

Public Disclosure Authorized

CONFORMED COPY

LOAN NUMBER 4881-CHA

Loan Agreement

(Guiyang Transport Project)

between

PEOPLE'S REPUBLIC OF CHINA

and

**INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT**

Dated March 18, 2008

LOAN AGREEMENT

Agreement dated March 18, 2008, between PEOPLE'S REPUBLIC OF CHINA (the Borrower) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank). The Borrower and the Bank hereby agree as follows:

ARTICLE I – GENERAL CONDITIONS; DEFINITIONS

- 1.01. The General Conditions (as defined in the Appendix to this Agreement) constitute an integral part of this Agreement.
- 1.02. Unless the context requires otherwise, the capitalized terms used in the Loan Agreement have the meanings ascribed to them in the General Conditions or in this Agreement.

ARTICLE II – LOAN

- 2.01. The Bank agrees to lend to the Borrower, on the terms and conditions set forth or referred to in this Agreement, the amount of one hundred million Dollars (\$100,000,000) to assist in financing the project described in Schedule 1 to this Agreement (“Project”).
- 2.02. The Borrower may withdraw the proceeds of the Loan in accordance with Section IV of Schedule 2 to this Agreement.
- 2.03. The Front-end Fee payable by the Borrower shall be equal to one quarter of one percent (0.25%) of the Loan amount.
- 2.04. The interest payable by the Borrower for each Interest Period shall be at a rate equal to LIBOR for the Loan Currency plus the Variable Spread. Notwithstanding the foregoing, if any amount of the withdrawn Loan Balance remains unpaid when due and such non-payment continues for a period of thirty (30) days, then the interest payable by the Borrower shall instead be calculated as provided in Section 3.02(d) of the General Conditions.
- 2.05. The Payment Dates are March 15 and September 15 in each year.
- 2.06. The principal amount of the Loan shall be repaid in accordance with the amortization schedule set forth in Schedule 3 to this Agreement.
- 2.07. On each of the semiannual Payment Dates specified in Section 2.05 of this Agreement, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account and pay to itself the amounts required to pay, on such date, the interest

on the Loan accrued and payable on or before the date set forth, and up to the amount allocated in, Category (4) of the table in paragraph A.2, Section IV, Schedule 2 to this Agreement, as such Category may be amended from time to time by agreement between the Borrower and the Bank.

ARTICLE III – PROJECT

- 3.01. The Borrower declares its commitment to the objectives of the Project. To this end, the Borrower shall, through Guizhou Province, cause the Project Implementing Entity to carry out the Project in accordance with the provisions of Article V of the General Conditions.
- 3.02. Without limitation upon the provisions of Section 3.01 of this Agreement, and except as the Borrower and the Bank shall otherwise agree, the Borrower shall ensure that the Project is carried out in accordance with the provisions of Schedule 2 to this Agreement.

ARTICLE IV – REMEDIES OF THE BANK

- 4.01. Pursuant to Section 7.02(k) of the General Conditions, the following additional event is specified, namely, that any of the parties to the Subsidiary Agreement shall have failed to perform any of its respective obligations thereunder.

ARTICLE V – EFFECTIVENESS

- 5.01. The Effectiveness Deadline is the date ninety (90) days after the date of this Agreement.

ARTICLE VI – REPRESENTATIVE; ADDRESSES

- 6.01. The Borrower's Representative is the Minister of Finance.
- 6.02. The Borrower's Address is:

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

Facsimile:

(86-10) 6855-1125

6.03. The Bank's Address is:

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

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

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

PEOPLE'S REPUBLIC OF CHINA

By /s/ Yang Shaolin
Authorized Representative

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT

By /s/ David Dollar
Authorized Representative

SCHEDULE 1

Project Description

The objective of the Project is to assist the Borrower to increase the access and mobility of Guiyang Municipality's transport users through priority infrastructure investments while establishing more sustainable mechanisms for rural road maintenance, as well as enhancing capacity for keeping municipal debt under control.

The Project consists of the following parts:

Part A: Youxiao Road

Construction of about 7 kilometers of urban arterial road to provide access between Youzhajie located in the southeastern corner of Guiyang's urban core and Xiaobi in the Longdongbao area, including road, tunnel, and bridge civil works.

Part B: Rural Transport

Construction and rehabilitation of about 44 selected rural road segments to Class III or Class IV national technical standard of the Ministry of Communications of the Borrower with an aggregate length of about 903kms (668kms of main roads and 235kms of access roads) and construction of about 45 rural bus stations to Class IV and Class V national standard of the Ministry of Communications of the Borrower and one rural freight depot.

