HB4953

CREDIT NUMBER 6028-VN
AMENDMENT CREDIT NUMBER 4474-VN

Financing Agreement

(Additional Financing for the Northern Delta Transport Development Project and Amendment to the Original Financing Agreement)

between

SOCIALIST REPUBLIC OF VIETNAM

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated June 23 **, 2017**

FINANCING AGREEMENT

AGREEMENT dated June 23 ,2017, entered into between SOCIALIST REPUBLIC OF VIETNAM ("Recipient") and INTERNATIONAL DEVELOPMENT ASSOCIATION ("Association") for the purpose of:

(a) providing additional financing for the Original Project (as such term is defined in the Appendix to this Agreement); and

(b) amending the Original Financing Agreement (as reflected in Section III of 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, the Original Financing Agreement, 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 of fifty-eight million two hundred thousand Special Drawing Rights (SDR58,200,000) (variously, "Credit" and "Financing"), to assist in financing 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 The Service Charge payable by the Recipient on the Withdrawn Credit Balance shall be equal to three-fourths of one percent (3/4 of 1%) per annum.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 The Interest Charge payable by the Recipient on the Withdrawn Credit Balance shall be equal to one and a quarter percent (1.25%) per annum.

2.06. The Payment Dates are May 1 and November 1 in each year.

2.07. The principal amount of the Credit shall be repaid in accordance with the repayment schedule set forth in Schedule 3 to this Agreement.

2.08. The Payment Currency is Dollar.

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 and C of the Project through MOT and Part B of the Project through the Project Provinces in accordance with the provisions of Article IV of the General Conditions.

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 the Project is carried out in accordance with the provisions of Schedule 2 to this Agreement.

ARTICLE IV — EFFECTIVENESS; TERMINATION

4.01. The Effectiveness Deadline is the date ninety (90) days after the date of this Agreement.

4.02. For purposes of Section 8.05 (b) of the General Conditions, the date on which the obligations of the Recipient under this Agreement (other than those providing for payment obligations) shall terminate is twenty (20) years 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 address:	Telex:	Facsimile:
VIETBANK	412248	(84-4) 3825 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

Name: Le Minh Hung

Title: Governor of the State Bank of Vietna

INTERNATIONAL DEVELOPMENT ASSOCIATION

By _____

Authorized Representative

Name: Ousmane Dione

Title: Country Director

SCHEDULE 1

Project Description

The objective of the Project is to assist the Recipient in enhancing the efficiency, environmental sustainability, and safety of transport infrastructure and services through the alleviation of physical and institutional bottlenecks in the Recipient's Northern Delta Region.

The Project consists of the Original Project as described in Schedule 1 to the Original Financing Agreement, of which the Financing provided under this Agreement will finance activities under Parts A.2, A.4 and C.5 thereof.

SCHEDULE 2

Project Execution

Section I. Implementation Arrangements

A. Institutional Arrangements

1. The implementation arrangements described in Sections I. 1, 2, 3, 4, 5, 6 and 7 of Schedule 2 to the Original Financing Agreement are hereby incorporated by reference in this Part A, with the following modifications, unless the context otherwise requires, and shall apply, *mutatis mutandis*, to the Financing, and the Recipient hereby undertakes to comply with the provisions thereof to the same extent as if such provisions had been set out in full in this Agreement:

   (a) paragraph 1 (b) shall be read as follows: "(b) The Project Management Unit-Waterways ("PMU-W") to be responsible, inter alia, for the implementation, coordination, supervision, monitoring and evaluation of activities under Parts A and C of the Project.";

   (b) the term "VIWA" shall be read as "MOT"; and

   (c) the term "PMU-W" shall be read as defined in paragraph 10 in the Appendix to this Agreement.

2. For greater clarity and the avoidance of doubt, in view of the incorporation of Sections I. 1, 2, 3, 4, 5, 6 and 7 of Schedule 2 to the Original Financing Agreement with above modifications in this Agreement pursuant to the preceding paragraph, if the Original Financing Agreement terminates prior to the termination of this Agreement, such termination shall have no effect for purposes of this Agreement, and the provisions of the Original Financing Agreement incorporated in this Agreement pursuant to the preceding paragraph shall continue in full force and effect between the Recipient and the Association for purposes of this Agreement following and notwithstanding such termination of the Original Financing Agreement.

B. Anti-Corruption

The Recipient shall ensure that the Project is carried out in accordance with the provisions of the Anti-Corruption Guidelines.

C. Safeguards

1. The Recipient shall ensure that updated Safeguards Instruments, acceptable to the Association, are duly endorsed by the competent authorities and thereafter carried out in a manner acceptable to the Association.

