Project Agreement

(Transport Infrastructure Investment Project)

between

INTERNATIONAL DEVELOPMENT ASSOCIATION

and

MADARAIL

Dated January 18, 2006
PROJECT AGREEMENT

AGREEMENT, dated January 18, 2006, between INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association) and MADARAIL

WHEREAS (A) by the Development Credit Agreement dated December 11, 2003 and restated as of even date herewith between the Republic of Madagascar (the Borrower) and the Association, the Association has agreed to make available to the Borrower an amount in various currencies equivalent to one hundred four million and four hundred thousand Special Drawing Rights (SDR 104,400,000), on the terms and conditions set forth in the Development Credit Agreement, but only on condition that Madarail agree to undertake such obligations toward the Association as are set forth in this Agreement;

(B) by a Subsidiary Financing Agreement to be entered into between the Borrower and Madarail, part of the proceeds of the Credit provided for under the Development Credit Agreement will be made available to Madarail on the terms and conditions set forth in said Subsidiary Financing Agreement; and

WHEREAS Madarail, in consideration of the Association’s having entered into the Development Credit Agreement with the Borrower, has agreed to undertake the obligations set forth in this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

Definitions

Section 1.01. Unless the context otherwise requires, the several terms defined in the Development Credit Agreement, the Preamble to this Agreement and in the General Conditions (as so defined) have the respective meanings therein set forth.

ARTICLE II

Execution of the Project

Section 2.01. (a) Madarail declares its commitment to the objectives of the Project as set forth in Schedule 2 to the Development Credit Agreement, and, to this end, shall carry out Part E of the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering, environmental and technical
practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for Part E of the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Association and Madarail shall otherwise agree, Madarail shall carry out Part E of the Project in accordance with the Implementation Program set forth in the Schedule to this Agreement.

Section 2.02. Except as the Association shall otherwise agree, the goods and consultants’ services required for Part E of the Project and to be financed out of the proceeds of the Credit shall be governed by the provisions of Schedule 3 to the Development Credit Agreement.

Section 2.03. Madarail shall carry out the obligations set forth in Sections 9.03, 9.04, 9.05, 9.06, 9.07 and 9.08 of the General Conditions (relating to insurance, use of goods and services, plans and schedules, records and reports, maintenance and land acquisition) in respect of this Agreement.

Section 2.04. Madarail shall duly perform all its obligations under the Subsidiary Financing Agreement. Except as the Association shall otherwise agree, Madarail shall not take or concur in any action which would have the effect of assigning, amending, abrogating or waiving the Subsidiary Loan Agreement or any provision thereof.

Section 2.05. (a) Madarail shall, at the request of the Association, exchange views with the Association with regard to the progress of Part E of the Project, the performance of its obligations under this Agreement and under the Subsidiary Financing Agreement, and other matters relating to the purposes of the Project.

(b) Madarail shall promptly inform the Association of any condition which interferes or threatens to interfere with the progress of the Project, the accomplishment of the purposes of the Credit, or the performance by Madarail of its obligations under this Agreement and under the Subsidiary Financing Agreement.

Section 2.06. For the purposes of Section 9.06 of the General Conditions and without limitation thereto, Madarail, in conjunction with the Borrower, shall:

(a) prepare, on the basis of guidelines acceptable to the Association, and furnish to the Association not later than six (6) months before the Closing Date or such later date as may be agreed for this purpose between the Borrower and the Association, a plan for the future operation of the Project; and

(b) afford the Association a reasonable opportunity to exchange views with Madarail on said plan.
ARTICLE III

Management and Operations of Madarail

Section 3.01. Madarail shall carry on its operations and conduct its affairs in accordance with sound administrative, financial, environmental and technical practices under the supervision of qualified and experienced management assisted by competent staff in adequate numbers.

Section 3.02. Madarail shall at all times operate and maintain its buildings, office space, equipment and other property, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound administrative, financial and technical practices.

Section 3.03. Madarail shall take out and maintain with responsible insurers, or make other provision satisfactory to the Association for, insurance against such risks and in such amounts as shall be consistent with appropriate practice.

ARTICLE IV

Financial Covenants

Section 4.01. (a) Madarail shall establish and maintain a financial management system, including records and accounts, and prepare financial statements, in accordance with consistently applied accounting standards acceptable to the Association, adequate to reflect its operations and financial condition and to register separately the operations, resources and expenditures related to Part E of the Project.

(b) Madarail shall:

(i) have its financial statements (balance sheets, statements of income and expenses and related statements) referred to in paragraph (a) of this Section for each Fiscal Year (or other period agreed to by the Association) audited, in accordance with consistently applied auditing standards acceptable to the Association, by independent auditors acceptable to the Association;

(ii) furnish to the Association as soon as available, but in any case not later than six months after the end of each such year (or such other period agreed to by the Association): (A) certified copies of the financial statements referred to in paragraph (a) of this Section for such year (or such other period agreed to by the
Association) as so audited; and (B) an opinion on such statements by said auditors, in scope and detail satisfactory to the Association; and

(iii) furnish to the Association such other information concerning such records and accounts and the audit of such financial statements, and concerning said auditors, as the Association may from time to time reasonably request.