Part C: Institutional Development

Strengthening the long-term institutional capacity of Guiyang Municipality to develop the transport sector through: (i) a traffic survey; (ii) technical assistance in rural road maintenance system; (iii) technical assistance in a debt management system; and (iv) training activities.

SCHEDULE 2**Project Execution****Section I. Financing Arrangement**

1. For the purpose of carrying out the Project, the Borrower shall make available the proceeds of the Loan to Guizhou Province, and shall cause Guizhou Province to make available said proceeds to Guiyang Municipality, under terms and conditions satisfactory to the Bank, and the following principal terms:

- (i) The principal amount shall be made available in Dollars.
- (ii) The principal amount so made available shall be recovered over a period of seventeen (17) years, inclusive of a grace period of four (4) years.
- (iii) Interest shall be charged 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 the provisions of Section 2.04 of this Agreement.
- (iv) Front-end Fee shall be charged at a rate equal to the rate paid by the Borrower to the Bank pursuant to Sections 2.03 of this Agreement.

Section II. Project Monitoring, Reporting, Evaluation**A. Project Reports**

1. The Borrower shall monitor and evaluate or shall cause the Project Implementing Entity to monitor and evaluate the progress of the Project and prepare Project Reports in accordance with the provisions of Section 5.08 of the General Conditions and on the basis of the indicators set forth in the Annex to Schedule 1 to the Project Agreement. Each Project Report shall cover a six (6) month calendar period in each year that is from January through June and from July through December, commencing on July 1, 2007, and shall be furnished to the Bank not later than forty-five (45) days after the end of the period covered by such report.

2. Without limitation on the provisions of Part A.1 of this Section, the Borrower shall cause the Project Implementing Entity to prepare and furnish to the Bank, as part of the Project Report, not later than forty-five (45) days after the end of each calendar semester, interim unaudited financial reports for the Project covering the semester, in form and substance satisfactory to the Bank.

3. For purposes of Section 5.08(c) of the General Conditions, the report on the execution of the Project and related plan required pursuant to that Section shall be furnished to the Bank not later than six (6) months after the Closing Date.

B. Financial Management, Financial Reports and Audits

1. The Borrower shall maintain or cause the Project Implementing Entity to maintain a financial management system in accordance with the provisions of Section 5.09 of the General Conditions.

2. The Borrower shall cause the Financial Statements to be audited in accordance with the provisions of Section 5.09(b) of the General Conditions. Each audit of the Financial Statements shall cover the period of one (1) fiscal year of the Borrower. The audited Financial Statements for each such period shall be furnished to the Bank not later than six (6) months after the end of such period.

Section III. Procurement

A. General

1. **Goods and Works.** All goods and works required for the Project and to be financed out of the proceeds of the Loan shall be procured in accordance with the requirements set forth or referred to in Section I of the Procurement Guidelines, and with the provisions of this Schedule.

2. **Consultants' Services.** All consultants' services required for the Project and to be financed out of the proceeds of the Loan shall be procured in accordance with the requirements set forth or referred to in Sections I and IV of the Consultant Guidelines and with the provisions of this Schedule.

3. **Definitions.** The capitalized terms used below in this Section to describe particular procurement methods or methods of review by the Bank of particular contracts refer to the corresponding method described in the Procurement Guidelines, or Consultant Guidelines, as the case may be.

B. Particular Methods of Procurement of Goods and Works

1. **International Competitive Bidding.** Except as otherwise provided in paragraph 2 below, goods and works shall be procured under contracts awarded on the basis of International Competitive Bidding. The provisions of paragraphs 2.55 and 2.56 of the Procurement 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).

2. **Other Methods of Procurement of Goods and Works.** The following table specifies the methods of procurement, other than International Competitive Bidding, which may be used for goods and works. The Procurement Plan shall specify the circumstances under which such methods may be used.

<u>Procurement Method</u>
(a) National Competitive Bidding
(b) Shopping

(a) The procedures to be followed for National Competitive Bidding 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 Procurement 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 to 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 Project Implementing Entity, 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.

- (v) Bidders will be allowed 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 Project Implementing Entity, 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. 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) Government owned enterprises in the Borrower's country may be permitted to bid or submit a proposal of goods and works if they can establish that they: (i) are legally and financially autonomous; (ii) operate under commercial law; and (iii) are 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).

