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**CONFORMED COPY**

**LOAN NUMBER 4748-CHA**

# **Project Agreement**

**(Tai Basin Urban Environment Project)**

**between**

**INTERNATIONAL BANK FOR RECONSTRUCTION  
AND DEVELOPMENT**

**and**

**JIANGSU PROVINCE**

**Dated October 9, 2004**

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**LOAN NUMBER 4748-CHA**

**PROJECT AGREEMENT**

AGREEMENT, dated October 9, 2004, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank) and JIANGSU PROVINCE (Jiangsu).

WHEREAS by the Loan Agreement of even date herewith between People's Republic of China (the Borrower) and the Bank, the Bank has agreed to make a loan to the Borrower in the amount of sixty-one million Dollars (\$61,000,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that Jiangsu agrees to undertake such obligations toward the Bank as are set forth in this Agreement; and

WHEREAS Jiangsu, in consideration of the Bank 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 Loan Agreement, the Preamble to this Agreement and the General Conditions (as so defined) have the respective meanings therein set forth.

**ARTICLE II**

**Execution of the Project**

Section 2.01. (a) Jiangsu declares its commitment to the objectives of the Project as set forth in Schedule 2 to the Loan Agreement, and, to this end, shall carry out, and shall cause to be carried out, the Project all with due diligence and efficiency and in conformity with appropriate administrative, management, financial and engineering practices and public utility, social and environmental standards acceptable to the Bank, and shall provide, or cause to be provided, 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 Bank and Jiangsu shall otherwise agree, Jiangsu shall carry out the

Project in accordance with the Implementation Program set forth in Schedule 2 to this Agreement.

Section 2.02. Except as the Bank shall otherwise agree, procurement of the goods, works and consultants' services required for Parts A.2, B, C.2 and C.3 of the Project and to be financed out of the proceeds of the Loan shall be governed by the provisions of Schedule 1 to this Agreement.

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

(b) For the purposes of Section 9.07 of the General Conditions and without limitation thereto, Jiangsu shall:

- (i) prepare, on the basis of guidelines acceptable to the Bank, and furnish to the Bank not later than six (6) months after the Closing Date or such later date as may be agreed for this purpose between the Bank and Jiangsu, a plan for the continued achievement of the objectives of the Project; and
- (ii) afford the Bank a reasonable opportunity to exchange views with Jiangsu on said plan.

Section 2.04. (a) Jiangsu shall, at the request of the Bank, exchange views with the Bank with regard to progress of the Project, the performance of its obligations under this Agreement and other matters relating to the purposes of the Loan.

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

### **ARTICLE III**

#### **Financial Covenants**

Section 3.01. (a) Jiangsu shall maintain a financial management system, including records and accounts, and prepare financial statements, in accordance with consistently applied accounting standards acceptable to the Bank, adequate to reflect the operations, resources and expenditures related to the Project.

- (b) Jiangsu shall:
  - (i) have the records, accounts and financial statements referred to in paragraph (a) of this Section for each fiscal year (or other period agreed to by the Bank), audited, in accordance with consistently applied auditing standards acceptable to the Bank, by independent auditors acceptable to the Bank;
  - (ii) furnish to the Bank as soon as available, but in any case not later than six months after the end of each such year (or such other period agreed to by the Bank), (A) certified copies of the financial statements referred to in paragraph (a) of this Section, for such year (or such other period agreed to by the Bank), as so audited, and (B) an opinion on such statements by said auditors, in scope and detail satisfactory to the Bank; and
  - (iii) furnish to the Bank such other information concerning such records and accounts and the audit of such financial statements, and concerning said auditors, as the Bank may from time to time reasonably request.

Section 3.02. (a) Without limitation upon Jiangsu's progress reporting obligations set out in paragraph 19 of Schedule 2 to this Agreement, Jiangsu shall prepare and furnish to the Bank financial monitoring reports, in form and substance satisfactory to the Bank, which set forth sources and uses of funds for the Project, both cumulatively and for the period covered by each said report, showing separately funds provided under the Loan, and explain variances between the actual and planned uses of such funds.

(b) The first such financial monitoring report shall be furnished to the Bank not later than 60 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 monitoring report shall be furnished to the Bank not later than 60 days after each subsequent calendar semester, and shall cover such calendar semester.

