

**AGREEMENT BETWEEN THE FUNDERS AND SHAREHOLDERS IN RELATION  
TO THE FUNDING AND OPERATION OF INFRACO LIMITED**

**This agreement dated 28 July 2009 between the funders and shareholders of  
InfraCo Limited (the “Agreement”) is made between**

1. The Government of the United Kingdom, acting through the Secretary of State for International Development at the Department for International Development (hereinafter referred to as "**DFID**");
  2. The Government of the Swiss Confederation, acting through the State Secretariat for Economic Affairs (hereinafter referred to as "**SECO**");
  3. The Government of The Netherlands represented by the Directorate for Sustainable Economic Development – The Netherlands Minister for Development Co-operation (hereinafter referred to as "**DGIS**");
  4. The Austrian Government, acting through the Austrian Development Agency (hereinafter referred to as "**ADA**");
- (each of the aforesaid Parties being an "InfraCo Donor", and jointly, together with any Additional InfraCo Donors (as defined in Clause 1 of this Agreement), the "**InfraCo Donors**");
5. SG Hambros Trust Company Ltd, Multiconsult Trustees Ltd. and Minimax Ltd acting as trustees of the Private Infrastructure Development Group Trust (hereinafter referred to as the "**PIDG Trust**"); and
  6. InfraCo Limited, a company incorporated under the laws of England whose registered office is at St Nicholas House, St Nicholas Road, Sutton, Surrey SM1 1EL with registered number 05196897 ("**InfraCo**").

## INTRODUCTION AND BACKGROUND:

- (A) On 1 December 2001 SG Hambros Trust Company Ltd., Multiconsult Trustees Ltd (formerly known as MC Trust Ltd) and Minimax Ltd. executed a declaration of trust (as amended, hereinafter referred to as the "**Declaration of Trust**") for the establishment of the PIDG Trust, a special purpose trust under Mauritian law.
- (B) By a Memorandum of Understanding dated 14 March 2003 (the "Memorandum of Understanding") relating to the Constitution of the Private Infrastructure Development Group (hereinafter referred to as the "**PIDG Constitution**"), DFID, the Swedish Government, acting through the Swedish International Development Cooperation Agency ("Sida"), DGIS and SECO established the Private Infrastructure Development Group (the "**PIDG**") to provide a strategic approach to developing financing for private infrastructure investment.
- (C) By an Accession and Amendment Letter dated 24 September 2004 in relation to the Memorandum of Understanding the World Bank became a member of PIDG. By an Accession and Amendment Letter dated 17 July 2006 in relation to the Memorandum of Understanding, ADA became a member of the PIDG. By an Accession and Amendment Letter dated 20<sup>th</sup> November 2007 in relation to the Memorandum of Understanding Irish Aid became a member of the PIDG.
- (D) On 4 August 2004 the PIDG Trust established InfraCo for the purpose of creating viable infrastructure opportunities which balance the interests of host governments and national and international private sector providers of finance by assuming the risks and responsibilities of early stage development of infrastructure projects and later offering opportunities for private sector investment.
- (E) On 8 December 2003 DFID and the PIDG Trust entered into a grant arrangement whereby DFID agreed to facilitate the subscription by the PIDG Trust for ordinary shares of £1 each in the share capital of InfraCo ("**InfraCo Shares**") for up to £5,900,000.
- (F) Pursuant to a subscription agreement dated 15 April 2005 between InfraCo and the PIDG Trust (the "**PIDG Trust/ InfraCo Subscription Agreement (No.1)**"), the PIDG Trust agreed to subscribe up to £5,900,000 for InfraCo Shares.

- (G) By a letter dated 6 March 2006 between DGIS and the PIDG PMU, DGIS agreed to facilitate the subscription by the PIDG Trust for InfraCo Shares for up to US \$10,000,000 in two tranches. The first transfer of US \$5,000,000 for 2,831,257 InfraCo Shares was made by the PIDG Trust on 5 April 2006 further to the letter of 6 March 2006. A second transfer of US \$5,000,000 for 2,439,000 InfraCo Shares was made by the PIDG Trust further to a letter dated 25 June 2007 between DGIS and the PIDG Trust.
- (H) Under a grant arrangement entered into on 2 April 2008, ADA has agreed to grant up to US\$3,000,000 to the PIDG Trust to enable the PIDG Trust to subscribe for InfraCo Shares.
- (I) Under a grant arrangement entered into on 29 February 2008, DFID has agreed to grant up to £5,000,000 to the PIDG Trust to enable the PIDG Trust to subscribe for InfraCo Shares.
- (J) By a conditional loan agreement entered into on or about the date hereof, SECO has agreed to contribute up to US\$8,500,000 to the PIDG Trust to enable the PIDG Trust to subscribe, directly or indirectly, for InfraCo Shares.
- (K) By a conditional loan agreement entered into on or about the date hereof, DGIS has agreed to contribute up to US\$12,500,000 to the PIDG Trust to enable the PIDG Trust to subscribe, directly or indirectly, for InfraCo Shares.
- (L) Each of the InfraCo Donors has agreed to use its respective reasonable endeavours to raise an aggregate additional Commitment of US\$6,500,000 as more specifically set out in Clause 4.4 (the Funding Commitment Shortfall).
- (M) Under a grant arrangement entered into on or about the date hereof, ADA has agreed to grant up to Euro 1,500,000 to the PIDG Trust to enable the PIDG Trust to subscribe for InfraCo Shares. This Commitment is regarded as an additional Commitment by ADA to replace part of the Funding Commitment Shortfall.
- (N) On even date herewith, the PIDG Trust will, pursuant to a subscription agreement between InfraCo and the PIDG Trust (the “**PIDG Trust/InfraCo Subscription Agreement (No.2)**”), agree to subscribe, directly or indirectly, (through one or

several subscriptions) for an amount of up to GBP £5,000,000, US\$ 24,000,000 and Euro 1,500,000 for InfraCo Shares using funds provided to it for this purpose by DFID, SECO, DGIS and ADA.

- (O) NOW, the InfraCo Donors, the PIDG Trust and InfraCo wish to agree on the funding, monitoring and management of their respective investments in InfraCo and have accordingly entered into this Agreement.

## **1. DEFINITIONS**

- 1.1 Terms not otherwise defined shall have the meanings set forth below.

<b>"Account(s)"</b>	means any account opened by the PIDG Trust for receipt and payment of Contributions in accordance with this Agreement;
<b>"ADA"</b>	means the Austrian Development Agency;
<b>"ADA Grant Arrangements"</b>	means the First ADA Grant Arrangement and the Second ADA Grant Arrangement;
<b>"Additional InfraCo Donor"</b>	means any donor who becomes a party to this Agreement by signing a letter of accession pursuant to Clause 11 of this Agreement;
<b>"Annual Operating Plan and Budget"</b>	means the annual operating plan and budget for InfraCo prepared each year by the Manager and approved by the Board of Directors and sent to the InfraCo Donors via the PIDG Trust in accordance with the provisions of Clause 9.1(i);
<b>"Board of Directors"</b>	means the board of directors of InfraCo;
<b>"Commitment"</b>	means each InfraCo Donor's commitment as set out in Schedule 1 (Schedule of Commitments) to enable InfraCo to fulfil its purpose;
<b>"Contribution"</b>	means the funding paid from time to time to InfraCo

by each InfraCo Donor through the PIDG Trust and, if relevant, the Holding Company pursuant to this Agreement and a Funding Instrument and as set out against each InfraCo Donor's name in Schedule 1 (Schedule of Commitments);

**“DFID”**

means the Secretary of State for International Development at the Department for International Development of the Government of the United Kingdom;

**"DFID Grant Arrangements"**

means the First DFID Grant Arrangement and the Second DFID Grant Arrangement;

**“DGIS”**

means the Government of The Netherlands represented by the Directorate for Sustainable Economic Development – The Netherlands Minister for Development Co-operation;

**“DGIS Funding Instrument”**

means the letter from DGIS to the PIDG PMU dated 6 March 2006 referred to in recital G above;

**“DGIS Conditional Loan Agreement”**

Means the conditional loan agreement entered into by DGIS and the PIDG Trust dated on or about the date of this Agreement referred to in recital K above;

**“First DFID Grant Arrangement”**

means the grant arrangement entered into between DFID and the PIDG Trust dated 8 December 2003 referred to in recital E above;

**“Funding Commitment Shortfall”**

means the shortfall in Commitments up to the amount set out in Column V of Schedule 1 which will result from the inability of the InfraCo Donors to commit additional Commitments (in accordance with Clause 4.4) so as to meet the funding originally contemplated by InfraCo's Expanded Capital Business Plan dated

June 2007.

