

Third Amended and Restated Declaration of Trust

THIS THIRD AMENDED AND RESTATED DECLARATION OF TRUST is made the 25th February 2020 by:

- 1) **Multiconsult Trustees Ltd (formerly known as MC Trust Ltd)** of 5th Floor, Les Cascades Building, Edith Cavell Street, Port Louis, Mauritius
- 2) **Minimax Ltd** of 5th Floor, Les Cascades Building, Edith Cavell Street, Port Louis, Mauritius
- 3) **SG Kleinwort Hambros Trust Company (UK) Limited** a company registered in England and Wales with number 514879 whose registered office is at 5th Floor, 8 St James's Square, London, SW1Y 4JU, United Kingdom

WHEREAS:

- (A) The Government of the United Kingdom of Great Britain and Northern Ireland acting through the Secretary of State of the Government of the United Kingdom of Great Britain and Northern Ireland at the Department for International Development ("**DFID**") has agreed with the then trustees of the PIDG Trust (namely, SG Hambros Trust Company Limited, MC Trust Ltd and Minimax Ltd, together herein after referred to as the "**Original Trustees**") to make a grant to the Original Trustees of USD100,000,000 with the intent that they should hold such funds upon the trusts and in the manner and for the purposes hereinafter declared and the Swedish Government, acting through the Swedish International Development Co-operation Agency ("**Sida**"), the Swiss State Secretariat for Economic Affairs of the Government of the Confederation of Switzerland ("**SECO**"), the Government of the Netherlands represented by the Directorate-General for International Cooperation – The Netherlands Minister for Foreign Trade and Development Co-operation of Ministry of Foreign Affairs ("**DGIS**"), the World Bank Group, represented by International Finance Corporation ("**IFC**"), the Government of Australia represented by the Department of Foreign Affairs and Trade ("**DFAT**"), KfW, a German public law institution ("**KfW**") and the Norwegian Ministry of Foreign Affairs, through the Department of Economic Relations and Development, Section for Economic and Commercial Affairs ("**MFA**") also support the purposes hereinafter declared.
- (B) The Original Trustees executed the Declaration of Trust of the Public Private Infrastructure Development Trust on 1 December 2001 (the "**Original Declaration of Trust**").

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- (C) The Original Declaration of Trust was amended and restated by way of an Amended and Restated Declaration of Trust dated 14 March 2003 (the "**First Amended and Restated Declaration of Trust**").
- (D) For the purposes of identification this trust shall now be known as the "**Private Infrastructure Development Group Trust**" or the "**the PIDG Trust**" or by such other name as the Trustees (as defined in Clause 2 of Part 1 of this Declaration of Trust) may from time to time in their discretion declare to be the name of this trust.
- (E) On 30 November 2016 Kleinwort Benson Trustees Limited (registered in England and Wales with number 514879) signed an asset purchase agreement to purchase the majority of the assets of SG Hambros Trust Company Limited (this agreement did not include the PIDG Trust and its assets). Effective on 30 November 2016 the name of Kleinwort Benson Trustees Limited changed to SG Kleinwort Hambros Trust Company (UK) Limited. As a consequence, SG Hambros Trust Company Limited has retired as Principal Trustee of the PIDG Trust and will be wound up. SG Kleinwort Hambros Trust Company (UK) Limited became the Principal Trustee of the PIDG Trust upon signature of a Second Amended and Restated Declaration of Trust dated 4 September 2018 (the "**Second Amended and Restated Declaration of Trust**").
- (F) The Trustees have made capital contributions to and/or acquired all the issued share capital of the following entities:
 - (i) The Emerging Africa Infrastructure Fund Limited, a company registered in Mauritius with number 39536 whose registered office is at Intercontinental Trust Limited, Level 3, Alexander House, 35 Cybercity, Ebene 72201, Mauritius ("**EAI**F")
 - (ii) InfraCo Africa Limited, a company registered in England and Wales with number 5196897 whose registered office is at 6 Bevis Marks, London EC3A 7BA, United Kingdom ("**InfraCo Africa**")
 - (iii) InfraCo Africa Investment Limited, a company registered in England and Wales with number 9152403 whose registered office is at 6 Bevis Marks, London EC3A 7BA, United Kingdom ("**IA**fi")
 - (iv) InfraCo Asia Development Pte Ltd, a company incorporated under the laws of Singapore with registration number 200901920D whose registered office is at Manulife Tower #23-4/05, 8 Cross Street, Singapore 048424 ("**IA**sD")

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- (v) InfraCo Asia Investments Pte Ltd, a company incorporated under the laws of Singapore with registration number 201135045H whose registered office is at Manulife Tower #23-4/05, 8 Cross Street, Singapore 048424 ("**IASI**")
- (vi) Green Africa Power LLP, a limited liability partnership registered in England and Wales with number OC383990 whose registered office is at 6 Bevis Marks, London EC3A 7BA, United Kingdom ("**GAP**"), which is in the process of being liquidated under a members' voluntary liquidation
- (vii) The Private Infrastructure Development Group Ltd., a company registered in England and Wales with number 11265124 whose registered office is at 6 Bevis Marks, London EC3A 7BA, United Kingdom ("**PIDG Ltd**")
- (viii) ICF Debt Pool LLP, a limited liability partnership registered in England and Wales with number **OC348514** whose registered office is at 6 Bevis Marks, London EC3A 7BA, United Kingdom ("**ICF DP LLP**").
- (G) The Trustees have acquired issued share capital in GuarantCo Ltd, a company limited in Mauritius with number 58185C1/GBL whose registered office is at Intercontinental Trust Limited, Level 3, Alexander House, 35 Cybercity, Ebene 72201, Mauritius ("**GuarantCo**").
- (H) Multiconsult Trustees Ltd (formerly known as MC Trust Ltd) is a qualified Trustee as defined in the Mauritius Trusts Act 2001 (the "**Act**").
- (I) This Declaration of Trust amends and replaces the Original Declaration of Trust, the Amended and Restated Declaration of Trust and the Second Amended and Restated Declaration of Trust.

