Global Environment Facility
Trust Fund Grant Agreement

(Second Energy Conservation Project)

between

PEOPLE’S REPUBLIC OF CHINA

and

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

acting as an Implementing Agency of the Global Environment Facility

Dated March 20, 2003
GLOBAL ENVIRONMENT FACILITY TRUST FUND GRANT AGREEMENT

AGREEMENT, dated March 20, 2003, between PEOPLE’S REPUBLIC OF CHINA (the Recipient) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank) acting as an implementing agency of the Global Environment Facility (GEF) in respect of grant funds provided to the GEF Trust Fund by certain members of the Bank as participants of the GEF.

WHEREAS (A) the Bank, pursuant to Resolution No. 91-5 of March 14, 1991 of the Executive Directors of the Bank, established the GEF to assist in the protection of the global environment and promote thereby environmentally sound and sustainable economic development;

(B) following the restructuring of the GEF, such arrangements continued in place on the basis set forth in Resolution No. 94-2 of May 24, 1994, of the Executive Directors of the Bank which, inter alia, established the GEF Trust Fund and appointed the Bank as trustee of the GEF Trust Fund (Resolution No. 94-2);

(C) the second replenishment of the GEF Trust Fund was approved on the basis set forth in Resolution No. 98-2 of July 14, 1998, of the Executive Directors of the Bank (Resolution No. 98-2); and

(D) the Recipient, having satisfied itself as to the feasibility and priority of the project described in Schedule 2 to this Agreement (the Project), has requested assistance from the resources of the GEF Trust Fund for funding the Project, and said request having been approved in accordance with the provisions of the Instrument for the Establishment of the Restructured Global Environment Facility approved under Resolution 94-2, and to be funded from contributions to the GEF Trust Fund under Resolution No. 98-2, which may include funds carried over from the first replenishment of the GEF Trust Fund under Resolution No. 94-2; and

WHEREAS the Bank has agreed, on the basis, inter alia, of the foregoing, to extend the GEF Trust Fund Grant to the Recipient upon the terms and conditions set forth in this Agreement;

NOW THEREFORE, the parties hereto hereby agree as follows:
ARTICLE I

General Conditions; Definitions

Section 1.01. (a) The following provisions of the “General Conditions Applicable to Loan and Guarantee Agreements for Single Currency Loans” of the Bank dated May 30, 1995 (as amended through October 6, 1999), with the modifications set forth in paragraph (b) of this Section (the General Conditions) constitute an integral part of this Agreement:

(i) Article I;

(ii) Sections 2.01 (1), (2), (3), (4), (5), (6), (7), (8), (9), (14), (15), (16), (18) and (21); 2.02 and 2.03;

(iii) Section 3.01;

(iv) Sections 4.01 and 4.06;

(v) Article V;

(vi) Sections 6.01; 6.02 (a), (c), (d), (e), (f), (g), (i), (k), (m), (n), (o) and (p); 6.03, 6.04 and 6.06;

(vii) Section 8.01 (b);

(viii) Sections 9.01 (a) and (c), 9.04, 9.05, 9.06, 9.07, 9.08 and 9.09;

(ix) Sections 10.01, 10.03 and 10.04;

(x) Article XI; and

(xi) Sections 12.01 (c), 12.03 and 12.04.

(b) The General Conditions shall be modified as follows:

(i) a new paragraph shall be added to the end of Section 2.01 to read as follows: “the term “Special Drawing Rights” and the symbol “SDR” mean special drawing rights as valued by the International Monetary Fund in accordance with its Articles of Agreement”;

(ii) the term “Bank”, wherever used in the General Conditions, other than in Sections 2.01 (6) and 6.02 (f) thereof and the last use of such term in Section 5.01 thereof, means the Bank acting as an implementing agency of the GEF, except that in Section 6.02,
the term “Bank” shall also include the Bank acting in its own capacity;

(iii) the term “Borrower”, wherever used in the General Conditions, means the Recipient;

(iv) the term “Loan Agreement”, wherever used in the General Conditions, means this Agreement;

(v) the term “Loan” and “loan”, wherever used in the General Conditions, means the GEF Trust Fund Grant;

(vi) the term “Loan Account”, wherever used in the General Conditions, means the GEF Trust Fund Grant Account;

(vii) a new subparagraph is added after subparagraph (j) in Section 6.02 of the General Conditions, as follows: “an extraordinary situation shall have arisen in which any further disbursement under the GEF Trust Fund Grant would exceed the resources available for disbursement from the GEF.”

(viii) Paragraph (c) of Section 9.07 of the General Conditions is modified to read as follows:

“(c) Not later than six months before the Closing Date or such later date as may be agreed for this purpose between the Borrower and the Bank, the Borrower shall prepare and furnish to the Bank a report, of such scope and in such detail as the Bank shall reasonably request, on the execution and initial operation of the Project, its costs and the benefits derived and to be derived from it, the performance by the Borrower and the Bank of their respective obligations under the Loan Agreement and the accomplishment of the purposes of the Loan.”

Section 1.02. Wherever used in this Agreement, unless the context otherwise requires, the several terms defined in the General Conditions and in the Recitals to this Agreement have the respective meanings therein set forth and the following additional terms have the following meanings:

(a) “Category” means a category of items set forth in the table in paragraph 1 of Schedule 1 to this Agreement.

(b) “Energy Management Company Service Association” means the successor entity to the Energy Management Company Service Group that is established under and registered in accordance with the Recipient’s domestic laws, as a legal entity independent from the Recipient, whose purpose is to provide, inter alia, technical
assistance, training and key services to prospective and new energy management companies.

(c) “Energy Management Company Service Group” means the entity established in March 2001 within the Project Management Office of the Recipient’s State Economic and Trade Commission to provide technical assistance, training and key services to prospective and new energy management companies.

