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LOAN NUMBER 3161-VIE  
LOAN NUMBER 8286-VIE(AIF)

PROJECT AGREEMENT

(Ha Noi and Ho Chi Minh City Power Grid Development Sector Project)

between

ASIAN DEVELOPMENT BANK

and

HANOI POWER CORPORATION  
HO CHI MINH CITY POWER CORPORATION

DATED 7 NOVEMBER 2014

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VIE 46391

## **PROJECT AGREEMENT**

PROJECT AGREEMENT dated 7 November 2014 between ASIAN DEVELOPMENT BANK ("ADB") and HANOI POWER CORPORATION and HO CHI MINH CITY POWER CORPORATION ("Executing Agencies").

### **WHEREAS**

(A) by a Loan Agreement of even date herewith between Socialist Republic of Viet Nam ("Borrower") and ADB ("Ordinary Operations Loan Agreement"), ADB has agreed to make to the Borrower a loan in the amount of \$172,700,000 ("Ordinary Operations Loan") on the terms and conditions set forth in the Ordinary Operations Loan Agreement;

(B) by a Loan Agreement of even date herewith between the Borrower and ADB ("AIF Loan Agreement", and together with the Ordinary Operations Loan Agreement, collectively referred to as the "Loan Agreements"), ADB has agreed to make to the Borrower a loan in the amount of \$100,000,000 ("AIF Loan", and together with the Ordinary Operations Loan, collectively referred to as the "Loans") to be funded by ADB entirely from participation therein by ASEAN Infrastructure Fund Limited ("AIF") on the terms and conditions set forth in the AIF Loan Agreement;

(C) ADB has agreed to make the Loans only on the condition that the proceeds of the Loans be relented to the Executing Agencies and that the Executing Agencies agree to undertake certain obligations towards ADB set forth herein; and

(D) The Executing Agencies, in consideration of ADB entering into the Loan Agreements with the Borrower, has agreed to undertake the obligations hereinafter set forth herein;

NOW THEREFORE the parties hereto agree as follows:

## **ARTICLE I**

### **Definitions**

Section 1.01. Wherever used in this Project Agreement, unless the context otherwise requires, the several terms defined in the Loan Agreements and in the Loan Regulations (as defined in each of the Loan Agreements) have the respective meanings therein set forth.

## ARTICLE II

### Particular Covenants

Section 2.01. (a) The Executing Agencies shall carry out the Project with due diligence and efficiency, and in conformity with sound applicable technical, financial, business, and development practices.

(b) In the carrying out of the Project and operation of the Project facilities, the Executing Agencies shall perform all obligations set forth in the Loan Agreements to the extent that they are applicable to the Executing Agencies, and all obligations set forth herein.

Section 2.02. The Executing Agencies shall make available, promptly as needed, and on terms and conditions acceptable to ADB, the funds, facilities, services, land and other resources as required, in addition to the proceeds of the Loans, for the carrying out of the Project.

Section 2.03. (a) In the carrying out of the Project, the Executing Agencies shall employ competent and qualified consultants and contractors, acceptable to ADB, to an extent and upon terms and conditions satisfactory to ADB.

(b) Except as ADB may otherwise agree, the Executing Agencies shall procure all items of expenditures to be financed out of the proceeds of the Loans in accordance with the provisions of Schedule 4 to the Ordinary Operations Loan Agreement. ADB may refuse to finance a contract where any such item has not been procured under procedures substantially in accordance with those agreed between the Borrower and ADB or where the terms and conditions of the contract are not satisfactory to ADB.

Section 2.04. The Executing Agencies shall carry out the Project in accordance with plans, design standards, specifications, work schedules and construction methods acceptable to ADB. The Executing Agencies shall furnish, or cause to be furnished, to ADB, promptly after their preparation, such plans, design standards, specifications and work schedules, and any material modifications subsequently made therein, in such detail as ADB shall reasonably request.

