

Dated 20th February 2009

INFRACO LIMITED

and

**THE TRUSTEES OF THE PRIVATE INFRASTRUCTURE
DEVELOPMENT GROUP TRUST**

SUBSCRIPTION AGREEMENT (No 2)
relating to shares in InfraCo Limited

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THIS AGREEMENT is made on 20th February 2009

BETWEEN

- (1) **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, United Kingdom with registered number 05196897 (“**InfraCo**”); and
- (2) **SG HAMBROS TRUST COMPANY LTD.** of 41 Tower Hill, London EC3N 4SG, United Kingdom, **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**, a trust created under the laws of Mauritius (the “**PIDG Trust**”)

INTRODUCTION

- (A) InfraCo has been established for the purpose set out in Clause 2.1.
- (B) The current equity funding of InfraCo has been raised from the PIDG Trust which has subscribed for such numbers of InfraCo Shares as are set out against its name in Schedule 2 (the “**Issued Shares**”) pursuant to a subscription agreement dated 15 April 2005 and various subsequent applications for the allotment of InfraCo Shares.
- (C) The PIDG Trust proposes to subscribe for additional shares in the capital of InfraCo on the terms and subject to the conditions set out in this Agreement.

IT IS AGREED as follows:

1. INTERPRETATION

1.1 In this Agreement:

- 1.1.1 “**Accounting Period**” means the accounting period of InfraCo commencing each year on 1 January and ending on the following 31 December;
- 1.1.2 “**Accounts**” mean the audited financial statements of InfraCo for the period to 31 December 2007 and the management accounts of InfraCo for the period to 30 September 2008;
- 1.1.3 “**Amended and Restated Management Services Agreement**” means the agreement referred to in Clause 1.1.20 below;

- 1.1.4 “**Board**” means the board of directors of InfraCo, and “**Director**” means any member of the Board;
- 1.1.5 “**Business Day**” means a day (other than a Saturday or Sunday) on which banks are generally open for normal business in London and Mauritius;
- 1.1.6 “**Completion**” means the implementation of the matters described in Clause 6;
- 1.1.7 “**Conditions**” means the conditions precedent referred to in Clauses 3.1 and 3.2;
- 1.1.8 “**Constitution**” means the Memorandum and Articles of Association or other constitutional documents of InfraCo for the time being;
- 1.1.9 “**Current Exchange Rate**” means Barclays’ spot rate of exchange for the relevant currency exchange in the London foreign exchange market at or about 11:00am on the relevant day (i.e. the day on which the Subscription Amount is received by InfraCo in cleared funds). In the event that no such exchange rate is available, it shall mean the spot rate of exchange for the relevant currency exchange in the London foreign exchange market at or about 11:00am on the relevant day as listed by another bank mutually acceptable to each of the InfraCo Donors;
- 1.1.10 “**Funding Instruments**” shall have the meaning set out in the InfraCo Funders’ Agreement;
- 1.1.11 “**HoldCo**” means any company that may be established from time to time to hold, inter alia, the PIDG Trust’s interest in InfraCo;
- 1.1.12 “**HoldCo Shares**” means such shares in HoldCo as may be acceptable to each InfraCo Donor as appropriate for holding the PIDG Trust’s investment in HoldCo;
- 1.1.13 “**InfraCo Donors**” means the Government of the United Kingdom, acting through the Secretary of State for International Development at the Department for International Development; the Swiss State Secretariat for Economic Affairs of the Government of the Confederation of Switzerland; the Austrian Government acting through the Austrian Development Agency; the Government of the Netherlands represented by the Directorate for Sustainable Economic Development – The Netherlands Minister for Development Co-operation and any additional InfraCo donor(s);

