

# Operating Policies and Procedures

January 2015



**InfraCo**  
AFRICA







# Operating Policies and Procedures

## January 2015

# Contents

GLOSSARY	5
INTRODUCTION AND OBJECTIVES	7
<b>PART I: OPERATING POLICIES</b>	<b>8</b>
1 ACTIVITY	8
2 ELIGIBLE INVESTMENTS	8
3 GENERAL RESTRICTIONS	11
4 POST-SALE INVOLVEMENT	12
5 COMPETITIVE TENDERING AND PROCUREMENT	12
6 REPORTING	13
7 AMENDMENTS	13
8 "NO OBJECTION"	13
<b>PART II: OPERATING PROCEDURES</b>	<b>14</b>
1 PURPOSE	14
2 CORPORATE GOVERNANCE STRUCTURE	14
3 BUSINESS APPROVAL PROCESS	15
4 SIGNING AUTHORITIES	16
5 APPLICATION OF INCOME/SALES CONSIDERATION	16
6 PAYMENTS	16
7 USE OF EXTERNAL ADVISERS, CONSULTANTS OR LAW FIRMS	17
8 PUBLIC RELATIONS	17
9 FILE MAINTENANCE AND COPIES/ORIGINALS	17
10 PIDG ANTI-CORRUPTION AND INTEGRITY POLICY AND PROCEDURES	17
<b>APPENDIX I: POVERTY ELIMINATION CRITERIA</b>	<b>18</b>
1 POVERTY ELIMINATION BENEFITS	18
2 SUBMISSION ON POVERTY ELIMINATION	18
3 ASSESSING BENEFITS A, B AND C	18
4 DEFINITIONS	19
<b>APPENDIX II: LIST OF ELIGIBLE COUNTRIES</b>	<b>22</b>
<b>APPENDIX III: LIST OF FRAGILE AND CONFLICT-AFFECTED STATES</b>	<b>23</b>

# Glossary

<b>Additionality/Additional</b>	As defined in Section 4.5 of the PIDG Results Monitoring Handbook as amended from time to time.
<b>Additional Donor</b>	Any PIDG Member (and, subject to the approval of the PIDG, any other donor) who becomes a Donor by signing a letter of accession to the Funders' Agreement and funds the Company pursuant thereto.
<b>Board</b>	The board of directors of the Company from time to time.
<b>Chair</b>	The chairperson of the Board from time to time.
<b>CMO</b>	Central Management Office of the PIDG
<b>Co-Developers</b>	In respect of a Co-Development, the Lead Sponsor and any of other sponsor of such Co-Development from time to time.
<b>Co-Developments</b>	Has the meaning given to it in the Introduction and Objectives.
<b>Company</b>	Has the meaning given to it in the Introduction and Objectives.
<b>DAC List of ODA Recipients</b>	The OECD's Development Assistance Committee (DAC)'s list of official development assistance recipients as may be amended or replaced from time to time.
<b>Develop</b>	All activities relating to the pre-development of an Opportunity to the point where it may be financed or sold to private sector investors, including, as required, feasibility studies, negotiation of commercial contracts, project agreements, required licenses and consents, development of a business and financial plan and negotiation of third party financing documents, and "Development" shall be construed accordingly.
<b>Donor</b>	Any PIDG Member who shall commit funding directly or indirectly (via the PIDG Trust) to the Company in accordance with the provisions of the Funders' Agreement, and any Additional Donor.
<b>Eligible Countries</b>	Has the meaning given to it in paragraph 2.3 of Part I.
<b>Executive Director</b>	The Executive Director of the Company from time to time.
<b>Fragile States</b>	The countries set out in Appendix III.
<b>Funders' Agreement</b>	The agreement between the funders and shareholders of the Company and the Company relating to the funding and operation of the Company as entered into between (1) the Donors, (2) the PIDG Trust, (3) the Company, and, as the case may be, (4) any Additional Donor, as amended from time to time.
<b>HoTs</b>	Has the meaning given to it in paragraph 3.2(c) of Part II.
<b>IMT</b>	Has the meaning given to it in paragraph 2.1.2 of Part II.
<b>Investment Documents</b>	Has the meaning given to it in paragraph 3.3(b) of Part II.
<b>Lead Sponsor</b>	Has the meaning given to it in the Introduction and Objectives.
<b>Logframe</b>	The PIDG five year nested logical framework in respect of the Company reflecting the Company's business plan targets.
<b>OECD</b>	The Organisation for Economic Cooperation and Development.
<b>Opportunity</b>	A potential infrastructure or infrastructure related project or a person (other than a natural person) that satisfies the criteria detailed in these OPPs.

