
LOAN NUMBER 2517-VIE(SF)
GRANT NUMBER 0384-VIE (EF)

AMENDED AND RESTATED PROJECT AGREEMENT

(Renewable Energy Development and Network Expansion and Rehabilitation
for Remote Communes Sector Project)

between

ASIAN DEVELOPMENT BANK

and

NORTHERN POWER CORPORATION (POWER COMPANY NO. 1)

SOUTHERN POWER CORPORATION (POWER COMPANY NO. 2)

CENTRAL POWER CORPORATION (POWER COMPANY NO. 3)

DATED 30 NOVEMBER 2015

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AMENDED AND RESTATED PROJECT AGREEMENT

AMENDED AND RESTATED PROJECT AGREEMENT (the "Project Agreement") dated 30 NOVEMBER 2015 between ASIAN DEVELOPMENT BANK ("ADB") and NORTHERN POWER CORPORATION ("POWER COMPANY NO. 1"), SOUTHERN POWER CORPORATION ("POWER COMPANY NO. 2"), and CENTRAL POWER CORPORATION ("POWER COMPANY NO. 3") (collectively, "the PCs").

WHEREAS

(A) by a loan agreement (Loan No. 2517-VIE[SF]) dated 17 September 2009 between Socialist Republic of Viet Nam (the "Borrower") and ADB (the "Special Operations Loan Agreement"), ADB made a loan to the Borrower from ADB's Special Funds resources in the amount of one hundred two million one hundred sixty-one thousand Special Drawing Rights (SDR102,161,000) (the "Special Operations Loan") for the purpose of the project described in Schedule 1 to the Special Operations Loan Agreement (the "Ongoing Project");

(B) the Ongoing Project is being carried out by the PCs and, for this purpose, (i) the Borrower made the proceeds of the Special Operations Loan available to the PCs and (ii) ADB and the PCs entered into a Project Agreement dated 17 September 2009;

(C) the Borrower has applied to the Clean Energy Fund under the Clean Energy Financing Partnership Facility for a grant, to be administered by ADB, in the amount of three million Dollars (\$3,000,000) (the "Grant") for the purpose of providing additional financing for the Ongoing Project (the "Additional Financing Project") as more fully described in Schedule 1 to the grant agreement of even date herewith between the Borrower and ADB (the "Grant Agreement");

(D) the Ongoing Project and the Additional Financing Project shall be collectively referred to as the "Project";

(E) pursuant to decisions of the Ministry of Industry and Trade of the Recipient (No. 0789/QD-BCT, No. 0799/QD-BCT and No. 0739/QD-BCT, each dated 5 February 2010), Power Company No. 1 is now called Northern Power Corporation ("EVN NPC"), Power Company No. 2 is now called Southern Power Corporation ("EVN SPC") and Power Company No. 3 is now called Central Power Corporation ("EVN CPC"); and

(F) EVN and the PCs, in consideration of ADB entering into the Special Operations Loan Agreement and the Grant Agreement with the Borrower, have agreed to undertake the obligations as hereinafter set forth;

NOW THEREFORE the parties agree to amend and restate the Project Agreement as follows:

ARTICLE I

Definitions

Section 1.01. Wherever used in this Project Agreement, unless the context otherwise requires, the terms defined in the Special Operations Loan Agreement and in the Loan Regulations (as so defined) and the Grant Agreement and the Grant Regulations (as so defined) have the respective meanings therein set forth.

ARTICLE II

Particular Covenants

Section 2.01. (a) EVN and the PCs shall carry out the Project with due diligence and efficiency, and in conformity with sound administrative, financial, engineering, environmental and renewable energy and rural electrification practices.

(b) In the carrying out of the Project and operation of the Project facilities, EVN and the PCs shall perform all obligations set forth in the Special Operations Loan Agreement and Grant Agreement to the extent that they are applicable to EVN and the PCs.

Section 2.02. The PCs shall make available, promptly as needed, the funds, facilities, services, equipment, land and other resources which are required, in addition to the proceeds of the Loan and Grant, for the carrying out of the Project.

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

(b) Except as ADB may otherwise agree, all Goods and Works to be financed out of the proceeds of the Loan and the Grant shall be procured in accordance with the provisions of Schedule 4 to the Loan Agreement and Schedule 3 of the Grant Agreement, respectively. ADB may refuse to finance a contract where Goods or Works have 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 PCs shall carry out the Project in accordance with plans, design standards, specifications, work schedules and construction methods acceptable to ADB. The PCs 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 PCs shall take out and maintain with responsible insurers, or make other arrangements satisfactory to ADB for, insurance of Project facilities to such extent and against such risks and in such amounts as shall be consistent with sound practice.

(b) Without limiting the generality of the foregoing, the PCs undertake to insure, or cause to be insured, the Goods to be imported for the Project and to be financed out of the proceeds of the Loan and the Grant 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 PCs shall maintain, or cause to be maintained, records and accounts adequate to identify the Goods, Works and consulting services and other items of expenditure financed out of the proceeds of the Loan and the Grant, 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, EVN and the PCs shall cooperate fully to ensure that the purposes of the Loan and the Grant will be accomplished.

(b) EVN and the PCs 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 Agreements, or the accomplishment of the purposes of the Loan and the Grant.

(c) ADB, EVN and the PCs 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, EVN, the PCs, the Loan and the Grant.

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

(b) Without limiting the generality of the foregoing, the PCs, through EVN, shall furnish to ADB quarterly 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 quarter under review, steps taken or proposed to be taken to remedy these problems, and proposed program of activities and expected progress during the following quarter.