- 1.1.14 “**InfraCo Funders’ Agreement**” means the Agreement between Funders and Shareholders in relation to the Funding and Operation of InfraCo Limited, entered into between the InfraCo Donors, the PIDG Trust and InfraCo on or around the date of this Agreement with regard to, inter alia, the funding of InfraCo and the regulation of certain Shareholder matters;
- 1.1.15 “**InfraCo Shares**” means ordinary shares of £1 each in the capital of InfraCo, having the rights and being subject to the restrictions set out in the Constitution. In the event of a Migration, subject to NewCo entering into a novation agreement in relation to this Agreement, “InfraCo Shares” shall be deemed to be references to such shares in NewCo as may be acceptable to each of the InfraCo Donors;
- 1.1.16 “**IFRS**” means the International Financial Reporting Standards issued by the International Accounting Standards Board, as amended from time to time;
- 1.1.17 “**IMS**” means InfraCo Management Services Limited;
- 1.1.18 “**Initial Subscription**” means the subscription for InfraCo Shares by the PIDG Trust in accordance with Clause 4.1A;
- 1.1.19 “**Issued Shares**” has the meaning given to it in Recital B;
- 1.1.20 “**Management Agreement**” means the management services agreement between InfraCo and IMS dated 12 April 2005, as superseded and replaced by an Amended and Restated Management Services Agreement entered into between InfraCo and IMS on or about the date of this Agreement;
- 1.1.21 “**Manager**” means IMS or any other manager of InfraCo from time to time;
- 1.1.22 “**Migration**” means InfraCo moving all or most of its assets to a NewCo;
- 1.1.23 “**Needs Letter**” has the meaning assigned thereto in Clause 3.2.5;
- 1.1.24 “**NewCo**” means a new company to which InfraCo may transfer all or most of its assets in the event of a Migration;
- 1.1.25 “**Novation Agreement**” means an agreement entered into between the PIDG Trust, InfraCo and NewCo under which it is agreed that NewCo will be bound by all of the obligations of InfraCo under this Agreement and may take up all the rights of InfraCo under this Agreement;

- 1.1.26 “**Operating Policies and Procedures**” means the operating policies and procedures of InfraCo approved by the Board and the InfraCo Donors, as amended from time to time;
- 1.1.27 “**Project Sales Agreement**” has the meaning assigned thereto in the InfraCo Funders’ Agreement;
- 1.1.28 “**Purpose**” means the purpose of InfraCo referred to in Clause 2.1 and as more particularly described in the Operating Policies and Procedures;
- 1.1.29 “**Restructuring**” has the meaning assigned thereto in Clause 2.2;
- 1.1.30 “**Second Subscription**” means the subscription for InfraCo Shares by the PIDG Trust in accordance with Clauses 4.1 and 4.3;
- 1.1.31 “**Second Subscription Request**” means the Subscription Request for the Second Subscription;
- 1.1.32 “**Second Subscription Date**” means the date upon which the Second Subscription takes place pursuant to Clause 4.1;
- 1.1.33 “**Shareholder**” means the holder of any InfraCo Share;
- 1.1.34 “**Subscription**” means a subscription for InfraCo Shares or HoldCo Shares by the PIDG Trust pursuant to the terms hereof;
- 1.1.35 “**Subscription Amount**” means the amount so specified in any Subscription Request;
- 1.1.36 “**Subscription Date**” means the date specified in the Subscription Request;
- 1.1.37 “**Subscription Request**” means a written dated notice from InfraCo to the PIDG Trust in the form set out in Schedule 3;
- 1.1.38 “**Subsequent Subscription**” means the subscription for InfraCo Shares or HoldCo Shares by the PIDG Trust in accordance with Clauses 4.2 and 4.3;
- 1.1.39 “**Total Available Commitment**” for any calendar year means the amount set out as the total available commitment from the PIDG Trust for such calendar year in Schedule 1 (as may be increased from time to time in accordance with the provisions of Clause 4.6);
- 1.1.40 “**Warranties**” means the warranties contained in Clause 5.

- 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, a 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 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 (i) “**US Dollars**” or “**US\$**”, and (ii) “**£**” or “**£Sterling**” are to the lawful currency from time to time of, respectively, the United States of America and the United Kingdom.
- 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 Appendix to this Agreement shall take effect as if set out in this Agreement and references to this Agreement shall include its Schedules and Appendices.
- 1.14 References to (i) a “**Party**” is to a party to this Agreement, and to (ii) “**Clauses**”, “**Paragraphs**” and “**Schedules**” are references to the clauses, paragraphs and schedules 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 1.1 to 1.15 apply unless the contrary intention appears.

2. PURPOSE AND USE OF FUNDS

- 2.1 The purpose of InfraCo is as set out in Clause 2 of the InfraCo Funders' Agreement.
- 2.2 Each of the Parties acknowledges that the PIDG Trust may, with the consent of the InfraCo Donors, restructure its investment in InfraCo. Such restructuring may involve, inter alia, the PIDG Trust transferring its InfraCo Shares to HoldCo in exchange for HoldCo Shares (a "**Restructuring**").
- 2.3 Subject to Clause 3, the PIDG Trust agrees to either (a) subscribe at £1 per InfraCo Share for InfraCo Shares for a maximum pro rated subscription price as set out in Schedule 1 (in which case InfraCo agrees to allot such InfraCo Shares); or (b) subscribe for HoldCo Shares for a maximum pro rated subscription price as set out in Schedule 1 and to then procure that HoldCo uses such subscription monies paid to it by the PIDG Trust under the relevant Subscription Request to subscribe for InfraCo Shares .
- 2.4 The consideration received by InfraCo pursuant to Clause 2.3 shall be used exclusively by InfraCo (i) for the purpose set out in Clause 2.1, and (ii) as working capital in connection therewith in accordance with the relevant Subscription Request.