Section 4.02. (a) Without limitation upon Madarail’s reporting obligations set out in Section III of the Schedule to this Agreement, Madarail shall prepare and furnish to the Association a Financial Monitoring Report, in form and substance satisfactory to the Association, which:

(i) sets forth sources and uses of funds for Part E of the Project, both cumulatively and for the period covered by said report, showing separately funds provided under the Credit, and explains variances between the actual and planned uses of such funds;

(ii) describes physical progress in implementation of Part E of the Project, both cumulatively and for the period covered by said report, and explains variances between the actual and planned implementation of Part E of the Project; and

(iii) sets forth the status of procurement under Part E of the Project, as at the end of the period covered by said report.

(b) The first FMR shall be furnished to the Association 45 days after the end of the first calendar quarter after the first expenditure under Part E of the Project, and shall cover the period from such first expenditure to the end of such first calendar quarter; thereafter, each FMR shall be furnished to the Association not later than 45 days after each subsequent calendar quarter, and shall cover such calendar quarter.
ARTICLE V

Effective Date; Termination

Cancellation and Suspension

Section 5.01. This Agreement shall come into force and effect on the date upon which the Agreement providing for the Amendment and Restatement of the Development Credit Agreement becomes effective.

Section 5.02. (a) This Agreement and all obligations of the Association and of Madarail thereunder shall terminate on the earlier of the following two dates:

(i) the date on which the Development Credit Agreement shall terminate in accordance with its terms; or

(ii) the date fifteen years after the date of this Agreement.

(b) If the Development Credit Agreement terminates in accordance with its terms before the date specified in paragraph (a) (ii) of this Section, the Association shall promptly notify Madarail of this event.

Section 5.03. All the provisions of this Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the General Conditions.
ARTICLE VI

Miscellaneous Provisions

Section 6.01. Any notice or request required or permitted to be given or made under this Agreement and any agreement between the parties contemplated by this Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand or by mail, telex or facsimile to the party to which it is required or permitted to be given or made at such party’s address hereinafter specified or at such other address as such party shall have designated by notice to the party giving such notice or making such request. Deliveries made by facsimile transmission shall also be confirmed by mail. The addresses so specified are:

For the Association:

International Development Association
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Cable address: INTBAFRAD  
Telex: 248423 (MCI) or 64145 (MCI)  
Facsimile: (202) 477 6391

For Madarail:

Madarail
Gare de Soarano
1 Avenue de l’Indépendance
Antananarivo 101
Madagascar

Cable address:  
Telex:  
Facsimile: 261-2022 36417
Section 6.02. Any action required or permitted to be taken, and any documents required or permitted to be executed, under this Agreement on behalf of Madarail or by Madarail on behalf of the Borrower under the Development Credit Agreement, may be taken or executed by the General Manager of Madarail, or by such other person or persons as Madarail shall designate in writing, and Madarail shall furnish to the Association sufficient evidence of the authority and the authenticated specimen signature of each such person.

Section 6.03. This Agreement may be executed in several counterparts, each of which shall be an original, and all collectively but one instrument.
IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in Antananarivo, Republic of Madagascar, as of the day and year first above written.

INTERNATIONAL DEVELOPMENT ASSOCIATION

By: /s/ James Bond
Authorized Representative

MADARAIL

By: /s/ Patrick Claes
Authorized Representative
SCHEDULE

Implementation Program

Section I. Implementation arrangements

1. (a) Madarail shall: (i) carry out Part E of the Project in accordance with the Madarail Manual; and (ii) except as the Association shall otherwise agree, not amend, abrogate or waive any provision of the Madarail Manual which, in the opinion of the Association, may materially and adversely affect the implementation of Part E of the Project or the achievement of the objectives thereof.

(b) Without limitation upon the provision of Paragraph 1 of this Section, the Madarail Manual shall include: (i) a Project implementation plan; (ii) a Project monitoring and evaluation plan; (iii) a Project procurement plan; (iv) a Project financial management manual; (v) a Project environmental management manual; and (vi) such other administrative, financial, technical and organizational arrangements as shall be required for Part E of the Project.

2. (a) Madarail shall prepare a business plan, in form and substance satisfactory to the Association, which shall set out in such detail as the Association shall reasonably request activities and sources of financing, to be provided under Part E of the Project as well as financial projections in the form of a budget, operating account and marketing strategy.

(b) Madarail shall, no later than November 1 of each year, furnish the business plan for the following year to its Board for approval and to the Association for review and comments. Madarail shall update the business plan annually and promptly furnish each updated plan to its Board for approval and to the Association for review and comments.

(c) Madarail shall prepare and furnish to its Board, no later than 30 days after the end of each quarter, an activity report on its operations and progress made in carrying out the business plan during the quarter. Said quarterly report shall specify any problems encountered in the carrying out of Part E of the Project and include updated performance indicators on Madarail’s operations.

Section II. Monitoring and Reporting Arrangements

1. Madarail shall maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with the indicators set forth in the Madarail Manual, the carrying out of the Part E of the Project and the achievement of the objectives thereof.
2. Progress Reports and Reviews

(a) Madarail shall prepare, in conjunction with the Borrower, under terms of reference satisfactory to the Association, and furnish to the Association, on or about April 30 of each year, a report integrating the results of the monitoring and evaluation activities performed pursuant to paragraph 1 of this Section, on the progress achieved in the carrying out of the Project during the period preceding the date of said report and setting out the measures recommended to ensure the efficient carrying out of the Project and the achievement of the objective thereof during the period following such date; and

(b) review with the Association, by May 31 of each year, or such later date as the Association shall request, the report referred to in paragraph (a) of this Section, and, thereafter, take all measures required to ensure the efficient completion of the Project and the achievement of the objective thereof, based on the conclusions and recommendations of the said report and the Association’s views on the matter.