#### **ARTICLE IV**

##### **Effective Date; Termination; Cancellation and Suspension**

Section 4.01. This Agreement shall come into force and effect on the date upon which the Loan Agreement becomes effective.

Section 4.02. This Agreement and all obligations of the Bank and of Jiangsu thereunder shall terminate on the date on which the Loan Agreement shall terminate in accordance with its terms, and the Bank shall promptly notify Jiangsu thereof.

Section 4.03. All the provisions of this Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the General Conditions.

## ARTICLE V

### Miscellaneous Provisions

Section 5.01. 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, telex or facsimile 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. Deliveries made by facsimile transmission shall also be confirmed by mail. The addresses so specified are:

For the Bank:

International Bank for  
Reconstruction and Development  
1818 H Street, NW  
Washington, DC 20433  
United States of America

Cable address:	Telex:	Facsimile:
INTBAFRAD Washington, D.C.	248423 (MCI) or 64145 (MCI)	(1-202) 477-6391

For Jiangsu Province:

Tai Basin Urban Environment Provincial  
Project Management Office  
Jiangsu Economy and Finance Division  
Jiangsu Finance Bureau  
63 Beijing West Road  
Nanjing, People's Republic of China

Facsimile:

(86-25) 3633110

Section 5.02. Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement on behalf of Jiangsu may be taken or executed by the Governor or a Vice Governor of Jiangsu or such other person or persons as said Governor or Vice Governor shall designate in writing, and said Governor or Vice Governor shall furnish to the Bank sufficient evidence of the authority and the authenticated specimen signature of each such person.

Section 5.03. 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 Beijing, People's Republic of China, as of the day and year first above written.

INTERNATIONAL BANK FOR  
RECONSTRUCTION AND DEVELOPMENT

By /s/ David Dollar

Authorized Representative

JIANGSU PROVINCE

By /s/ Zou Jiayi

Authorized Representative

## **SCHEDULE 1**

### **Procurement**

#### Section I. Procurement of Goods and Works

##### Part A: General

Goods and works shall be procured in accordance with the provisions of Section I of the “Guidelines for Procurement under IBRD Loans and IDA Credits” published by the Bank in January 1995 and revised in January and August 1996, September 1997 and January 1999 (the Guidelines) and the following provisions of Section I of this Schedule.

##### Part B: International Competitive Bidding

1. Except as otherwise provided in Part C of this Section, goods and works shall be procured under contracts awarded in accordance with the provisions of Section II of the Guidelines and paragraph 5 of Appendix 1 thereto.

2. The following provision shall apply to goods to be procured under contracts awarded in accordance with the provisions of paragraph 1 of this Part B:

(a) Prequalification

Bidders for construction of wastewater treatment plants to be procured under turnkey contracts shall be prequalified in accordance with the provisions of paragraphs 2.9 and 2.10 of the Guidelines.

(b) Preference for domestically manufactured goods

The provisions of paragraphs 2.54 and 2.55 of the Guidelines and Appendix 2 thereto shall apply to goods manufactured in the territory of the Borrower (other than goods manufactured in the Hong Kong Special Administrative Region or the Macau Special Administrative Region of the Borrower).

##### Part C: Other Procurement Procedures

##### 1. National Competitive Bidding

(a) The following may be procured under contracts awarded in accordance with the provisions of paragraphs 3.3 and 3.4 of the Guidelines:

- (i) Works under the Project for the construction of interceptor and sewage collection pipelines, pumping stations, wastewater treatment plants, and sediment dredging, estimated to cost less

than \$15,000,000 equivalent per contract, up to an aggregate amount not to exceed \$115,000,000 equivalent, and

- (ii) Goods under Part B.1(a) of the Project that are estimated to cost less than \$750,000 equivalent per contract, up to an aggregate amount not to exceed \$1,500,000 equivalent,.

