

MEMORANDUM OF UNDERSTANDING
in relation to the cooperation and/or participation of

Qatar Investment Authority
and
Fondo de Garantía de Sustentabilidad
del Sistema Integrado Previsional Argentino
in proposed
Argentine Infrastructure Fund



جهاز قطر للاستثمار
QATAR INVESTMENT AUTHORITY

FGS

Fondo de Garantía de Sustentabilidad

Building the Future with Global Vision

November, 2016

This memorandum of understanding (“MOU”) is entered into on ____ November 2016 by and between:

1. **Fondo de Garantía de Sustentabilidad del Sistema Integrado Previsional Argentino (“FGS”)**, with its registered office at Tucumán 500, (C1049AAJ), Ciudad Autónoma de Buenos Aires, República Argentina; and
2. **Qatar Investment Authority**, an entity of the State of Qatar established pursuant to Qatari Emiri Decision No. 22 of 2005 as amended and restated (“QIA”).

Each of FGS and QIA referred to hereinafter individually as a “Party” and collectively as the “Parties”.

WHEREAS:

- (A) Whereas, QIA is a governmental entity of the State of Qatar with its mission to invest, manage and grow Qatar's reserves to create long-term value for the State of Qatar and future generations of Qataris.
- (B) Whereas, FGS is a Pension Reserve Fund established by Executive Decree No. 897/07, with its mission to preserve capital for beneficiaries of Argentina's Social Security System and provide sufficient returns to meet commitments pursuant to reparations arising from Argentine Law 27,260 (“Programa Nacional de Reparación Histórica para Jubilados y Pensionados”). FGS invests in projects and financial instruments that promote growth in the Argentine economy and support the development of local capital markets.
- (C) Whereas, representatives of the QIA and representatives of FGS, are conducting discussions with a view to encouraging the further and ongoing participation of the State of Qatar through QIA and in conjunction with FGS, in infrastructure investments within the Republic of Argentina. As part of their ongoing consideration of the mechanisms by which such participation may occur the Parties are considering, subject in all respects to the ongoing respective internal approvals of each of the Parties as well as their ongoing commercial, legal, tax, regulatory and compliance due diligence, the conclusion of mutually agreeable negotiations as to terms between the Parties and the successful negotiation of necessary or advisable arrangements with third parties, the establishment of a close ended investment fund, on such terms and with such commercial, legal, tax, regulatory and compliance structures as may be agreed between the Parties, to invest potentially via both equity and debt instruments, which investment fund is envisioned will be co-sponsored by QIA and FGS, or one or more of their respective subsidiaries or affiliates, and managed by a mutually agreed third party manager, with a mandate to primarily invest in infrastructure assets, exclusively within the Republic of Argentina (the “Proposed Fund”).
- (D) Whereas, FGS shall participate in investments in infrastructure assets within the Republic of Argentina in conjunction with QIA via either (i) the Proposed Fund, in either the same class of partnership interests or shares as QIA or such different class of partnership interests or shares as shall be appropriate taking into account the regulatory, tax and legal obligations of FGS, or (ii) a parallel investment vehicle appropriate to its regulatory, tax and legal obligations (the “Parallel Fund”, together with the Proposed Fund, the “Fund”).
- (E) Whereas, the Parties currently envisage a Fund targeting USD1,000,000,000 (one billion US Dollars) in aggregate commitments, subject in all respects to the agreements, approvals and considerations envisaged above in recital (C) and elsewhere in this MOU and all other relevant matters and market conditions.
- (F) Whereas, the Parties are each interested in continuing discussions regarding the Fund and such discussions it is agreed will include a consideration of detailed proposed terms, together with relevant commercial, legal, tax, compliance and regulatory analysis with a view to reaching a final determination on the participation of any Party in the Proposed Fund and/or Parallel Fund and the terms on which any Party may participate in the Proposed Fund and/or Parallel Fund,

Now, therefore, in signing this MOU, each of the Parties confirm as follows:

1. **Preliminary Considerations for the Fund**

- 1.1. FGS confirms its wish that QIA participate in the Proposed Fund for the purposes of facilitating QIA making investments into infrastructure assets in the Republic of Argentina in conjunction with FGS, the structure of such fund vehicle and the terms on which QIA might consider participating in such Proposed Fund to be determined by the Parties subject to QIA's further commercial, legal, tax, regulatory and compliance due diligence and analysis, and the Parties reaching mutually agreeable terms as may be documented in legal documentation as agreed between their representatives and approved by their respective organisations, including as regards any relevant third party participants in the Proposed Fund and/or Parallel Fund and any service providers to such funds.
- 1.2. QIA confirms its wish to progress with the commercial, legal, tax, compliance and regulatory analysis of the Proposed Fund to reach a final determination on its participation in the Proposed Fund, and if so determined, to consider, assess, negotiate and determine the appropriate terms on which it would be willing to participate in such Proposed Fund, subject at all times to the agreement of both Parties.
- 1.3. Each of the Parties confirm their wish to outline in this MOU certain arrangements to assist in the progress of such analysis and dialogue on the Fund and the specific terms that would be appropriate for such Proposed Fund and any Parallel Fund.
2. **Appointment of a Third Party Manager**

The Parties confirm their current discussions include, without limitation, consideration of the following:

 - 2.1 The appointment of a third party investment manager for the Proposed Fund and any Parallel Fund (the "**Manager**").
 - 2.2 Each Party shall work jointly to identify and diligence groups who they consider potentially interested world class third party managers with capacity and resource, as well as sectoral and market experience relevant to the investment strategy of the Fund to be considered for appointment as the Manager; however it is agreed, that a formal Request for Proposals ("**RFP**") process shall be undertaken before any binding contractual terms are agreed with any third parties to act in the capacity as the Manager or otherwise with respect to the Fund. It is further agreed that, as part of the RFP process, both Parties shall first consider and agree a shortlist of candidates to RFP for the role of the Manager before any RFP shall be issued. The Parties shall then agree between themselves which of them shall be responsible for the conduct of the RFP process, entering relevant confidentiality arrangements with groups invited to RFP, issuing relevant documentation and information in relation to the Fund as part of the RFP process, acting as central liaison on requests for further details from groups invited to RFP, collating information received from such groups invited to RFP and liaising with FGS in relation to the process and responses received. The final decision as to which group that has participated in the RFP process will be approached to be appointed as Manager and when such appointment will be made and on what terms, will be by agreement of both Parties.
 - 2.3 The Manager will be engaged, *inter alia*, to assist in the development of relevant terms for the Fund, including, without limitation, those terms further outlined below in Clause 3 (*Structuring and Key Parameters of the Proposed Fund*) and Clause 4 (*Key Parameters for Portfolio Investments*).
 - 2.4 It is intended that the appointed Manager will be granted full discretionary investment rights within the ambit of the approved investment strategy of the Fund.

2.5 The fees payable to the Manager shall be as agreed between the Parties and the Manager, to be in line with market fees payable in similar funds, which it is currently envisaged will include a management fee component and a carry incentive fee component, each of which shall be borne by both the Proposed Fund and any Parallel Fund.

3. **Structuring and Key Parameters for Proposed Fund**

The Parties confirm their current discussions include, without limitation, consideration of the following:

