

CONFORMED COPY

GRANT NUMBER TF 056320

DFID Trust Fund Grant Agreement

(Third Rural Transport Project)

between

SOCIALIST REPUBLIC OF VIETNAM

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

**As Administrator of Grant Funds
Provided by the Government of United Kingdom of Great Britain
and Northern Ireland**

Dated May 17, 2007



DFID TRUST FUND GRANT AGREEMENT

AGREEMENT, dated May 17, 2007, between SOCIALIST REPUBLIC OF VIETNAM (“the Recipient”) and INTERNATIONAL DEVELOPMENT ASSOCIATION (“Association”) acting as Administrator (“Administrator”) of grant funds provided by the United Kingdom of Great Britain and Northern Ireland.

WHEREAS (A) pursuant to an agreement dated _____, 2007 between the Recipient and the Administrator (“Development Credit Agreement”), for the financing of the Third Rural Transport Project (“Project,” as described in Schedule 2 to the Development Credit Agreement), the Administrator agreed to provide to the Recipient a credit in the amount of SDR 74,100,000 (“Credit”) on the terms and conditions set forth in the Development Credit Agreement, and the Recipient declared its commitment to the objectives of the Project and agreed to carry out the Project in accordance with the terms of the Development Credit Agreement; and

(B) pursuant to a Memorandum of Understanding dated March 20, 2007 between the United Kingdom of Great Britain and Northern Ireland, through its Department for International Development (“DFID”), and the Administrator (“DFID Memorandum of Understanding”), the Administrator has agreed to administer on behalf of DFID the amount of fourteen million and fourteen hundred thousand Pounds Sterling (£14,014,000) to be used to finance, in part, the costs of carrying out the Project under the terms and conditions of this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

General Conditions; Definitions

Section 1.01. (a) The following provisions of the General Conditions Applicable to Development Credit Agreements of the Administrator, dated January 1, 1985, as amended through May 1, 2004, with the modifications set forth in paragraph (b) of this Section (the General Conditions) constitute an integral part of this Agreement:

- (i) Article I;
- (ii) Sections 2.01 (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (12), (13) and (14), 2.02 and 2.03;
- (iii) Section 3.01;

- (iv) Sections 4.01 and 4.05;
 - (v) Article V;
 - (vi) Sections 6.01, 6.02 (a), (b), (c), (d), (e), (g), (h), (i), (j), (k) and (l), 6.03, 6.04 and 6.06;
 - (vii) Section 8.01 (b);
 - (viii) Sections 9.01, 9.03, 9.04, 9.05, 9.06, 9.07, and 9.08;
 - (ix) Article X;
 - (x) Article XI; and
 - (xi) Sections 12.01 (b), 12.03 and 12.04.
- (b) The General Conditions shall be modified as follows:
- (i) the term “Association,” wherever used in the General Conditions, other than in Sections 2.01 (6) and 6.02 (e) thereof, and the last use of such term in Section 5.01 thereof, means the Association acting as Administrator of the DFID Grant pursuant to the DFID Memorandum of Understanding referred to in Recital (C) of this Agreement, except that in Section 6.02, the term “Association” shall also include the Association acting in its own capacity;
 - (ii) the term “Borrower” wherever used in the General Conditions, means the Recipient;
 - (iii) the term “Development Credit Agreement” wherever used in the General Conditions, means this Agreement;
 - (iv) the term “Credit” wherever used in the General Conditions, means the DFID Grant;
 - (v) the term “Credit Account” wherever used in the General Conditions, means the DFID Grant Account, an account opened by the Administrator on its books in the name of the Recipient to which the amount of the DFID Grant is credited;
 - (vi) Section 4.01 shall be modified to read:

“Withdrawals from the DFID Grant Account shall be made in Pounds Sterling; provided, however, that if the expenditures to be financed out of the proceeds of the DFID Grant have been paid or are payable in another currency, the Administrator shall, at the request of the Recipient, purchase such currency with the proceeds of such withdrawal.”;