(b) The procedures to be followed for National Competitive Bidding under Part C.1 of this Section shall be those set forth in the Law on Tendering and Bidding of the People's Republic of China promulgated by Order No. 21 of the President of the People's Republic of China on August 30, 1999, with the following clarifications required for compliance with the Guidelines:

- (i) All invitations to prequalify or to bid shall be advertised in a newspaper of national circulation in the Borrower's country, except for civil works contracts that are estimated cost less than \$2,000,000 equivalent each and for goods contracts that are estimated to cost less than \$300,000 equivalent each, which may be advertised in a provincial daily newspaper. Such advertisement shall be made in sufficient time for prospective bidders to obtain prequalification or bidding documents and prepare and submit their responses. In any event, a minimum of thirty (30) days shall be given to bidders between the date of advertisement in such newspaper and the deadline for submission of bids, and the advertisement and bidding documents shall specify the deadline for such submission.
- (ii) Qualification requirements of bidders and the method of evaluating the qualification of each bidder shall be specified in detail in the bidding documents.
- (iii) All bidders that meet the qualification criteria set out in the pre-qualification document shall be allowed to bid and there shall be no limit on the number of pre-qualified bidders.
- (iv) All bidders shall be required to provide security in an amount sufficient to protect the Borrower or Jiangsu, as the case may be, in case of breach of contract by the contractor, and the bidding documents shall specify the required form and amount of such security. Said security shall be required to be furnished only at the time when the bid is submitted and not when the bidder is purchasing the bid document.



- (v) Bidders shall be permitted to submit bids by mail or by hand. The time for opening of all bids shall be the same as the deadline for receipt of such bids.
- (vi) All bids shall be opened in public; all bidders shall be offered an opportunity to be present (either in person or through their representatives) at the time of bid opening, but bidders shall not be required to be present at the bid opening.
- (vii) All bid evaluation criteria shall be disclosed in the bidding documents and quantified in monetary terms or expressed in the form of "pass/fail" requirements.
- (viii) No bid may be rejected solely on the basis that the bid price falls outside any standard contract estimate, or margin or bracket of average bids established by the Borrower or Jiangsu, as the case may be.
- (ix) Each contract shall be awarded to the lowest evaluated responsive bidder, that is, the bidder who meets the appropriate standards of capability and resources and whose bid has been determined (A) to be substantially responsive to the bidding documents and (B) to offer the lowest evaluated cost. There shall be no negotiations with a bidder prior to the award, and the winning bidder shall not be required, as a condition of award, to undertake responsibilities for work not stipulated in the bidding documents or otherwise to modify the bid as originally submitted.
- (x) Each contract financed with the proceeds of the Loan shall provide that the suppliers and contractors shall permit the Bank, at its request, to inspect their accounts and records relating to the performance of the contract and to have said accounts and records audited by auditors appointed by the Bank.
- (xi) A government-owned enterprise in the Borrower's country may be permitted to bid or submit a proposal for the supply of goods and works only if such enterprise can establish that it: (A) is legally and financially autonomous; (B) operates under commercial law; and (C) is not a dependent agency of the agency conducting the procurement.
- (xii) Re-bidding should not be allowed solely because the number of bids is less than three (3).

- (xiii) The successful bidder shall not be required to pay any service fee to a procurement agent, employer or purchaser in exchange for being awarded a contract.
- (xiv) Association with any local firm or firms shall not be a pre-condition for foreign bidders to be awarded a contract.

Part D: Review by the Bank of Procurement Decisions

1. Procurement Planning

Prior to the issuance of any invitations to bid for contracts, the proposed procurement plan for the Project shall be furnished to the Bank for its review and approval, in accordance with the provisions of paragraph 1 of Appendix 1 to the Guidelines. Procurement of all goods and works shall be undertaken in accordance with such procurement plan as shall have been approved by the Bank, and with the provisions of said paragraph 1.

2. Prior Review

With respect to each contract for: (a) works or goods procured using the procedures set forth under Part B of this Section (International Competitive Bidding); (b) works estimated to cost the equivalent of \$4,000,000 or more; and (c) goods estimated to cost the equivalent of \$300,000 or more, the procedures set forth in paragraphs 2 and 3 of Appendix 1 to the Guidelines shall apply.

3. Post Review

With respect to each contract not governed by paragraph 2 of this Part, the procedures set forth in paragraph 4 of Appendix 1 to the Guidelines shall apply.

Section II. Employment of Consultants

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 in 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 Section.

Part B: Quality- and Cost-based Selection

Except as otherwise provided in Part C of this Section, 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.