- 3.1 Each Party shall be entitled at their own cost to undertake such analysis and obtain such advice as each of them shall deem to be necessary for them to determine, in the event of their participation in the Fund, the appropriate investment vehicle structure (whether via the Proposed Fund or any Parallel Fund, as applicable) to ensure their compliance with all applicable laws binding on them, as well as incorporating such terms as shall be necessary to enable them to meet their own compliance, investment and reporting policies, and providing for the most tax efficient manner for effecting their investments in infrastructure assets in the Republic of Argentina.
- 3.2 Each of the Parties shall communicate in good faith their requirements as to structuring of the Proposed Fund and/or Parallel Fund, and coordinate their efforts to determine agreed terms for the Proposed Fund and/or any Parallel Fund.
- 3.3 The structure of the Proposed Fund, and any Parallel Fund, shall be discussed between the Parties, in conjunction with the Manager, upon their selection, with the final structure of the Fund and any constituent entities of the Fund, to be subject to legal, tax, regulatory and commercial sign off by each Party, with a view to ensuring greatest tax efficiency including provision for an offshore structure for investing by QIA into assets in the Republic of Argentina if such is determined to be necessary or advisable.
- 3.4 The ultimate terms and structures adopted for each of the Proposed Fund and any Parallel Fund shall, to the extent legally permissible, provide for each of these vehicles and their investors, investing into relevant infrastructure assets in the Republic of Argentina at the same time and on the same terms, while also exiting such investments on the same terms.
- 3.5 Unless otherwise agreed in writing, the permitted organizational and ongoing operational expenses of the Fund shall be allocated between the Parties *pro rata* to their respective commitments to the Proposed Fund and / or Parallel Fund, as applicable. No Party shall under any circumstances be obligated to contribute to, account for or offset the internal or overhead costs incurred by another Party.
- 3.6 The currency for the operation and reporting of the Proposed Fund shall be USD (US dollars).
- 3.7 The commitment period for deployment of commitments to the Fund shall be as agreed between the Parties and the Manager as in accordance with relevant current market standards. The Parties confirm their understanding that in the current market a commitment period of three (3) years is anticipated.
- 3.8 The whole life of the Fund, including any commitment period (as referenced in the preceding paragraph) shall also be as agreed between the Parties and the Manager in accordance with relevant current market standards. The Parties confirm their understanding that in the current market a whole of fund life period of between nine (9) and twelve (12) years is anticipated.

- 3.9 The size of initial commitments to the Fund shall be finally determined between the Parties taking into account the Parties' evaluation of the opportunity presented by the investment strategy of the Fund, then current market conditions and prospects. The Parties' currently envisage the Fund targeting USD1,000,000,000 (one billion US Dollars) in aggregate commitments, subject in all respects to the agreements, approvals and considerations set referenced in this MOU together with all other relevant matters and market conditions, with individual commitments by each of the Parties to be determined. It is however anticipated that subscriptions to the Proposed Fund will include: (i) subscriptions of QIA, or one or more of its subsidiaries or affiliated entities, as may be agreed to be provided in one or more tranches (such subscription amount, the "*QIA Contribution*"); (ii) amounts proposed to be contributed via the Proposed Fund or any co-investment or parallel investment vehicle, as determined between the Parties, by FGS (such subscription amount, the "*FGS Contribution*"); (iii) amounts proposed to be contributed by any Manager appointed by the Proposed Fund (such subscription amount, the "*Manager Contribution*"), the quantum of the Manager Contribution to be agreed between the Parties in conjunction with the relevant Manager (iv) amounts proposed to be contributed by any third party investors through the Proposed Fund or any co-investment or parallel investment vehicle (such subscription amount, the "*Third Party Contributions*").
- 3.10 The terms applicable to the Proposed Fund and any Parallel Fund, where a Party is investing in such vehicle, shall in all respects at a minimum comply with each such investing Party's required governance policies and procedures, including as to anti-corruption, KYC/anti-money laundering, reporting, related party transactions, conflicts management, third party ('placement agent') payments, permitted travel and entertainment rules, transparency and audit procedures.
- 3.11 There shall be an investors advisory committee ("*LPAC*") for the Fund which shall have such membership, structure, governance and oversight rights, as shall be agreed between the Parties and the Manager. Both Parties shall be entitled to appoint representatives to the LPAC.
- 3.12 Additional terms for consideration to be included in the terms governing the Fund, without limitation, in each case as may be agreed between the Parties and the Manager but in all cases anticipated to reflect then current market practices to the extent relevant to the investment strategy and structures adopted for the Fund:
- (a) provision confirming the Fund shall have priority investment and allocation rights over successor and competing funds sponsored by either of the Parties or the Manager to the extent such are making investments in the Argentinian infrastructure sector that fall within certain parameters to be agreed between the Parties;
 - (b) parameters for the deployment of leveraging, bridge and subscription finance, by the Fund;
 - (c) parameters for recycling of commitments by the Fund;
 - (d) details of any obligations of the investors in the Fund to commit to follow-on investments.
 - (e) to the extent necessary, in each case: custodian (it being acknowledged that any custodian appointed by the Proposed Fund shall be of international standing and

