

CONFORMED COPY

CREDIT NUMBER 2710 CHA
LOAN NUMBER 3874 CHA

LHPC Project Agreement

(Yangtze Basin Water Resources Project)

among

INTERNATIONAL DEVELOPMENT ASSOCIATION

and

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

and

LISHUI HYDRO AND POWER CORPORATION

Dated July 18, 1995

CREDIT NUMBER 2710 CHA
LOAN NUMBER 3874 CHA

LHPC PROJECT AGREEMENT

AGREEMENT, dated July 18, 1995, among INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association), the INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank) and LISHUI HYDRO AND POWER CORPORATION (LHPC).

WHEREAS (A) by the Development Credit Agreement of even date herewith between People's Republic of China (the Borrower) and the Association, the Association has agreed to make available to the Borrower an amount in various currencies equivalent to seventy four million eight hundred thousand Special Drawing Rights (SDR 74,800,000), on the terms and conditions set forth in the Development Credit Agreement, but only on condition that LHPC agrees to undertake such obligations toward the Association as are set forth in this Agreement and that the Project Provinces agree to undertake such obligations towards the Association as are set forth in the Provinces Project Agreement;

(B) by the Loan Agreement of even date herewith between the Borrower and the Bank, the Bank has agreed to make available to the Borrower an amount in various currencies equivalent to one hundred million dollars (\$100,000,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that LHPC agrees to undertake such obligations toward the Bank as are set forth in this Agreement and that the Project Provinces agree to undertake such obligations towards the Bank as are set

forth in the Provinces Project Agreement.

WHEREAS LHPC, in consideration of the Association's entering into the Development Credit Agreement with the Borrower and the Bank's entering into the Loan Agreement with the Borrower, has agreed to undertake the obligations set forth in this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

Definitions

Section 1.01. Unless the context otherwise requires, the several terms defined in the Development Credit Agreement, the Loan Agreement, the Preamble to this Agreement and in the General Conditions (as so defined in the Development Credit Agreement and the Loan Agreement, respectively) have the respective meanings therein set forth, and, wherever used in the Agreement, the Association, the Credit or the Credit Account shall also be deemed as reference to the Bank, the Loan or the Loan Account, respectively.

ARTICLE II

Execution of the Project

Section 2.01. (a) LHPC declares its commitment to the objectives of the Project as set forth in Schedule 2 to the Development Credit Agreement, and, to this end, shall carry out Part F of the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering, public utility and environmental practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for Part F of the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Association and LHPC shall otherwise agree, LHPC shall carry out Part F of the Project in accordance with the Implementation Program set forth in Schedule 2 to this Agreement.

Section 2.02. Except as the Association shall otherwise agree, procurement of the goods, works and consultants' services required for Part F of the Project and to be financed out of the proceeds of the Credit shall be governed by the provisions of Schedule 1 to this Agreement.

Section 2.03. (a) LHPC shall carry out the obligations set forth in Sections 9.03, 9.04, 9.05, 9.06, 9.07 and 9.08 of the General Conditions applicable to the Development Credit Agreement and in Sections 9.04, 9.05, 9.06, 9.07, 9.08 and 9.09 of the General Conditions applicable to the Loan Agreement (relating to insurance, use of goods and services, plans and schedules, records and reports, maintenance and land acquisition, respectively) in respect of this Agreement and Part F of the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section, LHPC shall:

(i) prepare, on the basis of guidelines acceptable to the Association and furnish to the Association not later than six (6) months after the Closing Date or such later date as may be agreed for this purpose between the Association and LHPC, a plan for the future operation of Parts F.1 and F.2 of the Project;

(ii) afford the Association a reasonable opportunity to exchange views with LHPC on said plan; and

(iii) thereafter, carry out said plan with due diligence and efficiency and in accordance with appropriate practices, taking into account the Association's comments thereon.

Section 2.04. LHPC shall duly perform all its obligations under the LHPC

Subsidiary Loan Agreement. Except as the Association shall otherwise agree, LHPC shall not take or concur in any action which would have the effect of amending, abrogating, assigning or waiving the LHPC Subsidiary Loan Agreement or any provision thereof.

Section 2.05. (a) LHPC shall, at the request of the Association, exchange views with the Association with regard to the progress of the Project, the performance of its obligations under this Agreement, the LHPC Subsidiary Loan Agreement and other matters relating to the purposes of the Credit.

(b) LHPC shall promptly inform the Association of any condition which interferes or threatens to interfere with the progress of the Project, the accomplishment of the purposes of the Credit, or the performance by LHPC of its obligations under this Agreement and the LHPC Subsidiary Loan Agreement.

