

CONFORMED COPY

CREDIT NUMBER 2892 CHA  
LOAN NUMBER 4055 CHA

Project Agreement  
(Yunnan Environment Project)

among

INTERNATIONAL DEVELOPMENT ASSOCIATION

INTERNATIONAL BANK FOR RECONSTRUCTION  
AND DEVELOPMENT

and

YUNNAN PROVINCE

Dated September 13, 1996

CREDIT NUMBER 2892 CHA  
LOAN NUMBER 4055 CHA

PROJECT AGREEMENT

AGREEMENT, dated September 13, 1996, among INTERNATIONAL DEVELOPMENT ASSOCIATION (the Association), INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank) and YUNNAN PROVINCE (Yunnan).

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 seventeen million four hundred thousand Special Drawing Rights (SDR 17,400,000), on the terms and conditions set forth in the Development Credit Agreement, but only on condition that Yunnan agree to undertake such obligations toward the Association as are set forth in this Agreement;

(B) by the Loan Agreement of even date herewith between People's Republic of China (the Borrower), the Bank has agreed to make available to the Borrower an amount of one hundred twenty-five million dollars (\$125,000,000), on the terms and conditions set forth in the Loan Agreement, but only on condition that Yunnan agree to undertake such obligations toward the Bank as are set forth in this Agreement; and

WHEREAS Yunnan, 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 and in the General Conditions (as so defined) have the respective meanings therein set forth, and, wherever used in this Agreement (except in Section 5.04 of this Agreement, as well as Part C.1 of Schedule 2 and Part A.1 (b) of Schedule 3 to this Agreement), reference to the Association, the Credit and the Credit Account shall also be deemed as a reference to the Bank, the Loan and the Loan Account, respectively.

## ARTICLE II

### Execution of the Project

Section 2.01. (a) Yunnan 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:

- (i) carry out Parts D. 3, E and F of the Project and carry out Part D.1 of the Project through Kunyang Phosphate Fertilizer Factory;
- (ii) cause Kunming to carry out Parts A and D.2 of the Project, of which Part A.2 shall be carried out through the Kunming Water Supply Company, Part A.3 through the Kunming Drainage Company, and Part D.2 through the Kunming Chemical Fertilizer Factory;
- (iii) cause Gejiu to carry out Part B of the Project through the Gejiu Drainage Company; and
- (iv) cause Qujing to carry out Part C of the Project, of which Parts C.2 and C.3 shall be carried out through the wastewater unit and water supply units, respectively, of the Qujing Water Supply and Drainage Company;

all with due diligence and efficiency and in conformity with appropriate administrative, financial, engineering, public utility and environmental standards and practices, and Yunnan 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 Association and Yunnan shall otherwise agree, Yunnan shall carry out the Project, or cause the Project to be carried out, 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 the Project and to be financed out of the proceeds of the Credit and the proceeds of the Loan shall be governed by the provisions of Schedule 1 to this Agreement.

Section 2.03. (a) Yunnan 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 the Project Agreement.

(b) For the purposes of Section 9.07 of the General Conditions applicable to the Development Credit Agreement and Section 9.08 of the General Conditions applicable to the Loan Agreement, and without limitation thereto, Yunnan 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 Borrower and the Association, a plan for the future operation of the Project; and
- (ii) afford the Association a reasonable opportunity to exchange views

with the Borrower on said plan.

Section 2.04. (a) Yunnan 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 and other matters relating to the purposes of the Credit.

(b) Yunnan 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 Yunnan of its obligations under this Agreement.

### ARTICLE III

#### Financial Covenants

Section 3.01. (a) Yunnan shall maintain or cause to be maintained records and accounts adequate to reflect in accordance with sound accounting practices the operations, resources and expenditures in respect of the Project of the departments or agencies of Yunnan as well as the Project Municipalities responsible for carrying out the Project or any part thereof.

(b) Yunnan shall or shall cause to:

(i) have the records and accounts referred to in paragraph (a) of this Section 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, 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 and accounts and the audit thereof as the Association shall from time to time reasonably request.

### ARTICLE IV

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

Section 4.01. This Agreement shall come into force and effect on the date upon which both the Development Credit Agreement and the Loan Agreement become effective.

