

**Execution Copy**

Dated 23 <sup>November</sup>~~October~~ 2006

**CONDITIONAL LOAN AGREEMENT**

for a maximum of USD 15,000,000

**BETWEEN**

(1) The Trustees, SG Hambros Trust Company Ltd.

Minimax Ltd. and

MultiConsult Trustees Ltd,

acting as trustees of the Private Infrastructure Development Group Trust (the **PIDG Trust**)

as **Borrower**

and

(2) The Government of Sweden

represented by Sida

the Swedish International Development Cooperation Agency

as **Lender**

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**THIS CONDITIONAL LOAN AGREEMENT** hereinafter called the "Agreement", as the same may be amended from time to time, is made between

- (1) SG Hambros Trust Company Ltd of 41 Tower Hill London EC3N 4SG England, Multiconsult Trustees Ltd., of 10 Frère Felix de Valois Street, Port Louis, Mauritius and Minimax Ltd of 10 Frère Felix de Valois Street, Port Louis, Mauritius, as trustees (and each a "Trustee") of the Private Infrastructure Development Group Trust (hereinafter referred to as the "**PIDG Trust**" or "**the Borrower**"); and
- (2) The Government of Sweden represented by Sida - The Swedish International Development Cooperation Agency, S-105 25 Stockholm, Sweden (hereinafter referred to as the "**Lender**" or "**Sida**").

**WHEREAS:-**

The Government of the United Kingdom, acting through the Secretary of State for International Development at the Department for International Development (hereinafter referred to as "**DFID**"), the Swedish Government, acting through Sida, the Netherlands Ministry of Foreign Affairs (hereinafter referred to as "**DGIS**") and the Government of the Swiss Confederation represented by the Secretariat for Economic Affairs (hereinafter referred to as "**SECO**"), in December 2001 and January 2002 exchanged letters of intent and subsequently executed a Memorandum of Understanding, dated 14 March 2003 for the establishment of the Private Infrastructure Development Group, (hereinafter referred to as "**PIDG**") and a special purpose trust in Mauritius, (hereinafter referred to as the "**PIDG Trust**"), as a vehicle for co-ordinating the application of PIDG's funds.

**WHEREAS:-**

As an initial project, the PIDG Trust established a limited liability company in Mauritius, the Emerging Africa Infrastructure Fund Limited for the purpose of increasing the volume of private sector flows into infrastructure projects with private sector participation in Sub-Saharan Africa.

**WHEREAS:-**

As a subsequent and separate project, the PIDG Trust has established GuarantCo Ltd ("**GuarantCo**") as a limited liability company in Mauritius, for the purpose of promoting local currency provision of capital to viable infrastructure projects.

**WHEREAS:-**

GuarantCo's vision is to become a centre of excellence for local currency guarantees in low income countries, with emphasis on least developed countries, thereby assisting with the alleviation of poverty.

GuarantCo's mission is to become a market-based recognised guarantee institution aimed at enhancing the availability and role of local currency finance for viable and sustainable infrastructure projects and at strengthening developing country capital markets for the purpose of assisting with the alleviation of poverty.

**WHEREAS:-**

**GuarantCo's** role is to (a) assist developing country clients to structure infrastructure transactions which contribute to poverty alleviation; (b) assist developing countries to overcome market failures demonstrated by the lack of competitively priced local currency debts with long term tenor; (c) assist local project lenders and investors including portfolio investors to assess credit risks in infrastructure projects by issuing local currency guarantees against a fee commensurate with the risks involved in transactions made by guaranteed entities and thereby promoting the provision of capital to viable infrastructure projects; and (d) to build capacity through technical assistance for capital market development.

**WHEREAS:-**

DFID; SECO, Sida and Nederlandse Financierings-Maatschappij voor Ontwikkelingslanden N.V. (hereinafter referred to as "**FMO**") (jointly hereinafter referred to as the "**GuarantCo Donors**" and each a "**GuarantCo Donor**") desire to participate in GuarantCo and agree that GuarantCo should aim at becoming a centre of excellence in its field having a role not only at transactional level, but also to develop local capital markets and thereby assist low income countries to overcome an identified market failure.

