

CONFORMED COPY

CREDIT NUMBER 2820 VN

Project Agreement

(Power Development Project)

between

INTERNATIONAL DEVELOPMENT ASSOCIATION

and

ELECTRICITY OF VIET NAM

Dated February 26, 1996

CREDIT NUMBER 2820 VN

PROJECT AGREEMENT

AGREEMENT, dated February 26, 1996, between INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association) and ELECTRICITY OF VIET NAM (EVN).

WHEREAS (A) by the Development Credit Agreement of even date herewith between the Socialist Republic of Viet Nam (the Borrower) and the Association, the Association has agreed to make available to the Borrower an amount in various currencies equivalent to one hundred twenty one million Special Drawing Rights (SDR 121,000,000), on the terms and conditions set forth in the Development Credit Agreement, but only on condition that EVN agrees to undertake such obligations toward the Association as are set forth in this Agreement;

(B) by a subsidiary loan agreement to be entered into between the Borrower and EVN, the proceeds of the credit provided for under the Development Credit Agreement will be made available to EVN on the terms and conditions set forth in said Subsidiary Loan Agreement; and

WHEREAS EVN, in consideration of the Association's entering 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, 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) EVN 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 the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering and environmental and resettlement practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Association and EVN shall otherwise agree, EVN shall carry out the Project in accordance with the Implementation Program set forth in Schedule 1 to this Agreement.

Section 2.02. Without limitation upon the provisions of Section 2.01 and except as the Association may otherwise agree, EVN shall:

(a) not sell, lease, assign or otherwise dispose of any of its assets which shall be required for the efficient performance of its operations or which may prejudice its ability to perform satisfactorily any of its obligations under this Agreement; and

(b) not: (i) amend, suspend or repeal any provision of the Charter; or (ii) make any change in its structure, organization, powers or responsibilities which may materially and adversely affect (A) its ability to perform any of its obligations under this Agreement or (B) the operation of the facilities established under the Project.

Section 2.03. Except as the Association shall otherwise agree, procurement of the goods 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 2 to this Agreement.

Section 2.04. (a) EVN 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, respectively) in respect of the Project Agreement.

(b) For the purposes of Section 9.08 of the General Conditions and without limitation thereto, EVN shall:

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

- (ii) afford the Association a reasonable opportunity to exchange views with EVN on said plan.

Section 2.05. EVN shall duly perform all its obligations under the Subsidiary Loan Agreement. Except as the Association shall otherwise agree, EVN shall not take or concur in any action which would have the effect of amending, abrogating, assigning or waiving the Subsidiary Loan Agreement or any provision thereof.

Section 2.06. (a) EVN shall, at the request of the Association, exchange views with the Association with regard to the progress of the Project, the performance of its obligations under this Agreement and under the Subsidiary Loan Agreement , and other matters relating to the purposes of the Credit.

(b) EVN 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 EVN of its obligations under this Agreement and under the Subsidiary Loan Agreement.

### ARTICLE III

#### Management and Operations of EVN

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

Section 3.02. EVN shall at all times operate and maintain its plant, machinery, equipment and other property, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound engineering, financial and public utility practices.

Section 3.03 EVN 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) EVN shall maintain records and accounts adequate to reflect in accordance with sound accounting practices its operations and financial condition.

(b) EVN shall:

- (i) have its records, accounts and financial statements (balance sheets, statements of income and expenses and related statements) for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Association;
- (ii) furnish to the Association as soon as available, but in any case not later than nine (9) months after the end of each such year, (A) certified copies of its financial statements for such year as so audited and (B) the report of such audit by said auditors, of such scope and in such detail as the Association shall have reasonably requested; and

- (iii) furnish to the Association such other information concerning said records, accounts and financial statements as well as the audit thereof, as the Association shall from time to time reasonably request.

Section 4.02. (a) EVN shall: (i) not later than December 31, 1996, based on a methodology and calculations acceptable to the Association, complete and incorporate into its accounting and auditing system a current valuation of all its fixed assets in operation; and (ii) for each of its fiscal years thereafter duly revalue such fixed assets in operation in a timely manner, and based on a methodology and procedures acceptable to the Association.