Section 4.02. (a) This Agreement and all obligations of the Association and of Yunnan 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 years after the date of this Agreement.

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

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 applicable to the Development Credit Agreement or the Loan Agreement.

### 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, 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:

248423 (MCI), or  
64145 (MCI)

For Yunnan:

Yunnan Environmental Project  
Office for Foreign Funding  
No. 23 Wang Jiaba, Qi Xiang Road  
Kunming 650034  
People's Republic of China

Telex:

64075 FAOYN CN

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 Yunnan may be taken or executed by Vice Governor responsible for the environment or such other person or persons as said Vice Governor shall designate in writing, and Yunnan shall furnish to the Association 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.

Section 5.04. As long as the Bank has not given notice to the contrary to Yunnan and so long as the Development Credit Agreement shall not have terminated prior to the termination of the Loan Agreement:

(a) the obligations of Yunnan to consult with, and to furnish information, documents, plans, reports, records and statements to, the Bank shall be satisfied to the extent performance in respect of such obligations is rendered to the Association;

(b) the obligations of the Bank to consult with, and to furnish information to, Yunnan shall be satisfied to the extent such obligations are fulfilled by the Association; and

(c) all actions taken (including the giving of approvals or granting of waivers) by the Association pursuant to the Development Credit Agreement shall be deemed to be taken pursuant to both the Development Credit Agreement and the Loan Agreement, and in the name and on behalf of both the Association.

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/ Russell Cheetham

Regional Vice President  
East Asia and Pacific

YUNNAN PROVINCE

By /s/ Zhou Wenzhong

Authorized Representative

SCHEDULE 1

Procurement and Consultants' Services

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 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 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 provisions shall apply to goods and works to be procured under contracts awarded in accordance with the provisions of paragraph 1 of this Part B.

(a) Prequalification

Bidders for treatment equipment under contracts estimated to cost more than \$4,000,000 shall be prequalified in accordance with the provisions of paragraphs 2.09 and 2.10 of the Guidelines.

(b) Grouping of contracts

To the extent practicable, contracts for civil works shall be grouped into bid packages estimated to cost the equivalent of \$6,000,000 or more each, and contracts for goods shall be grouped into bid packages estimated to cost the equivalent of \$250,000 or more each.

(c) Preference for domestically manufactured goods and domestic contractors

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 and works to be carried out by domestic contractors.

(d) 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. International Competitive Bidding

Works estimated to cost less than \$6,000,000 equivalent per contract, up to an aggregate amount not to exceed \$80,000,000 equivalent, and goods (other than goods required for a Sub-project) estimated to cost less than \$250,000 equivalent per contract, up to an aggregate amount not to exceed \$1,500,000, may be procured under contracts awarded in accordance with the provisions of paragraphs 3.3 and 3.4 of the Guidelines.

2. National Shopping

(a) Goods (other than goods required for a Sub-project), estimated to cost less than \$50,000 equivalent per contract, up to an aggregate amount not to exceed \$1,500,000 equivalent, may be procured under contracts awarded on the basis of national shopping procedures in accordance with the provisions of paragraphs 3.5 and 3.6 of the Guidelines.

(b) Goods required for a Sub-project may be procured under contracts awarded on the basis of shopping procedures in accordance with the provisions of paragraphs 3.5 and 3.6 of the Guidelines.

Part D: Review by the Association 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 Association 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 Association, and with the provisions of said paragraph 1.

2. Prior Review

With respect to each contract for works estimated to cost the equivalent of \$2,500,000 or more, and each contract for goods estimated to cost the equivalent of \$500,000 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 as shall have been agreed by the Association. Where no relevant standard contract documents have been issued by the Bank, other standard forms acceptable to the Association shall be used.

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:

- (i) the terms of reference for such contracts;
- (ii) single-source selection of consulting firms;
- (iii) assignments of a critical nature, as reasonably determined by the Association;
- (iv) amendments to contracts for the employment of consulting firms raising the contract value to \$100,000 equivalent or above; or
- (v) amendments to contracts for the employment of individual consultants raising the contract value to \$50,000 equivalent or above.

