
LOAN NUMBER 2345-PRC

LOAN AGREEMENT
(Ordinary Operations)

(Western Guangxi Roads Development Project)

between

PEOPLE'S REPUBLIC OF CHINA

and

ASIAN DEVELOPMENT BANK

DATED 26 FEBRUARY 2008

LAL: PRC 39149

**LOAN AGREEMENT
(Ordinary Operations)**

LOAN AGREEMENT dated 26 February 2008 between PEOPLE'S REPUBLIC OF CHINA (hereinafter called the "Borrower") and ASIAN DEVELOPMENT BANK (hereinafter called "ADB").

WHEREAS

(A) the Borrower has applied to ADB for a loan for the purposes of the Project described in Schedule 1 to this Loan Agreement;

(B) the Project will be carried out by the Government of Guangxi Zhuang Autonomous Region (hereinafter called "Guangxi") through Guangxi Communications Department (hereinafter called "GCD"), and for this purpose the Borrower will make available to GCD through Guangxi the proceeds of the Loan provided for herein upon terms and conditions satisfactory to ADB; and

(C) ADB has agreed to make a loan to the Borrower from ADB's ordinary capital resources upon the terms and conditions set forth herein and in the Project Agreement of even date herewith between ADB and Guangxi.

NOW THEREFORE the parties hereto agree as follows:

ARTICLE I

Loan Regulations; Definitions

Section 1.01. All the provisions of the Ordinary Operations Loan Regulations Applicable to LIBOR-Based Loans Made from ADB's Ordinary Capital Resources, dated 1 July 2001, are hereby made applicable to this Loan Agreement with the same force and effect as if they were fully set forth herein (said Ordinary Operations Loan Regulations being hereinafter called the "Loan Regulations").

Section 1.02. Wherever used in this Loan Agreement, unless the context otherwise requires, the several terms defined in the Loan Regulations have the respective meanings therein set forth, and the following additional terms have the following meanings:

(a) "Concession Agreement" means the agreement to be entered into between GCD and GCIG, and/or its relevant subsidiary, incorporating the provisions as required in paragraphs 6 to 9 of Schedule to the Project Agreement;

(b) “Consulting Guidelines” means ADB’s Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2007, as amended from time to time);

(c) “EARP” means the environmental assessment review procedure, as set out in the VRIF, prepared by GCD for the Project village access roads and the bus stations as described in sub-paragraphs 2(ii)(c) and 2(iii)(a) of Schedule 1 to this Loan Agreement;

(d) “EIA” or “EIAs” means the following environmental impact assessments:

(i) Environmental impact assessment prepared by GCD, and approved by the Borrower’s State Environmental Protection Administration on 12 October 2006 in respect of the Project expressway, as described in sub-paragraph 2(i)(a) of Schedule 1 to this Loan Agreement; and

(ii) Environmental impact assessment prepared by GCD, and approved by Guangxi Environmental Protection Bureau on 27 March 2007 in respect of 2 Project local rural roads (Tianlin-Leye and Napo-Dingye), as described in sub-paragraph 2(ii)(b) of Schedule 1 to this Loan Agreement;

(e) “EMDP” means ethnic minority development plan dated 20 April 2007 prepared by GCD and acceptable to ADB, as may be amended from time to time by agreement between GCD and ADB;

(f) “Goods” means equipment and materials to be financed out of the proceeds of the Loan; including related services such as transportation, insurance, installation, commissioning, training, and initial maintenance, but excluding consulting services;

(g) “GCIG” means Guangxi Communications Investment and Construction Group Company, or any successor thereto acceptable to ADB, to be established in accordance with paragraph 5 of Schedule to the Project Agreement;

(h) “GHAB” means Guangxi Highway Administration Bureau of GCD;

(i) “GIAB” means Guangxi Communication Infrastructure Administration Bureau of GCD;

(j) “GTAB” means Guangxi Transport Administration Bureau of GCD;

