Witness Name (block capitals) *SHIRLEY MORRELL*

Witness Address *4 CAITHNESS ROAD*

LONDON W14 0JK

DEED OF VARIATION
in relation to
The Deed of Grant Relating to the Garden Bridge Project
dated 2 July 2015 (the "Deed of Grant")

This Deed of Variation is made on 13th November 2015

Between

- (1) **TRANSPORT FOR LONDON**, a statutory corporation of 42-50 Victoria Street, London SW1H 0TL (and its statutory successors assigns and transferees) ("**TfL**"); and
- (2) **GARDEN BRIDGE TRUST**, a charitable company limited by guarantee (company no. 08755461) whose registered office is at 50 Broadway, London SW1H 0BL (the "**Trust**").

BACKGROUND

- (A) On 2 July 2015 TfL and the Trust (the "**Parties**") entered into the Deed of Grant.
- (B) The Parties wish to amend the Deed of Grant as set out below in this Deed of Variation.
- (C) At the date of this Deed of Variation the Trust is at the pre-construction phase of the Project. The Trust requires the co-operation of the London Borough of Lambeth ("**Lambeth Council**") in order to progress the Project: Lambeth Council owns land on the south bank of the River Thames, a lease of which the Trust requires in order to build, operate and maintain the Garden Bridge; and Lambeth Council's involvement is necessary to enable the planning conditions attached to the planning permission granted by Lambeth Council in respect of the Garden Bridge to be discharged, including the completion of an agreement pursuant to section 106 of the Town and Country Planning Act 1990 ("the **section 106 agreement**").
- (D) Lambeth Council indicated in a letter to the Mayor of London dated 23 September 2015 that it had ceased its involvement with and support for the Project on the basis that it opposed the level of financial support provided to the Project by TfL. Without Lambeth Council's co-operation the Trust would not be able to obtain the requisite land interests to build, operate and maintain the Garden Bridge and would not be able to discharge the planning conditions relating to the Garden Bridge, including the completion of the section 106 agreement and the Trustees would have no option but to abandon the Project.
- (E) Under the Deed of Grant TfL agreed to provide £30,000,000 of grant funding ("**TfL's Contribution**") to the Project for restricted purposes directly connected to the construction of the Garden Bridge, in tranches which were subject to the

fulfilment of certain specified conditions. Lambeth Council's decision to withdraw its co-operation to the Project, such that the Trust could not acquire the requisite land interests necessary to construct the Garden Bridge, meant that the conditions contained in the Deed of Grant for the release of further funds would be incapable of fulfilment.

- (F) Under clause 17.1.5. of the Deed of Grant TfL has the right to reduce, suspend or withhold the undistributed portion of the grant if circumstances arise which, in TfL's opinion, adversely affect the Trust's ability to deliver the Project.
- (G) TfL and the Trust wish the Project to continue and therefore agreed to enter into negotiations with Lambeth Council to find a solution which would meet Lambeth Council's concerns such that it would continue to co-operate with the Trust in its bid to secure the land interests and allow TfL to continue to provide financial support to the Project.
- (H) In a letter dated 3 November 2015 Lambeth Council confirmed to the Trust that, if:
 - a. TfL's Contribution to the Project is reduced from £30,000,000 to £10,000,000;
 - b. a maximum of £20,000,000 additional funding is made available by TfL to the Trust by way of loan (the terms of which are set out in a loan facility agreement ("**Loan Facility Agreement**") between TfL and the Trust of even date to this Deed of Variation); and
 - c. the Trust takes all appropriate action, whilst maintaining the integrity of the Project, to reduce the Total Project Cost and actively continue to seek out private funding prior to and during the construction phase towards the capital cost of the Project to minimize its recourse to the Loan Facility Agreement,

it would re-engage with the Project and the Trust and in particular, re-commence negotiations to enable the Trust to obtain, without cost to the Trust, the requisite land interests to build, operate and maintain the Garden Bridge and co-operate in respect of the discharge of planning conditions, including the completion of the section 106 agreement.

- (I) The Trustees of the Trust have determined that it would be in the best interests of the Trust to continue with the Project and therefore it would be in the best interests of the Trust to enter this Deed of Variation and the Loan facility Agreement.

IT IS AGREED as follows:

1. Unless otherwise provided herein, capitalised terms used in this Deed of Variation shall have the meanings attributed thereto in the Deed of Grant.
2. With effect from the date of this Deed of Variation, that Recitals (C), (D) and (E) be replaced with the following:

- “(C) The Mayor of London is supportive of the Garden Bridge project (the “Project”). On 27 June 2014 he delegated certain of his powers to TfL and directed TfL to exercise its own powers and the delegated powers so as to provide £30,000,000 (thirty million pounds) of funding towards this Project. This will be achieved by the provision of £10,000,000 (ten million pounds) of grant funding under this deed of grant and a further £20,000,000 (twenty million) being made available by way of loan facility.*
- (D) The Secretary of State for Transport agreed, under the terms of a letter dated 12 November 2014, to provide additional funding of £30,000,000 to TfL under section 101 of the Greater London Authority Act 1999, on the basis that TfL will apply this additional funding towards the Grant. No additional funding beyond this amount will be available from the Department for Transport (“DfT”) in respect of the Project.*
- (E) At the Commencement Date TfL had already provided some funding towards the Project (the “Amount Spent to Date”) and, accordingly, the net amount of funding available from TfL (including the sums referred to in paragraph (D)), as at the Commencement Date, was £40,000,000 less the Amount Spent to Date (the “Grant”). This deed of grant, including the schedules (the “Agreement”) sets out the basis on which TfL will provide the Grant to the Trust in respect of the Project.”*
3. With effect from the date of this Deed of Variation, the definition of “Grant” in the Particulars of Funding shall be replaced with the following wording:
- “£40,000,000 less the Amount Spent to Date distributed and payable as specified in Schedule 2”*
- With effect from the date of this Deed of Variation, the reference to “£60,000,000 (sixty million pounds)” in paragraph 4.2.2 of the Deed of Variation be replaced with a reference to “£40,000,000 (forty million pounds)” so that paragraph 4.2.2 states
- “be responsible for the ongoing operation and maintenance of the Garden Bridge, including all the related costs and in no circumstances shall payments from TfL to you pursuant to this Agreement exceed £40,000,000 (forty million pounds), inclusive of the Amount Spent to Date;”*
4. With effect from the date of this Deed of Variation, the first sub-section of the ‘General Principles of Funding’ section of Part 1 of Schedule 2 of the Deed of Grant titled ‘General’ be deleted and replaced with the following wording:
- “The Payment Profile sets out the amounts to be paid by TfL under this Agreement, totalling £40,000,000 less the Amount Spent to Date (the “Grant”).”*
5. With effect from the date of this Deed Variation, the reference to “£60,000,000” in the sub-section titled “Payment of Contribution” in Part 1 of Schedule 2 of the Deed of Grant shall be deleted and replaced with a reference to “£40,000,000 (forty millions pounds)” so that the relevant paragraph states:
- “However, TfL reserves the right to make adjustments to the size of each instalment to take account of any variation to the value of the Amount Spent to Date after the Commencement Date (including in respect of Unpaid Invoices) to ensure that the overall Grant remains £40,000,000 (forty millions pounds) less the Amount Spent to Date.”*

6. With effect from the date of this Deed of Variation, an additional paragraph shall be inserted into Part 1 of Schedule 2 of the Deed of Grant immediately before the paragraph commencing with "Sums to be paid by TfL to the Trust for construction activities", as follows:

"Sums to be paid by TfL to the Trust for preliminary activities will be paid in instalments as set out in the Payment Profile, subject to the following Condition of Payment:

- In respect of each preliminary activity payment, that the Trust has demonstrated to TfL's satisfaction that there is a realistic prospect that the Conditions of Payment in respect of payments during the construction phase will be met."*

7. With effect from date of this Deed of Variation the paragraph commencing with "Sums to be paid by TfL to the Trust for construction activities" in Part 1 of Schedule 2 of the Deed of Grant, shall be amended as follows:

"Sums to be paid by TfL to the Trust for construction activities will be paid as set out in the Payment Profile. Payment will commence upon award of the main construction contract but subject to the following Conditions of Payment."

8. With effect from the date of this Deed of Variation, Part 2 of Schedule 2 of the Deed of Grant shall be replaced with the following:

"Payment Profile

Trigger	Amount
<i>Amount Spent to Date</i>	£9,684,508
<i>Pre-contract award payment profile</i>	
Within 10 days of Commencement Date	£8,478,922
+ 1 month from trigger	£1,741,570
<i>Preliminary activities payment profile</i>	
Within 5 Working Days of the date of this Deed of Variation	£3,500,000
+ 1 month from the date of this Deed of Variation	£3,000,000
+ 3 months from the date of this Deed of Variation	£3,000,000
<i>Construction payment profile</i>	
Within 10 days of award of the main construction contract (Trust to notify TfL of contract award)	£7,000,000
<i>Final instalment payment profile</i>	
Within 10 days of practical completion of the main construction contract (Trust to notify TfL of practical completion)	£3,595,000
Total Payment	£40,000,000

- 9. Except to the extent set out in this Deed of Variation, all other terms and conditions of the Deed of Grant remain unchanged and in full force and effect and shall apply equally to this Deed of Variation.
- 10. This Deed of Variation shall be deemed to be an integral part of the Deed of Grant and shall be read and construed with it as one unit.
- 11. This Deed of Variation shall be governed by and construed in accordance with English law and any dispute arising out of or in connection with this Deed of Variation shall be subject to the dispute procedures set out in clause 27 of the Deed of Grant.
- 12. This Deed may be executed in any number of counterparts, each of which when executed and delivered constitutes an original of this Deed but all the counterparts shall together constitute the same agreement.