**WHEREAS:-**

The total initial capitalisation of GuarantCo will be about USD 73 million and the GuarantCo Donors have agreed that the operation and role of GuarantCo in the relevant markets shall be evaluated after an initial pilot phase of three years.

**WHEREAS:-**

The Government of Sweden, acting through the Lender, desiring to support the objectives set out above, wishes to cooperate with the other GuarantCo Donors and the PIDG Trust in financing GuarantCo and has decided that a conditional loan in the maximum total amount of USD fifteen million (15,000,000) (hereinafter referred to as the "**Loan**") shall be extended to the PIDG Trust to be used for subscription of shares in GuarantCo.

**WHEREAS:-**

The Lender, in addition to the Loan, will make available to the PIDG Trust for GuarantCo a grant of USD two (2) million aimed at supporting the development of local capital markets and their use of guarantees as credit enhancement instruments. A separate exchange of letters covering arrangements to fund this grant will be entered into between the Lender, the PIDG Trust and GuarantCo.

**WHEREAS:-**

The GuarantCo Donors have entered into a Funders' Agreement on or about the date of this Agreement specifying the respective rights and obligations of each GuarantCo Donor vis a vis each other in connection with payments to and repayments of proceeds of investments in and loans to the PIDG Trust and/or GuarantCo for the purpose of financing GuarantCo (hereinafter referred to as the "**GuarantCo Funders' Agreement**").

**WHEREAS:-**

Under the terms of a management agreement (the "**Management Agreement**") between Standard Infrastructure Fund Managers (Africa) Limited (a private company registered in Mauritius and owned by the Standard Bank of South Africa Ltd, FMO and Emerging Markets Partnership) ("**SIFMA**") and GuarantCo, SIFMA will administer and manage GuarantCo.

**NOW THEREFORE** the Lender and the PIDG Trust hereby agree as follows:-

**1. DEFINITIONS**

1.1 For the purpose of the Agreement, the following definitions will be applicable:

<b>"Banking Day"</b>	means a day (other than a Saturday, Sunday or any other day which is a legal holiday) on which banks are open for general business in Mauritius and Stockholm.
<b>"Constitution"</b>	means the constitution of GuarantCo for the time being;
<b>"Disbursement Period"</b>	means the period beginning ten (10) Banking Days from the date when the conditions precedent under Clause 3 have been satisfied to the Final Disbursement Date;
<b>"Disbursement Request"</b>	means the request substantially in the form set out in <u>Schedule 1</u> signed by duly authorised officers of the PIDG Trust;
<b>"Environmental and Social Standards"</b>	shall mean the environmental, health and safety, social and corporate governance standards of FMO (as amended from time to time by FMO) adopted by GuarantCo and as set out in the GuarantCo Funders' Agreement;

<b>“Final Disbursement Date”</b>	means 30 December 2008;
<b>“GuarantCo Donors”</b>	means FMO, DFID, SECO and Sida, together with any other donor subsequently participating in GuarantCo;
<b>“GuarantCo Shares”</b>	means shares in GuarantCo for which the PIDG Trust and FMO have subscribed;
<b>“Guarantee Policy”</b>	means as defined in the GuarantCo Funders Agreement;
<b>“Loan”</b>	means the conditional and amortisation and interest free credit in the total amount of USD 15,000,000, to be extended by the Lender to the PIDG Trust;
<b>“Management Agreement”</b>	means as defined in the GuarantCo Funders Agreement;
<b>“Outstanding Indebtedness”</b>	means the aggregate amount of all Disbursements made by the Lender to GuarantCo from the Loan from time to time;
<b>“Tax”</b>	means any tax, levy, impost, toll, customs, duty or other charge of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same); and
<b>“USD”</b>	means the lawful currency of the United States of America.