## 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.

#### A. Project Management

1. Yunnan shall continue to maintain a provincial project office, with functions satisfactory to the Association, staffed by qualified staff in adequate numbers, to be responsible for the overall coordination and supervision of Project execution, the supervision of the procurement of goods and services thereunder, the overall assessment of quality and impact of the Project and the preparation and furnishing to the Association of reports and other information thereon.

2. Yunnan shall ensure that each of the Project Municipalities shall continue to maintain its municipal project office with functions satisfactory to the Association, staffed by qualified staff in adequate numbers, to be responsible for: the coordination and supervision of the execution of its Respective Part of the Project; the supervision of the procurement of goods and services under its Respective Part of the Project; and the preparation and furnishing to said provincial project office of reports and other information thereon.

#### B. Resettlement and Environmental Action Plans

1. Yunnan shall take, and shall cause the Project Municipalities, each Utility Company and Participating Enterprise to take, all measures necessary to ensure that the Project shall be carried out in accordance with the Resettlement Action Plans and the Environmental Action Plans.

2. Yunnan shall ensure that any proposed revision of the Resettlement Action Plans or the Environmental Action Plans shall be furnished to the Association for prior approval.

3. Yunnan shall cause Kunming to take all steps necessary to ensure that the Kunming Iron and Steel Plant, the Yunfeng Paper Mill and the Kunming Pesticide Plant shall implement their environmental management improvement action plans, dated April 30, 1996, in a manner satisfactory to the Association.

#### C. Financial Arrangements

Yunnan shall allocate to each Project Municipality an amount out of the proceeds of the Credit under arrangements satisfactory to the Association, which shall include, without limitation, the following principal terms:

- (a) the principal amount so made available to each Project Municipality:
  - (i) shall be the equivalent in terms of Special Drawing Rights (on the

date, or \_\_\_\_\_ respective dates, of withdrawal from the Credit Account) of the value of the \_\_\_\_\_ currency or currencies so withdrawn on account of said Project Municipality's \_\_\_\_\_ Respective Part of the Project and for its Utility Company's, and in the case \_\_\_\_\_ of Kunming, for the Kunming Fertilizer Factory's Respective Part of the \_\_\_\_\_ Project; and

(ii) shall be repaid in foreign currency in amounts equivalent (as of the date, or \_\_\_\_\_ respective dates, of repayment) to the amount in Special Drawing Rights so \_\_\_\_\_ made available;

(b) Each Project Municipality shall repay such principal amount over a period of twenty (20) years, inclusive of a grace period of five (5) years;

(c) Yunnan shall charge a service charge on such principal amount, withdrawn and outstanding from time to time at a rate of three-fourths of one percent ( $3/4$  of 1%) per annum; and

(d) Yunnan shall charge a commitment charge on such principal amount, not withdrawn from time to time at a rate equal to one-half of one percent ( $1/2$  of 1%) per annum.

2. Yunnan shall allocate to each Project Municipality an amount out of the proceeds of the Loan under arrangements satisfactory to the Association, which shall include, without limitation, the following principal terms:

(a) the principal amount so made available to each Project Municipality shall be the amount 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 Municipality's Respective Part of the Project;

(b) Each Project Municipality shall repay such principal amount over a period of seventeen (17) years, inclusive of a grace period of five (5) years;

(c) Yunnan 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 2.05 of the Loan Agreement; and

(d) Yunnan 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.

3. Yunnan shall cause Kunming and Qujing to:

(a) complete, not later than July 1, 1997, in accordance with terms of reference acceptable to the Association, and furnish to the Association for comments a study of the recovery of the full costs of providing solid waste collection and disposal services to industrial and commercial users, including a detailed time-bound action plan, enabling the implementation of such full cost recovery by not later than January 1, 1998; and

(b) thereafter implement the said action plan taking into account the Association's comments thereon.

#### D. Subsidiary Loan Agreements

1. Yunnan shall cause each Project Municipality to relend the portion of the proceeds of the Credit allocated to it pursuant to Part C of this Schedule for the purpose of carrying out its Utility Company's Respective Part of the Project, to its Utility Company, under a subsidiary loan agreement to be entered into between said Project Municipality and its Utility Company, under terms and conditions which shall have been approved by the Association, and which shall include, without limitation, those set forth in Schedule 3 to this Agreement.

