GRANT NUMBER 0317-VIE(EF)
GRANT NUMBER 0483-VIE(EF)

AMENDED AND RESTATED GRANT AGREEMENT

(Greater Mekong Subregion - Flood and Drought Risk Management and Mitigation Project)

(Viet Nam Component)

between

SOCIALIST REPUBLIC OF VIET NAM

and

ASIAN DEVELOPMENT BANK

DATED 20 July 2017

GRANT AGREEMENT

AMENDED AND RESTATED GRANT AGREEMENT dated _____ between SOCIALIST REPUBLIC OF VIET NAM ("Recipient") and ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS

(A) by an agreement dated 21 December 2012 herewith between the Recipient and ADB ("Loan Agreement"), ADB had agreed to lend to the Recipient from ADB's Special Funds resources an amount in various currencies equivalent to twenty-nine million six hundred fifty thousand Special Drawing Rights (SDR 29,650,000) for the purposes of the Project described in Schedule 1 to the Loan Agreement;

(B) the Government of Australia had agreed to make a grant to the Recipient in an amount equivalent of five million eight hundred eighty-seven thousand four hundred Dollars ($5,887,400) to be administered by ADB to finance Components 1, 3 and part of 4 of the Project described in Schedule 1 to the Loan Agreement ("Initial Grant"), upon the terms and conditions set forth in a grant agreement between the Borrower and ADB dated 21 December 2012 ("Initial Grant Agreement");

(C) ADB, upon the request from the Government of Australia, had cancelled a portion of the Initial Grant in an amount of four million nine hundred seventy-eight thousand four hundred seventy-nine Dollars and nineteen cents ($4,978,479.19), and had provided the new amount of the Grant as described in Section 2.01 of this Grant Agreement ("Australia Grant");

(D) the Recipient has further applied to the Integrated Disaster Risk Management Fund for a grant, to be administered by ADB, for the purposes of cofinancing the portion of the Project as described in Recital (B) of this Grant Agreement ("IDRM Grant", together with Australia Grant, "Grants");

(E) it has been agreed between the Recipient and ADB that certain amendments are required to be made in the terms and conditions, scope and allocation of the Grants, and the amendments have been approved by the Recipient and ADB; and

(F) the parties agree that the Initial Grant Agreement is hereby amended and restated to provide for the approved amendments to the terms and conditions, scope and allocation of the Grants;

NOW THEREFORE the parties agree as follows:

ARTICLE I

Grant Regulations; Definitions

Section 1.01. All provisions of the Externally Financed Grant Regulations of ADB, dated 8 April 2009 ("Grant Regulations"), are hereby made applicable to this Grant Agreement with the same force and effect as if they were fully set forth herein.

Section 1.02. The definitions set forth in the Grant Regulations and the Loan Agreement are applicable to this Grant Agreement unless the context requires otherwise.

ARTICLE II

The Grants

Section 2.01. ADB agrees to make available to the Recipient the Grants (a) from the Government of Australia in an amount of nine hundred eight thousand nine hundred twenty Dollars and eighty-one cents ($908,920.81); and (b) from the Integrated Disaster Risk Management Fund in an amount of one million eight hundred thousand Dollars ($1,800,000).

ARTICLE III

Use of Proceeds of the Grants

Section 3.01. (a) The Recipient shall cause the proceeds of the Grants to be applied to the financing of expenditures on the Project in accordance with the provisions of this Grant Agreement.

(b) The Recipient agrees that the proceeds of the Australia Grant may be used to pay ADB's administration fees and other charges pursuant to the cofinancing agreement between ADB and the Government of Australia, and that the proceeds of the IDRM Grant may be used to pay any charges pursuant to the Board Paper to establish the Integrated Disaster Risk Management Fund. ADB shall be entitled to withdraw from the respective Grant Accounts and pay to itself, on behalf of the Recipient, the amounts required to meet payments, when due, of such administration fees and other charges.

Section 3.02. The proceeds of the Grants shall be allocated and withdrawn in accordance with the provisions of Schedule 1 to this Grant Agreement, as such Schedule may be amended from time to time by agreement between the Recipient and ADB.

