

Dated: 20 March 2015

**INFRACO ASIA INVESTMENTS PTE. LTD.**

and

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

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**SUBSCRIPTION AGREEMENT (No.3)**

relating to shares in  
InfraCo Asia Investments Pte. Ltd.

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THIS AGREEMENT is made on 20 March 2015

## BETWEEN

- (1) **INFRACO ASIA INVESTMENTS PTE. LTD.**, a company incorporated under the laws of Singapore whose registered office is at 10 Collyer Quay #10-01, Ocean Financial Centre, Singapore 049315, with registered number 201135045H ("IASI"); and
- (2) **SG HAMBROS TRUST COMPANY LTD.** of Norfolk House, 31 St James's Square, London, SW1 4JR, United Kingdom, **MULTICONSULT TRUSTEES LTD.** of Les Cascades Building, Edith Cavell Street, Port Louis, Mauritius and **MINIMAX LTD.** of Les Cascades Building, Edith Cavell 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) IASI has been established for the purpose set out in Clause 2.1.
- (B) The current equity funding of IASI has been raised from the PIDG Trust which has subscribed a total of USD 22,180,651 for 22,180,651 IASI Shares (the "Issued Shares") pursuant to subscription agreements dated 21 May 2013 and 10 April 2014.
- (C) The PIDG Trust proposes to subscribe and record subscriptions for additional shares in the capital of IASI on the terms and subject to the conditions set out in this Agreement, with funding provided by DFID.

IT IS AGREED as follows:

### 1. INTERPRETATION

#### 1.1 In this Agreement:

- 1.1.1 "Accounting Period" means the accounting period of IASI commencing each year on 1 January and ending on the following 31 December;
- 1.1.2 "Accounts" mean the audited financial statements of IASI for the period to 31 December 2013 and the management accounts of IASI for the period to 31 December 2014;
- 1.1.3 "Annual Budget" means the detailed annual budget of IASI approved in writing by the Board and sent to the IASI Donors via the PIDG PMU for approval;
- 1.1.4 "Board" means the board of directors of IASI, 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 Singapore;
- 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 Clause 3;
- 1.1.8 “**Current Exchange Rate**” means the relevant rate of exchange obtained by SG Hambros Bank Limited (as bankers to the PIDG Trust) in the London foreign exchange market on the date and time at which a Subscription Amount is disbursed by the PIDG Trust to IAsI and communicated in writing by SG Hambros Bank Limited via the PIDG Trust and the PIDG PMU to IAsI (or otherwise as may be agreed in writing between the Parties);
- 1.1.9 “**DFID**” means the Government of the United Kingdom, acting through the Secretary of State for International Development at the Department for International Development;
- 1.1.10 “**DFID Grant Arrangement**” means the grant arrangement for multiple PIDG activities entered into between DFID and the PIDG Trust dated 12 March 2012, as amended from time to time, pursuant to which DFID agreed to grant up to £42,000,000 as such sums may be increased or decreased from time to time at DFID’s sole discretion, to the PIDG Trust to enable the PIDG Trust to apply for IAsI Shares;
- 1.1.11 “**Eligible Countries**” means those countries in which IAsI is permitted to invest in accordance with the IAsI Investment Policy and Procedures from time to time;
- 1.1.12 “**Entity**” means any general partnership, limited partnership, corporation, joint venture, trust, business trust, limited liability company, limited liability partnership, co-operative or association or similar entity, whether or not a legal person but excludes a natural person;
- 1.1.13 “**Financial Year**” means 1 January to 31 December in each year (or such other period as may be approved by IAsI with the prior written consent of the IAsI Donor(s));
- 1.1.14 “**Funding Instrument**” shall mean the DFID Grant Arrangement;
- 1.1.15 “**IAsI Constitution**” means the Memorandum and Articles of Association or other constitutional documents of IAsI for the time being;
- 1.1.16 “**IAsI Donor(s)**” means DFID and any additional IAsI Donor(s);
- 1.1.17 “**IAsI Funders’ Agreement**” means the agreement in relation to the funding and operation of IAsI, entered into between DFID, the Trustees of the PIDG Trust and IAsI on 16 December 2014 with regard to, inter alia, the funding of IAsI and the regulation of certain Shareholder matters as amended from time to time;