Section 2.05. (a) The Executing Agencies shall take out and maintain with responsible insurers, or make other arrangements satisfactory to ADB for, insurance against such risks and in such amounts as shall be consistent with sound practice.

(b) Without limiting the generality of the foregoing, the Executing Agencies undertake to insure, or cause to be insured, the Goods to be imported for the Project against hazards incident to the acquisition, transportation and delivery thereof to the place of use or installation, and for such insurance any indemnity shall be payable in a currency freely usable to replace or repair such Goods.

Section 2.06. The Executing Agencies shall maintain, or cause to be maintained, records and accounts adequate to identify the items of expenditure financed out of the proceeds of the Loans, to disclose the use thereof in the Project, to record the progress of the Project (including the cost thereof) and to reflect, in accordance with consistently maintained sound accounting principles, its operations and financial condition.

Section 2.07. (a) ADB and the Executing Agencies shall cooperate fully to ensure that the purposes of the Loans will be accomplished.

(b) The Executing Agencies shall promptly inform ADB of any condition which interferes with, or threatens to interfere with, the progress of the Project, the performance of its obligations under this Project Agreement or the Subsidiary Loan Agreement, or the accomplishment of the purposes of the Loan.

(c) ADB and the Executing Agencies shall from time to time, at the request of either party, exchange views through their representatives with regard to any matters relating to the Project, the Executing Agencies and the Loan.

Section 2.08. (a) The Executing Agencies shall furnish to ADB all such reports and information as ADB shall reasonably request concerning (i) the Loans and the expenditure of the proceeds thereof; (ii) the items of expenditure financed out of such proceeds; (iii) the Project; (iv) the administration, operations and financial condition of the Executing Agencies; and (v) any other matters relating to the purposes of the Loans.

(b) Without limiting the generality of the foregoing, the Executing Agencies shall furnish to ADB periodic reports on the execution of the Project and on the operation and management of the Project facilities. Such reports shall be submitted in such form and in such detail and within such a period as ADB shall reasonably request, and shall indicate, among other things, progress made and problems encountered during the period under review, steps taken or proposed to be taken to remedy these problems, and proposed program of activities and expected progress during the following period.

(c) Promptly after physical completion of the Project, but in any event not later than 3 months thereafter or such later date as ADB may agree for this purpose, the Executing Agencies shall prepare and furnish to ADB a report, in such form and in such detail as ADB shall reasonably request, on the execution and initial operation of the Project, including its cost, the performance by the Executing Agencies of its obligations under this Project Agreement and the accomplishment of the purposes of the Loans.

Section 2.09. (a) the Executing Agencies shall (i) maintain separate accounts and records for the Project and the Loans; (ii) prepare annual financial statements for the Project in accordance with accounting principles acceptable to ADB; (iii) have such financial statements for the Project audited annually by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB, in accordance with international standards for auditing or the national equivalent acceptable to ADB; (iv) as part of each such audit, have the auditors prepare a report for Loans (which includes the auditors' opinion on the financial statements, use of the Loan proceeds and compliance with the financial covenants of the Loan Agreements as well as on the use of the procedures for imprest funds and statement of expenditures, if such procedures are used) 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 close of the fiscal year to which they relate, 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 30 days of the date of their receipt by posting them on ADB's website.

Section 2.10. The Executing Agencies shall enable ADB's representatives to inspect the Project, the Goods and Works and any relevant records and documents.

Section 2.11. (a) The Executing Agencies shall, promptly as required, take all action within its powers to maintain its corporate existence, to carry on its operations, and to acquire, maintain and renew all rights, properties, powers, privileges and franchises which are necessary in the carrying out of the Project or in the conduct of its operations.

(b) The Executing Agencies shall at all times conduct its operations in accordance with sound applicable technical, financial, business, development and operational practices, and under the supervision of competent and experienced management and personnel.