C. Particular Methods of Procurement of Consultants' Services

1. **Quality- and Cost-based Selection.** Except as otherwise provided in paragraph 2 below, consultants' services shall be procured under contracts awarded on the basis of Quality- and Cost-based Selection.

2. **Other Methods of Procurement of Consultants' Services.** The following table specifies the methods of procurement, other than Quality- and Cost-based Selection, which may be used for consultants' services. The Procurement Plan shall specify the circumstances under which such methods may be used.

<u>Procurement Method</u>
(a) Quality-Based Selection
(b) Selection based on Consultant's Qualifications
(c) Individual Consultant

D. Review by the Bank of Procurement Decisions

Except as the Bank shall otherwise determine by notice to the Borrower, the following contracts shall be subject to Prior Review by the Bank: (a) all contracts for goods and civil works procured through International Competitive Bidding regardless of the contract value; (b) each contract for civil works procured through National Competitive Bidding estimated to cost the equivalent of \$5,000,000 or more; (c) all contracts for goods procured through National Competitive Bidding estimated to cost the equivalent of \$300,000 or more; (d) the first contract for goods and civil works procured through Shopping regardless of the contract value; and (e) each contract for consultants' services estimated to cost the equivalent of \$100,000 or more for firms, and \$50,000 or more for individuals. All other contracts shall be subject to Post Review by the Bank.

Section IV. Withdrawal of Loan Proceeds

A. General

1. The Borrower may withdraw the proceeds of the Loan in accordance with the provisions of this Section and such additional instructions as the Bank shall specify by notice to the Borrower (including the "World Bank Disbursement Guidelines for Projects" dated May 2006, as revised from time to time by the Bank and as made applicable to this Agreement pursuant to such instructions) to finance Eligible Expenditures as set forth in the table in paragraph 2 below.

2. The following table specifies the categories of Eligible Expenditures that may be financed out of the proceeds of the Loan ("Category"), the allocation of the amounts of the Loan to each Category, and the percentage of expenditures to be financed for Eligible

Expenditures in each Category, inclusive of taxes subject to the provisions of Section 2.06 of the General Conditions.

<u>Category</u>	<u>Amount of the Loan Allocated (in USD)</u>	<u>Percentage of Expenditures to be financed</u>
(1) Civil works:		
(a) under Part A of the Project	39,380,000	60%
(b) under Part B of the Project	36,820,000	60%
(2) Goods and Consultants' services under Part A of the Project	13,350,000	100%
(3) Goods, consultants' services and training under Part C of the Project	1,200,000	100%
(4) Interest	9,000,000	Amount payable pursuant to Section 2.07 of this Agreement
(5) Front-end Fee	250,000	Amount payable pursuant to Section 2.03 of this Agreement in accordance with Section 2.07(b) of the General Conditions.
Total	<u>100,000,000</u>	

B. Withdrawal Conditions; Withdrawal Period

1. Notwithstanding the provisions of Part A of this Section no withdrawal shall be made for:

(a) payments made prior to the date of this Agreement, except that withdrawals up to an aggregate amount not to exceed \$8,000,000 equivalent may be made for payments made prior to this date but on or after August 1, 2007, for Eligible Expenditures under Categories (1), (2) and (3); and

(b) expenditures under categories (1) and (2) unless:

- (i) the Subsidiary Agreement shall have been duly executed by the Project Implementing Entity and Guiyang Tongyuan Road Construction Development Co. Ltd., in a manner and substance satisfactory to the Bank, and pursuant to the provisions of paragraph 4, Section I of Schedule 1 to the Project Agreement, and a copy thereof has been provided to the Bank; and
- (ii) a legal opinion from counsel acceptable to the Bank has been provided to the Bank affirming that the Subsidiary Agreement has been duly authorized or ratified by each of the parties thereto and is legally binding on said parties in accordance with its terms.

2. The Closing Date is December 31, 2012.

SCHEDULE 3
Amortization Schedule

Date Payment Due	Payment of Principal*
September 15, 2012	2,635,000
March 15, 2013	2,710,000
September 15, 2013	2,790,000
March 15, 2014	2,870,000
September 15, 2014	2,955,000
March 15, 2015	3,040,000
September 15, 2015	3,125,000
March 15, 2016	3,215,000
September 15, 2016	3,310,000
March 15, 2017	3,405,000
September 15, 2017	3,500,000
March 15, 2018	3,605,000
September 15, 2018	3,705,000
March 15, 2019	3,815,000
September 15, 2019	3,925,000
March 15, 2020	4,035,000
September 15, 2020	4,155,000
March 15, 2021	4,275,000
September 15, 2021	4,395,000
March 15, 2022	4,525,000
September 15, 2022	4,655,000
March 15, 2023	4,790,000
September 15, 2023	4,925,000
March 15, 2024	5,070,000
September 15, 2024	5,215,000
March 15, 2025	5,355,000

* The figures in this column represent the amount in dollars to be repaid, except as provided in Section 3.08 of the General Conditions.