ARTICLE III

Management and Operations of LHPC

Section 3.01. LHPC shall carry on its operations and conduct its affairs in accordance with sound administrative, financial, engineering, public utility and environmental practices under the supervision of qualified and experienced management assisted by competent staff in adequate numbers.

Section 3.02. LHPC shall at all times operate and maintain its plant, machinery, equipment and other property, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound engineering, financial, public utility and environmental practices.

Section 3.03. LHPC shall take out and maintain with responsible insurers, or make other provision satisfactory to the Association for, insurance against such risks and in such amounts as shall be consistent with appropriate practice.

ARTICLE IV

Financial Covenants

Section 4.01. (a) LHPC shall maintain records and accounts adequate to reflect in accordance with sound accounting practices its operations and financial condition.

(b) LHPC shall:

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

(ii) furnish to the Association as soon as available, but in any case not later than six months after the end of each such year, (A) certified copies of its 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 Association shall have reasonably requested; and

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

Section 4.02 (a) Before June 30, 1998, LHPC shall enter into a power sales agreement acceptable to the Association, with the relevant electric power company in Hunan Province, which shall provide a tariff structure adequate to ensure that net revenues of LHPC attributable to the generation and sale of power for each fiscal year after that ending in 2000 shall be at least 1.5 times the estimated maximum debt service requirements of LHPC for any succeeding fiscal year on all debt of LHPC attributable to the generation and sale of power in a manner satisfactory to the

Association.

(b) For the purposes of this Section:

(i) The term "debt" means any indebtedness of LHPC maturing by its terms more than one year after the date on which it is originally incurred.

(ii) Debt shall be deemed to be incurred:

(A) under a loan contract or agreement or other instrument providing for such debt or for the modification of its terms of payment on the date of such contract, agreement or instrument; and

(B) under a guarantee agreement, on the date the agreement providing for such guarantee has been entered into.

(iii) The term "net revenues" means the difference between:

(A) the sum of revenues from all sources related to operations adjusted to take account of LHPC's tariffs in effect at the time of the incurrence of debt even though they were not in effect during the twelve-month period to which such revenues relate and net non-operating income; and

(B) the sum of all expenses related to operations including administration, adequate maintenance, taxes and payments in lieu of taxes, but excluding provision for depreciation, either non-cash operating charges and interest and other charges on debt.

(iv) The term "net non-operating income" means the difference between:

(A) revenues from all sources other than those related to operations; and

(B) expenses, including taxes and payments in lieu of taxes, incurred in the generation of revenues in (A) above.

(v) the term "debt service requirements" means the aggregate amount of repayments (including sinking fund payments, if any) of, and interest and other charges on, debt.

(vi) Whenever for the purposes of this Section, it shall be necessary to value, in terms of the currency of the Borrower, debt payable in another currency, such valuation shall be made on the basis of the prevailing lawful rate of exchange at which such other currency is, at the time of such valuation, obtainable for the purposes of servicing such debt, or, in the absence of such rate, on the basis of a rate of exchange acceptable to the Association.

ARTICLE V

Effective Date; Termination; Cancellation and Suspension

Section 5.01. This Agreement shall come into force and effect on the date upon which the Development Credit Agreement and the Loan Agreement become effective.

Section 5.02. (a) This Agreement and all obligations of the Association and of LHPC thereunder shall terminate on the earlier of the following two dates:

(i) the date on which both the Development Credit Agreement and the Loan Agreement shall terminate in accordance with their terms; or

(ii) the date twenty (20) years after the date of this Agreement.

(b) If the Development Credit Agreement or the Loan Agreement terminates in accordance with its terms before the date specified in paragraph (a) (ii) of this Section, the Association shall promptly notify LHPC of this event.

Section 5.03. All the provisions of this Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the General Conditions.

ARTICLE VI

Miscellaneous Provisions

Section 6.01. Any notice or request required or permitted to be given or made under this Agreement and any agreement between the parties contemplated by this 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 or radiogram to the party to which it is required or permitted to be given or made at such party's 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 the Association:

International Development Association
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Cable address:

INDEVAS
Washington, D.C.

Telex:

197688 (TRT),
248423 (RCA),
64145 (WUI) or
82987 (FTCC)

For LHPC:

Lishui Hydro and Power Corporation
No.62 Shaoshan Road,
Changsha, Hunan 410007
People's Republic of China

Telex:

982055 HWPED CN

Section 6.02. Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement on behalf of LHPC may be taken or executed by the General Manager or such other person or persons as the General Manager shall designate in writing and LHPC shall furnish to the Association sufficient evidence of the authority and the authenticated specimen signature of each such person.

Section 6.03. This Agreement may be executed in several counterparts, each of which shall be an original, and all collectively but one instrument.