- 1.1.18 **"IASI Investment Policy and Procedures"** means the investment policy and procedures concerning the governance and operations of IASI and investment by IASI as approved and amended by the Board and IASI Donors from time to time;
- 1.1.19 **"IASI Management Accounts"** means in relation to each Quarter the management accounts of IASI for the relevant Quarter which shall include as a minimum (i) a balance sheet and profit and loss account (or equivalent) providing financial performance information for the relevant Quarter and appropriate comparable preceding periods; (ii) a comparison of expenditure against the relevant Annual Budget; and (iii) valuations of each IASI investment based on the audited financial statements of IASI (referred to in Clause 8.1(v) of the IASI Funders Agreement) for the previous Financial Year unless the Board is of the view that an updated valuation of an IASI investment is required because of, for example, an impairment assessment, in which case the valuation of the relevant IASI investment will be based on the updated valuation;
- 1.1.20 **"IASI Shares"** means ordinary shares of US\$1 each in the capital of IASI, having the rights and being subject to the restrictions set out in the IASI Constitution;
- 1.1.21 **"Issued Shares"** has the meaning given to it in Recital B;
- 1.1.22 **"Material Adverse Effect"** means a material adverse effect (which is continuing) on IASI's business, operations, assets, financial condition results or general affairs or its ability to fulfil its obligations under this Agreement but in any event, not including any such material adverse effect which has been cured or remedied;
- 1.1.23 **"PIDG"** means the Private Infrastructure Development Group;
- 1.1.24 **"PIDG Code of Conduct"** means the code of conduct approved by the PIDG Members 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;
- 1.1.25 **"PIDG Member"** means any member of the PIDG;
- 1.1.26 **"PIDG Facility"** means a facility of the PIDG including, but not limited to, the directly and indirectly owned Entities of The PIDG Trust including IASI;
- 1.1.27 **"PIDG Operating Policies and Procedures"** means the operating policies and procedures approved by the PIDG Members from time to time (or equivalent policies and procedures) and which the PIDG Members require all PIDG Facilities to adopt and incorporate into their governing documents as a minimum standard including the PIDG Procurement Policy and Procedures, the PIDG Environmental and Social Policy and Procedures, the PIDG Disclosure Policy and Procedures, the PIDG Anti-corruption and Integrity Policy and Procedures and the PIDG Appointment and Evaluation of Directors Policy and Procedures, the PIDG Remuneration Policy and Procedures, the PIDG Travel and Expense

Reimbursement Policy and Procedures, the PIDG Conflict of Interest and Share Dealing Policy and Procedures, the PIDG Complaints Policy and Procedures and the PIDG Risk Management Policy and Procedures;

- 1.1.28 “**PIDG PMU**” means the PIDG Programme Management Unit service provider appointed from time to time by the PIDG Trust with the approval of the PIDG Members;
- 1.1.29 “**PIDG Results Monitoring Handbook**” means the results monitoring handbook of the PIDG approved by the PIDG Members (as at the date of this Agreement the most recent revision date being September 2013) as amended from time;
- 1.1.30 “**Project**” means any actual or potential infrastructure project which is, or may be, (as applicable) supported by IAsI and which satisfies the eligibility criteria detailed in the IAsI Investment Policy and Procedures;
- 1.1.31 “**Purpose**” means the purpose of IAsI referred to in Clause 2.1;
- 1.1.32 “**Quarter**” means each period of three months ending on 31 March, 30 June, 30 September and 31 December in each Financial Year;
- 1.1.33 “**SFRS**” means the Singapore Financial Reporting Standards as promulgated by the Singapore Accounting Standards Council from time to time;
- 1.1.34 “**Shareholder**” means the holder of any IAsI Share;
- 1.1.35 “**Subscription**” means a subscription for IAsI Shares by the PIDG Trust pursuant to the terms hereof;
- 1.1.36 “**Subscription Amount**” means the amount so specified in any Subscription Request;
- 1.1.37 “**Subscription Date**” means the date specified in any Subscription Request;
- 1.1.38 “**Subscription Request**” means a written dated notice from IAsI to the PIDG Trust in the form set out in Schedule 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; and
- 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 “**£**” or “**£Sterling**” are to the lawful currency from time to time of the United Kingdom. References to “**US Dollars**” or “**US\$**” or “**USD**” are to the

lawful currency from time to time of the United States of America. References to “€” or “Euros” are to the lawful currency from time to time of the member states of the European Union that adopt the single currency in accordance with the Treaty establishing the European Community (signed in Rome on March 25, 1957), as amended.