(k) “IEE” means the initial environmental examinations prepared by GCD in respect of 4 Project local roads (Jingxi-Longbang, two associated border roads, and De’e-Shali rural road), as described in sub-paragraphs 2(ii)(a) and (b) of Schedule 1 to this Loan Agreement;

(l) “Onlending Agreement” means the agreement referred to in Section 3.01(c) of this Loan Agreement;

(m) “Procurement Guidelines” means ADB’s Procurement Guidelines (2007, as amended from time to time);

(n) “Procurement Plan” means the procurement plan for the Project dated 27 June 2007 and agreed between the Borrower and ADB, as updated from time to time in accordance with Procurement Guidelines, Consulting Guidelines, and other arrangements agreed with ADB;

(o) “Project Executing Agency” for the purposes of, and within the meaning of, the Loan Regulations means GCD, or any successor thereto acceptable to ADB, which is responsible for overall implementation of the Project;

(p) “Project facilities” means the Project expressway, local roads, village roads, bus stations, facilities and equipment to be constructed, installed and provided under the Project;

(q) “Project Implementing Agency” means each of GIAB, GCIG (after its incorporation), GHAB, and GTAB, or any successor thereto acceptable to ADB, which shall be responsible for implementing its respective part of the Project as described in paragraph 3 of Schedule 5 to the Loan Agreement;

(r) “RP” means (i) the resettlement plan dated February 2007 in respect of the Project expressway as described in sub-paragraph 2(i)(a) of Schedule 1 to the Loan Agreement, and (ii) the resettlement plan dated March 2007 in respect of the Project local roads as described in sub-paragraphs 2(ii)(a) and (b) of Schedule 1 to the Loan Agreement, prepared by GCD and acceptable to ADB, as may be amended from time to time by agreement between GCD and ADB;

(s) “VRIF” means the village road implementation framework comprising resettlement, environmental, technical, procurement and financial management frameworks, prepared by GHAB for the Project village roads and bus stations, as described in sub-paragraphs 2(ii)(c) and 2(iii)(a) of Schedule 1 to this Loan Agreement; and

(t) “Works” means construction or civil works to be financed out of the proceeds of the Loan, including services such as drilling or mapping, and project related services that are provided as part of a single responsibility or turnkey contract, but excluding consulting services.

ARTICLE II

The Loan

Section 2.01. (a) ADB agrees to lend to the Borrower from ADB's ordinary capital resources an amount of three hundred million dollars (\$300,000,000), as such amount may be converted from time to time through a Currency Conversion in accordance with the provisions of Section 2.06 of this Loan Agreement.

(b) The Loan has a principal repayment period of 20 years, and a grace period as defined in paragraph (c) of this Section.

(c) The term “grace period” as used in paragraph (b) of this Section means the period prior to the first Principal Payment Date in accordance with the amortization schedule set forth in Schedule 2 to this Loan Agreement.

Section 2.02. The Borrower shall pay to ADB interest on the principal amount of the Loan withdrawn and outstanding from time to time at a rate for each Interest Period equal to the sum of LIBOR and 0.60% as provided by Section 3.02 of the Loan Regulations.

Section 2.03. The Borrower shall pay a commitment charge of 0.35% per annum. Such charge shall accrue on the full amount of the Loan (less amounts withdrawn from time to time), commencing sixty (60) days after the date of this Loan Agreement.

Section 2.04. Interest and other charges on the Loan shall be payable semiannually on 15 February and 15 August in each year.

Section 2.05. The Borrower shall repay the principal amount of the Loan withdrawn from the Loan Account in accordance with the provisions of Schedule 2 to this Loan Agreement.