1.2 References in this Agreement to any agreement, document, instrument or arrangement shall include such agreement, document, instrument or arrangement as originally implemented or executed or as the same may from time to time be varied, amended, modified, supplemented, novated or substituted. Unless the context otherwise requires, words denoting the singular number shall include the plural and vice versa.

A "person" shall be construed as a reference to any person, firm, company, corporation, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the foregoing.

The "winding-up", "dissolution" or "administration" of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, reorganisation, dissolution, administration, examination, arrangement, adjustment, protection or relief of debtors.

The attached schedules form an integral part of this Agreement.

References to "Clauses", "Paragraphs" and "Schedules" are references to the clauses, paragraphs and schedules of this Agreement.

## **2. AMOUNT AND USE OF THE LOAN**

### **2.1 Amount of the Loan**

The Lender hereby agrees to make the Loan available to the PIDG Trust , on and subject to the terms and provisions of this Agreement.

### **2.2 Use of the Loan**

The PIDG Trust shall cause the proceeds of the Loan to be applied to subscription for additional share capital in GuarantCo, which shall use the proceeds for its general corporate purpose as set out in its Constitution and in the Guarantee Policy.

## **3. CONDITIONS PRECEDENT**

### **3.1 Conditions precedent for effectiveness**

The obligation of the Lender to make the Loan (or part thereof) available to the PIDG Trust shall be subject to the following conditions having been fulfilled (and remaining fulfilled) to the satisfaction of the Lender:-

- (a) the execution of this Agreement;
- (b) the individuals who have signed this Agreement and the Management Agreement on behalf of GuarantCo have been duly authorised to sign the same;
- (c) the rendering of an opinion to the Lender by such counsel and in such form acceptable to the Lender relating inter alia to the legal status of GuarantCo, the tax position of GuarantCo, and such other matters as the Lender may reasonably request;
- (d) GuarantCo being operative and having management entities and functions as set out in the Management Agreement including appropriate liability insurance;
- (e) the Lender having duly received a copy of the Management Agreement and given its written "no objection" to the terms and conditions thereof in so far as the terms of such contract are relevant for the scope of this Agreement;
- (f) the Lender having obtained the approval of the Swedish Parliament and Government to this Agreement with such additional conditions as may be imposed by these respective entities being complied with;
- (g) that at least the following minimum contributions have been made or promised for the capitalisation of GuarantCo (or will be made or promised simultaneously with the Lender executing this Agreement), either indirectly via the PIDG Trust or directly to GuarantCo, by valid undertakings by the

other GuarantCo Donors: DFID 25 Million USD, SECO 8 Million USD, and FMO 25 Million USD;

- (h) the GuarantCo Funders' Agreement shall have been executed and be in full force and effect.

### 3.2 Conditions Precedent for each Disbursement

All Disbursements are subject to:

- (a) the continued fulfilment of the conditions referred to in Sub-Clause 3.1 above and the other terms and conditions of this Agreement;
- (b) the receipt of a Disbursement Request by the Lender in the format set out in Schedule 1;
- (c) in relation to each Disbursement, information satisfactory to the Lender that the relevant Disbursement would be needed within the next six months (a) to secure the issue of guarantees (in accordance with the transaction pipeline set out in the business plan provided to Shareholders) plus one additional transaction, and (b) anticipated working capital for the next six (6) month period (as set out in the budget delivered by GuarantCo to the Shareholders pursuant to the GuarantCo Funders' Agreement); and
- (d) no material adverse change in the financial or operational conditions of the PIDG Trust or GuarantCo shall have occurred since the date of signing of this Agreement which would, in the opinion of the Lender, be likely to materially prejudice the ability to complete the aims of GuarantCo.

### 3.3 Declaration of Effectiveness

The Lender undertakes to provide to the PIDG Trust a declaration of effectiveness when the conditions precedent indicated in Sub-Clause 3.1 above have been fulfilled to the satisfaction of the Lender.

