

CONFORMED COPY

CREDIT NUMBER 4223 MAG

Financing Agreement

(Power and Water Sector Recovery and Restructuring Project)

between

REPUBLIC OF MADAGASCAR

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated July 17, 2006

CREDIT NUMBER 4223 MAG

FINANCING AGREEMENT

AGREEMENT dated July 17, 2006, between REPUBLIC OF MADAGASCAR (“Recipient”) and INTERNATIONAL DEVELOPMENT ASSOCIATION (“Association”). The Recipient and the Association hereby agree as follows:

ARTICLE I – GENERAL CONDITIONS; DEFINITIONS

- 1.01. The General Conditions (as defined in the Appendix to this Agreement) constitute an integral part of this Agreement.
- 1.02. Unless the context requires otherwise, the capitalized terms used in the Financing Agreement have the meanings ascribed to them in the General Conditions or in the Appendix to this Agreement.

ARTICLE II —FINANCING

- 2.01. The Association agrees to extend to the Recipient, on the terms and conditions set forth or referred to in this Agreement, a credit in an amount equivalent to six million eight hundred thousand Special Drawing Rights (SDR 6,800,000) (“Credit”) to assist in financing the project described in Schedule 1 to this Agreement (“Project”).
- 2.02. The Recipient may withdraw the proceeds of the Financing in accordance with Section IV of Schedule 2 to this Agreement.
- 2.03. The Maximum Commitment Charge Rate payable by the Recipient on the Unwithdrawn Financing Balance shall be one-half of one percent (1/2 of 1%) per annum.
- 2.04. The Service Charge payable by the Recipient on the Withdrawn Credit Balance shall be equal to three-fourths of one percent (3/4 of 1%) per annum.
- 2.05. The Payment Dates are March 1 and September 1 in each year.

- 2.06. The principal amount of the Credit shall be repaid in accordance with repayment schedule set forth in Schedule 3 to this Agreement.
- 2.07. The Payment Currency is the Dollar.

ARTICLE III —PROJECT

- 3.01. The Recipient declares its commitment to the objectives of the Project and the Program. To this end, the Recipient shall carry out Part B of the Project through MEM and cause Part A of the Project to be carried out by the Project Implementing Entity in accordance with the provisions of Article IV of the General Conditions.
- 3.02. Without limitation upon the provisions of Section 3.01 of this Agreement, and except as the Recipient and the Association shall otherwise agree, the Recipient shall ensure that the Project is carried out in accordance with the provisions of Schedule 2 to this Agreement.

ARTICLE IV — REMEDIES OF THE ASSOCIATION

- 4.01. The Additional Events of Suspension consist of the following:
 - (a) The Project Implementing Entity's Legislation has been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of the Project Implementing Entity to perform any of its obligations under the Project Agreement.
 - (b) The Recipient has failed to comply with the obligations as set forth in Section V.B. of Schedule 2 to this Agreement.
- 4.02. The Additional Events of Acceleration consist of the following:
 - (a) The event specified in paragraph (a) of Section 4.01 of this Agreement occurs.
 - (b) The event specified in paragraph (b) of Section 4.01 of this Agreement occurs and is continuing for a period of 60 days after notice of the event has been given by the Association to the Recipient.

ARTICLE V – EFFECTIVENESS; TERMINATION

- 5.01. The Additional Conditions of Effectiveness consist of the following:
- (a) The Subsidiary Agreement has been executed on behalf of the Recipient and the Project Implementing Entity.
 - (b) The Recipient has adopted the Project Manual and the Project Implementing Entity has adopted the JIRAMA Project Manual all in form and substance satisfactory to the Association.
 - (c) For the purpose of Part B of the Project, the Recipient has upgraded, its accounting and financial management, and monitoring and evaluation system, in a manner satisfactory to the Association; and has appointed an accountant specialist and a procurement officer within the MEM.
 - (d) For the purpose of Part A of the Project, the Project Implementation Entity has upgraded its accounting and financial management, and monitoring and evaluation system, in a manner satisfactory to the Association.
 - (e) Auditors, satisfactory to the Association, have been recruited for the purpose of Part A and Part B of the Project.
- 5.02. The Additional Legal Matter consists of the following:
- The Subsidiary Agreement has been duly authorized or ratified by the Recipient and the Project Implementing Entity and is legally binding upon the Recipient and the Project Implementing Entity in accordance with its terms.
- 5.03. The Effectiveness Deadline is the date ninety (90) days after the date of this Agreement.