<b>OPPs</b>	Has the meaning given to it in the Introduction and Objectives.
<b>PIDG</b>	The Private Infrastructure Development Group.
<b>PIDG Code of Conduct</b>	The code of conduct approved by the PIDG from time to time and which all PIDG Facilities are required to adopt and incorporate into their governing documents as a minimum standard of conduct.
<b>PIDG Facility</b>	A facility of the PIDG, including but not limited to the corporate entities owned by the PIDG Trust, including the Company.
<b>PIDG Members</b>	The members of the PIDG from time to time.
<b>PIDG Operating Policies and Procedures</b>	The operating policies and procedures of the PIDG approved by the PIDG Members and which they require all PIDG Facilities to adopt and incorporate into their governing documents as a minimum, including, but not limited to, the PIDG Procurement Policy and Procedures, the PIDG Environmental and Social Policy and Procedures, the PIDG Anti-corruption and Integrity Policy and Procedures, the PIDG Appointment and Evaluation of Directors Policy and Procedures, the PIDG Remuneration Policy and Procedures, the PIDG Conflict of Interest and Share Dealing Policy and Procedures, PIDG Disclosure Policy and Procedures, the PIDG Complaints Policy and Procedures, the PIDG Risk Management Policy and Procedures and the PIDG Travel and Expense Reimbursement Policy and Procedures.
<b>PIDG Trust</b>	The Private Infrastructure Development Group Trust.
<b>PPPs</b>	Public-Private Partnerships.
<b>Sale</b>	The transfer by the Company of part or all of its interests in an Opportunity to a private sector entity including, without limitation, the sale by the Company of all or a majority of its holding in a subsidiary of the Company that directly holds an interest in the Opportunity.
<b>Sale Documents</b>	Has the meaning given to it in paragraph 3.4(d) of Part II.
<b>Services Contract</b>	Such services contract(s) as may be entered into between the Company and a Developer from time to time setting out the terms upon which such Developer will Develop Opportunities for and on behalf of the Company as amended, varied, supplemented, novated or replaced from time to time.
<b>SHoTs</b>	Has the meaning given to it in paragraph 3.4(b) of Part II.
<b>Total Investment Commitments</b>	<p>The total investment committed to the Opportunity, i.e. the total project value (debt and/or equity), including the funds provided by the Company.</p> <p>This includes:</p> <ul style="list-style-type: none"> <li>a) Investment from commercial entities: <ul style="list-style-type: none"> <li>- Domestic commercial finance (equity and/or debt); and</li> <li>- Foreign commercial finance (equity and/or debt); and</li> </ul> </li> <li>b) Investment from DFIs (being DFI equity and/or debt finance).</li> </ul>

# Introduction and Objectives

These Operating Policies and Procedures (these “**OPPs**”) relate to the activities of InfraCo Africa Limited (the “**Company**”). The Company is a PIDG Facility. The aim of the PIDG is to facilitate the provision of infrastructure needed to eliminate poverty in developing countries by encouraging long-term private investment. The Company is a private limited company incorporated in England and Wales and its sole shareholder is the PIDG Trust.

The objective of the Company’s activities is to contribute to the aims of the PIDG and to stimulate greater private sector involvement in the development of infrastructure and related projects by reducing the costs and risks of project development at the pre-financial close stage. The Company’s mission is to identify, create and structure financeable private sector and PPP investment opportunities and offer them, at or prior to financial close, to the private sector for implementation.

These OPPs ensure that the Company’s development capital is utilised in a manner intended by the Donors and that the activities of the Company are aligned with the objectives set by the PIDG.

## KEY OPERATING PRINCIPLES

The Company will operate as a private sector infrastructure development company, acting as:

- a) principal developer of Opportunities via Developers; and
- b) co-developer of Opportunities (“**Co-Developments**”) where there is a lead sponsor capable of Developing such Opportunity (“**Lead Sponsor**”) already in place.

It will:

- a) normally undertake pre-financial close development activities for its own account and risk<sup>1</sup>;
- b) operate at arm’s length from the PIDG and the PIDG Members with a board of directors from the private sector, acting in accordance with these OPPs, the PIDG Code of Conduct, the PIDG Operating Policies and Procedures and the Funders’ Agreement;
- c) not compete with the private sector, rather seek to stimulate expanded private sector involvement in infrastructure development;
- d) seek to structure Opportunities in a way that balances the interests of host governments and other national stakeholders with the requirements of private sector investors and providers of finance;
- e) seek to balance the goal of attaining attractive Sales value with the goals of promoting Opportunities with a high developmental impact; and
- f) over the long term, seek sufficient revenue from successful Sales to maintain the value of its capital and fund its general operational costs.

---

<sup>1</sup> The Company is often expected to remain involved in an Opportunity post-financial close by retaining a minority carried interest alongside a lead private sector investor.

# Part I: Operating Policies

## 1 ACTIVITY

- 1.1 The Company will support the development of viable opportunities for investment by the private sector and PPPs in infrastructure and related developments as described in these OPPs.
- 1.2 The Company's principal activity will be undertaking the pre-financial close development and funding of infrastructure opportunities. The Company will undertake (or, in the case of Co-Developments, jointly undertake with the Lead Sponsor) all activities relating to the identification and development of an Opportunity to the point where it may be financed and sold to, inter alia, private sector investors, including, as appropriate, undertaking feasibility studies, negotiation of commercial contracts and project agreements, procuring required licenses and consents, development of a business and financing plan, procuring financing from third parties, negotiation of third party financing documents and all steps as may be necessary to take the Opportunity to the point where it can be sold to the private sector. In the case of Co-Developments, the Company (through the IMT) may undertake any or all of the above-mentioned activities.
- 1.3 The Company (and, if applicable, the relevant Developer) will seek to transfer the Company's interest in the Opportunity to the private sector for cash and/or a carried interest in the project post-financial close, at the earliest stage possible.
- 1.4 The Company may provide and/or procure technical assistance for the pre-financial close structuring of Opportunities identified by governments/third parties, subject to the requirements that its activities complement, and do not compete with, the activities of other PIDG Facilities.
- 1.5 The Company may also provide any other form of support that is consistent with the Company's overall objectives.
- 1.6 In pursuing its objectives, the Company will liaise closely with other relevant Donor programmes (for example, the Global Partnership on Output Based Aid and the Public Private Infrastructure Advisory Facility) and the other PIDG Facilities (for example, The Emerging Africa Infrastructure Fund Ltd., GuarantCo Ltd., DevCo, InfraCo Asia Development Pte. Ltd. and Green Africa Power LLP).