Section 2.06. (a) The Borrower may at any time request any of the following Conversions of the terms of the Loan in order to facilitate prudent debt management:

- (i) a change of the Loan Currency of all or any portion of the principal amount of the Loan, whether withdrawn and outstanding or unwithdrawn, to an Approved Currency;
- (ii) a change of the interest rate basis applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding from a Floating Rate to a Fixed Rate, or vice versa; and
- (iii) the setting of limits on the Floating Rate applicable to all or any portion of the principal amount of the Loan withdrawn and outstanding by the establishment of an Interest Rate Cap or Interest Rate Collar on said Floating Rate.

(b) Any conversion requested pursuant to paragraph (a) of this Section that is accepted by ADB shall be considered a “Conversion”, as defined in Section 2.01(6) of the Loan Regulations, and shall be effected in accordance with the provisions of Article V of the Loan Regulations and the Conversion Guidelines.

ARTICLE III

Use of Proceeds of the Loan

Section 3.01. (a) The Borrower shall make the proceeds of the Loan available to Guangxi upon terms and conditions satisfactory to ADB. Except as ADB may otherwise agree, the terms for making available to Guangxi the proceeds of the Loan shall include (i) interest rate and commitment charge identical to those of the Loan; (ii) a repayment period and a grace period identical to those of the Loan; and (iii) Guangxi bearing the foreign exchange and interest rate variation risks in respect thereof.

(b) Guangxi shall make the proceeds of the Loan available to GCD upon terms and conditions satisfactory to ADB. Except as ADB may otherwise agree, the terms for making available to GCD the proceeds of the Loan shall include (i) interest rate and commitment charge identical to those of the Loan; (ii) a repayment period and a grace period identical to those of the Loan; and (iii) GCD bearing the foreign exchange and interest rate variation risks in respect thereof.

(c) On incorporation of GCIG, the Borrower shall, through Guangxi, cause GCD to onlend the proceeds of the Loan, or a part thereof, to GCIG under an Onlending Agreement upon terms and conditions satisfactory to ADB. Except as ADB may otherwise agree, the terms and conditions of the Onlending Agreement shall include (i) interest rate and commitment charge identical to those of the Loan; (ii) a repayment period and a grace period identical to those of the Loan; (iii) GCIG bearing the foreign exchange and interest variation risks of such proceeds of the Loan onlent thereto; and (iv) GCIG performing the obligations to the extent applicable to itself as provided in the Project Agreement which shall be made an integral part of the Onlending Agreement.

(d) The Borrower shall cause Guangxi, GCD, and GCIG to apply the proceeds of the Loan to the financing of expenditures on the Project in accordance with the provisions of this Loan Agreement and the Project Agreement.

Section 3.02. The Goods, Works and consulting services and other items of expenditure to be financed out of the proceeds of the Loan and the allocation of amounts of the Loan among different categories of such Goods, Works and consulting services and other items of expenditure shall be in accordance with the provisions of Schedule 3 to this Loan Agreement, as such Schedule may be amended from time to time by agreement between the Borrower and ADB.

Section 3.03. Except as ADB may otherwise agree, all Goods, Works and consulting services to be financed out of the proceeds of the Loan shall be procured in accordance with the provisions of Schedule 4 to this Loan Agreement. ADB may refuse to finance a contract where Goods, Works or consulting or services have not been procured under procedures substantially in accordance with those agreed between the Borrower and ADB or where the terms and conditions of the contract are not satisfactory to ADB.

Section 3.04. Except as ADB may otherwise agree, the Borrower shall cause all Goods, Works and consulting services financed out of the proceeds of the Loan to be used exclusively in the carrying out of the Project.

Section 3.05. The closing date for withdrawals from the Loan Account for the purposes of Section 9.02 of the Loan Regulations shall be 30 April 2013 or such other date as may from time to time be agreed between the Borrower and ADB.

ARTICLE IV

Particular Covenants

Section 4.01. (a) The Borrower shall, through Guangxi, cause GCD to carry out the Project with due diligence and efficiency and in conformity with sound administrative, financial, engineering, environmental, road construction, operation, and maintenance practices.