APPENDIX**Section I. Definitions**

1. “Category” means a category set forth in the table in Section IV of Schedule 2 to this Agreement.
2. “Consultant Guidelines” means the “Guidelines: Selection and Employment of Consultants by World Bank Borrowers” published by the Bank in May 2004.
3. “Displaced Person” means a person who, on account of the execution of Parts A and B of the Project has experienced or would experience direct economic and social impacts caused by: (i) the involuntary taking of land, resulting in: (A) relocation or loss of shelter; (B) loss of assets or access to assets; or (C) loss of income sources or means of livelihood, whether or not such person must move to another location; or (ii) the involuntary restriction of access to legally designated parks and protected areas, resulting in adverse impacts on the livelihood of such person; and “Displaced Persons” means collectively, all such Displaced Persons.
4. “EMP” means the Environmental Management Plan dated December 2006 and duly adopted by the Project Implementing Entity, and referred to in paragraph 2, Section I of Schedule 1 to the Project Agreement, and which said Plan sets out the environmental protection measures in respect of the Project, as well as administrative and monitoring arrangements to ensure the implementation of said plan, as the same may be revised from time to time with the agreement of the Bank.
5. “Financial Management Manual” means the manual adopted by the Project Implementing Entity on April 24, 2007 and referred to in paragraph B.2, Section II of the Schedule 1 to the Project Agreement.
6. “General Conditions” means the “International Bank for Reconstruction and Development General Conditions for Loans”, dated July 1, 2005, with the modification set forth in Section II of this Appendix.
7. “Guiyang Municipality” means the Guiyang Municipality of the Borrower’s Guizhou Province and any successor thereto.
8. “Guiyang Project Management Office” or “GPMO” means the project management office established within the Guiyang Municipal Communications Bureau for the purpose of managing the Project and providing oversight of Guiyang Tongyuan Road Company’s implementation of the Project.

9. “Guizhou Province” means the Guizhou Province of the Borrower and any successor thereto.
10. “Guiyang Tongyuan Road Construction Development Co. Ltd.” means the state-owned limited liability company established and operating pursuant to its Charter dated August 28, 1997 and to Business License No. 5201001233556 (1-1), dated August 3, 2004 issued by Guiyang Business Administrative Bureau, and any successor thereto.
11. “IPDP” means the Indigenous People Development Plan dated August 30, 2007 and duly adopted by the Project Implementing Entity, and referred to in paragraph 2, Section I of Schedule 1 to the Project Agreement, and which Plan sets out measures to ensure that minority communities affected by the project benefit from the project in a culturally appropriate manner, with particular reference to implementation of the RAP, and contain administrative, planning and monitoring arrangements for the implementation of said Plan, as the same may be revised from time to time with the agreement of the Bank.
12. “Procurement Guidelines” means the “Guidelines for Procurement under IBRD Loans and IDA Credits” published by the Bank in May 2004.
13. “Procurement Plan” means the Project Implementing Entity’s procurement plan for the Project, dated November 9, 2007 and referred to in paragraph 1.16 of the Procurement Guidelines and paragraph 1.24 of the Consultant Guidelines, as the same shall be updated from time to time in accordance with the provisions of said paragraphs.
14. “Project Agreement” means the agreement between the Bank and the Project Implementing Entity of even date herewith, as the same may be amended from time to time; and such term includes all schedules and agreements supplemental to the Project Agreement.
15. “Project Implementing Entity” means Guiyang Municipality and any successor thereto.
16. “Project Leading Group” means the group established by the Project Implementing Entity in January 2005 for purposes of overall coordination and cooperation among the various entities during the preparation and implementation of the Project.
17. “RAP” means, the resettlement action plan dated February 2007 with respect to Parts A and B of the Project, duly adopted by the Project Implementing Entity, and referred to in paragraph 2, Section I of Schedule 1 of the Project Agreement, which sets out the principles and procedures governing land acquisition, resettlement, compensation and rehabilitation of Displaced Persons on account of

the execution of such Parts of the Project, as well as reporting and monitoring arrangements to ensure compliance with said plan, as the same may be revised from time to time with the prior agreement of the Bank; and such term includes all attachments and annexes supplemental to said plans.

