

The Companies Act 2001

Constitution

of

The Emerging Africa Infrastructure Fund Limited

A Private Company Limited by Shares

**As amended by special resolution of the shareholders of the Company passed on 10 November
2014**

Constitution of
THE EMERGING AFRICA INFRASTRUCTURE FUND LIMITED
(the "Company")

a private company limited by shares

1. CONSTITUTION AND THE COMPANIES ACT 2001

The provisions of the Mauritius Companies Act 2001 (the "Act") shall apply to this Constitution and to the Company to the extent not negated, modified, adopted or extended by this Constitution.

2. DEFINITIONS

In this Constitution, unless the context otherwise requires, the following terms shall have the meaning as set out below:

"Authority" means any national, supranational, regional or local government or governmental, administrative, fiscal, judicial or government owned body, department, political subdivision, instrumentality, agency, regulatory authority, corporation or commission, court or tribunal or any Person that exercises the functions of a central bank whether or not government owned or controlled and howsoever constituted or called;

"Board" means the board of directors of the Company from time to time;

"Chairperson" means the chairperson of the Board;

"Company Secretary" means the secretary of the Company appointed by the Board from time to time;

"Credit Committee" means the committee established by the Company in accordance with Paragraph 12;

"Director's Qualifications" means the qualifications set out in the Third Schedule (Part 1);

"Fund Manager" means the fund manager of the Company appointed in accordance with the Fund Management Agreement from time to time;

"Fund Management Agreement" means the agreement between Frontier Markets Fund Managers Limited (then known as Standard Infrastructure Fund Managers (*Africa*) Limited) and the Company in relation to the fund management of the Company dated 30 April 2002 as amended and restated on 18 December 2006, 20th July 2011 and 8 November 2013 and as further amended, restated or replaced from time to time;

“International Arbitration Act 2008” means the Mauritius International Arbitration Act 2008;

“Investment” means a loan by the Company to any Person in the form of a loan or a commitment to provide such loan, in each case in accordance with the Investment Policy and the terms of the approval by the Credit Committee and the Board;

“Investment Opportunity” means a project or a Person (other than a natural person) that satisfies the criteria detailed in the Investment Policy;

“Investment Policy” means the investment policy of the Company as from time to time amended by the Board and in accordance with the provisions of this Constitution.

“Member's Qualifications” means the qualifications set out in the Third Schedule (Part 2);

“New Business Committee” means the committee established by the Company in accordance with Paragraph 13;

“Person” means any natural person, corporation, partnership, firm, association, trust, Authority or any other entity, whether acting in an individual, fiduciary or other capacity and their successors;

“Portfolio Investment Commitment” means, as of any date of determination, any commitment of the Company to fund or to make an Investment;

“Shares” means any issued share in the share capital of the Company from time to time;

“Shareholders” means the Trust and such other holders of Shares as provided for under this Constitution from time to time;

“Share Subscriptions” means each subscription for Shares by the Trust;

“Trust” means The Private Infrastructure Development Group Trust, a trust established under the laws of Mauritius;

Unless otherwise specified in this Constitution, references to “Schedules”, “Paragraphs” and “sub-Paragraphs” are to schedules, clauses and sub-paragraphs to this Constitution.

3. **PURPOSE AND POWERS**

The Company is established to conduct investment business for the purpose of improving the provision of infrastructure in Sub-Saharan Africa in order to assist in the elimination of poverty, in particular by underpinning economic growth. The conduct of such investment business shall be in accordance with the Investment Policy.

4. **STATED CAPITAL**

- (a) Upon any subscription for Shares in the Company, the Company shall issue the relevant number of Shares such that each Share issued following each such subscription is fully paid.
- (b) The pre-emptive rights on the issue of Shares contained in section 55 of the Act are hereby negated. The Company is expressly prohibited from issuing further Shares at any time to any person except as approved by the Credit Committee and the Board. Any Shares issued to the Trust shall rank as to voting and distribution rights equally with the Shares already issued to the Trust by the Company.
- (c) The Company shall not have the power to issue Shares which are redeemable. The Company shall only be entitled to issue shares that are, or are credited as, fully paid.

5. OWNERSHIP AND TRANSFER OF SHARES

- (a) The Trust will be the first Shareholder of the Company.
- (b) In accordance with Section 91(1) of the Act, all shares issued by the Company shall be recorded in the share register maintained by the Company.
- (c) In accordance with Section 97(4) of the Act, the Company shall, upon receipt of an application for a share certificate under Section 97(3) of the Act, send a share certificate to such Shareholder within 28 days of receipt of the application.

6. DIRECTORS' RIGHT TO REFUSE REGISTRATION OF TRANSFERS

Subject to compliance with sections 87 to 89 of the Act, the Board may refuse or delay the registration of any transfer of any Share to any person whether an existing shareholder or not, where -

- (a) so required by law;
- (b) registration would impose on the transferee a liability to the Company and the transferee has not signed the transfer;
- (c) the transferee is a minor or a person of unsound mind;
- (d) the transfer is not accompanied by such proof as the Board reasonably requires of the right of the transferor to make the transfer; or
- (e) the Board acting in good faith decides in its sole discretion that registration of the transfer would not be in the best interests of the Company and/or any of its Shareholders,

provided always however, that the Board shall not be entitled to refuse to register a transfer of Shares made pursuant to any security arrangements entered into by the Company with any lender(s).