3. CONDITIONS PRECEDENT TO SUBSCRIPTION

- 3.1 The obligations of the PIDG Trust in respect of the Second Subscription are conditional on each of the following being fulfilled to the PIDG Trust's satisfaction (in both form and content):
- 3.1.1 each of the InfraCo Funders' Agreement, the Amended and Restated Management Services Agreement, and each of the Funding Instruments having been duly executed by all parties thereto and becoming unconditional, subject only to any conditions relating to completion of this Agreement and remaining in full force and effect;
- 3.1.2 receipt by the PIDG Trust of a certified copy of an executed Project Sales Agreement in form and substance acceptable to the PIDG Trust;
- 3.1.3 there having been no breach of any of the Warranties given by InfraCo; and
- 3.1.4 the proposed issue of InfraCo Shares to the PIDG Trust pursuant to the terms hereof and the requisite increase in authorised share capital being approved (i) by the Board, and (ii) by ordinary resolution of Shareholders on the record as at the date thereof.

- 3.2 The obligations of the PIDG Trust in respect of each Subsequent Subscription are conditional on each of the following being fulfilled to the PIDG Trust's satisfaction (in both form and content):
- 3.2.1 there having been no breach of:
- (a) any of the Warranties given by InfraCo hereunder; or
 - (b) any provision of the Operating Policies and Procedures (unless waived or approved in advance in writing by each of the Donors);
- 3.2.2 there having been no breach of any provision of this Agreement, the InfraCo Funders' Agreement, the Amended and Restated Management Services Agreement or any of the Funding Instruments and the effecting of the relevant Subscription shall not cause any such breach to occur;
- 3.2.3 each of this Agreement, the InfraCo Funders' Agreement, the Amended and Restated Management Services Agreement and each of the Funding Instruments remains in full force and effect;
- 3.2.4 receipt by the PIDG Trust, in form and substance acceptable to the PIDG Trust, of certified copies of the Project Sales Agreements against which all or some of the Subsequent Subscription is being requested in accordance with the provisions of Clause 4.2.3 (i) of the InfraCo Funders Agreement;
- 3.2.5 receipt by the PIDG Trust of a needs letter (the "Needs Letter") in form and substance acceptable to the PIDG Trust explaining why the amount requested therein (such amount being up to 50% of the outstanding Total Available Commitment for the relevant year) is required to meet the fixed running costs of InfraCo during the following 12 months and a fixed costs schedule from InfraCo, in form and substance acceptable to the PIDG Trust, for the use of these funds in accordance with the provisions of Clause 4.2.3(ii) of the InfraCo Funders' Agreement;
- 3.2.6 receipt by the PIDG Trust of sufficient funds from the InfraCo Donors under the relevant Funding Instruments to subscribe for the InfraCo Shares as requested under the relevant Subscription Request;
- 3.2.7 the issue of such further InfraCo Shares to the PIDG Trust or HoldCo as appropriate, pursuant to the terms hereof and any requisite increase in authorised share capital being approved (i) by the Board, and (ii) by ordinary resolution of Shareholders on the record as at the date thereof;

- 3.2.8 in the event of any subscription requested to be effected after a Migration, the Novation Agreement to have been duly executed by all parties thereto and becoming unconditional; and
- 3.2.9 in the event of a Restructuring, receipt by the PIDG Trust of an agreement executed by HoldCo, InfraCo and the PIDG Trust under which (i) HoldCo agrees to use any subscription monies received by it from the PIDG Trust in response to the receipt of a Subscription Request by the PIDG Trust to subscribe for InfraCo Shares and to hold such InfraCo Shares on behalf of the PIDG Trust; and (ii) InfraCo confirms that any such subscription for InfraCo Shares by HoldCo satisfies the PIDG Trust's obligation under this Agreement to subscribe for InfraCo Shares as set out in the relevant Subscription Request.
- 3.3 The PIDG Trust undertakes to provide to InfraCo a declaration of effectiveness when the Conditions specified in Clause 3.1 (in the case of the Second Subscription) and Clause 3.2 (in the case of each Subsequent Subscription) have been fulfilled to its satisfaction.
- 3.4 The PIDG Trust may waive all or any of the Conditions in whole or in part at any time by notice in writing to InfraCo. Any such waiver may be subject to further conditions.
- 3.5 Each of the Parties shall use all reasonable endeavours to assist in the fulfilment of the Conditions.
- 3.6 If all the Conditions specified in Clause 3.1 are not fulfilled or waived by the PIDG Trust on or before 31 March 2009 (or such later date as the Parties may agree in writing) none of the Parties shall have any rights or obligations under this Agreement so that no Party shall have any claims against the others for costs, damages, compensation or otherwise except:
- 3.6.1 in relation to any previous breach of this Agreement (including Clause 3.5); and
- 3.6.2 the provisions of Clauses 1, 3.6 and 7 to 10 (inclusive) shall continue to apply.