## 2 ELIGIBLE INVESTMENTS

### 2.1 General

- 2.1.1 The Company may invest in support of commercially viable infrastructure projects where, in the opinion of the Board, there exists demonstrable evidence of Additionality to do so.
- 2.1.2 Subject to any restrictions contained in these OPPs, and in particular the requirement not to compete with, or displace, the private sector, the Company may invest in Opportunities that include, without limitation:
  - a) start-ups or greenfield developments;
  - b) partly developed projects where the incumbent sponsor is unable to bring the opportunity to financial close;
  - c) abandoned projects;
  - d) currently operating companies where the owners are unable to finance and implement major new investments;
  - e) privatised or to be privatised projects/companies; and
  - f) majority state-owned projects where the private sector is to participate in a risk sharing capacity,
 in each case, where the Company's involvement may assist in stimulating greater private sector involvement.



2.1.3 The Company's operations are expected to be concentrated in those countries where:

- a) the basic foundations for private sector participation in infrastructure are in place and it is expected that the constraints to private sector investment in the particular Opportunity can be overcome through the Company's involvement. Such foundations may include a certain level of physical security, macro-economic stability as well as a sound domestic policy environment with legislation for property rights and bankruptcy proceedings; and
- b) the host government is supportive of the Company's involvement.

## 2.2 Geographical Coverage

2.2.1 Subject to paragraphs 2.2.2, 2.2.3 and 2.2.4 below, the Company may only invest in support of activities in those countries in Sub-Saharan Africa in the following columns of the DAC List of ODA Recipients (as set out in Appendix II):

- a) "Least Developed Countries"; and
- b) "Other Low Income Countries".

2.2.2 The Company may also invest in Fragile States as per the List of Fragile States and Conflict-Affected States in Appendix III.

2.2.3 The Board shall ensure that, at any time, no more than 25% (or such other limit as prescribed by the Logframe) of the induced Private Sector Investment of the Opportunities in the Company's portfolio shall comprise projects in eligible countries which are Lower Middle Income Countries and Upper Middle Income Countries as set out in the table in Appendix II (based, for the avoidance of doubt, on the classification of the country at the time the relevant Opportunity is approved for a binding commitment to invest by the Board).

2.2.4 In the event that the Company wishes to progress an Opportunity located in a country which is a Lower Middle Income Country or an Upper Middle Income Country and which is not a Fragile State, then the Opportunity shall be submitted to the Donors with a justification of its strong pro-poor benefits and demonstrating that it qualifies in all other respects e.g. Additionality. If "no objection" in respect of such submission is received from the Donors, consent will be deemed to have been given and the Company may invest in such Opportunity and such investment will count towards the 25% limit (or such other limit as prescribed by the Logframe).

2.2.5 In the event that the Company wishes to progress an Opportunity located in a Lower Middle Income Country or an Upper Middle Income Country and which is a Fragile State, then there shall be no requirement to submit the Opportunity to the Donors.

2.2.6 The Board shall ensure that, at any time, at least 20% (or such other percentage as prescribed by the Logframe) of the induced Private Sector Investment of the Opportunities in the Company's portfolio shall comprise projects in eligible countries which are Fragile States as per the List of Fragile States and Conflict-Affected States in Appendix III (based, for the avoidance of doubt, on the classification of the country at the time the relevant Opportunity is approved for a binding commitment to invest by the Board).

2.2.7 Subject to the prior "no objection" of the Donors in each case (and subject without limitation to paragraph 2.2.4 above), the Company may invest in entities which are based in a country which is not an Eligible Country provided that:

- a) such entities focus their activities in whole or in part in Eligible Countries;
- b) the relevant Opportunity which is to be supported by the Company's investment is located in, and is for the benefit of, an Eligible Country (or Eligible Countries); and
- c) any investment made by the Company in such entities is used exclusively for the purpose of the relevant Opportunity.

2.2.8 The geographic/sector scope within which each Developer shall operate and in respect of which each Developer shall Develop Opportunities for and on behalf of the Company may be limited in accordance with the provisions of the corresponding Services Contract.

## 2.3 Pro-Poor Benefits

All projects are expected to have demonstrable Category A, Category B and Category C poverty elimination benefits as described in Appendix I.

## 2.4 Sector Focus

### 2.4.1 Sectors for Inclusion

The Company may invest in the development of Opportunities in the following sectors:

- a) Energy services: the generation, supply, transmission and/or distribution of electricity, including rural electrification and all forms of renewable energy supplies.
- b) Water/waste services: urban/rural fresh water production and treatment, supply and distribution, sanitation, solid waste disposal/collection and waste treatment, bulk water supply (water reservoirs, transfer schemes, dams and pipelines).
- c) Transportation infrastructure services: fixed transportation infrastructure and transport services including roads, bridges, tunnels, light and heavy rail systems and services and railway equipment, airports (passengers and freight), bus lines, ports and harbours.
- d) Bulk Storage/Logistics Facilities: logistics services that support productive investment including bulk storage/handling facilities, cold storage, warehousing and certain moveable assets.
- e) Telecommunications: the development and operation of: (i) long distance and local telephone services, cellular radio telephone services and other radio common carrier communications services, including paging and specialised mobile radio systems; (ii) telegraph, microwave and private communications networks, cable, electronic mail and other emerging telecommunications technologies; and (iii) internet access.
- f) Gas transportation, distribution and storage: gas pipelines and bulk storage/logistical facilities and downstream gas development.
- g) Oil transportation, distribution, storage: oil pipelines and bulk storage/logistical facilities and downstream oil development.
- h) Mining and upstream oil and gas: but only where investment expands the provision of infrastructure and associated services and where the owner agrees to allow third party use of the assets (in so far as it does not prejudice their mining operations).
- i) Urban infrastructure: the provision of economic and social infrastructure within towns and cities (including low cost housing).
- j) Agriculture-supporting infrastructure including but not limited to storage, basic processing facilities and irrigation services.
- k) Other Related Activities: other activities that impact positively on the development of the relevant country's basic infrastructure and promote the objectives of the Company. Such activities may include the infrastructure component of industrial, agro-tourism or agro-industrial projects and, more generally, may include other productive investment activities not currently being undertaken, or undertaken on a small scale, by the private sector where it is expected that those activities will in turn stimulate increased demand for basic infrastructure facilities and services and therefore facilitate private sector financing and investment in infrastructure. Activities may also include the manufacture, construction or assembly of goods, equipment, plant and buildings or the provision of services (for example cement plants, producers of pipes, pumps, switching equipment, cables, bricks, tarmac and other basic materials used in infrastructure construction).