2. Yunnan shall cause Kunming to relend the portion of the proceeds of the Credit allocated to it pursuant to Part C of this Schedule for the purpose of carrying out Part D.2 of the Project, to the Kunming Chemical Fertilizer Factory, under a subsidiary loan agreement to be entered into between Kunming and the Kunming Chemical



Fertilizer Factory, under terms and conditions which shall have been approved by the Association, and which shall include, without limitation, those set forth in Schedule 3 to this Agreement.

3. Yunnan shall, for the purpose of carrying out Part D.1 of the Project relend a portion of the proceeds of the Credit to the Kunyang Phosphate Fertilizer Factory under a subsidiary loan agreement to be entered into between Yunnan and the Kunyang Phosphate Fertilizer Factory under terms and conditions which shall have been approved by the Association, and which shall include, without limitation, those set forth in Schedule 3 to this Agreement.

4. (a) Yunnan shall cause Kunyang Phosphate Fertilizer Factory, and ensure that each Project Municipality shall cause its Utility Company and, for Kunming, the Kunming Chemical Fertilizer Factory, to:

(i) perform, in accordance with the provisions of the Subsidiary Loan Agreement to which said Utility Company or Fertilizer Factory is a party, all of the obligations of said Utility Company or Fertilizer Factory 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 Utility Company or Fertilizer Factory to perform such obligations; and

(iii) not take or permit to be taken any action which would prevent or interfere with such performance; and

(b) Yunnan shall, 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 Association, Yunnan and said Project Municipality and to accomplish the purposes of the Credit, and except as the Association shall otherwise agree, not assign, amend, abrogate or waive any Subsidiary Loan Agreement to which Yunnan or said Project Municipality is a party or any provision thereof.

#### E. Institutional Development and Training

Yunnan shall carry out Part F of the Project in accordance with a schedule acceptable to the Association, and shall ensure that each of the Project Municipalities fully cooperates in the carrying out of said Part of the Project. Any proposed revision to the aforementioned schedule shall be furnished to the Association for its prior approval.

#### F. Environmental Pollution Control Sub-loans under Part D.3 of the Project

1. Yunnan shall make Sub-loans on the terms and conditions set forth or referred to in Schedule 4 to this Agreement.

2. Yunnan shall:

(a) adopt a manual (the Operational Regulations) governing the operation of the revolving credit facility under Part D.3 of the Project and acceptable to the Association; and

(b) implement Part D.3 of the Project in accordance with the said manual.

3. Yunnan shall:

(a) appraise Sub-projects and supervise, monitor and report on the carrying out of Sub-projects, in accordance with the Operational Regulations;

(b) to this end, enter into an agreement (the Financial Agency Agreement) with a financial institution acceptable to the Association, on terms and conditions acceptable to the Association, whereby said financial institution shall act as agent for Yunnan for the purposes of carrying out of the financial and technical appraisal of Sub-projects and for the

disbursement of the proceeds of Sub-loans as well as the collection of amounts thereunder;

(c) utilize all amounts repaid on Sub-loans, to the extent they are not yet required to meet Yunnan's repayment obligations to the Borrower, to finance additional Subprojects in accordance with guidelines acceptable to the Association;

(d) exercise its rights in relation to each Sub-project in such manner as to protect the interests of the Association and the Borrower and achieve the purposes of the Project;

(e) not assign, amend, abrogate or waive any of its agreements providing for Sub-loans, or any provision thereof, without the prior approval of the Association; and

(f) furnish any proposed amendment to the Financial Agency Agreement or the Operational Regulations to the Association for its prior approval.

4. Yunnan shall make available to the revolving credit facility under Part D.3 of the Project, for the purpose of making Sub-loans, at least Yuan 14,000,000 not later than June 30 in each of the years 1997, 1998 and 1999 under arrangements satisfactory to the Association.

#### G. Monitoring and Reporting

##### 1. Monitoring

Yunnan shall maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with indicators acceptable to the Association, the carrying out of the Project, including the Yunnan Resettlement Action Plans and the Environmental Action Plans, as well as the achievement of the objectives thereof.