4. SUBSCRIPTION

- 4.1A The Parties acknowledge that the sums of £1,501,877, £1,500,000 and £1,000,000 respectively were paid by the PIDG Trust to InfraCo on 21st April 2008, 26th March 2008 and 12th November 2008 respectively to subscribe for InfraCo Shares and InfraCo has accordingly issued or will issue 4,001,877 InfraCo Shares to the PIDG

Trust. The Parties hereby agree that such subscriptions shall together constitute the Initial Subscription under this Agreement.

4.1 Subject to Clause 3.1, and in reliance on the Warranties and other covenants and undertakings on the part of InfraCo as set out in this Agreement, on receipt of a Subscription Request submitted to it by InfraCo in accordance with Clause 4.3 the PIDG Trust shall on the Second Subscription Date (as specified in the Second Subscription Request) subscribe at fully paid up nominal value, either:

- (a) for such number of InfraCo Shares or
- (b) for such number of HoldCo Shares and procure that HoldCo subscribes for such number of InfraCo Shares,

in either case as are represented by the relevant Subscription Amount, (requested in £Sterling and/or Euros and/or US Dollars, as applicable, in the relevant Subscription Request and as calculated and allocated between the relevant currencies in consultation with the Programme Management Unit (PMU) of the PIDG and in accordance with Schedule 1 hereto and the provisions of the InfraCo Funders Agreement), and InfraCo shall allot to the PIDG Trust or HoldCo, as applicable, as soon as possible after the Second Subscription Date on receipt of the Subscription Amount such amount of InfraCo Shares as result from the conversion of the Subscription Amount to £Sterling where necessary as at the Current Exchange Rate on the date of receipt by InfraCo of the Subscription Amount PROVIDED THAT the Subscription Amount shall not exceed the aggregate of US\$720,000, £347,368 and Euro180,000.

4.2 Following the Second Subscription Date and subject to Clause 3.2, and in reliance on the warranties referred to in Clause 5.2 and other covenants and undertakings on the part of InfraCo as set out in this Agreement, on receipt of a Subscription Request submitted to it by InfraCo in accordance with Clause 4.3 the PIDG Trust shall, on the relevant Subscription Date subscribe at fully paid up nominal value for either:

- (a) such number of InfraCo Shares or
- (b) such number of HoldCo Shares (and shall procure that HoldCo shall subscribe for such number of InfraCo Shares)

in either case as are represented by the relevant Subscription Amount, (requested in £Sterling, and/or Euros and/or US Dollars, as applicable, in the relevant Subscription Request and as calculated and allocated between the relevant currencies in consultation with the PMU and in accordance with Schedule 1 hereto and the provisions of the InfraCo Funders Agreement) and InfraCo shall allot to

the PIDG Trust or HoldCo, as applicable as soon as possible after the relevant Subscription Date on receipt of the Subscription Amount such amount of InfraCo Shares as result from the conversion of the Subscription Amount to £Sterling where necessary as at the Current Exchange Rate on the date of receipt by InfraCo of the Subscription Amount PROVIDED THAT, subject to Clause 4.6 the sum of all Subscription Amounts for Subscription Requests issued in any calendar year shall not exceed the amounts (in the relevant currencies) listed in Schedule 1 as the Total Available Commitment for such year.