(d) “EMC Guarantee Program Special Funds” and “Special Funds” mean the guarantee facilities, satisfactory to the Bank, established for the purposes set forth in paragraph 1(a)(ii) of Part C of Schedule 4 to this Agreement; and “EMC Guarantee Program Special Fund” and “Special Fund” mean any of said EMC Guarantee Program Special Funds or Special Funds.

(e) “Guarantee Program Implementing Agencies” means commercial enterprises established and operating in the People’s Republic of China consistent with the eligibility criteria set forth in the Operations Manual, and with which the Recipient proposes to enter into, or has entered into, Guarantee Program Implementation Agreements; and a “Guarantee Program Implementing Agency” means any of said Guarantee Program Implementing Agencies.

(f) “Guarantee Program Implementation Agreement” means the agreement between the Recipient and a Guarantee Program Implementing Agency for the purpose of making funds available to said Guarantee Program Implementing Agency for its management and operation of an EMC Guarantee Program Special Fund.

(g) “Operations Manual” means the operations manual, acceptable to the Bank, to assist the Recipient, through the Recipient’s State Economic and Trade Commission, in the implementation of the Project, and setting forth the specific policies and procedures for the implementation of the Project by the Recipient through the State Economic and Trade Commission, through the description of, inter alia, reporting requirements, accounting procedures, Project performance indicators, and Guarantee Program Implementation Agreement contractual requirements and obligations, as such manual may be amended by the Recipient from time to time with the approval of the Bank. In case of any conflict between the terms of said manual and those of this Agreement, the terms of this Agreement shall prevail.

(h) “Project Management Office” means the institutional entity established within the Recipient’s State Economic and Trade Commission and in operation since 1995, responsible for the overall coordination, management and daily oversight of Project activities.

(i) “SETC” means the Recipient’s State Economic and Trade Commission, established in 1993, and any successor or successors thereto.
“Special Account” means the account referred to in Section 2.02 (b) of this Agreement.

Section 1.03. Each reference in the General Conditions to the Project implementation entity shall be deemed as a reference to SETC, SETC’s PMO, each of the Guarantee Program Implementation Agencies, and the Energy Management Company Service Association.

ARTICLE II

The GEF Trust Fund Grant

Section 2.01. The Bank agrees to make available to the Recipient, on the terms and conditions set forth or referred to in this Agreement, the GEF Trust Fund Grant in an amount in various currencies equivalent to nineteen million seven hundred thousand Special Drawing Rights (SDR 19,700,000).

Section 2.02. (a) The amount of the GEF Trust Fund Grant may be withdrawn from the GEF Trust Fund Grant Account in accordance with the provisions of Schedule 1 to this Agreement for expenditures made (or, if the Bank shall so agree, to be made) in respect of: (i) the reasonable cost of services under the Project; (ii) incremental operating costs under Parts A and C of the Project; and (iii) the funding of EMC Guarantee Program Special Funds; required for carrying out the Project and to be financed out of the proceeds of the GEF Trust Fund Grant.

(b) The Recipient may, for the purposes of the Project open and maintain in United States Dollars a special deposit account in a commercial bank on terms and conditions satisfactory to the Bank, including appropriate protection against set off, seizure or attachment. Deposits into, and payments out of, the Special Account shall be made in accordance with the provisions of Schedule 5 to this Agreement.

Section 2.03. The Closing Date shall be June 30, 2010, or such later date as the Bank shall establish. The Bank shall promptly notify the Recipient of such later date.

ARTICLE III

Execution of the Project

Section 3.01. (a) The Recipient declares its commitment to the objectives of the Project as set forth in Schedule 2 to this Agreement and, to this end, shall carry out the Project through SETC, with due diligence and efficiency and in conformity with appropriate managerial, administrative and financial practices and with due ecological and environmental standards, and shall provide, promptly as needed, the funds, facilities, services and other resources required for the Project.
(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Recipient and the Bank shall otherwise agree, the Recipient shall, through SETC, carry out the Project in accordance with the Implementation Program set forth in Schedule 4 to this Agreement.

Section 3.02. For the purposes of Part C of the Project, the Recipient shall make available, under terms and conditions which shall have been approved by the Bank, the proceeds of the Grant allocated from time to time to Category 3 to a Guarantee Program Implementing Agency, or Agencies, as the case may be, under a Guarantee Program Implementation Agreement to be entered into between the Recipient and each such Guarantee Program Implementing Agency under terms and conditions which shall have been approved by the Bank and which shall include, inter alia, the terms and conditions set forth in Schedule 6 to this Agreement.

Section 3.03. Except as the Bank shall otherwise agree, procurement of the consultants’ services required for the Project and to be financed out of the proceeds of the GEF Trust Fund Grant shall be governed by the provisions of Schedule 3 to this Agreement.

Section 3.04. For the purposes of Section 9.08 of the General Conditions and without limitation thereto, the Recipient, through SETC, shall:

(a) prepare, on the basis of guidelines acceptable to the Bank, and furnish to the Bank not later than six months before the Closing Date or such later date as may be agreed for this purpose between the Recipient and the Bank, a plan for the continued achievement of the objectives of the Project; and

(b) afford the Bank a reasonable opportunity to exchange views with the Recipient on said plan.

ARTICLE IV

Financial Conditions

Section 4.01. (a) The Recipient shall maintain or cause to be maintained records and accounts adequate to reflect in accordance with sound accounting practices the operations, resources and expenditures in respect of the Project of the departments or agencies of the Recipient responsible for carrying out the Project or any part thereof.

(b) The Recipient shall:
have the records and accounts referred to in paragraph (a) of this Section including those for the Special Account for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Bank;

(ii) furnish to the Bank as soon as available, but in any case not later than six (6) months after the end of each such year, the report of such audit by said auditors, of such scope and in such detail as the Bank shall have reasonably requested; and

(iii) furnish to the Bank such other information concerning said records and accounts and the audit thereof as the Bank shall from time to time reasonably request.