#### 2.4.2 Sectors Excluded

The following sectors shall be excluded from Company support:

- a) oil and gas exploration and production ("upstream" activities) and oil transportation for exports (except as permitted under paragraph 2.4.1(h) above);
- b) mining or mineral exploration and extraction (except as permitted under paragraph 2.4.1(h) above);
- c) nuclear power, nuclear waste treatment or nuclear fuel cycle activities;
- d) military infrastructure; and
- e) gambling.

### 2.5 Community and Environmental Impact

- 2.5.1 All of the Company's investment and operating decisions shall comply with local laws and regulations. The Company and each Developer will follow and apply, as a minimum, the PIDG Environmental and Social Policy and Procedures to all investments. Each Co-Developer will follow and apply, as a minimum, the PIDG Environmental and Social Policy and Procedures to each such Opportunity in which it has an interest. Greenfield Opportunities to be developed by the Company must comply with such standards from the outset. Where the Company proposes to invest in the Development of a partly developed/ abandoned Opportunity, the Company shall wherever feasible ensure that appropriate remedial environmental programmes are incorporated into the Development process.
- 2.5.2 The Company and, where applicable, each Developer will include in its due diligence for each Opportunity an analysis of the social and environmental impacts of the underlying infrastructure project. Where prudent or necessary, a satisfactory Environmental and Social Impact Assessment (ESIA) in accordance with the requirements of the relevant local environmental agency of the host country and the PIDG Environmental and Social Policy and Procedures would be required as part of the Board's investment decision. The Company shall ensure that satisfactory arrangements are put in place to mitigate any adverse social or ecological impact prior to Sale of the relevant Opportunity.
- 2.5.3 The Company shall provide the PIDG Members with monitoring and evaluation reports on the development impact and case studies/lessons learnt of Opportunities in its portfolio in accordance with the PIDG's Results Monitoring Handbook, the Logframe and the Company's reporting obligations as set out in the Funders' Agreement. Environmental, technical and social advisory support as is judged appropriate by the Company for each transaction shall be utilised by the Company.
- 2.5.4 Where an Opportunity developed by the Company is sold on to a private investor and the Company does not retain an interest in the project, the Company will not have direct control over the project. In order to encourage good environmental practice at this stage, the Company will ensure that provisions are included in the Sale arrangements or, where applicable, arrangements with the host government, requiring the private investor to follow environmental standards that, at a minimum, would apply if the Opportunity was being financed by a World Bank loan.

## 3 GENERAL RESTRICTIONS

- 3.1 All activities of the Company shall be undertaken with the aim of advancing the Company's and the PIDG's objectives as set out in the Introduction and Objectives with the general aim of poverty elimination.
- 3.2 The Company shall, in identifying appropriate Opportunities for Development, take into account the developmental impact and poverty elimination criteria as set out in Appendix I.

## 4 POST-SALE INVOLVEMENT

Following a Sale of the Company's interest in an Opportunity, the Company may retain an interest in the Opportunity. This interest will typically be in the form of a minority interest (as shareholder, joint venture partner, or other capacity). With the agreement of the incoming private sector investor, the Company may also retain an ongoing development role, for example, in liaising with government, local communities or other parties or where its presence gives comfort on project related political risks.

## 5 COMPETITIVE TENDERING AND PROCUREMENT

### 5.1 General

It is the general policy of the PIDG to promote a transparent and competitive process for the provision of private sector participation and it is a requirement of the Company to support good public policy and transparency in all transaction processes. The Company is required to comply with the PIDG Procurement Policy and Procedures.

### 5.2 Development Rights

In entering into any arrangements concerning the right to Develop Opportunities, the Company and each Developer and Co-Developer will comply with any applicable laws in the country in which the Opportunity is located concerning the award of rights in infrastructure and related projects and will act in a manner consistent with good public policy and transparency. Given that the Company's mission is to operate in environments where the private sector is not currently investing, it is expected that, in many cases, the Company will engage in arrangements where the rights in the Opportunity have been awarded through direct negotiation. In such cases the Company will need to assure itself that, if the Opportunity involves a government-related process, the award of rights in the Opportunity to the Company/an investee company has been made on a defensible and transparent basis that does not harm the public interest and that the award does not crowd out other potential private sector investors.