7. SHAREHOLDERS MEETINGS

Shareholders meetings shall be conducted in accordance with the First Schedule hereto.

8. DIRECTORS

- (a) The Company shall have up to ten (10) directors in total, who shall be appointed in accordance with the operating policies and procedures adopted by the Trust from time to time.
- (b) The Board shall use its best endeavours to ensure (i) that there shall be no fewer than 7 Directors at any time and (ii) that any director nominated after the date of adoption of this Constitution shall have the requisite Director's Qualifications. The Chairperson shall have a casting vote.
- (c) Any director appointed under Paragraph 8) shall hold office only until he is removed or he ceases to hold office pursuant to section 139 of the Act. There shall be no retirement by rotation.
- (d) The Shareholders shall vote their respective Shares for the election and/or removal by ordinary resolution of the directors duly nominated under this Paragraph 8.
- (e) The provisions of section 137(1) of the Act shall not apply to the appointment of the directors of the Company.
- (f) Whenever any matter is presented to a meeting of the Board that involves a conflict or potential conflict of interest for a director, such director shall declare the nature of his interest or potential interest therein by serving notice to the meeting of the Board at which such matter is to be considered. All such notices must be given at the beginning of the meeting of the Board at which the matter is first to be considered.
- (g) The Board and each committee of the Board shall be formally responsible for addressing and dealing with potential or actual conflicts of interest of its members, including, without limitation, any potential or actual conflicts of interest relating to the Fund Manager, the Company and/or any providers of funding or finance of any type whatsoever to the Company, and shall record its decision and reasoning in relation to each such potential or actual conflict of interest as soon as practicable after it arises or is disclosed pursuant to paragraph (f).
- (h) Subject to any decision of the Board to the contrary pursuant to sub-paragraph (g) above, where a potential or actual conflict of interest has been disclosed to the Board pursuant to sub-paragraph (f) above, the relevant director shall be counted in the quorum but shall not be entitled to vote on such matter at any meeting of the Board.

9. ALTERNATE DIRECTORS

Each director shall have the power from time to time to nominate, by notice in writing to the Company, any person not already a director and who can demonstrate that he or she possesses the Director's Qualifications to act as an alternate director in his or her place either for a specified period or generally during the absence from time to time of such director and in the like manner to remove any such alternate director provided that any alternate director proposed must also be acceptable to the majority of directors present at any meeting of the Board where such a proposal is made. Unless otherwise provided for by the terms of his or her appointment, an alternate director shall have the same rights, powers and privileges (including the right to receive notice of meetings of the Board but excluding the power to appoint an alternate director) and shall discharge all the duties of and be subject to the same provisions as the director in whose place he or she acts. An alternate director shall not be remunerated otherwise than out of the remuneration of the director in whose place he or she acts and shall ipso facto vacate office if and when the director in whose place he or she acts vacates office. Any notice appointing or removing an alternate director may be given by delivering the same or by sending the same by post, email or facsimile to the Company and shall be effective as from the receipt thereof.

10. REMUNERATION OF DIRECTORS AND OTHER OFFICERS

- (a) The remuneration of the Directors shall be determined by the Shareholders in accordance with section 159(1)(a) of the Act.
- (b) The Company shall pay the expenses of each of the directors on the Board in accordance with the Company's expense policy adopted from time to time, the members of the Credit Committee and of the New Business Committee, and each of their alternates as the case may be, incurred in fulfilling their duties with respect to the Company.

11. THE BOARD

- (a) The directors of the Company shall constitute the Board of the Company. The Board is responsible for the strategy and policy of the Company and, inter alia, will have the following responsibilities:
 - (i) to determine and amend the Investment Policy of the Company by simple majority, subject to Paragraph 15(a);
 - (ii) subject to Paragraph 15(b), to approve by simple majority the Fund Management Agreement and any amendment, modification, termination or waiver thereof, and to oversee the conduct of the Fund Manager to ensure that it carries out its duties in conformity therewith and with the Investment Policy;
 - (iii) to recommend the auditors of the Company to be appointed by the Shareholders of the Company;

- (iv) subject to the approval of the Credit Committee, to approve or reject any Investment, and in the event of approval, to authorise directors and/or officers of the Company or a director of the Fund Manager to execute documentation on behalf of the Company;
- (v) to ensure that the Company operates in an efficient and business-like manner for the sole purpose for which it was established;
- (vi) to ensure that the Company's accounting ledgers are kept according to the provisions of Mauritian accounting law and the applicable regulations thereof as well as International Accounting Standards and to execute the appropriate financial statements to accurately reflect the Company's operations and financial position;
- (vii) to determine whether any matter brought to the attention of the Board concerning the Company constitutes a material conflict of interest as between the Company and the other parties to such matter;
- (viii) to approve the Company's hedging policy (which forms part of the Investment Policy) and its provisioning and portfolio management policies; and
- (ix) to approve or reject within two weeks any decision by the Credit Committee to initiate any litigation in accordance with Paragraph 12(c)(iv).