(b) For the purposes of this Section, the term "fixed assets in operation" means all tangible assets, including, but without limitation, land, buildings, plant and equipment, held for the production of goods or services, or for administrative purposes.

Section 4.03. EVN shall prepare and furnish to the Association for its review and comment, by September 30 of each year, commencing 1996, (i) its proposed budget for the next fiscal year of EVN and (ii) a rolling long-term financial plan containing, inter alia, income statements, sources and uses of funds, and balance sheets for each of the next five years.

Section 4.04. (a) Except as the Association otherwise agree, EVN shall produce, for each of its fiscal years after its fiscal year ending on December 31, 1995, funds from internal sources equivalent to not less than 30% of the annual average of EVN's capital expenditures incurred, or expected to be incurred, for that fiscal year, the previous fiscal year and the next fiscal year.

(b) Except as the Association otherwise agree, EVN shall generate for each of its fiscal years after its fiscal year ending on December 31, 1995, funds from internal sources equivalent to not less than two (2) times its estimated debt service requirements on all its debt, including debt estimated to be incurred.

(c) Before March 31 in each of its fiscal years after that ending on December 31, 1995, EVN shall, on the basis of forecasts prepared by EVN and satisfactory to the Association, review whether it would meet the requirements set forth in paragraphs (a) and (b) of this Section in respect of such fiscal year and the next following fiscal year and shall furnish to the Association a copy of such review upon its completion.

(d) If any such review shows that EVN would not meet the requirements set forth in paragraphs (a) and (b) of this Section for the fiscal years covered by such review, EVN shall promptly take all necessary measure, including without limitation, adjustments to the structure or levels of its tariffs, in order to meet such requirements.

(e) For the purposes of this Section:

- (i) The term "funds from internal sources" means the difference between:
  - (A) the sum of revenues from all sources related to operations, consumer deposits and consumer contributions in aid of construction, net non-operating income and any reduction in working capital other than cash; and
  - (B) the sum of all expenses related to operations, including administration, adequate maintenance and taxes and payments in lieu of taxes

(excluding provision for depreciation and other non-cash operating charges) debt service requirements, all cash dividends and other cash distributions of surplus, increase in working capital other than cash and other cash outflows other than capital expenditures.

- (ii) The term "net non-operating income" means the difference between:
  - (A) revenues from all sources other than those related to operations; and
  - (B) expenses, including taxes and payments in lieu of taxes, incurred in the generation of revenues in (A) above.
- (iii) The term "working capital other than cash" means the difference between current assets excluding cash and current liabilities at the end of each fiscal year.
- (iv) The term "current assets excluding cash" means all assets other than cash which could in the ordinary course of business be converted into cash within twelve months, including accounts receivable, marketable securities, inventories and pre-paid expenses properly chargeable to operating expenses within the next fiscal year.
- (v) The term "current liabilities" means all liabilities which will become due and payable or could under circumstances then existing be called for payment within twelve months, including accounts payable, customer advances, debt service requirements, taxes and payments in lieu of taxes, and dividends.
- (vi) The term "debt service requirements" means the aggregate amount of repayments (including sinking fund payments, if any), and interest and other charges on, debt.
- (vii) The term "capital expenditures" means all expenditures on account of fixed assets, including interest charged to construction related to operations.
- (viii) The term "accounts receivable" means amounts due from all sources related to electricity sold in the normal course of business for which payment has not been received.
- (ix) The term "debt" means indebtedness of EVN maturing by its terms more than one year after the date on which it is originally incurred.
- (x) Debt shall be deemed to be incurred: (A) under a loan contract or agreement or other instrument providing for such debt or for the modification of its terms of payment on the date of such contract, agreement or instrument; and (B) under a guarantee agreement, on the date the agreement providing for such guarantee has been entered into.
- (xi) Whenever for the purposes of this Article it shall be necessary to value, in terms of the currency of the Borrower, debt payable in another currency, such valuation shall be made on the basis of the prevailing lawful rate of exchange at which such other currency is, at the time of such valuation,

obtainable for the purposes of servicing such debt, or, in the absence of such rate, on the basis of a rate of exchange acceptable to the Association.

