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CREDIT NUMBER 3448-1-VN

# Financing Agreement

(Additional Financing for Mekong Transport and Flood Protection Project)

between

**SOCIALIST REPUBLIC OF VIETNAM**

and

**INTERNATIONAL DEVELOPMENT ASSOCIATION**

Dated \_\_\_\_\_, 200\_





**CREDIT NUMBER 3448-1-VN**

**FINANCING AGREEMENT**

Agreement dated \_\_\_\_\_, 200\_, entered into between SOCIALIST REPUBLIC OF VIETNAM (“Recipient”) and INTERNATIONAL DEVELOPMENT ASSOCIATION (“Association”) for the purpose of providing additional financing for activities related to the Original Project (as defined in the Appendix to this Agreement). 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 Sixteen million four hundred thousand Special Drawing Rights (SDR 16,400,000) (variously, “Additional Credit” and “Financing”) to assist in financing Parts A.1(b) and A.2(c)(ii) of 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 The Service Charge payable by the Recipient on the Withdrawn Credit Balance shall be equal to three-fourths of one percent (3/4 of 1%) per annum.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 Dollars.

**ARTICLE III — PROJECT**

- 3.01. The Recipient declares its commitment to the objectives of the Project. To this end, the Recipient shall carry out Parts A.1(b) and A.2(c)(ii) of the Project through MOT.
- 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 Parts A.1(b) and A.2(c)(ii) of the Project are carried out in accordance with the provisions of Schedule 2 to this Agreement.

**ARTICLE IV — EFFECTIVENESS; TERMINATION**

- 4.01. The Additional Legal Matters consist of the following:
  - (a) the Additional RAP has been duly adopted by MOT and Ca Mau Province; and
  - (b) The Additional RAP is legally binding on the Recipient and the Ca Mau Province.
- 4.02. The Effectiveness Deadline is the date ninety (90) days after the date of this Agreement.

**ARTICLE V — REPRESENTATIVE; ADDRESSES**

- 5.01. The Recipient's Representative is the Governor, or a Deputy Governor, of State Bank of Vietnam.

5.02. The Recipient's Address is:

State Bank of Vietnam  
49 Ly Thai To  
Hanoi, Vietnam

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

5.03. 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 Washington, D.C.	248423 (MCI)	1-202-477-6391

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

SOCIALIST REPUBLIC OF VIETNAM

By

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By

Authorized Representative

## SCHEDULE 1

### Project Description

The objectives of the Project are to assist the Recipient to: (i) complete the rehabilitation of Highway 1, including increase protection for certain flood-prone segments; and (ii) improve the efficiency of the regional transport network in the Mekong Delta.

The Project consists of the Original Project, subject to the following revisions of Parts A.1(a) and A.2(c) of Schedule 2 to the Original Development Credit Agreement:

(a) Part A.1 of Schedule 2 to the Original Development Credit Agreement the Project is amended by deleting “.” appearing at the end of the sentence in said Part A.1 adding “, and (b) construction of the Ganh Hao II Bridge in Ca Mau City” at the end of the sentence.

(b) Part A.2(c) of Schedule 2 to the Original Development Credit Agreement the Project is amended by replacing the phrase “128 km of selected sections of national and provincial roads” with “(i) 71 km of selected sections of national and provincial roads and (ii) 58 km of selected sections of national and provincial roads, all” in said Part A.2(c).

Accordingly, Parts A and B of the Project are restated as follows:

“Part A: Rehabilitation and Upgrading of National and Provincial Roads

1. (a) Upgrading of about 180 kilometers (km) of Highway 1 between the cities of Can Tho and Ca Mau in the Mekong Delta, including rehabilitation or replacement of existing bridges; and (b) construction of the Ganh Hao II Bridge in Ca Mau City.

2. Improvement of the regional transport network in the Mekong Delta, consisting of:

(a) Improvement of the wearing course of the road between Ca Mau and Cai Ran, and of the pavement of the road between Cai Ran and Dam Cung;

(b) Construction of the road between Dam Cung and Nam Can; and

(c) Rehabilitation of about: (i) 71 km of selected sections of national and provincial roads; and (ii) 58 km of selected sections of national and provincial roads, all in the extended road transport system of the Mekong Delta.

3. Improvement of about 40 km of flood-prone sections of Highway 1 between the cities of Dong Ha and Quang Ngai in the coastal area of central Vietnam.