(b) The directors may delegate such of their powers as are allowed to be delegated by the Act to any committee consisting of one or more directors. Any such delegation may be made subject to any conditions the directors may impose and may be revoked or altered. Subject to any such conditions, the proceedings of a committee with two or more members shall be governed by the provisions regulating the proceedings of directors so far as they are capable of applying.

12. CREDIT COMMITTEE COMPOSITION AND RESPONSIBILITIES

- (a)
 - (i) The Company shall have a Credit Committee. The Board of the Company delegates certain powers and responsibilities to the Credit Committee as provided in Paragraph 12(c).
 - (ii) The Board shall be responsible for the exercise of the delegated power by the Credit Committee as if the power had been exercised by the Board.
- (b) The Credit Committee will be comprised of up to seven (7) members. Any Credit Committee member nominated after the date of adoption of this Constitution shall have the requisite Member's Qualifications. The members of the Credit Committee shall be nominated, removed and replaced by the Board.
- (c) **Responsibilities of the Credit Committee**

The Credit Committee shall have the following responsibilities:

- (i) To recommend whether the Company should enter into any Investment subject to the Board approving any such affirmative determination. In order to make such a determination the Credit Committee shall require an application prepared by the Fund Manager with respect to each Investment Opportunity that sets forth and demonstrates, *inter alia*:
 - (I) the ability of the Company to fulfil its Portfolio Investment Commitment based on the Company's financial model, taking into account: (i) the aggregate amount of the proceeds of Share Subscriptions; (ii) the Company's available commitments; (iii) the Company's retained earnings; and (iv) the aggregate amount of Portfolio Investment Commitments and any other liabilities of the Company at that date; and
 - (II) the compliance of the proposed investment in such Investment Opportunity with the Investment Policy of the Company.

The Credit Committee shall consider any application in relation to an Investment Opportunity delivered by the Fund Manager and the members of the Credit Committee shall vote in order to approve such application in accordance with the voting provisions set out in the Second Schedule. Following a decision of the Credit Committee made in accordance with the provisions of Paragraph 2(f) of the Second Schedule, the Credit Committee shall as soon as practicable inform the Board of such decision.

- (ii) To review quarterly reports prepared by the Fund Manager which reports shall be in such form and detail satisfactory to the Credit Committee and the Board.
 - (iii) To determine the hedging policy of the Company (which forms part of the Investment Policy) for approval in accordance with Paragraph 15.
 - (iv) To decide on the appropriate action to be taken when a borrower goes into default or potential default, and whether a work-out or acceleration of any Investment is necessary and to seek the approval of the Board before initiating any litigation.
 - (v) To establish, review and approve the provisioning policy of the Company for approval by the Board.
- (d) The meetings and proceedings of the Credit Committee shall be as set out in the Second Schedule hereto.

13. **NEW BUSINESS COMMITTEE COMPOSITION AND RESPONSIBILITIES**

- (a) (i) The Company shall have a New Business Committee.

- (ii) The Board shall be responsible for the exercise of the delegated power by the New Business Committee as if the power had been exercised by the Board.
- (b) The New Business Committee will comprise up to seven (7) members. The members of the New Business Committee shall be nominated, removed and replaced by the Board.
- (c) The New Business Committee will be responsible for reviewing and approving all Investment Opportunities that qualify to undergo detailed due diligence and term sheet negotiations by the Fund Manager prior to presentation of such potential investments to the Credit Committee.
- (d) The meetings and proceedings of the New Business Committee shall be as set out in the Second Schedule hereto.

14. **DIVIDENDS**

- (a) Subject to the solvency test provided for in Section 6(1) of the Act, a dividend may be authorised and declared by the Board at such time and in such amount as it thinks fit.
- (b) The directors may deduct from any dividend payable to any Shareholder all sums of money, if any, presently payable by such Shareholder to the Company for any reason.

15. **AMENDMENT TO THE INVESTMENT POLICY AND FUND MANAGEMENT AGREEMENT**

(a) **The Investment Policy**

The Investment Policy may only be amended, modified or otherwise changed by the affirmative vote of a simple majority of the Board, with the approval of the Shareholders, acting reasonably, holding a majority of the Shares.

(b) **Fund Management Agreement**

The Fund Management Agreement shall not be amended, modified, terminated or waived except by the affirmative vote of a simple majority of the Board.

16. **WINDING UP**

- (a) Subject to Paragraph 16 (b) and to the terms of issue of any Shares in the Company, upon the winding up of the Company, the assets, if any, remaining after payment of all the debts and liabilities of the Company, including the costs of winding up (the surplus assets), shall be distributed among the Shareholders in proportion to their shareholding.
- (b) Where the Company is wound up, the liquidator may, with the sanction of a special resolution of the Company, divide in kind amongst the members the assets of the

Company, whether they consist of property of the same kind or not, and may for that purpose set such value as he deems fair upon any property to be divided and may determine how the division is to be carried out as between the Shareholders or different classes of Shareholders.

17. INDEMNITY

The Company shall be entitled to provide directors' liability insurance for all circumstances permitted under Section 161 of the Act.