IN WITNESS whereof TfL and the Trust have duly executed and delivered this document as a Deed the day and year first before written

The common seal of)
TRANSPORT FOR LONDON)
was affixed to this deed)
in the presence of:)



C. Mitchell
.....
Authorised signatory

Signed as a deed by GARDEN)
BRIDGE TRUST acting by)
PAUL DRING MORRELL, a Director)
in the presence of)

Paul Dring Morrell
.....
Director

Witness Signature *[Handwritten Signature]*
.....

Witness Name *HANNAH JONES*
(block capitals)

Witness Address *GARDEN BRIDGE TRUST*
SOMERSET HOUSE
STRAND, LONDON WC2R 1LA
.....

Execution copy

DATED 13th November 2015

(1) TRANSPORT FOR LONDON

and

(2) GARDEN BRIDGE TRUST

LOAN FACILITY AGREEMENT
relating to the
GARDEN BRIDGE PROJECT

TABLE OF CONTENTS

1	Definitions and Interpretation	1
2	The Existing Grant	4
3	Loan Facility and Drawdown	4
4	Conditions of Payment	4
5	Loan Conditions	5
6	Accounting and Information	5
7	Repayment/Prepayment	6
8	Repayment Event and Unpaid Loan Payments	6
9	Events of Default	6
10	Remedies, Waivers, Amendments and Consents	7
11	Severance	7
12	Third Parties	8
13	Relationship	8
14	Counterparts	8
15	Notices	8
16	Governing Law and Jurisdiction	9
	SCHEDULE 1	10

THIS DEED is made the 13th day of November 2015

BETWEEN:

- (1) TRANSPORT FOR LONDON, a statutory corporation of 42-50 Victoria Street, London SW1H 0TL (and its statutory successors assigns and transferees) (TfL); and
- (2) GARDEN BRIDGE TRUST (company no. 08955461), a company limited by guarantee and registered charity with number 1155246, incorporated and registered in England and Wales with company number 01650327 whose registered office is at 50 Broadway, London SW1H 0BL (GBT)

TfL and GBT each a Party and together the 'Parties'.

RECITALS:

- (A) One of the GBT's charitable objects is "to provide and maintain a garden style footbridge spanning the River Thames (the **Garden Bridge**)".
- (B) The Parties entered into the Deed of Grant under which TfL agreed to grant GBT Sixty Million Pounds (£60,000,000), (Thirty Million Pounds (£30,000,000) of which TfL has received from the Department for Transport to support the Project), subject to the conditions set out in the Deed of Grant.
- (C) Under a Deed of Variation of even date with this Agreement the Parties have agreed (for reasons set out in the recitals to the Deed of Variation) that a maximum of Twenty Million Pounds (£20,000,000) of the funds not already transferred by TfL to GBT under the Deed of Grant will be provided in the form of a loan facility by TfL to GBT rather than a grant.
- (D) This Agreement sets out the terms and conditions on which the Loan Facility will be made available by TfL to GBT and repaid to TfL from relevant funds and donations available to GBT.

THE PARTIES AGREE THAT:

1 Definitions and Interpretation

In this Agreement (including the Recitals) unless the context indicates otherwise the following expressions shall have the following meanings:

Aggregate Lending Limit	the sum of Twenty Million Pounds (£20,000,000) being the maximum amount of the Principal Loan outstanding should the Second Loan be called upon;
Agreement	this deed, including the Schedules;
Business Day	a day (other than a Saturday or Sunday) on which banks are open for general business in London;

Conditions of Payment	means the conditions set out in clause 4.1;
Construction Contract Award Date	means the date GBT awards the main construction contract in respect of the construction of the Garden Bridge;
Date of Opening	means the date that the Garden Bridge officially opens to the public or 31 December 2018, whichever is the earlier;
Deed of Grant	means the deed of grant between TfL and GBT dated 2 July 2015 (as varied by the Parties), under which GBT receives a Forty Million Pound (£40,000,000) grant in connection with the Project;
Drawdown Date	the date on which a loan of a principal amount is made by TfL to GBT in accordance with the terms of this Agreement;
Drawdown Request	a request made by GBT to TfL to drawdown a Principal Sum under the Loan Facility in the form set out in Schedule 1;
Event of Default	any event or circumstance listed in clause 9;
Existing TfL Grant	means the grant provided by TfL to GBT under the Deed of Grant;
FOI Legislation	means the Freedom of Information Act 2000, all regulations made under it and the Environmental Information Regulations 2004 and any amendment or re-enactment of any of them; and any guidance issued by the Information Commissioner, the Ministry of Justice or the Department for Environment Food and Rural Affairs (including in each case its successors or assigns) in relation to such legislation;
Garden Bridge	means the new footbridge across the River Thames incorporating a garden and connecting Temple with the South Bank, which GBT plans to build, maintain and operate;
Loan	equals the amount drawn down from the Loan Facility by GBT on the Date of Opening, less any sums repaid by GBT to TfL up to the Date of Opening;
Loan Facility	the term loan facility made available by TfL to GBT to finance the Project;
First Loan Term	means the period during which the first Ten Million Pound (£10,000,000) of the Loan Facility (the " First Loan ") will be made available by TfL to GBT, starting seven (7) months after the Construction Contract Award Date to the date that the construction of the Garden Bridge is completed or such other