##### 2. Reporting

Yunnan shall prepare, under terms of reference acceptable to the Association, and furnish to the Association, the following reports:

(a) reports not later than January 30, April 30, July 30 and October 30 in each year, integrating the results of the monitoring and evaluation activities performed pursuant to paragraph 1 above, on the progress achieved in the carrying out of the Project during the immediately preceding calendar year quarter and setting out the measures recommended to ensure the efficient carrying out of the Project and the achievement of the objectives thereof during the then current calendar quarter, the October 30 report shall include the latest Project cost estimate and financial plan for the following calendar year; and

(b) a mid-term report not later than June 30, 1999, integrating the results of the monitoring and reporting activities performed pursuant to paragraphs 1 and 2 (a) above, on the progress achieved in the carrying out of the Project during the period preceding the date of said report and setting out the measures recommended to ensure the efficient carrying out of the Project and the achievement of the objectives thereof.

##### 3. Consultation

After furnishing each report referred to in paragraph 2 above, Yunnan shall review said report with the Association, and promptly take all measures required to ensure the efficient completion of the Project (including, when applicable, the carrying out of the Resettlement Action Plans and the Environmental Action Plans) and the achievement of the objectives thereof, based on the conclusions and recommendations of said report and the Association's views on the matter.

#### SCHEDULE 3

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

The principal terms and conditions set forth or referred to in this Annex shall apply for the purposes of Parts D.1, D.2 and D.3 of Schedule 2 to this Agreement.

A. Terms

1. The principal amount of each Subsidiary Loan made by Yunnan to the Kunyang Phosphorus Fertilizer Factory, by a Project Municipality to its Utility Company and, for Kunming, to the Kunming Chemical Fertilizer Factory, shall be the sum of:

(a) the amount 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 Utility Company's or Fertilizer Factory's Respective Part of the Project (the "Dollar Equivalent Principal Amount"); and

(b) the equivalent in terms of Special Drawing Rights (on the date, or respective dates, of withdrawal from the Credit Account) of the value of the currency or currencies so withdrawn on account of said Utility Company's or Fertilizer Factory's Respective Part of the Project (the "SDR Equivalent Principal Amount").

2. The Dollar Equivalent Principal Amount referred to in Part A.1 (a) of this Schedule shall be repaid in foreign currency in amounts equivalent (as of the date, or respective dates, of repayment) to the amount in dollars so made available. The SDR Equivalent Principal Amount referred to in Part A.1 (b) of this Schedule shall be repaid in foreign currency in amounts equivalent (as of the date, or respective dates, of repayment) to the amount in Special Drawing Rights so made available.

3. Each Utility Company shall repay such principal amount over a period of fifteen (15) years, inclusive of a grace period of five (5) years. Each Fertilizer Factory shall repay such principal amount over a period of ten (10) years, inclusive of a grace period of three years.

4. Each Subsidiary Loan shall bear interest on the principal amount thereof 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 2.05 of the Loan Agreement, plus, for the Fertilizer Factories only, a spread of not less than one and one-half percent (1.5%) per annum.

5. Yunnan and the Project Municipality concerned 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.

B. Conditions

The Subsidiary Loan Agreements shall include the following principal conditions.

1. Each Utility Company and Fertilizer Factory shall undertake to:

(a) carry out its Respective Part of the Project with due diligence and efficiency and in accordance with:

(i) appropriate technical, financial, engineering and public utility practices; and

(ii) appropriate health, safety and environmental standards acceptable to the Association, 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 its Respective Part of the Project shall be implemented in accordance with the Yunnan Resettlement Action Plan and the Environmental Impact Assessment.

2. Each Utility Company and Fertilizer Factory shall undertake to procure the goods and services to be financed out of the proceeds of the Credit in accordance with the provisions of Schedule 1 to this Agreement, and utilize such goods and services exclusively in the carrying out of its Respective Part of the Project.

3. Each Utility Company and Fertilizer Factory shall undertake to enable the Association, Yunnan and the Project Municipality concerned to inspect such goods and the sites and works included in its Respective Part of the Project, the operation thereof, and any relevant records and documents.