18. ARBITRATION

Subject to the International Arbitration Act 2008, any dispute arising out of or in connection with this Constitution shall be referred to and finally resolved by arbitration under the London Court of International Arbitration Rules, which Rules are deemed to be incorporated by reference into this clause.

The number of arbitrators shall be one. The parties to any dispute shall jointly nominate the arbitrator not later than 30 days after service of the "Request for Arbitration". If the parties are unable to agree within 30 days as to the nomination of such arbitrator then such arbitrator (the tribunal) shall be selected and appointed by the LCIA.

The seat, or legal place, of arbitration shall be in Port-Louis, Mauritius.

All arbitral proceedings conducted with reference to this Article shall be kept strictly confidential and all information disclosed in the course of such arbitral proceeding shall be used solely for the purpose of those proceedings.

The language to be used in the arbitration shall be English

Notwithstanding the foregoing, nothing in this Article 18 shall be deemed to limit the parties' rights to seek interim injunctive relief or to enforce an arbitration award in any court of law.

FIRST SCHEDULE

Proceedings at meetings of Shareholders

The Shareholders shall meet at least once every twelve months

1. Chairperson

The Shareholders present at a meeting may choose one of their number to be chairperson of the meeting.

2. Notice of meetings

(a) Written notice of the time and place of a meeting of Shareholders shall be sent to every Shareholder entitled to receive notice of the meeting and to every director, secretary and auditor of the Company not less than 14 days before the meeting.

(b) The notice shall state:

(i) the nature of the business to be transacted at the meeting in sufficient detail to enable a Shareholder to form a reasoned judgment in relation to it; and

(ii) the text of any special resolution to be submitted to the meeting.

(c) Any irregularity in a notice of a meeting shall be waived where all the Shareholders entitled to attend and vote at the meeting attend the meeting without protest as to the irregularity, or where all such Shareholders agree to the waiver.

(d) (i) Any accidental omission to give notice of a meeting to, or the failure to receive notice of a meeting by, a Shareholder shall not invalidate the proceedings at that meeting

- (ii) The chairperson may, or where directed by the meeting, shall, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (iii) When a meeting of Shareholders is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- (e) Notwithstanding Paragraphs 2 (a), (b) and (c) and except as provided in Paragraph 2 (d)(iii), it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

3. **Methods of holding meetings**

A meeting of Shareholders may be held either:

- (i) by a number of Shareholders who constitute a quorum, being assembled together at the place, date, and time appointed for the meeting; or
- (ii) by means of audio, or audio and visual, communication by which all Shareholders participating and constituting a quorum, can simultaneously hear each other throughout the meeting.

4. **Quorum**

- (a) Where a quorum is not present, no business shall, subject to Paragraph (c), be transacted at a meeting of Shareholders.
- (b) A quorum for a meeting of Shareholders shall be present where the Shareholders or their proxies are present or have cast postal votes, who are between them able to exercise a majority of the votes to be cast on the business to be transacted by the meeting.

- (c) Where a quorum is not present within 30 minutes after the time appointed for the meeting:
 - (i) in the case of a meeting called under section 118(1)(b) of the Act, the meeting shall be dissolved;
 - (ii) in the case of any other meeting, the meeting shall be adjourned to the same day in the following week at the same time and place, or to such other date, time and place as the directors may appoint; and
 - (iii) where, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the Shareholders or their proxies present shall be a quorum.

5. **Voting**

- (a) Where a meeting of Shareholders is held under Paragraph 3(i), unless a poll is demanded, voting at the meeting shall be by whichever of the following methods is determined by the chairperson of the meeting:
 - (i) voting by voice; or
 - (ii) voting by show of hands.
- (b) A declaration by the chairperson of the meeting that a resolution is carried by the requisite majority shall be conclusive evidence of that fact unless a poll is demanded in accordance with Paragraph (c).
- (c) At a meeting of Shareholders, a poll may be demanded by:
 - (i) not less than 5 Shareholders having the right to vote at the meeting;

- (ii) a Shareholder or Shareholders representing not less than 10 percent of the total voting rights of all Shareholders having the right to vote at the meeting; or
 - (iii) the chairperson of the meeting.
- (d) A poll may be demanded either before or after the vote is taken on a resolution.
- (e) Where a poll is taken, votes shall be counted according to the votes attached to the Shares of each Shareholder present in person or by proxy and voting.
- (f) The chairperson of a Shareholders' meeting shall not be entitled to a casting vote.
- (g)
 - (i) For the purposes of Paragraph 5, the instrument appointing a proxy to vote at a meeting of the Company shall confer authority to demand or join in demanding a poll and a demand by a person as proxy for a Shareholder shall have the same effect as a demand by the Shareholder.
 - (ii) Subject to any rights or restrictions for the time being attached to any class of Shares, every Shareholder present in person or by proxy and voting by voice or by show of hands and every Shareholder voting by postal vote (where this is permitted) shall have one vote.
 - (iii) The demand for a poll may be withdrawn.
 - (iv) Where a poll is duly demanded, it shall, subject to Paragraph (e), be taken in such manner as the chairperson directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll is demanded.
 - (v) A poll demanded:

- (A) on the election of a chairperson or on a question of adjournment, shall be taken immediately;
- (B) on any other question, shall be taken at such time and place as the meeting directs,

and any business other than that on which a poll is demanded may be proceeded with pending the taking of the poll.