- (vii) Section 5.08 shall be modified to read:

Section 5.08. Treatment of Taxes

Except as otherwise provided in this Agreement, the proceeds of the DFID Grant may be withdrawn to pay for taxes levied by, or in the territory of, the Recipient on the goods or services to be financed under the DFID Grant, or on their importation, manufacture, procurement or supply. Financing of such taxes is subject to the Administrator’s policy of requiring economy and efficiency in the use of the proceeds of its credits. To that end, if the Administrator shall at any time determine that the amount of any taxes levied on or in respect of any item to be financed out of the proceeds of the DFID Grant is excessive or otherwise unreasonable, the Administrator may, by notice to the Recipient, adjust the percentage for withdrawal set forth or referred to in respect of such item in this as required to be consistent with such policy of the Administrator.”

- (viii) Section 6.03(c) of the General Conditions is amended by replacing the words “corrupt or fraudulent” with the words “corrupt, fraudulent, collusive or coercive”.

Section 1.02. Wherever used in this Agreement, unless the context otherwise requires, the several terms defined in the General Conditions, in the Recitals to this Agreement and in the Development Credit Agreement have the respective meanings therein set forth, and the term “Special Account” means the account referred to in paragraph B.1 of the Schedule to this Agreement.

ARTICLE II

The DFID Grant

Section 2.01. The Administrator agrees to make available to the Recipient, on the terms and conditions set forth or referred to in this Agreement, the DFID Grant in an amount of fourteen million and fourteen thousand Pounds Sterling (£14,014,000).

Section 2.02. (a) The amount of the DFID Grant may be withdrawn from the DFID Grant Account in accordance with the provisions of the Schedule to this Agreement, as such may be amended from time to time by agreement between the Recipient and the Administrator, for expenditures made (or, if the Administrator shall so agree, to be made) in respect of the reasonable cost of carrying out the Project and to be financed out of the DFID Grant.

(b) The Administrator shall not be obliged to provide funds under the DFID Grant to the Recipient except to the extent the Administrator shall have received funds from DFID for this purpose.

Section 2.03. The Closing Date shall be March 31, 2011, or such later date as the Administrator shall establish. The Administrator shall promptly notify the Recipient of such later date.

ARTICLE III

Execution of the Project

Section 3.01. (a) The Recipient shall carry out the Project with due diligence and efficiency and in conformity with appropriate administrative, management, financial, engineering and road management practices, and sound environmental and social standards, and shall provide, 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 Recipient and the Administrator shall otherwise agree, the Recipient shall carry out the Project in accordance with the Implementation Program set forth in Schedule 4 to the Development Credit Agreement.

Section 3.02. (a) Except as the Administrator shall otherwise agree, procurement of the goods, works and consultants' services required for the Project and to be financed out of the DFID Grant shall be governed by the provisions of Schedule 3 to the Development Credit Agreement, as said provisions may be further elaborated in the Procurement Plan.

(b) The Recipient shall update the Procurement Plan in accordance with guidelines acceptable to the Administrator, and furnish such update to the Administrator not later than twelve (12) months after the date of the preceding Procurement Plan, for the Administrator's approval.

ARTICLE IV

Financial Covenants

Section 4.01. (a) The Recipient shall establish and maintain a financial management system, including records and accounts, and prepare financial statements in

accordance with consistently applied accounting standards acceptable to the Administrator, adequate to reflect the operations, resources and expenditures related to the Project.

- (b) The Recipient shall:
 - (i) have the financial statements referred to in paragraph (a) of this Section for each fiscal year (or other period agreed to by the Administrator), audited, in accordance with consistently applied auditing standards acceptable to the Administrator, by independent auditors acceptable to the Administrator;
 - (ii) furnish to the Administrator as soon as available, but in any case not later than six (6) months after the end of each such year (or such other period agreed to by the Administrator), (A) certified copies of the financial statements referred to in paragraph (a) of this Section for such year (or other period agreed to by the Administrator), as so audited, and (B) an opinion on such statements by said auditors, in scope and detail satisfactory to the Administrator; and
 - (iii) furnish to the Administrator such other information concerning such records and accounts, and the audit of such financial statements, and concerning said auditors, as the Administrator may from time to time reasonably request.