- period as shall be agreed between the Parties;
- Second Loan Term** means the period during which the second Ten Million Pounds (£10,000,000) of the Loan Facility (the “**Second Loan**”) will be made available by TfL to GBT, starting nineteen (19) months after the Construction Contract Award Date to the date that the construction of the Garden Bridge is completed or such other period as shall be agreed between the Parties;
- Principal Sum** each individual sum drawn down from the Loan Facility;
- Project** means GBT’s project to provide, maintain and operate a new footbridge across the River Thames incorporating a garden and connecting Temple with the South Bank and all associated activities;
- Rate of Inflation** calculated as being a rate equivalent to the average annual RPI in the calendar year ending in the month in which the Repayment Date falls, but not exceeding 2%;
- Repayment Event** has the meaning given in clause 8;
- Repayment Date** means an anniversary of the Date of Opening which falls within the Repayment Term;
- Repayment Term** means the fifty (50) year period during which the Principal Sums must be repaid by GBT to TFL, starting five years from the Date of Opening up to and including fifty five years from the Date of Opening or such other period as shall be agreed between the Parties; and
- RPI** means the measure of inflation published monthly by the Office for National Statistics (or a successor body).
- 1.1 a reference to the singular includes the plural and vice versa, and a reference to any gender includes all genders;
- 1.2 a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;
- 1.3 the Schedules form part of this Deed and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules;
- 1.4 headings are included in this Agreement for ease of reference only and do not affect the interpretation or construction of the Agreement;
- 1.5 a reference to clauses, sub-clauses or Schedules is, unless otherwise provided, a reference to clauses or sub-clauses of, or Schedules to, this Agreement; and

- 1.6 the words 'including', 'includes' and 'included' will be construed without limitation unless inconsistent with the context.

2 The Existing Grant

The Parties acknowledge and agree that the Existing TfL Grant is by way of grant funding and is not part of the Loan Facility or subject to the terms of this Agreement.

3 Loan Facility and Drawdown

- 3.1 TfL will provide the Loan Facility to GBT up to a maximum of the Aggregate Lending Limit in two separate tranches, being the First Loan and the Second Loan in accordance with the terms set out in this Agreement and subject to the Conditions of Payment set out in Clause 4 below.
- 3.2 GBT may make loan advance requests to TfL during each of the First and Second Loan Terms as funds are required up to but not exceeding the Aggregate Lending Limit in each Loan term by delivering a completed Drawdown Request to TfL not less than 10 Business Days before the proposed Drawdown Date.
- 3.3 Unless GBT notifies TfL in writing, TfL shall make all payments electronically to the following bank account:

Bank: Citibank, N.A Citigroup Centre, Canary Wharf, 33 Canada Square, London, E14 5LB

Account Name: Garden Bridge Trust - GBP Collections

Sort Code: 18-50-08

Account No.: 17173342

4 Conditions of Payment

- 4.1 Provision of the Loan Facility is subject to GBT meeting the following Conditions of Payment:
- 4.1.1 GBT has demonstrated to TfL's satisfaction that it has secured, or is able to secure, a sufficient level of funding, including the Existing TfL Grant, to cover the costs of construction of the Garden Bridge;
- 4.1.2 GBT has demonstrated to TfL's satisfaction that it has secured, or is able to secure, all necessary consents needed to deliver the Project;
- 4.1.3 GBT has demonstrated to TfL's satisfaction that an appropriate project "go/no go" gateway review has been passed, including proper assessment and management of risks;
- 4.1.4 GBT has demonstrated to TfL's satisfaction that it has appropriate plans in place for the operation and maintenance of the Garden Bridge;

- 4.1.5 GBT has demonstrated to TfL's satisfaction that it has secured a satisfactory level of funding to operate and maintain the Garden Bridge once it is built for at least the first five (5) years; and
- 4.1.6 GBT has demonstrated that these funds will only be used in respect of the construction of the Garden Bridge.
- 4.1.7 GBT has demonstrated to TfL's satisfaction that it has taken all appropriate steps to reduce the Total Project Cost, whilst maintaining the integrity of the Project, and to actively continue to seek private funding prior to and during the construction phase towards the capital costs of the project in order to minimise its recourse to the Loan Facility.

5 Loan Conditions

- 5.1 GBT shall apply the Principal Sums solely for the construction of the Garden Bridge (and, for the avoidance of doubt, GBT will be responsible for meeting all other costs, such as but not limited to, communications and fundraising, Project team costs and expenses and GBT management expenses), provided always that the Principal Sums are applied in furtherance of GBT's charitable objects as set out in its articles of association as amended from time to time;
- 5.2 GBT shall take all appropriate steps to reduce the Total Project Cost, whilst maintaining the integrity of the Project and to actively continue to seek private funding prior to and during the construction phase towards the capital costs of the Project in order to minimise its recourse to the Loan Facility;
- 5.3 GBT shall not use any part of the Principal Sums in respect of the following:
 - 5.3.1 support or assistance, whether directly or indirectly, for activities which are political or of an exclusively religious nature or which may bring TfL, the Greater London Authority or the Mayor of London into disrepute;
 - 5.3.2 works, services, supplies or activities which a person has a statutory duty to provide (except with TfL's prior written consent);
 - 5.3.3 any recoverable VAT payable on any taxable supplies made to third parties in respect of the Project save as specifically authorised in writing in advance by TfL;
 - 5.3.4 any amounts payable as a result of GBT's default;
 - 5.3.5 any loss or damage resulting from an insured risk; or
 - 5.3.6 to create or build up material long-term financial reserves.

