

CONFORMED COPY

LOAN NUMBER 4172 CHA

Project Agreement

(Inner Mongolia (Tuoketuo) Thermal Power Project)

between

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

and

NORTH CHINA POWER GROUP COMPANY

Dated June 26, 1998

LOAN NUMBER 4172 CHA

PROJECT AGREEMENT

AGREEMENT, dated June 26, 1998, between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank) and NORTH CHINA POWER GROUP COMPANY (NCPGC).

WHEREAS (A) 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 available to the Borrower an amount equal to four hundred million Dollars (\$400,000,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that NCPGC agree to undertake such obligations toward the Bank as are set forth in this Agreement;

(B) by a subsidiary loan agreement to be entered into between the Borrower and NCPGC, the proceeds of the loan provided for under the Loan Agreement will be made available to NCPGC on the terms and conditions set forth in said NCPGC Subsidiary Loan Agreement; and

WHEREAS NCPGC, in consideration of 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 Loan 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) NCPGC 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 Part B of the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering and power utility practices, and shall provide, or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for Part B of the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Bank and NCPGC shall otherwise agree, NCPGC shall carry out Part B of 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 and consultants' services required for Part B 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) NCPGC 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 NCPGC Project Agreement and Part B of the Project.

(b) For the purposes of Section 9.08 of the General Conditions and without limitation thereto, NCPGC 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 NCPGC, a plan for the future operation of the Project; and

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

Section 2.04. NCPGC shall duly perform all its obligations under the NCPGC Subsidiary Loan Agreement. Except as the Bank shall otherwise agree, NCPGC shall not take or concur in any action which would have the effect of amending, abrogating, assigning or waiving the NCPGC Subsidiary Loan Agreement or any provision thereof.

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

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

ARTICLE III

Management and Operations of NCPGC

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

Section 3.02. NCPGC 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, environmental and power utility practices.

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

ARTICLE IV

Financial Covenants

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

(b) NCPGC 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 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, (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 Bank shall have reasonably requested; and

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

Section 4.02. (a) NCPGC shall take all necessary measures, including, without limitation, adjustments of the structure or the levels of its tariffs, to ensure that its internal cash generation of each fiscal year during the term of any debt to be incurred shall be at least 1.5 times its estimated debt service requirements in such year on all its debt, including the debt to be incurred.

(b) For the purposes of this Section:

(i) The term "debt" means any indebtedness of NCPGC 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 "internal cash generation" means the difference between: (A) the sum of revenues from all sources related to operations and net non-operating income, excluding receipts for consumer connection charges; and (B) the sum of all expenses related to operations, including administration, provision of maintenance special fund, and sales and income taxes and payments in lieu of taxes, but excluding provision for depreciation, 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, excluding capitalized interest during construction.

(vi) Whenever for the purposes of Section 4.02 it shall be necessary to value, in terms of the currency of the Borrower, debt payable in another currency, such valuations 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.

Section 4.03. (a) Except as the Bank shall otherwise agree, NCPGC shall earn: (i) for its fiscal year ending on December 31, 1998, an annual return of not less than 8% of the average current value of its equity; (ii) for its fiscal years ending on December 31, 1999 and December 31, 2000, an annual return of not less than 10% of the average current value of its equity; and (iii) for its fiscal year ending on December 31, 2001, and for each of its fiscal years thereafter, an annual return of not less than 12% of the average current value of its equity.

(b) Before April 30 in each of its fiscal years, NCPGC shall, on the basis of forecasts prepared by NCPGC and satisfactory to the Bank, review whether it would meet the requirements set forth in paragraph (a) of this Section 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 NCPGC would not meet the requirements set forth in paragraph (a) of this Section for NCPGC's fiscal years covered by such review, NCPGC shall promptly take all necessary measures (including without limitation, adjustments of the structure or levels of its rates) in order to meet such requirements.

(d) For the purposes of this Section:

(i) The annual return shall be calculated by dividing NCPGC's net income for the fiscal year in question by one half of the sum of the current value of NCPGC's equity at the beginning and at the end of that fiscal year.

(ii) The term "equity" means the sum of the total unimpaired paid-in capital, retained earnings and reserves of NCPGC not allocated to cover specific liabilities.