Part C: Other Procedures for the Selection of Consultants

1. Quality-based Selection

Services under the Project, which are estimated to cost less than \$100,000 equivalent per contract, may be procured in accordance with the provisions of paragraphs 3.1 through 3.4 of the Consultant Guidelines.

Part D: 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 updated from time to time) as shall have been approved by the Bank.

2. Prior Review

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.

3. Post Review

With respect to each contract not governed by paragraph 2 of this Part, the procedures set forth in paragraph 4 of Appendix 1 to the Consultant Guidelines shall apply.

## **SCHEDULE 2**

### **Implementation Program**

For the purposes of Section 2.01(b) of this Agreement, the Implementation Program shall consist of the provisions set forth or referred to below.

#### Project Management and Coordination

1. Jiangsu shall:

(a) Maintain, a Project Leading Group, chaired by the Vice Governor with representatives from Provincial Development and Reform Commission, Provincial Construction Bureau, Provincial Environment Protection Bureau, Provincial Finance Bureau, Provincial Water Resources Bureau, and Provincial Price Bureau, to be responsible for the overall oversight of Project implementation.

(b) (i) Maintain the Tai Basin Urban Environment Project Office (“TBUEPO”) established within the Jiangsu Finance Bureau to be responsible for the overall coordination and supervision of Project implementation, including procurement, financial management, resettlement, environmental impact mitigation, and progress reporting.

(ii) Furnish to the Bank by September 30, 2004, a time-bound action plan to have in place in TBUEPO additional staff, in sufficient numbers and with qualifications, experience and terms of reference acceptable to the Bank, to be responsible for the following: (A) financial management, (B) procurement management, and (C) oversight and monitoring of and reporting on resettlement and environmental impact mitigation; and thereafter implement said plan taking into account the Bank’s comments thereon.

2. Jiangsu shall ensure that each Project Municipality shall continue to maintain the following organizations, with terms of reference, staffing and other resources acceptable to the Bank, throughout the period of implementation of the Project:

(a) The respective Municipal Project Leading Group to be responsible for the overall oversight of the implementation of the Project within the municipality.

(b) The respective Project Management Office established within the respective Municipal Finance Bureau to be responsible for overall coordinating the implementation of the Project within the municipality.

(c) The respective Project Implementation Unit to be responsible for the implementation of the Project within the municipality.

Resettlement Action Plans and Environmental Management Plan

3. Jiangsu shall:

(a) Take, and shall cause the Project Municipalities and each Project Company to take, all measures necessary to ensure that the Project shall be carried out in accordance with the Resettlement Action Plans and the Environmental Management Plan.

(b) In the selection of sites to carry out rehabilitation works on the sewer network in Suzhou city that will be served by the wastewater treatment plants to be constructed under Parts B.2(a) and B.2(b) of the Project, take all necessary actions, and cause all necessary actions to be taken, to minimize to the extent possible any involuntary loss by persons of shelter, productive assets or access to productive assets, or income, or means of livelihood, temporarily or permanently. In the event that said works would give rise to Displaced Persons, prior to commencing such works, prepare a resettlement action plan satisfactory to the Bank, in accordance with the policies and procedures in the Suzhou Resettlement Policy Framework, and thereafter, implement the resettlement action plan so approved by the Bank.

(c) Ensure that any proposed revision of the Resettlement Action Plans or the Environmental Management Plan shall be furnished to the Bank for its prior approval.

4. Jiangsu shall, and shall cause the Project Municipalities and each Project Company to:

(a) Maintain policies and procedures adequate to enable them to monitor and evaluate, in accordance with guidelines and procedures acceptable to the Bank, the implementation of:

- (i) the Environmental Management Plan;
- (ii) the Resettlement Action Plans;
- (iii) the Suzhou Resettlement Policy Framework by Suzhou and any resettlement action plan that is prepared in accordance with said framework and approved by the Bank; and
- (iv) the achievement of the objectives of said plan and framework, including the engagement of experienced and qualified independent monitoring agencies acceptable to the Bank.

(b) Prepare under terms of reference satisfactory to the Bank, and furnish to the Bank by January 31 and July 31 of each year, commencing in January 31, 2005, semi-

annual reports of the results of such monitoring and evaluation activities, together with any revisions proposed to be introduced to such plans in order to achieve their respective objectives.

