

**CONFORMED COPY**

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**CREDIT NUMBER 4329-VN**

# **Financing Agreement**

**(Ho Chi Minh City Investment Fund for Urban Development Project)**

**between**

**SOCIALIST REPUBLIC OF VIETNAM**

**and**

**INTERNATIONAL DEVELOPMENT ASSOCIATION**

**Dated November 16, 2007**

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**CREDIT NUMBER 4329-VN**

**FINANCING AGREEMENT**

AGREEMENT dated November 16, 2007, entered into between SOCIALIST REPUBLIC OF VIETNAM (“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 this 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 thirty-two million eight hundred thousand Special Drawing Rights (SDR 32,800,000) (variously, “Credit” and “Financing”) 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 The Service Charge payable by the Recipient on the Withdrawn Credit Balance shall be equal to three-fourths of one percent (3/4 of 1%) per annum.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 June 15 and December 15 in each year.

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

**ARTICLE III — PROJECT**

- 3.01. The Recipient declares its commitment to the objectives of the Project. To this end, the Recipient shall cause the Project to be carried out by HIFU 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 and the Project Agreement.

**ARTICLE IV — REMEDIES OF THE ASSOCIATION**

- 4.01. The Additional Events of Suspension consist of the following:
  - (a) the HIFU's Legislation has been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of HIFU to perform any of its obligations under the Project Agreement; or
  - (b) HCMC has caused or permitted the PPA Manual or the PSP Manual, or any part thereof, to be amended, suspended, abrogated or waived so as to affect materially and adversely the ability of HIFU to perform any of its obligations under the Project Agreement.
- 4.02. The Additional Event of Acceleration consists of the following, namely any of the events specified in Section 4.01 of this Agreement occurs.

**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 HIFU; and

- (b) HIFU has engaged: (i) an independent monitoring consultant for social safeguards; (ii) an independent monitoring consultant for environmental safeguards; and (iii) a consulting firm in respect of the implementation of the PPA Manual; all in accordance with the provisions of paragraph A.3, Section I of the Schedule to the Project Agreement.

5.02. The Additional Legal Matters consist of the following:

- (a) The Subsidiary Agreement has been duly authorized by the Recipient and HIFU and is legally binding upon the Recipient and HIFU in accordance with its terms.
- (b) The Resettlement Policy Framework has been duly approved by the Recipient's Prime Minister, endorsed by HCMC and adopted by HIFU, and is valid and binding upon the Recipient, HCMC and HIFU in accordance with its own terms.

5.03. The Effectiveness Deadline is the date ninety (90) days after the date of this Agreement.

**ARTICLE VI — REPRESENTATIVE; ADDRESSES**

6.01. The Recipient's Representative is the Governor or any Deputy Governor of State Bank of Vietnam.

6.02. The Recipient's Address is:

State Bank of Vietnam  
49 Ly Thai To  
Hanoi, Vietnam

Cable:  
VIETBANK  
Hanoi

Telex:  
412248  
NHTWVT

Facsimile:  
(84-4) 825 0612

6.03. The Association's Address is:

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

Cable:	Telex:	Facsimile:
INDEVAS	248423 (MCI)	(1-202) 477-6391
Washington, D.C.		

AGREED at Hanoi, Socialist Republic of Vietnam, as of the day and year first above written.

SOCIALIST REPUBLIC OF VIETNAM

By: /s/ Mr. Nguyen Van Giau

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By: /s/ Mr. Ajay Chhibber

Authorized Representative

**SCHEDULE 1****Project Description**

The objectives of the Project are to: (i) develop the Ho Chi Minh City Investment Fund for Urban Development as a model local development investment fund in terms of internal policy and procedures for investment, infrastructure sub-project appraisal, social and environmental safeguards, and partnership with the private sector; and (ii) increase private sector participation in financing municipal infrastructure in Ho Chi Minh City.

The Project consists of the following parts:

**PART I:**        **Deployment of Investment Capital**

Provide loans and/or equity investments for selected infrastructure sub-projects in Ho Chi Minh City, in partnership with the private sector.

**PART II:**        **Operational Reforms**

Implement a program of operational reforms of HIFU in the areas of: preparation and appraisal of investment projects, partnership with the private sector in the financing of infrastructure, implementation of social and environmental safeguards, and monitoring and evaluation of investments.