(b) In the carrying out of the Project and operation of the Project facilities, the Borrower shall, through Guangxi, perform, or cause to be performed, all obligations set forth in Schedule 5 to this Loan Agreement and the Schedule to the Project Agreement.

Section 4.02. The Borrower shall, through Guangxi, make available to GCD, promptly as needed, the funds, facilities, services, land and other resources, which are required, in addition to the proceeds of the Loan, for the carrying out of the Project.

Section 4.03. The Borrower shall ensure that the activities of its departments and agencies with respect to the carrying out of the Project and operation of the Project facilities are conducted and coordinated in accordance with sound administrative policies and procedures.

Section 4.04. The Borrower shall take all action which shall be necessary on its part to enable Guangxi to perform its obligations under the Project Agreement, and shall not take or permit any action which would interfere with the performance of such obligations.

Section 4.05. (a) The Borrower shall, through Guangxi, cause GCD and GCIG to exercise their rights under the Onlending Agreement in such a manner as to protect the interests of the Borrower and ADB and to accomplish the purposes of the Loan.

(b) No rights or obligations under the Onlending Agreement shall be assigned, amended, abrogated or waived without the prior concurrence of ADB.

ARTICLE V

Suspension; Cancellation; Acceleration of Maturity

Section 5.01. The following are specified as additional events for suspension of the right of the Borrower to make withdrawals from the Loan Account for the purposes of Section 9.01(l) of the Loan Regulations.

(a) Any party to the Onlending Agreement shall have failed to perform any material obligation under the Onlending Agreement.

(b) the Borrower, Guangxi, or GCD without obtaining prior agreement of ADB, shall have made any material organizational changes, either financial, operational or structural, or any material changes to the legal character, ownership or control of the Project Executing Agency or any Project Implementing Agency, if such changes may adversely affect its ability to perform the obligations under this Loan Agreement, Project Agreement, Onlending Agreement, and the Concession Agreement, as applicable.

Section 5.02. The following is specified as an additional event for acceleration of maturity for the purposes of Section 9.07(a)(iv) of the Loan Regulations: any of the events specified in Section 5.01 of this Loan Agreement shall have occurred.

ARTICLE VI

Effectiveness

Section 6.01. A date ninety (90) days after the date of this Loan Agreement is specified for the effectiveness of the Loan Agreement for the purposes of Section 10.04 of the Loan Regulations.

ARTICLE VII

Miscellaneous

Section 7.01. The Minister of Finance of the Borrower is designated as representative of the Borrower for the purposes of Section 12.02 of the Loan Regulations.

Section 7.02. The following addresses are specified for the purposes of Section 12.01 of the Loan Regulations:

For the Borrower

Ministry of Finance
Sanlihe, Xicheng District
Beijing 100820
People's Republic of China

Telex Number:

22486 MFPRC CN

Facsimile Number:

(8610) 6855-1125

For ADB

Asian Development Bank
P.O. Box 789
0980 Manila, Philippines

Cable Address:

ASIANBANK
MANILA

Telex Numbers:

29066 ADB PH (RCA)
42205 ADB PM (ITT)
63587 ADB PN (ETPI)

Facsimile Numbers:

(632) 636-2444
(632) 636-2426.

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Loan Agreement to be signed in their respective names and to be delivered at the principal office of ADB, as of the day and year first above written.

