

**CONFORMED COPY**

---

---

**CREDIT NUMBER 4580-VN**

# **Financing Agreement**

**(Second Program 135 Phase II Support Development Policy Financing)**

**between**

**SOCIALIST REPUBLIC OF VIETNAM**

**and**

**INTERNATIONAL DEVELOPMENT ASSOCIATION**

**Dated July 9, 2009**

---

---

## **FINANCING AGREEMENT**

AGREEMENT dated July 9, 2009, entered into between SOCIALIST REPUBLIC OF VIETNAM (“Recipient”) and INTERNATIONAL DEVELOPMENT ASSOCIATION (“Association”) for the purpose of providing financing in support of the Program (as defined in the Appendix to this Agreement). The Association has decided to provide this financing on the basis, inter alia, of (a) the actions which the Recipient has already taken under the Program and which are described in Section I of Schedule 1 to this Agreement, and (b) the Recipient’s maintenance of an appropriate macro-economic policy framework. The Recipient and the Association therefore 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 sixty-six million nine hundred thousand Special Drawing Rights (SDR 66,900,000) (variously, “Credit” and “Financing”).
- 2.02. The Recipient may withdraw the proceeds of the Financing in support of the Program in accordance with Section II of Schedule 1 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 The Service Charge payable by the Recipient on the Withdrawn Credit Balance shall be equal to three-fourths of one percent (3/4 of 1%) per annum.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 May 15 and November 15 in each year.
- 2.06. The principal amount of the Credit shall be repaid in accordance with repayment schedule set forth in Schedule 2 to this Agreement.

2.07. The Payment Currency is Dollars.

### **ARTICLE III — PROGRAM**

3.01. The Recipient declares its commitment to the Program and its implementation. To this end:

- (a) the Recipient and the Association shall from time to time, at the request of either party, exchange views on the progress achieved in carrying out the Program;
- (b) prior to each such exchange of views, the Recipient shall furnish to the Association for its review and comment a report on the progress achieved in carrying out the Program, in such detail as the Association shall reasonably request; and
- (c) without limitation upon the provisions of paragraphs (a) and (b) of this Section, the Recipient shall promptly inform the Association of any situation that would have the effect of materially reversing the objectives of the Program or any action taken under the Program including any action specified in Section I of Schedule 1 to this Agreement.

### **ARTICLE IV — REMEDIES OF THE ASSOCIATION**

4.01. The Additional Event of Suspension consists of the following: namely that a situation has arisen which shall make it improbable that the Program, or a significant part of it, will be carried out.

### **ARTICLE V — EFFECTIVENESS; TERMINATION**

5.01. 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 Lý Thái Tổ

Hà Nội, Vietnam

Cable:	Telex:	Facsimile:
VIETBANK Hanoi	412248 NHTWVT	(84-4) 3 825 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 address:	Telex:	Facsimile:
INDEVAS Washington, D.C.	248423(MCI)	(1-202) 477-6391

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

SOCIALIST REPUBLIC OF VIETNAM

By: /s/ Nguyen Van Giau

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By: /s/ Victoria Kwakwa

Authorized Representative

**SCHEDULE 1****Program Actions; Availability of Financing Proceeds****Section I. Actions under the Program**

The actions taken by the Recipient under the Program include the following:

**A. Poverty Targeting**

1. The Recipient, through MOF, has allocated 6.3% of its FY 2008 budget earmarked for the infrastructure activities under the Program 135 Phase II, for operation and maintenance of the infrastructure facilities built under the Program 135 Phase II.
2. The Recipient, through State Treasury in MOF, has issued Guidelines 319/KBNN-KHTH, dated March 4, 2009, for the management and disbursement of funds under Program 135 Phase II, including the funds allocated for the operation and maintenance expenditures referred to in paragraph A.1 above.
3. To support the implementation of agriculture production aspects of Inter-ministerial Circular 01, the Recipient, through MARD, has issued Circular 12/2009/TT-BNN, dated March 6, 2009, which includes , *inter alia*, transparent criteria for selecting beneficiaries and activities to be supported by the Program 135 Phase II, and guidance on beneficiary cost sharing.

**B. Decentralization, Participation and Empowerment**

4. The Recipient, through CEM, MPI, MOF, MOC and MARD, has issued Inter-ministerial Circular 01 in 2008, which includes, inter alia: (i) the criteria for communes to be granted investment ownerships for projects managed by single communes; and (ii) the requirement that districts second their staff to provide support to communes not yet meeting the criteria for being investment owners.

**C. Fiduciary Transparency and Accountability**

5. The Recipient, through CEM, has issued a manual providing guidance on implementing procurement aspects of Inter-ministerial Circular 01, including procurement planning requirements and measures to ensure transparent procurement process.