**SCHEDULE 2****Project Execution****Section I. Implementation Arrangements****A. Subsidiary Agreement.**

1. To facilitate the carrying out of the Project, the Recipient, through MOF, shall make the proceeds of the Financing available to HIFU under a subsidiary agreement between MOF and HIFU (“Subsidiary Agreement”), under terms and conditions acceptable to the Association, which, unless otherwise agreed by the Association, shall include the following:
  - (a) the principal amount repayable by HIFU shall be the equivalent in VN Dong (determined as of the dates of withdrawal from the Credit Account or from the Designated Account, as the case may be) of the amount of currency or currencies withdrawn from the Credit Account in respect of the Categories set forth in the table in paragraph A.2, Section IV of this Schedule 2;
  - (b) HIFU shall repay MOF the principal amount thus made available over a period of twenty-five (25) years as from the date of first drawdown, inclusive of a grace period of ten (10) years;
  - (c) HIFU shall pay interest on the principal amount withdrawn and outstanding from time to time at the rate of four percent (4%) per annum; and
  - (d) HIFU shall pay a commitment charge on the principal amount remaining unwithdrawn from time to time at the rate per annum equal to the rate payable by the Recipient pursuant to Section 2.03 of this Agreement.
2. The Recipient, through MOF, 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, abrogate or waive the Subsidiary Agreement or any of its provisions.

**B. Implementation Arrangements.**

1. The Recipient shall cause HCMC to: (i) take all action and to provide, promptly as needed, the funds, facilities, services and other resources necessary or appropriate to enable HIFU to perform its obligations under the Project Agreement; and (ii) not take or permit to be taken any action which would prevent or interfere with such performance.



2. Without limitation to the provisions of paragraph B.1 above, the Recipient shall cause HCMC to:
  - (a) promptly take all action necessary to enable HIFU to finance eligible Sub-projects in partnership with the private sector in accordance with the provisions of the PPA Manual and the PSP Manual, including: (i) cause DPI and other line departments of HCMC to establish, together with HIFU, a rolling list of priority municipal infrastructure sub-projects after initial screenings, to assist HIFU in preparing pre-feasibility, feasibility studies, and needs and options analyses in respect of selected Sub-projects; (ii) cause DOF to support HIFU in developing the options and levels of financing to be made available by HIFU in respect of such Sub-projects; (iii) assist HIFU in preparing and issuing the request for proposals to the private sector to bid for participation in such Sub-projects; and (iv) support HIFU in monitoring and evaluating the performance of Sub-project Enterprises;
  - (b) review together with the Association and HIFU, semi-annually or as may be requested by the Association, the application of said Manuals and the progress of the Project; and
  - (c) provide to the Association for its prior concurrence any revision which HCMC would propose to be introduced into either of said Manuals in order to achieve their respective objectives, and thereafter approve, or cause to be approved, only such revisions to said Manuals as shall have been agreed with the Association.

## **Section II. Project Monitoring, Reporting and Evaluation**

### **A. Project Reports.**

1. The Recipient shall, through HCMC, cause HIFU, as the Project Implementing Entity, to 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 indicators agreed with the Association.

### **B. Financial Management, Financial Reports and Audits.**

1. The Recipient shall, through HCMC, cause HIFU as the Project Implementing Entity to maintain, 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, through HCMC, cause HIFU to prepare and furnish to the Association not later than forty-five (45) days after the end of each calendar quarter, interim un-

audited financial reports for the Project covering such quarter, in form and substance satisfactory to the Association.

3. The Recipient shall, through HCMC, cause HIFU as the Project Implementing Entity to have the 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 (1) fiscal year of the Project Implementing Entity. The audited Financial Statements for each such period shall be furnished to the Association not later than six (6) 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 Section.
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 Section.
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 procedures.
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 method may be used:

<b><u>Procurement Method</u></b>
(a) For procurement of works estimated to cost less than \$5,000,000 equivalent per contract: established private and commercial practices which have been found acceptable to the Association
(b) For procurement of goods estimated to cost less than \$1,000,000 equivalent per contract: established private and commercial practices which have been found acceptable to the Association

**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 method may be used.

<b><u>Procurement Method</u></b>
For procurement of consultants' services estimated to cost less than \$1,000,000 equivalent per contract: established private and commercial practices which have been found acceptable to the Association

**D. Review by the Association of Procurement Decisions.**

Except as the Association shall otherwise determine by notice to the Recipient, the following contracts shall be subject to Prior Review by the Association: (a) all contracts for goods and works to be procured under International Competitive Bidding; (b) all contracts for consultants' services to be procured under Quality and Cost Based Selection; and (c) the first two (2) contracts for procurement of goods and works procured by HIFU borrowers through competitive bidding pursuant to commercial practices.