2. The Recipient shall:

(a) take all necessary actions to avoid or minimize to the extent possible any involuntary relocation of persons, or their loss of shelter, assets, or access to assets, or loss of income sources or means of livelihood, temporarily or permanently; and

(b) in the event that Project activities give rise to Displaced Persons, prior to the commencement of such activities, cause to be prepared, a Resettlement Action Plan (RAP), acceptable to the Association, and thereafter implement in a timely manner said RAP as approved by the Association.

3. The Recipient shall:

(a) not amend, revise or waive, nor allow to be amended, revised or waived, the provisions of the Safeguard Instruments or any provision of any one thereof, without the prior written agreement of the Association;

(b) maintain policies and procedures adequate to enable it to monitor and evaluate, in accordance with guidelines acceptable to the Association, the implementation of the Safeguard Instruments; and

(c) ensure that all terms of reference for any technical assistance or studies carried out under the Project are consistent with, and pay due attention to, the Association's Safeguards Policies.

4. Without limitation to any of its reporting obligations under Section II.A of this Schedule, the Recipient shall take all measures necessary on its part to regularly collect, compile, and submit to the Association, as part of the Project Reports, information on the status of compliance with Safeguards Instruments, giving details of:

(a) measures taken in furtherance of the Safeguards Instruments;

(b) conditions, if any, which interfere or threaten to interfere with the smooth implementation of the Safeguards Instruments; and

(c) remedial measures taken or required to be taken to address such conditions.

5. In case of any inconsistency between the provisions of any Safeguard Instruments and this Agreement, the provisions of this Agreement shall prevail.

Section II. Project Monitoring, Reporting and Evaluation

A. Project Reports

1. The Recipient shall monitor and evaluate the progress 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 acceptable to the Association and set forth in the Project Implementation Plan. Each Project Report shall cover the period of one calendar semester, and shall be furnished to the Association not later than forty-five (45) days after the end of the period covered by such report.

2. For purposes of Section 4.08 (c) of the General Conditions, the report on the execution of the Project and related plan required pursuant to that Section shall be furnished to the Association not later than six (6) months after the Closing Date.

3. The Recipient shall carry out jointly with the Association, not later than fifteen (15) months after the Effective Date, or such other period as may be agreed by the Association, a midterm review to assess the status of Project implementation, as measures against the performance indicators set forth in the Project Implementation Plan. Such review shall include an assessment of: (i) the progress in implementation; (ii) the results of monitoring and evaluation activities; (iii) the progress on procurement and disbursement; (iv) compliance with Safeguards Instruments; (v) adequacy of implementation arrangements; and (vi) the need to make any adjustments to the Project to improve performance.

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 semester, interim unaudited financial reports for the Project covering the semester, 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 fiscal year of the Recipient, or any other periods acceptable to 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. **Goods, Works and Non-consulting Services.** All goods, works and non-consulting services required for 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 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 Sections II and III of the Procurement Guidelines, or Sections II, III, IV and V of the Consultant Guidelines, as the case may be.

B. Particular Methods of Procurement of Goods, Works and Non-consulting Services

1. **International Competitive Bidding.** Except as otherwise provided in paragraph 2 below, goods, works and non-consulting services shall be procured under contracts awarded on the basis of International Competitive Bidding procedures.

2. **Other Methods of Procurement of Goods, Works and Non-consulting Services.** The following table specifies the methods of procurement, other than International Competitive Bidding, which may be used for goods, works, and non-consulting services. The Procurement Plan shall specify the circumstances under which such methods may be used:

Procurement Methods
(a) National Competitive Bidding, subject to the additional provisions set forth in the Annex to this Schedule 2
(b) Shopping
(c) Force Account
6. Direct Contracting

C. Particular Methods of Procurement of Consultants' Services

1. **Quality- and Cost-based Selection.** Except as otherwise provided in paragraph 2 below, consultants' services shall be procured under contracts awarded on the basis of Quality and Cost-based Selection.

2. **Other Methods of Procurement of Consultants' Services.** The following table specifies methods of procurement, other than Quality and Cost-based Selection, which may be used for consultants' services. The Procurement Plan shall specify the circumstances under which such methods may be used:

Procurement Methods
(a) Least-Cost Selection
(b) Selection Based on Consultants' Qualifications
(c) Single Source Selection of Consulting Firms
(d) Selection of Individual Consultants
(e) Single Source Selection of Individual Consultants

D. Review by the Association of Procurement Decisions

The Procurement Plan shall set forth those contracts which shall be subject to the Association's Prior Review. All other contracts shall be subject to Post Review by the Association.

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 "Disbursement Guidelines for Investment Project Financing" dated February 2017, as revised from time to time by the Association and as made applicable to this Agreement pursuant to such instructions), to finance 100% (exclusive of Taxes) of Eligible Expenditures, consisting of goods, works, consultants' services, and non-consulting services.