5. Jiangsu shall cause each of Suzhou and Wuxi, by January 31 in each year, commencing in 2005, to furnish to the Bank the following, prepared in accordance with terms of reference acceptable to the Bank:

(a) an inventory of all enterprises (“Inventoried Enterprises”) with facilities that are connected to the sewer network to be served by each wastewater treatment plant being constructed under this Project, including their key production and pollution discharge data;

(b) a program showing the date on which each of the Inventoried Enterprises began or will begin participation in the Jiangsu Cleaner Production Implementation Program; and

(c) a summary of the results of the technical audit on the Inventoried Enterprises’ production (including, polluting aspects of production) completed within the most recent 12 months, and the pollution prevention implementation plan for said enterprises.

6. Jiangsu shall cause each of Suzhou and Wuxi, by January 31 in each year, commencing in 2006, to furnish to the Bank a certification, acceptable to the Bank, of compliance by the Inventoried Enterprises with relevant national and local wastewater discharge regulations. With respect to any of the Inventoried Enterprises that do not comply with said regulations, Jiangsu shall cause Suzhou and/or Wuxi, as the case may be, to provide to the Bank evidence of actions taken against said Inventoried Enterprises to enforce said regulations, including a time-bound action plan for compliance with said regulations.

7. Jiangsu shall cause each of Suzhou and Wuxi: (a) by the date of the respective municipality’s final approval for the commencement of operation of the first wastewater treatment plant constructed under the Project within the respective municipality, to furnish to the Bank a certification, acceptable to the Bank, that construction and operation of the facilities to be used for the disposal of sludge from each of their respective wastewater treatment plants, to be constructed under the Project, complies with applicable national regulations; and (b) within 6 months of said approval, to test said sludge and furnish the test results to the Bank, including the method for disposal of such sludge in accordance with the requirements set out in the Environmental Management Plan.

Management of Civil Works

8. By December 31, 2004, Jiangsu shall enter into an agreement, acceptable to the Bank, with consulting firms for the management of civil works to be carried out under the Project.

Transfer of revenues and Wastewater Tariffs

9. Jiangsu shall cause Wuxi to furnish to the Bank by June 30, 2005, a time-bound action plan for the transfer of all revenues, which are collected from districts through Wuxi's municipal wastewater fees, back to the districts from which said revenues were collected.

10. By December 31, 2006, Jiangsu shall cause each Project Municipality:

- (a) (i) to authorize and enable each of its respective Project Companies to levy and collect utility company wastewater tariffs for wastewater management services provided by said Project Company, including the establishment of utility company wastewater tariffs (as defined below) to replace the existing municipal wastewater fees applied in each municipality; and (ii) to establish the utility company wastewater tariff at a level that is not less than the level of the municipal wastewater fees applied in each respective municipality when said tariff becomes effective.
- (b) For purposes of sub-paragraph (a) of this paragraph 10, "utility company wastewater tariff" means charges that meet the following criteria:
  - (i) charges levied for wastewater services directly provided by the Project Company to its customers;
  - (ii) charges applied under the legal authority of the Project Company as a wastewater service provider and which charges are legally due and payable to the Project Company;
  - (iii) charges billed and collected, either directly by the Project Company or through an agent (acting on behalf of the company under contract) that remits all collections directly to the Project Company, less an agreed amount as payment for the collecting service of the agent; and
  - (iv) charges applied to customers located within the operating jurisdiction of the Project Company and in the municipality in which the company is located.

Conversion of DFMD

11. Jiangsu shall cause Suzhou: (a) to furnish to the Bank by December 31, 2005, a time-bound action plan, prepared in accordance with terms of reference acceptable to the Bank, for the conversion of the Drainage Facilities Management Division (“DFMD”) within Suzhou Water Affairs Bureau into an independent corporate entity by December 31, 2006; said entity to manage and oversee the operation and maintenance of all wastewater systems in Suzhou's central urban districts, and (b) to implement said plan taking into account the Bank’s comments thereon.