PEOPLE'S REPUBLIC OF CHINA

By  _____
SONG TAO
Authorized Representative

ASIAN DEVELOPMENT BANK

By  _____
HARUHIKO KURODA
President

SCHEDULE 1

Description of the Project

1. The objective of the Project is to develop an efficient, safe, and environmentally friendly regional transport system that forms an integral part of the east-west trade corridor connecting the southwest hinterland provinces with coastal provinces. The Project will also promote trade and reduce trade barriers with Viet Nam, thereby contributing to pro-poor sustainable economic growth in both western Guangxi region and northern Viet Nam.
2. The Project consists of the following parts:
 - (i) Part A: (a) Construction of 177 km, access-controlled toll expressway from Baise to Longlin (Guizhou border), and (b) installation of facilities and equipment at the Wantong Logistics Center at Pingxiang, on the main Nanning-Hanoi corridor;
 - (ii) Part B: Upgrading of 1,060 km of local roads in Baise City comprising (a) 3 priority border road sections totaling 50 kms, (b) 3 priority rural road sections totaling 260 kms, and (c) village access roads totaling 750 kms;
 - (iii) Part C: (a) Construction of 2 border area bus stations at Longbang and Yuexu, and 48 township bus stations in Baise City, and (b) implementation of the passenger bus route licensing reform in Baise City;
 - (iv) Part D: Implementation of the rural road maintenance policy reform in Baise City; and
 - (v) Part E: Improvement in corporate governance and strengthening institutional capacity through provision of consulting services, equipment and training.
3. The Project is expected to be completed by 31 October 2012.

SCHEDULE 2**Amortization Schedule****(Western Guangxi Roads Development Project)**

1. The following table sets forth the Principal Payment Dates of the Loan and the percentage of the total principal amount of the Loan payable on each Principal Payment Date (Installment Share). If the proceeds of the Loan shall have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined by ADB by multiplying: (a) the total principal amount of the Loan withdrawn and outstanding as of the first Principal Payment Date; by (b) the Installment Share for each Principal Payment Date, such repayment amount to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

<u>Period</u>	<u>Date Payment Due</u>	<u>Installment Share</u> (expressed in percentage)
1	15 February 2013	0.83
2	15 August 2013	0.87
3	15 February 2014	0.91
4	15 August 2014	0.96
5	15 February 2015	1.01
6	15 August 2015	1.06
7	15 February 2016	1.11
8	15 August 2016	1.16
9	15 February 2017	1.22
10	15 August 2017	1.28
11	15 February 2018	1.35
12	15 August 2018	1.42
13	15 February 2019	1.49
14	15 August 2019	1.56
15	15 February 2020	1.64
16	15 August 2020	1.72
17	15 February 2021	1.81
18	15 August 2021	1.90
19	15 February 2022	1.99
20	15 August 2022	2.09
21	15 February 2023	2.20
22	15 August 2023	2.31
23	15 February 2024	2.42
24	15 August 2024	2.54
25	15 February 2025	2.67

26	15 August	2025	2.80
27	15 February	2026	2.94
28	15 August	2026	3.09
29	15 February	2027	3.25
30	15 August	2027	3.41
31	15 February	2028	3.58
32	15 August	2028	3.76
33	15 February	2029	3.94
34	15 August	2029	4.14
35	15 February	2030	4.35
36	15 August	2030	4.57
37	15 February	2031	4.79
38	15 August	2031	5.03
39	15 February	2032	5.29
40	15 August	2032	5.54
			100.00
			100.00

2. If the proceeds of the Loan shall not have been fully withdrawn as of the first Principal Payment Date, the principal amount of the Loan repayable by the Borrower on each Principal Payment Date shall be determined as follows:

(a) To the extent that any proceeds of the Loan shall have been withdrawn as of the first Principal Payment Date, the Borrower shall repay the amount withdrawn and outstanding as of such date in accordance with paragraph 1 of this Schedule.

(b) Any withdrawal made after the first Principal Payment Date shall be repaid on each Principal Payment Date falling after the date of such withdrawal in amounts determined by ADB by multiplying the amount of each such withdrawal by a fraction, the numerator of which shall be the original Installment Share specified in the table in paragraph 1 of this Schedule for said Principal Payment Date (the Original Installment Share) and the denominator of which shall be the sum of all remaining Original Installment Shares for Principal Payment Dates falling on or after such date, such repayment amounts to be adjusted, as necessary, to deduct any amounts referred to in paragraph 4 of this Schedule, to which a Currency Conversion applies.

