

CONFORMED COPY

CREDIT NUMBER 2591 MAG

Development Credit Agreement

(Antananarivo Urban Works Project)

between

REPUBLIC OF MADAGASCAR

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated April 7, 1994

CREDIT NUMBER 2591 MAG

DEVELOPMENT CREDIT AGREEMENT

AGREEMENT, dated April 7, 1994, between REPUBLIC OF MADAGASCAR (the Borrower) and INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association).

WHEREAS (A) the Borrower, having satisfied itself as to the feasibility and priority of the Project described in Schedule 2 to this Agreement, has requested the Association to assist in the financing of the Project;

(B) the Project will be carried out by the Agence d'Execution des Travaux d'Infrastructures Publiques d'Antananarivo (AGETIPA) with the Borrower's assistance and, as part of such assistance, the Borrower will make available to AGETIPA the proceeds of the Credit as provided in this Agreement; and

WHEREAS the Association has agreed, on the basis, inter alia, of the foregoing, to extend the Credit to the Borrower upon the terms and conditions set forth in this Agreement and in the Project Agreement of even date herewith between the Association and AGETIPA;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

General Conditions; Definitions

Section 1.01. The "General Conditions Applicable to Development Credit Agreements" of the Association, dated January 1, 1985, with the last sentence of Section 3.02 deleted (the General Conditions) constitute an integral part of this Agreement.

Section 1.02. Unless the context otherwise requires, the several terms defined in the General Conditions and in the Preamble to this Agreement have the respective meanings therein set forth and the following additional terms have the following meanings:

(a) "Beneficiary" means the public agency of the Borrower or the municipality, as the case may be, for whose account a subproject is executed;

(b) "contrat de maitrise d'ouvrage deleguee" means the contract referred to in Section 3.01 (c) of this Agreement;

(c) "Convention" means the agreement to be entered into between the Borrower and AGETIPA pursuant to Section 3.01 (c) of this Agreement, as the same may be amended from time to time, and such term includes any schedules to the Convention;

(d) "FA" means Fivondronana d'Antananarivo-Renivohitra;

(e) "MAT" means the Borrower's Ministere de l'Amenagement du Territoire;

(f) "MTP" means the Borrower's Ministere des Travaux Publics;

(g) "operating costs" means the incremental operating costs incurred by AGETIPA under the Project on account of local staff salaries and allowances, maintenance of vehicles, fuel and equipment, and office rent, supplies and services;

(h) "Manual of Procedures" means the Manual of Procedures referred in Section 3.01 (c) of this Agreement, as the same may be amended from time to time, and such term includes any schedules to the Manual of Procedures;

(i) "project account" means the project account referred to in paragraph 2 of Schedule 3 to this Agreement;

(j) "Project Agreement" means the agreement between the Association and AGETIPA, of even date herewith, as the same may be amended from time to time, and such term includes all schedules and agreements supplemental to the Project Agreement.

(k) "Project Preparation Advance" means the project preparation advance granted by the Association to the Borrower pursuant to two letters of agreement, dated March 22, 1993, and February 25, 1994, respectively, between the Borrower and the Association;

(l) "SME" means small and medium scale enterprise;

(m) "Special Account" means the account referred to in Section 2.02 (b) of this Agreement;

(n) "subproject" means a subproject under Part A of the Project and to be financed under the Project.

ARTICLE II

The Credit

Section 2.01. The Association agrees to lend to the Borrower, on the terms and conditions set forth or referred to in the

Development Credit Agreement, an amount in various currencies equivalent to thirteen million three hundred thousand Special Drawing Rights (SDR 13,300,000).

Section 2.02. (a) The amount of the Credit may be withdrawn from the Credit Account in accordance with the provisions of Schedule 1 to this Agreement for expenditures made (or, if the Association shall so agree, to be made) in respect of the reasonable cost of goods and services required for the Project and to be financed out of the proceeds of the Credit.

(b) The Borrower shall, for the purposes of the Project, open and maintain in dollars a special deposit account in a commercial bank on terms and conditions satisfactory to the Association, including appropriate protection against set-off, seizure or attachment. Deposits into, and payments out of, the Special Account shall be made in accordance with the provisions of Schedule 4 to this Agreement.