#### 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 Development Credit Agreement becomes effective.

Section 5.02. (a) This Agreement and all obligations of the Association and of EVN 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 20 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 EVN 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, telegram, cable, telex or radiogram 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. 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:

Telex:

INDEVAS  
Washington, D.C.

197688 (TRT),  
248423 (RCA),  
64145 (WUI) or  
82987 (FTCC)

For EVN:

Electricity of Viet Nam  
18 Tran Nguyen Han  
Hanoi  
Socialist Republic of Viet Nam

Section 6.02. Any action required or permitted to be taken, and any document required or permitted to be executed,

under this Agreement on behalf of EVN may be taken or executed by the Director General of EVN or such other person or persons as said officer shall designate in writing, and EVN 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 the District of Columbia, United States of America, as of the day and year first above written.

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Russell. J. Cheetham

Regional Vice President  
East Asia and Pacific

ELECTRICITY OF VIET NAM

By /s/ Le Van Bang

Authorized Representative

SCHEDULE 1

Implementation Program

A. Project Implementation

1. Environmental Management

EVN shall: (i) carry out, or cause to be carried out, Part A of the Project in accordance with the EA; (ii) take timely action to ensure that any adverse environmental impact of Part A of the Project is effectively mitigated in a manner which is acceptable to the Association; and (iii) cause an environmental unit to be established by not later than June 30, 1996, for the Phu My-2 Power Station headed by an environmental coordinator, with powers and responsibilities acceptable to the Association, and with qualified and experienced staff in adequate numbers.

2. Resettlement (Part C of the Project)

EVN shall carry out, or cause to be carried out, the resettlement and rehabilitation of Affected Persons in accordance with the RAP in a manner satisfactory to the Association.

3. Phu My-2 Phase 2 (Part E of the Project)

EVN shall: (a) by no later than March 31, 1996, employ consultants to assist in carrying out Part E of the Project, in accordance with the provisions of Section II of Schedule 2 of this Agreement;

(b) by no later than June 30, 1996, furnish to the Association, for its review and comment, its proposals for the solicitation of proposals from independent power producers for the development of Phu My2 Phase 2 on a build-operate-transfer

basis; and

(c) promptly thereafter, issue invitations for said proposals, taking into account the Association's comments thereon.

#### 4. Training

EVN shall (a) carry out the training under Part F of the Project in accordance with a training program acceptable to the Association; and (b) to that end, by no later than June 30, 1996, furnish to the Association for its review and comment a proposed time-bound program of training under said Part.

#### B. Project Monitoring and Reporting

EVN shall: (1) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with indicators acceptable to the Association the carrying out of the Project, including the RAP and the EA and the achievement of the objectives thereof;

(2) prepare, under terms of reference acceptable to the Association, and furnish to the Association (i) quarterly reports on or about March 15, June 15, September 15 and December 15 in each fiscal year, integrating the results of the monitoring and evaluation activities performed pursuant to subparagraph (1) of this Part B on the progress achieved in the carrying out of the Project during the preceding calendar quarter and setting out the measures recommended to ensure the efficient carrying out of the Project and the achievement of the objectives thereof during the then current calendar quarter; (ii) annual reports on or about March 15 in each calendar year, on the monitoring and evaluation progress achieved in the carrying out of the RAP and EA during the preceding calendar year, together with any revisions proposed to be made thereto; and (iii) a mid-term report on or about June 15, 1997, integrating the results of the monitoring and evaluation activities performed pursuant to subparagraph (1) of this Part B on the progress achieved to date in the carrying out of the Project and setting out the measures recommended to ensure the efficient carrying out of the Project and the achievement of the objectives thereof during the period following such date; and

(3) review with the Association each report furnished to the Association pursuant to subparagraph (2) (ii) and (iii) of this Part B and promptly take all measures required to ensure the efficient completion of the Project and the achievement of the objectives thereof, including, as applicable, introduction of revisions to the RAP and based on the conclusions and recommendations of each said report and the Association's views on the matter.