6. Proxies

- (a) A Shareholder may exercise the right to vote either by being present in person or by proxy.
- (b) A proxy for a Shareholder may attend and be heard at a meeting of Shareholders as if the proxy were the Shareholder.
- (c) A proxy shall be appointed by notice in writing signed by the Shareholder and the notice shall state whether the appointment is for a particular meeting or a specified term.
- (d)
 - (i) No proxy shall be effective in relation to a meeting unless a copy of the notice of appointment is produced before the start of the meeting.
 - (ii) Any power of attorney or other authority under which the proxy is signed or a notarially certified copy shall also be produced.
 - (iii) A proxy form shall be sent with each notice calling a meeting of the company.
 - (iv) The instrument appointing a proxy shall be in writing under the hand of the appointer or of his agent duly authorised in writing or in the case of a corporation under the hand of an officer or of an agent duly authorised.

- (v) The instrument appointing a proxy shall be in the following form -

I/we of being shareholders of the above named Company hereby appoint

Or failing him/her, of

As my/our proxy to vote for me/us at the meeting of the Company to be held on and at any adjournment of the meeting.

Signed this day of

- (e) The instrument appointing a proxy shall not be effective unless it is produced at least 24 hours before the start of a meeting.

7. **Postal votes**

- (a) A Shareholder may exercise the right to vote at a meeting by casting a postal vote in accordance with this Paragraph.
- (b) The notice of a meeting at which Shareholders are entitled to cast a postal vote shall state the name of the person authorised by the Board to receive and count postal votes at that meeting.
- (c) Where no person has been authorised to receive and count postal votes at a meeting, or where no person is named as being so authorised in the notice of the meeting, every director shall be deemed to be so authorised.
- (d) (i) A Shareholder may cast a postal vote on all or any of the matters to be voted on at the meeting by sending a notice of the manner in which his Shares are to be voted to a person authorised to receive and count postal votes at that meeting.

- (ii) The notice shall reach that person not less than 48 hours before the start of the meeting.

- (e) A person authorised to receive and count postal votes at a meeting shall:
 - (i) collect together all postal votes received by him or by the Company;

 - (ii) in relation to each resolution to be voted on at the meeting, count:
 - (A) the number of Shareholders voting in favour of the resolution and the number of votes cast by each Shareholder in favor of the resolution; and

 - (B) the number of Shareholders voting against the resolution, and the number of votes cast by each Shareholder against the resolution;

 - (iii) sign a certificate that he has carried out the duties set out in sub-Paragraphs (i) and (ii) which sets out the results of the counts required by sub-Paragraph (ii); and

 - (iv) ensure that the certificate required by sub-Paragraph (iii) is presented to the chairperson of the meeting.

- (f) Where a vote is taken at a meeting on a resolution on which postal votes have been cast, the chairperson of the meeting shall:
 - (i) on a vote by show of hands or by voice, count each Shareholder who has submitted a postal vote for or against the resolution;

 - (ii) on a poll, count the votes cast by each Shareholder who has submitted a postal vote for or against the resolution.

- (g) The chairperson of a meeting shall call for a poll on a resolution on which he holds sufficient postal votes that he believes that, where a poll is taken, the result may differ from that obtained on a show of hands.
- (h) The chairperson of a meeting shall ensure that a certificate of postal votes held by him is annexed to the minutes of the meeting.

8. Minutes

- (a) The Board shall ensure that minutes are kept of all proceedings at meetings of Shareholders.
- (b) Minutes which have been signed correct by the chairperson of the meeting are *prima facie* evidence of the proceedings.

9. Shareholder proposals

- (a) A Shareholder may give written notice to the Board of a matter the Shareholder proposes to raise for discussion or resolution at the next meeting of Shareholders at which the Shareholder is entitled to vote.
- (b) Where the notice is received by the Board not less than 28 days before the last day on which notice of the relevant meeting of Shareholders is required to be given by the Board, the Board shall, at the expense of the Company, give notice of the Shareholder proposal and the text of any proposed resolution to all Shareholders entitled to receive notice of the meeting.
- (c) Where the notice is received by the Board not less than 7 days and not more than 28 days before the last day on which notice of the relevant meeting of Shareholders is required to be given by the Board, the Board shall, at the expense of the Shareholder, give notice of the Shareholder's proposal and the text of any proposed resolution to all Shareholders entitled to receive notice of the meeting.

- (d) Where the notice is received by the Board less than 7 days before the last day on which notice of the relevant meeting of Shareholders is required to be given by the Board, the Board may, where practicable, and at the expense of the Shareholder, give notice of the Shareholder's proposal and the text of any proposed resolution to all Shareholders entitled to receive notice of the meeting.
- (e) Where the directors intend that Shareholders may vote on the proposal by proxy or by postal vote, they shall give the proposing Shareholder the right to include in or with the notice given by the Board a statement of not more than 1000 words prepared by the proposing Shareholder in support of the proposal, together with the name and address of the proposing Shareholder.
- (f) The Board shall not be required to include in or with the notice given by the Board a statement prepared by a Shareholder which the directors consider to be defamatory, frivolous, or vexatious.
- (g) Where the costs of giving notice of the Shareholder's proposal and the text of any proposed resolution are required to be met by the proposing Shareholder, the proposing Shareholder shall, on giving notice to the Board, deposit with the Company or tender to the Company a sum sufficient to meet those costs.