NOW THIS INSTRUMENT WITNESSES as follows:

PART 1

1. Proper Law and Dispute Resolution

- 1.1 Subject to the powers conferred on the Trustees by this Declaration of Trust and to each and every exercise thereof, the proper law of the PIDG Trust is the

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law of Mauritius notwithstanding that one or more of the Trustees may from time to time be resident or domiciled elsewhere than in Mauritius.

- 1.2 Any dispute arising out of or in respect of this instrument shall be referred to and determined by arbitration in Geneva, Switzerland in accordance with the rules of the International Chamber of Commerce and will be in English.

2. Interpretation

- 2.1 In this instrument where the context so admits the expressions hereinafter specified shall have the meanings and bear the interpretations thereby assigned to them respectively:

"Accounts Administration Provisions" means the provisions set out in Schedule 4.

"Account" means an account opened by the PIDG Trust in accordance with the provisions of Schedule 4.

"Contribution" means any contribution paid by a Donor to the PIDG Trust made in accordance with the provisions of a Funding Instrument.

"Developing Countries" means countries in the following categories of the Organisation for Economic Co-operation and Development's Development Assistance Committee's List of Official Development Assistance Recipients as amended from time to time: Least Developed Countries; Other Low Income Countries; Lower Middle Income Countries and Territories; Upper Middle Income Countries and Territories.

"Donor" means any member of PIDG.

"Enforcer" means the person for the time being constituted as the Enforcer pursuant to Part 3.

"Ethical Policies" means the Environmental, Economic and Social Development Policies set out in Schedule 2.

"Funding Instrument" means an instrument entered into between a Donor and the PIDG Trust for the provision of funds to the PIDG Trust.

"the Funds" means

- (a) the funds paid to the Trustees by DFID and set out in Part 5 hereof;

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- (b) all money investments or other property paid or transferred by any person or persons to or so as to be under the control of and (in either case) accepted by the Trustees as additions;
- (c) all accumulations (if any) of income directed to be held as an accretion to capital; and
- (d) the money investments and property from time to time representing the said money investments property additions and accumulations including any proceeds from the Trustees' investment in an Investment Vehicle or any other investment made pursuant to the Investment Plan.

"General Administration Costs" has the meaning given in the PIDG Constitution.

"Investment" means an investment made by the PIDG Trust in accordance with the Investment Plan.

"Investment Plan" means a plan to invest or apply the Funds adopted and amended from time to time by the Trustees in accordance with the provisions of Clause 12.6 of this Part 1.

"Investment Policy" means the unified investment policy for the PIDG approved by the PIDG Members and PIDG Ltd and adopted by the board of directors of each Investment Vehicle (excluding ICF DP LLP) as may be amended from time to time.

"Investment Vehicle" means any company or other entity in which an Investment is made, but shall not include PIDG Ltd.

"PIDG" means the multi-donor arrangement of that name established and directed by its members, that is DFID, Sida, SECO, DGIS, IFC, DFAT, KfW and MFA together with any other entity which may become a member of PIDG from time to time as notified to the Trustees by PIDG Ltd.

"PIDG Administration Budget" means a budget of estimated General Administration Costs prepared by PIDG Ltd in conjunction with the Principal Trustee and approved by the PIDG Members.

"PIDG Constitution" means the constitution of PIDG as validly amended from time to time.

"PIDG Members" means the members of PIDG acting in accordance with the PIDG Constitution.

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"Principal Trustee" means SG Kleinwort Hambros Trust Company (UK) Limited or such other Trustee as PIDG Members shall appoint from time to time;

"Proceeds" means all dividends, interest and other monies received by the PIDG Trust in respect of any Investment and all other proceeds received in respect of such Investment (whether by way of redemption, bonus, preference, option, substitution, conversion or otherwise) and any monies received by the PIDG Trust from or in connection with any sale, expropriation, requisition or seizure, or similar action, with respect to such Investment.

"Purposes" means the purposes described in Part 2.

"Termination Day" means such day if any as the Trustees may by instrument declare to be the date of termination of the PIDG Trust in accordance with Clause 15 of Part 1 such date not to be earlier than the date of execution of such instrument.

"Transaction Documents" means any document, agreement, or other instrument required to establish or incorporate an Investment Vehicle.

"Trustees" means the Original Trustees or other Trustees from time to time of the PIDG Trust.

"Trustees' Obligations" has the meaning set out in Clause 7.4 of Part 1.

"Trust Period" means the period from 1 December 2001 until the Termination Day.

2.2 Any reference in this Declaration of Trust to:-

- (a) **"benefit"** shall be construed in its widest possible sense;
- (b) **"capable of acting"** shall be interpreted so that without limitation a person shall be considered not to be capable of acting if through illness age or other cause he is unable to give reasoned consideration to financial or business matters the existence of any such inability being determined by certificate delivered to the Trustees of a physician attending to such person's care at any relevant time;
- (c) **"charitable purposes"** means purposes charitable either according to the proper law notwithstanding that they are or may be carried into effect in any part of the world or according to the law of the country in which the organisation carrying out such purposes is incorporated and **"charity"** has a corresponding meaning;