6 Accounting and Information

- 6.1 GBT shall:

- 6.1.1 on request (within 20 Business Days) provide TfL with appropriate financial and operational reports on GBT's use of the Principal Sums;
- 6.1.2 maintain appropriate financial accountancy and management information and records for audit and monitoring purposes; and
- 6.1.3 promptly inform TfL of and, if TfL requests, repay to TfL any money incorrectly paid to it by TfL either as a result of an administrative error or otherwise save to the extent that the funds constituting the overpayment have been spent or legally committed.

7 Repayment/Prepayment

- 7.1 On each Repayment Date GBT shall repay to TfL an amount of at least £250,000. On the final Repayment Date GBT shall pay an amount equal to the outstanding inflated Loan balance, where inflation is applied annually to the Loan at the Rate of Inflation.
- 7.2 GBT shall be entitled to repay before the end of the Repayment Term without penalty the whole or part of the outstanding inflated Loan balance.
- 7.3 GBT shall be entitled to repay all or part of the amounts drawn down from the Loan Facility prior to the Date of Opening without incurring any charge or penalty.

8 Repayment Event and Unpaid Loan Payments

- 8.1 If at any time GBT reasonably considers that a Repayment Event may occur, or that it may breach its payment obligations under clause 7.1, it shall as soon as reasonably practicable notify TfL in writing of these concerns, setting out full details. Following such notification TfL shall in its discretion be entitled to require GBT to enter into discussions with TfL on options for avoiding the occurrence of a Repayment Event or a breach of the payment obligations under clause 7.1.
- 8.2 TfL may demand immediate repayment of all or any of the outstanding inflated Loan balance at any time following a Repayment Event, and GBT shall be obliged to make such repayment immediately. Following such a Repayment Event TfL shall in its discretion be entitled to require GBT to enter into discussions with TfL on options for the repayment of outstanding sums due to TfL.
- 8.3 Nothing in this Agreement shall restrict TfL's rights in law to recover any unpaid Loan payments due in accordance with this Agreement from GBT. If GBT breaches its payment obligations under clause 7.1, TfL shall in its discretion be entitled to require GBT to enter into discussions with TfL on options for the repayment of outstanding sums due to TfL.
- 8.4 A Repayment Event occurs when an Event of Default which has not been remedied within 60 Business Days or is incapable of remedy occurs.

9 Events of Default

- 9.1 An Event of Default occurs where:

- 9.1.1 if a petition is presented or if GBT or its directors resolve to present a petition for an administration order in relation to GBT or if a petition is presented or a meeting of GBT is held or if an order is made or an effective resolution is passed for the winding up of GBT or if any analogous proceedings are taken other than in the course of a reconstruction previously approved by TfL in writing; or
- 9.1.2 if GBT becomes insolvent or is deemed unable to meet its debts within the meaning of section 123 Insolvency Act 1986 or makes any special arrangement or composition with its creditors or if notice is given to the nominee referred to in Part 1 of the Insolvency Act 1986 of any intended proposal for such a voluntary arrangement as is mentioned in that Part of that Act or if GBT ceases or threatens to cease to carry on its business; or
- 9.1.3 GBT merges or is taken over by another charity; or
- 9.1.4 GBT transfers or assigns or attempts to transfer or assign any rights, interests or obligations under this Agreement without TfL's prior written consent; or
- 9.1.5 there is a financial irregularity impropriety or negligence in relation to the operation of the Project which is not rectified within the timescale reasonably specified by TfL; or
- 9.1.6 GBT is convicted of a criminal offence related to business, professional conduct or dishonesty.

10 Remedies, Waivers, Amendments and Consents

- 10.1 Any amendment to this Agreement shall be in writing and signed by, or on behalf of, each Party.
- 10.2 Any waiver of any right or consent given under this Agreement is only effective if it is in writing and signed by the waiving or consenting Party. It shall apply only in the circumstances for which it is given and shall not prevent the Party giving it from subsequently relying on the relevant provision.
- 10.3 No delay or failure to exercise any right under this Agreement shall operate as a waiver of that right.
- 10.4 No single or partial exercise of any right under this Agreement shall prevent any further exercise of that right (or any other right under this Agreement).
- 10.5 Rights and remedies under this Agreement are cumulative and do not exclude any other rights or remedies provided by law or otherwise.

11 Severance

- 11.1 The invalidity, unenforceability or illegality of any provision (or part of a provision) of this agreement under the laws of any jurisdiction shall not affect the validity, enforceability or legality of the other provisions.