(c) Promptly after physical completion of the Project, but in any event not later than three (3) months thereafter or such later date as ADB may agree for this purpose, the PCs shall prepare and furnish, through EVN, 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 PCs of their obligations under this Project Agreement and the accomplishment of the purposes of the Loan and the Grant.

Section 2.09. (a) The PCs shall (i) maintain separate accounts for the Project and for its overall operations; (ii) have such accounts and related financial statements (balance sheet, statement of income and expenses, and related statements) audited annually, in accordance with appropriate auditing standards consistently applied, by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB; and (iii) furnish to ADB, promptly after their preparation but in any event not later than 6 months after the close of the fiscal year to which they relate, certified copies of such audited accounts and financial statements and the report of the auditors relating thereto (including the auditors' opinion on the use of the Loan proceeds and Grant proceeds and compliance with the financial covenants of the Loan Agreement as well as on the use of the procedures for imprest accounts/statement of expenditures), all in the English language. The PCs shall furnish to ADB such further information concerning such accounts and financial statements 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.

(c) In addition to annual audited financial statements referred to in subsection (a) hereinabove, each PC shall (i) provide its annual financial statements prepared in accordance with international financial reporting standards; (ii) have its financial statements audited annually by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB, in accordance with international standards for auditing acceptable to ADB; and (iii) furnish to ADB, no later than 6 months after the end of each related fiscal year, copies of such audited financial statements in the English language and such other information concerning these documents and the audit thereof as ADB shall from time to time reasonably request.

(d) The PCs shall enable ADB, upon ADB's request, to discuss the PCs' financial statements and their financial affairs from time to time with the auditors, appointed by the PCs pursuant to Section 2.09(a) hereinabove, and shall authorize and require any representative of such auditors to participate in any such discussions requested by ADB, provided that any such discussion shall be conducted only in the presence of authorized officers of the PCs unless the PCs shall otherwise agree.

Section 2.10. The PCs shall enable ADB's representatives to inspect the Project, the Goods and Works financed out of the proceeds of the Loan and the Grant, all other plants, sites, properties and equipment of the PCs, and any relevant records and documents.

Section 2.11. (a) The PCs shall, promptly as required, take all action within their powers to maintain their corporate existence, to carry on their 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 their business.

(b) The PCs shall at all times conduct their business in accordance with sound administrative, financial, environmental and renewable energy and rural electrification practices, and under the supervision of competent and experienced management and personnel.

(c) The PCs shall at all times operate and maintain their plants, equipment and other property, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound administrative, financial, engineering, environmental, renewable energy and rural electrification, and maintenance and operational practices.

Section 2.12. Except as ADB may otherwise agree, the PCs shall not sell, lease or otherwise dispose of any of their assets which shall be required for the efficient carrying on of their operations or the disposal of which may prejudice their ability to perform satisfactorily any of their obligations under this Project Agreement.

Section 2.13. Except as ADB may otherwise agree, the PCs shall apply the proceeds of the Loan and the Grant to the financing of expenditures on the Project in accordance with the provisions of the Loan Agreement, the Grant Agreement and this Project Agreement, and shall ensure that all Goods and Works financed out of such proceeds are used exclusively in the carrying out of the Project.

Section 2.14. Except as ADB may otherwise agree, the PCs shall duly perform all their obligations under the Subsidiary Loan Agreements, 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 Agreements.

Section 2.15. Each PC shall promptly notify ADB of any proposal to amend, suspend or repeal any provision of its Charter and shall afford ADB an adequate opportunity to comment on such proposal prior to taking any 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 Grant Agreement shall come into force and effect.

Section 3.02. This Project Agreement and all obligations of the parties hereunder shall terminate on the date on which the Loan Agreement and Project Agreement 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 Agreement and/or the Grant Agreement.

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 or by mail, telegram, cable, telex, facsimile or radiogram 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

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

Facsimile Numbers:

(632) 636-2444
(632) 636-2331

For Northern Power Corporation (Power Company No. 1)

20 Tran Nguyen Han
Hanoi, Viet Nam

Facsimile Number:

84-4-3934-3798

For Southern Power Corporation (Power Company No. 2)

72 Hai Ba Trung
Ho Chi Minh, Viet Nam

Facsimile Number:

84-8-3521-0443

For Central Power Corporation (Power Company No. 3)

393 Trung Nu Vuong
Da Nang, Viet Nam

Facsimile Number:

84-511-362-5071.

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 7.01 of the Special Operations Loan Agreement by or on behalf of PC1, PC2 or PC3 or under Section 7.01 of the Grant Agreement by or on behalf of PC1, PC2 or PC3 may be taken or executed by its respective director or by such other person or persons as he/she shall so designate in writing notified to ADB.

(b) The PCs shall furnish to ADB sufficient evidence of the authority of each person who will act under paragraph (a) of this Section, 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 any 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 and to be delivered at the principal office of ADB, as of the day and year first above written.



ASIAN DEVELOPMENT BANK

By 
ERIC SIDGWICK
Country Director
Viet Nam Resident Mission

NORTHERN POWER CORPORATION
(POWER COMPANY NO. 1)

By  
THIEU KIM QUYNH
Director General

SOUTHERN POWER CORPORATION
(POWER COMPANY NO. 2)

By  
PHAM NGOC LE
Deputy Director General

CENTRAL POWER CORPORATION
(POWER COMPANY NO. 3)

By  
NGUYEN THANH
Deputy Director General

Witnessed by Vietnam Electricity

By 