4. (a) Carrying out a program of resettlement and rehabilitation of Affected Persons under Parts A.1, A.2 (b), and A.3 of the Project.

(b) Undertaking a review of resettlement activities completed in connection with the road between Ca Mau and Dam Cung.

**Part B: Institutional Strengthening**

1. Carrying out of a program to strengthen the capacity of the Ministry of Transport and its related agencies for long-term strategy and planning and for management, through the provision of equipment, technical assistance and training.

2. Carrying out of the second phase of the program to develop and implement new road and bridge design standards, through the provision of technical assistance and training.

3. Carrying out of the third phase of the program to enhance road safety, through the removal and upgrading of hazardous locations, provision of road safety equipment, and technical assistance and training in the development and implementation of traffic safety audit and remedial measures.

4. Carrying out of the second phase of the program to develop and enforce axle-load regulations, through the construction of three permanent weigh stations along Highway 1, and provision of equipment and training.

5. Undertaking preparation of a road network improvement project through the provision of consultants' services.

6. Provision of support to PMU 1 in project implementation.”

**SCHEDULE 2****Project Execution****Section I. Implementation Arrangements****A. Institutional Arrangements.**

1. The Recipient shall carry out Parts A.1(b) and A.2(c)(ii) of the Project in accordance with an implementation plan satisfactory to the Association.
2. The Recipient shall, at all times during the implementation of Parts A.1(b) and A.2(c)(ii) of the Project, maintain the PMU 1, managed and staffed by qualified personnel, in adequate number, and provided with sufficient resources, satisfactory to the Association, to be responsible for the management of said Parts of the Project, including without limitation procurement activities, financial management, training, implementation of the Additional RAP and Additional EMP, coordination of implementing units at different administrative levels, and monitoring and reporting on the implementation of the said Parts of the Project.

**B. Anti-Corruption.**

1. The Recipient shall ensure that Parts A.1(b) and A.2(c)(ii) of the Project are carried out in accordance with the provisions of the Anti-Corruption Guidelines.

**C. Environment and Resettlement .**

1. With respect to the implementation of Part A.1(b) of the Project, the Recipient shall carry out the following and cause the following to be carried out:
  - (a) implement the Additional EMP in a manner satisfactory to the Association, and necessary to ensure that Part A.1(b) of the Project is implemented in accordance with sound environmental practices and standards;
  - (b) provide to the Association for its prior review any revision proposed to be introduced into the Additional EMP in order to achieve its objectives, and thereafter introduce only such revision into the documents as shall have been agreed with the Association; and
  - (c) maintain policies and procedures adequate to enable it to monitor and evaluate, in accordance with guidelines acceptable to the Association, the implementation of the Additional EMP and the achievement of its objectives.



2. The Recipient shall carry out the following and cause the following to be carried out:
  - (a) prior to commencing any works under Part A.1(b) of the Project, implement the Additional RAP, in a manner satisfactory to the Association;
  - (b) provide to the Association for its prior review any revision proposed to be introduced into the Additional RAP to achieve its objectives, and thereafter introduce only such revision into the Additional RAP as shall have been agreed with the Association; and
  - (c) maintain policies and procedures adequate to enable it to monitor and evaluate, in accordance with guidelines acceptable to the Association, the implementation of the Additional RAP and the achievement of its respective objectives.

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

### **A. Project Reports**

1. The Recipient shall monitor and evaluate the progress of Part A.1(b) and A.2(c)(ii) of the Project and prepare Project Reports in accordance with the provisions of Section 4.08 of the General Conditions and on the basis of the indicators agreed with the Association. Each Project Report shall cover the period of one (1) calendar quarter, and shall be furnished to the Association not later than forty-five (45) days after the end of the period covered by such report.

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

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

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

<b><u>Procurement Method</u></b>
(a) National Competitive Bidding, subject to additional provisions set forth in the Annex to this Schedule 2.

#### **C. Particular Methods of Procurement of Consultants' Services**

1. **Quality- and Cost-based Selection.** Consultants' services shall be procured under contracts awarded on the basis of Quality- and Cost-based Selection.

**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) Works	15,850,000	90%
(2) Consultants’ services for Part A.1(b) of the Project	550,000	100%
<b>TOTAL AMOUNT</b>	<u>16,400,000</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.
2. The Closing Date is December 31, 2010.