(c) Promptly after the Effective Date, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and pay to itself the amount required to repay the principal amount of the Project Preparation Advance withdrawn and outstanding as of such date and to pay all unpaid charges thereon. The unwithdrawn balance of the authorized amount of the Project Preparation Advance shall thereupon be cancelled.

Section 2.03. The Closing Date shall be December 31, 1998 or such later date as the Association shall establish. The Association shall promptly notify the Borrower of such later date.

Section 2.04. (a) The Borrower shall pay to the Association a commitment charge on the principal amount of the Credit not withdrawn from time to time at a rate to be set by the Association as of June 30 of each year, but not to exceed the rate of one-half of one percent (1/2 of 1%) per annum.

(b) The commitment charge shall accrue: (i) from the date sixty (60) days after the date of this Agreement (the accrual date) to the respective dates on which amounts shall be withdrawn by the Borrower from the Credit Account or cancelled; and (ii) at the rate set as of the June 30 immediately preceding the accrual date or at such other rates as may be set from time to time thereafter pursuant to paragraph (a) above. The rate set as of June 30 in each year shall be applied from the next payment date in that year specified in Section 2.06 of this Agreement.

(c) The commitment charge shall be paid: (i) at such places as the Association shall reasonably request; (ii) without restrictions of any kind imposed by, or in the territory of, the Borrower; and (iii) in the currency specified in this Agreement for the purposes of Section 4.02 of the General Conditions or in such other eligible currency or currencies as may from time to time be designated or selected pursuant to the provisions of that Section.

Section 2.05. The Borrower shall pay to the Association a service charge at the rate of three-fourths of one percent (3/4 of 1%) per annum on the principal amount of the Credit withdrawn and outstanding from time to time.

Section 2.06. Commitment charges and service charges shall be payable semiannually on June 1 and December 1 in each year.

Section 2.07. (a) Subject to paragraphs (b) and (c) below, the Borrower shall repay the principal amount of the Credit in semiannual installments payable on each June 1 and December 1, commencing June 1, 2004 and ending December 1, 2033. Each installment to and including the installment payable on December 1, 2013 shall be one percent (1%) of such principal amount, and each installment thereafter shall be two percent (2%) of such principal amount.

(b) Whenever: (i) the Borrower's gross national product per capita, as determined by the Association, shall have exceeded \$790 in constant 1985 dollars for five consecutive years; and (ii) the Bank shall consider the Borrower creditworthy for Bank lending, the Association may, subsequent to the review and approval thereof by the Executive Directors of the Association and after due consideration by them of the development of the Borrower's economy, modify the terms of repayment of installments under paragraph (a) above by requiring the Borrower to repay twice the amount of each such installment not yet due until the principal amount of the Credit shall have been repaid. If so requested by the Borrower, the Association may revise such modification to include, in lieu of some or all of the increase in the amounts of such installments, the payment of interest at an annual rate agreed with the Association on the principal amount of the Credit withdrawn and outstanding from time to time, provided that, in the judgment of the Association, such revision shall not change the grant element obtained under the above-mentioned repayment modification.

(c) If, at any time after a modification of terms pursuant to paragraph (b) above, the Association determines that the Borrower's economic condition has deteriorated significantly, the Association may, if so requested by the Borrower, further modify the terms of repayment to conform to the schedule of installments as provided in paragraph (a) above.

Section 2.08. The currency of the United States of America is hereby specified for the purposes of Section 4.02 of the General Conditions.

Section 2.09. AGETIPA is designated as representative of the Borrower for the purposes of taking any action required or permitted to be taken under the provisions of Section 2.02 of this Agreement and Article V of the General Conditions.

ARTICLE III

Execution of the Project

Section 3.01. (a) The Borrower declares its commitment to the objectives of the Project as set forth in Schedule 2 to this Agreement and, to this end, without any limitation or restriction upon any of its other obligations under the Development Credit Agreement, shall cause AGETIPA to perform in accordance with the provisions of the Project Agreement all the obligations of AGETIPA therein set forth, shall take and cause to be taken all action, including the provision of funds, facilities, services and other resources, necessary or appropriate to enable AGETIPA to perform such obligations, and shall not take or permit to be taken any action which would prevent or interfere with such performance.