- (c) For all expenditures with respect to which withdrawals from the DFID Grant Account were made on the basis of reports referred to in Part A.5 of the Schedule to this Agreement (“Report-based Disbursements”) or on the basis of statements of expenditure, the Recipient shall:
 - (i) ensure that all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures are retained until at least one (1) year after the end of the fiscal year in which the last withdrawal from the DFID Grant Account was made;
 - (ii) enable the Administrator’s representatives to examine such records; and
 - (iii) ensure that such reports or statements of expenditure are included in any audit that the Administrator may have requested pursuant to paragraph (b) of this Section.

Section 4.02. (a) Without limitation upon the Recipient's progress reporting obligations set out in paragraph 10 of Schedule 4 to the Development Credit Agreement, the Recipient shall prepare and cause the Project Provinces to prepare and furnish to the Administrator a financial monitoring report, in form and substance satisfactory to the Administrator, which:

- (i) sets forth sources and uses of funds for the Project, both cumulatively and for the period covered by said report, showing separately funds provided under the DFID Grant, and explains variances between the actual and planned uses of such funds;
- (ii) describes physical progress in Project implementation, both cumulatively and for the period covered by said report, and explains variances between the actual and planned Project implementation; and
- (iii) sets forth the status of procurement under the Project, as at the end of the period covered by said report.

(b) The first FMR shall be furnished to the Administrator not later than forty-five (45) days after the end of the first calendar quarter after the Effective Date, and shall cover the period from the incurrence of the first expenditure under the Project through the end of such first calendar quarter; thereafter, each FMR shall be furnished to the Administrator not later than forty-five (45) days after each subsequent calendar quarter, and shall cover such calendar quarter.

ARTICLE V

Remedies of the Administrator

Section 5.01. Pursuant to Section 6.02(1) of the General Conditions, the following additional event is specified, namely, that DFID shall have failed to deposit into TF Number TF70409, any portion of the proceeds of the DFID Grant in accordance with the provisions of the DFID Memorandum of Understanding or DFID shall have taken action to terminate the DFID Memorandum of Understanding.

ARTICLE VI

Effectiveness; Termination

Section 6.01. This Agreement shall become effective upon its execution by the parties hereto or the Effective Date of the Development Credit Agreement, whichever is later.

Section 6.02. This Agreement shall continue in effect until disbursement under this Agreement has been completed and the parties to this Agreement have fulfilled all their obligations hereunder, provided, however, that if the Development Credit Agreement terminates prior to the termination of this Agreement, or the DFID Memorandum of Understanding terminates prior to the termination of this Agreement, this Agreement shall terminate automatically and shall cease to have any further force or effect.

ARTICLE VII

Representation

Section 7.01. The Governor or any Deputy Governor of the State Bank of Vietnam is designated as representative of the Recipient for the purposes of Section 11.03 of the General Conditions.

Section 7.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Recipient:

State Bank of Vietnam
49 Ly Thai To Street
Hanoi
Socialist Republic of Vietnam

Cable address:	Telex:	Facsimile:
VIETBANK Hanoi	412248 NHTWVT	(84-4) 825 0612

For the Administrator:

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

Cable address:	Telex:	Facsimile:
INDEVAS Washington, D.C.	64145 (MCI) or 248423 (MCI)	(1-202) 477-6391

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in Hanoi, Socialist Republic of Vietnam, as of the day and year first above written.