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- (d) **"connected"** shall be interpreted so that:
 - (i) a company shall be deemed to be connected with another person if that other person is its beneficial owner or its holding company or subsidiary or a company which is a subsidiary of that holding company or is a director officer employee or agent of any of the above (including without limitation the company first above mentioned); and
 - (ii) an individual shall be deemed to be connected with another person if that other person is a spouse relative partner employee or agent of him or is an employee of his employer;
 - (e) **"constitutional documents"** shall be interpreted in its widest possible sense and, in relation to any Investment Vehicle shall include the Unified Investment Policy;
 - (f) **"officer"** shall be interpreted in its widest possible sense and, in relation to an Investment Vehicle or PIDG Ltd, shall include any member of the board of directors, or any member of a committee set up by the board of directors of the Investment Vehicle or PIDG Ltd;
 - (g) **"proper law"** shall be interpreted to mean the law by which from time to time and to the exclusive jurisdiction of which the PIDG Trust and the rights of all parties are to be governed and in accordance with which the PIDG Trust is to be interpreted; and
 - (h) **"property"** shall be interpreted to include all real and personal property provided that for as long as the proper law is the laws of Mauritius it shall not include any immovable property situated in Mauritius.
- 2.3 Words importing the singular shall include the plural and the masculine gender shall include the feminine and the neuter and vice versa in each case.
- 2.4 Words importing persons shall include bodies of persons whether corporate or unincorporated.
- 2.5 Reference to a Clause or a Part shall be a reference to a Clause or a Part of this instrument.
- 2.6 The headings in this instrument are for reference only and shall not affect its construction.

3. Principal Trusts

- 3.1 The Trustees shall hold the Funds during the Trust Period upon trust to apply use or hold the same (as appropriate) to procure the Purposes in accordance with the provisions of this Declaration of Trust at such times and in such manner as the Trustees may in their discretion think fit.
- 3.2 As long as the proper law is the laws of Mauritius the Trustees shall not hold any immovable property (as defined under the Act) situated in Mauritius.

4. Ultimate Trusts

The Trustees shall at the expiration of the Trust Period stand possessed of the Funds and any other assets held by the Trustees upon trust for such charitable purposes consistent with the Purposes as the Trustees may prior to the Termination Day in their discretion determine with the consent of the PIDG Members and failing such determination upon trust for charitable purposes generally.

5. Appointment and Removal of Trustees

- 5.1 The power of:
- 5.1.1 appointing Trustees including the Principal Trustee; or
- 5.1.2 removing any Trustee including the Principal Trustee who:
- (a) in the opinion of the PIDG Members, is unfit incapable or unwilling to act;
 - (b) has, for any reason, received written notice of fourteen (14) days from the PIDG Members; or
 - (c) fails to provide evidence satisfactory to the PIDG Members that the Trustee is insured in respect of professional indemnity insurance and directors' and officers' insurance to such minimum value as the PIDG Members shall specify from time to time

shall be vested in the PIDG Members.

- 5.2 There shall be no requirement that there be more than one Trustee. As long as the proper law is the laws of Mauritius, the number of Trustees shall not exceed four (4) of whom at least one Trustee must at all times be a qualified Trustee as defined under the Act. It shall be lawful for any company or corporation

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(whether or not a trust corporation) to be appointed a Trustee hereof and any person whether an individual or a body corporate may be appointed and if appointed may act as a new or additional Trustee notwithstanding that he is resident outside the jurisdiction of the proper law always provided that the Enforcer for the time being shall not be appointed Trustee.

- 5.3 The office of a Trustee shall be ipso facto determined and vacated if such Trustee being an individual shall be found to be a lunatic or of unsound mind or if he shall otherwise not be capable of acting or if he shall become subject to any proceedings under any bankruptcy or insolvency laws applicable to him or if such Trustee being a company shall enter into liquidation or dissolution whether compulsory or voluntary (not being merely a voluntary liquidation for the purposes of amalgamation or reconstruction).
- 5.4 Any Trustee may at any time retire from his position as Trustee on giving not less than six (6) months' written notice to the other Trustees (if any) and to PIDG Ltd (who shall promptly notify the PIDG Members) and upon the expiration of such notice the Trustee so doing shall cease to be a Trustee to all intents and purposes except as to acts and deeds necessary for the proper vesting of the Funds in the continuing or new Trustee or Trustees.
- 5.5 Any Trustee which retires from his position as Trustee ("**the Retiring Trustee**") shall be released from all claims demands actions proceedings and accounts of any kind on the part of any person (whether in existence or not) actually or prospectively interested under the PIDG Trust for or in respect of the Funds or the income of the Funds or any act or thing done or omitted in execution or purported execution of such trusts other than and except only actions arising from any fraud, fraudulent breach of trust recklessness wilful misconduct or negligence in which such Trustee or (in the case of a corporate Trustee) any of its officers was a party or privy.

6. Liability of Trustees

- 6.1 To the extent permitted by law in the execution of the PIDG Trust and powers hereof no Trustee shall be liable for any loss to the value of the Funds arising in consequence of any matter or thing except fraud recklessness wilful conduct or negligence on the part of the Trustee who is sought to be made liable.
- 6.2 To the extent permitted by law without prejudice to the generality of Clause 6.1 of this Part 1 the Trustees shall not incur any liability whatsoever arising from the negligence or fraud of any delegate or agent appointed or employed by the Trustees or any of them in good faith provided that such appointment or

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employment was made after appropriate due diligence had been carried out by the Trustees to satisfy themselves of the agent's or delegate's experience reputation and ability to perform the tasks required and the Trustees have exercised the standard of care of a reasonable and prudent man of business in the supervision of the activities of the agent or delegate.

- 6.3 With due regard to the nature and amount or value of such loss, the Trustees shall, and the Enforcer shall cause the Trustees to, promptly sue any agent or delegate appointed by the Trustees for any loss to the value of the Funds arising out of any act or omission of that agent or delegate.