(c) For all expenditures with respect to which withdrawals from the GEF Trust Fund Grant Account were made on the basis of statements of expenditure, the Recipient shall:

(i) maintain or cause to be maintained, in accordance with paragraph (a) of this Section, records and accounts reflecting such expenditures;

(ii) retain, until at least one year after the Bank has received the audit report for the fiscal year in which the last withdrawal from the GEF Trust Fund Grant Account was made, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;

(iii) enable the Bank’s representatives to examine such records; and

(iv) ensure that such records and accounts are included in the annual audit referred to in paragraph (b) of this Section and that the report of such audit contains a separate opinion by said auditors as to whether the statements of expenditure submitted during such fiscal year, together with the procedures and internal controls involved in their preparation, can be relied upon to support the related withdrawals.

Section 4.02. (a) Without limitation upon the Recipient’s progress reporting obligations set out in Part B of Schedule 4 to this Agreement, the Recipient shall prepare and furnish to the Bank a financial monitoring report, in form and substance satisfactory to the Bank, which sets forth sources and uses of funds for the Project, both cumulatively and for the period covered by said report, showing separately funds provided under the Grant, and explains variances between the actual and planned uses of such funds.
(b) The first such financial management report shall be furnished to the Bank not later than 45 days after the end of the first calendar semester after the Effective Date, and shall cover the period from the incurrence of the first expenditure under the Project through the end of such first calendar semester; thereafter, each financial management report shall be furnished to the Bank not later than 45 days after each subsequent calendar semester, and shall cover such calendar semester.

Section 4.03. (a) The Recipient shall cause each Guarantee Program Implementing Agency to maintain records and accounts adequate to reflect in accordance with sound accounting practices the operations and financial condition of the respective EMC Guarantee Program Special Fund.

(b) The Recipient shall cause each Guarantee Program Implementing Agency, in respect of the respective Special Fund, to:

(i) have the records, accounts and financial statements (balance sheets, statements of income and expenses and related statements) of said Special Fund for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Bank;

(ii) furnish to the Recipient and the Bank as soon as available, but in any case not later than six (6) months after the end of each such year: (A) certified copies of said financial statements for such year as so audited; and (B) the report of such audit by said auditors, of such scope and in such detail as the Recipient or the Bank shall have reasonably requested; and

(iii) furnish to the Recipient and the Bank such other information concerning such records, accounts and financial statements and the audit thereof as the Recipient or the Bank shall from time to time reasonably request.

(c) For all expenditures with respect to which withdrawals from the GEF Trust Fund Grant Account were made on the basis of statements of expenditure, the Recipient shall cause each Guarantee Program Implementing Agency to:

(i) maintain, in accordance with paragraph (a) of this Section, records and accounts reflecting such expenditures;

(ii) retain, until at least one year after the Bank has received the audit report for the fiscal year in which the last withdrawal from the GEF Trust Fund Grant Account was made, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;
(iii) enable the Bank’s representatives to examine such records; and

(iv) ensure that such records and accounts are included in the annual audit referred to in paragraph (b) of Section 4.01 of this Agreement, and that the report of such audit contains a separate opinion by said auditors as to whether the statements of expenditure submitted during such fiscal year, together with the procedures and internal controls involved in their preparation, can be relied upon to support the related withdrawals.

ARTICLE V

Remedies of the Bank

Section 5.01. Pursuant to Section 6.02 (p) of the General Conditions, the following additional events are specified:

(a) The Operations Manual shall have been amended, suspended, abrogated, repealed or waived without the prior concurrence of the Bank, and such amendment, suspension, abrogation, repeal or waiver affects materially and adversely the ability of the Recipient to perform any of its obligations under this Agreement; and

(b) A Guarantee Program Implementation Agreement, or any provision thereof, shall have been amended, suspended, abrogated, repealed or waived by the Recipient or the respective Guarantee Program Implementing Agency, without the prior concurrence of the Bank, and such amendment, suspension, abrogation, repeal or waiver affects materially and adversely the ability of the Recipient or said Guarantee Program Implementing Agency to perform any of its respective obligations under this Agreement.

ARTICLE VI

Effectiveness; Termination

Section 6.01. The following event is specified as an additional condition to the effectiveness of this Agreement, within the meaning of Section 12.01 of the General Conditions, namely that the Operations Manual, acceptable to the Bank, has been duly adopted by the Recipient.

Section 6.02. The date ninety (90) days after the date of this Agreement is hereby specified for the purposes of Section 12.04 of the General Conditions.

Section 6.03. This Agreement shall continue in effect until the GEF Trust Fund Grant has been fully disbursed and the parties to this Agreement have fulfilled their obligations hereunder.

ARTICLE VII
Representative of the Recipient; Addresses

Section 7.01. The Minister of Finance of the Recipient is designated as representative of the Recipient for the purposes of Section 11.03 of the General Conditions.

Section 7.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Recipient:

Ministry of Finance  
Sanlihe  
Beijing 100820  
People’s Republic of China

Cable address: FINANMIN  
Telex: 22486 MFPRC CN  
Facsimile: (86-10) 68551125

Beijing

For the Bank:

International Bank for  
Reconstruction and Development  
1818 H Street, N.W.  
Washington, D.C. 20433  
United States of America

Cable address: INTBAFRAD  
Telex: 248423 (MCI) or 64145 (MCI)  
Facsimile: (1-202) 477-6391

Washington, D.C.