### 5.3 Sale

- 5.3.1 It is the general policy of the Company that in procuring a purchaser for the implementation of an Opportunity, that is being/has been Developed (or, in the case of Co-Developments, jointly developed with the Lead Sponsor) by the Company, the Company will adopt a transparent and competitive process consistent with good public policy.
- 5.3.2 However, given the limited number of investors currently interested in infrastructure opportunities in the Company's target markets, the Company may in appropriate instances, engage in direct negotiations with a prospective private sector investor, but only with the approval of the Board to be granted after diligent enquiry as to the reasons and appropriateness on a case by case basis and subject to the general requirement that the Company ensure transparency in all transaction processes.

### 5.4 Procurement of Goods and Services by the Company

Any goods and services to be procured by, or on behalf of, the Company shall be procured in accordance with the PIDG Procurement Policy and Procedures, as amended from time to time. The Board shall assure itself that all its proposed procurement procedures are consistent with competitive, cost effective and transparent procurement of goods and services.



## 6 REPORTING

The Company shall ensure that regular reports are provided to the PIDG on its activities, in accordance with the PIDG reporting requirements in place from time to time as set out in the Funders' Agreement.

## 7 AMENDMENTS

Part I of these OPPs may only be amended, modified or otherwise changed by the affirmative vote of a simple majority of the Board and the prior written approval of the Donors in accordance with the provision of the Funders' Agreement.

The Operating Procedures in Part II shall be amended from time to time by the affirmative vote of a simple majority of the Board.

## 8 "NO OBJECTION"

In circumstances where these OPPs refer to the requirement for a "no objection" of the Donors, a "no objection" in respect of any particular matter shall be deemed to have been given only if:

- a) within a period of 10 business days following the submission by the CMO to the Donors of the relevant submission, request or notification together with all relevant and necessary information relating thereto, none of the Donors informs the CMO of any objection of any nature to the Company acting or omitting to act (as the case may be) in accordance with the relevant submission, request or notification; and
- b) the CMO subsequently confirms to the Company in writing that no objection has been received from the Donors to the relevant submission, request or notification.

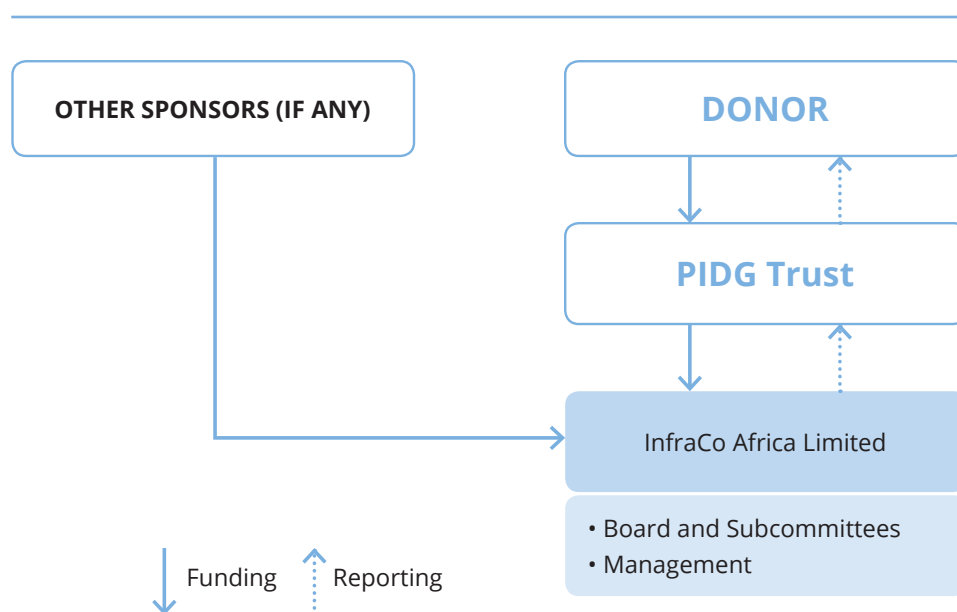
## Part II: Operating Procedures

### 1 PURPOSE

The operating procedures applicable to the Company, the Developers and the Co-Developers are set out below. In addition, the Company, the Developers and the Co-Developers must comply with the following:

- a) the Memorandum and Articles of Association of the Company;
- b) any Company policy documents in force from time to time, currently being these OPPs;
- c) the Funders' Agreement;
- d) the PIDG Code of Conduct; and
- e) the PIDG Operating Policies and Procedures.

### 2 CORPORATE GOVERNANCE STRUCTURE



#### 2.1 Governance and operating arrangements

- 2.1.1 The Board shall comprise Directors appointed in accordance with the PIDG Appointment and Evaluation of Directors Policy and Procedures. The Board shall be responsible for oversight and decision making for the Company to ensure that the goals of the PIDG and the Donors are met while enabling the Company to operate and invest in a flexible and commercial manner.
- 2.1.2 The day to day management of the Company shall be the responsibility of the Company's internal management team (the "**IMT**") which includes the Executive Director. The IMT shall engage external transaction-specific due diligence and advisory expertise to support investment decisions and execution of transactions in respect of Opportunities as and when required (the requirements for which will vary from transaction to transaction as the Board shall see fit).

## 2.2 Committees

- 2.2.1 To the extent permitted by law and by its constitutional documents, the Company may put in place an appropriate committee structure able to meet corporate governance needs, while at the same time streamlining the decision making process and reducing bureaucracy.
- 2.2.2 The Board shall act as the Company's investment committee taking all investment decisions of the Company, unless delegated by the Board to another committee.
- 2.2.3 There shall be an audit and risk committee that will consist of not less than two non-executive Directors (the Chair of the Board of Directors shall not be a member of the audit and risk committee), with written terms of reference which deal clearly with its authority and duties.
- 2.2.4 In addition, the Company shall maintain an appointments committee in accordance with the PIDG Appointment and Evaluation of Directors Policy and Procedures.