AGREED in the District of Columbia, United States of America, as of the day and year first above written.

REPUBLIC OF MADAGASCAR

By

**/s/ Nils Tcheyan
Authorized Representative**

INTERNATIONAL DEVELOPMENT ASSOCIATION

By

**/s/ Narisoa Rajaonarivony
Authorized Representative**

SCHEDULE 1

Project Description

The objective of the Project is to restore an adequate public utility service for electricity and water in urban areas and to create the foundation for a sustainable expansion of a commercially-oriented service in the most cost-efficient way.

The Project constitutes the first phase of the Program, and consists of the following parts:

A. Short term investments

1. Supporting the Recipient in the reinforcement and rehabilitation of power generation infrastructure, including the rehabilitation of existing hydroelectric units, the rehabilitation of thermal units, and the conversion of generation units from diesel to heavy fuel oil (HFO), in particular in some of the following power generation sites: Andekaleka, Antelomita, Volobe, Ankazobe, Tsiacompaniry, Ambodiriana Vatomandry, Ambohimanambola, Antsirabe and Mahajanga.

2. Supporting the Recipient in: (a) the reduction of transmission losses, through the rehabilitation of transmission networks, in particular the Ambohimanambola/Mandraka transmission line; and (b) the reduction of distribution losses, through the rehabilitation of low voltage (LV) networks in some of the following networks: RI-Tana, Morondava, Manakara, Antsiranana, Sambava, Antalaha, Amabanja, and Toamasina.

3. Supporting the Recipient in: (a) improving its revenue management capacity, through the implementation of a meter and residential customer records verification program, the installation of prepayment meters and of spot metering equipment and systems, and the verification of installations in premises of industrial clients; and (b) modernizing information system, and information and telecommunications equipment, and provision of training in the same.

B. Technical Assistance, Capacity Building and Project Implementation

1. Supporting the Recipient in the contracting out of JIRAMA's management to a private operator, through the provision of technical assistance required in connection with the process of selecting and contracting such private operator.

2. Supporting the Recipient, as the case may be, in extending the Existing Management Contract before the actual transfer of management under paragraph 1 above.

3. Supporting the Recipient in the carrying out of studies, such as pre-feasibility or environmental studies in connection with the short term generation development program to be implemented through independent power providers.

4. Supporting the Recipient in strengthening the MEM's capacity, through technical assistance and services of a resident expatriate adviser.
5. Supporting the Recipient in the carrying out of necessary engineering, financial, technical, environmental, social, and commercial studies to implement the medium term development plan of JIRAMA to be carried under the Program.
6. Supporting project monitoring, including environmental and social, and evaluation of the activities under the Project.
7. Supporting project implementation, project coordination, procurement, and financial management, through the provision of technical advisory services.

SCHEDULE 2

Project Execution

Section I. Subsidiary Financing; Institutional and Other Arrangements

A. Subsidiary Agreement.

1. To facilitate the carrying out of the Project Implementing Entity's Respective Part of the Project, the Recipient shall make part of the proceeds of the Financing available to the Project Implementing Entity under a subsidiary agreement ("Subsidiary Agreement") between the Recipient and the Project Implementing Entity, under terms and conditions approved by the Association, which shall include the following:
 - a. The obligation of the Recipient to transfer the proceeds of the Credit required for the implementation of Part A of the Project to the Project Implementing Entity on a reimbursable basis, and otherwise, to take all action necessary to permit the Project Implementing Entity to carry out the Project and ensure the achievement of the objectives thereof.
 - b. The obligation of the Project Implementing Entity to promptly inform the Recipient of any condition which interferes or threatens to interfere with the implementation of the Project and the achievement of the objectives thereof.
 - c. The obligation of the Project Implementing Entity, at the request of the Recipient, to exchange views with the Recipient with regard to the progress of the Project and the achievement of the objectives thereof, and the Project Implementing Entity's performance of its obligations under the Subsidiary Agreement and the JIRAMA Project Manual.
 - d. The obligation of the Project Implementing Entity to carry out the Project in accordance with this Agreement, the Project Agreement, the Subsidiary Agreement, and the JIRAMA Project Manual, and at all times to ensure that only activities that comply with the Subsidiary Agreement and the JIRAMA Project Manual will be financed from the proceeds of the Credit.
 - e. The obligation of the Project Implementing Entity to comply with the ESMF and EMP.
 - f. The obligation of the Project Implementing Entity to promptly refund to the Recipient any proceeds from the Credit not used for purposes of