- 4.3 Subject to Clauses 4.1 and 4.2, whenever InfraCo desires the PIDG Trust to make a Subscription it shall deliver to the PMU a Subscription Request appropriately completed to be received by the PMU not later than 12.00 noon (London time) 30 Business Days prior to the proposed Subscription Date. Each Subscription Request shall include certified copies of any executed Project Sales Agreements against which all or some of the Subscription Amount is requested in accordance with the provisions of Clause 4.2.2 of the InfraCo Funders Agreement (for the Second Subscription) and Clause 4.2.3(i) of the InfraCo Funders Agreement (for Subsequent Subscriptions) and, in the case of Subsequent Subscriptions a Needs Letter in accordance with the provisions of Clause 4.2.3(ii) of the InfraCo Funders Agreement.
- 4.4 Subject to the terms of this Agreement, the PIDG Trust shall on the Subscription Date specified in the relevant Subscription Request pay the amount requested in full in cash in £Sterling, US Dollars or Euros (as requested in the relevant Subscription Request,) to the credit of InfraCo (or further to a Restructuring, HoldCo, in which case the PIDG Trust shall procure that HoldCo shall pay such amount) at such bank as InfraCo shall designate in the Subscription Request (and cash shall include the electronic transfer of funds).
- 4.5 The number of Subscription Requests will be limited to two (2) per year, and InfraCo shall not, unless otherwise agreed with the PIDG Trust, be entitled to serve a Subscription Request after 30 November 2013.
- 4.6 In the event that the total of all Subscription Amounts requested in any calendar year is less than the Total Available Commitment for such calendar year, the Total Available Commitment for the following calendar year shall be increased by such difference.

5. WARRANTIES / UNDERTAKINGS

- 5.1 The PIDG Trust warrants to InfraCo and InfraCo warrants to the PIDG Trust, that in each case:

- 5.1.1 it has the requisite power and authority to enter into and perform this Agreement;
- 5.1.2 this Agreement constitutes valid and legally binding obligations on it in accordance with its terms;
- 5.1.3 compliance with the terms of this Agreement does not and will not conflict with or constitute a default under any provision of:
 - (a) any agreement or instrument to which it is a party; or
 - (b) its constitutional documents; or
 - (c) any order, judgment, injunction, or as far as it is aware any other restriction of any kind or character by which it is bound.

5.2 InfraCo further warrants to the PIDG Trust that:

- 5.2.1 it is a company duly incorporated under the laws of England (or in the event of a Migration, the laws of the country in which NewCo is established as set out in the Novation Agreement) and has the requisite power and authority to conduct its business as described in Clause 2.1 of this Agreement;
- 5.2.2 the particulars of InfraCo set out in Schedule 2 (as amended from time to time with the consent of the PIDG Trust) are correct;
- 5.2.3 except as referred to in this Agreement, the InfraCo Funders Agreement or as set out in the Constitution, no person has any right, contingent or otherwise, to subscribe for or otherwise to acquire any shares or other securities of InfraCo.

5.3 InfraCo hereby undertakes to the PIDG Trust that:

- 5.3.1 it will at all times conduct its business in accordance with the Operating Policies and Procedures and comply with OECD Principles of Corporate Governance issued from time to time to the extent applicable for InfraCo;
- 5.3.2 it will procure that the audited financial statements it produces in respect of each Accounting Period are prepared in accordance with IFRS;
- 5.3.3 it will 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;

5.3.4 internal procedures and controls have been instituted for the purpose of preventing the Manager and InfraCo from becoming an instrument for money laundering, the financing of terrorist activities, fraud or other corrupt or illegal purposes or practices;

5.3.5 it will provide to the PIDG Trust the following:

- (i) at least twenty (20) days before the start of each Accounting Period a copy of InfraCo's Annual Operating Plan and Budget for such Accounting Period;
- (ii) within thirty (30) 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 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 the 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 of the PIDG Trust 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 Constitution) of the calling of any meeting of Shareholders 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 the PIDG Trust.

5.4 Each of the Warranties set out in this Clause 5 is separate and independent.

5.5 In this Clause the following additional definitions and rules of interpretation apply:

“Claim” means a claim under the Warranties;

“Substantiated Claim” means a Claim in respect of which liability is admitted by the party against whom such Claim is brought or which has been adjudicated upon by an arbitrator(s) or a Court of competent jurisdiction and no right of appeal lies in respect of such adjudication or the parties are debarred by passage of time or otherwise from making appeal.

A Claim is **“connected”** with another Claim or Substantiated Claim if they all arise out of the occurrence of the same event or relate to the same subject matter.

5.5.1 This Clause limits the liability of each Party in relation to any Claim.

5.5.2 The liability of each Party for all Substantiated Claims against it, when taken together, will not exceed such sum as has actually been subscribed by the PIDG Trust for InfraCo Shares pursuant to this Agreement, and no Party shall be entitled to recover damages or otherwise obtain reimbursement or restitution more than once in respect of the same loss.