7. Remuneration And Expenses

- 7.1 In relation to the administration of the Investment in an Investment Vehicle, the Trustees shall be entitled to annual fees as agreed from time to time between the PIDG Members and the Trustees.

- 7.2 In relation to the administration of any other Investment, the Trustees shall be entitled to such annual fees as agreed from time to time between the Trustees and the PIDG Members.

- 7.3 All remuneration shall be paid in accordance with the Accounts Administration Provisions.

- 7.4 The Trustees' fees will be payable in arrears in two equal instalments on 1st December and 1st May each year. The Trustees' annual fees will cover all administration activities actually and necessarily incurred in the Trustees' performance of their obligations and role as set out in this Declaration of Trust ("**the Trustees' Obligations**").

- 7.5 The Trustees will be entitled to reimbursement of the actual costs properly and necessarily incurred in connection with the performance of the Trustees' Obligations duly invoiced and evidenced with supporting documentation as follows:

- (i) annual administrative costs estimated at £ 1,000 per annum;
- (ii) cost of any independent legal advice;
- (iii) cost of the preparation of the annual audited accounts of the PIDG Trust.

- 7.6 The Trustees will obtain PIDG Ltd's written consent before incurring:

- 7.6.1 any administrative costs in excess of £1,000 per annum;

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7.6.2 any costs relating to independent legal advice;

7.6.3 any costs relating to the preparation of the annual audited accounts of the PIDG Trust.

7.7 To avoid any actual or perceived conflict of interest for the Trustees, any Trustee or any person connected with a Trustee may only be employed or appointed in any capacity by the Trustees or by any Investment Vehicle or by any person connected with a Trustee with the prior written consent of PIDG Ltd.

8. Powers and Immunities

8.1 The Trustees shall in relation to the Funds have the powers and immunities set out in Schedule 1 or in this instrument provided that the Trustees shall not exercise any of their powers so as to conflict with Clause 3 of this Part 1 or to infringe any restrictions expressly imposed herein upon the exercise of any powers.

8.2 If in the course of the management or administration of the Funds the Trustees shall consider that any sale lease mortgage surrender or other disposition or any purchase investment acquisition expenditure or other transaction whatsoever and wheresoever the same is to be effected is expedient but the same cannot be effected by reason of the absence of any power for the purpose vested in the Trustees by this Declaration of Trust the Trustees may by deed with the prior written consent of the PIDG Members confer upon themselves or their nominees either generally the statutory powers of a beneficial owner or in any particular instance the necessary power for that purpose provided that the exercise of such power shall be subject to the proviso contained in Clause 8.1 of this Part 1.

8.3 With the prior written consent of the PIDG Members the Trustees shall have power from time to time by instrument revocable or irrevocable to release or to any extent to restrict the future exercise of any powers conferred on them by the PIDG Trust or by deed notwithstanding the fiduciary nature of any such powers.

8.4 With the prior written consent of the PIDG Members, any Trustee may from time to time in accordance with Clause 6.2 delegate to any person (including a Trustee or delegate of a Trustee) for any period and upon any terms whatsoever the execution or exercise of all or any powers and discretions of an administrative nature vested in him under this Declaration of Trust provided such delegation is made in good faith after appropriate due diligence has been

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carried out by the Trustees to satisfy themselves of such person's experience reputation and ability to perform the tasks required.

- 8.5 In the performance of their duties and in the exercise of their powers hereunder the Trustees shall act unanimously.

9. Disclosure

- 9.1 Save as required by law and subject to an order of any competent court the Trustees shall not be bound to disclose to any person other than to the PIDG Members, PIDG Ltd and the Enforcer any document or other matter relating to the PIDG Trust.

- 9.2 The Trustees may make such disclosures concerning the PIDG Trust or the Funds (including without limitation disclosure of any direct or indirect interests in any Investment Vehicle and of any dealings in shares in any Investment Vehicle) as may be properly required by any competent authority or person (whether or not such requirements shall have the force of law in the jurisdiction of the proper law and whether or not such disclosure may be enforced upon the Trustees) including without limitation any disclosure required under any legislation regulating transactions in securities and any rules of any stock exchange or regulated market or authority in any place in which an Investment Vehicle is registered from time to time.

10. Variation and Rectification

The Trustees shall have power from time to time by instrument to rectify any manifest errors in this Declaration of Trust or to revoke or vary any of the administrative provisions of this Declaration of Trust or to add any administrative provisions thereto in such manner in all respects as the Trustees with the written consent of the PIDG Members may think fit.

11. Change of Proper Law

- 11.1 Notwithstanding anything contained in this Declaration of Trust the Trustees with the written consent of the PIDG Members may from time to time by instrument declare that the proper law of the PIDG Trust shall be the law of some other place in any part of the world under which the terms of the PIDG Trust shall be capable of taking effect (and in particular under which trusts for non-charitable purposes are valid and enforceable) and such law shall thereupon become the proper law of the PIDG Trust but subject to the power conferred by this clause and until any further declaration be made under such power.

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11.2 Whenever any such declaration as aforesaid shall be made the Trustees shall be at liberty to make such consequential alterations or additions in or to the trusts powers and provisions of the PIDG Trust as the Trustees with the written consent of the PIDG Members may consider necessary or desirable to ensure that the trusts powers and provisions of the PIDG Trust shall (*mutatis mutandis*) be as valid and effective as they are under the law of Mauritius.

12. Provisions Relating To Investment Vehicles and PIDG Ltd

12.1 The Trustees may only exercise their powers contained in this Declaration of Trust or conferred by law in relation to the authorisation issue pledge or other encumbrance transfer or disposal of shares or other securities in any Investment Vehicle and PIDG Ltd with the prior written consent of the PIDG Members.