- 1.10 Where there is any inconsistency between the definitions set out in this Clause and the definitions set out in any Clause or Schedule, then for the purposes of construing such Clause or Schedule, the definitions set out in such Clause or Schedule shall prevail.
- 1.11 The singular shall include the plural and vice versa and words importing the masculine shall include the feminine and neuter and vice versa.
- 1.12 The index and the headings in this Agreement do not affect its interpretation.
- 1.13 Any Schedule or 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 Clauses 1.2 to 1.14 apply unless the contrary intention appears.

## 2. **PURPOSE AND USE OF FUNDS**

### 2.1 IAsI’s objectives are to:

- 2.1.1 address market failures in the supply of capital to early stage infrastructure projects in Eligible Countries which can delay and sometimes prevent financial close of viable infrastructure projects; and
- 2.1.2 facilitate the accelerated construction and completion of infrastructure projects that satisfy the criteria as set out in the IAsI Investment Policy and Procedures

by making investments in Projects that provide benefits to the poor, including girls and women, principally at first financial close all in accordance with the provisions of the IAsI Investment Policy and Procedures.

- 2.2 Subject to Clause 3, the PIDG Trust agrees to subscribe at US\$1 per IAsI Share for IAsI Shares for a maximum subscription price as set out in Schedule 1 to this Agreement (in which case IAsI agrees to allot such IAsI Shares to the PIDG Trust), which shall in no circumstances exceed the figure set out in Schedule 1 to this Agreement in respect of the relevant year (subject to the provisions of Clause 4.1).



- 2.3 The consideration received by IAsI pursuant to Clause 2.2 shall be used exclusively by IAsI (i) for the purpose set out in Clause 2.1, (ii) the Funding Instrument and (iii) 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 each Subscription are conditional on each of the following being fulfilled to the PIDG Trust's satisfaction (in both form and content):
- 3.1.1 the IAsI Funders Agreement being in full force and effect;
  - 3.1.2 there having been no breach of any of the Warranties given by IAsI;
  - 3.1.3 receipt by the PIDG Trust of: (a) a needs letter in form and substance acceptable to the PIDG Trust setting out (i) the commercial requirements of IAsI to maintain a stable and commercially sound business model, and (ii) IAsI's expected corporate operating costs (over the following 3 months); and (b) such other documentation as may be stipulated in the IAsI Funders' Agreement (where appropriate);
  - 3.1.4 there having been no breach of any provision of this Agreement or the Funding Instrument and the Subscription shall not cause any such breach to occur;
  - 3.1.5 each of this Agreement and the Funding Instrument remains in full force and effect;
  - 3.1.6 receipt by the PIDG Trust of sufficient funds from the IAsI Donor(s) under the Funding Instrument to subscribe for the IAsI Shares as requested under the relevant Subscription Request;
  - 3.1.7 the issue of such further IAsI Shares to the PIDG Trust pursuant to the terms hereof being approved (if necessary) (i) by the Board, and (ii) by ordinary resolution of Shareholders on the record as at the date thereof.
- 3.2 The PIDG Trust undertakes to provide to IAsI a declaration of effectiveness when the Conditions specified in Clause 3.1 have been fulfilled to its satisfaction.
- 3.3 The PIDG Trust may waive all or any of the Conditions in whole or in part at any time by notice in writing to IAsI. Any such waiver may be subject to further conditions.
- 3.4 Each of the Parties shall use all reasonable endeavours to assist in the fulfilment of the Conditions.

3.5 If all the Conditions specified in Clause 3.1 are not fulfilled or waived by the PIDG Trust on or before the date which is 60 calendar days after the date of execution of this Agreement (or the date of any relevant Subscription Request, whichever is the later, 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:

3.5.1 in relation to any previous breach of this Agreement (including Clause 3.4); and

3.5.2 the provisions of Clauses 1, 5 and 7 to 10 (inclusive) shall continue to apply.

#### 4. SUBSCRIPTION

4.1 Subject to Clause 3.1, and in reliance on the warranties and other covenants and undertakings on the part of IAsI as set out in this Agreement, on receipt of a Subscription Request submitted to it by IAsI in accordance with Clause 4.3 the PIDG Trust shall, on the relevant Subscription Date subscribe at fully paid up nominal value for such number of IAsI Shares as are represented by the relevant Subscription Amount (requested in US Dollars and/or £Sterling, as applicable) in the relevant Subscription Request and as calculated and allocated between the relevant currencies in consultation with the PIDG PMU and in accordance with Schedule 1 hereto provided that the aggregate Subscription Amount under this Agreement shall not in any circumstances exceed the maximum subscription price referred to in Clause 2.2.