4. Each Utility Company and Fertilizer Factory 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 Credit to the place of use or installation, any indemnity thereunder to be made payable in a currency freely usable by the Utility Company or Fertilizer Factory, as the case may be, to replace or repair such goods.

5. Each Utility Company and Fertilizer Factory shall undertake to:

(a) maintain records and accounts adequate to reflect in accordance with consistently maintained 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 Association and the Project Municipality concerned;

(c) furnish to Yunnan, the Project Municipality concerned, and for each Utility Company also to the Association, 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; and

(ii) the report of such audit by said auditors in such scope and detail as Yunnan, the Association and/or said Project Municipality shall have reasonably requested; and

(d) prepare and furnish to Yunnan, the Association and the Project Municipality concerned all such other information concerning said records, accounts and financial statements, as well as the audit thereof, as Yunnan, the Association and/or said Project Municipality shall reasonably request.

6. The Kunming Drainage Company, Qujing Water Supply and Drainage Company and the Gejiu Drainage Company shall undertake to:

(a) produce for each fiscal year as of 1997 (for the Qujing Water Supply and Drainage Company and the Gejiu Drainage Company), and for each fiscal year as of 1998 (for the Kunming Drainage Company), total operating revenues related to wastewater operations and, for Qujing Water Supply and Drainage Company, total operating revenues related to water supply operations, equivalent to not less than the sum of:

(i) its total operating expenses related to such operations; and

(ii) the amount by which debt service requirements exceeds the provision for depreciation;

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

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

7. Each Utility Company 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.

8. The Kunming Water Supply Company shall undertake to:

(a) produce, for each of its fiscal years, commencing in its fiscal year 1997, funds from internal sources which shall always be positive and not less than 20% of the annual average of its capital expenditures incurred, or expected to be incurred, for the year, the previous fiscal year and the next following fiscal year;

(b) before September 30 in each of its fiscal years, the Kunming Water Supply Company shall, on the basis of forecasts prepared by it and satisfactory to the Association, review whether it would meet the requirements set forth in sub-paragraph (a) in respect of such year and the next following fiscal year and shall furnish to the Association a copy of such review upon its completion; and

(c) if any such review shows that the Kunming Water Supply Company would not meet the requirements set forth in sub-paragraph (a) for its fiscal years covered by such review, the Kunming Water Supply Company shall promptly take all necessary measures (including, without limitation, adjustments of the structure or levels of its rates) in order to meet such requirements.

9. Yunnan and each Project Municipality shall have the right to suspend or terminate the right of each Utility Company or Fertilizer Factory to which it has made a Subsidiary Loan to the use of the proceeds of such Subsidiary Loan upon failure by said Utility Company or Fertilizer Factory to perform its obligations under its respective Subsidiary Loan Agreement.

#### C. Definitions

1. For purposes of this Schedule:

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

(b) 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 of not less than 3.3% per annum of the average current gross value of the Utility Company's fixed assets in operation, or other basis acceptable to the Association, but excluding interest and other charges on debt.

(c) The average current gross value of the Utility Company's fixed assets in operation shall be calculated as one half of the sum of the gross value of its fixed assets in operation at the beginning and at the end of the fiscal year, as valued from time to time in accordance with sound and consistently maintained methods of valuation satisfactory to the Association.

(d) 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.

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

(f) Debt shall be deemed to be incurred:

(i) 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

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

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

- (i) the sum of revenues from all sources related to operations and net non-operating income; and
- (ii) the sum of all expenses related to operations including administration, adequate maintenance, taxes and payments in lieu of taxes, but excluding provision for depreciation, other non-cash operating charges and interest and other charges on debt.

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

- (i) revenues from all sources other than those related to operations; and
- (ii) expenses, including taxes and payments in lieu of taxes, incurred in the generation of revenues in (i) above.

(i) The term "reasonable forecast" means a forecast prepared by the Utility Company not earlier than twelve months prior to the incurrence of the debt in question, which both the Association and said Utility Company accept as reasonable and as to which the Association has notified said Utility 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 said Utility Company.