(b) Without limitation upon the provisions of paragraph (a) of this Section, and except as the Borrower and the Association shall otherwise agree, the Borrower shall carry out the Project in accordance with the Implementation Program set forth in Schedule 3 to this Agreement.

(c) The Borrower shall conclude an agreement (hereinafter referred to as the Convention) with AGETIPA, under which it shall transfer to AGETIPA the entire proceeds of the Credit on a non-reimbursable basis and on such other terms and conditions as shall be acceptable to the Association; including, but without being limited to, provisions to the following effect:

- (i) the amount so transferred to AGETIPA for purposes of Part A of the Project shall be used exclusively to finance subprojects and the operating costs;
- (ii) no subproject shall be considered for financing under the Project except in accordance with criteria, and terms and conditions, set forth in a Manual of Procedures adopted by AGETIPA, and

approved by the Borrower and the Association;

- (iii) goods and services required for the purposes of Part A of the Project, or pursuant thereto, shall be procured in accordance with procedures acceptable to the Association, and set forth in the Manual of Procedures;
- (iv) no subproject shall be considered for financing under the Project, except to the extent that the counterpart funds required to cover the cost of the subproject (including operating costs) have been included in the annual budget of the Beneficiary;
- (v) no subproject shall be executed under the Project: unless (A) a contract (hereinafter referred to as "contrat de maitrise d'ouvrage delegue" has been concluded between the Beneficiary and AGETIPA, and (B) the counterpart funds required to cover the cost of the subproject (including operating costs) have been deposited into the project account by the Beneficiary.

(d) The Borrower shall exercise its rights under the Convention in such manner as to protect the interests of the Borrower and the Association and to accomplish the purposes of the Credit, and except as the Association shall otherwise agree, the Borrower shall not assign, amend, abrogate or waive the Convention or any provision thereof.

Section 3.02. Except as the Association shall otherwise agree, procurement of goods, works and consultants' services, required for the Project and to be financed out of the proceeds of the Credit shall be governed by the provisions of Schedule 1 to the Project Agreement.

Section 3.03. The Borrower and the Association hereby agree that 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, respectively) shall be carried out by AGETIPA pursuant to Section 2.03 of the Project Agreement.

ARTICLE IV

Remedies of the Association

Section 4.01. Pursuant to Section 6.02 (h) of the General Conditions, the following additional events are specified:

- (a) AGETIPA shall have failed to perform any of its obligations under the Convention, the Manual of Procedures or the Project Agreement;
- (b) the Borrower shall have failed to perform any of its obligations under the Convention;
- (c) as a result of events which have occurred after the date of the Development Credit Agreement, a situation shall have arisen which shall make it improbable that AGETIPA will be able to perform its obligations under the Convention, the Manual of Procedures or the Project Agreement;
- (d) the statutes of AGETIPA shall have been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of AGETIPA to perform any of its obligations under the Convention, the Manual of Procedures or the Project Agreement;
- (e) the Borrower or any other authority having jurisdiction shall have taken any action for the dissolution or disestablishment

of AGETIPA or for the suspension of its operations; and

(f) any Beneficiary shall have failed to comply with an obligation to maintain infrastructure works rehabilitated under the Project, or with any other of its obligations under a contrat de maitrise d'ouvrage deleguee.

Section 4.02. Pursuant to Section 7.01 (d) of the General Conditions, the following additional events are specified:

(a) any event specified in paragraph (a), (b) or (f) of Section 4.01 of this Agreement shall occur and shall continue for a period of sixty days after notice thereof shall have been given by the Association to the Borrower; and

(b) any event specified in paragraph (c), (d) or (e) of Section 4.01 of this Agreement shall occur.