(iii) The term "net income" means the sum of total operating revenues and net non-operating income less the sum of total operating expenses and interest payments and other charges on debt.

(iv) The term "total operating revenues" means revenues from all sources related to operations.

(v) 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.

(vi) The term "total operating expenses" means all expenses related to operations including administration, adequate maintenance, taxes and payments in lieu of taxes, and provision for depreciation on a straight-line basis at a rate not less than 5% per annum of the average current gross value of NCPGC's fixed assets in operation, or other basis acceptable to the Bank, but excluding interest and other charges on debt.

Section 4.04. NCPGC shall prepare and furnish to the Bank for its review and comment, by April 30 of each year, a rolling long-term financial plan containing, inter alia, projected income statements, sources and uses of funds and balance sheets for each of the next eight years.

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 Loan Agreement becomes effective.

Section 5.02. This Agreement and all obligations of the Bank and of NCPGC thereunder shall terminate on the date on which the Loan Agreement shall terminate in accordance with its terms, and the Bank shall promptly notify NCPGC thereof.

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 Bank:

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

Cable address:

INTBAFRAD
Washington, D.C.

Telex:

248423 (MCI)
64145 (MCI)

For NCEPGC:

North China Power Group Company
32 Zaolin Qianjie
Beijing
People's Republic of China

Telex:

222818 NCPA 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 NCPGC, or by NCPGC on behalf of the Borrower under the Loan Agreement, may be taken or executed by the General Manager or such other person or persons as said General Manager shall designate in writing, and NCPGC shall furnish to the Bank 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 BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ Jean-Michel Severino

Regional Vice President
East Asia and Pacific

NORTH CHINA POWER GROUP COMPANY

By /s/ Liu Xiaoming

Authorized Representative

SCHEDULE 1

Procurement and Consultants' Services

Section I. Procurement of Goods

Part A: General

Goods 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 (the Guidelines) and the following provisions of this Section, as applicable.

Part B: International Competitive Bidding

1. Except as otherwise provided in Part C of this Section, goods 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 provisions shall apply to goods to be procured under contracts awarded in accordance with the provisions of paragraph 1 of this Part B.

(a) 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.

(b) Notification and Advertising The invitation to prequalify or bid for each contract estimated to cost \$10,000,000 equivalent or more shall be advertised in accordance with the procedures applicable to large contracts under paragraph 2.8 of the Guidelines.

Part C: Other Procurement Procedures

1. Limited International Bidding

Specialized equipment estimated to cost less than \$300,000 equivalent per contract, up to an aggregate amount not to exceed \$1,200,000 equivalent, and goods, which the Bank agrees can only be purchased from a limited number of suppliers, regardless of the cost thereof, may be procured under contracts awarded in accordance

with the provisions of paragraph 3.2 of the Guidelines.

2. International and National Shopping

Goods which are readily available off-the-shelf or are standard specification commodities and which are estimated to cost less than \$300,000 equivalent per contract may be procured under contracts awarded on the basis of (i) international shopping procedures, for up to an aggregate amount not to exceed \$400,000 equivalent, or (ii) with the prior agreement of the Bank, national shopping procedures, for an aggregate amount not to exceed \$200,000 equivalent, in each case in accordance with the provisions of paragraphs 3.5 and 3.6 of the Guidelines.

3. Direct Contracting

Goods which (i) should be procured as an extension of an existing contract or must be purchased from the original supplier to be compatible with existing equipment, and which cost \$200,000 equivalent or less in the aggregate or (ii) are of a proprietary nature, may, with the Bank's prior agreement, be procured in accordance with the provisions of paragraph 3.7 of the Guidelines.

Part D: Review by the Bank of Procurement Decisions

1. Procurement Planning

Prior to the issuance of any invitations to prequalify for bidding or 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 goods estimated to cost the equivalent of \$5,000,000 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

1. Consultants' services shall be procured under contracts awarded in accordance with the provisions of the "Guidelines for the Use of Consultants by World Bank Borrowers and by The World Bank as Executing Agency" published by the Bank in August 1981 (the Consultant Guidelines). For complex, time-based assignments, such contracts shall be based on the standard form of contract for consultants' services issued by the Bank, with such modifications thereto as shall have been agreed by the Bank. Where no relevant standard contract documents have been issued by the Bank, other standard forms acceptable to the Bank shall be used.