acceptable to the Parties), brokerage and administrator arrangements;

- (f) rights to terminate the Fund early, and rights to terminate the appointment of any Manager without cause and for cause; it being intended by the Parties that neither the Proposed Fund nor the Parallel Fund may be terminated early, or effect a termination of the Manager early without cause unless this is agreed by investors in both the Proposed Fund and any Parallel Fund;
- (g) agreed "Key Man" terms;
- (h) portfolio limitations, including as to sectoral limitations, single counterpart and single position limitations; and
- (i) co-investment rights and fund overflow rights for investments.

4. **Key Parameters for Portfolio Investments**

It is further acknowledged by the Parties that in structuring the Fund, the agreement of terms applicable to the Fund and the individual portfolio positions of the Fund the following matters shall, to the extent then commercially practicable, be taken account of by the Manager and the Parties: (i) enforceability of relevant contracts for each portfolio position, (ii) any current foreign exchange and capital controls in Argentina applicable to the Proposed Fund or the ability to introduce same in future (and how to deal with such controls), (iii) terms and arrangements to manage and mitigate against expropriation, restrictions on transfers or sales of assets held in the portfolio (including to non-Argentinian entities), nationalization and foreign exchange or capital controls or restrictions, including by means of offshore collateral arrangements and (iv) applicable current international tax and investment treaty obligations and the consideration of potential for such treaties in future.

5. **Sharing of Information & Confidentiality**

- 5.1 The Parties may share information between themselves in relation to this MOU and the activities envisioned hereunder with respect to any Fund (any such information, the "*Confidential Information*"). Each Party will keep the other Party's Confidential Information secret and will not disclose any of it to any person other than (i) as permitted in writing by the other Party, (ii) to each Party's employees, directors, affiliates, advisors or agents, on the terms of this MOU and on the basis that the disclosing Party will be liable for any breach by such authorized recipients or (iii) upon their appointment and entering into an appropriate confidentiality agreement with the Parties, the Manager and its advisors.
- 5.2 The obligations in this Clause 5 shall not apply to Confidential Information that: (i) at the time of disclosure is publicly available; (ii) subsequently becomes publicly available other than as a result of a breach of this MOU; (iii) is already in the lawful possession of the party disclosing Confidential Information or any of its authorized recipients; (iv) subsequently comes lawfully into the possession of the relevant Party or any of its authorized recipients from a third party who is not under any obligation of confidence in relation to it; or (v) is required to be disclosed pursuant to applicable law, regulation or any governmental or competent authority having jurisdiction.
- 5.3 The existence of this non-binding MOU and its basic terms and conditions, including the interest of the Parties in the creation of the Fund, purpose of the Fund, intended target size, and management structure, shall not be deemed Confidential Information where the disclosure of such information is made to any governmental entity, ministry or minister,

department, authority, agency, instrumentality or tribunal of: (i) where FGS is the disclosing party, the Republic of Argentina and (ii) where QIA is the disclosing party, the State of Qatar, and further provided that each Party causing, permitting or enabling a disclosure of any information concerning or detailing this MOU pursuant to this clause 5.3 shall be responsible to the other Party for using all reasonable endeavours to ensure any disclosure as envisaged by this clause 5.3 shall accurately reflect the terms as outlined in this MOU and, without limitation, ensure that any such disclosure shall not be to the prejudice of the interests of the other Party.