<b>"Funding Instrument"</b>	means the DFID Grant Arrangements, the DGIS Funding Instrument, the ADA Grant Arrangements, the SECO Conditional Loan Agreement, the DGIS Conditional Loan Agreement, the PIDG Trust/InfraCo Subscription Agreement (No.1), the PIDG Trust/InfraCo Subscription Agreement (No.2), and any other instrument relating to the funding of InfraCo entered into hereafter between an InfraCo Donor and the PIDG Trust or InfraCo;
<b>"Governing Council"</b>	means as defined in the PIDG Constitution;
<b>"HDV"</b>	means High Developmental Value;
<b>"Holding Company"</b>	means the company that may be established to hold, inter alia, the InfraCo Shares held by the PIDG Trust (subject to the satisfaction of the conditions set forth in the Amended and Restated Management Services Agreement in connection with a Restructuring or Migration (as defined in such agreement));
<b>"IFRS"</b>	means the International Financial Reporting Standards issued by the International Accounting Standards Board, as amended from time to time;
<b>"InfraCo"</b>	means InfraCo Limited, a company incorporated under the laws of England whose registered office is at St Nicholas House, St Nicholas Road, Sutton, Surrey SM1 1EL with registered number 05196897. Subject to the satisfaction of the conditions set forth in the Amended and Restated Management Services Agreement in connection with a Migration (as defined in such agreement), in the event that InfraCo transfers all or a majority of its assets to a new company,

references to "InfraCo" shall be deemed to be references to such new company;

**"InfraCo Constitution"** means the Memorandum and Articles of Association or other constitutional documents, as appropriate, of InfraCo for the time being. A copy of the Memorandum and Articles of Association of InfraCo as at the date of this Agreement is attached as Annexure 1;

**"InfraCo Shares"** means the ordinary shares of £1 each in the share capital of InfraCo or, (subject to the satisfaction of the conditions set forth in the Amended and Restated Management Services Agreement in connection with a Migration (as defined in such agreement)) in the event that all or a majority of InfraCo's assets are transferred to a new company, shares in the share capital of such new company as may be acceptable to each of the InfraCo Donors;

**"Management Agreement"** means the Services Agreement between InfraCo and the Manager dated 12 April 2005, as amended, superseded or replaced from time to time;

**"Manager"** means the manager of InfraCo from time to time as appointed by InfraCo with the approval of the InfraCo Donors (currently being InfraCo Management Services Limited appointed pursuant to the Management Agreement or the Amended and Restated Management Services Agreement when the same is executed and becomes unconditional);

**"Needs Letter"** means the needs letter referred to in Clause 4.2;

**"Operating Policies and"** means the operating policies and procedures of InfraCo approved by the Board and the InfraCo

<b>Procedures”</b>	Donors as amended from time to time;
<b>“Original PIDG Donors”</b>	means ADA, DFID, DGIS, SECO, Sida and the World Bank;
<b>“PIDG Constitution”</b>	means the constitution of the PIDG and the Memorandum of Understanding dated 14 March 2003 between DFID, Sida, DGIS and SECO to establish the Private Infrastructure Development Group to provide a strategic approach to developing financing for private infrastructure investment, in each case as amended or replaced from time to time;
<b>"PIDG Donor"</b>	means any donor who is or becomes a member of PIDG;
<b>“PIDG PMU”</b>	means the PIDG programme management unit service provider appointed from time to time by the PIDG Trust with the approval of the PIDG Donors (currently being CA Legal, a division of The Crown Agents for Oversea Governments and Administrations Limited, appointed pursuant to a contract between the PIDG Trust and CA Legal dated 1 March 2005);
<b>“PIDG Trust”</b>	means the Private Infrastructure Development Group Trust represented by the Trustees;
<b>“PIDG Trust/InfraCo Subscription Agreement (No 1)”</b>	means the subscription agreement dated 15 April 2005 between InfraCo and the PIDG Trust by which the PIDG Trust subscribed for 5,900,000 InfraCo Shares;
<b>“PIDG Trust/InfraCo Subscription Agreement (No 2)”</b>	means the subscription agreement of even date herewith between InfraCo and the PIDG Trust by which the PIDG Trust agrees to subscribe, directly or indirectly, GBP £5,000,000, US\$ 24,000,000 and Euro



1,500,000 for InfraCo Shares;

**"Proceeds"**

means all dividends, interest, loan repayment or other monies received by the PIDG Trust, directly or indirectly from InfraCo in respect of the InfraCo Shares or any Funding Instrument and all other proceeds in respect of or derived from such Funding Instruments or the InfraCo Shares (whether by way of redemption, bonus, preference, option, substitution, conversion or otherwise) and any monies to be received by the PIDG Trust or other InfraCo Donors in connection with any sale, liquidation, dissolution or winding up or similar action with respect to InfraCo (and in each and every case referred to above, net of all actual and contingent liabilities, as reflected in the books of accounts of InfraCo, and net of all taxes and withholdings) ;

**"Project"**

means a viable infrastructure opportunity developed by InfraCo;

**"Project Interests"**

means all of InfraCo's rights, title and interest in a viable infrastructure opportunity whether held in a specific project company or otherwise and including but not limited to all interests under or in respect of any joint development agreement relating to the relevant Project;

**"Project Sales Agreement"**

means an agreement by which InfraCo sells or otherwise disposes of all or a majority of its Project Interests in the relevant Project (including by way of share subscriptions) to one or more third party investors in circumstances in which it is reasonably anticipated by the Board that the Project will be satisfactorily developed and commissioned with

material support from the private sector and in the case of non-HDV Projects, where such sale or disposal (including by way of share subscriptions) has occurred at a value greater than or equal to InfraCo's total third-party expenditure on the Project (as shown in InfraCo's management accounts);

**"Schedule of Commitments"** means the schedule of commitments set out in Schedule 1 of this Agreement, as amended from time to time in accordance with Clause 11;

**"SECO"** means The Government of the Swiss Confederation, acting through the State Secretariat for Economic Affairs;

**"SECO Conditional Loan Agreement"** means the conditional loan agreement between SECO and the PIDG Trust dated on or about the date of this Agreement;

**"Second ADA Grant Arrangement"** means the grant arrangement entered into between ADA and the PIDG Trust on or about the date hereof and referred to in Recital M above;

**"Second DFID Grant Arrangement"** means the grant arrangement entered into between DFID and the PIDG Trust dated 29 February 2008 referred to in recital I above;

**"Sida"** means the Swedish Government, acting through the Swedish International Development Co-operation Agency;

**"Amended and Restated Management Services Agreement"** means the agreement between InfraCo and the Manager dated on or about the date of this agreement which supersedes and replaces the Management Agreement; and

**“Trustees”** means the trustees of the PIDG Trust from time to time. At the date of this Agreement the Trustees are SG Hambros Trust Company Ltd., Multiconsult Trustees Ltd. (formerly known as MC Trust Ltd.) and Minimax Ltd.

- 1.2 Any express reference to an enactment (which includes any legislation in any jurisdiction) includes references to:
- 1.2.1 that enactment as re-enacted, amended, extended or applied by or under any other enactment before or after the date of this Agreement;
  - 1.2.2 any enactment which that enactment re-enacts (with or without modification); and
  - 1.2.3 any subordinate legislation (including regulations) made (before or after the date of this Agreement) under any enactment, as re-enacted, amended, extended or applied as described in Clause 1.2.1, or under any enactment referred to in Clause 1.2.2.
- 1.3 References to an “agreement” or “document” shall be construed as a reference to such agreement or document as the same may have been amended, varied, supplemented or novated in writing at the relevant time in accordance with the requirements of such agreement or document and, if applicable, of this Agreement.
- 1.4 References to a “company” shall be construed so as to include a company, subsidiary, corporation or other body corporate or other legal entity, wherever and however incorporated or established.
- 1.5 A company is a “subsidiary” of another company, its “holding company”, if that other company:
- 1.5.1 holds a majority of the voting rights in it, or
  - 1.5.2 is a member of it and has the right to appoint or remove a majority of its board of directors, or

- 1.5.3 is a member of it and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in it, or if it is a subsidiary of a company which itself is a subsidiary of that other company.
- 1.6 A company is a “wholly-owned subsidiary” of another company if it has no members except that other and that other's wholly-owned subsidiaries or persons acting on behalf of that other or its wholly-owned subsidiaries.
- 1.7 References to a “person” shall be construed so as to include any individual, firm, company, government, state or agency of a state or any joint venture, association, partnership, works council or employee representative body (whether or not having a separate legal personality).
- 1.8 References to any English legal term for any action, remedy, method or judicial proceeding, legal document, legal status, court, official, or any legal concept or thing shall in respect of any jurisdiction other than England be deemed to include what most nearly approximates in that jurisdiction to the English legal term.
- 1.9 References to “US dollars” or “US\$” are to the lawful currency from time to time of the United States of America, references to “£” are to the lawful currency from time to time of the United Kingdom, and references to “€” or “Euro” are to the lawful currency from time to time of the member states of the European Union that adopt the single currency in accordance with the Treaty establishing the European Community (signed in Rome on March 25, 1957), as amended.
- 1.10 Where there is any inconsistency between the definitions set out in this Clause and the definitions set out in any Clause or Schedule, then for the purposes of construing such Clause or Schedule, the definitions set out in such Clause or Schedule shall prevail.
- 1.11 The singular shall include the plural and vice versa and words importing the masculine shall include the feminine and neuter and vice versa.
- 1.12 The index and the headings in this Agreement do not affect its interpretation.
- 1.13 Any Schedule or Annexure to this Agreement shall take effect as if set out in this Agreement and references to this Agreement shall include its Schedules and Annexures.

- 1.14 References to (i) a “Party” is to a party to this Agreement, and (ii) “Clauses”, “Paragraphs”, “Schedules” and “Annexures” are references to the clauses, paragraphs, schedules and annexures of this Agreement.
- 1.15 Any individual shall be deemed to be connected with:
- 1.15.1 any person or persons in his or their capacity as trustee or trustees of a trust of which such individual is the settlor, provided that there are no persons beneficially interested under the trust other than that individual or his spouse or any child under the age of 18; or
- 1.15.2 any person who is the spouse, a sibling, a parent or a child of that individual.
- 1.16 Clauses 1.2 to 1.15 apply unless the contrary intention appears.

## **2. PURPOSE - VISION, MISSION AND ROLE OF INFRACO**

- 2.1 The InfraCo Donors declare that:
- (i) InfraCo’s objective is to stimulate greater private sector involvement in the development of infrastructure and related projects by reducing the costs and risks of project development; and
- (ii) InfraCo's mission is to identify, create and structure financeable private sector and public private partnership investment opportunities in those least developed and other low income countries in Africa, as listed in the first and second columns of the OECD’s current “DAC List of ODA Recipients” and offer them to the private sector for implementation.