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 for Eligible Expenditures.

2. The Closing Date is December 31, 2019.

ANNEX to SCHEDULE 2

National Competitive Bidding Procedures

The procedures to be followed for the procurement of goods, non-consulting services, and works under contracts awarded on the basis of National Competitive Bidding shall be those set forth in: (a) Article 20 on Open Bidding of the Recipient's Law on Procurement No. 43/2013/QH13 dated November 26, 2013 and related provisions necessary to effect the same; and (b) the Recipient's Decree No. 63/2014/ND-CP Guiding Implementation of the Law on the Procurement dated June 26, 2014 (collectively, "National Procurement Laws"), subject to the provisions of Section I and Paragraphs 3.3 and 3.4 of the Procurement Guidelines and the following provisions:

Conflict of Interest

1. A bidder shall not have a conflict of interest. Any bidder found to have a conflict of interest shall be ineligible for award of a contract. The provisions on conflict of interest as stated under Section I of the Procurement Guidelines shall apply.

Eligibility

2. The eligibility of bidders shall be as defined under Section I of the Procurement 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 or be subcontractors to national bidders in order to submit a bid.

3. Government-owned enterprises or institutions of the Borrower's country are eligible to bid in the Recipient's/Borrower's country only if they can establish that they: (i) are legally and financially autonomous, (ii) operate under commercial law, and (iii) are not dependent agencies of the Borrower or Sub-Borrower.

Time for Bid Preparation

4. The time allowed for the preparation and submission of bids for large and/or complex packages shall not be less than thirty (30) days from the date of the invitation to bid or the date of availability of the bidding documents, whichever is later.

Standard Bidding Documents

5. The standard bidding documents acceptable to the Association shall be used.

Bid Opening and Bid Evaluation

6. Bids shall be opened in public, immediately after the deadline for submission of bids, regardless of the number of bids received.

7. 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. No bid shall be eliminated from detailed evaluation on the basis of minor, non-substantive deviations. The evaluation of bidder's qualifications shall be conducted separately subsequent to the technical and commercial evaluation of the bid.

8. A contract shall be awarded, within the period of the validity of bids, to the bidder who meets the appropriate standards of capability and resources and whose bid has been determined (i) to be substantially responsive to the bidding documents and (ii) to offer the lowest evaluated cost. A bidder shall neither be required nor permitted, as a condition for award, to undertake obligations not specified in the bidding documents or otherwise to modify the bid as originally submitted.

9. No bid shall be rejected on the basis of a comparison with the employer's estimate and budget ceiling without the Association's prior written agreement.

Rejection of All Bids and Re-bidding

10. Rejection of all bids is justified when there is lack of effective competition, or all bids are not substantially responsive, or no bidder meets the specified qualification criteria, or the bid price of the lowest evaluated winning bid is substantially higher than the Recipient's updated estimated cost or available budget. All bids shall not be rejected or new bids solicited without the Association's prior written agreement.

Complaints by Bidders and Handling of Complaints

11. The Recipient shall implement an effective and independent protest mechanism, acceptable to the Association, allowing bidders to protest and have their protests handled in a timely manner.

SCHEDULE 3

Repayment Schedule

Date Payment Due	Principal Amount of the Credit repayable (expressed as a percentage)*
On each May 1 and November 1:	
Commencing November 1, 2022 to and including May 1, 2032	**1.65%**
commencing November 1, 2032 to and including May 1, 2042	**3.35%**

* 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. "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 and revised in January 2011.

2. "Association's Safeguards Policies" means the operational policies and procedures for financing of development projects by the Association at the date of this Agreement and relating to Environmental Assessment, Natural Habitats, Pest Management, Indigenous Peoples (Ethnic Minorities), Physical Cultural Resources, Involuntary Resettlement, Forests, Safety of Dams, Projects on International Waterways, and Projects in Disputed Areas, as published under www.WorldBank.org/opmanual.

3. "Consultant Guidelines" means the "Guidelines: Selection and Employment of Consultants under IBRD Loans and IDA Credits and Grants by World Bank Borrowers" dated January 2011 (revised July 2014).

4. "General Conditions" means the "International Development Association General Conditions for Credits and Grants", dated July 31, 2010, with the modifications set forth in Section II of this Appendix.

5. "Original Financing Agreement" means the financing agreement for a Northern Delta Transport Development Project between the Recipient and the Association, dated November 10, 2008, as such agreement may be further amended from time to time (Credit Number 4474 -VN).

6. "Original Project" means the Project described in the Schedule 1 to the Original Financing Agreement.

7. "Procurement Guidelines" means the "Guidelines: Procurement of Goods, Works and Non-consulting Services under IBRD Loans and IDA Credits and Grants by World Bank Borrowers" dated January 2011, revised July 2014.