carrying out the Project or for achieving the objectives thereof, or otherwise utilized in a manner which does not comply with the provisions of this Agreement or the Project Agreement.

- g. A provision stipulating that, in case of conflict between any of the provisions contained in the Subsidiary Agreement or the JIRAMA Project Manual, on one hand, and those set forth in this Agreement and the Project Agreement, on the other hand, the provisions of this Agreement and the Project Agreement shall at all times prevail.
- 2. The Recipient shall exercise its rights under the Subsidiary Agreement in such manner as to protect the interests of the Recipient and the Association, and to accomplish the purposes of the Financing. Except as the Association shall otherwise agree, the Recipient shall not assign, amend, arrogate or waive the Subsidiary Agreement of any of its provisions.

B. Other Arrangements

- 1. The Recipient shall ensure that, at all time during project implementation, a team composed of staff with qualifications and experience satisfactory to the Association, including a technical advisor, an accountant and a procurement officer, be maintained within MEM for the purpose of carrying out Part B of the Project. Said team within MEM shall be responsible for providing overall support, and strategic guidance, and for carrying out fiduciary and monitoring and reporting activities under part B of the Project.
- 2. The Recipient shall carry out the Project, or cause the Project to be carried out, in accordance with the provisions of the ESMF, and, as the case may be, in accordance with the provisions of the EMP, and except as the Association shall otherwise agree, the Recipient shall not amend or waive any provision of the aforementioned, if such amendment or waiver may, in the opinion of the Association, materially or adversely affect the implementation of the Project.

Section II. Project Monitoring, Reporting, Evaluation

A. Project Reports.

- 1. (a) The Recipient shall monitor and evaluate the progress of the Project and prepare Project Reports in accordance with the provisions of Section 4.08 of the General Conditions and on the basis of the indicators set forth below in sub-paragraph (b) of this paragraph. Each Project Report shall cover the period of one calendar semester, and shall be furnished to the Association not later than 45 days after the end of the period covered by such report.

- (b) The performance indicators referred to above in sub-paragraph (a) consist of the following:

JIRAMA under new private management.	Sector level outcome Overall indicator : Contract signed for JIRAMA to be transferred to a private management firm on a long-term basis. Specific milestones <ul style="list-style-type: none">• Launch of prequalification by December 31, 2006• Launch of bidding documents by April 1, 2007
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2. For purposes of Section 4.08 (c) of the General Conditions, the report on the execution of the Project and related plan required pursuant to that Section shall be furnished to the Association not later than 3 months after the Closing Date.

B. Financial Management, Financial Reports, and Audits.

1. The Recipient shall maintain or cause to be maintained a financial management system in accordance with the provisions of Section 4.09 of the General Conditions.
2. Without limitation on the provisions of Part A of this Section, the Recipient shall prepare and furnish to the Association not later than 45 days after the end of each calendar semester, interim un-audited financial reports for the Project covering the semester, in form and substance satisfactory to the Association.
3. The Recipient shall have its Financial Statements audited in accordance with the provisions of Section 4.09 (b) of the General Conditions. Each audit of the Financial Statements shall cover the period of one fiscal year of the Recipient. The audited Financial Statements for each such period shall be furnished to the Association not later than six months after the end of such period.

Section III. Procurement

A. General.

1. **Goods and Works.** All goods and works required for the Project and to be financed out of the proceeds of the Financing shall be procured in accordance with the requirements set forth or referred to in Section I of the Procurement Guidelines, and with the provisions of this Schedule.