## **3. INFRACO’S CONSTITUTION AND OTHER IMPORTANT DOCUMENTS AND COVENANTS**

- 3.1 InfraCo hereby undertakes to each of the InfraCo Donors that it shall, and each of the InfraCo Donors hereby undertakes to each of the other InfraCo Donors to use its reasonable endeavours to procure that InfraCo shall:

- 3.1.1 conduct its business with reasonable skill and care and in accordance with internationally recognised financial and business practices;
- 3.1.2 carry on its business in accordance with the InfraCo Constitution and the Operating Policies and Procedures;
- 3.1.3 maintain at all times a firm of independent accountants acceptable to the InfraCo Donors as auditors of InfraCo;
- 3.1.4 comply with the terms of the Management Agreement (including, for the avoidance of doubt, the Amended and Restated Management Services Agreement) and procure that the Manager shall comply with its and InfraCo's reporting obligations to the InfraCo Donors;
- 3.1.5 obtain and maintain, or procure that the Manager obtains and maintains, all insurances required by English law and such other insurances as the InfraCo Donors shall from time to time reasonably require (having regard to levels of cover and premium rates at the time), including but not limited to (i) fire (or all risks) on assets, as applicable, and (ii) directors' and officers' liability;
- 3.1.6 conduct its business in compliance with OECD Principles of Corporate Governance issued from time to time to the extent applicable for InfraCo or as otherwise required by the InfraCo Donors;
- 3.1.7 procure that the audited financial statements it produces in respect of each Accounting Period (as defined in Clause 9.1(i)) are prepared in accordance with IFRS;
- 3.1.8 not enter into any transaction with any person other than in the ordinary course of its business on the basis of arm's length arrangements; and
- 3.1.9 institute internal procedures and controls for the purpose of preventing the Manager and the Company from becoming an instrument for money laundering, the financing of terrorist activities, fraud or other corrupt or illegal purposes or practices.

- 3.2 The InfraCo Donors agree that they shall procure that InfraCo shall not undertake any of the items set out in Schedule 3 without the unanimous consent of each of the InfraCo Donors.

#### **4. FUNDING COMMITMENT**

- 4.1 Subject to and upon the terms and conditions of this Agreement and the Funding Instrument to which it is a party, each of the InfraCo Donors commits to make its Commitment available to the PIDG Trust for the purpose of allowing the PIDG Trust to subscribe for InfraCo Shares or shares in the Holding Company.

- 4.2 Subject to and upon the terms and conditions of this Agreement and the Funding Instrument to which it is a party, each of the InfraCo Donors investing via the PIDG Trust agrees that the PIDG Trust may meet subscription requests from InfraCo (either directly or indirectly via the Holding Company) subject to the following:

- 4.2.1 The Parties note that the following Commitments have already been released to the PIDG Trust under the terms of the relevant Funding Instruments and the PIDG Trust has already used this funding to subscribe for InfraCo Shares:

- (i) US\$3,000,000 was made available to the PIDG Trust immediately by ADA after the signing of the First ADA Grant Arrangement;
- (ii) £1,500,000 was made available immediately to the PIDG Trust by DFID after the signing of the Second DFID Grant Arrangement; and
- (iii) £1,000,000 was made available to the PIDG Trust by DFID on 10<sup>th</sup> November 2008 as a second disbursement from the Second DFID Grant Arrangement.

- 4.2.2 A further US\$1,400,000 will be drawn down from the Commitments on receipt by the PIDG Trust of the following, in form and substance satisfactory to each of the InfraCo Donors:

- (i) a certified copy of an executed Project Sales Agreement; and
- (ii) the Amended and Restated Management Services Agreement being in full force and effect.

4.2.3 Further funding will thereafter be made available in each year (subject to the Commitments available for such year, including any Commitments rolled over under the provisions of this Clause 4.2 up to 2013) as follows:

- (i) InfraCo may request disbursement of up to 50% of the outstanding Commitments for the relevant year by drawing down up to US\$2,000,000 upon the execution of each Project Sales Agreement during the relevant year (excluding any executed Project Sales Agreement taken into account for the purposes of clause 4.2.2(i) above); and
- (ii) all or some of the remaining 50% of the outstanding Commitments for the relevant year may be drawn down by InfraCo subject to receipt by the PIDG Trust of a Needs Letter in form and substance acceptable to the PIDG Trust explaining why the amount requested in the Needs Letter is required to meet the fixed running costs of InfraCo during the following 12 months and a fixed costs schedule from InfraCo for the use of these funds.

PROVIDED THAT, save as otherwise stipulated in Clause 8.4 hereof, the PIDG Trust shall not be required to subscribe, directly or indirectly, for InfraCo Shares in any year for an amount greater than the total for that year as set out in Column VI of Schedule 1 (where relevant, as amended further to this Clause 4.2 or otherwise) without the unanimous consent of the InfraCo Donors and always subject to the InfraCo Donors being requested to make their Contributions to the PIDG Trust pro rata to the Commitments set out in Columns I – IV of Schedule 1. In the event that an amount drawn down by InfraCo in any calendar year is less than the total amount set out in Column VI of Schedule 1 for that calendar year, any amount remaining for that year shall be carried over to the following calendar year (up to 2013) and the total Commitment amounts in Column VI of Schedule 1 shall be amended accordingly.



Notwithstanding the above provisions each InfraCo Donor may, in its absolute discretion and in consultation with the PIDG Trust adopt the following alternative mechanism for disbursing its annual Commitment to the PIDG Trust. At the start of each year, or as soon as practicable thereafter, each InfraCo Donor may transfer to the PIDG Trust the total amount of its annual Commitment to the PIDG Trust in respect of that relevant year, subject always to receipt from the PIDG Trust of a) the Needs Letter referred to in clause 4.2.3 (ii) above; b) evidence in the form of an un-audited financial statement demonstrating how the preceding year's annual Contributions were used by InfraCo and c) confirmation signed by the PIDG Trust that the PIDG Trust will hold all such Commitments on behalf of the relevant InfraCo Donor and only disburse the relevant annual Commitment to InfraCo upon fulfilment of and in accordance with the conditions set out in clauses 4.2.3 (i) and (ii) above and always subject to the allocation by the PIDG Trust of the Contributions of the InfraCo Donors pro rata to the Commitments set out in Columns I – IV of Schedule 1 for the purposes of subscription by the PIDG Trust for InfraCo Shares. In the event that this alternative mechanism for disbursement is adopted by an InfraCo Donor, then the interest earned by the PIDG Trust on the relevant Commitment held by the PIDG Trust pending disbursement to InfraCo will be transferred to General Administration Costs and should there be a positive balance of such interest at the end of the relevant year, then the contribution of the relevant InfraCo Donor to General Administration Costs for the following year shall be adjusted accordingly to take account of such positive balance.

- 4.3 No existing InfraCo Donor may be required to increase its Commitment without its sole written consent.
- 4.4 The InfraCo Donors have agreed to consult and use their respective reasonable endeavours to commit additional Commitments up to US\$6.5m to make up the Funding Commitment Shortfall, whereupon a revised Schedule of Commitments shall be agreed upon by the InfraCo Donors and InfraCo and Schedule 1 of this Agreement shall be deemed to have been amended accordingly. Until such additional Commitments have been given, the InfraCo Donors will use their reasonable endeavours to accelerate their existing Commitments on a pro-rata basis (or as may

otherwise be agreed) so as to address any Funding Commitment Shortfall in the relevant amounts and in the relevant years in which it/they arise(s).

## **5. GENERAL GOVERNANCE OF INFRACO**

### **5.1 The Role of the Governing Council**

Section 11 of the PIDG Constitution sets out how the PIDG Donors monitor and manage the activities and investments of the PIDG Trust. The InfraCo Donors agree that except as set out below in Clause 6.4 discussions and decisions in relation to InfraCo between the InfraCo Donors shall be taken through the Governing Council, which shall in relation to InfraCo apply the decision making rules set forth under Clause 6 below.

## **6. DECISION MAKING**

6.1 All decisions of the InfraCo Donors in respect of any acts relating to InfraCo which require a decision of the InfraCo Donors (as referred to in Clause 3.2 above) shall be decided by the InfraCo Donors in accordance with the provisions of this Clause or if not set out herein as stipulated by the PIDG Constitution.

6.2 Decisions of the InfraCo Donors shall be made at meetings of the InfraCo Donors except as provided below in Clause 6.4.

6.3 Physical meetings of the InfraCo Donors will be held at least twice a year to coincide with meetings of the PIDG and otherwise at such date, time and place as will be determined by consultation with all InfraCo Donors. No business shall be transacted at a meeting of the InfraCo Donors unless all InfraCo Donors are present or otherwise represented or have otherwise so consented in writing.

6.4 Any decision required or permitted to be taken at a meeting of the InfraCo Donors may be taken without a meeting if a consent in writing, setting forth the decision(s) to be so taken, has been circulated to all InfraCo Donors and approved in writing, in one or more counterparts, by all InfraCo Donors.

6.5 At any meeting of the InfraCo Donors, including physical meetings, where no duly authorised representative of an InfraCo Donor is able to attend in person, a

representative of that InfraCo Donor may participate by means of such telephone or other communications facilities as permit all participants to hear each other.