3. Withdrawals made within two calendar months prior to any Principal Payment Date shall, for the purposes solely of calculating the principal amounts payable on any Principal Payment Date, be treated as withdrawn and outstanding on the second Principal Payment Date following the date of withdrawal and shall be repayable on each Principal Payment Date commencing with the second Principal Payment Date following the date of withdrawal.

4. Notwithstanding the provisions of paragraphs 1 and 2 of this Schedule, upon a Currency Conversion of all or any portion of the withdrawn principal amount of the Loan to an

Approved Currency, the amount so converted in said Approved Currency that shall be repayable on any Principal Payment Date occurring during the Conversion Period, shall be determined by ADB by multiplying such amount in its currency of denomination immediately prior to said Conversion by either: (i) the exchange rate that reflects the amounts of principal in said Approved Currency payable by ADB under the Currency Hedge Transaction relating to said Conversion; or (ii) if ADB so determines in accordance with the Conversion Guidelines, the exchange rate component of the Screen Rate.

5. If the principal amount of the Loan withdrawn and outstanding from time to time shall be denominated in more than one Loan Currency, the provisions of this Schedule shall apply separately to the amount denominated in each Loan Currency, so as to produce a separate amortization schedule for each such amount.

SCHEDULE 3

Allocation and Withdrawal of Loan Proceeds

General

1. The table attached to this Schedule sets forth the Categories of Goods, Works, services and other items to be financed out of the proceeds of the Loan and the allocation of amounts of the Loan to each such Category (hereinafter called the Table). (Reference to "Category" or "Categories" in this Schedule is to a Category or Categories of the Table and reference to "Subcategory" or "Subcategories" in this Schedule is to a Subcategory or Subcategories of a Category).

Percentages of ADB Financing

2. Except as ADB may otherwise agree, the items of the Categories and Subcategories listed in the Table shall be financed out of the proceeds of the Loan on the basis of the percentages set forth in the Table.

Interest and Commitment Charge

3. The amount allocated to Category 4 is for financing interest and commitment charge on the Loan during the implementation period of the Project. ADB shall be entitled to withdraw from the Loan Account and pay to itself, on behalf of the Borrower, the amounts required to meet payments, when due, of such interest and commitment charge.

Reallocation

4. Notwithstanding the allocation of Loan proceeds and the withdrawal percentages set forth in the Table,

(a) if the amount of the Loan allocated to any Category appears to be insufficient to finance all agreed expenditures in that Category, ADB may, by notice to the Borrower, (i) reallocate to such Category, to the extent required to meet the estimated shortfall, amounts of the Loan which have been allocated to another Category but, in the opinion of ADB, are not needed to meet other expenditures, and (ii) if such reallocation cannot fully meet the estimated shortfall, reduce the withdrawal percentage applicable to such expenditures in order that further withdrawals under such Category may continue until all expenditures thereunder shall have been made; and

(b) if the amount of the Loan then allocated to any Category appears to exceed all agreed expenditures in that Category, ADB may, by notice to the Borrower, reallocate such excess amount to any other Category.

Disbursement Procedures

5. Except as ADB may otherwise agree, the Loan proceeds for financing Goods, Works, and consulting services and other items shall be disbursed in accordance with ADB's

“Loan Disbursement Handbook” dated January 2007, as amended from time to time (ADB’s Loan Disbursement Handbook).

Imprest/Special Account; Statement of Expenditures

6. (a) Except as ADB may otherwise agree, the Borrower shall, through Guangxi, establish after the Effective Date, an imprest account at bank acceptable to ADB. The imprest account shall be established, managed, replenished and liquidated in accordance with ADB’s Loan Disbursement Handbook, and detailed arrangements agreed upon between the Borrower and ADB. The currency of the imprest account shall be Dollar. The initial amount to be deposited into the imprest account shall not exceed the lower of (i) the estimated expenditure for the first six (6) months of Project implementation, or (ii) the equivalent of ten (10) percent of the Loan amount.