5.5.3 No Party will be liable for a Claim unless:

(a) the amount of a Substantiated Claim, or of a series of connected Substantiated Claims of which that Substantiated Claim is one, exceeds ten thousand US Dollars (US \$10,000);

(b) the amount of all Substantiated Claims that are not excluded under Clause 5.5.3(a) when taken together exceeds fifty thousand US Dollars (US \$50,000) in which case, the whole amount (and not just the amount by which the limit in this sub-clause is exceeded) is recoverable.

- 5.5.4 No Party is liable for any Claim to the extent that the Claim relates to any matter specifically and fully provided for in the Accounts.
- 5.5.5 No Party is liable for a Claim unless the Party making the Claim has given notice in writing of the Claim to the Party against which the Claim is made, specifying in reasonable detail the nature of the Claim and the amount claimed, within the period of (as the case may be) one (1) year beginning with the date of this Agreement or, in respect of any Warranty given by InfraCo to the PIDG Trust pursuant to Clause 5.2 one (1) year beginning with the date of each Subscription by the PIDG Trust hereunder.
- 5.5.6 Nothing in this Clause applies to a Claim that arises or is delayed as a result of dishonesty, fraud or wilful concealment by a Party against whom the Claim is made or by its agents or advisers.

6. COMPLETION

- 6.1 Subject to Clause 4, completion of the Second Subscription shall take place on the Subscription Date set out in the relevant Subscription Request at such time and place as the Parties shall agree (the “**Completion Date**”).
- 6.2 At completion of the Second Subscription, InfraCo shall, in accordance with Clause 3.4, procure that meetings of the Board and of the Shareholders are held or written resolutions passed at/by which it is resolved that subject to the PIDG Trust (or in the event of a Restructuring, HoldCo) paying the Subscription Amount to InfraCo:
- 6.2.1 the authorised share capital of InfraCo shall, if necessary, be increased to provide for the InfraCo Shares to be issued under the Second Subscription Request;
- 6.2.2 the PIDG Trust (or HoldCo, as appropriate) shall be allotted the number of InfraCo Shares for which it has agreed to subscribe in Clause 4.1;
- 6.2.3 the PIDG Trust (or HoldCo, as appropriate) shall be entered in the register of members of InfraCo as the holders of such InfraCo Shares allotted to it and share certificates shall be issued accordingly.
- 6.3 Following completion of the matters described in Clause 6.2:
- 6.3.1 the PIDG Trust shall pay, either to InfraCo or in the event of a Restructuring to HoldCo (in which case the PIDG Trust shall procure that such amount is paid to InfraCo by HoldCo) in full for the InfraCo Shares allotted to it (or

HoldCo, as appropriate) in immediately available funds in accordance with Clause 4.4; and

6.3.2 a certificate for the InfraCo Shares allotted shall be delivered to the PIDG Trust (or HoldCo, as appropriate).

6.4 Subject to Clause 4, completion of each Subsequent Subscription shall take place on the Subscription Date set out in the relevant Subscription Request at such time and place as the Parties shall agree.

6.5 At completion of each Subsequent Subscription, InfraCo shall, in accordance with Clause 3.2.7, procure that meetings of the Board and of the Shareholders are held or written resolutions passed at/by which it is resolved that subject to receipt of the subscription moneys by InfraCo:

6.5.1 the authorised share capital of InfraCo shall, if necessary, be increased to provide for the InfraCo Shares to be issued under the relevant Subscription Request;

6.5.2 the PIDG Trust (or HoldCo, as appropriate) shall be allotted the number of InfraCo Shares set out in the relevant Subscription Request;

6.5.3 the PIDG Trust (or HoldCo, as appropriate) shall be entered in the register of members of InfraCo as the holders of such InfraCo Shares allotted to it and share certificates shall be issued accordingly.

6.6 Following completion of the matters referred to in Clause 6.5:

6.6.1 the PIDG Trust shall pay InfraCo (or shall procure that HoldCo pays InfraCo) in full for the InfraCo Shares allotted to it (or HoldCo, as appropriate) in immediately available funds in accordance with Clause 4.4; and

6.6.2 a certificate for the InfraCo Shares allotted shall be delivered to the PIDG Trust or HoldCo, as appropriate (or a nominee thereof).

7. CONFIDENTIALITY

7.1 Subject to Clause 7.2, the PIDG Trust undertakes to InfraCo that it shall keep confidential all information of a secret or confidential nature received by it relating to InfraCo.

7.2 Clause 7.1 does not apply to the disclosure of information:

- 7.2.1 to the extent that such information comes into the public domain (other than through a breach of this Clause 7) or as required by law or by any court or any other regulatory body; or
- 7.2.2 to any of the PIDG Trust's professional advisers provided that such disclosure is made on the basis that the information is treated as confidential by the recipient and used by him only for the purpose for which it was disclosed.