### 3.4 Authorisation and Specimen Signatures

Prior to delivery of the first Disbursement Request to the Lender the PIDG Trust shall submit a list of specimen signatures to the Lender of persons authorised to submit a Disbursement Request on behalf of the PIDG Trust.

## 4. **DISBURSEMENTS**

### 4.1 Disbursement Procedures

Disbursement of the Loan will be effected by direct payment to the following account: account no 0214105 held by the PIDG Trust with SG Hambros Bank & Trust Limited (sort code 40-48-58) at SG House, 41 Tower Hill, London EC3N 4SG.

The Lender shall make a Disbursement from the Loan to the Borrower within ten (10) Banking Days after receipt by the Lender of the Disbursement Request. The Disbursement Period and anticipated timing of Disbursements is set out in Schedule 1 to the GuarantCo Funders' Agreement.



4.2 Disbursement Currency

The Loan shall be disbursed in USD.

4.3 Disbursement levels and maximum number of Disbursements

The Loan shall be disbursed no more than five (5) Disbursements. Each Disbursement shall amount to at least one (1) Million USD.

**5. REPAYMENT OF THE LOAN**

5.1 Conditions for Repayment

The PIDG Trust shall, upon request from the Lender, repay the Outstanding Indebtedness (as the case may be) in the following circumstances:

- (a) upon liquidation, dissolution or winding up of GuarantCo;
- (b) in the case of termination of the PIDG Trust; or
- (c) in the case of an Event of Default as described in Clause 10 or an irregularity as described in Clause 11 having occurred and not having been remedied within a reasonable time period; or
- (d) the sale or disposal of the whole or a substantial part of GuarantCo shares or GuarantCo's assets without the prior written consent of the Lender.

5.2 Repayment

The Donors have agreed in the GuarantCo Funders' Agreement how, in the case of a repayment situation, distribution shall be effected among the GuarantCo Donors and any repayment due under Sub-Clause 5.1 above is subject to such arrangement and to receipt by the PIDG Trust of corresponding funds by way of "Proceeds", as such term is defined in the GuarantCo Funders Agreement.

5.3 Remaining Outstanding Indebtedness

In the case of a part repayment of the Outstanding Indebtedness the Lender retains for the avoidance of doubt its right to repayment of any remaining Outstanding Indebtedness until all payments have been satisfied in full.

**6. INTEREST**

6.1 Interest Rate

The Loan shall bear interest at the rate of zero (0) percent per annum.

**7. PAYMENTS AND CURRENCY**

7.1 Currency

All payments due hereunder shall be made to the Lender in USD in Stockholm.

7.2 Payments to be made without Notice

Payment of any amount due hereunder shall be made without notice, demand or protest of any kind, unless otherwise expressly stipulated in this Agreement.

7.3 The PIDG Trust's unconditional liability to pay

The liability of the PIDG Trust to discharge any amount due under this Agreement is, subject always to Sub-Clauses 5.1 and 5.2, unconditional and in no respect dependent on the fulfilment by a supplier, or by any party co-operating with said supplier of its obligations under a commercial contract, or any related contract, respectively, and will not be affected in any way by reason of any claim which the PIDG Trust might have or might consider that it has against a supplier, against any other GuarantCo Donor or any such co-operating party or by any other reason whatsoever.