4.2 Following receipt of a Subscription Request, IAsI shall allot to the PIDG Trust as soon as possible after the relevant Subscription Date such amount of IAsI Shares as result from the conversion of the Subscription Amount from the currency specified in the Subscription Request to US Dollars as at the Current Exchange Rate on the date of receipt by IAsI of the Subscription Amount (if the Subscription Amount is not in US Dollars) PROVIDED THAT, subject to Clause 4.5 the sum of all Subscription Amounts for Subscription Requests issued in any calendar year shall not exceed the amounts listed in Schedule 1 as the Total Available Commitment for such year.

4.3 Subject to Clause 4.1, when IAsI desires the Trustees of the PIDG Trust to make a Subscription it shall deliver to the PIDG PMU a Subscription Request appropriately completed to be received by the PIDG PMU not later than 12.00 noon (London time) 40 Business Days prior to the proposed Subscription Date.

4.4 Subject to the terms of this Agreement, the Trustees of the PIDG Trust shall on the Subscription Date specified in the relevant Subscription Request pay the amount requested in full in cash in US Dollars or £Sterling (as requested in the





relevant Subscription Request) to the credit of IAsI at such bank as IAsI shall designate in the Subscription Request (and cash shall include the electronic transfer of funds).

- 4.5 IAsI may submit any number of Subscription Requests in any relevant year, provided that IAsI shall not, unless otherwise agreed with the PIDG Trust, be entitled to serve a Subscription Request after 31 January 2017.
- 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 IAsI and IAsI 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 IAsI further warrants to the PIDG Trust on the date of this Agreement and on each Subscription Date that:

- 5.2.1 it is a company duly incorporated under the laws of Singapore 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 IAsI 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 or the IAsI Constitution, no person has any right, contingent or otherwise, to subscribe for or otherwise to acquire any shares or other securities of IAsI.



- 5.2.4 neither the entry into this Agreement nor the compliance with its terms will conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default or require any consent under, any indenture, mortgage, agreement or other instrument or arrangement to which IAsI is a party or by which it is bound, or violate any of the terms or provisions of the IAsI Constitution or any authorisation, judgment, decree or order or any law or other rule or regulation applicable to IAsI;
- 5.2.5 IAsI has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, this Agreement and the transactions contemplated hereby. All authorisations required to enable it lawfully to enter into, exercise its rights and comply with its obligations in this Agreement and to make it admissible in evidence in its jurisdiction of incorporation have been obtained and are in full force and effect;
- 5.2.6 in any proceedings taken in its jurisdiction of incorporation in relation to any of this Agreement, the choice of English law as the governing law of this Agreement and any award obtained in England in relation to this Agreement will be recognised and enforced;
- 5.2.7 IAsI is not in breach of or in default under any agreement to which it is a party or which is binding on it or any of its assets to an extent or in a manner which might result in a Material Adverse Effect;
- 5.2.8 all tax returns and reports of IAsI required by applicable law to be filed have been duly filed and all taxes, obligations, fees and other governmental charges upon IAsI, or its properties, or its income or assets, which are due and payable or to be withheld, have been paid or withheld, other than those presently payable without penalty or interest or with respect to which the failure to pay has not resulted in or may reasonably be expected to result in a Material Adverse Effect;
- 5.2.9 IAsI is not engaged in nor, to the best of its knowledge after due enquiry, threatened by, any litigation, arbitration or administrative proceedings which, if determined in a manner adverse to IAsI by a final non-appealable judgment or decision of a court, arbitral tribunal or administrative or other body would result in or may reasonably be expected to result in a Material Adverse Effect;
- 5.2.10 to the best of its knowledge and belief after due enquiry, IAsI is not in violation of any applicable law or regulation which has resulted in or may reasonably be expected to result in a Material Adverse Effect;
- 5.2.11 under the laws of England or Singapore it is not required that this Agreement be filed, recorded, or enrolled with any court or other authority in England or that any stamp, registration or similar tax be paid on or in



relation to this Agreement or the transactions contemplated herein, save for the fact that registration would be required in order for the Agreement to be binding on third parties;

- 5.2.12 the Accounts have been prepared with due care and attention, on bases consistent with those adopted in the preparation of previous accounts of IAsI and show with reasonable accuracy the state of affairs and financial position of IAsI.