8. DISPUTES

- 8.1 **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.
- 8.2 **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 their 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.
- 8.3 **Arbitration:** All Disputes which are unresolved by the chairmen or chief executives or their equivalents pursuant to Clause 8.2, 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.
- 8.4 **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.

- 8.5 **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-appealable.
- 8.6 **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 8.3 including, if necessary, the grant of interlocutory relief pending the outcome of that process.
- 8.7 **Agent:** Each Party not resident in the United Kingdom hereby appoints the party set out against its name below as its agent for the service of process in England for any Dispute, service upon whom shall be deemed completed whether or not forwarded to or received by the relevant appointer:

The PIDG Trust
c/o SG Hambros Trust Company Limited
41 Tower Hill
London EC4N 4SG
For the attention of :-Jane Minett

9. NOTICES

- 9.1 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 9.2, or at such other address or facsimile number as such Party may hereafter specify for such purpose to the others by notice in writing.
- 9.2 The addresses referred to in Clause 9.1 are:

9.2.1 **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 Limited, Managing Director

9.2.2 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.

- 9.3 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.

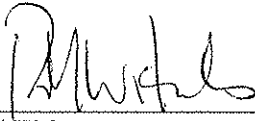
10. GENERAL

- 10.1 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 Agreement), 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 Shareholders and any Directors of InfraCo appointed by them (or their alternates) give effect to the terms of this Agreement.
- 10.2 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.
- 10.3 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.
- 10.4 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.
- 10.5 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.

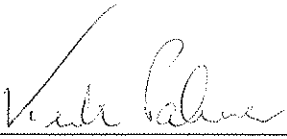
- 10.6 No amendment or variation of this Agreement or any provision of this Agreement shall be effective unless it is in writing and duly executed by or on behalf of all the Parties.
- 10.7 None of the rights or obligations under this Agreement may be assigned or transferred without each Party's written consent.
- 10.8 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.
- 10.9 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.
- 10.10 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.
- 10.11 In giving any opinion, approval, consent or waiver or refusing any opinion, approval, consent or waiver under this Agreement, the PIDG Trust may act entirely at its discretion except where explicitly stated otherwise in this Agreement.
- 10.12 Time is not of the essence in relation to any obligations under this Agreement unless:
- 10.12.1 time is expressly stated to be of the essence in relation to that obligation;
- 10.12.2 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.
- 10.13 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.
- 10.14 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.

THIS AGREEMENT has been signed by the Parties or their duly authorised representatives on the date which appears on the first page of this Agreement.

EXECUTED and DELIVERED as a)
DEED by **INFRACO LIMITED**)
acting by the identified person(s))
acting on the authority of the said)
company in accordance with the laws)
of England)



Name/ Title:



Name/ Title:

EXECUTED and DELIVERED as a)
DEED by **THE PRIVATE**)
INFRASTRUCTURE)
DEVELOPMENT GROUP TRUST)
acting by its trustees on the authority)
of the said trust in accordance with the)
laws of their respective jurisdictions)
of incorporation)

Name/Title
(authorised signatory for
SG Hambros Trust Co. Ltd)

Name/ Title:
(authorised signatory for
Multiconsult Trustees Ltd)

Name/ Title:
(authorised signatory for **Minimax Ltd**)

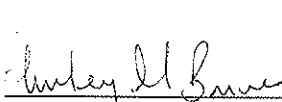
THIS AGREEMENT has been signed by the Parties or their duly authorised representatives on the date which appears on the first page of this Agreement.

EXECUTED and DELIVERED as a)
DEED by **INFRACO LIMITED**)
acting by the identified person(s))
acting on the authority of the said)
company in accordance with the laws)
of England)
)
)

Name/ Title:

Name/ Title:

EXECUTED and DELIVERED as a)
DEED by **THE PRIVATE**)
INFRASTRUCTURE)
DEVELOPMENT GROUP TRUST)
acting by its trustees on the authority)
of the said trust in accordance with the)
laws of their respective jurisdictions)
of incorporation)



Name/Title

(authorised signatory for
SG Hambros Trust Co. Ltd)

Name/ Title:

(authorised signatory for
Multiconsult Trustees Ltd)

Name/ Title:

(authorised signatory for **Minimax Ltd**)

THIS AGREEMENT has been signed by the Parties or their duly authorised representatives on the date which appears on the first page of this Agreement.