**8. REPRESENTATIONS AND WARRANTIES**

8.1 The Trustees of the PIDG Trust represent and warrant to the Lender that:

- (a) they have all requisite power and authority to enter into and perform this Agreement and have taken all necessary action to authorise the borrowing under this Agreement and to authorise the execution, delivery and performance of this Agreement;
- (b) the individual(s) having signed this Agreement were duly authorised so to sign;
- (c) this Agreement constitutes and will constitute valid and legally binding obligations of the PIDG Trust enforceable in accordance with its terms and would be so treated in the courts of the proper law of the PIDG Trust and the Agreement is in proper form for its enforcement in such courts;
- (d) GuarantCo has duly obtained all authorisations of, and has duly effected any declarations or registrations with any authority which are required or appropriate in connection with the execution, delivery and performance of the Management Agreement and such approvals, consents and authorisations are in full force and effect;
- (e) the PIDG Trust has duly obtained all authorisations of, and has duly effected any declarations or registrations with any authority which are required or appropriate in connection with the execution, delivery and performance of the Agreement and such approvals, consents and authorisations are in full force and effect;
- (f) no Taxes will be levied on this Agreement save that registration duty of 1.25% of the value of the Loan will be due upon the registration of this Agreement with the Registrar General's office in Mauritius;
- (g) GuarantCo and the PIDG Trust are subject to civil and commercial laws. Thus, neither GuarantCo nor the PIDG Trust nor any of its respective property enjoys any right of immunity;

- (h) neither GuarantCo nor the PIDG Trust is in breach of or in default under any agreement to which it is a party or which is binding on GuarantCo or the PIDG Trust or any of its respective assets to an extent or in a manner, which might have an adverse effect on the condition (financial or otherwise), prospects, results or operations, or general affairs of them or would adversely affect the ability of them to fulfil its obligations hereunder;
- (i) no action or administrative proceeding of or before any court or agency, which might have a material adverse effect on the financial condition of GuarantCo or the PIDG Trust, has been started or is threatening; and
- (j) the execution of this Agreement and the PIDG Trust's performance of its obligations hereunder do not and will not (i) contravene any provisions of any law, statute, decree, rule or regulation to which it or any of its assets or revenues is subject, (ii) violate any provisions of its Declaration of Trust or (iii) result in any breach of any agreement or treaty, to which it is a party.

## 9. COVENANTS

### 9.1 General Covenants

The Trustees of the PIDG Trust undertake to cause GuarantCo:

- (a) to comply with OECD Principles of Corporate Governance issued from time to time to the extent applicable to GuarantCo;
- (b) to comply with its Guarantee Policy and that no material amendments are made to this document without the Lender's consent;
- (c) to ensure that procurement of goods and services are made, governed by and affected in accordance with competitive bidding procedures in accordance with the PIDG Procurement Policy set out in the Guarantee Policy;
- (d) to comply with the provisions of the Environmental and Social Standards;
- (e) to adopt its own and thereafter adhere to guidelines on gender issues for promoting equality between women and men;
- (f) to retain or cause to be retained until at least seven (7) years after the Lender has received the audit report for the fiscal year in which the last Disbursement of the Loan 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 GuarantCo and enable the Lender's representatives to examine such records and accounts of GuarantCo;
- (g) without limitation to (f) above, furnish or cause to be furnished to the Lender any information reasonably requested by the Lender and allow representatives of the Lender the right to review the progress of any project by GuarantCo and allow the Lender the right to audit the books and records of GuarantCo provided that GuarantCo shall not be obliged to disclose any information which is subject to confidentiality or non-disclosure undertakings in favour of a third party; and

- (h) to ensure that no material amendments are made to the Constitution of GuarantCo or to the Management Agreement, without the Lender's consent.

## **10. EVENTS OF DEFAULT**

10.1 Subject to Clause 5.2, the Lender may terminate its obligations under this Agreement and the PIDG Trust shall on demand repay the Outstanding Indebtedness if:

- (a) the PIDG Trust fails to pay on the due date any amount due under this Agreement and such failure is not remedied within thirty (30) days; or
- (b) any representation or warranty of the PIDG Trust herein or other document furnished pursuant hereto proves to be or becomes at any time incorrect in any material respect or the PIDG Trust defaults in the performance of any other material provision of this Agreement and the breach continues unremedied for 60 days after written notice thereof has been given to the PIDG Trust; or
- (c) any change in the laws of Mauritius occurs which has the effect to render any material provision of this Agreement invalid, illegal or unenforceable or the PIDG Trust's operation becomes illegal; or
- (d) any governmental licence, authorisation, consent, approval or registration necessary to permit the Lender to enforce its rights hereunder is revoked, withdrawn, modified or withheld or shall otherwise fail to remain in full force and effect; or
- (e) the PIDG Trust declares a moratorium or stops payment of all or part of the Outstanding Indebtedness or admits in writing its inability to pay its debts as they fall due or is declared bankrupt, or has taken steps to liquidate or wind up its business; or
- (f) GuarantCo is not being managed as set out in the Management Agreement and necessary steps are not being taken by GuarantCo to cure the unsatisfactory condition within 60 days from notification by the Lender;
- (g) any other event occurs which may materially jeopardise the ability of the PIDG Trust to perform or observe any of its obligations hereunder; or
- (h) the continuing of the Loan should be considered to be against public policy as officially declared by competent authority of the European Union or the United Nations.

## **11. IRREGULARITIES**

11.1 The Lender may, upon prior written notice to the PIDG Trust, terminate its obligations under this Agreement with immediate effect should the PIDG Trust, or any of its respective representatives in connection with entering into this Agreement, in connection with communication with the Lender, or in connection with any Disbursement, have misled the Lender or have rendered materially incorrect or misleading information or made intentional misrepresentations which

influenced the Lender's decision to give the Loan or the Lender's decision to effect disbursement of the Loan, or, should any other event occur, which – in the opinion of the Lender – may be characterised as corruption or fraudulent practices.

- 11.2 For the purpose of this provision corrupt shall mean: "the offering, giving, receiving, or soliciting of anything of value to influence the action in the procurement process, in contract execution or in contract performance" and fraudulent practice shall mean "a misrepresentation of facts in order to influence a procurement process or the execution or fulfilment of a contract to the detriment of the PIDG Trust and includes collusive practices among bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive the PIDG Trust of the benefits of free and open competition" relating to its business activities. In such case no further disbursements shall be made and the Loan shall be immediately repaid together with commercial interest applied on the Loan calculated as from the date the fraud or misrepresentation occurred.

## **12. NOTICES AND DEMANDS**

- 12.1 Any notice and demand in relation to this Agreement shall be given or made by fax, e-mail, cable or otherwise in writing, sent or delivered to the addressee at its address set forth below or to such other address or fax number as it may from time to time designate in writing to the other party.

The Lender:  
Sveavägen 20

(for hand deliveries, Valhallavägen 199)  
SE – 105  
25 Stockholm  
Sweden  
Fax: +46(0)8 698 5330  
F.A.O: Elisabeth Ekelund, Team Leader,  
Division for Infrastructure and Financing,  
Department for Infrastructure and Economic  
Co-operation

The PIDG Trust  
C/O SG Hambros Trust Company  
Limited  
41 Tower Hill, London EC3N 4SG  
Telephone: + 44 (0) 20 7597 3069  
Fax: + 44 (0) 20 7702 9263  
F.A.O: Linda Moss

- 12.2 Each communication as aforesaid shall be deemed to have been effectively given:
- (a) if by fax or e-mail, upon receipt by the sender of a confirmation/reading-receipt;
  - (b) if by certified or registered mail, fourteen days after such communication was deposited in the mail (postage prepaid); and
  - (c) if by any other means, when delivered.
- 12.3 Notwithstanding the provisions of Sub-Clause 12.1 hereof, it is agreed that all notices and demands shall be sent by certified or registered mail if not of a routine nature.

12.4 Any communication to either party hereunder which is received by that party after 4.00 p.m. (local time in the place of receipt) shall be deemed to have been received by that party on the next day on which commercial banks in the place of receipt are open for business.

12.5 If the PIDG Trust or the Lender should change its address, fax or e-mail address/number, it shall promptly give written notice to that effect to the other party.