(j) The term "funds from internal sources" means the difference between:

- (i) the sum of revenues from all sources related to operations, consumer deposits and consumer contributions in aid of construction, net non-operating income and any reduction in working, capital other than cash; and
- (ii) the sum of all expenses related to operations, including administration, adequate maintenance and taxes and payments in lieu of taxes (excluding provision for depreciation and other non-cash operating charges), debt service requirements, all cash dividends and other cash distributions of surplus, increase in working capital other than cash and other cash outflows other than capital expenditures.

(k) The term "working capital other than cash" means the difference between current assets excluding cash and current liabilities at the end of each fiscal year.

(l) The term "current assets excluding cash" means all assets other than cash which could in the ordinary course of business be converted into cash within twelve months, including accounts receivable, marketable securities, inventories and pre-paid expenses properly chargeable to operating expenses within the next fiscal year.

(m) The term "current liabilities" means all liabilities which will become due and payable or could under circumstances then existing be called for payment within twelve months, including accounts payable, customer advances, debt service requirements, taxes and payments in lieu of taxes, and dividends.

(n) The term "capital expenditures" means all expenditures on account of fixed assets, including interest charged to construction, related to operations.

2. 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 Association.

## Sub-loans

### A. Terms

#### 1. The principal amount of each Sub-loan financed:

(a) shall be the equivalent in terms of dollars (determined as of the date, or respective dates, of withdrawal from the Credit Account or Loan Account) of the value of the currency or currencies so withdrawn on account of the Sub-project for which said Sub-loan has been made; and

(b) shall be repaid in foreign currency in amounts equivalent (as of the date, or respective dates, of repayment) to the amount in dollars so made available.

#### 2. Each Sub-loan shall:

(a) bear interest, on the principal amount thereof withdrawn and outstanding from time to time, at a rate equal to the rate applicable from time to time to the Loan pursuant to Section 2.05 of the Loan Agreement plus a spread of not less than 1.5%;

(b) carry a commitment fee on the principal amount of said loan not withdrawn from time to time at a rate equal to three fourths of one percent (3/4 of 1%) per annum; and

(c) be repaid within a period not exceeding 5 years, inclusive of a grace period not exceeding 2 years.

3. The total estimated cost of each Sub-Project (excluding the cost of land) shall not exceed \$1,000,000. The aggregate amount of all Sub-loans made to any one Participating Enterprise shall not exceed the equivalent of \$500,000. The aggregate amount of all Sub-loans made for any one Sub-project shall not exceed the lesser of:

(a) 50% of the total estimated cost (excluding the cost of land) of such Subproject; or

(b) 100% of the foreign currency cost of such Sub-project.

### B. Eligibility/Appraisal

#### 1. Each Sub-loan shall be made only to a Participating Enterprise which:

(a) is an enterprise duly established and operating under the laws of the Borrower; and

(b) shall have established on the basis of guidelines satisfactory to the Association, that it is creditworthy and has a sound financial structure and the organization, management, staff and other resources required for the efficient carrying out of its operations, including the Sub-project.

2. Sub-projects shall be appraised and selected on the basis of technical, financial, environmental and resettlement criteria acceptable to the Association. Such criteria shall include, without limitation:

(a) Financial: the Participating Enterprise needs to demonstrate that it can maintain a debt service coverage ratio (as defined in Parts B.7 and C of Schedule 3 to this Agreement) of not less than 1.4 times after the proposed Sub-project has reached full production capacity;

(b) Technical: Sub-projects shall be technically viable based on an assessment of:

(i) the Sub-project's impact on the ambient environment;

(ii) the Sub-project's investment and operating cost per unit pollution load reduction;

- (iii) the efforts made by the Participating Enterprise on pollution prevention;
- (iv) the Participating Enterprise's record regarding compliance with environmental regulations and standards; and
- (v) the Sub-project's technical feasibility and least-cost option.