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in Beijing, People’s Republic of China, as of the day and year first above written.
PEOPLE’S REPUBLIC OF CHINA

By /s/ Zou Jiayi

Authorized Representative

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT
as an Implementing Agency of the Global Environment Facility

By /s/ Yukon Huang

Authorized Representative
SCHEDULE 1

Withdrawal of the Proceeds of the GEF Trust Fund Grant

1. The table below sets forth the Categories of items to be financed out of the proceeds of the GEF Trust Fund Grant, the allocation of the amounts of the GEF Trust Fund Grant to each Category and the percentage of expenditures for items so to be financed in each Category:

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount of the GEF Trust Fund Grant Allocated (Expressed in SDR Equivalent)</th>
<th>% of Expenditures to be Financed</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Incremental Operating Costs:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) under Part A of the Project</td>
<td>200,000</td>
<td>100%</td>
</tr>
<tr>
<td>(b) under Part C of the Project</td>
<td>850,000</td>
<td>100%</td>
</tr>
<tr>
<td>(2) Consultants’ services:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) under Part A of the Project</td>
<td>870,000</td>
<td>91%</td>
</tr>
<tr>
<td>(b) under Part B of the Project</td>
<td>460,000</td>
<td>91%</td>
</tr>
<tr>
<td>(c) under Part C of the Project</td>
<td>380,000</td>
<td>91%</td>
</tr>
<tr>
<td>(3) EMC Guarantee Program Special Funds</td>
<td>16,640,000</td>
<td>100% of the allotment deposited into the Special Funds</td>
</tr>
<tr>
<td>(4) Unallocated</td>
<td>300,000</td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td>19,700,000</td>
<td></td>
</tr>
</tbody>
</table>
2. For the purposes of this Schedule:

(a) the term “Incremental Operating Costs” means all reasonable expenditures incurred and directly related to: (i) the implementation of the Project by the Recipient through the SETC Project Management Office, Energy Management Company Service Group, or the Energy Management Company Service Association; or (ii) the development of an energy management company loan guarantee program by Guarantee Program Implementing Agencies; which expenditures would not have been incurred absent the Project or the Guarantee Program Implementation Agreements, including expenditures for the costs of local travel and per-diem for the staffs of the Energy Management Company Service Group, Energy Management Company Service Association, or Guarantee Program Implementing Agencies, and office costs, including rental, utilities, consumable goods, maintenance and repairs; and

(b) the term “allotment” means the amount to be allocated to the respective Special Fund as indicated in the relevant Guarantee Program Implementation Agreement.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made:

(a) in respect of payments made for expenditures prior to the date of this Agreement; and

(b) in respect of expenditures under Categories (1)(b), (2)(c) and (3) of the table in paragraph 1 of this Schedule in connection with any Guarantee Program Implementing Agency until the Bank has been furnished with evidence satisfactory to the Bank that a Guarantee Program Implementation Agreement between the Recipient and such Guarantee Program Implementing Agency, acceptable to the Bank, has been duly authorized and executed in compliance with the provisions of this Agreement and is valid and enforceable in accordance with its terms.

4. The Bank may require withdrawals from the GEF Trust Fund Grant Account to be made on the basis of statements of expenditure for expenditures for: (i) services for consulting firms under contracts costing less than $100,000 equivalent, (ii) services for individual consultants under contracts costing less than $50,000 equivalent, and (iii) incremental operating costs; all under such terms and conditions as the Bank shall specify by notice to the Recipient.

5. The Recipient shall promptly refund, and/or cause a Guarantee Program Implementing Agency to refund, when applicable, to the Bank, the GEF Trust Fund Grant proceeds disbursed by the Bank, and the investment income generated by the respective Special Fund therefrom, in whole or in part, at the Bank’s option, if:
(a) the Bank shall have determined at any time that any payment made from the GEF Trust Fund Grant Account (or from the investment income generated therefrom) was used for any expenditure not consistent with the provisions of this Agreement;

(b) the Bank shall have determined, at any time, that the Recipient or the respective Guarantee Program Implementing Agency shall have failed to perform any of their respective obligations consistent with this Agreement or the respective Guarantee Program Implementation Agreement;

(c) expenditures from the GEF Trust Fund Grant Account (or from the investment income generated therefrom) were made: (i) in the territories of any country which is not a member of the Bank or for goods procured in, or services supplied from, such territories; or (ii) on account of any payment to persons or entities, or any import of goods, if such payment or import is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations;

(d) expenditures from the GEF Trust Fund Grant Account (or from the investment income generated therefrom) were made under a contract in respect of which the Bank determines that corrupt or fraudulent practices were engaged in by representatives of the Recipient or the respective Guarantee Program Implementing Agency during the procurement or execution of such contract, without the Recipient or said Guarantee Program Implementing Agency having taken timely and appropriate action satisfactory to the Bank to remedy the situation; or

(e) the Operations Manual, the charter of the respective Guarantee Program Implementing Agency, or the respective Guarantee Program Implementation Agreement has been amended, suspended, abrogated, repealed or waived in a manner which, in the opinion of the Bank, would materially and adversely affect the implementation of the Project or the attainment of its objectives.

6. Refunds to the Bank of GEF Trust Fund Grant proceeds, made pursuant to paragraph 5 of this Schedule shall be credited to the GEF Trust Fund Grant Account for subsequent withdrawal or for cancellation in accordance with the provisions of this Agreement. Except for such portions thereof for which a refund to the Bank is required pursuant to the terms of this Agreement or a Guarantee Program Implementation Agreement, the Recipient may, after the Closing Date of this Project, keep in perpetuity Grant proceeds disbursed to it under Category 3 of the table in paragraph 1 of this Schedule, but only for the purposes of: (i) continuing the EMC loan guarantee program as set forth in this Agreement, or (ii) using such funds in accordance with a plan acceptable to the Bank pursuant to the provisions of paragraph C.2 of Schedule 4 to this Agreement, and consistent with the objectives of reducing greenhouse gas emissions in China.
SCHEDULE 2

Description of the Project

The objectives of the Project are to assist the Recipient to expand domestic investment in energy efficiency projects and facilitate reductions in carbon dioxide emissions and other pollutants through the development of the Recipient’s nascent energy management company industry.