6. **Financial Arrangements**

6.1 Neither Party shall bear any financial obligations resulting from its entering into this MOU or the operation of any terms of this MOU.

6.2 Each Party shall bear its own expenses arising out of any meetings, exchange of information or other activities preliminary to, arising out of or in connection with this MOU.

7. **Non-Binding Effect**

Each of the Parties acknowledge and agree that with exception for the provisions of Clauses 5 (*Confidentiality*), 6 (*Financial Arrangements*), this Clause 7 and Sub-Clause 9.5, this MOU is not intended to create and does not create any legally binding obligations on any Party whether past, present or future, direct or indirect and shall not restrict or prohibit the actions of any Party and further that no legally binding obligations on any Party shall arise other than those set out as agreed by way of further written agreement between the Parties, executed by duly authorized representatives of each of them; it being further acknowledged and agreed that neither Party is under any obligation to enter into any further written agreement whether for the purposes of establishing legally binding obligations or not.

8. **Notices**

Any correspondence pursuant to this MOU shall be given in the English language in writing and sent to the following addresses:

- (a) FGS: Fondo de Garantía de Sustentabilidad
Tucuman 500
C1049AAJ – Capital Federal
Tel: (54-11) 4015-2685/86/87
Fax: (54-11) 4015-2696

Email: Imblaquier@anses.gov.ar
Attention: Subdirección Ejecutiva de Operacion del FGS
- (b) QIA: Qatar Investment Authority
PO Box 23224
Ooredeoo Tower
West Bay, Doha
State of Qatar

And such other electronic or telephone contact details as shall be confirmed in writing from time to time to FGS by authorized personnel of QIA.

9. **Miscellaneous**

- 9.1 A person who is not a Party shall have no right to enforce any terms of this MOU.
- 9.2 No amendment to this MOU shall be valid unless made in writing and duly signed by each of the Parties.
- 9.3 Each Party hereby represents and warrants to and for the benefit of the other Party that it has not, directly or indirectly, obtained or induced and will not attempt to so obtain or induce the procurement of this MOU or any contract, consent, approval, right, interest, privilege or other obligation or benefit related to this MOU or the Fund or its other dealings with the other Party or its affiliated persons through any violation of law or regulation and has not given or agreed to give and shall not give or agree to give to any person, either directly or indirectly, any placement fee, introductory fee, arrangement fee, finder's fee or any other fee, compensation, monetary benefit or any other benefit, gift, commission, gratification, bribe or kickback, whether described as a consultation fee or otherwise, with the object of obtaining or inducing the procurement of this MOU or any investment in the Fund or any contract, right, interest, privilege or other obligation or benefit related to the same.
- 9.4 This MOU and any non-contractual obligations arising in connection herewith shall be governed by and construed in all respects in accordance with English law. Any proceedings in which any Party seeks injunctive or equitable interim relief in the event of a threatened or actual breach of this MOU may be brought in any court of competent jurisdiction, and any action to recover damages in respect of or settle any disagreement or dispute in connection with this MOU may be brought in such courts or may be submitted to and finally settled by arbitration in accordance with the Rules of Arbitration of the International Chamber of Commerce before a panel of three (3) arbitrators selected in accordance with such Rules. The site of any such arbitration shall be London and the proceedings shall be conducted in the English language.

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IN WITNESS WHEREOF, the Parties have caused this MOU to be executed by their duly authorized representatives on the date hereof.

For and on behalf of:

FONDO DE GARANTÍA DE SUSTENTABILIDAD by)
its duly authorized representative, Lic. Luis María)
Blaquier, Subdirector Ejecutivo de Operación)
)
)

QATAR INVESTMENT AUTHORITY by its duly)
authorized representative, Abdulla Bin)
Mohammed Bin Saud Al-Thani, Chief Executive)
Officer)
)

[Signature page to MOU between FGS and QIA]