EXECUTED and DELIVERED as a)
DEED by INFRACO LIMITED)
acting by the identified person(s))
acting on the authority of the said)
company in accordance with the laws)
of England)
)
)

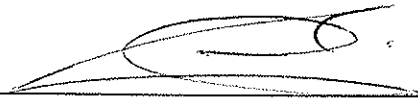
Name/ Title:

Name/ Title:

EXECUTED and DELIVERED as a)
DEED by THE PRIVATE)
INFRASTRUCTURE)
DEVELOPMENT GROUP TRUST)
acting by its trustees on the authority)
of the said trust in accordance with the)
laws of their respective jurisdictions)
of incorporation)

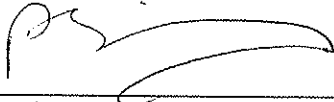
Name/Title

(authorised signatory for
SG Hambros Trust Co. Ltd)



Name/ Title:

(authorised signatory for
Multiconsult Trustees Ltd)



Name/ Title:

(authorised signatory for **Minimax Ltd**)

SCHEDULE 1

THE PIDG TRUST SUBSCRIPTION

	A	B	C	D	E	F	E
	2008	2009	2010	2011	2012	2013	Total
<i>The</i>	<i>aggregate of:-</i>	<i>The</i>	<i>The</i>				
<i>aggregate of:-</i>	<i>aggregate of:-</i>	<i>aggregate of:-</i>	<i>aggregate of:-</i>				
Total	US\$6,000,000	US\$6,500,000	US\$6,000,000	US\$5,500,000	*	*	US\$24,000,000
Available	£2,894,740	£1,052,630	£1,052,630				£5,000,000
Commitment	Euro 1,500,000						Euro 1,500,000

* For any Commitments rolled over from previous years in accordance with the provisions of Clause 4.2 of the InfraCo Funders Agreement

SCHEDULE 2
PARTICULARS OF THE COMPANY

Share Capital:

Class	Ordinary shares of £1 each
Issued	12,037,257

Shareholders:

Name	Number of InfraCo Shares: 12,037,257
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SG Hambros Trust Company Ltd,
Multiconsult Trustees Ltd. and
Minimax Ltd as trustees of the
Private Infrastructure Development
Group Trust

Directors:	Keith Palmer, Roger Witcomb, Peter Bird, Valentine Chitalu, Richard Parry
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Secretary:	Jordans
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Registered office:	St Nicholas House St Nicholas Road Sutton Surrey SM1 1EL United Kingdom
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Company number:	05196897
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Date of incorporation:	4 August 2004
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Accounting reference date:	31 st December
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Auditors:	Mazars LLP
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SCHEDULE 3

FORM OF SUBSCRIPTION REQUEST

To: [PIDG Trust]
[CC: [HoldCo]]

Date

Dear Sirs

**Subscription Request - Subscription Agreement No. 2 dated [] (the
"Subscription Agreement No. 2")**

Pursuant to Clause [] of the Subscription Agreement (No.2) between ourselves and yourselves, we hereby request the following proposed subscription of [] InfraCo Shares of [] in the capital of InfraCo:

1. Number of InfraCo Shares to be subscribed: [] InfraCo Shares

2. Subscription Date: []

3. Subscription Amount: £ []
US\$ []
Euro []

4. Payment Instructions:

Bank: []

Address: []

A/C Name: []

A/C Number: []

[Second Subscription] We confirm warrant and represent that (i)(a) the matters warranted by InfraCo in Clauses 5.1 and 5.2 of the Subscription Agreement No. 2 and (i)(b) the matters relating to InfraCo which the PIDG Trust is obliged to confirm, warrant and represent to each InfraCo Donor in relation to the relevant disbursement request(s) under the relevant Funding Instrument(s) are true and accurate at the date of this Subscription Request and will be true and accurate as at the Subscription Date specified above as if made at such date, and (ii) that the conditions set out in Clause 3.1 of the Subscription Agreement No. 2 have been duly complied with.

[Subsequent Subscriptions] We confirm, warrant and represent that (i)(a) the matters warranted in Clause 5 of the Subscription Agreement No. 2 and (i)(b) the matters relating to InfraCo which the PIDG Trust is obliged to confirm, warrant and represent to each InfraCo Donor in relation to the relevant disbursement request(s) under the relevant Funding Instrument(s) are true and accurate at the date of this Subscription Request and will be true and accurate as at the Subscription Date specified above as if made at such date, and (ii) that the conditions set out in Clause 3.2 of the Subscription Agreement No. 2 have been duly complied with.

Yours faithfully

For and on behalf of
InfraCo Limited
Authorised Signatory