5.3 IAsI hereby undertakes to the PIDG Trust that:

- 5.3.1 it will at all times conduct its business in accordance with the IAsI Funders' Agreement, the IAsI Investment Policy and Procedures and comply with the PIDG Code of Conduct, the PIDG Operating Policies and Procedures and the OECD Principles of Corporate Governance issued from time to time to the extent applicable for IAsI;
  - 5.3.2 it will procure that the audited financial statements it produces in respect of each Accounting Period are prepared in accordance with SFRS;
  - 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 IAsI from becoming an instrument for money laundering, the financing of terrorist activities, fraud or other corrupt or illegal purposes or practices; and
- 5.4 it will provide to the PIDG Trust all the documentation, information and assistance required of IAsI under the IAsI Funders' Agreement. 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 IAsI 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 pounds sterling (£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 pounds sterling (£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 IAsI to the PIDG Trust pursuant to this Agreement 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 each 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.
- 6.2 At completion of each Subscription, IAsI shall procure that meetings of the Board (and, if necessary, of the Shareholders) are held or written resolutions passed at/by which it is resolved that subject to receipt of the subscription moneys by IAsI:
- 6.2.1 the PIDG Trust shall be allotted the number of IAsI Shares set out in the relevant Subscription Request;



6.2.2 the PIDG Trust shall be entered in the register of members of IAsI as the holders of such IAsI Shares allotted to it and share certificates shall be issued accordingly.

6.3 Following completion of the matters referred to in Clause 6.2:

6.3.1 the PIDG Trust shall pay IAsI in full for the IAsI Shares allotted to it in immediately available funds in accordance with Clause 4.4; and

6.3.2 a certificate for the IAsI Shares allotted shall be delivered to the PIDG Trust.

## 7. CONFIDENTIALITY

7.1 Subject to Clause 7.2, the PIDG Trust undertakes to IAsI and the PIDG Trust shall procure that the IAsI Donor(s) shall undertake to IAsI that they shall keep confidential all information of a secret or confidential nature received by them relating to IAsI (it being understood that this Agreement and the Funding Instrument shall not be confidential).

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

7.2.1 pursuant to PIDG Disclosure Policy and Procedures;

7.2.2 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 (including the UK Freedom of Information Act 2000) or by any court or any other regulatory body; or

7.2.3 to any of the PIDG Trust's trustees, officers and employees and its and their 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 **Process 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:

**IASI**

c/o MDY Legal  
St Nicholas House  
St Nicholas Road  
Sutton  
Surrey  
SM1 1EL  
United Kingdom  
For the attention of: The Senior Partner

**The PIDG Trust**

c/o SG Hambros Trust Company Ltd.  
Norfolk House  
31 St. James's Square

London SW1Y 4JR  
 United Kingdom  
 For the attention of: Rachel Iles

## 9. NOTICES

9.1 Without prejudice to the provisions of clause 8.7 above, 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 IAsI:

10 Collyer Quay #10-01,  
 Ocean Financial Centre  
 Singapore 049315  
 Facsimile number: +65 6533 1542  
 F.A.O. Madelyn Kwang  
 cc: Claudine Lim, IAsI

### 9.2.2 The PIDG Trust:

c/o SG Hambros Trust Company Ltd  
 Norfolk House  
 31 St James's Square  
 London, SW1Y 4JR  
 United Kingdom

Facsimile Number: +44 (0)20 7597 3061  
 F.A.O. Rachel Iles

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.



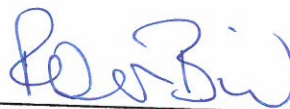
## 10. GENERAL

- 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 IASI 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 prior 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 by INFRACO ASIA )  
INVESTMENTS PTE. LTD. acting )  
by the identified person(s) acting on )  
the authority of the said company in )  
accordance with the laws of Singapore )**



\_\_\_\_\_  
Name

Title: Director



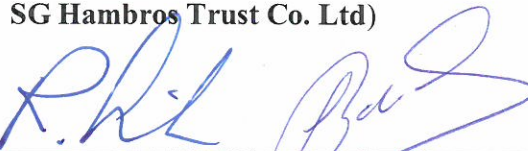


EXECUTED by THE PRIVATE )  
 INFRASTRUCTURE )  
 DEVELOPMENT GROUP TRUST )  
 acting by its trustees on the authority )  
 of the said trust in accordance with the )  
 laws of their respective jurisdictions )  
 of incorporation )