12.2 The Trustees shall not act to amend the constitutional documents or the place of incorporation of any Investment Vehicle, PIDG Ltd or any of the Transaction Documents without the prior written consent of the PIDG Members.

12.3 The Trustees shall obtain the written agreement of PIDG Ltd prior to nominating, appointing or removing any officer of any Investment Vehicle, and shall obtain the written agreement of the PIDG Members prior to nominating, appointing or removing any officer of PIDG Ltd.

12.4 The Trustees shall obtain the written consent of the PIDG Members prior to exercising any rights arising from an Investment relating to:

12.4.1 any proposed merger or restructuring or reorganisation or change of control of any Investment Vehicle or PIDG Ltd; or

12.4.2 any material change in the nature of the business of any Investment Vehicle or PIDG Ltd; or

12.4.3 any sale, transfer, lease, assignment or substantial dismantling and disposal by any Investment Vehicle or PIDG Ltd other than in the normal course of business.

12.5 The Trustees shall not take steps to wind up any Investment Vehicle or PIDG Ltd without the prior written consent of the PIDG Members.

12.6 The Trustees shall draw up the Investment Plan in consultation with PIDG Ltd and with the prior written consent of PIDG Ltd shall adopt it. The Investment Plan shall be reviewed annually by the Trustees in consultation with PIDG Ltd and shall not be changed save with the prior written consent of PIDG Ltd.

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12.7 In exercising any discretion to invest or otherwise apply the Funds the Trustees shall ensure that the PIDG Trust has sufficient Funds to meet its obligations under any Transaction Documents entered into in accordance with the Investment Plan.

13. Principal Trustee

Without prejudice to Clause 8.5 of Part 1, the Principal Trustee shall perform the tasks set out in Schedule 3.

14. Information

The Trustees shall provide the information set out in Part 4 to PIDG Ltd and to the PIDG Members as the case may be within the time period stipulated therein.

15. Declaration of Termination Day

The Trustees with the prior written consent of the PIDG Members may by instrument revocable or irrevocable at any time declare that a day not earlier than the date of such instrument shall be the Termination Day.

16. Irrevocability

The PIDG Trust hereby created shall be irrevocable.

PART 2

The Purposes

The PIDG Trust is established for the purposes of:

1. facilitating the provision of the infrastructure needed to eliminate poverty in developing countries by encouraging private investment;
2. making Investments in accordance with the Investment Plan;
3. exercising any rights of control and influence arising from the Investments;
4. investing applying or otherwise using the Funds for the relief of poverty in Developing Countries in such manner as the Trustees with the consent of the PIDG Members but otherwise in their discretion think fit; and
5. administering and paying the General Administration Costs.

PART 3

Enforcer Provisions

1. On condition that at the written request of the PIDG Members they shall as soon as practicable appoint as his successor any person(s) and/or entit(y)/(ies) named by the PIDG Members and immediately thereafter resign from that office, the Enforcer of the PIDG Trust shall be DFID.
2. It shall be the duty of the Enforcer to enforce the PIDG Trust in consultation with PIDG in accordance with the PIDG Constitution.
3. Subject to Clause 1 of this Part 3 and to any express provision contained in his own appointment, the Enforcer may at any time appoint an additional or replacement Enforcer.
4. If at any time there is no Enforcer the Trustees shall with the prior written consent of the PIDG Members take such other steps as may be necessary to secure the appointment of an Enforcer.
5. If at any time the Trustees have reason to believe that the Enforcer is unwilling or refuses to act or is unfit or incapable of acting the Trustees shall as soon as practicable inform the PIDG Members and, if the proper law is the laws of Mauritius, the Attorney General of Mauritius of this fact.
6. No appointment under the foregoing provisions of this Part 3 shall have any effect if the person appointed is at the time of such appointment a Trustee and if at any time a Trustee would but for this provision be an Enforcer that person shall forthwith cease to be an Enforcer.
7. On the death of an Enforcer he shall cease to be an Enforcer and in the case of a corporation this provision shall have effect with the substitution of a reference to the commencement of the winding up of or the dissolution of the corporation (whichever first occurs) for the reference to death.
8. The office of Enforcer shall be determined and vacated if an Enforcer shall according to the law applicable to him be a lunatic or of unsound mind or if he shall become incapable of acting or become subject to any proceedings under any bankruptcy or insolvency laws applicable to him.
9. If at any time there shall be more than one person holding the office of Enforcer any power of the Enforcer under the PIDG Trust shall be validly exercised by unanimous decision and if any one or more of them shall cease to be an Enforcer then subject to any express provision in the terms of their appointment and

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subject to any other appointment under this Declaration of Trust such one or more of them as has not so ceased shall remain in office and thereupon become the Enforcer.

10. The Enforcer shall be provided with annual accounts of the PIDG Trust, any legal opinions and advice received by the Trustees and shall be entitled, on request and at all reasonable times, to have made available to him by the Trustees any books, documents and records (however kept) which relate to the PIDG Trust.
11. No Enforcer shall be liable for any loss to the Funds arising by reason of any mistake or omission made in good faith or of any other matter or thing except fraud or wilful misconduct on the part of the Enforcer who is sought to be made liable.
12. The Enforcer shall not:
 - 12.1 place himself in a position which may conflict with his duties to enforce the Purposes;
 - 12.2 derive directly or indirectly any profit by reason of his appointment other than any reasonable fee for his service agreed in advance with the PIDG Members and for any reasonable expenses which he may have incurred in the discharge of his duties;
 - 12.3 enter on his own account into any dealing with the Trustees.