ARTICLE V

Effective Date; Termination

Section 5.01. The following events are specified as additional conditions to the effectiveness of the Development Credit Agreement within the meaning of Section 12.01 (b) of the General Conditions:

(a) AGETIPA has submitted to the Association, and obtained its approval for, an initial program of selected subprojects to be implemented during the first year of the project implementation period;

(b) the project account has been duly opened, and the Borrower and FA have:

- (i) deposited therein an aggregate initial amount of not less than \$300,000 equivalent, representing about one-third of the counterpart funds required to meet the cost of subprojects during the first year of project implementation period; and
- (ii) made adequate budgetary allocations in their respective annual budgets to cover the balance of the counterpart funds required to meet the cost of subprojects during the first year of project implementation period; and

(c) the auditors referred to in Section 4.01 of the Project Agreement have been duly recruited.

Section 5.02. The following are specified as additional matters, within the meaning of Section 12.02 (b) of the General Conditions, to be included in the opinion or opinions to be furnished to the Association:

(a) that the Project Agreement has been duly authorized or ratified by AGETIPA, and is legally binding upon AGETIPA in accordance with its terms; and

(b) that the Convention has been duly authorized or ratified by the Borrower and AGETIPA and is legally binding upon the Borrower and AGETIPA in accordance with its terms.

Section 5.03. The date ninety (90) days after the date of this Agreement is hereby specified for the purposes of Section 12.04 of the General Conditions.

ARTICLE VI

Representatives of the Borrower; Addresses

Section 6.01. Except as provided in Section 2.09 of this Agreement, the Minister of Finance of the Borrower is designated as

representative of the Borrower for the purposes of Section 11.03 of the General Conditions.

Section 6.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Borrower:

Ministry of Finance Antananarivo Madagascar Cable address:	Telex: 22489
MINFIN Antananarivo	

For the Association:

International Development Association 1818 H Street, N.W. Washington, D.C. 20433 United States of America	Telex:
Cable address:	248423 (RCA) 82987 (FTCC) 64145 (WUI) or 197688 (TRT)
INDEVAS Washington, D.C.	

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in the District of Columbia, United States of America, as of the day and year first above written.

REPUBLIC OF MADAGASCAR

By /s/ Jose Raserijaona
Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Francisco Aguirre-Sacasa
Acting Regional Vice President
Africa

SCHEDULE 1

(Section 2.02 (a))

Withdrawal of the Proceeds of the Credit

1. The table below sets forth the Categories of items to be financed out of the proceeds of the Credit, the allocation of the amounts of the Credit to each Category and the percentage of expenditures for items so to be financed in each Category:

Category	Amount of the Credit Allocated (Expressed in SDR Equivalent)	% of Expenditures to be Financed
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(1)	Civil works	9,640,000	95% up to December 31, 1995, and 85% thereafter
(2)	Design and supervision of civil works	770,000	95% up to December 31, 1995, and 85% thereafter
(3)	Operating costs	720,000	95% up to December 31, 1995, and 85% thereafter
(4)	Equipment and furniture	10,000	100%
(5)	Training and consultancy services (other than under Category 2 above)	1,230,000	100%
(6)	Refunding of Project Preparation Advance	930,000	Amounts due pursuant to Section 2.02 (c) of this Agreement
	TOTAL	----- 13,300,000 =====	

2. For purposes of Categories (1), (2) and (3) of the table in paragraph 1 of this Schedule, the disbursement percentage applicable to each withdrawal of proceeds thereunder shall be determined by reference to:

(a) the disbursement percentage applicable on the date of signature of the contract to which the withdrawal relates; or

(b) in the case of a contract entered into prior to the Effective Date, the disbursement percentage specified under the Project Preparation Advance.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made in respect of payments made for expenditures prior to the date of this Agreement.

4. The Association may require withdrawals from the Credit Account to be made on the basis of statements of expenditure for expenditures under contracts for civil works not exceeding \$100,000 equivalent, and goods and services not exceeding \$20,000 equivalent, and expenditures for operating costs and training, under such terms and conditions as the Association shall specify by notice to the Borrower.

SCHEDULE 2

(Preamble, para. (A))

Description of the Project

The objectives of the Project are to upgrade the infrastructure of Antananarivo and promote the development of small and medium scale enterprises in the construction and engineering industry, and, in so doing, demonstrate the merits of contracting out the management and maintenance of infrastructure works, and serve as a model of executing agency for the future management and maintenance of such works by the Borrower and others.