8. "Procurement Plan" means the Recipient's procurement plan for the Project, dated March 31, 2017 and referred to in paragraph 1.18 of the Procurement Guidelines and paragraph 1.25 of the Consultant Guidelines, as the same shall be updated from time to time in accordance with the provisions of said paragraphs.

9. "Project Implementation Plan" means the Project Implementation Plan referred to in paragraph 3 of Section I of Schedule 2 to the Original Financing Agreement.

10. "Project Management Unit-waterways" and the acronym "PMU-W" mean the project management unit established within MOT pursuant to its Decision No.4778/QD-BGTVT dated December 19, 2014, and any successor thereto, and to be maintained pursuant to the provisions in paragraph 1(b) of Section I of Schedule 2 to this Agreement.

11. "Resettlement Action Plan" or "RAP" means any resettlement plan acceptable to the Association, referred to in paragraph 2 of Section I.C of Schedule 2 to this Agreement, prepared (or to be prepared) and adopted by the Project Provinces; which set forth principles and procedures governing the acquisition of land and related assets, and the compensation, resettlement, and rehabilitation of Displaced Persons in accordance with the guidelines and procedures set forth in the Resettlement Policy Framework, as said plans may be revised from time to time with the prior written agreement of the Association, and such term includes any annexes or schedules to such plan.

12. "Safeguards Instruments" means, collectively, the Environmental Framework, the Ethnic Minorities Planning Framework, the Resettlement Policy Framework, and their respective action plans, including the Resettlement Action Plan(s), as said instruments may be amended from time to time with the prior concurrence of the Association.

Section II. Modifications to the General Conditions

The General Conditions are hereby modified as follows:

1. Section 3.02 is modified to read as follows:

"Section 3.02. *Service Charge and Interest Charge*

(a) *Service Charge.* The Recipient shall pay the Association a service charge on the Withdrawn Credit Balance at the rate specified in the Financing Agreement. The Service Charge shall accrue from the respective dates on which amounts of the Credit are withdrawn and shall be payable semi-annually in arrears on each Payment Date. Service Charges shall be computed on the basis of a 360-day year of twelve 30-day months.

(b) *Interest Charge.* The Recipient shall pay the Association interest on the Withdrawn Credit Balance at the rate specified in the Financing Agreement. Interest shall accrue from the respective dates on which amounts of the Credit are withdrawn and shall be payable semi-annually in arrears on each Payment Date. Interest shall be computed on the basis of a 360-day year of twelve 30-day months."

2. Paragraph 28 of the Appendix ("Financing Payment") is modified by inserting the words "the Interest Charge" between the words "the Service Charge" and "the Commitment Charge".

3. The Appendix is modified by inserting a new paragraph 32 with the following definition of "Interest Charge", and renumbering the subsequent paragraphs accordingly:

"32. "Interest Charge" means the interest charge specified in the Financing Agreement for the purpose of Section 3.02(b)."

4. Renumbered paragraph 37 (originally paragraph 36) of the Appendix ("Payment Date") is modified by inserting the words "Interest Charges" between the words "Service Charges" and "Commitment Charges".

5. Renumbered paragraph 50 (originally paragraph 49) of the Appendix ("Service Charge") is modified by replacing the reference to Section 3.02 with Section 3.02

Section III. Amendments to the Original Financing Agreement

The Original Financing Agreement is amended as follows:

1. The last activity under Part A.1 of the Project as described in Schedule 1 to the Original Financing Agreement (which reads: "and piloting a new maintenance contract arrangement for performing maintenance dredging work recommended by a study under Part C.2 of the Project") is deleted, and Part A.1 is hereby amended to read as follows:

"1. Improving national waterway corridors, including a northern corridor between Viet Tri and Quang Ninh, and a western corridor between Hanoi and Lach Giang".

2. Part C.1 of the Project Description under Schedule 1 to the Original Financing Agreement is amended to read as follows:

"1. Undertaking technical assistance to support the planning, management, operation and licensing of ports, landing stages, and ferry boat crossings"

3. Part C.2 of the Project Description under Schedule 1 to the Original Financing Agreement is amended to read as follows:

"2. Undertaking a study to assess different contractual arrangements for performing maintenance dredging work".

4. Part C.4 of the Project Description under Schedule 1 to the Original Financing Agreement is amended to read as follows:

"4. Carry out training programs for central and provincial government officials involved in the waterway sector, and for the staff of one or more selected navigation school(s) in the Northern Delta Region".

5. Part C.5 of the Project Description under Schedule 1 to the Original Financing Agreement is amended to read as follows:

"5. Providing technical assistance for carrying out independent Project audits, including integrated Project implementation audits, Project financial audits, and independent monitoring of social safeguards and occupational safety."