SOCIALIST REPUBLIC OF VIETNAM

By /s/ LÊ DU□ THUY

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION
as Administrator of the DFID Grant

By /s/ Martin Rama

Authorized Representative

SCHEDULE

Withdrawal of the DFID Grant

A. General

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

<u>Category</u>	<u>Amount of the DFID Grant Allocated (Expressed in Pounds)</u>	<u>% of Expenditures to be Financed</u>
(1) Civil works	12,879,000	29%
(2) Goods	210,000	29%
(3) Consultants' services	645,000	29%
(4) Training and workshops	238,000	29%
(5) Incremental Operating Costs	<u>42,000</u>	29%
TOTAL	<u>14,014,000</u>	

2. For the purposes of this Schedule, the term "Incremental Operating Costs" means the reasonable costs of incremental expenditures incurred by members of the Third Rural Transport Project Steering Committee, PDOTs and DDOTs in carrying out the Project (which expenditures would not have been incurred absent the Project), including: cost of renting facilities, communication, office consumables, translation and interpretation, operating vehicles, travel and per diem, but excluding salaries and salary supplements of civil servants.

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 Administrator may require withdrawals from the DFID Grant Account to be made on the basis of statements of expenditure, for expenditures for: (a) goods costing less than \$150,000 equivalent per contract; (b) works costing less than \$300,000 equivalent per contract; (c) for services of individual consultants costing less than \$50,000 equivalent per contract; (d) for

services of consulting firms under contracts costing less than \$100,000 equivalent per contract; and (e) training and workshops and Incremental Operating Costs, all under such terms and conditions as the Administrator shall specify by notice to the Recipient.

5. The Recipient may request withdrawals from the DFID Grant Account to be made on the basis of reports to be submitted to the Administrator in form and substance satisfactory to the Administrator, such reports to include the FMR and any other information as the Administrator shall specify by notice to the Recipient (“Report-based Disbursements”). In the case of the first such request submitted to the Administrator before any withdrawal has been made from the DFID Grant Account, the Recipient shall submit to the Administrator only a statement with the projected sources and applications of funds for the Project for the six-month period following the date of such request.

B. Special Account

1. The Recipient may open and maintain in Dollars a special deposit account in a commercial bank acceptable to the Administrator, on terms and conditions satisfactory to the Administrator, including appropriate protection against set-off, seizure and attachment.

2. After the Administrator has received evidence satisfactory to it that the Special Account has been opened, withdrawals from the DFID Grant Account of amounts to be deposited into the Special Account shall be made as follows:

(a) if the Recipient is not making Report-based Disbursements, withdrawals shall be made in accordance with the provisions of Annex A to this Schedule; and

(b) if the Recipient is making Report-based Disbursements, withdrawals shall be made in accordance with the provisions of Annex B to this Schedule.

3. Payments out of the Special Account shall be made exclusively for Eligible Expenditures. For each payment made by the Recipient out of the Special Account, the Recipient shall, at such time as the Administrator shall reasonably request, furnish to the Administrator such documents and other evidence showing that such payment was made exclusively for Eligible Expenditures.

4. Notwithstanding the provisions of Part B.2 of this Schedule, the Administrator shall not be required to make further deposits into the Special Account:

(a) if the Administrator, at any time, is not satisfied that the reports referred to in Part A.5 of this Schedule adequately provide the information required for Report-based Disbursements;

(b) if the Administrator determines at any time that all further withdrawals for payment of Eligible Expenditures should be made by the Recipient directly from the DFID Grant Account; or

(c) if the Recipient shall have failed to furnish to the Administrator, within the period of time specified in Section 4.01(b)(ii) of this Agreement, any of the audit reports required to be furnished to the Administrator pursuant to said Section in respect of the audit of: (A) the records and accounts for the Special Account; or (B) the records and accounts reflecting expenditures with respect to which withdrawals were Report-based Disbursements or were made on the basis of statements of expenditure, as the case may be.

5. The Administrator shall not be required to make further deposits into the Special Account in accordance with the provisions of Part B.2 of this Schedule if, at any time, the Administrator shall have notified the Recipient of its intention to suspend in whole or in part the right of the Recipient to make withdrawals from the DFID Grant Account pursuant to Section 6.02 of the General Conditions. Upon such notification, the Administrator shall determine, in its sole discretion, whether further deposits into the Special Account may be made and what procedures should be followed for making such deposits, and shall notify the Recipient of its determination.