18. “Subsidiary Agreement” means the agreement entered into between the Project Implementing Entity and Guiyang Tongyuan Road Construction Development Co. Ltd. for purposes of carrying out the works under Parts A and B of the Project and further referred to in paragraph 4, Section I of Schedule 1 to the Project Agreement, as the same may be amended from time to time with the prior agreement of the Bank.

Section II. Modifications to the General Conditions

The modifications to the General Conditions for Loans of the Bank, dated July 1, 2005 are as follows:

1. Section 2.07(b) is modified to read as follows:

“(b) Except as otherwise provided in the Loan Agreement, the Bank shall, on behalf of the Borrower, withdraw from the Loan Account on or after the Effective Date and pay to itself the amount of the Front-end Fee payable pursuant to Section 3.01.”

2. Section 3.01 is modified to read as follows:

“Section 3.01. *Front-end Fee*

The Borrower shall pay the Bank a front-end fee on the Loan amount at the rate specified in the Loan Agreement (the “Front-end Fee”).”

3. A new paragraph (d) is added to Section 3.02 to read as follows:

“Section 3.02. *Interest*

(d) Notwithstanding the provisions of paragraph (a) of this Section, if any amount of the Withdrawn Loan Balance remains unpaid when due and such non-payment continues for a period of thirty days, then the Borrower shall pay the Default Interest Rate on such overdue amount in lieu of the interest rate specified in the Loan Agreement (or such other interest rate as may be applicable pursuant to Article IV as a result of a Conversion) until such overdue amount is fully paid. Interest at the Default Interest Rate shall accrue from the first day of each Default Interest Period and shall be payable semi-annually in arrears on each Payment Date.”

4. The following terms and definitions set forth in the Appendix are modified or deleted as follows, and the following new terms and definitions are added in alphabetical order to the Appendix as follows, with the terms being renumbered accordingly:

(a) The term “Commitment Charge” and its definition as set forth in the Appendix are deleted in their entirety.

(b) A new term “Default Interest Period” is added to the Appendix and defined to read as follows:

“Default Interest Period” means for any overdue amount of the Withdrawn Loan Balance, each Interest Period during which such overdue amount remains unpaid; provided, however, that the first such Default Interest Period shall commence on the 31st day following the date on which such amount becomes overdue, and the final such Default Interest Period shall end on the date at which such amount is fully paid.

(c) A new term “Default Interest Rate” is added to the Appendix and defined to read as follows:

“Default Interest Rate” means for any Default Interest Period:

(a) in the case of a Variable Spread Loan: Default LIBOR plus the Variable Spread plus one half of one percent (0.5%);

(b) in the case of a Fixed Spread Loan for which interest on the amount of the Withdrawn Loan Balance to which the Default Interest Rate applies was payable at a Variable Rate immediately prior to the application of the Default Interest Rate: the Default Variable Rate plus one half of one percent (0.5%); and

(c) in the case of a Fixed Spread Loan for which interest on the amount of the Withdrawn Loan Balance to which the Default Interest Rate applies was payable at a Fixed Rate immediately prior to the application of the Default Interest Rate: Default LIBOR plus the Fixed Spread plus one half of one percent (0.5%).

(d) A new term “Default LIBOR” is added to the Appendix and defined to read as follows:

“Default LIBOR” means LIBOR for the relevant Interest Period; it being understood that for the initial Default Interest Period, Default LIBOR

shall be equal to LIBOR for the Interest Period in which the amount referred to in paragraph (d) of Section 3.02 first becomes overdue.

- (e) A new term “Default Variable Rate” is added to the Appendix and defined to read as follows:

“Default Variable Rate” means the Variable Rate for the relevant Interest Period; it being understood that for the initial Default Interest Period, Default Variable Rate shall be equal to the Variable Rate for the Interest Period in which the amount referred to in paragraph (d) of Section 3.02 first becomes overdue.

- (f) The definition of the term “Fixed Spread” is modified to read as follows:

“Fixed Spread” means the Bank’s fixed spread for the initial Loan Currency in effect at 12:01 a.m. Washington, D.C. time, one calendar day prior to the date of the Loan Agreement; provided, that upon a Currency Conversion of all or any amount of the Unwithdrawn Loan Balance, such fixed spread shall be adjusted on the Execution Date in the manner specified in the Conversion Guidelines; and provided further that notwithstanding the foregoing, for purposes of determining the Default Interest Rate applicable to an amount of the Withdrawn Loan Balance on which interest is payable at a Fixed Rate, the “Fixed Spread” means the Bank’s fixed spread in effect at 12:01 a.m. Washington, D.C. time, one calendar day prior to the date of the Loan Agreement, for the Currency of denomination of such amount.