(c) The Executing Agencies shall at all times operate and maintain its equipment and other property, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound applicable technical, financial, business, development, operational and maintenance practices.

Section 2.12. Except as ADB may otherwise agree, the Executing Agencies shall apply the proceeds of the Loans to the financing of expenditures on the Project in accordance with the provisions of the Loan Agreements and this Project Agreement, and shall ensure that all items of expenditures financed out of such proceeds are used exclusively in the carrying out of the Project.

Section 2.13. Except as ADB may otherwise agree, the Executing Agencies shall duly perform all its obligations under the Subsidiary Loan Agreement, and shall not take, or concur in, any action which would have the effect of assigning, amending, abrogating or waiving any rights or obligations of the parties under the Subsidiary Loan Agreement.

Section 2.14. The Executing Agencies shall promptly notify ADB of any proposal to amend, suspend or repeal any provision of its constitutional documents, which, if implemented, could adversely affect the carrying out of the Project or the operation of the Project facilities. The Executing Agencies shall afford ADB an adequate opportunity to comment on such proposal prior to taking any affirmative action thereon.

**ARTICLE III****Effective Date; Termination**

Section 3.01. This Project Agreement shall come into force and effect on the date on which the Loan Agreements have come into force and effect. ADB shall promptly notify the Executing Agencies of such date.

Section 3.02. This Project Agreement and all obligations of the parties hereunder shall terminate on the date on which the Loan Agreements shall have terminated in accordance with its terms.

Section 3.03. All the provisions of this Project Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the Loan Agreements.

**ARTICLE IV****Miscellaneous**

Section 4.01. Any notice or request required or permitted to be given or made under this Project Agreement and any agreement between the parties contemplated by this Project Agreement shall be in writing. Such notice or request shall be deemed to have been duly given or made when it shall be delivered by hand, mail or facsimile to the party to which it is required or permitted to be given or made at its address hereinafter specified, or at such other address as such party shall have designated by notice to the party giving such notice or making such request. The addresses so specified are:

**For ADB:**

6 ADB Avenue  
Mandaluyong City  
1550 Metro Manila  
Philippines

**Facsimile Numbers:**

(632) 636-2444  
(632) 636-2336.

**For Hanoi Power Corporation:**

69 Dinh Tien Hoang Street  
Hoan Kiem District  
Ha Noi, Viet Nam

Facsimile Number:

(84-4) 2220 0899.

For Ho Chi Minh City Power Corporation:

Green Power Building  
No.35 Ton Duc Thang Street  
Ben Nghe Ward, District 1, Ho Chi Minh City  
Viet Nam

Facsimile Number:

(84-8) 2220 1129.


Section 4.02. (a) Any action required or permitted to be taken, and any documents required or permitted to be executed, under this Project Agreement or under Section 6.01 of the Loan Agreements by or on behalf of the Executing Agencies may be taken or executed by their General Directors or by such other person or persons as he or she shall so designate in writing notified to ADB.

(b) The Executing Agencies shall furnish to ADB sufficient evidence of the authority of each person who will act under subsection (a) hereinabove, together with the authenticated specimen signature of each such person.

Section 4.03. No delay in exercising, or omission to exercise, any right, power or remedy accruing to either party under this Project Agreement upon any default shall impair any such right, power or remedy or be construed to be a waiver thereof or an acquiescence in such default; nor shall the action of such party in respect of any default, or any acquiescence in any default, affect or impair any right, power or remedy of such party in respect of any other or subsequent default.

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Project 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.

ASIAN DEVELOPMENT BANK

  
By \_\_\_\_\_  
TOMOYUKI KIMURA  
Country Director  
Viet Nam Resident Mission

HANOI POWER CORPORATION

  
By \_\_\_\_\_  
MAI CHI HUNG  
Deputy General Director

HO CHI MINH CITY POWER CORPORATION

  
By \_\_\_\_\_  
PHAM QUOC BAO  
Deputy General Director