Merger of Wastewater Companies

12. Jiangsu, through Wuxi, shall cause Xishan District: (a) to furnish to the Bank by December 31, 2005, a time-bound action plan, prepared in accordance with terms of reference acceptable to the Bank, for the merger in ownership, management and operation, of wastewater companies serving and for the consolidation of wastewater management throughout Xishan District by December 31, 2006; and (b) to implement said plan taking into account the Bank’s comments thereon.

Parts A.1 of the Project (Rehabilitation of Wuli Lake)

13. Jiangsu shall cause Wuxi to furnish to the Bank by June 30, 2005, a time-bound action plan for the implementation of lake rehabilitation activities under Part A.1 of the Project and thereafter, implement said plan, taking into account the Bank’s comments thereon.

Part C.1 of the Project (Wastewater Management Masterplans)

14. Jiangsu shall cause each of Suzhou and Wuxi to furnish to the Bank by March 31, 2005, a time-bound action plan, prepared in accordance with terms of reference acceptable to the Bank, for the updating or development, as the case may be, of a masterplan for the management of wastewater in the respective municipality.

Wuxi Sewer Network

15. Jiangsu shall cause Wuxi to furnish to the Bank by June 30, 2005, a time-bound action plan for the rehabilitation of the existing sewer network in the urban areas of Wuxi City and, thereafter, implement said plan, taking into account the Bank’s comments thereon.

Financial Arrangements

16. Jiangsu shall allocate to each Project Municipality an amount of the Loan under arrangements satisfactory to the Bank, which shall include, without limitation, the following principal terms:



(a) Jiangsu shall make available the principal amount, which has been allocated to each Project Municipality, in Dollars (on the date, or respective dates, of withdrawal from the Loan Account) of the value of the currency or currencies so withdrawn on account of its Project Company's Respective Part of the Project;

(b) Jiangsu shall recover: (i) such principal amount so made available; and (ii) an amount equal to one percent, or such other percentage as may be determined by the Bank from time to time pursuant to Section 2.04 of the Loan Agreement, of such principal amount, over a period of twenty (20) years, inclusive of a grace period of five (5) years.

(c) Jiangsu shall charge interest on such principal amount, withdrawn and outstanding from time to time at a rate equal to the rate of interest applicable from time to time to the Loan pursuant to Section 2.06 of the Loan Agreement.

(d) Jiangsu shall charge a commitment charge on such principal amount, not withdrawn from time to time at a rate equal to three fourths of one percent ( $3/4$  of 1%) per annum.

#### Subsidiary Loan Agreements

17. Jiangsu shall cause each Project Municipality to relend the portion of the proceeds of the Loan, which was allocated to it pursuant to paragraph 16 of this Schedule for the purposes of carrying out its Project Company's Respective Part of the Project, to each of its Project Companies under a subsidiary loan agreement to be entered into between said Project Municipality and each Project Company: (a) on the principal terms set forth in Section I of Schedule 3 to this Agreement; and (b) under conditions which shall have been approved by the Bank, and which shall include, without limitation, those set forth in Section II of Schedule 3 to this Agreement.

18. (a) Jiangsu shall cause, and shall ensure that each Project Municipality causes each of its Project Companies to:

- (i) perform, in accordance with the provisions of the Subsidiary Loan Agreement to which said Project Company is a party, all of the obligations of said Project Company therein set forth;
- (ii) take or cause to be taken all action, including the provision of funds, facilities, services and other resources, necessary or appropriate to enable said Project Company to perform such obligations; and
- (iii) not take or permit to be taken any action which would prevent or interfere with such performance.

(b) Jiangsu shall exercise, and shall cause each Project Municipality to exercise, its rights under each Subsidiary Loan Agreement to which it is a party in such manner as to protect the interests of the Borrower, the Bank, Jiangsu and said Project Municipality, and to accomplish the purposes of the Loan, and except as the Bank shall otherwise agree, not assign, amend, abrogate or waive any Subsidiary Loan Agreement to which Jiangsu or said Project Municipality is a party or any provision thereof.

Monitoring and Reporting

19. Jiangsu shall:

(a) Maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with indicators satisfactory to the Bank, the carrying out of the Project, as well as the achievement of the objectives thereof.