10. Corporations may act by representative

A body corporate which is a Shareholder may appoint a representative to attend a meeting of Shareholders on its behalf in the same manner as that in which it could appoint a proxy.

11. Votes of joint holders

Where 2 or more persons are registered as the holder of a Share, the vote of the person named first in the share register and voting on a matter shall be accepted to the exclusion of the votes of the other joint holders.

12. No voting right where calls unpaid

Where a sum due to a company in respect of a Share has not been paid, that Share may not be voted at a Shareholder's meeting other than a meeting of an interest group.

13. **Other proceedings**

Unless otherwise expressly provided in this Schedule, a meeting of Shareholders may regulate its own procedure.

SECOND SCHEDULE

Proceedings of the Board of Directors, the Credit Committee and the New Business Committee

In this schedule any reference to a director of the Company or member of the Credit Committee shall include any alternate director or member as provided for in this Constitution.

1. Proceedings of the Board

(a) Notice of meeting

- (i) The Board will meet at least once a quarter; provided that a director or, if requested by a director to do so, the Company Secretary, may convene a meeting of the Board at any time by giving notice in accordance with this Paragraph 1.
- (ii) Unless a notice of a meeting is sent in accordance with Paragraph 1(a)(iii) below, a notice of a meeting of the Board shall be sent by the Company Secretary to every director including directors who are not resident in Mauritius at least four weeks (20 working days) prior to the date of a meeting at a particular place, or two weeks (10 working days) before the date of a meeting if it is to be conducted under Paragraph 1 (b)(ii) below, and the notice shall include the date, time, and place of the meeting, the agenda and all relevant documentation; provided that if a decision is required to be taken as a matter of urgency a meeting may be held on shorter notice provided that it is quorate.
- (iii) A provisional notice of a meeting of the Board to approve or reject any Investment shall be sent by the Company Secretary to every director including directors who are not resident in Mauritius at the same time a meeting of the Credit Committee is called under Paragraph 2(c) of the Second Schedule of this Constitution. Such provisional notice shall specify a meeting time at least two weeks (10 working days) and no more than three weeks (15 working days) after the date of the meeting of the Credit

Committee. Within twenty-four hours of any affirmative decision of the Credit Committee, each director will receive confirmation that the meeting of the Board will take place as specified in the provisional notice.

- (iv) If a decision is required to be taken as a matter of urgency any meeting of the Board may be held on shorter notice provided that it is quorate.
- (v) All papers tabled at a meeting of the Board will be sent by the Company Secretary to every director at least two weeks (10 working days) prior to the date of the meeting unless the meeting is to approve or reject any Investment in which case all papers will be sent to every director in accordance with Paragraph 2(c) of the Second Schedule of this Constitution.
- (vi) An irregularity in the notice of a meeting shall not invalidate the meeting and no director shall be entitled to question any act of the Board passed at a quorate meeting.

(b) **Methods of holding meetings**

A meeting of the Board may be held either:

- (i) by a number of the directors who constitute a quorum, being assembled together at the place, date, and time appointed for the meeting and otherwise than in the UK; or
- (ii) by means of audio, or audio and visual, communication by which all directors participating and constituting a quorum can simultaneously hear each other throughout the meeting.

(c) **Quorum**

- (i) A quorum for a meeting of the Board shall be a majority of the number of Directors from time to time provided that such quorum includes at least two

directors resident in Mauritius (or their alternates), together with the Chairperson, or his alternate.

- (ii) No meeting shall be quorate if the majority of directors participating are situate, or resident for tax purposes, in the United Kingdom.
- (iii) No business may be transacted at a meeting of directors if a quorum is not present, and the meeting shall be adjourned.

(d) **Voting**

- (i) Every director has one vote.
- (ii) The Chairperson shall have a casting vote.
- (iii) A resolution of the Board is passed if it is agreed to by all directors present without dissent or if a majority of the votes cast on it are in favour of it.

(e) **Minutes and information**

The Board shall ensure that minutes are kept of all proceedings at meetings of the Board. Draft minutes will be circulated to every member of the Board within two weeks of a meeting. Draft minutes will be approved at the next meeting of the Board. Each director shall be entitled to deliver information relating to Investments or Investment Opportunities to any lender to the Company that such director receives as a result of acting as a director.

(f) **Resolution in writing**

- (i) A resolution in writing, signed or assented to by all directors then entitled to receive notice of a Board meeting, is as valid and effective as if it had been passed at a meeting of the Board duly convened and held.

(ii) Any such resolution may consist of several documents (including facsimile or other similar means of communication) in like form each signed or assented to by one or more directors.

(iii) A copy of any such resolution must be entered in the minute book of Board proceedings.

(g) **Other proceedings**

Except as provided herein, the Board may regulate its own procedure.

2. **Proceedings of the Credit Committee**

(a) **Chairperson**

(i) The Chairperson shall select the chairperson of the Credit Committee and determine the period for which he is to hold office.