(b) The statement of expenditures procedure may be used for reimbursement of eligible expenditures and to liquidate advances provided into the imprest account in respect of individual payments not exceeding the equivalent of \$200,000, in accordance with ADB’s Loan Disbursement Handbook and detailed arrangements agreed upon between the Borrower and ADB.

Retroactive Financing

7. Withdrawals from the Loan Account may be made for reimbursement of reasonable expenditures incurred under the Project before the Effective Date, but not earlier than 12 months before the date of this Loan Agreement in connection with prequalification of contractors, bidding, bid evaluation, and contract awards, subject to a maximum amount equivalent to \$30,000,000.

TABLE

ALLOCATION AND WITHDRAWAL OF LOAN PROCEEDS (Western Guangxi Roads Development Project)				
CATEGORY				PERCENTAGE OF ADB FINANCING
Number	Item	Amount Allocated [\$]		Basis for Withdrawal From the Loan Account
		Category	Subcategory	
1	Works	235,700,000		
1A	Expressway		205,700,000	45 percent of total expenditure
1B	Border and Rural Roads		25,600,000	80 percent of total expenditure
1C	Village Roads		3,000,000	24 percent of total expenditure
1D	Rural Bus Stations		1,400,000	40 percent of total expenditure
2	Equipment	16,800,000		100 percent of total expenditure
3	Consulting Services and Training	2,000,000		100 percent of total expenditure
3A	Expressway: Supervision and International Training		1,740,000	100 percent of total expenditure
3B	Rural Transport Policy Reform Study		160,000	100 percent of total expenditure
3C	Road Transport Maintenance Study		100,000	100 percent of total expenditure
4	Interest and Commitment Charge	45,500,000		
	Total	300,000,000		

SCHEDULE 4

Procurement of Goods and Works, and Consulting Services

A. General

1. All Goods and Works, and consulting services, to be financed out of the proceeds of the Loan shall be subject to and governed by the Procurement Guidelines, and the Consulting Guidelines, respectively.

2. All terms used and not otherwise defined in this Loan Agreement have the meanings provided in the Procurement Guidelines and/or the Consulting Guidelines, as applicable.

B. Procurement for Goods and Works

3. Except as ADB may otherwise agree, Goods and Works shall only be procured on the basis of the methods of procurement set forth below:

International Competitive Bidding
National Competitive Bidding
Shopping

The methods of procurement are subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Borrower may only modify the methods of procurement or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.

4. Domestic Preference. The Borrower may grant a margin of preference in the evaluation of bids under international competitive bidding in accordance with paragraphs 2.55(a) and 2.56 of the Procurement Guidelines for domestically manufactured Goods and paragraphs 2.55(b) and 2.56 of the Procurement Guidelines for domestic Works.

5. National Competitive Bidding. The Borrower's *Law of 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, shall be applied, together with the following clarifications required for compliance with the Guidelines:

- (i) All invitations to prequalify or to bid shall be advertised in the national press, or official gazette, or a free and open access website in the Borrower's country. 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 preparation period of thirty (30) days shall be given. The preparation period shall count (a) from the date of advertisement, or (b) when the documents are available for issue, whichever date is later. The advertisement and the prequalification 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, and in the prequalification documents if the bidding is preceded by a prequalification process.
- (iii) If bidding is preceded by a prequalification process, all bidders that meet the qualification criteria set out in the prequalification 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 a performance security in an amount sufficient to protect the Borrower/Project Executing Agency in case of breach of contract by the contractor, and the bidding documents shall specify the required form and amount of such performance security.
- (v) Bidders shall be allowed to submit bids by mail or by hand.
- (vi) All bids shall be opened in public; all bidders shall be afforded 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/Project Executing Agency.
- (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 ADB, 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 ADB.
- (xi) Government owned enterprises in the Borrower's country may be permitted to bid if they can establish that they (a) are legally and financially autonomous, (b) operate under commercial law and (c) are not a dependent agency of the Borrower/Project Executing Agency.
- (xii) Re-bidding shall not be allowed solely because the number of bids is less than three (3).