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in the District of Columbia, United States of America, as of the day and year first above written.

INTERNATIONAL DEVELOPMENT ASSOCIATION
INTERNATIONAL BANK FOR RECONSTRUCTION

AND DEVELOPMENT

By /s/ Nicholas C. Hope

Acting Regional Vice President
East Asia and Pacific Region

LISHUI HYDRO AND POWER CORPORATION

By /s/ Zhou Wenzhong

Authorized Representative

SCHEDULE 1

Procurement and Consultants' Services

Section I: Procurement of Goods and Works

Part A: International Competitive Bidding

Except as provided in Part C hereof, goods and works shall be procured under contracts awarded in accordance with procedures consistent with those set forth in Sections I and II of the "Guidelines for Procurement under IBRD Loans and IDA Credits" published by the Bank in May 1992 (the Guidelines), and in accordance with the following additional procedures:

(a) When contract award is delayed beyond the original bid validity period, such period may be extended once, subject to and in accordance with the provisions of paragraph 2.59 of the Guidelines, by the minimum amount of time required to complete the evaluation, obtain necessary approvals and clearances and award the contract. The bid validity period may be extended a second time only if the bidding documents or the request for extension shall provide for appropriate adjustment of the bid price to reflect changes in the cost of inputs for the contract over the period of extension. Such an increase in the bid price shall not be taken into account in the bid evaluation. With respect to each contract made subject to the Association's prior review in accordance with the provisions of Part D.1 (a) of this Section, the Association's prior approval will be required for (i) a first extension of the bid validity period if the period of extension exceeds sixty (60) days and (ii) any subsequent extension of the bid validity period.

(b) In the procurement of goods and works in accordance with this Part A, LHPC shall use the relevant standard bidding documents issued by the Bank, with such modifications thereto as the Association shall have agreed to be necessary for the purposes of the Project. Where no relevant standard bidding documents have been issued by the Bank, LHPC shall use bidding documents based on other internationally recognized standard forms agreed with the Association.

Part B: Preference for Domestic Manufacturers

In the procurement of goods in accordance with the procedures described in Parts A hereof, goods manufactured in China may be granted a margin of preference in accordance with, and subject to, the provisions of paragraphs 2.55 and 2.56 of the Guidelines and paragraphs 1 through 4 of Appendix 2 thereto.

Part C: Other Procurement Procedures

1. Goods estimated to cost the equivalent of \$200,000 or less per contract, up to an aggregate amount equivalent to \$15,000,000, may be procured under contracts awarded on the basis of competitive bidding, advertised locally, in accordance with procedures satisfactory to the Association, except that goods estimated to cost the equivalent of \$50,000 or less per contract, up to an aggregate amount not to exceed \$500,000, may be procured under contracts awarded on the basis of comparison of price quotations obtained from at least three suppliers or contractors, as the case may be in accordance with procedures acceptable to the Association.

2. Works estimated to cost the equivalent of \$10,000,000 or less per contract, up to an aggregate amount equivalent to \$22,000,000, may be procured under contracts awarded on the basis of competitive bidding, advertised locally, in accordance with procedures acceptable to the Association; provided however, that works estimated to cost the equivalent of not more than \$20,000 per contract, up to an aggregate amount not exceeding \$3,500,000, may be carried out in accordance with force account procedures acceptable to the Association.

Part D: Review by the Association of Procurement Decisions

1. Review of invitations to bid and of proposed awards and final contracts:

(a) With respect to each contract (i) for works estimated to cost the equivalent of \$2,000,000 or more, and (ii) goods estimated to cost the equivalent of \$300,000 or more, the procedures set forth in paragraphs 2 and 4 of Appendix 1 to the Guidelines shall apply. Where payments for such contract are to be made out of a Special Account, such procedures shall be modified to ensure that the two conformed copies of the contract required to be furnished to the Association pursuant to said paragraph 2 (d) shall be furnished to the Association prior to the making of the first payment out of said Special Account in respect of such contract.

(b) With respect to each contract not governed by the preceding paragraph, the procedures set forth in paragraphs 3 and 4 of Appendix 1 to the Guidelines shall apply. Where payments for such contract are to be made out of a Special Account, such procedures shall be modified to ensure that the two conformed copies of the contract together with the information required to be furnished to the Association pursuant to said paragraph 3 shall be furnished to the Association as part of the evidence to be furnished pursuant to paragraph 4 of Schedule 3 to the Development Credit Agreement.

(c) The provisions of the preceding subparagraph (b) shall not apply to contracts on account of which withdrawals from the Credit Account are to be made on the basis of statements of expenditure.