(ii) Where no chairperson is elected, or where at a meeting of the Credit Committee the chairperson is not present within 15 minutes after the time appointed for the commencement of the meeting, the members present may choose one of their number to be chairperson of the meeting.

(b) **Alternate members of the Credit Committee**

(i) Each member of the Credit Committee shall have the power from time to time to nominate, by giving at least 3 weeks' notice in writing to the Company, any person not already a member and who can demonstrate that he or she possesses the Member's Qualifications to act as their standing alternate member in his or her place and in the like manner to remove any such standing alternate member provided that any alternate Credit

Committee member proposed must also be acceptable to a majority of the other members.

- (ii) In addition to the standing alternate, any member of the Credit Committee shall have the power from time to time to nominate, by giving at least 3 days' notice in writing to the Company, any person not already a member or a standing alternate member and who can demonstrate that he or she possesses the Member's Qualifications to act as an alternate member in his or her place for a specified meeting provided that any alternate Credit Committee member proposed in respect of any member must also be acceptable to a majority of the other members.
- (iii) Unless otherwise provided for by the terms of his or her appointment, an alternate member shall have the same rights, powers and privileges (including the right to receive notice of meetings of the Credit Committee but excluding the power to appoint an alternate member) and shall discharge all the duties of and be subject to the same provisions as the member in whose place he or she acts. An alternate member shall not be remunerated otherwise than out of the remuneration of the member in whose place he or she acts and shall ipso facto vacate office if and when the member in whose place he or she acts vacates office. Any notice appointing or removing an alternate member may be given by delivering the same or by sending the same through post or by facsimile to the Company and shall be effective as from the receipt thereof.

(c) **Notice of Meeting**

- (i) The Credit Committee will meet at least once a quarter; provided that any member of the Credit Committee or director of the Board may instruct the Company to convene a meeting of the Credit Committee by giving notice in accordance with this schedule.
- (ii) A notice of a meeting of the Credit Committee shall be sent by the Company Secretary to every member of the Credit Committee and every member of the Board at least three weeks (fifteen working days) prior to the date of the meeting at a particular place, or two weeks (ten working days) before the date of a meeting if it is to be conducted under Paragraph (d)(ii) below. The notice shall include the date, time, and place of the meeting, the agenda and all relevant documentation. All further documents needed in respect of any application made on behalf of an Investment Opportunity must be received by the members of the Credit Committee and the Board at least seven (7)

working days prior to the date of the meeting of the Credit Committee at which such application is to be considered.

- (iii) An irregularity in the notice of a meeting shall not invalidate the meeting and no member of the Credit Committee shall be entitled to question any act of the Credit Committee passed at a quorate meeting.

(d) **Methods of holding Meetings**

A meeting of the Credit Committee may be held either:

- (i) by a number of the members who constitute a quorum, being assembled together at the place, date and time appointed for the meeting and otherwise than in the UK; or
- (ii) by means of audio, or audio and visual, communication by which all members participating and constituting a quorum can simultaneously hear each other throughout the meeting.

(e) **Quorum**

- (i) A quorum for a meeting of the Credit Committee shall be a majority of the members but no meeting shall be quorate if the majority of members participating are situate, or resident for tax purposes, in the United Kingdom.
- (ii) No business may be transacted at a meeting of the Credit Committee if a quorum is not present.

(f) **Voting**

- (i) Each member of the Credit Committee shall have one (1) vote.

- (ii) Any decision of the Credit Committee shall be effective if approved by a majority of all of the members of the Credit Committee voting with respect to such decision.

(g) **Minutes and information**

The Credit Committee shall ensure that minutes are kept of all proceedings of the Credit Committee. Within two working days of a meeting of the Credit Committee where an Investment Opportunity is approved, a draft copy of the minutes of the meeting will be made available by the Fund Manager to each member of the Credit Committee for approval, such approval to be given within four working days of the meeting of the Credit Committee. When approval is given within four working days of the meeting, the Fund Manager shall send the approved minutes, amended if necessary, to every member of the Board within five working days of the meeting of the Credit Committee. Should it not be possible to obtain approval of the draft minutes within four working days of the meeting of the Credit Committee, the Fund Manager shall send within five working days of the meeting of the Credit Committee a copy of the draft minutes to every member of the Board whether or not the draft minutes have been approved by the Credit Committee. Any member of the Credit Committee shall be able to deliver information relating to Investments or Investment Opportunities that such member receives as a result of acting as a member to any lender to the Company.

3. **Proceedings of the New Business Committee**

(a) **Chairperson**

The Chairperson shall select the chairperson of the New Business Committee and determine the period for which he is to hold office.

(b) **Meetings and Procedures**

The New Business Committee will meet as necessary. Documentation will be circulated by the Fund Manager to all members of the New Business Committee at

least one (1) week prior to the intended date of any meeting of the New Business Committee.