- 6.6 Each InfraCo Donor will have one vote at meetings of the InfraCo Donors. Decisions of the InfraCo Donors must be unanimous.
- 6.7 The PIDG PMU shall be instructed to provide each InfraCo Donor with written notice of a meeting of the InfraCo Donors not less than thirty (30) days before the date of the meeting unless such notice has been waived by the intended recipient. Such notice will state the date, place, time and proposed agenda of the meeting. InfraCo Donors will be invited to comment on the agenda proposed. A revised agenda (if relevant) will be provided to each InfraCo Donor not less than fifteen (15) days before the date of the meeting.
- 6.8 Where a decision is taken at a meeting of the InfraCo Donors on a matter which was not shown on the agenda and any InfraCo Donor is absent from that meeting, that decision shall be circulated to any absent InfraCo Donors for approval in accordance with Clause 6.4.
- 6.9 The PIDG PMU shall be directed to keep minutes of all InfraCo Donor meetings, recording subject matters handled, a summary of any discussion having taken place, and setting out in detail the decisions made by the InfraCo Donors. Copies of the minutes shall be sent to, and approved by, each InfraCo Donor before signature.
- 6.10 All other matters pertaining to the day to day affairs and management of InfraCo shall be dealt with by the Board of Directors or by the Manager as set out in the Management Agreement (or, for the avoidance of doubt, the Amended and Restated Management Services Agreement when the same is executed and becomes unconditional) and it is explicitly agreed to the extent permitted by any relevant laws or regulations that the InfraCo Donors shall not have any responsibility or liability for any such operational matters which have not been referred to them for consideration.
- 6.11 The PIDG Trust and the PIDG PMU shall take all reasonable steps to ensure that the decisions taken by the InfraCo Donors in accordance with the above are implemented by the Board of Directors and by the Manager.

## **7. PROCEEDS**

The Proceeds will be applied in accordance with Clause 9.9 of the PIDG Constitution as follows:

- (i) *First, to the extent of available Proceeds, via the PIDG Trust, to repay, pro rata, the DGIS Conditional Loan Agreement and the SECO Conditional Loan Agreement;*
- (ii) *Second, to the extent of any surplus Proceeds following the first application above to be recycled in the PIDG Trust;*
- (iii) *Third, to the extent that any surplus Proceeds referred to in (ii) above have not been recommitted within 2 years from the date on which they were received by the PIDG Trust to be paid pro rata to each InfraCo Donor that has not been repaid under (i) above (at the option of such InfraCo Donor) in repayment of each such InfraCo Donor's Contribution made hereunder; and*
- (iv) *Fourth, to the extent of any surplus Proceeds following the three applications above, via the PIDG Trust in payment to each InfraCo Donor pro rata to each InfraCo Donor's Contribution.*

Notwithstanding the foregoing, the InfraCo Donors acknowledge and agree that, so long as the Amended and Restated Management Services Agreement is in effect, Reinvestment Proceeds (as defined in such agreement) can be retained by InfraCo to fund the Expanded Capital Business Plan dated June 2007.

## **8. CO-OPERATION**

- 8.1 Prior to each Contribution, the InfraCo Donors will consult with each other as to whether their respective Funding Instruments remain in full force and effect and whether all applicable conditions precedent to disbursement under their respective Funding Instruments have been met.
- 8.2 If an event of default occurs under the terms of any Funding Instrument or any Funding Instrument is terminated for whatever reason, the InfraCo Donor in respect of

whose Funding Instrument is terminated or the event of default has occurred will promptly notify the other InfraCo Donors in writing of the event of default.

- 8.3 In the case of an event of default the InfraCo Donors will co-operate and take all reasonable steps to ensure that the event of default is remedied as quickly as possible.
- 8.4 In the event that an InfraCo Donor does not meet its funding Commitment in accordance with the provisions of Clause 4 in circumstances where InfraCo is not in breach of this Agreement or the PIDG Trust/InfraCo Subscription Agreement (No 2) (such unmet Commitment being a “Missed Commitment”) and such decision not to meet its funding Commitment results in InfraCo being liquidated or otherwise wound up because it cannot meet its financial obligations as they fall due, such InfraCo Donor hereby agrees to indemnify the Directors of InfraCo for any liability they may incur in respect of a legitimate claim by the Manager for fees or termination payments in accordance with the Management Agreement (or, for the avoidance of doubt, the Amended and Restated Management Services Agreement when the same is executed and becomes unconditional) as a result of such liquidation or winding up to the extent of the Missed Commitment and the InfraCo Donors hereby agree to indemnify the Directors of InfraCo for any such outstanding liability in excess of the Missed Commitment, pro rata to their share of the Total Commitments set out in Columns I-IV of Schedule 1 and subject always to a total maximum limit in the case of each InfraCo Donor of each InfraCo Donor’s respective outstanding un-disbursed Commitment. The indemnity in this clause 8.4 does not cover any liability arising from gross negligence, wilful default or fraud on the part of either InfraCo or any InfraCo Director. The Directors of InfraCo may enforce the terms of this clause 8.4 pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 8.5 No InfraCo Donor shall demand or receive payment or repayment of any amount due to it under a Funding Instrument except to the extent available from such InfraCo Donor’s share of Proceeds in accordance with Clause 7.

## **9. REPORTING**

- 9.1 The InfraCo Donors, the PIDG Trust and InfraCo agree to coordinate the reporting from InfraCo and have agreed to procure the following documentation, in each case as adopted or approved by the Board of the Company, to be sent to the InfraCo Donors

via the PIDG Trust and, where relevant, via the Holding Company, or directly as the case may be:

- (i) at least twenty (20) days before the start of each accounting period of InfraCo commencing each year on 1 January and ending on the following 31 December (each such period an “Accounting Period”), a copy of InfraCo’s Annual Operating Plan and Budget for such Accounting Period;
- (ii) within thirty days of each 30 June (covering the period 1 January to 30 June) and 31 December (covering the period 1 July to 31 December), an unaudited financial statement for InfraCo for such six month period;
- (iii) within thirty days of the end of each quarter (March, June, September, December) progress reports on the status of the activities of InfraCo including any special reports relating to investments of InfraCo in such form and detail as any InfraCo Donor may require, subject to any confidentiality undertakings to which InfraCo may be subject;
- (iv) reports on the development impact of the projects supported by InfraCo in accordance with a methodology and format agreed by the InfraCo Donors;
- (v) within one hundred and twenty (120) days after the end of each Accounting Period, a copy of InfraCo’s audited financial statements for such Accounting Period prepared in accordance with IFRS together with an audit report thereon signed by InfraCo’s auditors;
- (vi) an annual management assertion, together with an attestation from the PIDG Trust’s external auditors, of the satisfactory performance of the procedures and controls used by the Trustees in administering the funds of the PIDG Trust, within one hundred and twenty (120) days after the end of the financial year to which the attestation relates;
- (vii) at least fourteen (14) days’ notice (or such other period of notice as permitted by the InfraCo Constitution) of the calling of any meeting of shareholders of InfraCo indicating the agenda thereof, and as soon as available thereafter the minutes of such meeting;

- (viii) prompt notice of any proposed change in the purpose, nature or scope of the business or operations of InfraCo; and
- (ix) prompt notice of any litigation which is reasonably likely to affect, materially and adversely, InfraCo or any InfraCo Donors.

9.2 The InfraCo Donors further agree to cause InfraCo (i) to retain or cause to be retained for at least seven (7) years, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing InfraCo's expenditure and ensure that such records and accounts are included in the annual audit of InfraCo and enable the InfraCo Donors' representatives to examine such records and accounts of InfraCo; and (ii) without limitation to the above, to furnish or cause to be furnished to the InfraCo Donors any information reasonably requested by an InfraCo Donor and to allow representatives of the InfraCo Donors on reasonable notice the right to review the progress of any project by InfraCo and allow the InfraCo Donors the right to audit the books and records of InfraCo.

9.3 The reporting provisions set out in Clauses 9.1 and 9.2 above shall supersede all reporting provisions in the respective Funding Instruments as long as this Agreement is in full force and effect.

## **10. TERMINATION**

10.1 This Agreement shall continue for a term of 5 (five) years from the date hereof (the "Term"). The InfraCo Donors shall meet at least 6 months prior to the end of the Term to discuss whether or not they wish to continue its activities and, if so, on what terms. If no agreement is reached between the InfraCo Donors, then (save to the extent that any Project Interests, investments or other assets are still owned by InfraCo which situation will be dealt with in accordance with Clause 10.2) this Agreement shall automatically terminate on the fifth anniversary of the date of this Agreement whereupon InfraCo shall be wound up and the Proceeds (if any) distributed in accordance with Clause 7.

10.2 In the event the parties seek to terminate this Agreement pursuant to Clause 10.1 but at the proposed date of termination InfraCo still owns any Project Interests, investments or other assets, the parties will use their reasonable endeavours to sell or transfer such

Project Interests, investments or other assets, but to the extent they are unable to do so, the termination date referred to in Clause 10.1 shall be extended and this Agreement shall remain in full force and effect until such time as all such Project Interests, investments and other assets have been duly sold or transferred.

- 10.3 The Parties acknowledge that the PIDG Trust may restructure its investment in InfraCo (any such restructuring, a “**Restructuring**”). A Restructuring may involve, inter alia, the PIDG Trust transferring its InfraCo Shares to a Holding Company in exchange for shares in such Holding Company. The Parties hereby agree that subject to the Holding Company entering into an Accession Agreement (or similar) to this Agreement, signed by each Party hereto and containing such amendments or additions as the Parties may deem necessary to give effect to the purposes of this Agreement under the new structure, such Restructuring shall not affect their respective rights and obligations under this Agreement. Each Party further agrees that in the event that its respective Funding Instrument does not allow for an indirect investment by the PIDG Trust in InfraCo, in the event of a Restructuring such Funding Instrument shall be deemed to allow for its Contribution to be used by the PIDG Trust to make an indirect investment in InfraCo via a Holding Company.
- 10.4 In addition, InfraCo may move all or most of its assets to a new company (“**NewCo**”) (any such transfer, a “**Migration**”). Subject to the novation of this Agreement in favour of any NewCo, the Parties agree that any such Migration shall not affect their respective rights and obligations under this Agreement.