2. Notwithstanding the provisions of paragraph 1 of this Section, the provisions of the Consultant Guidelines requiring prior Bank 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 individual consultants estimated to cost less than \$50,000 equivalent each. However, said exceptions to prior Bank 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 Bank, (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.

Implementation Program

For the purposes of Section 2.01(b) of this Agreement, the Implementation Program shall consist of the following:

A. Project Management

In order to ensure the proper carrying out of Part B of the Project, NCPGC shall continue to maintain a project management unit, with terms of reference, staffing and other resources satisfactory to the Bank, to be responsible for the overall coordination and supervision of project implementation, the supervision of procurement of goods and services thereunder, the overall assessment of quality and impact of Part B of the Project, and the preparation and furnishing to the Bank of reports and other information thereon.

B. Project Implementation

1. Part B of the Project:

In connection with the implementation of Part B of the Project, NCPGC shall: (a) complete the construction of 500 kilovolt (kV) transmission lines and associated sub- and switching stations to transmit power from the 600 megawatt (MW) units to be built under Part A(1) of the Project, three months prior to the commissioning of the first of said 600 MW units; and

(b) no later than January 31, 2004, (i) install four 50 MVA 110/10 kV transformers in the Beicheng and Huichengmen substations in Beijing Municipality, and (ii) upgrade the distribution system in the Xizhimen area in Beijing Municipality, including reconductoring of insulated overhead lines (approximately 3x75 km), and installation of 5 compact 10kV transformer stations.

2. Part B (4) of the Project: Resettlement

NCPGC shall ensure that Part B of the Project is implemented in accordance with RAP-B in a manner satisfactory to the Bank and that all people who are involuntarily displaced or whose right to land and other assets have been compulsorily acquired under Part B of the Project shall be resettled, compensated and rehabilitated in accordance with RAP-B.

3. Part B (5) of the Project: Institutional Development

NCPGC shall carry out Part B (3) of the Project in accordance with a time-bound action plan acceptable to the Bank. Without limitation upon the foregoing, NCPGC shall: (i) employ consultants in accordance with the provisions of Section II of Schedule 1 to this Agreement not later than March 31, 1999 to assist NCPGC in (a) carrying out of the study of its organization, management and staffing included in Part B (3) of the Project, and (b) the development and introduction of suitable accounting and financial management systems under Part B (3) thereof; (ii) ensure that said study shall be completed and furnished to the Bank, not later than September 30, 1999; (iii) afford the Bank a reasonable opportunity to exchange views with NCPGC on said study and the proposal for said systems; and thereafter, but in any event not later than March 31, 2001 carry out the recommendations of said study and install the said systems, taking into account the views of the Bank on the matter; and (iv) carry out the NCPGC Management Development and Training Action Plan in accordance with a time-bound action plans acceptable to the Bank.

C. Project Monitoring and Reporting

NCPGC shall:

1. maintain or cause to be maintained policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with the indicators satisfactory to the Bank the carrying out of Part B of the Project, including (a) RAP-B and (b) the action plan referred to in Part B.3 of this Schedule, and the achievement of the objectives thereof;

2. prepare, under terms of reference acceptable to the Bank, and furnish to the Bank semi- annual reports on or about April 30 and October 31 in each year, integrating the results of the monitoring and evaluation activities performed pursuant to Part C.1 hereof on the progress achieved in the carrying out of Parts B of the Project, including (a) RAP-B and (b) the action plan referred to in Part B.3 of this Schedule, during the preceding calendar year, together with any revisions proposed to be made in said plan in RAP-B or said plan in order to achieve the objectives thereof and any measures proposed to further the objectives of Part B of the Project; and

3. review with the Bank each report furnished to the Bank pursuant to Part C.2 hereof and promptly introduce such revisions into the RAP-B and the action plan referred to in Part B.3 of this Schedule as shall have been approved by the Bank, and take such measures to further the objectives of Part B of the Project as shall have been agreed with the Bank.