(c) **Alternate members of the New Business Committee**

- (i) Each member of the New Business Committee shall have the power from time to time to nominate, by giving at least 3 weeks' notice in writing to the Company, any person not already a member to act as their standing alternate member in his or her place and in the like manner to remove any such standing alternate member provided that any alternate New Business Committee member proposed in respect of any member must also be acceptable to a majority of the other members.
- (ii) In addition to the standing alternate, any member of the New Business Committee shall have the power from time to time to nominate, by giving at least 3 days' notice in writing to the Company, any person not already a member or a standing alternate member to act as an alternate member in his or her place for a specified meeting provided that any alternate New Business Committee member proposed in respect of any member must also be acceptable to a majority of the other members.
- (iii) Unless otherwise provided for by the terms of his or her appointment, an alternate member shall have the same rights, powers and privileges (including the right to receive notice of meetings of the New Business Committee but excluding the power to appoint an alternate member) and shall discharge all the duties of and be subject to the same provisions as the member in whose place he or she acts. An alternate member shall not be remunerated otherwise than out of the remuneration of the member in whose place he or she acts and shall ipso facto vacate office if and when the member in whose place he or she acts vacates office. Any notice appointing or removing an alternate member may be given by delivering the same or by sending the same through post or by facsimile to the Company and shall be effective as from the receipt thereof.

(d) **Methods of holding meetings**

A meeting of the New Business Committee may be held either:

- (i) by a number of the members who constitute a quorum, being assembled together at the place, date and time appointed for the meeting and otherwise than in the UK; or
- (ii) by means of audio, or audio and visual, communication by which all members participating and constituting a quorum can simultaneously hear each other throughout the meeting.

(e) **Quorum**

- (i) A quorum for a meeting of the New Business Committee shall be a majority of the members but no meeting shall be quorate if the majority of members participating are situate, or resident for tax purposes, in the United Kingdom.
- (ii) No business may be transacted at a meeting of the New Business Committee if a quorum is not present.

(f) **Voting**

- (i) Each member of the New Business Committee shall have one (1) vote.
- (ii) Any decision of the New Business Committee shall be effective if approved by a majority of the members of the New Business Committee voting with respect to such decision.

THIRD SCHEDULE

Part 1

Director's Qualifications

The following are the Director Qualifications:

Overall Responsibility: To act as part of the governing body of the Company as a director, to further its interests and to fulfil the obligations imposed by statute upon directors.

Specific Responsibilities: Under the guidance of the Chairperson and with the other directors:

- Provide constructive input to the formulation of strategies, plans and policies
- Ensure the Company operates in a manner consistent with the Constitution
- Establish, and review as appropriate, the Company's Investment Policy
- Monitor and approve the Credit Committee's decisions and ensure they are consistent with the Company's Investment Policy
- Monitor the performance of the Fund Manager, including execution of policies and plans and management of resources
- Bring objectivity and experience to the Board's deliberations
- Serve on such Board committees as the Board requests

- Attend Board and designated Board committee meetings, prepare for such meetings by studying the papers provided (and request essential papers if not provided) and participate in a manner that furthers the interests of the Company
- Assist and advise the Board in connection with critical incidents, special exercises and negotiations as requested and attend meetings as necessary

Person Specification:

Essential Experience

- Previously operated in a non-executive capacity and held senior management positions within banking, commercial, advisory or development organisations
- Significant knowledge of, or experience in, financial services
- Exposure to the funding of significant infrastructure projects
- Contributed in a senior capacity to the formulation and implementation of strategy and policy

Desirable Experience

- Exposure to the challenges of large-scale project management
- Experience of conducting business within a developing country context
- Exposure to the African business environment
- Involvement in joint public-private sector initiatives

Personality

- Strong empathy with the mission to work towards eradication of poverty in developing countries and particular commitment to Africa
- Strong personal belief that infrastructure can alleviate poverty
- High integrity with strong ethical principles in business management and investment
- An ability to apply objectivity to decision-making and balancing the development and commercial objectives underlying infrastructure projects
- An ability to comprehend complex financing structures
- A commitment to team-working and to finding the best solution
- A preparedness to assert one's views where ethical or legal requirements are being challenged
- Well-developed diplomatic and interpersonal skills and ability to influence and achieve change
- Ability to command respect at all levels

Part 2

Member's Qualifications

The following are the Member Qualifications:

Overall Responsibility: To act as a member of the Credit Committee, and with the other members, approve all credit decisions

Specific Responsibilities:

- Monitor that all credit decisions are prudent and in line with the Investment Policy
- Ensure conflicts of interest are identified early, kept to a minimum and managed appropriately

Person Specification:

Essential Experience: In addition to that required for a member of the Board

- Previous experience of participating significantly in credit decisions
- A working understanding of development organisations' approaches to private sector lending
- Strong experience in monitoring and managing risks in large-scale projects

- Strong understanding of investment portfolio management
- An understanding of complex financing arrangements

Desirable Experience:

- Experience of operating credit facilities within a developing country context
- Experience of funding large-scale infrastructure initiatives
- Participation in public-private sector funding initiatives

Personality: In addition to that required for a member of the Board

- Able to assess combined and intangible risks as well as the individual project and tangible risks
- Excellent analytical skills and commercial acumen
- Undisputed integrity and ability to think clearly and exercise sound judgement, and without positions or interests that might cast doubt on their ability to act impartially
- Pragmatic but realistic in making assessments.