#### C. Gas Purchase Agreement

EVN shall enter into contractual arrangements, acceptable to the Association, by no later than December 31, 1996, for the purchase of gas in amounts sufficient for the operation of the gas turbines to be installed under Part A of the Project at full capacity for a period of at least twenty (20) years.

### SCHEDULE 2

#### Procurement and Consultants' Services

##### Section I: Procurement of Goods

##### Part A: General

Goods shall be procured in accordance with the



provisions of Section I of the "Guidelines of Procurement under IBRD Loans and IDA Credits" published by the Bank in January 1995 (the Guidelines), and the following provisions of this Section, as applicable.

#### Part B: International Competitive Bidding

1. Except as provided in Part C of this Section goods shall be procured under contracts awarded in accordance with the provisions of Section II of the Guidelines and paragraph 5 of Appendix I thereto.

2. The following provisions shall apply to goods to be procured under contracts awarded in accordance with the provisions of paragraph 1 of this Part B:

##### (a) Grouping of contracts

To the extent practicable contracts for goods shall be grouped in bid packages estimated to cost the equivalent of \$ 200,000 or more each.

##### (b) Preference for domestically manufactured goods

The provisions of paragraphs 2.54 and 2.55 of the Guidelines and Appendix 2 thereof shall apply to goods manufactured in the territory of the Borrower.

#### Part C: Other Procurement Procedures

##### 1. Limited International Bidding

Goods for which there are only a limited number of suppliers and which are estimated to cost \$200,000 equivalent or less per contract up to an aggregate amount not to exceed \$500,000 equivalent may be procured under contracts awarded in accordance with the provisions of Section 3.2 of the Guidelines.

##### 2. International Shopping

Goods which are readily available off-the-shelf or are standard specification commodities and which are estimated to cost \$50,000 equivalent or less per contract and \$500,000 equivalent or less in the aggregate, may be procured under contracts awarded on the basis of international shopping procedures in accordance with the provisions of Sections 3.5 and 3.6 of the Guidelines.

#### Part D: Review by Association of Procurement Decisions

##### 1. Procurement Planning

Prior to the issuance of any invitation to pre-qualify for bidding or to bid for contracts, the proposed procurement plan for the Project shall be furnished to the Association for its review and approval, in accordance with the provisions of paragraph 1 of Appendix 1 to the Guidelines. Procurement of all goods shall be undertaken in accordance with such procurement plan as shall have been approved by the Association, and with the provisions of said paragraph 1.

##### 2. Prior Review

With respect to each contract for goods, the procedures set forth in paragraphs 2 and 3 of Appendix 1 to the Guidelines shall apply.

#### Section II: Employment of Consultants

1. Consultants' services shall be procured under contracts awarded in accordance with the provisions of the "Guidelines

for the Use of World Bank Borrowers and by the World Bank as Executing Agency" published by the Bank in August 1981 (the Consultant Guidelines). For complex, time-based assignments, such contracts shall be based on the standard form of contract for consultants' services issued by the Bank, with such modifications as shall have been agreed by the Association. Where no relevant standard contract documents have been issued by the Bank, other standard forms acceptable to the Association shall be used.

2. Notwithstanding the provisions of paragraph 1 of this Section, the provisions of the Consultants Guidelines requiring prior Association review or approval of budgets, short lists, selection procedures, letters of invitation, proposals evaluation reports and contracts shall not apply to (a) contracts for the employment of consulting firms estimated to cost less than one hundred thousand dollars (\$100,000) equivalent each, or (b) contracts for the employment of individual consultants estimated to cost less than fifty thousand dollars (\$50,000) equivalent each. However, this exception to prior Association review shall not apply to (a) the terms of reference for such contracts; (b) single source selection of consulting firms; (c) assignments of a critical nature, as reasonably determined by the Association; (d) amendments to contracts for the employment of consulting firms raising the contract value to one hundred thousand dollars (\$100,000) equivalent or above; or (e) amendments to contracts for the employment of individual consultants raising the contract value to fifty thousand dollars (\$50,000) equivalent or above.