\_\_\_\_\_  
 Name/Title

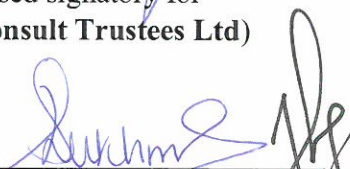
(authorised signatory for

**SG Hambros Trust Co. Ltd)**

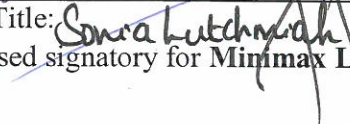


\_\_\_\_\_  
 Name/ Title: **Rehman Muth & Premi la Dewoo.**  
 (authorised signatory for

**Multiconsult Trustees Ltd)**



\_\_\_\_\_  
 Name/ Title: **Sonra Hutchings & Youmeswar.**  
 (authorised signatory for Minimax Ltd) **Ramdhony.**



**SCHEDULE 1**  
**THE PIDG TRUST SUBSCRIPTION**  
**(US\$ equivalent of GBP\*)**

<b>1 April 2014 – 31 March 2017</b>	
<b>Total Available Commitment</b>	<b>Total</b>
GBP 35,000,000	£35,000,000

\*The Total Available Commitment shall be such amount of US\$ as is received by the PIDG Trust from DFID and which results from the conversion by DFID of the relevant GBP amount into US\$ on the day of disbursement of the relevant GBP amount from the DFID Grant Arrangement at the prevailing GBP : US\$ exchange rate on the day of disbursement from DFID to the PIDG Trust.

## **SCHEDULE 2**

### **PARTICULARS OF INFRACO ASIA INVESTMENTS PTE. LTD.**

#### **Share Capital:**

Class	Ordinary shares of US\$1 each
Issued	22,180,651

#### **Shareholders:**

Name	Number of IAsI Shares: 22,180,651
SG Hambros Trust Company Ltd, Multiconsult Trustees Ltd. and Minimax Ltd as trustees of the Private Infrastructure Development Group Trust	

#### **Directors:**

Keith Francis Palmer  
Kenneth Peter Baxter  
Peter John William Neville Bird  
Tantra Narayan Thakur  
Robert Michael Edgell

#### **Secretary:**

Madelyn Kwang Yeit Lam

#### **Registered office:**

10 Collyer Quay  
#10-01 Ocean Financial Centre  
Singapore 049315

#### **Company number:**

201135045H

#### **Date of incorporation:**

7 December 2011

#### **Accounting reference date:**

Financial Year end: 31 December

#### **Auditors:**

Ernst & Young LLP



**SCHEDULE 3**  
**FORM OF SUBSCRIPTION REQUEST**

To: PIDG Trust,  
 c/o PIDG PMU,  
 MDY Legal,  
 St Nicholas House,  
 St Nicholas Road,  
 Sutton, Surrey,  
 SM1 1EL  
 United Kingdom

From: InfraCo Asia Investments Pte. Ltd. (IASI)

Date

Dear Sirs

**Subscription Request pursuant to Subscription Agreement (No.3) between the  
 Trustees of the PIDG Trust and InfraCo Asia Investments Pte. Ltd dated  
 [            ] (the "Subscription Agreement (No.3)")**

Terms used in this Subscription Request shall have the same meaning as set out in Subscription Agreement (No.3).

Pursuant to Clause 4 of the Subscription Agreement (No.3), we hereby request the following Subscription Amount for subscription for the following amount of IASI Shares, to be used for the purposes set out in the attached Needs Letter:

1. Number of IASI Shares to be subscribed: [insert] IASI Shares
2. Subscription Date: [    ]
3. Subscription Amount:        US\$ [insert]
4. Payment Instructions:

Bank:                Standard Chartered Bank  
 Address:            6 Battery Road, #01-01, Singapore 049909  
 Bank code:        7144  
 SWIFT Code:      SCBLSGSG

A/C Name: INFRACO ASIA INVESTMENTS PTE. LTD.

A/C Number: USD 0170813312

This is a Subscription Request for the purposes of the Subscription Agreement (No.3).

We confirm warrant and represent that (a) the matters warranted by IAsI in Clauses 5.1 and 5.2 of the Subscription Agreement (No.3) 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 that the conditions set out in Clause 3.1 of the Subscription Agreement (No.3) have been duly complied with.

Yours faithfully

.....

**For and on behalf of InfraCo Asia Investments Pte. Ltd**