Section 3.03. Except as ADB may otherwise agree, the Recipient shall procure, or cause to be procured, the items of expenditure to be financed out of the

proceeds of the Grants in accordance with the provisions of Schedule 4 to the Loan Agreement.

Section 3.04. The Grant Closing Date for the purposes of Section 8.02 of the Grant Regulations shall be 31 December 2018 or such other date as may from time to time be agreed between the Recipient and ADB.

ARTICLE IV

Particular Covenants

Section 4.01. In the carrying out of the Project and operation of the Project facilities, the Recipient shall perform, or cause to be performed, all obligations set forth in Schedule 2 to this Grant Agreement and Schedule 5 to the Loan Agreement.

Section 4.02. (a) The Recipient shall (i) maintain separate accounts and records for the Project; (ii) prepare annual financial statements for the Project in accordance with financial reporting standards acceptable to ADB; (iii) have such financial statements audited annually by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB, in accordance with auditing standards acceptable to ADB; (iv) as part of each such audit, have the auditors prepare a report, which includes the auditors' opinion(s) on the financial statements and the use of the Grant proceeds, and a management letter (which sets out the deficiencies in the internal control of the Project that were identified in the course of the audit, if any); and (v) furnish to ADB, no later than 6 months after the end of each related fiscal year, copies of such audited financial statements, audit report and management letter, all in the English language, and such other information concerning these documents and the audit thereof as ADB shall from time to time reasonably request.

(b) ADB shall disclose the annual audited financial statements for the Project and the opinion of the auditors on the financial statements within 14 days of the date of ADB's confirmation of their acceptability by posting them on ADB's website.

(c) The Recipient shall enable ADB, upon ADB's request, to discuss the financial statements for the Project and the Recipient's financial affairs where they relate to the Project with the auditors appointed pursuant to subsection (a)(iii) hereinabove, and shall authorize and require any representative of such auditors to participate in any such discussions requested by ADB. This is provided that such discussions shall be conducted only in the presence of an authorized officer of the Recipient, unless the Recipient shall otherwise agree.

Section 4.03. The Recipient shall enable ADB's representatives to inspect the Project, the goods financed out of the proceeds of the Grants, and any relevant records and documents.

Section 4.04. The Recipient acknowledges and agrees that this Grant Agreement is entered into by ADB, not in its individual capacity, but as grant administrator for the Government of Australia and trustee for the Integrated Disaster Risk Management Fund.

Accordingly, the Recipient agrees that (a) it may only withdraw Grant proceeds to the extent that ADB has received proceeds for the Grants from the Government of Australia and the Integrated Disaster Risk Management Fund, and (b) that ADB does not assume any obligations or responsibilities of the Government of Australia and the Integrated Disaster Risk Management Fund in respect of the Project or the Grants other than those set out in this Grant Agreement.

ARTICLE V

Suspension

Section 5.01. The following is specified as an additional event for suspension of the right of the Recipient to make withdrawals from the Grant Account for the purposes of Section 8.01(k) of the Grant Regulations: the loan financed under the Loan Agreement shall have become liable for suspension or cancellation or shall have become repayable prior to its agreed maturity date.

ARTICLE VI

Effectiveness

Section 6.01. The following is specified as an additional condition to the effectiveness of this Grant Agreement for the purposes of Section 9.01(e) of the Grant Regulations: the Loan Agreement shall have been duly executed and delivered, and all conditions precedent to its effectiveness, other than a condition requiring the effectiveness of this Grant Agreement, shall have been fulfilled or arrangements satisfactory to ADB shall have been made for the fulfillment thereof within a period of time satisfactory to ADB.

Section 6.02. A date 90 days after the date of this Grant Agreement is specified for the effectiveness of this Grant Agreement for the purposes of Section 9.04 of the Grant Regulations.

ARTICLE VII

Miscellaneous

Section 7.01. The Governor of the State Bank of Vietnam of the Recipient is designated as representative of the Recipient for the purposes of Section 11.02 of the Grant Regulations.