(b) Prepare, under terms of reference acceptable to the Bank, and furnish to the Bank, the following semi-annual reports on January 31 and July 31 in each year, beginning on January 31, 2005, integrating the results of the monitoring and evaluation activities performed pursuant to sub-paragraph (a) of this paragraph on the physical and financial progress achieved in the carrying out of the Project during the preceding calendar semester (the report due on July 31, 2007, to summarize progress achieved during the period, January 1, 2005, through June 3, 2007) 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.

(c) After furnishing each report referred to in sub-paragraph (b) of this paragraph, review said report with the Bank (the report due on July 31, 2007, shall be reviewed with the Bank by August 31, 2007, or such later date as the Bank shall request), and promptly take all measures required to ensure the efficient completion of the Project and the achievement of the objectives minutes thereof, based on the conclusions and recommendations of said report and the Bank's views on the matter.

### **SCHEDULE 3**

#### **Principal Terms and Conditions of the Subsidiary Loan Agreements**

For the purposes of paragraph 17 of Schedule 2 to this Agreement, the terms of availability of the Loan proceeds shall be those set forth in Section I of this Schedule 3 and the Subsidiary Loan Agreements shall be entered into on the conditions set forth in Section II of this Schedule 3.

#### Section I. Terms of Availability

1. The principal amount of each Subsidiary Loan made by a Project Municipality to each of its Project Companies, shall be the amount equivalent in Dollars (on the respective dates of withdrawal from the Loan Account) of the value of the currency or currencies so withdrawn on account of said Project Company's Respective Part of the Project.
2. Each Project Company shall repay: (i) such principal amount; and (ii) an amount equal to one percent, or such other percentage as may be determined by the Bank from time to time pursuant to Section 2.04 of the Loan Agreement, of such principal amount, over a period of not more than twenty (20) years, inclusive of a grace period of five (5) years.
3. Each Project Company shall pay interest on the principal amount thereof withdrawn and outstanding from time to time at a rate not less than the rate of interest applicable from time to time to the Loan pursuant to Section 2.06 of the Loan Agreement.
4. Each Project Company shall pay a commitment charge on such principal amount, not withdrawn from time to time at a rate equal to three fourths of one percent (3/4 of 1%) per annum.

#### Section II. Conditions

The Subsidiary Loan Agreements shall include the following principal conditions.

1. Each Project Company shall undertake to:
  - (a) carry out the Project Company's Respective Part of the Project with due diligence and efficiency and in accordance with:
    - (i) appropriate management, financial and engineering practices;  
and

- (ii) appropriate public utility, social and environmental standards acceptable to the Bank, and provide, promptly as needed, the funds, facilities and other resources required for the purpose; and

(b) without limitation on the foregoing take all measures necessary to ensure that the Project Company's Respective Part of the Project shall be implemented in accordance with its respective Resettlement Action Plan and the Environmental Management Plan.

2. Each Project Company shall undertake to procure the goods, works and consultants' services to be financed out of the proceeds of the Loan in accordance with the provisions of Schedule 1 to this Agreement, and utilize such goods, works and consultants' services exclusively in the carrying out of its Project Company's Respective Part of the Project.

3. Each Project Company shall undertake to enable the Bank, and the Project Municipality concerned to inspect such goods and the sites and works included in its Project Company's Respective Part of the Project, the operation thereof, and any relevant records and documents.

4. Each Project Company shall undertake to take out and maintain with responsible insurers such insurance, against such risks and in such amounts, as shall be consistent with sound business practice, including, without limitation, such insurance to cover hazards incident to the acquisition, transportation and delivery of goods financed out of the proceeds of the Loan to the place of use or installation, any indemnity thereunder to be made payable in a currency freely usable by the Project Company to replace or repair such goods.

5. Each Project Company shall undertake to:

(a) maintain records and accounts adequate to reflect, in accordance with sound accounting practices, its operations and financial condition;

(b) have its 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 Bank and the Project Municipality concerned;

(c) furnish to Jiangsu, the Bank and the Project Municipality concerned, as soon as available, but in any case not later than six months after the end of each such year:

- (i) certified copies of said financial statements and accounts for such year as so audited;

- (ii) the report of such audit by said auditors in such scope and detail as Jiangsu, the Bank and/or said Project Municipality shall have reasonably requested; and
- (iii) all such other information concerning said records, accounts and financial statements, as well as the audit thereof, as the Bank, Jiangsu, and/or said Project Municipality shall reasonably request.