The Project consists of the following parts, subject to such modifications thereof as the Recipient and the Bank may agree upon from time to time to achieve such objectives:

Part A: Energy Management Company Services

1. Development of technical support, assistance and capacity of new and prospective energy management companies through the provision of technical training to such companies in, inter alia, energy management business investments, opportunities and operations.

2. Facilitation of the establishment of an Energy Management Company Service Association that is independent from the Recipient and is a financially self-sustaining successor entity to the Energy Management Company Service Group of the Project Management Office, through the provision of technical assistance and incremental operating costs.

Part B: Project Management and Monitoring

Strengthening of the Project Management Office through the provision of technical assistance.

Part C: Energy Management Company Loan Guarantee Program

Implementation of an energy management company loan guarantee program through the establishment of EMC Guarantee Program Special Funds to be made available to one or more Guarantee Program Implementing Agencies through Guarantee Program Implementation Agreements.

* * *

The Project is expected to be completed by December 31, 2009.
SCHEDULE 3

Consultants’ Services

Part A: General

Consultants’ services shall be procured in accordance with the provisions of Sections I and IV of the “Guidelines: Selection and Employment of Consultants by World Bank Borrowers” published by the Bank in January 1997 and revised September 1997, January 1999 and May 2002 (the Consultant Guidelines), paragraph 1 of Appendix 1 thereto, Appendix 2 thereto, and the following provisions of this Schedule.

Part B: Procedures for the Selection of Consultants

1. Quality and Cost-based Selection

Except as otherwise provided in Paragraphs 2 and 3 of this Part B, consultants’ services shall be procured under contracts awarded in accordance with the provisions of Section II of the Consultant Guidelines, and the provisions of paragraphs 3.13 through 3.18 thereof applicable to quality- and cost-based selection of consultants.

2. Selection Based on Consultants’ Qualifications

Services under the Project estimated to cost less than $100,000 equivalent per contract, shall be procured under contracts awarded in accordance with the provisions of paragraphs 3.1 and 3.7 of the Consultant Guidelines.

3. Individual Consultants

Services of individual consultants for tasks that meet the requirements set forth in paragraph 5.1 of the Consultant Guidelines (a) shall be procured under contracts awarded in accordance with the provisions of paragraphs 5.1 through 5.3 of the Consultant Guidelines; and (b) may be selected on a sole-source basis in accordance with the provisions of paragraphs 5.3 and 5.4 of the Consultant Guidelines, subject to prior approval of the Bank.

Part C: Review by the Bank of the Selection of Consultants

1. Selection Planning

A plan for the selection of consultants, which shall include contract cost estimates, contract packaging, and applicable selection criteria and procedures, shall be furnished to the Bank, for its review and approval, prior to the issuance to consultants of any requests for proposals. Selection of all consultants’ services shall be undertaken in accordance with such selection plan as shall have been approved by the Bank.
2. **Prior Review**

   (a) With respect to each contract for the employment of consulting firms estimated to cost the equivalent of $100,000 or more, the procedures set forth in paragraphs 2, 3 and 5 of Appendix 1 to the Consultant Guidelines shall apply.

   (b) With respect to each contract for the employment of individual consultants to be selected on a sole-source basis, or estimated to cost the equivalent of $50,000 or more, the report on the comparison of the qualifications and experience of candidates, or in the case of sole-source selection the qualifications and experience of the candidate, and the terms of reference and terms of employment of the consultants shall be furnished to the Bank for its prior review and approval. The contract shall be awarded only after the said approval shall have been given. The provisions of paragraph 3 of Appendix 1 to the Consultant Guidelines shall also apply to such contracts.

3. **Other Review**

   With respect to each contract not governed by paragraph 2 of this Part, the following procedures shall apply:

   (a) prior to the selection of the consultants, the terms of reference for said consultants shall be furnished to the Bank for its no-objection; and

   (b) thereafter, the procedures set forth in paragraph 4 of Appendix 1 to the Consultant Guidelines shall apply.
SCHEDULE 4

Implementation Program

A. Energy Management Company Services

1. The Recipient shall, through the SETC, and until establishment of an Energy Management Company Service Association, maintain the Energy Management Company Service Group with qualified and experienced management and competent staff in adequate numbers, with terms of reference, funds, staffing and other resources acceptable to the Bank.

2. The Recipient shall, through the SETC, cause the Energy Management Company Service Group: (a) by December 31, 2002 to prepare a time-bound Project implementation plan, satisfactory to the Bank; and (b) thereafter, implement said plan in a manner satisfactory to the Bank.

3. Without limitation to the provisions of paragraph A.1 of this Schedule 4, the Recipient shall, through the SETC, by December 31, 2003, establish a successor entity to the Energy Management Company Service Group, satisfactory to the Bank, to be known as the Energy Management Company Service Association, and through the SETC, execute a performance contract with the Energy Management Company Service Association, all in a manner and substance acceptable to the Bank.

B. Project Management and Monitoring

1. The Recipient: (a) shall implement the Project in accordance with the provisions agreed with the Bank and set forth in the Operations Manual; and (b) shall not assign, amend, abrogate or waive the Operations Manual or any provisions thereof, without the Bank’s prior concurrence.

2. The Recipient shall maintain its Project Management Office in SETC, with functions and sufficient and adequate resources acceptable to the Bank and staffed with competent personnel in adequate numbers, including a qualified and experienced manager to coordinate, monitor and supervise the implementation of the Project.