## **11. TRANSFERS OF COMMITMENT AND INFRACO SHARES**

- 11.1 An InfraCo Donor may not transfer its Commitment to another InfraCo Donor or an Additional InfraCo Donor or a PIDG Donor, and the PIDG Trust may not transfer its InfraCo Shares (or shares in any Holding Company) unless (i) the other InfraCo Donors and the PIDG Trust have consented in writing to such transfers, (ii) the transferee has signed a letter of accession substantially in the form set out in Schedule 2 of this Agreement agreeing to be bound, inter alia, by the terms of this Agreement; and (iii) the transferee has entered into a Funding Instrument (or the transfer, novation or assignment of a Funding Instrument) in a form acceptable to the other InfraCo Donors and any other parties thereto.



- 11.2 Upon a transfer of a Commitment or InfraCo Shares (or shares in any Holding Company) or accession of an Additional InfraCo Donor to this Agreement, or where otherwise agreed by the InfraCo Donors, a revised Schedule of Commitments shall be agreed upon by the InfraCo Donors, whereupon Schedule 1 of this Agreement shall be deemed to have been amended accordingly.

## **12. GENERAL**

- 12.1 Each of the Parties shall, to the extent permitted by law, from time to time do or procure all things as may be required to give effect to this Agreement and to all other agreements referred to in this Agreement (including any novation of this Agreement to NewCo as set out in Clause 10.4), including, without limitation, the execution of all deeds and documents, procuring the convening of all meetings, the giving of all necessary waivers and consents, the passing of all resolutions and otherwise exercising all powers and rights available to them to ensure that the PIDG Trust and the Board of Directors of InfraCo appointed by them (or their alternates) give effect to the terms of this Agreement.
- 12.2 No Party shall make or permit any person connected with it to make any announcement concerning this Agreement or any ancillary matter before, on or after the date of this Agreement except as required by law or any regulatory body.
- 12.3 The Parties shall each bear their own costs and expenses incurred in relation to the preparation, negotiation and execution of this Agreement and all ancillary matters.
- 12.4 This Agreement and the documents referred to in it contain the whole agreement between the Parties relating to the transactions contemplated by this Agreement and supersede all previous agreements between the Parties relating to these transactions.
- 12.5 This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same agreement, and any Party may enter into this Agreement by executing a counterpart.
- 12.6 No amendment or variation of this Agreement or any provision of this Agreement shall be effective unless it is in writing and duly executed by or on behalf of all the Parties.

- 12.7 None of the rights or obligations under this Agreement may be assigned or transferred without each Party's written consent.
- 12.8 Any Party may release or compromise in whole or in part any liability of the other Parties under this Agreement or grant any of them any time or other indulgence, but any such action shall not affect any other liability of such other Parties hereunder.
- 12.9 Nothing in this Agreement shall be deemed to constitute a partnership between the Parties nor constitute any Party the agent of any other Party for any purpose.
- 12.10 The provisions contained in each Clause of this Agreement shall be enforceable independently of each of the others and their validity shall not be affected if any of the others is invalid; if any provision is void but would be valid if some part of it were deleted, the provision shall apply with such modification as may be necessary to make it valid.
- 12.11 Time is not of the essence in relation to any obligations under this Agreement unless:
- (i) time is expressly stated to be of the essence in relation to that obligation;
  - (ii) one Party fails to perform an obligation by the time specified in this Agreement and the other Party serves a notice on the defaulting Party requiring it to perform the obligation by a specified time and stating that time is of the essence in relation to that obligation.
- 12.12 The language of this Agreement is English and all notices, demands, requests, statements, certificates or other documents or communications shall be in English unless otherwise agreed in writing.
- 12.13 Save where expressly stated to the contrary, the Contracts (Rights of Third Parties) Act 1999 of England and Wales shall not apply to this Agreement.
- 12.14 If any provision of this Agreement conflicts with the provisions of the InfraCo Constitution or any Funding Instrument then (to the extent permitted by law) this Agreement shall prevail and each of the InfraCo Donors and InfraCo undertakes forthwith to take all reasonable steps to amend, waive or suspend such Constitution or Funding Instrument to the extent necessary to reflect the provisions of this Agreement.

### 13. DISPUTES

- 13.1 **Governing Law:** This Agreement is governed by, and all disputes, claims, controversies, or disagreements of whatever nature arising out of or in connection with this Agreement, including any question regarding its existence, validity, termination or enforceability (a “**Dispute**”) shall be resolved in accordance with the laws of England.
- 13.2 **Amicable Settlement:** If any Dispute arises between any of the Parties, they shall use all reasonable endeavours to resolve the matter amicably. If one Party gives any other Party notice that a material Dispute has arisen and the Parties are unable to resolve such Dispute within thirty (30) days of service of such notice, then such Dispute shall be referred to the respective chairmen or chief executives or equivalents of the Parties in dispute. No Party shall resort to arbitration against any other Party under this Agreement until at least thirty (30) days after such referral. This shall not affect a Party's right, where appropriate, to seek interim relief.
- 13.3 **Arbitration:** All Disputes which are unresolved by the chairmen or chief executives or equivalents pursuant to Clause 13.2, shall be referred to and finally resolved by arbitration under the London Court of International Arbitration (“LCIA”) Rules, which Rules are deemed to be incorporated herein.
- 13.4 **Constitution and Language:** Arbitration under the LCIA Rules shall consist of one arbitrator who shall be either a barrister or a solicitor admitted to practice in England and Wales for at least fifteen (15) years. The Parties to an arbitration under this Agreement shall attempt to agree the arbitrator within twenty (20) days of the commencement of the arbitration. Failing such agreement the sole arbitrator shall be appointed by the LCIA Court. The seat of the arbitration shall always be, and all arbitration proceedings shall be in London, England (though if the Parties to an arbitration agree, any arbitration proceeding may be held in such other venue as may be mutually convenient). The language of the arbitration shall be English.
- 13.5 **Appeals:** None of the Parties shall make an application pursuant to Sections 45 or 69 of the Arbitration Act 1996. The decision of the arbitrator shall be final and binding and non appeal-able.

13.6 **Joinder:** The arbitrator shall have power after the commencement of an arbitration to allow, only on the application of a Party to that arbitration, another Party to this Agreement to be joined in the arbitration as a Party, and thereafter to make a single final award, or separate awards, in respect of all Parties so implicated in the arbitration.

13.7 **Aid to Arbitration:** All Parties irrevocably submit to the non-exclusive jurisdiction of the courts of England to support and assist the arbitration process pursuant to Clause 13.3 including, if necessary, the grant of interlocutory relief pending the outcome of that process.

## 14. NOTICES

14.1 All notices or other communications to be given under this Agreement shall be made in writing and by letter or facsimile transmission (save as otherwise stated) and shall be deemed to be duly given or made when delivered (in the case of personal delivery), when despatched (in the case of facsimile transmission, provided that the sender has received a receipt indicating proper transmission and a hard copy of such notice or communication is forthwith sent by prepaid post to the relevant address set out below) or ten days after being despatched in the post, postage prepaid, by the quickest mail available and by registered mail if available (in the case of a letter) to such Party at its address or facsimile number specified in Clause 14.2, or at such other address or facsimile number as such Party may hereafter specify for such purpose to the others by notice in writing.

14.2 The addresses referred to in Clause 14.1 are:

14.2.1 **DFID:**

1 Palace Street

London

SW1E 5HE

Facsimile number: +44 (0) 20 7023 0072

F.A.O. Gavin McGillivray, Head of Department of Global Funds and DFI's

#### 14.2.2 **SECO**

Effingerstrasse 1

CH-3003 Berne

Switzerland

Facsimile Number: + 41 31 324 09 65

F.A.O. Guy Bonvin, Deputy Head of Division, Infrastructure Financing

#### 14.2.3 **DGIS**

Bezuidenhoutsweg 67

PO Box 20061

2500 EB The Hague

The Netherlands

Facsimile Number: +31 70 348 5956

FAO: Jan van Renselaar, Department for Sustainable Economic  
Development

#### 14.2.4 **ADA**

Austrian Development Agency

Zelinkagasse 2

A-1010

Vienna

Austria

Facsimile Number + 43(0)190399-290

FAO: Gunter Schall, Referatsleiter, Economy and Development

#### 14.2.5 **The Trustees of the PIDG Trust:**

C/O SG Hambros Trust Company Ltd.

41 Tower Hill

London EC3N 4SG

United Kingdom

Facsimile Number: +44 (0)207 702 9263

F.A.O. Jane Minett.

14.2.6 **InfraCo:**

St Nicholas House  
St Nicholas Road  
Sutton  
Surrey SM1 1EL  
United Kingdom  
Facsimile number: +44 (0) 208 770 9184  
F.A.O. Chair, InfraCo Ltd  
cc. InfraCo Management Services Ltd  
Managing Director  
Eastgate House,  
16/19 Eastcastle Street,  
London W1W 8DA  
Fax: + 44 (0) 20 7323 6570

- 14.3 A notice or other communication received on a day other than a business day, or after business hours, in the place of receipt shall be deemed to be given on the next following business day in such place.

-----  
Gavin McGillivray, Head of Department of Global Funds and  
DFI's for and on behalf of the Secretary of State for International  
Development at the Department for International Development  
of the Government of the United Kingdom of Great Britain and  
Northern Ireland

Date:

19/01/09

Guy Bonvin, Deputy Head of Infrastructure Financing Division  
for and on behalf of the Government of the Swiss Confederation,  
acting through the State Secretariat for Economic Affairs

Date:

14.2.6 **InfraCo:**

St Nicholas House  
St Nicholas Road  
Sutton  
Surrey SM1 1EL  
United Kingdom  
Facsimile number: +44 (0) 208 770 9184  
F.A.O. Chair, InfraCo Ltd  
cc. InfraCo Management Services Ltd  
Managing Director  
Eastgate House,  
16/19 Eastcastle Street,  
London W1W 8DA  
Fax: + 44 (0) 20 7323 6570

- 14.3 A notice or other communication received on a day other than a business day, or after business hours, in the place of receipt shall be deemed to be given on the next following business day in such place.