6. Each Project Company shall furnish to the Bank by January 1, 2006, a time-bound action plan, prepared in accordance with terms of reference acceptable to the Bank, for the management and operation of its wastewater facilities and the delivery of wastewater services to customers (which may include outsourcing of said functions), and thereafter, to implement its respective plan, taking into account the Bank's comments thereon.

7. Each Project Company shall undertake to:

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

(b) prepare, under terms of reference satisfactory to the Bank, to Jiangsu and its respective Project Municipality, and submit to the Bank semi-annual reports integrating the results of the monitoring and evaluation activities performed pursuant to subparagraph (a) of this paragraph on the progress achieved in the carrying out of its respective Parts of the Project during the period preceding the date of each such report.

8. HWTC, SQCC, WAMC, and XWTC each shall undertake:

(a) For each of fiscal year, commencing in fiscal year 2005, to produce total operating revenues related to its wastewater operations equivalent to not less than the sum of: (i) its total operating expenses; (ii) the amount by which debt service requirements exceeds the provision for depreciation; and (iii) the amount by which total non-operating expenses exceed total non-operating revenues.

(b) To review before September 30 in each of its fiscal years beginning fiscal year 2005, on the basis of forecasts prepared by it and satisfactory to the Bank, whether it would meet the requirements set forth in subparagraph (a) hereof in respect of such year and the next following fiscal year and shall furnish to the Bank the results of such review upon its completion.

(c) If any such review shows that it would not meet the requirements set forth in subparagraph (a) hereof for the fiscal years covered by such review, it shall

promptly take all necessary measures (including, without limitation, adjustments of the structure or levels of the utility company wastewater tariff) in order to meet such requirements.

(d) For purposes of paragraph 8 of this Schedule:

- (i) The term "total operating revenues" means revenues arising directly from the application of utility wastewater tariffs and other user charges by the Project Company concerned for wastewater services provided by such company.
- (ii) The term "utility company wastewater tariff" means charges defined in paragraph 10(b) of Schedule 2 to this Agreement.
- (iii) The term "total operating expenses" means all expenses related to operations, including administration, taxes and payments in lieu of taxes, and provision for depreciation on a straight-line basis at a rate of not less than 3.3% per annum of the average current gross value of the concerned Project Company's fixed assets in operation, or other basis acceptable to the Bank, but excluding interest and other charges on debt.
- (iv) 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.
- (v) The term "total non-operating revenue" means revenue from all sources, other than those related to operations.
- (vi) The term "total non-operating expenses" means all expenses, other than those related to operations, including taxes and payments in lieu of taxes, and provision for depreciation or debt service requirements, whichever is greater.

9. (a) HWTC, SQCC, WAMC, and XWTC each shall undertake not to incur any debt unless a reasonable forecast of its revenues and expenditures shows that its estimated net revenues for each fiscal year during the term of the debt to be incurred shall be at least 1.3 times its estimated debt service requirements in such year on all of its debt including the debt to be incurred.

(b) For purposes of paragraph 9 of this Schedule:

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

- (ii) The term “reasonable forecast” means a forecast prepared by a Project Company not earlier than twelve months prior to the incurrence of the debt in question, which both the Bank and Project Company accept as reasonable and as to which the Bank has notified Project Company of its acceptability, provided that no event has occurred since such notification which has, or may reasonably be expected in the future to have, a material adverse effect on the financial condition or future operating results of Project Company.
- (iii) The term "net revenues" means the difference between:
  - (A) the sum of (I) total operating revenues; and (II) the difference between total non-operating revenues and total non-operating expenses, and
  - (B) the sum of all expenses related to operations including administration, taxes and payments in lieu of taxes, but excluding provision for depreciation, other non-cash operating charges and interest and other charges on debt.
- (iv) 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.
- (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

10. Whenever, for the purposes of this Schedule, 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 Bank.

11. Each Project Municipality shall have the right to suspend or terminate the right of its Project Company to the use of the proceeds of the loan made available under the Subsidiary Loan Agreement with said Project Company upon failure by such Project Company to perform its obligations under the agreement.