6. (a) The Recipient, through SAV, conducted an annual audit in 2008 covering at least ten (10) Participating Provinces; and (b) eight (8) Participating Provinces audited by SAV in 2007 have submitted to SAV reports on their implementation of recommendations made in the 2007 annual audit, said reports covering, inter alia, the status of funds required by the State Budget Law to be reimbursed by relevant provinces to the State Budget.

**D. Monitoring and Evaluation**

7. The Recipient, through CEM, has conducted a mid-term review of the Program 135 Phase II based on a baseline survey and participatory stakeholders' assessment of progress made under the Program 135 Phase II.
8. The Recipient, through CEM, has carried out a citizen report-card survey, and conducted regional lessons and experience sharing to inform the mid-term review for the Program 135 Phase II.

**Section II. Availability of Financing Proceeds**

- A. General.** The Recipient may withdraw the proceeds of the Financing in accordance with the provisions of this Section and such additional instructions as the Association may specify by notice to the Recipient.
- B. Allocation of Financing Amounts.** The Financing shall be withdrawn in a single tranche. The allocation of the amounts of the Financing to this end is set out in the table below:

<b>Allocations</b>	<b>Amount of the Financing Allocated (expressed in SDR)</b>
Single Tranche	66,900,000
<b>TOTAL AMOUNT</b>	<b>66,900,000</b>

**C. Deposits of Financing Amounts.**

1. The Recipient shall open, prior to furnishing to the Association the first request for withdrawal from the Financing Account, and thereafter maintain a deposit account in Dollars ("Foreign Currency Deposit Account") on terms and conditions satisfactory to the Association.
2. All withdrawals from the Financing Account shall be deposited by the Association into said Foreign Currency Deposit Account. Upon each deposit of an amount of the Financing into the Foreign Currency Deposit

Account, the Recipient shall deposit an equivalent amount in local currency into an account of the Recipient within its budget management system to finance budgeted expenditures.

- D. Audit.** Upon the Association's request, the Recipient shall:
1. have the Foreign Currency Deposit Account audited by independent auditors acceptable to the Association, in accordance with consistently applied auditing standards acceptable to the Association;
  2. furnish to the Association as soon as available, but in any case not later than four (4) months after the date of the Association's request for such audit, a certified copy of the report of such audit, of such scope and in such detail as the Association shall reasonably request; and
  3. furnish to the Association such other information concerning the Foreign Currency Deposit Account and its audit as the Association shall reasonably request.
- E. Excluded Expenditures.** The Recipient undertakes that the proceeds of the Financing shall not be used to finance Excluded Expenditures. If the Association determines at any time that an amount of the Financing was used to make a payment for an Excluded Expenditure, the Recipient shall, promptly upon notice from the Association, refund an amount equal to the amount of such payment to the Association. Amounts refunded to the Association upon such request shall be cancelled.
- F. Closing Date.** The Closing Date is December 31, 2009.



**SCHEDULE 2****Repayment Schedule**

<b>Date Payment Due</b>	<b>Principal Amount of the Credit repayable (expressed as a percentage)*</b>
On each May 15 and November 15:	
commencing November 15, 2019 to and including May 15, 2029	1%
commencing November 15, 2029 to and including May 15, 2049	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

### Section I. Definitions

1. “CEM” means the Recipient’s Committee for Ethnic Minorities, the Recipient’s central agency charged with managing and supervising the implementation of Program 135 Phase II with the support from and in coordination with the Ministries of Planning and Investment, of Finance, of Agriculture and Rural Development and of Construction; and any successor thereto.
2. “Excluded Expenditure” means any expenditure:
  - (a) for goods or services supplied under a contract which any national or international financing institution or agency other than the Association or the Bank has financed or agreed to finance, or which the Association or the Bank has financed or agreed to finance under another credit, grant or loan;
  - (b) for goods included in the following groups or sub-groups of the Standard International Trade Classification, Revision 3 (SITC, Rev.3), published by the United Nations in Statistical Papers, Series M, No. 34/Rev.3 (1986) (the SITC), or any successor groups or sub-groups under future revisions to the SITC, as designated by the Association by notice to the Recipient:

Group	Sub-group	Description of Item
112		Alcoholic beverages
121		Tobacco, un-manufactured, tobacco refuse
122		Tobacco, manufactured (whether or not containing tobacco substitutes)
525		Radioactive and associated materials
667		Pearls, precious and semiprecious stones, unworked or worked
718	718.7	Nuclear reactors, and parts thereof; fuel elements (cartridges), non-irradiated, for nuclear reactors
728	728.43	Tobacco processing

		machinery
897	897.3	Jewelry of gold, silver or platinum group metals (except watches and watch cases) and goldsmiths' or silversmiths' wares (including set gems)
971		Gold, non-monetary (excluding gold ores and concentrates)