-----  
Gavin McGillivray, Head of Department of Global Funds and )  
DFI's for and on behalf of the Secretary of State for International )  
Development at the Department for International Development )  
of the Government of the United Kingdom of Great Britain and  
Northern Ireland

Date:

Guy Bonvin, Deputy Head of Infrastructure Financing Division )  
for and on behalf of the Government of the Swiss Confederation, )  
acting through the State Secretariat for Economic Affairs )

Date:

23.01.2004



Paul Menkveld, Director, Sustainable Economic Development )  
Department for and on behalf of the Government of the )  
Netherlands, acting through the Minister for Development )  
Cooperation

Date:

  
28 July 2009

Brigitte Öppinger-Walchshofer, Managing Director for and on )  
behalf of the Austrian Development Agency )

Date:

The Trustees of the PIDG Trust acting for and on behalf of the  
PIDG Trust

SG Hambros Trust Company Ltd

By :

Name:

Title:

Date:



Paul Menkveld, Director, Sustainable Economic Development )  
Department for and on behalf of the Government of the )  
Netherlands, acting through the Minister for Development )  
Cooperation

Date:

Brigitte Öppinger-Walchshofer, Managing Director for and on )  
behalf of the Austrian Development Agency )

Date: 17 February 2009

The Trustees of the PIDG Trust acting for and on behalf of the  
PIDG Trust

SG Hambros Trust Company Ltd

By :

Name:

Title:

Date:

Multiconsult Trustees Ltd

By:

Name:

Title:

Date:

This is a certified TRUE copy of the original signature page signed by the Austrian Development Agency (ADA) on 17 February 2009 of the InfraCo Funders Agreement v.24 (19.01.09). The original signed signature page is attached to this Agreement in ADA's bound and sealed Agreement.

Liam Davies

Liam Davies  
Solicitor of the Supreme Court of England  
and Wales

28 July 2009

CA Legal  
St Nicholas House  
St Nicholas Road  
Sutton  
Surrey  
SM1 1EL

Paul Menkveld, Director, Sustainable Economic Development )  
Department for and on behalf of the Government of the )  
Netherlands, acting through the Minister for Development )  
Cooperation

Date:

Brigitte Öppinger-Walchshofer, Managing Director for and on )  
behalf of the Austrian Development Agency )

Date:

The Trustees of the PIDG Trust acting for and on behalf of the  
PIDG Trust

SG Hambros Trust Company Ltd

By: *Shirley M. Barnes* *Rachel Ties*


Name: S. BARNES RACHEL TIES

Title: DIRECTOR DIRECTOR

Date: 28 JULY 2009

Multiconsult Trustees Ltd

By:



Name: ASHVIN AUKHJEE

Title: SENIOR MANAGER  
CORPORATE & TRUST SERVICES

Date: 28 JULY 2009

Minimax Ltd

By:



Name: PRAKASH SHIMADRY

Title: SENIOR MANAGER FUND

Date: 28 JULY 2009

Keith Palmer for and on behalf of InfraCo Limited

)

)

Date:

Multiconsult Trustees Ltd

By:

Name:

Title:

Date:

Minimax Ltd

By:

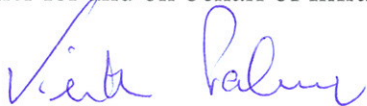
Name:

Title:

Date:

Keith Palmer for and on behalf of InfraCo Limited

)



)

Date: 20 February 2009

**SCHEDULE 1**  
**SCHEDULE OF COMMITMENTS**

<b>Disbursement Date</b>	<b>Amount in US\$(000,000)*****</b>						
	<b>I</b>	<b>II</b>	<b>III</b>	<b>IV</b>	<b>V</b>	<b>VI</b>	
	<b>DGIS</b> (to PIDG Trust)	<b>DFID</b> (to PIDG Trust) ***	<b>SECO</b> (to PIDG Trust)	<b>ADA</b> (to PIDG Trust)	<b>Funding Commitment Shortfall</b>	<b>PIDG TRUST</b> (to <i>InfraCo</i> )	<b>Totals</b> (Columns I-V or Columns V + VI )
2005		11.0* (£5.9)				11.0*	<b>11.0*</b>
2006	5.0*					5.0*	<b>5.0*</b>
2007	5.0*					5.0*	<b>5.0*</b>
2008	0.5	4.5 (£2,500,000)	2.5	3.0 + 1.95 (Euro 1.5m) *****		12.45	<b>12.45</b>
2009	4.0	2.0 (£1,250,000)	2.5		0.55	8.5	<b>9.05</b>
2010	4.0	2.0 (£1,250,000)	2.0		3.0	8.0	<b>11.0</b>
2011	4.0		1.5		1.0	5.5	<b>6.5</b>
2012**							
2013**							
<b>Totals</b>	<b>22.5</b>	<b>19.5</b> (£10.9m)	<b>8.5</b>	<b>4.95</b>	<b>4.55</b> *****	<b>55.45</b>	<b>60</b>

Note :

*Column I,II, III and IV* : Funds committed by DFID, DGIS, SECO and ADA are payable via the PIDG TRUST.

*Column VI*: Subject to receipt by the PIDG Trust of such corresponding funds, such corresponding funds are payable by the PIDG Trust to InfraCo for subscription for shares in InfraCo.

*Column V* The Funding Commitment Shortfall - - see Clause 4.4.

\*Amounts disbursed to InfraCo under the PIDG Trust/ InfraCo Subscription Agreement (No.1), the First DFID Grant Arrangement and the DGIS Funding Instrument. Disbursements were made in GBP sterling.

\*\* For any Commitments rolled over from previous years in accordance with the provisions of Clause 4.2.

\*\*\* DFID funding is in GBP sterling

\*\*\*\* The Euro 1,500,000 Commitment by ADA is an additional Commitment within terms of Clause 4.4

\*\*\*\*\* Where Commitments are made in currencies other than US Dollars (i.e. DFID in GBP sterling and ADA partly in Euros) the actual GBP sterling and Euro amounts are shown in brackets and the US Dollar equivalents are included for indicative purposes only.

## SCHEDULE 2

### LETTER OF ACCESSION

We refer to the InfraCo Funders' Agreement dated [ ] between (1) the Government of the United Kingdom, acting through the Secretary of State for International Development at the Department for International Development (hereinafter referred to as "**DFID**"); (2) The Government of the Swiss Confederation, acting through the State Secretariat for Economic Affairs (hereinafter referred to as "**SECO**"); (3) the Government of The Netherlands, represented by the Directorate for Sustainable Economic Development – The Netherlands Minister for Development Co-operation (hereinafter referred to as "**DGIS**"); (4) The Austrian Government, acting through the Austrian Development Agency ("**ADA**"); (5) SG Hambros Trust Company Ltd of 41 Tower Hill London EC3N 4SG England, Multiconsult Trustees Ltd., of 10 Frère Felix de Valois Street, Port Louis, Mauritius and Minimax Ltd of 10 Frère Felix de Valois Street, Port Louis, Mauritius, as trustees of the Private Infrastructure Development Group Trust (hereinafter referred to as the "**PIDG Trust**"); and (6) InfraCo Ltd (the "**InfraCo Funders' Agreement**").

We agree with each Party to the InfraCo Funders' Agreement that, with effect from the date hereof, we will comply with the terms of the InfraCo Funders Agreement as if we were an original signatory thereto.

Signed for and on behalf of

[Executed by all Parties to the InfraCo Funders' Agreement]

### **SCHEDULE 3**

#### **MATTERS REQUIRING UNANIMOUS CONSENT OF INFRACO DONORS**

The InfraCo Donors hereby undertake that they shall procure that InfraCo shall not, without the prior written consent of each of the InfraCo Donors:

1. enter into any transaction with any person other than in the ordinary course of InfraCo's business, on ordinary commercial terms and on the basis of arm's-length arrangements;
2. change the InfraCo Constitution or Operating Policies and Procedures, unless required by law, in any manner which would be inconsistent with the provisions of this Agreement;
3. grant, make or permit to exist guarantees, indemnities, loans or advances to, or deposits with other persons or investments in any person or enterprise, other than in accordance with the Operating Policies and Procedures or in the ordinary course of business of InfraCo;
4. make any material alteration (including cessation) to the general nature of its business beyond that set out in Clause 2 to this Agreement;
5. undertake or permit any merger, consolidation or reorganisation of InfraCo including any Restructuring as defined in Clause 10.3 to this Agreement or any other arrangement entered into by InfraCo in relation to the establishment of InfraCo Asia;
6. enter into any partnership, profit-sharing or royalty agreement or other similar arrangement whereby InfraCo's income or profits are, or might be, shared with any other person (including, for the avoidance of doubt, the Management Agreement or the Amended and Restated Management Services Agreement when the same is executed and becomes unconditional) outside the ordinary course of business;



7. terminate, amend or grant any waiver in respect of any provision of the Management Agreement (or, for the avoidance of doubt, the Amended and Restated Management Services Agreement when the same is executed and becomes unconditional), except in accordance with the terms thereof;
8. save as contemplated by this Agreement, make any variation (including, without limitation, any allotment, conversion, consolidation, subdivision, redemption or reorganisation) in the share capital of InfraCo, or create any options or other rights to subscribe for, or to convert into, InfraCo Shares or for the purchase or redemption of InfraCo Shares;
9. declare or distribute any Proceeds save as recommended by the InfraCo Donors or otherwise as set out in this Agreement;
10. other than in the ordinary course of business, sell, transfer, lease, license or in any other way dispose of all or a substantial part of its business, undertaking or assets whether by a single transaction or series of transactions;
11. commence any action to wind up or dissolve itself voluntarily;
12. alter its accounting reference date or (except insofar as is necessary to comply with International Accounting Standards) material accounting policies and practices or change its auditors;
13. appoint or remove any person as a director of InfraCo (including a managing director);
14. enter into or terminate any service agreement with a director or managing director of InfraCo;
15. save to the extent approved as part of the Annual Operating Plan and Budget, incur any material expenditure or liability of a capital nature in each case in excess of US\$1,000,000 or the equivalent thereof (including, for this purpose but without limitation, the acquisition of any asset under lease or hire purchase);
16. borrow any money or obtain any advance or credit in any form other than normal trade credit or other than on normal banking terms for unsecured overdraft facilities

or vary the terms and conditions of any borrowings or bank mandates, in each such case where the sum of money involved is in excess of US\$1,000,000 or the equivalent thereof for the avoidance of doubt other than pursuant to the Co-operation Agreement dated 1 December 2005 between InfraCo, the Manager and the International Finance Corporation;

17. pay any remuneration or expenses to any person other than as proper remuneration for work done or services provided or as proper reimbursement for expenses incurred in connection with its business;
18. make any gift or political or charitable donation;
19. commence or settle any legal or arbitration proceedings otherwise than in the ordinary course of its business;
20. create or allow to subsist any encumbrance over any of its assets otherwise than in the ordinary course of business; or
21. implement any other matter which, according to the Law of England, is required to be decided upon by the shareholders of InfraCo.