2. The figure of 15% is hereby specified for purposes of paragraph 4 of Appendix 1 to the Guidelines.

Section II: Employment of Consultants

1. In order to assist LHPC in carrying out Part F of the Project, LHPC shall employ consultants whose qualifications, experience and terms and conditions of employment shall be satisfactory to the Association. Such consultants shall be selected in accordance with principles and procedures satisfactory to the Association on the basis of the "Guidelines for the Use of Executing Agency" published by the Bank in August 1981 (the Consultant Guidelines). For complex, time-based assignments, LHPC shall employ such consultants under contracts using the standard form of contract for consultants' services issued by the Bank, with such modifications as shall have been agreed by the Association. Where no relevant standard contract documents have been issued by the Bank, LHPC shall use other standard forms agreed with the Association.

2. Notwithstanding the provisions of paragraph 1 of this Section, the provisions of the Consultant Guidelines requiring prior Association review or approval of budgets, short lists, selection procedures, letters of invitation, proposals, evaluation reports and contracts, shall not apply to (a) contracts for the employment of consulting firms estimated to cost less than \$100,000 equivalent each or (b) contracts for the employment of individuals estimated to cost less than \$50,000 equivalent each. However, said exceptions to prior Association review shall not apply to (a) the terms of reference for such contracts (b) single-source selection of consulting firms, (c) assignments of a critical nature, as reasonably determined by the Association, (d) amendments to contracts for the employment of consulting firms raising the contract value to \$100,000 equivalent or above, or (e) amendments to contracts for the employment of individual consultants raising the contract value to \$50,000 equivalent or above.

SCHEDULE 2

Implementation Program

1. LHPC shall:

(a) maintain an international dam safety panel of independent experts, with composition and functions acceptable to the Association, to conduct periodic reviews of the Jiangya dam and its related structures no less frequently than the Association requires during final engineering and construction and (i) to examine whether any grounds have become apparent for making changes in the design of the dam or the technical specifications therefor on the basis of safety, considerations in accordance with sound engineering practice; and (ii) to determine whether there are any deficiencies in the condition of said dam or structures, or in the quality and adequacy of maintenance or methods of operation of the same, which may endanger their safety;

(b) promptly report the findings of each such panel review to the Borrower and the Association; and

(c) ensure that said dam is thereafter maintained, operated and periodically inspected in accordance with sound engineering and dam safety practices, under arrangements satisfactory to the Association. To this end, LHPC shall provide to the Association, not later than one year prior to expected completion of the construction of said dam, for its review and comments a plan for said arrangements.

2. LHPC shall:

(a) maintain a panel of independent experts with composition and functions acceptable to the Association to conduct periodic reviews and make, no less frequently than the Association requires, recommendations in respect of the Environmental Management and Monitoring Plan and the Resettlement Plan;

(b) maintain its environmental and resettlement unit with competent staff in adequate numbers and with responsibilities and functions acceptable to the Association to manage, coordinate and monitor the implementation of the Environmental Management and Monitoring Plan and the Resettlement Plan; and

(c) ensure:

(i) that all activities under Part F of the Project comply with environmental and resettlement standards and guidelines satisfactory to the Association;

(ii) that all necessary measures are taken to minimize and to mitigate any adverse environmental and resettlement impacts caused by the construction and other activities under Part F.1 of the Project, in a manner satisfactory to the Association; and

(iii) that the Environmental Management and Monitoring Plan and the Resettlement Plan are implemented in a timely manner.

3. Without limiting the generality of its obligation under Section II of Schedule 1 to this Agreement, LHPC shall, by September 30, 1995, employ consultants to assist in the carrying out of Parts F.1 and F.2 of the Project.

4. By September 30, 1995, LHPC shall establish a mechanism acceptable to the Association for determining the appropriate flood protection fees payable to it out of the Hunan Provincial Flood Protection Fund.

5. LHPC shall maintain its project management office with competent staff in adequate numbers with responsibilities and functions satisfactory to the Association.

6. LHPC shall, by December 31 of each year commencing in 1995, prepare and furnish

to the Association for review, the proposed financing plan and implementation program for Project activities in the next calendar year; and thereafter implement the said plan and program in a manner satisfactory to the Association.

7. LHPC shall participate in the midterm review of the progress of and prospects for Project implementation, carried out with Borrower, the Project Provinces and the Association in accordance with Section 3.02(e) of the Development Credit Agreement.

8. LHPC shall ensure that all training, including study tours and work study and research under parts F of the Project shall be carried out in accordance with training and research programs acceptable to the Association. To that end, LHPC shall cause its project management offices by June 30, in each year commencing in 1995, to prepare and furnish to the Association for its approval plans for the research, training and study tours to be carried out in the next year.