11.2 If any invalid, unenforceable or illegal provision would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with whatever modification as is necessary to give effect to the commercial intention of the Parties.

12 Third Parties

Save as expressly permitted under this Agreement, the Parties confirm their intent not to confer any rights on any third parties by virtue of this Agreement and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.

13 Relationship

This Agreement shall not create any partnership or joint venture between the Parties, nor any relationship of principal and agent, nor authorise any Party to make or enter into any commitments for or on behalf of the other Party.

14 Counterparts

This Agreement may be executed in one or more counterparts which, taken together, shall constitute one agreement, and either of the Parties may execute this Agreement by signing one or more of such counterparts.

15 Notices

15.1 Notices shall be in writing and shall be sent to the other party marked for the attention of the person at the address set out below.

15.2 Any notice or other document:

15.2.1 correctly addressed sent by:

- (a) first-class mail shall be deemed to have been delivered three Business Days following the date of dispatch;
- (b) registered post shall be deemed to have been delivered three Business Days following the date of dispatch;
- (c) email shall be deemed to have been delivered at 9am on the next Business Day after it was actually received in readable form; or
- (d) in the case of a notice personally delivered, it shall be deemed to have been delivered at 9am on the next Business Day following delivery.

15.2.2 for the attention of TfL shall be sent to:

Contact: Richard de Cani, Managing Director, Planning

Address: Transport for London, Windsor House, 42-50 Victoria Street, London SW1H 0TL

Email: decaniri3@tfl.gov.uk

15.2.3 for the attention of the GBT shall be sent to:

Contact: Bee Emmott, Executive Director

Address: Somerset House, New Wing, Strand, London WC2R 1LA

Email: bee.emmott@gardenbridge.london

16 Governing Law and Jurisdiction

- 16.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including any non-contractual disputes or claims) shall be governed by, and shall be construed in accordance with, the law of England and Wales.
- 16.2 The parties to this Agreement irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

This Agreement has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it

SCHEDULE 1

Drawdown Request

TfL LOAN FACILITY - DRAWDOWN REQUEST

Date of Request:	
Requested by: (Name and job title)	
Drawdown amount:	
Date drawdown required:	
Current loan balance:	
New loan balance:	
TfL loan facility - headroom remaining:	
Reasons for request and anticipated use of amount requested:	

Authorisation of request - GBT	
Executive Director	
Signed	
Date	
Authorisation of payment - TfL	
Managing Director, Planning	
Signed	
Date	

5126

The common seal of)
TRANSPORT FOR LONDON)
was affixed to this deed)
in the presence of:)



C. Patel
Authorised signatory

Signed as a deed by GARDEN)
BRIDGE TRUST acting)
by PAUL DRING MORRELL, a director)
in the presence of)

Director

Witness Signature

Witness Name
(block capitals)
Witness Address

HANNAH JONES
GARDEN BRIDGE TRUST
SOMERSET HOUSE
S. TRAND, LONDON WC2R 1LA



Bee Emmott
Executive Director
Garden Bridge Trust
Somerset House
London
WC2R 1LA

Transport for London
Group Planning

10th Floor, Windsor House
42-50 Victoria Street
London
SW1H 0TL

www.tfl.gov.uk

25 April 2016

Dear Bee

Variation of Deed of Grant

We refer to the Deed of Grant between Transport for London (“**TfL**”) and Garden Bridge Trust (the “**Trust**”) dated 2 July 2015 and subsequently varied on 13 November 2015.

Except where expressly stated otherwise, terms defined in the Deed of Grant shall have the same meanings in this letter.

This letter constitutes a variation to the Deed of Grant and sets out the terms upon which TfL will give early access to the Trust to up to £1.3million of the £3.595million not yet paid under the Deed of Grant.

From 1 May 2016 to 31 May inclusive (the “**Period**”), and where it has satisfied the conditions set out below, the Trust shall be entitled to a single payment from TfL not exceeding £1.3million.

The conditions that will need to be satisfied are as follows:

- The Trust has provided TfL with notice in writing of the decision of its trustees that the Project will not proceed, together with evidence of this decision (e.g. a copy of the minutes of the meeting of the trustees in which the decision was made);
- The Trust has provided TfL with a figure for the payment it requires (the “**Exit Payment**”), which must first deduct any cash reserves available to meet its commitments;

- The Trust has provided TfL with such evidence as TfL reasonably requires to support the calculation of the Exit Payment including copies of documentation creating a legal obligation on the Trust to make payments to third parties (e.g. a notice of termination under the main construction contract, unpaid invoices from contractors for work to date, etc.) and evidence of its cash reserves.

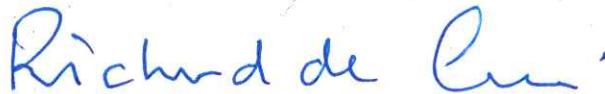
Once these conditions have been satisfied, TfL will transfer the Exit Payment to the Trust within 10 Working Days.

TfL may in its discretion extend the Period on one or more occasions by written notice to the Trust.

All other terms of the Deed of Grant remain the same.