**ANNEXURE 1**

**MEMORANDUM AND ARTICLES OF ASSOCIATION OF INFRACO**

100767

**THE COMPANIES ACTS 1985 AND 1989**  
**A PRIVATE COMPANY LIMITED BY SHARES**



**Memorandum of Association of**  
**InfraCo Limited**

1. The company's name is "InfraCo Limited".
2. The company's registered office is in England.
3. The object of the Company is to carry on business as a general commercial company.
- 3.1 Without prejudice to the generality of the object and the powers of the Company derived from section 3A of the Act the Company has power to do all or any of the following things:-
  - 3.1.1 To purchase or by any other means acquire and take options over any property whatever, and any rights or privileges of any kind over or in respect of any property.
  - 3.2.2 To apply for, register, purchase, or by other means acquire and protect, prolong and renew, whether in the United Kingdom or elsewhere, any trade marks, patents, copyrights, trade secrets, or other intellectual property rights, licences, secret processes, designs, protections and concessions and to disclaim, alter, modify, use and turn to account and to manufacture under or grant licences or privileges in respect of the same, and to expend money in experimenting upon, testing and improving any patents, inventions or rights which the Company may acquire or propose to acquire.
  - 3.2.3 To acquire or undertake the whole or any part of the business, goodwill, and assets of any person, firm, or company carrying on or proposing to carry on any of the businesses which the Company is authorised to carry on and as part of the consideration for such acquisition to undertake all or any of the liabilities of such person, firm or company, or to acquire an interest in, amalgamate with, or enter into partnership or into any arrangement for sharing profits, or for co-operation, or for mutual assistance with any such person, firm or company, or for subsidising or otherwise assisting any such person, firm or company, and to give or accept, by way of consideration for any of the acts or things aforesaid or property acquired, any shares, debentures, debenture stock or securities that may be agreed upon, and to hold and retain, or sell, mortgage and deal with any shares, debentures, debenture stock or securities so received.



- 3.2.4 To improve, manage, construct, repair, develop, exchange, let on lease or otherwise, mortgage, charge, sell, dispose of, turn to account, grant licences, options, rights and privileges in respect of, or otherwise deal with all or any part of the property and rights of the Company.
- 3.2.5 To invest and deal with the moneys of the Company not immediately required in such manner as may from time to time be determined and to hold or otherwise deal with any investments made.
- 3.2.6 To lend and advance money or give credit on any terms and with or without security to any person, firm or company (including without prejudice to the generality of the foregoing any holding company, subsidiary or fellow subsidiary of, or any other company associated in any way with, the Company), to enter into guarantees, contracts of indemnity and suretyships of all kinds, to receive money on deposit or loan upon any terms, and to secure or guarantee in any manner and upon any terms the payment of any sum of money or the performance of any obligation by any person, firm or company (including without prejudice to the generality of the foregoing any such holding company, subsidiary, fellow subsidiary or associated company as aforesaid).
- 3.2.7 To borrow and raise money in any manner and to secure the repayment of any money borrowed, raised or owing by mortgage, charge, standard security, lien or other security upon the whole or any part of the Company's property or assets (whether present or future), including its uncalled capital, and also by a similar mortgage, charge, standard security, lien or security to secure and guarantee the performance by the Company of any obligation or liability it may undertake or which may become binding on it.
- 3.2.8 To draw, make, accept, endorse, discount, negotiate, execute and issue cheques, bills of exchange, promissory notes, bills of lading, warrants, debentures, and other negotiable or transferable instruments.
- 3.2.9 To apply for, promote, and obtain any Act of Parliament, order, or licence of the Department of Trade or other authority for enabling the Company to carry any of its objects into effect, or for effecting any modification of the Company's constitution, or for any other purpose which may seem calculated directly or indirectly to promote the Company's interests, and to oppose any proceedings or applications which may seem calculated directly or indirectly to prejudice the Company's interests.
- 3.2.10 To enter into any arrangements with any government or authority (supreme, municipal, local, or otherwise) that may seem conducive to the attainment of the Company's objects or any of them, and to obtain from any such government or authority any charters, decrees, rights, privileges or concessions which the Company may think desirable and to carry out, exercise, and comply with any such charters, decrees, rights, privileges, and concessions.
- 3.2.11 To subscribe for, take, purchase, or otherwise acquire, hold, sell, deal with and dispose of, place and underwrite shares, stocks, debentures, debenture stocks, bonds, obligations

or securities issued or guaranteed by any other company constituted or carrying on business in any part of the world, and debentures, debenture stocks, bonds, obligations or securities issued or guaranteed by any government or authority, municipal, local or otherwise, in any part of the world.

- 3.2.12 To control, manage, finance, subsidise, co-ordinate or otherwise assist any company or companies in which the Company has a direct or indirect financial interest, to provide secretarial, administrative, technical, commercial and other services and facilities of all kinds for any such company or companies and to make payments by way of subvention or otherwise and any other arrangements which may seem desirable with respect to any business or operations of or generally with respect to any such company or companies.
- 3.2.13 To promote any other company for the purpose of acquiring the whole or any part of the business or property or undertaking or any of the liabilities of the Company, or of undertaking any business or operations which may appear likely to assist or benefit the Company or to enhance the value of any property or business of the Company, and to place or guarantee the placing of, underwrite, subscribe for, or otherwise acquire all or any part of the shares or securities of any such company as aforesaid.
- 3.2.14 Subject to the approval of the Members of the Company, to sell or otherwise dispose of the whole or any part of the business or property of the Company, either together or in portions, for such consideration as the Company may think fit, and in particular for shares, debentures, or securities of any company purchasing the same.
- 3.2.15 To act as agents or brokers and as trustees for any person, firm or company, and to undertake and perform sub-contracts.
- 3.2.16 To remunerate any person, firm or company rendering services to the Company either by cash payment or by the allotment of shares or other securities of the Company credited as paid up in full or in part or otherwise as may be thought expedient.
- 3.2.17 To distribute among the members of the Company in kind any property of the Company of whatever nature.
- 3.2.18 To pay all or any expenses incurred in connection with the promotion, formation and incorporation of the Company, or to contract with any person, firm or company to pay the same, and to pay commissions to brokers and others for underwriting, placing, selling, or guaranteeing the subscription of any shares or other securities of the Company.
- 3.2.19 To support and subscribe to any charitable or public object and to support and subscribe to any institution, society, or club which may be for the benefit of the Company or its directors or employees, or may be connected with any town or place where the Company carries on business; to give or award pensions, annuities, gratuities, and superannuation or other allowances or benefits or charitable aid and generally to provide advantages, facilities and services for any persons who are or have been directors of, or

who are or have been employed by, or who are serving or have served the Company, or any company which is a subsidiary of the Company or the holding company of the Company or a fellow subsidiary of the Company or the predecessors in business of the Company or of any such subsidiary, holding or fellow subsidiary company and to the wives, widows, children and other relatives and dependants of such persons; to make payments towards insurance including insurance for any director, officer or auditor against any liability in respect of any negligence, default, breach of duty or breach of trust (so far as permitted by law); and to set up, establish, support and maintain superannuation and other funds or schemes (whether contributory or non-contributory) for the benefit of any of such persons and of their wives, widows, children and other relatives and dependants; and to set up, establish, support and maintain profit sharing or share purchase schemes for the benefit of any of the employees of the Company or of any such subsidiary, holding or fellow subsidiary company and to lend money to any such employees or to trustees on their behalf to enable any such schemes to be established or maintained.

- 3.2.20 Subject to and in accordance with the provisions of the Act (if and so far as such provisions shall be applicable) to give, directly or indirectly, financial assistance for the acquisition of shares or other securities of the Company or of any other company or for the reduction or discharge of any liability incurred in respect of such acquisition.
- 3.2.21 To procure the Company to be registered or recognised in any part of the world.
- 3.2.22 To do all or any of the things or matters aforesaid in any part of the world and either as principals, agents, contractors or otherwise, and by or through agents, brokers, sub-contractors or otherwise and either alone or in conjunction with others.
- 3.2.23 To do all such other things as may be deemed incidental or conducive to the attainment of the Company's objects or any of them.
- 3.2.24 AND so that:-
  - 3.2.24.1 None of the provisions set forth in any sub-clause of this clause shall be restrictively construed but the widest interpretation shall be given to each such provision, and none of such provisions shall, except where the context expressly so requires, be in any way limited or restricted by reference to or inference from any other provision set forth in such sub-clause, or by reference to or inference from the terms of any other sub-clause of this clause, or by reference to or inference from the name of the Company.
  - 3.2.24.2 The word "company" in this clause, except where used in reference to the Company, shall be deemed to include any partnership or other body of persons, whether incorporated or unincorporated and whether domiciled in the United Kingdom or elsewhere.
  - 3.2.24.3 In this clause the expression "the Act" means the Companies Act 1985, but so that any reference in this clause to any provision of the Act shall be deemed to include a

reference to any statutory modification or re-enactment of that provision for the time being in force.