**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 Article II of the General Conditions, this Section, and such additional instructions as the Association shall specify by notice to the Recipient (including the "World Bank Disbursement Guidelines for Projects" dated May 2006, as revised from time to time by the Association and as made applicable to

this Agreement pursuant to such instructions), 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 Credit to each Category, and the percentage of expenditures to be financed for Eligible Expenditures in each Category:

<u>Category</u>	<u>Amount of the Credit Allocated (expressed in SDR)</u>	<u>Percentage of Expenditures to be Financed (inclusive of Taxes)</u>
(1) HIFU Loans for eligible infrastructure Sub-projects under Part I of the Project	19,680,000	100% of amounts of HIFU Loans disbursed
(2) HIFU Equity Investments for eligible infrastructure Sub-projects under Part I of the Project	13,120,000	100% of amounts of HIFU Equity Investments disbursed
<b>TOTAL AMOUNT</b>	<u>32,800,000</u>	

**B. Withdrawal Conditions; Withdrawal Period.**

1. Notwithstanding the provisions of Part A of this Section, no withdrawal shall be made for payments made prior to the date of this Agreement, except that withdrawals up to an aggregate amount not to exceed \$1,500,000 equivalent may be made for payments made prior to this date but on or after April 25, 2007 for Eligible Expenditures under Category (1).
2. The Closing Date is December 31, 2012.

**SCHEDULE 3****Repayment Schedule**

<b><u>Date Payment Due</u></b>	<b>Principal Amount of the Credit repayable <u>(expressed as a percentage)*</u></b>
On each June 15 and December 15:	
commencing December 15, 2017 to and including June 15, 2027	1%
commencing December 15, 2027 to and including June 15, 2047	2%

\* The percentages represent the percentages 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**

### **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. “Displaced Person” means a person who, on account of the execution of an eligible Sub-project under Part I of the Project, has experienced or would experience direct economic and social impacts caused by: (i) the involuntary taking of land, resulting in (A) relocation or loss of shelter; (B) loss of assets or access to assets; or (C) loss of income sources or means of livelihood, whether or not such person must move to another location; or (ii) the involuntary restriction of access to legally designated parks and protected areas, resulting in adverse impacts on the livelihood of such person; and “Displaced Persons” means, collectively, all such Displaced Persons.
4. “DOF” means the Department of Finance of Ho Chi Minh City, and any successor thereto.
5. “DPI” means the Department of Planning and Investment of Ho Chi Minh City, and any successor thereto.
6. “eligible Sub-project” means a municipal infrastructure project which meets the criteria set forth in paragraph B.1 of the Schedule to the Project Agreement.
7. “Environmental Safeguard Guidelines” means the Environmental Safeguard Guidelines dated March 2007, incorporated into the PPA Manual, and adopted by HIFU pursuant to its Board of Management’s Decision 662/QĐ-HĐQL of April 16, 2007; said Guidelines sets out the principles and procedures to: (i) evaluate the overall environmental risks and liabilities in respect of a proposed Sub-project; (ii) appraise the adequacy of any environmental impact assessment and resulting environmental management plan which have been prepared in connection with such Sub-project; and (iii) monitor the implementation of such environmental management plan by the Sub-project Enterprise; as said Guidelines may be revised from time to time with the prior concurrence of the Association.
8. “Ethnic Minority Planning Framework” means the Ethnic Minority Planning Framework dated February 2007, incorporated into the PPA Manual, and adopted by HIFU pursuant to its Board of Management’s Decision 662/QĐ-HĐQL of April 16, 2007; said Framework sets out: (i) the policies and procedures to ensure meaningful consultation with, and the informed participation of, ethnic communities within the area of any eligible Sub-project under Part I of the Project who are affected by such Sub-

project, and (ii) the principles for the preparation of ethnic minorities development plans as may be required during the implementation of such Sub-project; as said Framework may be revised from time to time with the prior concurrence of the Association.