- (g) The definition of the term “Front-end Fee” is modified to read as follows:

“Front-end Fee” means the fee specified in the Loan Agreement for the purpose of Section 3.01.

- (h) The definition of the term “LIBOR Reset Date” is modified to read as follows:

“LIBOR Reset Date” means:

- (a) for any Loan Currency other than Euro, the day two London Banking Days prior to the first day of the relevant Interest Period (or: (i) in the case of the initial Interest Period of a Variable Spread Loan, the day two London Banking Days prior to the fifteenth day of the month preceding the month in which the Loan Agreement is signed; provided that if the date of the Loan Agreement falls on or after the fifteenth day of the month in which the Loan Agreement is signed, the LIBOR Reset

Date shall be the day two London Banking Days prior to the fifteenth day of such month; (ii) in the case of the Initial Interest Period of a Fixed Spread Loan, the day two London Banking Days prior to the first or fifteenth day of the month in which the Loan Agreement is signed, whichever day immediately precedes the date of the Loan Agreement; provided, that if the date of the Loan Agreement falls on the first or fifteenth day of such month, the LIBOR Reset Date shall be the day two London Banking Days prior to the date of the Loan Agreement; and (iii) if the Conversion Date of a Currency Conversion of an amount of the Unwithdrawn Loan Balance to any Approved Currency other than Euro falls on a day other than a Payment Date, the initial LIBOR Reset Date for the Approved Currency shall be the day two London Banking Days prior to the first or fifteenth day of the month in which the Conversion Date falls, whichever day immediately precedes the Conversion Date; provided, that if the Conversion Date falls on the first or fifteenth day of such month, the LIBOR Reset Date for the Approved Currency shall be the day two London Banking Days prior to the Conversion Date);

(b) for Euro, the day two Target Settlement Days prior to the first day of the relevant Interest Period (or: (i) in the case of the initial Interest Period for a Variable Spread Loan, the day two Target Settlement Days prior to the fifteenth day of the month preceding the month in which the Loan Agreement is signed; provided that if the date of the Loan Agreement falls on or after the fifteenth day of the month in which the Loan Agreement is signed, the LIBOR Reset Date shall be the day two Target Settlement Days prior to the fifteenth day of such month; (ii) in the case of the Initial Interest Period for a Fixed Spread Loan, the day two Target Settlement Days prior to the first or fifteenth day of the month in which the Loan Agreement is signed, whichever day immediately precedes the date of the Loan Agreement; provided that if the date of the Loan Agreement falls on the first or fifteenth day of such month, the LIBOR Reset Date shall be the day two Target Settlement Days prior to the date of the Loan Agreement; and (iii) if the Conversion Date of a Currency Conversion of an amount of the Unwithdrawn Loan Balance to Euro falls on a day other than a Payment Date, the initial LIBOR Reset Date for the Approved Currency shall be the day two Target Settlement Days prior to the first or fifteenth day of the month in which the Conversion Date falls, whichever day immediately precedes the Conversion Date; provided that if the Conversion Date falls on the first or fifteenth day of such month, the LIBOR Reset Date for the Approved Currency shall be the day two Target Settlement Days prior to the Conversion Date); and

(c) notwithstanding sub-paragraphs (a) and (b) of this paragraph, if, for a Currency Conversion to an Approved Currency, the Bank

determines that market practice for the determination of the LIBOR Reset Date is on a date other than as set forth in said sub-paragraphs, the LIBOR Reset Date shall be such other date, as further specified in the Conversion Guidelines.

(i) The definition of the term “Loan Payment” is modified to read as follows:

“Loan Payment” means any amount payable by the Loan Parties to the Bank pursuant to the Legal Agreements or these General Conditions, including (but not limited to) any amount of the Withdrawn Loan Balance, interest, the Front-end Fee, interest at the Default Interest Rate (if any), any prepayment premium, any transaction fee for a Conversion or early termination of a Conversion, any premium payable upon the establishment of an Interest Rate Cap or Interest Rate Collar, and any Unwinding Amount payable by the Borrower.

(j) The definition of the term “Payment Date” is modified to read as follows:

“Payment Date” means each date specified in the Loan Agreement occurring on or after the date of the Loan Agreement on which interest is payable.