Please would you sign, date and return to us the enclosed copy of this letter to indicate your acceptance of these variations.


Yours sincerely



Richard de Cani
For and on behalf of
Transport for London



We accept the above variations to the Agreement.



For and on behalf of
Garden Bridge Trust

Name: *SEE ENNOTT*

Date: *27.04.16*

Position: *EXECUTIVE DIRECTOR*



Bee Emmott
Executive Director
Garden Bridge Trust
Somerset House
London
WC2R 1LA

Transport for London
Group Planning

10th Floor, Windsor House
42-50 Victoria Street
London
SW1H 0TL

27 May 2016

www.tfl.gov.uk

Dear Bee

Variation of Deed of Grant

We refer to the Deed of Grant between Transport for London (“TfL”) and Garden Bridge Trust (the “Trust”) dated 2 July 2015 as subsequently varied, and the Loan Facility Agreement between TfL and the Trust dated 13 November 2015.

Except where expressly stated otherwise, terms defined in the Deed of Grant shall have the same meanings in this letter.

This letter constitutes a variation to the Deed of Grant and the Loan Facility Agreement and sets out the terms upon which TfL will give access to the Trust to up to £15million of funding, against (i) the £3.595million not yet paid under the Deed of Grant, and against (ii) £11.405million of the £20million loan facility made available to the Trust under the Loan Facility Agreement.

From 1 June 2016 to 30 September inclusive (the “Period”), and where it has satisfied the conditions set out below, the Trust shall be entitled to a single payment from TfL not exceeding £15million.

The conditions that will need to be satisfied are as follows:

- The Trust has provided TfL with notice in writing of the decision of its trustees that the Project will not proceed, together with evidence of this decision (e.g. a copy of the minutes of the meeting of the trustees in which the decision was made);
- The Trust has provided TfL with a figure for the payment it requires (the “Exit Payment”), which must first deduct any cash reserves available to meet its commitments;

- The Trust has provided TfL with such evidence as TfL reasonably requires to support the calculation of the Exit Payment including copies of documentation creating a legal obligation on the Trust to make payments to third parties (e.g. a notice of termination under the main construction contract, unpaid invoices from contractors for work to date, etc.) and evidence of its cash reserves.

Once these conditions have been satisfied, TfL will transfer the Exit Payment to the Trust within 10 Working Days.

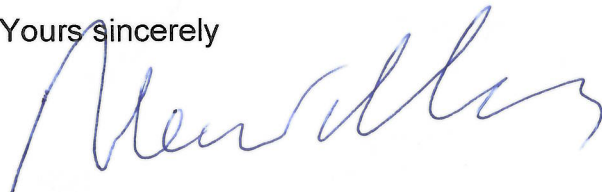
Upon payment of the Exit Payment to the Trust, both the Deed of Grant and the Loan Facility Agreement will terminate forthwith.

TfL may in its discretion extend the Period on one or more occasions by written notice to the Trust.

All other terms of the Deed of Grant and the Loan Facility Agreement remain the same.


Please would you sign, date and return to us the enclosed copy of this letter to indicate your acceptance of these variations.

Yours sincerely



Alex Williams
For and on behalf of
Transport for London

We accept the above variations to the Agreement.



For and on behalf of
Garden Bridge Trust

Name: BEE CANNOTT

Date: 31-05.16.

Position: EXECUTIVE DIRECTOR



Bee Emmott
Executive Director
Garden Bridge Trust
Somerset House
London
WC2R 1LA

Transport for London
Group Planning

10th Floor, Windsor House
42-50 Victoria Street
London
SW1H 0TL

28 September 2016

www.tfl.gov.uk

Dear Bee

Variation of Deed of Grant and Loan Facility Agreement

We refer to the Deed of Grant between Transport for London (“**TfL**”) and Garden Bridge Trust (the “**Trust**”) dated 2 July 2015 as subsequently varied, and the Loan Facility Agreement between TfL and the Trust dated 13 November 2015.

Except where expressly stated otherwise, terms defined in the Deed of Grant shall have the same meanings in this letter.

We have been notified that the Department for Transport (“**DfT**”) has agreed to extend its underwriting facility, capped at up to £9million, until the point at which the Trust’s main contractor begins construction of the Garden Bridge. As we are responsible for managing the payment of the DfT’s contribution to the Trust, the primary purpose of this letter is to put into effect the DfT’s decision.

This letter constitutes a variation to the Deed of Grant and the Loan Facility Agreement and sets out the terms upon which TfL will give access to the Trust to up to £9million of DfT funding, against (i) the c.£2.6million not yet paid under the Deed of Grant, and against (ii) c.£6.4million of the £20million loan facility made available to the Trust under the Loan Facility Agreement.

Our expenditure on the project is published on our website. This includes some expenditure since the Deed of Grant was signed in July 2015. As you know, this expenditure forms part of the public sector’s £60million contribution to the project. Therefore, this letter also constitutes a variation to the Deed of Grant and varies the Payment Profile in the Deed of Grant by increasing the Amount Spent to Date and reducing the final instalment payment. This letter ensures that this expenditure is accounted for so that the total public sector contribution to the project will not exceed £60million.