6. Procurement Agent. The Borrower may cause each of the Project Implementing Agencies to appoint Procurement Agent/s to carry out international competitive bidding and national competitive bidding for Goods and Works in accordance with the terms and conditions set out in the Procurement Plan. The Borrower shall ensure that the Procurement Agent/s follows all of the requirements of this Schedule and the Procurement Plan.

C. Selection of Consulting Services

7. Quality- and Cost-Based Selection. Except as ADB may otherwise agree, and except as set forth in the paragraph below, the Borrower shall apply quality- and cost-based selection for selecting and engaging consulting services under the Project.

8. The Borrower shall apply the following method for selecting and engaging the specified consulting services, in accordance with, among other things, the procedures set forth in the Procurement Plan: Single Source Selection for Parts C(b) and D of the Project.

D. Industrial or Intellectual Property Rights

9. (a) The Borrower shall ensure that all Goods and Works procured (including without limitation all computer hardware, software and systems, whether separately procured or incorporated within other goods and services procured) do not violate or infringe any industrial property or intellectual property right or claim of any third party.

(b) The Borrower shall ensure that all contracts for the procurement of Goods and Works contain appropriate representations, warranties and, if appropriate, indemnities from the contractor or supplier with respect to the matters referred to in subparagraph (a) of this paragraph.

10. The Borrower shall ensure that all ADB-financed contracts with consultants contain appropriate representations, warranties and, if appropriate, indemnities from the consultants to ensure that the consulting services provided do not violate or infringe any industrial property or intellectual property right or claim of any third party.

E. ADB's Review of Procurement Decisions

11. All contracts procured under international competitive bidding procedures and contracts for consulting services shall be subject to prior review by ADB, unless otherwise agreed between the Borrower and ADB and set forth in the Procurement Plan.

SCHEDULE 5

Execution of Project and Operation of Project Facilities; Financial Matters

Project Executing Agency

1. GCD shall be the Executing Agency responsible for overall implementation of the Project.

Implementation Arrangements

2. GCD shall establish a Project management office (PMO) to administer, coordinate and monitor all Project activities. The PMO shall be led by a Deputy Director General, and five Deputy Chiefs (three directors from GIAB, GHAB, GTAB respectively, and two directors from GCD). The PMO shall coordinate and oversee Project implementation, submit progress and audit reports to ADB, and organize ADB supervision missions.

3. Part A(a) of the Project shall be implemented by GIAB, Parts B and D of the Project shall be implemented by GHAB, and Part C of the Project shall be implemented by GTAB. Parts A(b) and E of the Project shall be implemented directly by GCD through the PMO. GCIG, which shall be set up in accordance with paragraph 5 of Schedule to the Project Agreement, shall takeover the construction and operation of Project expressway from GIAB under Part A(a) of the Project in accordance with the Concession Agreement.

4. GCD shall designate directors and members for key positions in the PMO and each Project Implementing Agency, and shall ensure that these are fully staffed by December 2007.

Counterpart Financing

5. The Borrower shall ensure that all counterpart financing necessary for the Project from Ministry of Communications of the Borrower, Guangxi, and China Bank of Communications is provided in time, and that GCD and GCIG, after its incorporation, make available all funds and resources necessary for construction, operation, maintenance, and management of the Project on a timely basis.

Change in Ownership and Operation

6. In the event that Guangxi, GCD, or GCIG plan to make (a) any change in ownership of the Project facilities or GCIG, or (b) make any sale, transfer, or assignment of GCD's or GCIG's interest in the Project expressway, or (c) lease out, or contract out, or otherwise materially modify GCD's or GCIG's responsibilities for operation and maintenance of the Project expressway, the Borrower shall, at least six months prior to implementation of such plan, consult with ADB and obtain ADB's consent. The Borrower shall ensure that such transfer is made in a lawful and transparent manner.