## 2.3 Subsidiary companies

- 2.3.1 In appropriate cases it is anticipated that the Company will establish limited liability subsidiaries in the country in which an Opportunity is located to hold the Company's interest in that Opportunity, to undertake the Development and to hold investments post-Sale.
- 2.3.2 Company subsidiaries will be wholly-owned by the Company, unless otherwise agreed by the Board.

## 2.4 Board appointments

In respect of each investment in an Opportunity the Board shall consider whether or not it shall require the right to appoint a representative to participate as a member of the board of directors of the relevant Opportunity and/or to appoint a representative as an observer to attend but not vote at any meeting of the board of directors of the relevant Opportunity. Any such representative shall be a duly qualified senior member of the IMT with the requisite skills and experience to fulfil such duties.

# 3 BUSINESS APPROVAL PROCESS

The commitment to invest and disposal processes of the Company shall include the following key stages, as described in more detail below:

## 3.1 Seeking Preliminary Conditional Approval

- a) Identification of potential opportunities for investment based on eligibility criteria as set out in these OPPs.
- b) Signing of confidentiality and/or exclusivity undertakings and carrying out due diligence, where appropriate (utilising external providers of due diligence services and including, without limitation, compliance checks, where appropriate).
- c) Requesting preliminary conditional approval from the Board (including as to the anticipated amounts to be invested).

## 3.2 Seeking Post-Due Diligence Approval

- a) Instructing external professional advisers (to the extent required).
- b) Development of detailed investment proposal.
- c) Negotiation of non-binding heads of terms ("HoTs").
- d) Review by Board of detailed investment proposal including business case, reports of due diligence on the investment opportunity already undertaken, and proposed terms of investment.
- e) Approval of the Board, signature of HoTs and, where relevant, confirmation as to additional areas of detailed confirmatory due diligence.

### 3.3 Seeking Final Approval to Conclude Investment

- a) Undertaking detailed confirmatory due diligence where relevant.
- b) Negotiation of binding documents recording the Company's proposed investment commitments ("**Investment Documents**").
- c) Final approval of the Board and signature of Investment Documents.

### 3.4 Disposal Process

- a) Identification of possible exit, signing of confidentiality undertakings, facilitating purchaser due diligence and engaging external professional advisers (to the extent relevant).
- b) Negotiation of non-binding sale heads of terms ("**SHoTs**").
- c) Approval of the Board and signature of SHoTs.
- d) Negotiation of binding documents recording the Company's proposed disposal ("**Sale Documents**").
- e) Approval of the Board and signature of the Sale Documents.

## 4 SIGNING AUTHORITIES

- 4.1 Any and all sums to be invested by the Company in Opportunities shall be approved by the Board or by a committee of the Board to the extent such authority has been delegated to such committee by the Board.
- 4.2 The authority limits to approve payments for operating costs expenditure within the scope of the approved annual operating budget are set out in the table below (such limits may be adjusted from time to time by the Board).

Expenditure limits	Approving authority
Up to £10,000	Any one member of the Board or a member of the IMT as nominated and appointed by the Board.
More than £10,000	Any two members of the Board.

## 5 APPLICATION OF INCOME/SALES CONSIDERATION

All fees, Sale consideration and other monies paid to the Company or any member of the IMT in relation to an Opportunity or the Company's activities will be credited to the Company and paid into the Company's bank account.

## 6 PAYMENTS

- 6.1 All payments to be made by or on behalf of the Company shall be made on the basis of payment instructions which consist of:
  - a) a related invoice and/or supporting documents; and
  - b) a payment instruction addressed to the Company's account bank approved and signed by the relevant approving authority in accordance with paragraph 4 above.
- 6.2 Copies of all signed payment instructions are to be provided to the Company.



## 7 USE OF EXTERNAL ADVISERS, CONSULTANTS OR LAW FIRMS

In relation to any adviser, consultant or law firm appointed by, or on behalf of, the Company to assist it in respect of any of its activities, the Company (or any Developer acting on its behalf) must:

- a) obtain its undertaking to maintain confidentiality in relation to information provided to it;
- b) agree to comply with the provisions of all applicable laws, including the Bribery Act 2010; and
- c) ensure that its release of information to such adviser is permitted under the Company's own confidentiality undertakings.

## 8 PUBLIC RELATIONS

### 8.1 Informal Contact with Infrastructure Publications

No member of the IMT may speak to a journalist about the Company's business without the prior approval of the Chair. Unless otherwise agreed with the CMO, all public communications that refer to the Company and/or the Donors and/or the PIDG and/or the PIDG Trust must be submitted to the CMO for written approval prior to publication.

### 8.2 Formal Statements by or on behalf of the Company

A senior member of the IMT may issue or procure the issue of formal written statements (including press releases), or oral comments in respect of an actual or prospective Opportunity, which are on the record in accordance with a marketing plan approved by the Board, or with the prior approval of the Chair or, in his absence, an alternative member of the Board. Unless otherwise agreed with the CMO, all public communications that refer to the Company, and/or the Donors and/or the PIDG and/or the PIDG Trust must be submitted to the CMO for written approval prior to publication.

### 8.3 Issue of Promotional and Marketing Materials

Promotional material, including the text of brochures, website statements and general marketing materials prepared by, or on behalf of, the Company must be approved by a senior member of the IMT who shall inform the Chair of the content of all such material or any significant changes to such material as soon as practicable. Any promotional material which contains significant announcements or significant changes to how the Company is presented must be submitted for approval by the Chair or, in his absence, an alternative member of the Board prior to issue. Unless otherwise agreed with the CMO, all public communications that refer to the Company, and/or the Donors and/or the PIDG and/or the PIDG Trust must be submitted to the CMO for written approval prior to publication.