## **National Competitive Bidding Procedures**

The procedure to be followed for National Competitive Bidding shall be those set forth in Article 18 on Open Bidding of the *Law on Procurement 61 / 2005/QH11* dated November 29, 2005 and *Decree 111/2006/ND-CP, Guiding Implementation of Law on Procurement and Selection of Contractor Bidder in Accordance with Law on Construction* dated September 29, 2006 (collectively, “National Procurement Laws”) with due consideration to economy, efficiency and transparency as set forth in, and broad consistency with, Section I of the of the “Guidelines for Procurement under IBRD Loans and IDA Credits” published by the Association in May 2004 and revised in October 2006 (the Guidelines) and required by paragraphs 3.3 and 3.4 of the Guidelines. Whenever any procedure in the National Procurement Laws is inconsistent with the requirements of said paragraphs 3.3 and 3.4 of the Guidelines, the latter shall prevail, including the following:

### Eligibility

(i) The eligibility of bidders shall be as defined under Section I of the Guidelines; accordingly, no bidder or potential bidder shall be declared ineligible for contracts financed by the Association for reasons other than those provided in Section I of the Guidelines. Foreign bidders shall be eligible to participate in bidding under the same conditions as national bidders. In particular, no domestic preference over foreign bidders shall be granted to national bidders in bid evaluation, nor shall foreign bidders be asked or required to form joint ventures with national bidders in order to submit a bid. Bidders located in the same province or city as the procuring entity shall not be given preference over bidders located outside that city or province.

(ii) In addition to the foregoing requirements, equitized Government-owned enterprises in which the Recipient or procuring entity holds less than fifty percent of the shares are eligible to participate provided that that the governing Board and management team are autonomous from the procuring entity. Military or security units or enterprises established under, reporting directly or indirectly to, or owned wholly or partly by, the Ministry of Defense or the Ministry of Public Security shall not be permitted to bid.

### Registration

(iii) Registration shall not be used to assess bidders’ qualifications. A foreign bidder shall not be required to register as a condition for submitting its bid and, if determined to be the lowest evaluated responsive bidder, shall be given reasonable opportunity of registering, without any let or hindrance. Bidding shall not be restricted to any particular class of contractors, and non-classified contractors shall also be eligible to bid.

### Advertising: Time for Bid Preparation

(iv) Invitations to bid shall be advertised in at least one widely circulated national newspaper, allowing a minimum of thirty (30) days, from the date of the invitation to bid or the date of availability of the bidding documents, whichever is later, for the preparation and submission of bids, and potential bidders shall be allowed to purchase bidding documents up to any time prior to the deadline for the submission of bids. In addition, the Recipient is encouraged to advertise in the Government Public Procurement Bulletin and on a free and open access website.

Standard Bidding Documents

(v) Standard Bidding Documents, acceptable to the Association, shall be used.

Qualification Criteria

(vi) Qualification criteria shall be clearly specified in the bidding documents, and all criteria so specified, and only such specified criteria, shall be used to determine whether a bidder is qualified. Qualification shall be assessed on a pass or fail basis and merits points shall not be used. Such assessment shall only take into account the bidder's capacity and resources to perform the contract, specifically its experience and past performance on similar contracts, capabilities with respect to personnel, equipment and construction and manufacturing facilities, and financial capacity.

Bid Submission, Bid Opening and Bid Evaluation

(vii) Bidders may submit bids, at their option, either in person or by courier service or by mail. Bids shall be opened in public, immediately after the deadline for submission of bids. Bids received after the deadline for bid submission shall be rejected and returned to the bidders unopened.

(a) Bidding documents shall be sold to anyone who is willing to pay the required fee of the bidding documents which shall not exceed the costs of printing, reproduction and delivery, and no other conditions shall be imposed on the sale of the bidding documents.

(b) Evaluation of bids shall be made in strict adherence to the criteria that shall be clearly specified in the bidding documents and quantified in monetary terms for evaluation criteria other than price; merit points shall not be used in bid evaluation.

(c) A contract shall be awarded to the technically responsive bid that offers the lowest evaluated price and no negotiations shall be permitted. A bidder shall not be required, as a condition for award, to undertake obligations not specified

in the bidding documents or otherwise to modify the bid as originally submitted.

(d) A bidder shall not be eliminated from detailed evaluation on the basis of minor, non-substantial deviations.

(e) No bidder shall be rejected on the basis of a comparison with the employer's estimate and budget ceiling without the Association's prior concurrence.

(f) A copy of the minutes of the public bid opening shall be promptly provided to all bidders who submitted bids, and to the Association with respect to contracts subject to prior review.