PART 4

Reporting

1. PIDG Ltd shall be provided with:
 - 1.1 as soon as available, but in any event within forty-five (45) days after the end of each quarter unaudited financial statements for each quarter in respect of the Funds;
 - 1.2 an annual management assertion, together with an attestation from the Trustees' external auditors, of the satisfactory performance of the procedures and controls used by the Trustees in administering the Funds;
 - 1.3 annual audited accounts of the PIDG Trust prepared in accordance with the Special Purpose Accounting Framework attached at Schedule 5;
 - 1.4 any legal opinions and advice received by the Trustees.
2. The Trustees shall maintain separate records and ledger accounts in respect of the Funds, and shall retain until at least six (6) years after PIDG Ltd has received the audit report for the fiscal year in which the last disbursement of the Funds was made, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing the expenditures and ensure that such records and accounts are included in the annual audit of the PIDG Trust.
3. The PIDG Members and PIDG Ltd shall be entitled, on request and at all reasonable times to have made available to them by the Trustees any books, documents and records (however kept) which relate to the PIDG Trust.
4. In order to exercise their power of appointment and removal of Trustees set out in Clause 5.1 of Part 1 effectively, the PIDG Members shall request PIDG Ltd to conduct a review of the Trustees' performance of the Trustees' Obligations each calendar year after 1st December 2001 and at different intervals if requested by the PIDG Members.

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PART 5

The initial Funds shall consist of **USD 21 million (twenty one million United States Dollars)**.

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IN WITNESS WHEREOF this Third Amended and Restated Declaration of Trust has been duly executed the day and year first above written

THE COMMON SEAL OF
Minimax Ltd
was hereunto affixed
in the presence of:



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THE COMMON SEAL OF
Multiconsult Trustees Ltd
(formerly known as MC Trust Ltd)
was hereunto affixed
in the presence of:



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THE COMMON SEAL OF
SG Kleinwort Hambros
Trust Company (UK) Limited
was hereunto affixed
in the presence of:

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IN WITNESS WHEREOF this Third Amended and Restated Declaration of Trust has been duly executed the day and year first above written

THE COMMON SEAL OF
Minimax Ltd
was hereunto affixed
in the presence of:

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THE COMMON SEAL OF
Multiconsult Trustees Ltd
(formerly known as MC Trust Ltd)
was hereunto affixed
in the presence of:

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THE COMMON SEAL OF
SG Kleinwort Hambros
Trust Company (UK) Limited
was hereunto affixed
in the presence of:

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SCHEDULE 1
Powers and Immunities of the Trustees

1. Power of investment

- 1.1 The Trustees shall have power with the prior written consent of PIDG Ltd to apply funds to any investment of whatever nature and wherever situate whether producing income or not (including the purchase of any immovable property not situated in Mauritius or movable property or any interest in such property)) and which are consistent with the Investment Plan and which PIDG Ltd has confirmed in writing are consistent with the Ethical Policies as the Trustees shall in their absolute discretion think fit so that subject to the terms of this Declaration of Trust the Trustees shall have the same full and unrestricted powers of making and changing investments of such moneys as if they were absolutely and beneficially entitled to such moneys and without prejudice to the generality of the above the Trustees shall not be under any obligation to diversify their investment of such moneys.
- 1.2 The Trustees shall have powers with the prior written consent of the PIDG Members to exchange property for other property of a like or different nature and for such consideration and on such conditions as they in their absolute discretion think fit.

2. No duty to diversify

The Trustees shall have power with the prior written consent of the PIDG Members to leave any assets subject to the trusts hereof in the state of investment in which they may be from time to time (notwithstanding that the whole or a substantial part of the assets of the PIDG Trust may consist of shares or securities of a single private or public company) and to invest the Funds in the purchase of shares or other securities (additional or otherwise) in any such single private or public company notwithstanding that the whole or a substantial part of the assets of the PIDG Trust already comprises shares in such company.

3. Power to lend and give guarantees

The Trustees shall have power with the prior written consent of PIDG Ltd to lend money or property either free of interest or on such terms as to payment of interest and generally as the Trustees shall in their absolute discretion think fit.

4. **Power to borrow**

The Trustees shall have power with the prior written consent of PIDG Ltd to borrow and raise money on the security of the Funds for any purpose (including the further investment of the moneys so raised) and to mortgage charge or pledge any asset of the PIDG Trust as security for any moneys so raised and to guarantee the payment of money and the performance of obligations in respect of borrowings by any company fully or partly owned by the Trustees and in connection with such guarantees to enter into such indemnities as the Trustees shall in their absolute discretion think fit.

5. **Power to give indemnities**

The Trustees may with the prior written consent of the PIDG Members give or enter into any indemnity warranty guarantee undertaking or covenant or enter into any type of agreement that they shall in their absolute discretion think fit relating to the transfer or sale of a business or private company shareholding held or owned for the time being by the Trustees whether relating to the business or company itself its assets liabilities shares or employees or any other aspect of the business or company in favour of any transferee purchaser or other relevant party and including any limitation or restriction on value or otherwise as the Trustees shall in their absolute discretion think fit.

6. **Power to accumulate income**

The Trustees may accumulate income for any period of time to the extent permitted by the proper law of the PIDG Trust and may invest such accumulations in any Investments.

7. **Power of appropriation**

The Trustees may with the prior written consent of the PIDG Members in their absolute discretion appropriate any part of the Funds in their then actual condition or state of investment in or towards satisfaction of any interest or share in the Funds as may in all the circumstances appear to them to be just and reasonable and for the above purposes from time to time to place such value on any or all investments or other property as they shall in their absolute discretion think fit.

8. **Power to promote companies**

The Trustees may with the prior written consent of the PIDG Members (without prejudice to the generality of their powers of investment) promote or join with any other person or persons in promoting or incorporating any company in any part of the world or subscribe for or acquire any of the shares or stock or debentures or debenture stock or loan capital of any company.