(c) Environmental for each Sub-project an environmental action plan shall be prepared and evaluated, including an assessment of the Participating Enterprise's and the Sub-project's adverse impact on the environment and appropriate mitigation measures to be carried out to remedy such impact based on procedures and principles acceptable to the Association;

(d) Resettlement: for each Sub-project involving the involuntary resettlement of any persons in connection therewith, a resettlement action plan based on procedures and principles acceptable to the Association shall be prepared and evaluated. Resettlement action plans shall be prepared in consultation with the affected persons on the basis of policies, planning principles and institutional arrangements designed to improve the living standards of the said persons, together with satisfactory operational procedures adequate to enable the monitoring and evaluation of the implementation of the said resettlement plan.

#### C. Utilization of Sub-loan proceeds

The proceeds of Sub-loans shall be withdrawn only to finance expenditures for materials, equipment and services required for a Sub-project.

#### D. Other conditions

1. No expenditures for goods or services required for a Sub-project shall be eligible for financing out of the proceeds of the Credit unless:

(a) the Sub-loan shall have been approved by the Association and such expenditures shall have been made not earlier than 90 days prior to the date on which the Association shall have received the application and information required under Section (a) of this Part in respect of such Sub-loan; or

(b) the Sub-loan shall have been a free-limit Sub-loan for which the Association has authorized withdrawals from the Credit Account and such expenditures shall have been made not earlier than 90 days prior to the date on which the Association shall have received the request and information required under Section 2 (b) of this Part in respect of such free-limit Sub-loan. For the purposes of this Schedule, a free-limit Sub-loan shall be a Sub-loan (other than the first three (3) Sub-loans made) in an amount to be financed out of the proceeds of the Credit which shall not exceed the sum of \$300,000 equivalent, when added to any other outstanding amounts financed or proposed to be financed out of the proceeds of the Credit or of any other loan, provided for in any outstanding agreement between the Borrower and the Association, the proceeds of which have been or are being used for financing goods and services directly and materially related to such Sub-project, the foregoing amounts being subject to change from time to time as determined by the Association.

2. (a) Each application for approval by the Association of a Sub-loan (other than a free-limit Sub-loan) shall be in form satisfactory to the Association, and shall include:

- (i) a description of the Participating Enterprise and an appraisal of the Subproject, including a description of the expenditures proposed to be financed out of the proceeds of the Credit;
- (ii) the proposed terms and conditions of the Sub-loan, including the schedule of amortization thereof; and
- (iii) such other information as the Association shall reasonably request.



(b) Each request for authorization to make withdrawals from the Credit Account in respect of a free-limit Sub-loan shall contain:

(i) a summary description of the Participating Enterprise and the Subproject, including a description of the expenditures proposed to be financed out of the proceeds of the Credit; and

(ii) the terms and conditions of the Sub-loan, including the schedule of amortization thereof.

3. Each Sub-loan shall be made on further conditions whereby Yunnan shall obtain, by written contract with the Participating Enterprise, rights adequate to protect the interests of the Association and Yunnan, including:

(a) that the Participating Enterprise shall undertake to:

(i) carry out and operate the Sub-project (including completion of abatement measures, the Sub-project Environmental Action Plan and, if applicable, the Sub-project Resettlement Action Plan), with due diligence and efficiency and in accordance with sound technical, financial and managerial standards and appropriate safety, health and environmental standards satisfactory to the Association, maintain adequate records and provide, promptly as needed, the funds, facilities and other resources required for the purpose;

(ii) procure the goods and services required for the Sub-project in accordance with the provisions of Schedule 1 to this Agreement, and utilize such goods and services exclusively in the carrying out of its Subproject;

(iii) enable the Association and Yunnan to inspect such goods and the sites and works included in its Sub-project the operation thereof, and any relevant records and documents;

(iv) 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 required for the Sub-project to the place of use or on, any indemnity thereunder to be made payable in a currency freely usable by the Participating Enterprise to replace or repair such goods; and

(v) prepare and furnish to Yunnan, as the case may be, for forwarding to the Association, if it shall so request, all such information as the Association or Yunnan shall reasonably request relating to the foregoing and to the administration, operations and financial condition of the Participating Enterprise and to the benefits to be derived from the Sub-project; and

(b) provisions to ensure the right of Yunnan to suspend or terminate the right of the Participating Enterprise to the use of the proceeds of the Credit upon failure by such Participating Enterprise to perform its obligations under its contract providing for the Sub-loan.