#### Rejection of All Bids and Re-bidding

(viii) All bids shall not be rejected or new bids solicited without the Association's prior written concurrence.

#### Complaints by Bidders and Handling of Complaints

(ix) The Recipient shall implement an effective and independent protest mechanism allowing bidders to protest and to have their protests handled in a timely manner.

#### Fraud and Corruption

(x) The Association shall declare a firm or individual ineligible, either indefinitely or for a stated period, to be awarded a contract financed by the Association, if it at any time determines that the firm or individual has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for, or in executing, a contract financed by the Association.

#### Right to Inspect/Audit

(xi) Each bidding document and contract financed from the proceeds of a Credit shall include a provision requiring bidders, suppliers, contractors and subcontractors to permit the Association, at its request, to inspect their accounts and records relating to the bid submission and performance of the contract and to have said accounts and records audited by auditors appointed by the Association. The deliberate and material violation by the bidder, supplier, contractor or subcontractor of such provision may amount to obstructive practice.

License

(xii) Foreign contractors shall be given a reasonable opportunity to apply for and obtain license, which shall not be arbitrarily withheld.

Publication of the Award of Contract

(xiii) The Recipient shall publish the following information on contract award in the Government Public Procurement Bulletin or on a free and open access website or on another means of publication acceptable to the Association: (a) name of each bidder who submitted a bid; (b) bid prices as read out at bid opening; (c) name and evaluated price of each bid that was evaluated; (d) name of bidders whose bids were rejected and the reasons for their rejection; and (e) name of the winning bidder, price it offered as well as the duration and summary scope of the contract awarded. This publication shall be updated regularly.

**SCHEDULE 3**

**Repayment Schedule**

<u><b>Date Payment Due</b></u>	<b>Principal Amount of the Credit repayable (expressed as a percentage)*</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 percentage of the principal amount of the Credit to be repaid, except as the Association may otherwise specify pursuant to Section 3.03(b) of the General Conditions.



## APPENDIX

### Definitions

1. “Additional EMP” means the environmental management plan dated April 25, 2007, for carrying out of Parts A.1(b) of the Project by MOT in Ca Mau Province and referred to in paragraph C.4 of Section I of Schedule 2 to this Agreement and approved by MOT through its official letter Ref: 2966/BGTVTT-KHCN dated May 17, 2007, and adopted by the Ca Mau Provincial People’s Committee through official letters Ref: 1249/UBND dated April 19, 2007.
2. “Additional RAP” means the resettlement action plan dated April 18, 2007, for carrying out of Parts A.1(b) of the Project by MOT in Ca Mau Province and referred to in paragraph C.2 of Section I of Schedule 2 to this Agreement and approved by MOT through its official letter Ref: 2407/BGTVT-KHDT and dated May 8, 2007, and endorsed by the Ca Mau Provincial People’s Committee through official letter Ref: 1532/UBND dated May 14, 2007.
3. “Anti-Corruption Guidelines” means the “Guidelines on Preventing and Combating Fraud and Corruption in Projects Financed by IBRD Loans and IDA Credits and Grants”, dated October 15, 2006.
4. “Category” means a category set forth in the table in Section IV of Schedule 2 to this Agreement.
5. “Consultant Guidelines” means the “Guidelines: Selection and Employment of Consultants by World Bank Borrowers” published by the Bank in May 2004 and revised in October 2006.
6. “General Conditions” means the “International Development Association General Conditions for Credits and Grants”, dated July 1, 2005 (as amended through October 15, 2006).
7. “Original Development Credit Agreement” means the development credit agreement for the Original Project between the Recipient and the Association, dated July 5, 2001, as amended to the date of this Agreement (Credit No. 3448-VN).
8. “Original Project” means the Project described in the Original Development Credit Agreement.

9. The acronym “MOT” means the Recipient’s Ministry of Transport, and any successor thereto.
  
10. “PMU1” means the project management unit established within MOT to administer works for the Recipient’s National Highway No.1, including procurement of goods, works and services, maintenance of project accounts, preparation of project reports, supervision of contract management and resettlement and rehabilitation activities, and any successor thereto.
  
11. “Procurement Guidelines” means the “Guidelines: Procurement under IBRD Loans and IDA Credits” published by the Bank in May 2004 and revised in October, 2006.
  
12. “Procurement Plan” means the Recipient’s procurement plan for Parts A.1(b) and A.2(c)(ii) of the Project, dated May 22, 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.