9. Trustees not bound to interfere in business of Investment Vehicles

Where the Trustees have received prior written confirmation from PIDG Ltd in relation to an Investment Vehicle the Trustees shall not be bound or required to interfere in the management or conduct of the business of such Investment Vehicle so long as the Trustees shall have no notice of any act of dishonesty or misappropriation of moneys on the part of the directors having the management of such Investment Vehicle the Trustees shall be at liberty to leave the conduct of its business (including the payment or non-payment of dividends) wholly to the officers.

10. Power to insure property

The Trustees shall maintain professional indemnity insurance and directors' and officers' insurance to the values specified in Clause 5.1.2(c) of Part 1 at their own expense.

Subject to this, the Trustees may insure against any loss or damage from any peril against which a prudent owner of the Funds would reasonably insure for any reasonable amount and to pay the premiums out of the Funds.

11. Charities

The Trustees may with the prior written consent of the PIDG Members establish promote or support any charity or charities wherever resident or incorporated and may pay or transfer any assets comprised in or any income of the Funds to the person who purports to be the treasurer or other appropriate officer of any charity to which such payment or transfer is made and the receipt of such person shall be a full discharge to the Trustees.

12. Power to vote and to employ nominees and custodians

In respect of any property comprised in the Funds the Trustees shall have power with the prior written consent of PIDG Ltd:-

- (a) to vote upon or in respect of any shares securities bonds notes or other evidence of interest in or obligation of any corporation trust association or concern whether or not affecting the security or the apparent security of the Funds or the purchase or sale or lease of the assets of any such corporation trust association or concern;
- (b) to deposit any such shares securities or property in any voting trust or with any depository designated under such a voting trust;
- (c) to give proxies or powers of attorney with or without power of substitution for voting or acting on behalf of the Trustees as the owners of any such property;

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- (d) to hold any or all securities or other property in bearer form or in the names of the Trustees or any one or more of them or in the name of some other person or partnership or in the name or names of nominees or custodians without disclosing the fiduciary relationship created by the PIDG Trust and to deposit the said securities and any title deeds or other documents belonging or relating to the Funds in any part of the world with any bank firm trust company or other company that undertakes the safe custody of securities as part of its business without being responsible for the default of such bank firm trust company or other company or for any consequent loss.

13. Power to delegate management of investments

- 13.1 With the prior written consent of PIDG Ltd the Trustees shall have power to engage the services of such investment adviser or advisers as the Trustees may from time to time think fit (in this Clause referred to as "**the Investment Adviser**") to advise the Trustees in respect of the investment and reinvestment of the Funds with power for the Trustees without being liable for any consequent loss to delegate to the Investment Adviser discretion to manage all or any part of the Funds within the limits and for the period stipulated by the Trustees and the Trustees shall settle the terms and conditions for the remuneration of the Investment Adviser and the reimbursement of the Investment Adviser's expenses as the Trustees shall in their absolute discretion think fit and such remuneration and expenses shall be paid by the Trustees from the Funds.
- 13.2 The Trustees shall not be bound to enquire into nor be in any manner responsible for any changes in the legal status of the Investment Adviser.
- 13.3 The Trustees shall incur no liability for any action taken pursuant to or for otherwise following the advice of the Investment Adviser however communicated.

14. Delegation of powers

- 14.1 With the prior written consent of PIDG Ltd the Trustees may delegate the operation of any bank, building society or other accounts.
- 14.2 With the prior written consent of PIDG Ltd the Trustees may from time to time delegate to any person (other than a Trustee or delegate of a Trustee) for any period and upon any terms whatsoever the execution or exercise of all or any powers and discretions of an administrative nature vested in him in connection with the PIDG Trust.

15. Power to appoint agents

With the prior written consent of PIDG Ltd the Trustees may instead of acting personally employ and pay at the expense of the Funds any agent in any part of the world whether attorneys solicitors accountants brokers banks trust companies or other agents to transact any business or act as nominee or do any act in the execution of these trusts including without prejudice to the generality of the above the receipt and payment of moneys and the execution of documents, without being responsible for the default of any agent if employed in good faith and provided that such appointment is made after appropriate due diligence has been carried out by the Trustees as to the agent's experience reputation and ability to perform the acts which he is to do as an agent and the Trustees have exercised the standard of care of a reasonable and prudent man of business in the supervision of the activities of the agent or delegate.

16. Power to permit self dealing

With the prior written consent of PIDG Ltd the Trustees shall have power to enter into any transaction concerning the Funds notwithstanding that one or more of the Trustees may be interested in the transaction other than as one of the Trustees.

17. Release of powers

With the prior written consent of PIDG Ltd the Trustees shall have power from time to time by instrument revocable or irrevocable to release or to any extent restrict the future exercise of any powers conferred on them by this Declaration of Trust or by deed notwithstanding the fiduciary nature of any such powers.

SCHEDULE 2

Environmental, Economic and Social Development Policies

1. Poverty Elimination

All investments made by the Trustees must contribute to the reduction of poverty by one of the following means:

- 1.1 underpinning pro-poor economic growth and the broader policies and context for poverty reduction and elimination, and leading to social, environmental and/or economic benefits for poor people; or
- 1.2 benefiting broad-based population groups, including poor people, but also addressing issues of equity and barriers to participation or access of poor people; or
- 1.3 focusing predominantly on the rights, interests and needs of poor people.

2. Environmental and Social Issues

The Trustees will:

- 2.1 seek to ensure that the Investment Vehicles and PIDG Ltd adopt and implement the Environmental and Social Performance Standards of the International Finance Corporation as amended from time to time and the PIDG's environmental and social management system.