2. **Consultants' Services.** All consultants' services required for the Project and to be financed out of the proceeds of the Financing shall be procured in accordance with the requirements set forth or referred to in Sections I and IV of the Consultant Guidelines, and with the provisions of this Schedule.
3. **Definitions.** The capitalized terms used below in this Section to describe particular procurement methods or methods of review by the Association of particular contracts, refer to the corresponding method described in the Procurement Guidelines, or Consultant Guidelines, as the case may be.

B. Particular Methods of Procurement of Goods and Works

1. **International Competitive Bidding.** Except as otherwise provided in paragraph 2 below, goods and works shall be procured under contracts awarded on the basis of International Competitive Bidding.
2. **Other Methods of Procurement of Goods and Works.** The following table specifies the methods of procurement, other than International Competitive Bidding, which may be used for goods and works. The Procurement Plan shall specify the circumstances under which such methods may be used:

<u>Procurement Method</u>
(a) National Competitive Bidding
(b) Direct Contracting - and expenditures which meet the Bank requirements may be eligible for retroactive financing

C. Particular Methods of Procurement of Consultants' Services

1. **Quality- and Cost-based Selection.** Except as otherwise provided in paragraph 2 below, consultants' services shall be procured under contracts awarded on the basis of Quality and Cost-based Selection.
2. **Other Methods of Procurement of Consultants' Services.** The following table specifies methods of procurement, other than Quality and Cost-based Selection, which may be used for consultants' services. The Procurement Plan shall specify the circumstances under which such methods may be used.

<u>Procurement Method</u>
(a) Single Source Selection
(b) Procedures set forth in paragraphs 5.2 and 5.3 of the Consultant Guidelines for the Selection of Individual Consultants

D. Review by the Bank of Procurement Decisions

1. The Procurement Plan shall set forth those contracts which shall be subject to the Association’s Prior Review. All other contracts shall be subject to Post Review by the Association.

Section IV. Withdrawal of the Proceeds of the Financing

A. General.

1. The Recipient may withdraw the proceeds of the Financing in accordance with the provisions of this Section and such additional instructions as the Bank may specify by notice to the Recipient, to finance Eligible Expenditures as set forth in the table in paragraph 2 below.
2. The following table specifies the categories of Eligible Expenditures that may be financed out of the proceeds of the Financing (“Category”), the allocations of the amounts of the Financing to each Category, and the percentage of expenditures to be financed for Eligible Expenditures in each Category:

Category	Amount of the Financing Allocated (expressed in SDR)	Percentage of Expenditures to be Financed
(1) Goods, works and consultants’ services for the Project		100%
(a) for the rehabilitation of the Vatomandry hydroelectric plant	70,000	100%
(b) for Part A of the Project other than for the rehabilitation of the Vatomandry hydroelectric plant	4,650,000	100%
(c) for Part B of the Project	2,080,000	100%
TOTAL AMOUNT	6,800,000	

B. Withdrawal Conditions; Withdrawal Period.

1. Notwithstanding the provisions of Part A of this Section, no withdrawal shall be made:
 - (a) for payments made prior to the date of this Agreement, except that withdrawals up to an aggregate amount not to exceed \$1 million equivalent may be made for payments made prior to this date but on or after July 15, 2005 for Eligible Expenditures under Category (1) (b);
 - (b) under Category 1 (a) unless the Recipient has submitted a report satisfactory to the Association, on the condition of the Vatomandry dam and the proposed safety measures to be implemented; and
 - (c) under Category 1 (c) unless the Recipient has recruited a technical advisor with qualifications and experience satisfactory to the Association.
2. The Closing Date is April 30, 2009.

Section V. Other Undertakings

- A. No later than November 30, 2006, the Recipient shall have adopted the Electricity Tariff Indexation Formula
- B. No later than April 1, 2007, the Recipient shall have publicly disclosed the Electricity Tariff Indexation Formula and adjusted electricity tariffs in accordance with said formula, and shall subsequently adjust said tariffs in accordance with the Electricity Tariff Indexation Formula every 6 months.
- C. No later than December 31, 2006, the Recipient shall have established terms and conditions to be used in the contracting of JIRAMA's private partner satisfactory to the Association and have launched the prequalification process.
- D. No later than April 1 2007, the Recipient shall have launched the bidding process for the recruitment of a new private operator for the management of JIRAMA's operations.
- E. The Recipient shall define, in agreement with the Association, no later than September 30 of each year during Project implementation, amounts to be injected by the Beneficiary, as need be, into JIRAMA during the following calendar year, so as to allow normal operations of the company.