## 9 FILE MAINTENANCE AND COPIES/ORIGINALS

The Company shall maintain complete and up-to date files in relation to each Opportunity or actual or prospective transaction or investment.

## 10 PIDG ANTI-CORRUPTION AND INTEGRITY POLICY AND PROCEDURES

The Company, the Developers, the Co-Developers (in respect of any Opportunity in which they have an interest) and each of their respective officers, employees and advisors shall comply with the PIDG Anti-Corruption and Integrity Policy and Procedures.

# Appendix I

## Poverty Elimination Criteria

### 1 POVERTY ELIMINATION BENEFITS

The Company's support, either directly or indirectly, should facilitate the Development of infrastructure services and facilities that contribute to the elimination of poverty. Before investing in an Opportunity, the Board must be satisfied that such Opportunity will provide at least one of the Benefits A-C.

- a) Underpinning economic growth that assists either directly or indirectly in the elimination of poverty and the broader policies and context for poverty elimination and leading to social, environmental and or economic benefits for poor people; or
- b) Benefiting broad-based population groups including poor people and pro-actively addressing issues of equity and barriers to participation or access to poor people; or
- c) Specifically promoting and enhancing the social, cultural and economic rights, interests and needs of poor people.

### 2 SUBMISSION ON POVERTY ELIMINATION

In putting candidate transactions to the Board, the IMT must include a brief submission that:

- a) highlights the contribution that the Opportunity proposed to be supported by the Company, would make to the elimination of poverty in terms of Benefit A, B or C;
- b) where Benefit B or C applies, identifies the elements of the investment that contribute to poor people benefiting or having their rights<sup>2</sup> addressed directly; and
- c) comments where appropriate on any Barriers to poor people benefiting or having their rights addressed.

### 3 ASSESSING BENEFITS A, B AND C

It is expected that, in many cases, these contributions to poverty elimination will predominantly take the form of indirect effects, such as improved sustainable infrastructure provided to broad population groups leading to positive economic effects and indirect employment creation.

#### 3.1 Examples of Benefit A

Examples of possible effects an investment could have that would provide Benefit A are set out in Annex 1. The Board may (in consultation with the PIDG, if the Board sees fit) consider that other effects will provide Benefit A.

<sup>2</sup> As described in the Covenant on Social, Cultural and Economic Rights and the agreements on Basic Social Services reached at the Social Summit in Copenhagen in 1995 ([www.unhchr.ch/html/menu3/b/a\\_ceschr.htm](http://www.unhchr.ch/html/menu3/b/a_ceschr.htm)).

### 3.2 Assessing Benefits B and C

Some investments may also provide Benefit B or C. These positive effects will be identified and outlined in the proposal. It will be for the Board (in consultation with the Company's shareholders, if the Board sees fit) to satisfy itself on a case-by-case basis that the investment in question will provide Benefit B or C.

### 3.3 Balancing Benefits and Barriers

The submission will include a reasoned analysis of whether the Benefits an investment provides outweigh any negative effects on poor people. An illustrative, non-exhaustive list of possible Barriers to poor people benefiting from an investment is set out in Annex 2.

### 3.4 Additional Assessments

Private sector participation in infrastructure services may take place in a context of elimination of direct or indirect subsidies. Such projects may therefore have a role in creating Barriers to poor people accessing those services.

In these cases, a more thorough assessment of the project by an appropriately qualified third party or any other party with an interest in the Opportunity, where the Board is satisfied that such party will provide an independent assessment, will be required to provide an overview of all positive and negative effects on poor people and of any barriers that exist. In some cases, specific provisions might be introduced to mitigate the negative effect on poor people.

It is possible that another reputable investor or other interested party will have already prepared a report that provides such an overview. In this case, the IMT can provide this report instead of an original additional assessment.

### 3.5 Decision by Governing Bodies

The Board must then determine (in consultation with the PIDG, if the Board so sees fit) whether the Benefit provided by an investment, will be reduced to an unacceptable level by the Barriers contained in the project to which the investment relates. If so, the investment in question should not be supported.

In deciding whether the Barriers reduce the Benefit to an unacceptable level, the Board will take into account that investments providing Benefit A may contribute to the elimination of poverty without providing significant direct benefits to poor people. Investments providing Benefits B or C are expected to actively promote poverty elimination strategies. The Board will accept more Barriers to poor people receiving direct benefits from the project to which the investment relates.

## 4 DEFINITIONS

**Barrier:** A barrier to poor people benefiting from an investment project. An illustrative list of barriers is given in Annex 2.

**Local:** The country or countries in which an investment project will be implemented and/or the relevant project is established.

**Poor Person:** A person known or reasonably thought to be living on "two US\$ a day" as described in Box 2.1 of Chapter 1 of the World Development Report 2000/2001: Attacking Poverty or being assessed as poor applying some other measure of poverty described in that Report.