3. Health & Safety

The Trustees will:

- 3.1 seek to ensure that the Investment Vehicles and PIDG Ltd adopt and implement the Environmental and Social Performance Standards of the International Finance Corporation as amended from time to time and the PIDG's environmental and social management system.

SCHEDULE 3

Role of the Principal Trustee

1. The Principal Trustee shall initiate and co-ordinate timely Trustees' meetings and actions to perform the Trustees' obligations including:
 - 1.1 performing the PIDG Trust's obligations under the Transaction Documents;
 - 1.2 in consultation with PIDG Ltd, exercising the PIDG Trust's rights arising from any Investment including any shareholding in any Investment Vehicle;
 - 1.3 applying the Funds (with the necessary consents) in accordance with the Investment Plan, the Accounts Administration Provisions and any Funding Instruments;
 - 1.4 in conjunction with PIDG Ltd preparing, reviewing and revising periodically but not less than annually the PIDG Administration Budget for consideration by PIDG;
 - 1.5 in conjunction with PIDG Ltd co-ordinating the payment of any General Administration Costs;
 - 1.6 in conjunction with PIDG Ltd co-ordinating the payment of fees and expenses due to the Trustees and Enforcer(s) under this Declaration of Trust against the receipt of appropriate invoices and supporting documentation which shall be added to the records of the PIDG Trust;
 - 1.7 obtaining, preparing and providing to PIDG Ltd the information set out in Clause 1 of Part 4;
 - 1.8 maintaining records and ledger accounts of the PIDG Trust in accordance with Clause 2 of Part 4;
 - 1.9 any other tasks agreed by the Principal Trustee from time to time.

SCHEDULE 4

Accounts Administration Provisions

1. The Trustees will open:
 - (a) an account in the name "The Private Infrastructure Development Group Trust" (the "**Main Account**");
 - (b) sub-accounts of the Main Account for each of the Investment Vehicles and the technical assistance facility in such currency(ies) as may be required (for example US Dollar, Euro or GBP sterling) (the "**Investment Vehicle Accounts**");
 - (c) a sub-account of the Main Account in such currency(ies) as may be required (for example US Dollar, Euro or GBP sterling) for General Administration Costs (hereinafter referred to as a "**General Administration Costs Account**").
- 5 Each Donor's Contribution will be received into the Main Account and transferred to the relevant Investment Vehicle Account in accordance with the provisions of the relevant Funding Instrument.
- 6 Each Donor's share of General Administration Costs, as set out in the PIDG Administration Budget, will be transferred to the General Administration Costs Account.
- 7 All Proceeds will, on receipt by the PIDG Trust, be credited to the relevant Investment Vehicle Account in accordance with the relevant Funding Instrument. Proceeds that are to be reapplied to other Purposes in accordance with the terms of this Declaration of Trust and the Investment Plan shall be transferred by the Trustee to the relevant Investment Vehicle Account or General Administration Costs Account as required.
- 8 Upon:
 - 8.1 winding-up of the PIDG Trust; or
 - 8.2 proceeds of an Investment having been held by the PIDG Trust for two calendar years without having been reapplied in accordance with the terms of this Declaration of Trust,the balance of each Investment Vehicle Account or the General Administration Costs Account, or, in the case of sub-clause 8.2, any such Proceeds as have not been reapplied after the Donor's share of all General Administration Costs and of any other amounts due to the Trustees under this Declaration of Trust

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have been debited, shall, at the option of the Donor(s) that provided the balance of such funds as are in the Investment Vehicle Account or the General Administration Costs Account, be repaid to the Donor or applied for the Purposes on the instruction of the relevant Donor or as otherwise provided in the relevant Funding Instrument.

SCHEDULE 5

Special Purpose Accounting Framework

The Special Purpose Accounting Framework for the preparation of the financial statements of the PIDG Trust is to follow International Accounting Standards, except as follows:

1. Preparation of consolidated accounts: *IFRS10 states that consolidated financial statements should include all subsidiaries of the parent undertaking* – The Trustees will prepare non-consolidated financial statements under the historical cost convention and in accordance with the Declaration of Trust.
2. Impairment of investments: *IAS36 states that any impairment is recognised as an expense in the income account for assets carried at cost* – Investments in Investment Vehicles will be stated at cost less provision of impairment in value of Investments. Investments will be written down to the value of the net assets of the Investment Vehicles held at each balance sheet date. Impairment provisions will be charged to the capital account.
3. Treatment of funding instruments: *IAS32 states that a contractual obligation to deliver cash to another entity should be treated as a liability* - All Contributions received from a Donor under a Funding Instrument for investment in Investment Vehicles, including Contributions for which the PIDG Trust has issued a participatory note, capital contributions and loans, will be valued on the basis of the Donor's pro-rata share of the net assets (at book value) of the Investment Vehicle to which the Contribution relates and will be included within the capital account.
4. Foreign exchange differences: *IAS21 states that exchange differences arising on the settlement of monetary items or on translating monetary items at rates different from those at which they were translated on initial recognition during the period or in previous financial statements shall be recognised in the income account in the period in which they arise* - Transactions in currencies other than the reporting currency will be translated at the exchange rates ruling at the date of such transactions. Monetary assets and liabilities denominated in currencies other than the reporting currency will be retranslated at exchange rates ruling at the balance sheet date. All differences are dealt with in the fund from which they arose and therefore are included in the statement of accumulated funds, except where they derive from amounts advanced in respect of investments in undertakings, in which case they are taken to the capital account.

**THIRD AMENDED AND RESTATED
DECLARATION OF TRUST**

Dated February 2020

Multiconsult Trustees Ltd

(formerly known as MC Trust Ltd)

Minimax Ltd

SG Kleinwort Hambros Trust Company (UK) Limited

THE PRIVATE INFRASTRUCTURE DEVELOPMENT GROUP TRUST

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