These variations will come into force with immediate effect. All other terms of the Deed of Grant and the Loan Facility Agreement remain the same.

Access to up to £9million of funding

For the purposes of this letter the “**Period**” means 1 October 2016 to the day preceding the day on which the main contractor commences construction of the Garden Bridge.

During the Period, and where it has satisfied the conditions set out below, the Trust shall be entitled to a single payment from TfL on behalf of the DfT not exceeding £9million.

The conditions that will need to be satisfied are as follows:

- The Trust has provided TfL with notice in writing of the decision of its trustees that the Project will not proceed, together with evidence of this decision (e.g. a copy of the minutes of the meeting of the trustees in which the decision was made);
- The Trust has provided TfL with a figure for the payment it requires (the “**Exit Payment**”), which must first deduct any cash reserves available to meet its commitments;
- The Trust has provided TfL with such evidence as TfL reasonably requires to support the calculation of the Exit Payment including copies of documentation creating a legal obligation on the Trust to make payments to third parties (e.g. a notice of termination under the main construction contract, unpaid invoices from contractors for work to date, etc.) and evidence of its cash reserves.

Once these conditions have been satisfied, TfL will transfer the Exit Payment to the Trust within 10 Working Days.

Upon payment of the Exit Payment to the Trust, both the Deed of Grant and the Loan Facility Agreement will terminate forthwith.

TfL may in its discretion extend the Period on one or more occasions by written notice to the Trust.

Amendment to the Payment Profile

The definition of “Amount Spent to Date” shall be replaced with the following:

“**Amount Spent to Date**” means the amount spent by TfL towards the Project, being £10,673,631;

The Payment Profile set out in Schedule 2 of the Deed of Grant (as previously varied) shall be replaced with the following:

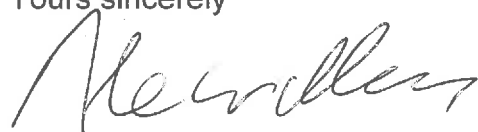
Payment Profile

Trigger	Amount
<i>Amount Spent to Date</i>	£10,673,631
<i>Pre-contract award payment profile</i>	
Within 10 days of Commencement Date	£8,478,922
+ 1 month from trigger	£1,741,570
<i>Preliminary activities payment profile</i>	
Within 5 Working Days of the date of this Deed of Variation	£3,500,000
+ 1 month from the date of this Deed of Variation	£3,000,000
+ 3 months from the date of this Deed of Variation	£3,000,000
<i>Construction payment profile</i>	
Within 10 days of award of the main construction contract (Trust to notify TfL of contract award)	£7,000,000
<i>Final instalment payment profile</i>	
Within 10 days of practical completion of the main construction contract (Trust to notify TfL of practical completion)	£2,605,877
Total Payment	£40,000,000

All references in the Deed of Grant (as previously varied) to the "**Amount Spent to Date**" shall now be deemed to also include amounts spent by TfL towards the Project after the Commencement Date.

Please would you sign, date and return to us the enclosed copy of this letter to indicate your acceptance of these variations.

Yours sincerely



Alex Williams

For and on behalf of
Transport for London

We accept the above variations to the Agreement.

For and on behalf of
Garden Bridge Trust

Name:



Date: 30.09.16.

Position:

RELIGIOUS DIRECTOR

3rd October 2016

Alex Williams
Transport for London
Group Planning
10th Floor, Windsor House
42-50 Victoria Street
London
SW1H 0TL

Dear Alex

Thank you for your letter and Deed of Variation dated 28 September.

Please find attached a signed copy of the Deed.

However, the trustees note the increase in the spend to date figure. Considerable work was put into calculating the amount spent to date prior to completing the funding agreement between TfL and Garden Bridge Trust. Please could you provide an explanation as to why this has increased and the detail of the expenditure.

Yours sincerely



Bee Emmott
Executive Director, Garden Bridge Trust



Transport for London
Group Planning

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Bee Emmott
Executive Director, Garden Bridge Trust
Somerset House
Strand
London
WC2R 1LA

6 October 2016

Dear Bee

RE: Variation of Deed of Grant and Loan Facility Agreement

Thank you for your letter of 3 October and for returning a signed copy of the variation letter.

As you know from our discussions, we have incurred costs on the project that fall outside the original spend to date figure in the Deed of Grant that was signed in July 2015. These costs are primarily made up of staff time and external legal costs for our involvement in property and licensing negotiations. A detailed breakdown is published on our website.

We have been clear that our contribution to the project will not exceed £30 million, £20 million of which takes the form of a loan. The variation in my previous letter ensures that this expenditure is accounted for so that our contribution will not exceed £30 million, and the total public sector contribution will not exceed £60 million.

If you have any further questions about the detail of the breakdown of our expenditure please contact Andy Brown in my team, who would be happy to talk it through with you.

Yours sincerely

A handwritten signature in black ink that reads "Alex Williams".

Alex Williams
Acting Managing Director, Planning