6. (a) If the Administrator determines at any time that any payment out of the Special Account was made for an expenditure which is not an Eligible Expenditure, or was not justified by the evidence furnished to the Administrator, the Recipient shall, promptly upon notice from the Administrator, provide such additional evidence as the Administrator may request, or deposit into the Special Account (or, if the Administrator shall so request, refund to the Administrator) an amount equal to the amount of such payment. Unless the Administrator shall otherwise agree, no further deposit by the Administrator into the Special Account shall be made until the Recipient has provided such evidence or made such deposit or refund, as the case may be.

(b) If the Administrator determines at any time that any amount outstanding in the Special Account will not be required to cover payments for Eligible Expenditures during the six-month period following such determination, the Recipient shall, promptly upon notice from the Administrator, refund to the Administrator such outstanding amount.

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

(d) Refunds to the Administrator made pursuant to subparagraph (a), (b) or (c) of this paragraph 6 shall be credited to the DFID Grant Account for subsequent withdrawal or for cancellation in accordance with the provisions of the Credit Agreement.

**Annex A
to the
SCHEDULE**

**Operation of Special Account
When Withdrawals Are Not
Report-based Disbursements**

1. For the purposes of this Annex, the term “Authorized Allocation” means the amount of \$2,400,000 to be withdrawn from the DFID Grant Account and deposited into the Special Account pursuant to paragraph 2 of this Annex.
2. 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 Recipient shall furnish to the Administrator a request or requests for deposit into the Special Account of an amount or amounts which in the aggregate do not exceed the Authorized Allocation. On the basis of each such request, the Administrator shall, on behalf of the Recipient, withdraw from the DFID Grant Account and deposit into the Special Account such amount as the Recipient shall have requested.
 - (b) For replenishment of the Special Account, the Recipient shall furnish to the Administrator requests for deposit into the Special Account at such intervals as the Administrator shall specify. Prior to or at the time of each such request, the Recipient shall furnish to the Administrator the documents and other evidence required pursuant to Part B.3 of the Schedule to this Agreement for the payment or payments in respect of which replenishment is requested. On the basis of each such request, the Administrator shall, on behalf of the Recipient, withdraw from the DFID Grant Account and deposit into the Special Account such amount as the Recipient 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. Each such deposit into the Special Account shall be withdrawn by the Administrator from the DFID Grant Account under one (1) or more of the Eligible Categories.
3. The Administrator shall not be required to make further deposits into the Special Account, once the total unwithdrawn amount of the Credit minus the total amount of all outstanding special commitments entered into by the Administrator pursuant to Section 5.02 of the General Conditions shall equal the equivalent of twice the amount of the Authorized Allocation. Thereafter, withdrawal from the DFID Grant Account of the remaining unwithdrawn amount of the Credit shall follow such procedures as the Administrator shall specify by notice to the Recipient. Such further withdrawals shall be made only after and to the extent that the Administrator 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.

**Annex B
to the
SCHEDULE**

**Operation of Special Account
When Withdrawals Are
Report-based Disbursements**

1. Withdrawals from the DFID Grant Account shall be deposited by the Administrator into the Special Account in accordance with the provisions of the Schedule to this Agreement. Each such deposit into the Special Account shall be withdrawn by the Administrator from the DFID Grant Account under one or more of the Eligible Categories.

2. Upon receipt of each application for withdrawal of an amount of the Credit, the Administrator shall, on behalf of the Borrower, withdraw from the DFID Grant Account and deposit into the Special Account an amount equal to the lesser of: (a) the amount so requested; and (b) the amount which the Administrator has determined, based on the reports referred to in Part A.5 of this Schedule applicable to such withdrawal application, is required to be deposited in order to finance Eligible Expenditures during the three-month period following the date of such reports.