3. The Recipient shall:

   (a) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with indicators acceptable to the Bank, the carrying out of the Project and the achievement of the objectives thereof;

   (b) prepare, under terms of reference satisfactory to the Bank, and furnish to the Bank, (i) semi-annually by May 31 and November 30 of each year, commencing on May 31, 2003, and (ii) on or about November 30, 2004 and April 30, 2007, a report integrating the results of the monitoring and evaluation activities performed pursuant to
paragraph (a) above, on the progress achieved in the carrying out of the Project during the period preceding the date of each said report and setting out the measures recommended to ensure the efficient carrying out of the Project and the achievement of the objectives thereof during the period following such date; and

(c) review with the Bank, by January 31, 2005 and June 30, 2007, or such later date as the Bank shall request, the reports referred to in clause (ii) of paragraph (b) above, and thereafter, take all measures required to ensure the efficient completion of the Project and the achievement of the objectives thereof, based on the conclusions and recommendations of the said reports and the Bank’s views on the matter.

C. Energy Management Company Loan Guarantee Program

1. The Recipient shall:

(a) (i) execute a Guarantee Program Implementation Agreement, in form and substance acceptable to the Bank, with at least one Guarantee Program Implementing Agency and, for each executed Guarantee Program Implementation Agreement, furnish the Bank with evidence satisfactory to the Bank that said Guarantee Program Implementation Agreement between the Recipient and a Guarantee Program Implementing Agency, acceptable to the Bank, has been duly authorized and executed in compliance with the provisions of this Agreement; and (ii) subsequent to the execution of each Guarantee Program Implementation Agreement with a Guarantee Program Implementing Agency, establish with the proceeds of the GEF Trust Fund Grant, a Special Fund in respect of said Guarantee Program Implementing Agency, which Agreement shall provide for, inter alia: (A) the ownership and supervision of the said Special Fund by the Recipient; and (B) the guidelines and procedures for the management and operation of the said Special Fund by the Guarantee Program Implementing Agency with which the Recipient executed the Guarantee Program Implementation Agreement.

(b) in respect of each Guarantee Program Implementing Agency and the respective Special Fund, deposit the allotment indicated in the respective Guarantee Program Implementation Agreement in said Special Fund in three (3) tranches as follows: (i) the First Tranche, in an amount not in excess of fifty percent (50%) of the allotment, shall be deposited promptly upon the execution of the Guarantee Program Implementation Agreement; (ii) the Second Tranche, in an amount not in excess of twenty-five percent (25%) of the allotment, shall be deposited upon receipt by the Recipient and the Bank of evidence satisfactory to the Recipient and the Bank that the Guarantee Program Implementing Agency has made guarantee commitments, under the terms and conditions set forth in the Operations Manual and the respective Guarantee Program Implementation Agreement, in an aggregate face value at least equal to the First Tranche; and (iii) the Third Tranche, in an amount not in excess of twenty-five percent (25%) of the allotment, shall be deposited upon receipt by the Recipient and the Bank of evidence satisfactory to the Recipient and the Bank that the Guarantee Program
Implementing Agency has made guarantee commitments, under the terms and conditions set forth in the Operations Manual and the respective Guarantee Program Implementation Agreement, in an aggregate face value at least equal to the sum of the First Tranche and the Second Tranche.

2. The Recipient shall:

   (a) by December 31, 2009, provide the Bank for its review and comments, a five-year plan with respect to the projected use and disposition of the remaining Grant proceeds disbursed to it under Category 3 set forth in the table in paragraph 1 of Schedule 1 to this Agreement;

   (b) by the Closing Date, provide the Bank with a revised five-year plan that fully incorporates and takes into account the Bank’s comments thereon; and

   (c) thereafter, subject to the Bank’s concurrence with said plan, implement said plan in a manner satisfactory to the Bank.
SCHEDULE 5

Special Account

1. For the purposes of this Schedule:

   (a) the term “eligible Categories” means Categories (1) and (2) set forth in the table in paragraph 1 of Schedule 1 to this Agreement;

   (b) the term “eligible expenditures” means expenditures in respect of the reasonable cost of services required for the Project and to be financed out of the proceeds of the GEF Trust Fund Grant allocated from time to time to the eligible Categories in accordance with the provisions of Schedule 1 to this Agreement; and

   (c) the term “Authorized Allocation” means an amount equivalent to $400,000 to be withdrawn from the GEF Trust Fund Grant Account and deposited in Dollars into the Special Account pursuant to paragraph 3 (a) of this Schedule.

2. Payments out of the Special Account shall be made exclusively for eligible expenditures in accordance with the provisions of this Schedule.

3. After the Bank has received evidence satisfactory to it that the Special Account has been duly opened, withdrawals of the Authorized Allocation and subsequent withdrawals to replenish the Special Account shall be made as follows:

   (a) For withdrawals of the Authorized Allocation, the Recipient shall furnish to the Bank a request or requests for deposit into the Special Account of an amount or amounts which do not exceed the aggregate amount of the Authorized Allocation. On the basis of such request or requests, the Bank shall, on behalf of the Recipient, withdraw from the GEF Trust Fund Grant Account and deposit into the Special Account such amount or amounts as the Recipient shall have requested.

   (b) (i) For replenishment of the Special Account, the Recipient shall furnish to the Bank requests for deposits into the Special Account at such intervals as the Bank shall specify.

   (ii) Prior to or at the time of each such request, the Recipient shall furnish to the Bank the documents and other evidence required pursuant to paragraph 4 of this Schedule for the payment or payments in respect of which replenishment is requested. On the basis of each such request, the Bank shall, on behalf of the Recipient, withdraw from the GEF Trust Fund Grant Account and deposit into the Special Account such amount as the Recipient shall have requested and as shall have been shown by said documents and other evidence to have been paid out of the Special Account for eligible expenditures. All such deposits shall
be withdrawn by the Bank from the GEF Trust Fund Grant Account under the respective eligible Categories, and in the respective equivalent amounts, as shall have been justified by said documents and other evidence.