The Project consists of the following parts, subject to such modifications thereof as the Borrower and the Association may agree upon from time to time to achieve such objectives:

Part A: Establishment of a program of subprojects

1. Establishment of a pipeline of prequalified subprojects submitted on behalf of one or more Beneficiaries, involving:

(a) rehabilitation and maintenance of about 300 km of roads in the metropolitan area of Antananarivo, including:

- * laying new stone paving,
- * resetting existing stone pavement,
- * patching potholes and sealing of bituminous roads,
- * cleaning and reconstructing ditches and pipes,
- * improving street crossings, and;

(b) rehabilitation of public areas and pedestrian surfaces, including:

- * revamping of city parks and playgrounds,
- * improving/creating market places,
- * improving bus and freight terminals, and
- * rehabilitating sidewalks and public stairs.

2. On the basis of the pipeline of prequalified subprojects under paragraph 1 of this Part, selection, sequencing and packaging of a program of subprojects, having regard to the objectives of the Project, the availability of funds, and the number and size of street works that can be carried out without unduly affecting the flow of traffic through the city.

Part B: Training and information

1. Provision of technical and managerial assistance for the benefit of AGETIPA, SMEs, FA and other public sector institutions, including MAT and MTP.

2. Training for the benefit of SMEs, including specialized training for the more qualified SMEs seeking to be executing agencies in their own right and to compete with or, as the case may be, supplant AGETIPA.

3. Organization of information and participatory workshops either to serve as a means of channelling information to a specific audience or to be used by FA to discuss infrastructure options with the ultimate beneficiaries.

4. Organization of information campaigns, using mass media to provide information to the public at large, and other modern means of communication to disseminate specific information to targeted audiences.

Part C: Technical studies

Carrying out of various technical and sectoral studies to sharpen the impact of Parts A and B of the Project.

* * *

The Project is expected to be completed by June 30, 1998.

SCHEDULE 3

(Section 3.01 (b))

Implementation Program

1. (a) The Borrower and the Association shall, not later than September 30, 1995, undertake, in conjunction with AGETIPA, a

midterm review of the Project, during which they shall exchange views generally on all matters relating to the progress of the Project and the performance by the Borrower and AGETIPA of their respective obligations under this Agreement and, in particular:

- (i) the progress achieved by the Borrower and AGETIPA, respectively, during the current fiscal year, having regard to the performance indicators agreed upon between the Borrower and the Association;
- (ii) the status of financial and procurement performance under the Project;
- (iii) the proposed budget and work program for the forthcoming fiscal year;
- (iv) the adequacy of arrangements for the selection, financing and implementation of subprojects, and the merits of cost recovery; and
- (v) in order to consolidate the achievements of the Project, details of a proposed plan to ensure the best use of the resources of FA.

(b) Not later than one month prior to the midterm review, the Borrower shall furnish to the Association, for its comments, a report, in such detail as the Association shall reasonably request, on the progress and status of the Project, and giving details, in particular, of the various matters to be discussed at the said review.

(c) Following the midterm review, the Borrower undertakes to act promptly and diligently, in order to take, or assist AGETIPA in taking, any corrective action deemed necessary to remedy any short-coming noted in the implementation of the Project, or to implement, or assist AGETIPA in implementing, such other measures as may have been agreed upon between the parties in furtherance of the objectives of the Project.

2. The Borrower shall open, on behalf of AGETIPA, an account in local currency to be operated and maintained by AGETIPA, in a commercial bank and on terms and conditions satisfactory to the Association, and shall deposit therein, or cause other Beneficiaries to deposit therein, such amounts as may be payable to AGETIPA, under any contrat de maitrise d'ouvrage deleguee, on account of a subproject.