SCHEDULE 3

Repayment Schedule

Date Payment Due	Principal Amount of the Credit repayable (expressed as a percentage)*
On each March 1 and September 1:	
commencing September 1, 2016 to and including March 1, 2026	1%
commencing September 1, 2026 to and including March 1, 2046	2%

*The percentages represent the percentage of the principal amount of the Credit to be repaid, except as the Association may otherwise specify pursuant to Section 3.03 (b) of the General Conditions.

APPENDIX

Section I. Definitions

1. “Category” means a category set forth in the table in Section IV of Schedule 2 to this Agreement.
2. “Consultant Guidelines” means the “Guidelines: Selection and Employment of Consultants by World Bank Borrowers” published by the Bank in May 2004.
3. “Dollar” and “\$” mean the currency of the United States of America.
4. “Environmental and Social Management Plan” or “EMP” means the plan, in form and substance satisfactory to the Association, describing measures for the mitigation, reduction and or offset of the environmental and social impacts of activities under the Project, to be prepared as the case may be, pursuant to the ESMF (as hereinafter defined).
5. “Environmental and Social Impact Management Framework” or “ESMF” means the framework adopted by the Recipient, describing the screening procedures applicable for activities under the Project as well as guidelines for the preparation of management documents found to be required as a result of said screening, including, as the case may be the an EMP.
6. “Existing Management Contract” means the management contract entered into effectiveness on April 1, 2005 for the management of operations of JIRAMA to terminate on March 31, 2007.
7. “General Conditions” means the “International Development Association General Conditions for Credits and Grants”, dated July 1, 2005.
8. “Electricity and Water Tariff Indexation Formula” means the formula to be adopted by the Recipient setting forth parameters for the evolution of electricity tariffs based on macroeconomic data (such as inflation, exchange rates and oil prices, etc.).
9. “JIRAMA” means the company “Jiro sy Rano Malagasy”.
10. “JIRAMA Project Manual” means the manual adopted by the Project Implementing Entity, outlining the policies and guidelines to be followed by the Project Implementing Entity in Project implementation, including financial, accounting, procurement and monitoring and evaluation procedures, as the same may be amended from time to time with the concurrence of the Association, and such term includes any schedules to the JIRAMA Project Manual.

11. “Ministry of Energy and Mining” or “MEM” means the Recipient ministry in charge of energy and mining.
12. “Procurement Guidelines” means the “Guidelines for Procurement under IBRD Loans and IDA Credits” published by the Bank in May 2004.
13. “Procurement Plan” means the Recipient’s procurement plan for the Project, dated June 2, 2006, and referred to in paragraph 1.16 of the Procurement Guidelines and paragraph 1.24 of the Consultant Guidelines, as the same shall be updated from time to time in accordance with the provisions of said paragraphs.
14. “Program” means the program designed to restore an adequate public utility service for electricity and water in urban areas and to create the foundation for a sustainable expansion of a commercially-oriented service in the most cost-efficient way and set forth or referred to in the letter dated June 2, 2006 from the Recipient to the Association.
15. “Project Implementing Entity” or “MEM” means JIRAMA.
16. “Project Implementing Entity’s Legislation” means: Law Nr. 98-032 and Law Nr. 98-029 dated January 20, 1999 and implementation texts, and Ordinance Nr. 75/024 dated October 17, 1975, establishing JIRAMA and providing for its laws.
17. “Project Manual” means the manual adopted by the Recipient, outlining the policies and guidelines to be followed by the Recipient in Project implementation, including financial, accounting, procurement, and monitoring and evaluation procedures, as the same may be amended from time to time with the concurrence of the Association, and such term includes any schedules to the Project Manual.
18. “Subsidiary Agreement” means the agreement referred to in Section I.A of Schedule 2 to this Agreement pursuant to which the Recipient shall make the proceeds of the Financing available to the Project Implementing Entity.