9. “General Conditions” means the “International Development Association General Conditions for Credits and Grants”, dated July 1, 2005.

10. “HCMC” means Ho Chi Minh City, and any successor thereto.

11. “HCMC’s sectoral priority lists” means lists of priority infrastructure investments established from time to time by HCMC’s line departments.

12. “HIFU” means the Ho Chi Minh City Investment Fund for Urban Development, established and operating pursuant to the HIFU Legislation.

13. “HIFU Equity Investment” means an investment made by HIFU to the share capital of a Sub-project Enterprise for purpose of an eligible Sub-project, upon completion of preparation and appraisal of said Sub-project and selection of a private sector partner in full compliance with the provisions of the Project Preparation and Appraisal Manual and the Private Sector Partner Manual.

14. “HIFU Legislation” means, collectively: (i) Prime Minister’s Decision 664/TTg of September 10, 1996 establishing HIFU; (ii) HCMC People’s Committee’s Decision 1148/QĐ-UB-KT of March 15, 1997 promulgating the HIFU Charter; and (iii) the HIFU Charter.

15. “HIFU Loan” means a loan made by HIFU to a Sub-project Enterprise for purpose of an eligible Sub-project, upon completion of preparation and appraisal of said Sub-project and selection of a private sector partner in full compliance with the provisions of the Project Preparation and Appraisal Manual and the Private Sector Partner Manual.

16. “MOF” means the Recipient’s Ministry of Finance, and any successor thereto.

17. “Procurement Guidelines” means the “Guidelines: Procurement under IBRD Loans and IDA Credits” published by the Bank in May 2004.

18. “Procurement Plan” means the procurement plan for the Project, dated April 16, 2007 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.

19. “Project Implementing Entity” means HIFU.

20. “PPA Manual” means the Project Preparation and Appraisal Manual adopted by HIFU pursuant to its Board of Management’s Decision 662/QĐ-HĐQL of April 16, 2007, and referred to in paragraph B.2, Section I of Schedule 2 to the Financing Agreement and in paragraph A.2, Section I of the Schedule to the Project Agreement.
21. “PSP Manual” means the Private Sector Partner Selection Manual adopted by HIFU pursuant to its Board of Management’s Decision 663/QĐ-HĐQL of April 16, 2007, and referred to in paragraph B.2, Section I of Schedule 2 to the Financing Agreement and in paragraph A.2, Section I of the Schedule to the Project Agreement.
22. “RPF” and “Resettlement Policy Framework” means the Resettlement Policy Framework dated April 2007, as amended in May 2007, approved by the Prime Minister in Communication No. 509/TTg-QHQT dated April 25, 2007, endorsed by Ho Chi Minh City People’s Committee through Communications No. 2161/UBND-TM of April 13, 2007 and No. 2688/UBND-TM of May 9, 2007, and incorporated into the PPA which was adopted by HIFU pursuant to its Board of Management’s Decision 662/QĐ-HĐQL of April 16, 2007; said Framework sets out the policies and procedures for the acquisition of land and other assets, resettlement, compensation and rehabilitation of Displaced Persons, and for the preparation of resettlement action plans as may be required for eligible Sub-projects under Part I of the Project, as said Policy Framework may be revised from time to time with the prior concurrence of the Association.
23. “selected Sub-project Enterprise” means an enterprise which has been selected in accordance with the provisions of the PSP Manual to be the recipient of a HIFU Loan and/or a HIFU Equity Investment in respect of an eligible Sub-project.
24. “Sub-project Agreement” means an agreement to be entered into between HIFU and a selected Sub-project Enterprise in respect of an eligible Sub-project pursuant to the provisions of paragraph B.2 of the Schedule to the Project Agreement.
25. “Subsidiary Agreement” means the agreement referred to in paragraph A.1, Section I of Schedule 2 to this Agreement pursuant to which the Recipient shall make the proceeds of the Financing available to the Project Implementing Entity.