SCHEDULE 4

(Section 2.02 (b))

Special Account

1. For the purposes of this Schedule:

(a) the term "eligible Categories" means Categories (1) through (5) set forth in the table in paragraph 1 of Schedule 1 to this Agreement;

(b) the term "eligible expenditures" means expenditures in respect of the reasonable cost of goods and services required for the Project and to be financed out of the proceeds of the Credit allocated from time to time to the eligible Categories in accordance with the provisions of Schedule 1 to this Agreement; and

(c) the term "Authorized Allocation" means an amount equivalent to \$1,500,000 to be withdrawn from the Credit Account and deposited in the Special Account pursuant to paragraph 3 (a) of this Schedule.

2. Payments out of the Special Account shall be made exclusively for eligible expenditures in accordance with the provisions of this

Schedule.

3. After the Association has received evidence satisfactory to it that the Special Account has been duly opened, withdrawals of the Authorized Allocation and subsequent withdrawals to replenish the Special Account shall be made as follows:

(a) For withdrawals of the Authorized Allocation, the Borrower shall furnish to the Association a request or requests for a deposit or deposits which do not exceed the aggregate amount of the Authorized Allocation. On the basis of such request or requests, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit into the Special Account such amount or amounts as the Borrower shall have requested.

- (b) (i) For replenishment of the Special Account, the Borrower shall furnish to the Association requests for deposits into the Special Account at such intervals as the Association shall specify.
- (ii) Prior to, or at the time of each such request, the Borrower shall furnish to the Association the documents and other evidence required pursuant to paragraph 4 of this Schedule for the payment or payments in respect of which replenishment is requested. On the basis of each such request, the Association shall, on behalf of the Borrower, withdraw from the Credit Account and deposit into the Special Account such amount as the Borrower shall have requested and as shall have been shown by said documents and other evidence to have been paid out of the Special Account for eligible expenditures.

All such deposits shall be withdrawn by the Association from the Credit Account under the respective eligible Categories, and in the respective equivalent amounts, as shall have been justified by said documents and other evidence.

4. For each payment made by the Borrower out of the Special Account, the Borrower shall, at such time as the Association shall reasonably request, furnish to the Association such documents and other evidence showing that such payment was made exclusively for eligible expenditures.

5. Notwithstanding the provisions of paragraph 3 of this Schedule, the Association shall not be required to make further deposits into the Special Account:

(a) if, at any time, the Association shall have determined that all further withdrawals should be made by the Borrower directly from the Credit Account in accordance with the provisions of Article V of the General Conditions and paragraph (a) of Section 2.02 of this Agreement; or

(b) once the total unwithdrawn amount of the Credit allocated to the eligible Categories, less the amount of any outstanding special commitment entered into by the Association pursuant to Section 5.02 of the General Conditions with respect to the Project, shall equal the equivalent of twice the amount of the Authorized Allocation.

Thereafter, withdrawal from the Credit Account of the remaining unwithdrawn amount of the Credit allocated to the eligible Categories shall follow such procedures as the Association shall specify by notice to the Borrower. Such further withdrawals shall be made only after and to the extent that the Association shall have been satisfied that all such amounts remaining on deposit in the Special Account as of the date of such notice will be utilized in making payments for eligible expenditures.

6. (a) If the Association shall have determined at any time

that any payment out of the Special Account: (i) was made for an expenditure or in an amount not eligible pursuant to paragraph 2 of this Schedule; or (ii) was not justified by the evidence furnished to the Association, the Borrower shall, promptly upon notice from the Association: (A) provide such additional evidence as the Association may request; or (B) deposit into the Special Account (or, if the Association shall so request, refund to the Association) an amount equal to the amount of such payment or the portion thereof not so eligible or justified. Unless the Association shall otherwise agree, no further deposit by the Association into the Special Account shall be made until the Borrower has provided such evidence or made such deposit or refund, as the case may be.

(b) If the Association shall have determined at any time that any amount outstanding in the Special Account will not be required to cover further payments for eligible expenditures, the Borrower shall, promptly upon notice from the Association, refund to the Association such outstanding amount.

(c) The Borrower may, upon notice to the Association, refund to the Association all or any portion of the funds on deposit in the Special Account.

(d) Refunds to the Association made pursuant to paragraphs 6 (a), (b) and (c) of this Schedule shall be credited to the Credit Account for subsequent withdrawal or for cancellation in accordance with the relevant provisions of this Agreement, including the General Conditions.