4. For each payment made by the Recipient out of the Special Account, the Recipient shall, at such time as the Bank shall reasonably request, furnish to the Bank such documents and other evidence showing that such payment was made exclusively for eligible expenditures.

5. Notwithstanding the provisions of paragraph 3 of this Schedule, the Bank shall not be required to make further deposits into the Special Account:

   (a) if, at any time, the Bank shall have determined that all further withdrawals should be made by the Recipient directly from the GEF Trust Fund Grant Account in accordance with the provisions of Article V of the General Conditions and paragraph (a) of Section 2.02 of this Agreement;

   (b) if the Recipient shall have failed to furnish to the Bank, within the period of time specified in Section 4.01 (b) (ii) of this Agreement, any of the audit reports required to be furnished to the Bank pursuant to said Section in respect of the audit of the records and accounts for the Special Account;

   (c) if, at any time, the Bank shall have notified the Recipient of its intention to suspend in whole or in part the right of the Recipient to make withdrawals from the GEF Trust Fund Grant Account pursuant to the provisions of Section 6.02 of the General Conditions; or

   (d) once the total unwithdrawn amount of the GEF Trust Fund Grant allocated to the eligible Categories, minus the total amount of all outstanding special commitments entered into by the Bank pursuant to Section 5.02 of the General Conditions with respect to the Project, shall equal the equivalent of twice the amount of the Authorized Allocation.

Thereafter, withdrawal from the GEF Trust Fund Grant Account of the remaining unwithdrawn amount of the GEF Trust Fund Grant allocated to the eligible Categories shall follow such procedures as the Bank shall specify by notice to the Recipient. Such further withdrawals shall be made only after and to the extent that the Bank shall have been satisfied that all such amounts remaining on deposit in the Special Account as of the date of such notice will be utilized in making payments for eligible expenditures.

6. (a) If the Bank shall have determined at any time that any payment out of the Special Account: (i) was made for an expenditure or in an amount not eligible pursuant to paragraph 2 of this Schedule; or (ii) was not justified by the evidence furnished to the Bank, the Recipient shall, promptly upon notice from the Bank: (A) provide such
additional evidence as the Bank may request; or (B) deposit into the Special Account (or, if the Bank shall so request, refund to the Bank) an amount equal to the amount of such payment or the portion thereof not so eligible or justified. Unless the Bank shall otherwise agree, no further deposit by the Bank into the Special Account shall be made until the Recipient has provided such evidence or made such deposit or refund, as the case may be.

(b) If the Bank shall have determined at any time that any amount outstanding in the Special Account will not be required to cover further payments for eligible expenditures, the Recipient shall, promptly upon notice from the Bank, refund to the Bank such outstanding amount.

(c) The Recipient may, upon notice to the Bank, refund to the Bank all or any portion of the funds on deposit in the Special Account.

(d) Refunds to the Bank made pursuant to paragraphs 6 (a), (b) and (c) of this Schedule shall be credited to the GEF Trust Fund Grant Account for subsequent withdrawal or for cancellation in accordance with the relevant provisions of this Agreement, including the General Conditions.
SCHEDULE 6

Terms and Conditions of the Guarantee Program

Implementation Agreements

Each of the Guarantee Program Implementation Agreements shall include the following terms and conditions, satisfactory to the Bank:

1. The obligations of the Recipient to:
   (a) establish, in a commercial bank account, an EMC Guarantee Program Special Fund, in the name of the Recipient and for the purpose of implementing Part C of the Project; and
   (b) assign to the Guarantee Program Implementing Agency the management of the respective Special Fund.

2. The obligations of the Guarantee Program Implementing Agency to:
   (a) maintain its legal status as a commercial legal entity that is registered as a company in accordance with all applicable laws of the Recipient, and remain financially solvent;
   (b) manage and use the proceeds of the respective Special Fund in a manner consistent with the purposes and objectives of the GEF Trust Fund Grant Agreement;
   (c) act prudently and reasonably in:
      (i) conducting all of its commercial activities; and
      (ii) exercising its management obligations in respect of the respective Special Fund;
   (d) prevent and avoid the commission of fraud, corruption, conflict of interest, waste, recklessness or negligence upon the respective Special Fund;
   (e) prudently invest the proceeds of the respective Special Fund, in a manner satisfactory to the Bank;
   (f) fully cooperate with the Recipient and the Bank in the Bank’s carrying out of the Bank’s supervision activities in respect of the Project;
   (g) promptly refund to the Bank, any withdrawals or payments from the respective Special Fund, including any investment income generated therefrom, at the option of the Bank, if:
(i) the Bank determines that any such withdrawals or payments were used for any expenditure inconsistent with the objectives of the Project;

(ii) expenditures from the respective Special Fund were made in the territories of any country which is not a member of the International Bank for Reconstruction and Development, or for goods procured in, or services supplied from such territories; or on account of any payment to persons or entities, or any import of goods, if such payment or import is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations; or

(iii) expenditures from the respective Special Fund are determined by the Bank to have been made under a contract involving corrupt or fraudulent practices of either representatives of the Recipient or the Guarantee Program Implementing Agency during the procurement or execution of such contract, without the Recipient or the Guarantee Program Implementing Agency having taken timely and appropriate action satisfactory to the Bank to remedy the situation;

(h) deposit all income, including guarantee fees, subrogation recoveries, interest and investment income, capital receipts or other contributions derived from the respective Special Fund, directly into said Special Fund account;

(i) make withdrawals from the respective Special Fund only for:

(i) payments made in accordance with a call on a guarantee issued by the Guarantee Program Implementing Agency and supported by the proceeds of the respective Special Fund, as a result of a default on a loan for which the provider of said loan is unable to secure satisfaction of said loan in accordance with the relevant guarantee agreement;

(ii) eligible operating costs of the Guarantee Program Implementing Agency; and

(iii) investments consistent with the purposes and objectives of the respective Guarantee Program Implementation Agreement;

(j) maintain all of the records and accounts in respect of the operations and financial condition of the respective Special Fund separate from its records and accounts, in accordance with sound accounting practices, consistent with International Accounting Standards;
(k) have the records, accounts and financial statements, including the balance sheets, statements of income and related statements in respect of the respective Special Fund, for each fiscal year audited in accordance with appropriate auditing principals, by independent auditors acceptable to the Bank;

(l) furnish to the Bank, through the Recipient, not later than 6 months after the end of each fiscal year, certified copies of the financial statements in respect of the respective Special Fund for such audited year; and the report of the audit, of such scope and in detail as requested by the Recipient or the Bank;

(m) furnish to the Bank, through the Recipient, any other information concerning the records, accounts and financial statements and the audit thereof as requested by the Bank;

(n) carry out the following with respect to expenditures funded with withdrawals from the respective Special Fund:

(i) maintain records and accounts reflecting such expenditures;

(ii) retain for at least one year after the Project Closing Date, all records evidencing such expenditures;

(iii) enable the Recipient and the Bank to examine such records; and

(iv) ensure that the audit reports contain a separate opinion by the auditors as to whether the records and accounts submitted for the relevant audit, together with the procedures and controls involved in their preparation, can be relied upon to support the related withdrawals;

(o) prepare and submit to the Bank, through the Recipient, for the Bank’s review and approval, a Financial Management System Manual prior to the execution of the relevant Guarantee Program Implementation Agreement, which Manual, inter alia, sets forth its financial management operations, control and procedures in respect of the respective Special Fund;

(p) within thirty (30) days of a guarantee call payment, provide to the Recipient, a written report indicating the reasons for the default, its recovery plan, and its assessment of the probability of recovery of the amounts in default; and thereafter implement the recovery plan as so approved by the Recipient and, if any amounts are determined by the Guarantee Program Implementing Agency to be irrecoverable, obtain the approval of the Recipient to write off such amounts;

(q) remit payment into the respective Special Fund account if a guarantee call payment is deemed by the Recipient to be unwarranted, for the amount of said payment; and
(r) perform all of its obligations under the Guarantee Program Implementation Agreement to the satisfaction of the Recipient and the Bank.

3. A provision that limits the use of the proceeds of the respective Special Fund by the Guarantee Program Implementing Agency to the fulfillment of the purposes of the Guarantee Program Implementation Agreement, which purpose is to enable the Guarantee Program Implementing Agency to provide partial credit guarantees for eligible energy efficiency projects:

   (a) in accordance with the provisions of the Operations Manual;

   (b) consistent with the GEF Trust Fund Grant Agreement and the objectives of this Project; and

   (c) subject to the approval of the Recipient and the Bank.

4. A provision that requires the Guarantee Program Implementing Agency to obtain the approval of the Bank for the first four (4) guarantees of each type of guarantee it proposes to underwrite in connection with the respective Special Fund, prior to entering into said guarantee agreements.

5. A provision that sets forth the compensation of the Guarantee Program Implementing Agency that includes:

   (a) a basic fee, the amount of which is calculated by taking into account the operating costs of the Guarantee Program Implementing Agency that are solely and directly attributable to the fulfillment of its obligations under the respective Guarantee Program Implementation Agreement; and

   (b) an incentive-based fee, the amount of which is calculated on a cumulative basis by taking into account the Guarantee Program Implementing Agency’s performance which includes, but is not limited to, a consideration of: (A) the number and volume of guarantee transactions in respect of the respective Special Fund; and (B) the guarantee fees generated less net subrogation losses.

6. A provision that sets forth the duration of the Guarantee Program Implementation Agreement.

7. A provision that sets forth the immediate termination of the Guarantee Program Implementation Agreement in the event that:

   (a) the Guarantee Program Implementation Agreement, or any provision thereof, is amended, suspended, abrogated, waived or repealed by the Recipient or the Guarantee Program Implementing Agency, without the prior concurrence of the Bank, and such amendment, suspension, abrogation, waiver or repeal materially and adversely
affects the ability of the Recipient or the Guarantee Program Implementing Agency to perform any of its obligations under the Guarantee Program Implementation Agreement;

(b) any authority having lawful jurisdiction shall have taken any action for dissolution or disestablishment of the SETC or Project Management Office or Guarantee Program Implementing Agency, or for the suspension of each of their respective operations, and such dissolution, disestablishment or suspension shall materially and adversely affect the ability of the Recipient or the Guarantee Program Implementing Agency to carry out their respective obligations under the Guarantee Program Implementation Agreement;

(c) the Guarantee Program Implementing Agency becomes insolvent;

(d) the Guarantee Program Implementing Agency fails to fulfill its obligations under the respective Guarantee Program Implementation Agreement; or

(e) the charter of the Guarantee Program Implementing Agency is amended, suspended, abrogated, repealed or waived in a manner which, in the opinion of the Bank, would materially and adversely affect the ability of: (i) the Recipient to effectively implement its obligations under the GEF Trust Fund Grant Agreement or the Guarantee Program Implementation Agreement; or (ii) the Guarantee Program Implementing Agency to effectively carry out its obligations under the Guarantee Program Implementation Agreement.

8. A provision stipulating that, in case of conflict between any of the provisions contained in the Guarantee Program Implementation Agreement, on the one hand, and those set forth in the GEF Trust Fund Grant Agreement, on the other, the provisions of the GEF Trust Fund Grant Agreement shall at all times prevail.