## Annex 1 – Examples of Benefit A

Examples of possible effects an investment project that could provide Benefit A could include:

Possible effects	
a) enhanced public services:	the infrastructure service or facility will provide new or substantially improved access to basic infrastructural services to broad population;
b) employment creation:	the infrastructure service or facility will generate short and long-term employment, directly and indirectly, for Local people;
c) linkages to the local economy:	a high percentage of an infrastructure company's budget is spent in the Local economy;
d) effect on government revenue:	the infrastructure company pays taxes/royalties to the local government in excess of any government subsidies;
e) effect on foreign currency generation:	the infrastructure service or facility generate hard currency either by exports or removing the need for certain imports; or a refinancing reduces foreign currency obligations;
f) social and economic impact:	a positive impact on different groups affected by the infrastructure service or facility <sup>3</sup> in terms of increase incomes, enhanced skills, better health, social organisation or access to natural resources and other positive effects;
g) effect on local markets/competition:	the infrastructure service or facility will prompt competition between relevant providers and lead to improved quality, lower pricing or changes in government policy;
h) innovation/technology transfer:	the infrastructure service or facility introduces new technology or training, innovation, investment and training of Local staff relating to technology to an area/country;
i) contribution to capital markets development:	the infrastructure company has equity or a debt instrument publicly traded.

<sup>3</sup> For example, providers of rival services, local people affected by construction, users of services relevant to the project and potentially marginalised people including poor people, minority ethnic & tribal groups, women, children and the elderly.



**Annex 2 – Examples of Possible Barriers**

Examples of possible Barriers to poor people benefiting from an infrastructure company would include:

- a) inappropriate charging: whilst it is recognised that charging needs to ensure it is commercially viable on a sustainable basis, excessive fees for connection costs or an overly high fixed cost element and equity return in tariff structures will be deemed inappropriate;
- b) exclusivity arrangements that prevent alternative solutions even where utility provision is not available;
- c) poorly designed investment projects/service delivery which:
  - i. reduce affordability for the poor; for instance through overly elaborate or inappropriate technology;
  - ii. further marginalise poor people already disadvantaged for lack of relevant knowledge or skills;
  - iii. do not include appropriate consultation and/or participation in project design;
  - iv. where relevant, create or fail to address Barriers relating to gender, age or disability;
  - v. unreasonably exclude access for poor people willing to pay (at an economically justified rate in the context of the infrastructure company) for infrastructure services through proposed geographical area/or service area cover; and
- d) any other Barrier which, in the view of the Board, unnecessarily excludes poor people with a willingness to pay for an infrastructure service at an economically justified rate in the context of the infrastructure company.

## Appendix II

### List of Eligible Countries

Subject to paragraph 2 of Part I of the OPPs, the Company may invest in support of activities only in those countries in Sub-Saharan Africa that are on the DAC List of ODA Recipients. The Sub-Saharan African countries on the DAC List of ODA Recipients at the date of adoption of these OPPs are set out in the table below (each an **"Eligible Country"**). The table shall be deemed to be amended to reflect any future changes in the DAC List of ODA Recipients. The classification of an Eligible Country within the DAC List of ODA Recipients shall be fixed as at the time of initial approval by the Board of a binding commitment to invest in such Opportunity.

#### DAC List of ODA Recipients 2014

##### Least Developed Countries

Angola	Gambia	São Tomé and Príncipe
Benin	Guinea	Senegal
Burkina Faso	Guinea-Bissau	Sierra Leone
Burundi	Lesotho	Somalia
Central African Republic	Liberia	South Sudan
Chad	Madagascar	Sudan
Comoros	Malawi	Tanzania
Congo, Dem Rep	Mali	Togo
Djibouti	Mauritania	Uganda
Equatorial Guinea	Mozambique	Zambia
Eritrea	Niger	
Ethiopia	Rwanda	

##### Other Low Income Countries

Kenya  
Zimbabwe

##### Lower Middle Income Countries

Cameroon	Côte d'Ivoire	Swaziland
Cape Verde	Ghana	
Congo, Rep	Nigeria	

##### Upper Middle Income Countries

Botswana	Mauritius	Seychelles
Gabon	Namibia	South Africa

## Appendix III

### Fragile and Conflict-Affected States 2015

The list below is used for reporting on the PIDG project portfolio. The list below is reproduced from *Fragile states 2014: Domestic Revenue Mobilisation in Fragile States*<sup>4</sup>, the latest in a series of annual publications on resource flows to fragile states produced by the OECD Development Assistance Committee (DAC) through the International Network on Conflict and Fragility (INCAF) since 2006.

The list used in the OECD DAC's Fragile States Report results from the compilation of two lists: the WB-AfDB-ADB Harmonised List of Fragile Situations, and the list of countries with a Failed States Index (Fund for Peace) above 90 in the list developed by the Fund for Peace. The countries on the list are on either or both lists found at:

<http://ffp.statesindex.org/> - for the Failed States Index

<http://go.worldbank.org/BNFOS8V3S0> - for the harmonised list.

The OECD DAC plan to issue their Fragile States Report in October/November each year. Every other year they will publish an actual "Report", and every other year there will be an "update." The CMO will circulate the updated list to the PIDG facilities annually, once it is available. The list below shall be deemed amended to reflect any changes in the classification of any such country from time to time in the List of Fragile States.

#### DAC List of Fragile and Conflict-Affected States 2015

##### Sub-Saharan Africa

Burundi	Guinea	Sierra Leone
Cameroon	Guinea-Bissau	Somalia
Central African Republic	Kenya	South Sudan
Chad	Liberia	Sudan
Comoros	Madagascar	Togo
Congo, Democratic Republic of	Mali	Uganda
Congo, Republic of	Mauritania	Zimbabwe
Côte d'Ivoire	Niger	
Eritrea	Nigeria	
Ethiopia	Rwanda	

<sup>4</sup> <http://www.oecd.org/dac/incaf/FSR-2014.pdf>



[www.infracoafrica.com](http://www.infracoafrica.com)



A Facility of the Private Infrastructure Development Group