- (c) for goods intended for a military or paramilitary purpose or for luxury consumption;
  - (d) for environmentally hazardous goods, the manufacture, use or import of which is prohibited under the laws of the Recipient or international agreements to which the Recipient is a party;
  - (e) on account of any payment prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations; and
  - (f) with respect to which the Association determines that corrupt, fraudulent, collusive or coercive practices were engaged in by representatives of the Recipient or other recipient of the Financing proceeds, without the Recipient (or other such recipient) having taken timely and appropriate action satisfactory to the Association to address such practices when they occur.
3. "Foreign Currency Deposit Account" means the account referred to in paragraph C.1, Section II of Schedule 1 to this Agreement.
  4. "FY" means the Recipient's fiscal year starting from January 1 and ending on December 31.
  5. "General Conditions" means the "International Development Association General Conditions for Credits and Grants", dated July 1, 2005 (as amended through October 15, 2006) with the modifications set forth in Section II of this Appendix.
  6. "Inter-ministerial Circular 01" means the Circular 01/2008/TTLT-UBDT-KHĐT-TC-XD-NNPTNT of September 15, 2008, issued jointly by CEM, MPI, MOF, MOC and MARD, and referred to in paragraph B.4, Section I of Schedule 1 to this Agreement.

7. “MARD” means the Recipient’s Ministry of Agriculture and Rural Development, and any successor thereto.
8. “MOC” means the Recipient’s Ministry of Construction, and any successor thereto.
9. “MOF” means the Recipient’s Ministry of Finance, and any successor thereto.
10. “MPI” means the Recipient’s Ministry of Planning and Investment, and any successor thereto.
11. “Participating Provinces” means the provinces selected by the Recipient to participate in the Program 135 Phase II.
12. “Program” means the program of actions, objectives and policies designed to promote growth and achieve sustainable reductions in poverty, and set forth or referred to in the letter dated March 6, 2009 from the Recipient to the Association declaring the Recipient’s commitment to the execution of the Program, and requesting assistance from the Association in support of the Program during its execution.
13. “Program 135 Phase II” and “P 135-2” mean the Recipient’s Program for Socio-economic Development in Communes Facing Extreme Hardship in Ethnic Minority and Mountainous Areas (2006-2010), as approved by the Recipient’s Prime Minister under Decision No. 7/2006/QĐ-TTg of January 10, 2006.
14. “SAV” means the State Audit of Vietnam, and any successor thereto.
15. “Single Tranche” means the amount of the Financing allocated to the category entitled “Single Tranche” in the table in Part B, Section II of Schedule 1 to this Agreement.

## **Section II. Modifications to the General Conditions**

The modifications to the “International Development Association General Conditions for Credits and Grants”, dated July 1, 2005 (as amended through October 15, 2006) are as follows:

1. The last sentence of paragraph (a) of Section 2.03 (relating to Applications for Withdrawal) is deleted in its entirety.
2. Sections 2.04 (*Designated Accounts*) and 2.05 (*Eligible Expenditures*) are deleted in their entirety, and the remaining Sections in Article II are renumbered accordingly.

3. Sections 4.01 (*Project Execution Generally*), and 4.09 (*Financial Management; Financial Statements; Audits*) are deleted in their entirety, and the remaining Sections in Article IV are renumbered accordingly.
4. Paragraph (a) of Section 4.05 (renumbered as such pursuant to paragraph 3 above and relating to *Use of Goods, Works and Services*) is deleted in its entirety.
5. Paragraph (c) of Section 4.06 (renumbered as such pursuant to paragraph 3 above) is modified to read as follows:

“Section 4.06. *Plans; Documents; Records*

... (c) The Recipient shall retain all records (contracts, orders, invoices, bills, receipts and other documents) evidencing expenditures under the Financing until two years after the Closing Date. The Recipient shall enable the Association’s representatives to examine such records.”

6. Section 4.07 (renumbered as such pursuant to paragraph 3 above) is modified to read as follows:

“Section 4.07. *Program Monitoring and Evaluation*

... (c) The Recipient shall prepare, or cause to be prepared, and furnish to the Association not later than six months after the Closing Date, a report of such scope and in such detail as the Association shall reasonably request, on the execution of the Program, the performance by the Recipient and the Association of their respective obligations under the Legal Agreements and the accomplishment of the purposes of the Financing.”

7. The following terms and definitions set forth in the Appendix are modified or deleted as follows, and the following new terms and definitions are added in alphabetical order to the Appendix as follows, with the terms being renumbered accordingly:

- (a) The definition of the term “Eligible Expenditure” is modified to read as follows:

“‘Eligible Expenditure’ means any use to which the Financing is put in support of the Program, other than to finance expenditures excluded pursuant to the Financing Agreement.”

- (b) The term “Financial Statements” and its definition as set forth in the Appendix are deleted in their entirety.

- (c) The term “Project” is modified to read “Program” and its definition is modified to read as follows:

“‘Program’ means the program referred to in the Financing Agreement in support of which the Financing is made.” All references to “Project” throughout these General Conditions are deemed to be references to “Program”.