### **13. ASSIGNMENTS**

13.1 The PIDG Trust may not assign or transfer its rights or obligations under this Agreement without the prior written consent of the Lender.

13.2 The Lender may at any time assign or transfer its rights or obligations to another governmental or state agency, bank or financial institution, under this Agreement upon the prior written consent of the GuarantCo Donors which shall not be unreasonably withheld.

### **14. NO WAIVER**

No failure to exercise and no delay in exercising, on the part of the Lender, any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof, or the exercise of any other power or right.

### **15. FORCE MAJEURE, LIABILITY AND INDEMNIFICATION**

15.1 The Lender shall not be held responsible for any loss or damage or failure to perform any of its obligations hereunder resulting from a Swedish legal enactment, the intervention of a Swedish public authority, an act of war, a strike, a blockade, a boycott, a lockout, or any other similar circumstance. The reservation in respect of strikes, blockades, boycotts, lockouts applies even if the Lender is subject to such measures or takes such measures.

The Lender shall only be held responsible towards the PIDG Trust under this Agreement in case of wilful misconduct or gross negligence and in no event for any indirect damage.

15.2 The PIDG Trust shall bear all risks arising from, or incurred through, operations performed by the PIDG Trust under any project relating to or financed by this Agreement. The PIDG Trust shall, in particular, be responsible for all claims, if any, that may be brought by third parties against the Lender, its agents or representatives arising from or attributable to the operations under such projects. The PIDG Trust shall, in respect of such claims, indemnify and hold the Lender harmless by bearing all costs and pay all damages a third party may be entitled to, except in the case it is found that such a particular claim or damages arose from the Lender's act of wilful misconduct or gross negligence. Provided Always that the aggregate liability of the PIDG Trust in relation to this Agreement shall not exceed a maximum limit of a sum equal to the Outstanding Indebtedness.

**16. MISCELLANEOUS**

- 16.1 The illegality, invalidity or unenforceability of any provision of this Agreement under the law of any jurisdiction shall not affect its legality, validity or enforceability under the law of any other jurisdiction nor the legality, validity or enforceability of any other provision hereof, and any illegal, invalid or unenforceable provisions shall at the request of the Lender be replaced by other provisions in accordance with the purpose and meaning of this Agreement.
- 16.2 Each document, certificate and statement referred to in this Agreement or to be delivered hereunder shall, unless otherwise agreed by the Lender and the PIDG Trust, be in English.
- 16.3 Any amendment to this Agreement shall be made in writing and signed by both the Lender and the Borrower.
- 16.4 This Agreement shall remain in full force and effect until all monies hereunder have been repaid.
- 16.5 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.

**17. GOVERNING LAW AND JURISDICTION**

17.1 Governing law

This Agreement shall be governed by the laws of the Kingdom of Sweden.

17.2 Immunity

The PIDG Trust hereby irrevocably waives any claim it may now or hereafter have that any proceeding has been brought in an inconvenient forum or claim immunity due to sovereignty or otherwise.

17.3 Dispute resolution

- (i) If any dispute, claim, controversy or disagreement of whatever nature arises out of or in connection with this Agreement, including any question regarding its existence, validity, termination or enforceability (a "Dispute"), the Parties shall use all reasonable endeavours to resolve the matter amicably. If one party gives any other party notice that a material Dispute has arisen and the parties are unable to resolve such Dispute within thirty (30) days of service of such notice, then such Dispute shall be referred to the respective chairmen or chief executives or equivalents of the parties in dispute. No party shall resort to arbitration against any other party under this Agreement until at least thirty (30) days after such referral. This shall not affect a party's right, where appropriate, to seek interim relief.
- (ii) All Disputes which are unresolved by the chairman or chief executives or equivalents pursuant to (i) above 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.

- (iii) 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.
- (iv) 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.
- (v) The arbitrator shall have power after the commencement of an arbitration to allow, only on the application of a party to that arbitration, another party to this Agreement to be joined in the arbitration as a party, and thereafter to make a single final award, or separate awards, in respect of all parties so implicated in the arbitration.