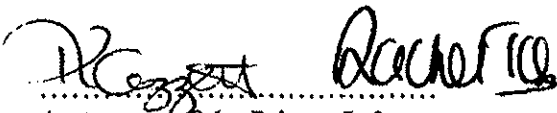
4. The liability of the members is limited.
5. The company's share capital is £1 divided into 1 ordinary share of £1.

**Name and Address of  
Subscribers**

**Number of Shares taken by  
Subscribers**

For and on behalf of  
**SG Hambros Trust Company Limited**  
41 Tower Hill  
London EC3N 4SG

1 Share (jointly)

  
.....  
As trustee of the Private Infrastructure  
Development Group Trust

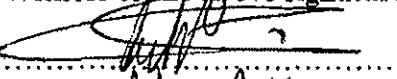
DATED 26 JULY 2004  
Witness to the above signature

  
.....  
Name: **ANDREW CAINES**  
Position: **COMPANY SECRETARY**

For and on behalf of  
**MC Trust Limited**  
10 Frère Félix de Valois Street  
Port Louis  
Mauritius

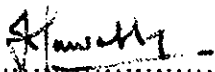
  
.....  
As trustee of the Private Infrastructure  
Development Group Trust

Witness to the above signature

  
.....  
Name: **Ashvin Aukhjee**  
Position: **Officer**




For and on behalf of  
**Minimax Limited**  
**10 Frère Félix de Valois Street**  
**Port Louis**  
**Mauritius**



.....  
As trustee of the Private Infrastructure  
Development Group Trust

**Witness to the above signature**

  
.....  
Name: *Elvies Larose*  
Position: *Officer*

**THE COMPANIES ACTS 1985 AND 1989**  
**A PRIVATE COMPANY LIMITED BY SHARES**

**Articles of Association of**  
**InfraCo Limited**

**Interpretation**

1. In these Articles, if not inconsistent with the subject or context:  
  
    'Act' means the Companies Act 1985 as amended or re-enacted from time to time  
  
    'Table A' means Table A in the Schedule to the Companies (Tables A-F) Regulations 1985.

**Table A**

2. The regulations contained in Table A apply to the Company except in so far as they are excluded by or are inconsistent with these Articles.
3. Regulations 8, 24, 37, 41, 42, 43, 59, 73 to 78, 80, 109 and 118 of Table A do not apply to the Company.
4. Subject to any direction to the contrary which may be given by the members in general meeting, the directors are unconditionally authorised to allot, create, deal with or otherwise dispose of relevant securities (within the meaning of section 80(2) of the Act) to such persons on such terms and at such times as they think fit, subject to the approval of the members in general meeting, but no shares shall be issued at a discount.

**Share capital**

5. The maximum nominal amount of share capital which the directors may allot or otherwise dispose of in accordance with article 4 is the nominal amount of unissued shares at the date of incorporation of the Company.
6. The authority conferred on the directors by articles 4 and 5 shall remain in force for a period of 5 years from the date of incorporation of the Company. This authority may be renewed by the Company in general meeting in accordance with section 80 of the Act.
7. The provisions of section 89(1) of the Act do not apply to the Company.

### **Lien**

8. The Company shall have a first and paramount lien on every share for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that share. The Company shall also have a first and paramount lien on all shares registered in the name of any person (whether solely or jointly with others) for all moneys owing to the Company from him or his estate either alone or jointly with any other person, whether as a member or not and whether such moneys are presently payable or not. The directors may at any time declare any share to be wholly or partly exempt from the provisions of this article. The Company's lien on a share shall extend to any amount payable in respect of it.

### **Transfer of shares**

9. The directors may, with the members' approval in general meeting and without giving any reason, decline to register any transfer of a share whether or not it is a fully paid share.

### **Proceedings at general meetings**

10. Any director or any member may call a general meeting on the notice periods set out in Regulation 38 of Table A. All directors and members shall be entitled to notice of a general meeting, as shall the auditor of the company.
11. The members present and entitled to vote shall choose one of their number to be chairman.
12. If a quorum is not present within half an hour of the time appointed for a general meeting, the meeting shall be dissolved and adjourned to such day and at such time and place as the members determine. If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the members present shall be a quorum.
13. A poll may be demanded at any general meeting by any member entitled to vote at it. Regulation 46 of Table A shall be modified accordingly.
14. On a show of hands or on a poll, votes may be given either personally or by proxy.

### **Number of Directors**

15. Unless otherwise determined by ordinary resolution, the number of directors (other than alternate directors) shall not be subject to any maximum and the minimum number of directors shall be one. Regulation 64 of Table A shall be amended accordingly.

### **Alternate directors**

16. An alternate director may only act as an alternate director for one director and shall have one vote for the director represented by him (in addition to his own vote if he is himself a director) and, when acting, shall be considered as two directors for the purpose of making a quorum if he is himself a director and the quorum exceeds two. A resolution of the directors is not required to appoint an alternate and Regulation 65 of Table A shall be modified accordingly.
17. Any alternate director who is not in the United Kingdom shall be entitled to notice of all meetings of directors. Regulation 66 of Table A shall be amended accordingly.

### **Delegation of powers**

18. The following sentence shall be inserted after the first sentence of regulation 72 of Table A:  
  
"A committee of directors has the power, unless the directors direct otherwise, to appoint as a member of the committee for any specific purpose a person who is not a director of the Company."

### **Appointment and retirement of directors**

19. The directors are not subject to retirement by rotation. The words "subject to the prior written approval of all members" shall be inserted after the first sentence of Regulation 79 of Table A. The final two sentences of regulation 79 of Table A do not apply to the Company.
20. The members holding a majority in nominal amount of the issued share capital which confers the right to attend and vote at general meetings may at any time appoint any person to be a director, either as an additional director or to fill a vacancy, and may remove from office any director however appointed. The appointment or removal shall be effected by notice in writing to the Company signed by the member. The appointment or removal shall take effect when the notice is delivered to the registered office or to the secretary of the Company, or is produced at a meeting of the directors.
21. There is no age limit for directors of the Company.
22. A director is not required to hold any qualification shares in the Company.

### **Disqualification and removal of directors**

23. Regulation 81 of Table A shall be amended by substituting the following provisions for paragraphs (c) and (e):  
  
"(c) he becomes, in the opinion of all his co-directors, incapable by reason of mental disorder of discharging his duties as a director; or"

“(e) he is otherwise duly removed from office.”

24. Regulation 80 of Table A shall be amended by adding the following provision:

(f) the members, holding a simple majority of the shares, elect to remove the director on one month's notice.

**Proceedings of directors**

25. Regulation 88 of Table A shall be amended by deleting the sentence:

“It shall not be necessary to give notice of a meeting to a director who is absent from the United Kingdom”

26. A director may participate in a meeting of the directors or a committee of directors of which he is a member by means of a conference telephone or similar communicating equipment whereby all persons participating in the meeting can hear each other. Participation in a meeting in this manner shall be deemed to constitute presence in person at the meeting.
27. A director shall not be entitled to vote at a meeting of directors or of a committee of directors on any resolution concerning a matter in which he has, directly or indirectly, a material interest as contemplated by article 85 of Table A.
28. A meeting of the directors or a committee of directors shall be valid where and or all directors participate by means of telephone in accordance with article 27.

### The Seal

29. In accordance with section 39 of the Act the Company may have an official seal for use in any territory, district or place elsewhere than in the United Kingdom.

### Notices

30. Any notice required by these Articles to be given by the Company may be given by any visible form on paper, including telex, facsimile and electronic mail. A notice communicated by immediate transmission shall be deemed to be given at the time it is transmitted to the person to whom it is addressed. Regulations 111 and 112 of Table A shall be amended accordingly. The last sentence of the first paragraph of Regulation 112 of Table A shall be deleted.

### Indemnity

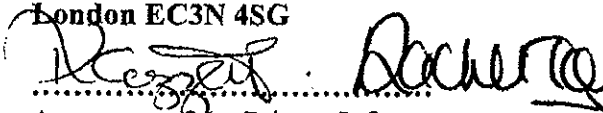
31. Subject to the provisions of the Act but without prejudice to any indemnity to which a director may otherwise be entitled, every director, secretary, auditor or other officer of the Company is entitled to be indemnified by the Company against all losses and liabilities sustained or incurred by him in the execution of his duties or in the exercise of his powers or otherwise in connection with his office, including any liability incurred by him (a) in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or which are otherwise disposed of without any finding or admission of any material breach of duty on his part; or (b) in connection with any application in which relief is granted to him by the court from liability in respect of any act or omission done or alleged to be done by him as an officer or employee of the Company.

Name and Address of  
Subscribers

Number of shares taken by  
subscribers

For and on behalf of  
SG Hambros Trust Company Limited  
41 Tower Hill  
London EC3N 4SG

1 Share (jointly)

  
As trustee of the Private Infrastructure  
Development Group Trust

DATED 26 JULY 2004

Witness to the above signature

  
Name: ANDREW CAIRNS  
Position: COMPANY SECRETARY

For and on behalf of  
**MC Trust Limited**  
10 Frère Félix de Valois Street  
Port Louis  
Mauritius

  
.....

As trustee of the Private Infrastructure  
Development Group Trust


Witness to the above signature

  
.....

Name: *Ashwin Hullyjee*

Position: *Officer*

For and on behalf of  
**Minimax Limited**  
10 Frère Félix de Valois Street  
Port Louis  
Mauritius

  
.....

As trustee of the Private Infrastructure  
Development Group Trust

Witness to the above signature

  
.....

Name: *Clivee Laroze*

Position: *Officer*