Section 7.02. The following addresses are specified for the purposes of Section 11.01 of the Grant Regulations:

For the Recipient

State Bank of Vietnam
47 – 49 Ly Thai To
Hanoi, Viet Nam

Facsimile Numbers:

(84-4) 38250-612
(84-4) 38258-385

For ADB

Asian Development Bank
6 ADB Avenue
Mandaluyong City
1550 Metro Manila
Philippines

Facsimile Number:
(632) 636-2444.

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Grant Agreement to be signed in their respective names as of the day and year first above written and to be delivered at the principal office of ADB.

SOCIALIST REPUBLIC OF VIET NAM

By _____
LE MINH HUNG
Governor
State Bank of Vietnam

ASIAN DEVELOPMENT BANK

By _____
for ERIC SIDGWICK
Country Director
Vietnam Resident Mission

SCHEDULE 1

Allocation and Withdrawal of Grant Proceeds

General

1. The tables attached to this Schedule sets forth the Categories of items of expenditures to be financed out of the proceeds of each of the Grants and the allocation of amounts of such Grant to each such Category ("Table"). (Reference to "Category" in this Schedule is to a Category or Subcategory of the Table.)

Percentages of Grant Financing

2. Except as ADB may otherwise agree, the items of the Categories listed in the Table shall be financed out of the proceeds of the Grants on the basis of the percentages set forth in the Table.

Reallocation

3. Notwithstanding the allocation of Grant proceeds and the withdrawal percentages set forth in the Table,

(a) if the amount of each of the Grants allocated to any Category appears to be insufficient to finance all agreed expenditures in that Category, ADB may, by notice to the Recipient, (i) reallocate to such Category, to the extent required to meet the estimated shortfall, amounts of the Grant which have been allocated to another Category but, in the opinion of ADB, are not needed to meet other expenditures, and (ii) if such reallocation cannot fully meet the estimated shortfall, reduce the withdrawal percentage applicable to such expenditures in order that further withdrawals under such Category may continue until all expenditures thereunder shall have been made; and

(b) if the amount of each of the Grants then allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, by notice to the Recipient, reallocate such excess amount to any other Category.

Disbursement Procedures

4. Except as ADB may otherwise agree, the Grant proceeds shall be disbursed in accordance with the Loan Disbursement Handbook.

Attachment 1 to Schedule 1

TABLE

ALLOCATION AND WITHDRAWAL OF GRANT PROCEEDS (Greater Mekong Subregion – Flood and Drought Risk Management and Mitigation Project)				
CATEGORY				GOVERNMENT OF AUSTRALIA FINANCING
Number	Item	Total Amount Allocated for Financing $		Percentage and Basis for Withdrawal from the Grant Account
		Category	Subcategory	
3	Vehicles for CBDRM	48,982.71		100 percent of total expenditure claimed*
6	Consultants	20,885.00		
6A	Consultants – project implementation (only for CBDRM consultant)		20,885.00	100 percent of total expenditure claimed*
8	Unallocated**	839,053.00		
	Total	908,920.81		

* Exclusive of taxes and duties imposed within the territory of the Recipient.

** This amount may be used towards administration fees and other charges to the extent that these items are not covered by interest and investment income earned by ADB on the Grant.

Attachment 2 to Schedule 1

TABLE

ALLOCATION AND WITHDRAWAL OF GRANT PROCEEDS (Greater Mekong Subregion – Flood and Drought Risk Management and Mitigation Project)				
CATEGORY				**IDRM FUND FINANCING**
Number	**Item**	**Total Amount Allocated for Financing $**		**Percentage and Basis for Withdrawal from the Grant Account**
		Category	**Subcategory**	
6	Consultants	1,800,000		100 percent of total expenditure claimed
6B	Consultants – Project implementation (Component 1 and 3)		1,800,000	100 percent of total expenditure claimed*
	Total	1,800,000		

* Exclusive of taxes and duties imposed within the territory of the Recipient.

SCHEDULE 2

Execution of Project

Implementation Arrangements

1. The Recipient and MARD shall ensure that the Project is implemented in accordance with the detailed arrangements set forth in the PAM. Any subsequent change to the PAM shall become effective only after approval of such change by the Recipient and ADB. In the event of any discrepancy between the PAM and this Grant Agreement, the provisions of this Grant Agreement shall prevail.