#### **18. CONDITION FOR COMING INTO FORCE**

The parties acknowledge that Sida's commitment hereunder is subject to obtaining Parliamentary and Governmental (Sw. riksdags och regerings-) approval to entering into this Agreement. Sida will inform the PIDG Trust as soon as the relevant decisions have been made.



This Agreement is made on this \_\_\_\_\_ day of October 2006 in the English language in three originals of which the PIDG Trust has taken two and the Lender has taken one.

**The Trustees, representing The Private Infrastructure Development Trust by**

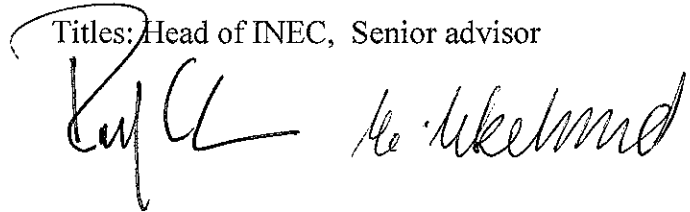
**The Government of Sweden  
represented by Sida**

**SG Hambros Trust Company Ltd**

By: (Rolf Carlman) (Elisabeth Ekelund)

By:

Titles: Head of INEC, Senior advisor



Date:

**Multiconsult Trustees Ltd**

By:

Date:

Date:

**Minimax Ltd**

By:

Date:

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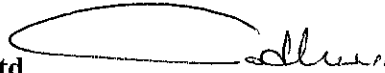
By: (Rolf Carlman) (Elisabeth Ekelund)

Titles: Head of INEC, Senior advisor

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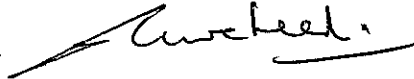


By: UDAY KUMAR GUJADHUR

Date:

Date:

**Minimax Ltd**





By: YUVRAJ KUMAR JOWANEER

Date:

This Agreement is made on this \_\_\_\_\_ day of October 2006 in the English language in three originals of which the PIDG Trust has taken two and the Lender has taken one.

**The Trustees, representing The Private Infrastructure Development Trust by**

**SG Hambros Trust Company Ltd**

By:  

**Date:**

**The Government of Sweden  
represented by Sida**

By: (Rolf Carlman) (Elisabeth Ekelund)

Titles: Head of INEC, Senior advisor

**Multiconsult Trustees Ltd**

**By:**

**Date:**

**Date:**

**Minimax Ltd**

**By:**

**Date:**

**SCHEDULE 1**

**FORM OF DISBURSEMENT REQUEST**

Place and date

To: Sida, INEC

Swedish International Development Cooperation Agency,

S-105 25 Stockholm, Sweden

Attention:

Elisabeth Ekelund, Team Leader,

Division for Infrastructure and Financing,

Department for Infrastructure and Economic

Co-operation

Dear Sirs,

**Re: Conditional Loan Agreement dated [ ] 2006 between Sida and the PIDG Trust (the “Conditional Loan Agreement”)**

We refer to the above Conditional Loan Agreement and hereby request a Disbursement in the following amount [ ]. Terms not defined hereunder shall have the same meanings as in the Conditional Loan Agreement.

Payment Instructions:

Beneficiary/Payee:

Bank, name branch and address:

Swift code:

In accordance with Clause 3.2(c) of the Conditional Loan Agreement we enclose the following documents supporting the request:

[(i) Statement from GuarantCo of use of previous Disbursement

(ii) Statement from GuarantCo of proposed use of this Disbursement].

On behalf of the PIDG Trust we confirm that the representations and warranties made in the Conditional Loan Agreement are correct as of this day and that no Event of Default has occurred or is threatening.

**SG Hambros Trust Company Ltd representing the Trustees acting for and on behalf of The Private Infrastructure Development Group Trust by**

Signature:

Printed name:

Title:

Place and date

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