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LOAN NUMBER 2360-PRC

PROJECT AGREEMENT  
(Jilin Urban Environmental Improvement Project)

between

ASIAN DEVELOPMENT BANK

and

JILIN PROVINCIAL GOVERNMENT

DATED 26 FEBRUARY 2008

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PAL: PRC 40050

## **PROJECT AGREEMENT**

PROJECT AGREEMENT dated 26 February 2008 between ASIAN DEVELOPMENT BANK (hereinafter called ADB) and JILIN PROVINCIAL GOVERNMENT (hereinafter called JPG).

### **WHEREAS**

(A) by a Loan Agreement of even date herewith between People's Republic of China (hereinafter called the Borrower) and ADB, ADB has agreed to make to the Borrower a loan of one hundred million dollars (\$100,000,000) on the terms and conditions set forth in the Loan Agreement, but only on condition that the proceeds of the Loan be made available through JPG and Changchun Municipal Government (hereinafter called CMG) and Yanji Municipal Government (hereinafter called YMG) under onlending arrangements to the Project Implementing Agencies (hereinafter called IAs) and that the IAs agree to undertake certain obligations towards ADB as hereinafter set forth; and

(B) JPG, in consideration of ADB entering into the Loan Agreement with the Borrower, has agreed to undertake the obligations hereinafter set forth;

NOW THEREFORE the parties hereto agree as follows:

## **ARTICLE I**

### **Definitions**

Section 1.01. Wherever used in this Project Agreement, unless the context otherwise requires, the several terms defined in the Loan Agreement and in the Loan Regulations (as so defined) have the respective meanings therein set forth, except that when applied to the specific IA, the term "the Project" means subcomponent(s) of the Project that the IA concerned is responsible for implementation.

## **ARTICLE II**

### **Particular Covenants**

Section 2.01. (a) JPG shall, and shall cause the IAs through CMG and YMG, to carry out the Project with due diligence and efficiency, and in conformity with sound administrative, financial, engineering, environmental, and where applicable, wastewater management water supply, solid waste management, or heating practices.

(b) In the carrying out of the Project and operation of the Project facilities, JPG shall, and shall cause the IAs through CMG and YMG, to perform all obligations set forth in the Loan Agreement and all obligations set forth in the Schedule to this Project Agreement to the extent that they are applicable to JPG or IAs.

Section 2.02. JPG shall, and shall cause CMG and YMG to, make available, promptly as needed, the funds, facilities, services, equipment, land and other resources which are required, in addition to the proceeds of the Loan, for the carrying out of the Project.

Section 2.03. (a) In the carrying out of the Project, JPG shall ensure that the IAs employ competent and qualified consultants and contractors, acceptable to ADB, to an extent and upon terms and conditions satisfactory to ADB.

(b) 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 the Loan Agreement. ADB may refuse to finance a contract where Goods, Works or consulting 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 2.04. JPG shall ensure through CMG and YMG that the IAs carry out the Project in accordance with plans, design standards, specifications, work schedules and construction methods acceptable to ADB. JPG shall furnish, or cause to be furnished, to ADB, promptly after their preparation, such plans, design standards, specifications and work schedules, and any material modifications subsequently made therein, in such detail as ADB shall reasonably request.

Section 2.05. (a) JPG shall cause the IAs through CMG and YMG to take out and maintain with responsible insurers, or make other arrangements satisfactory to ADB for, insurance of the Project facilities to such extent and against such risks and in such amounts as shall be consistent with sound practice.

(b) Without limiting the generality of the foregoing, JPG shall ensure through either CMG or YMG as applicable that each IA undertake to insure, or cause to be insured, the Goods to be imported for the Project and to be financed out of the proceeds of the Loan against hazards incident to the acquisition, transportation and delivery thereof to the place of use or installation, and for such insurance any indemnity shall be payable in a currency freely usable to replace or repair such Goods.

Section 2.06. JPG shall maintain, or cause to be maintained, records and accounts adequate to identify the Goods, Works and consulting services and other items of expenditure financed out of the proceeds of the Loan, to disclose the use thereof in the Project, to record the progress of the Project (including the cost thereof) and to reflect, in accordance with consistently maintained sound accounting principles, its operations and financial condition.

Section 2.07. (a) ADB and JPG cooperate fully to ensure that the purposes of the Loan will be accomplished.

(b) JPG shall, and shall cause the IAs through CMG and YMG to, promptly inform ADB of any condition which interferes with, or threatens to interfere with, the progress of the Project, the performance of its obligations under this Project Agreement Onlending Agreement, or the accomplishment of the purposes of the Loan.

(c) ADB and JPG shall from time to time, at the request of either party, exchange views through their representatives with regard to any matters relating to the Project, JPG, CMG or YMG, or any IA and the Loan. JPG shall enable, through CMG and YMG, that ADB and any IA, at the request of either party, exchange views through their representatives with regard to any matters relating to the Project, the concerned IA and the Loan.

Section 2.08. (a) JPG through JPMO shall, and shall, as applicable, cause the concerned IA to, furnish to ADB all such reports and information as ADB shall reasonably request concerning (i) the Loan and the expenditure of the proceeds thereof; (ii) the Goods, Works and consulting services and other items of expenditure financed out of such proceeds; (iii) the Project; (iv) the administration, operations and financial condition of the concerned IA; and (v) any other matters relating to the purposes of the Loan.

(b) Without limiting the generality of the foregoing, JPG through JPMO shall, and shall cause each IA through CMG or YMG to, furnish to ADB semi annual reports on the execution of the Project and on the operation and management of the Project facilities. Such reports shall be submitted in such form and in such detail and within such a period as ADB shall reasonably request, and shall indicate, among other things, progress made and problems encountered during the six months under review, steps taken or proposed to be taken to remedy these problems, and proposed program of activities and expected progress during the following six months.

(c) Promptly after physical completion of the Project, but in any event not later than three (3) months thereafter or such later date as ADB may agree for this purpose, JPG through JPMO shall, and shall cause each IA through CMG or YMG to, prepare and furnish to ADB a report, in such form and in such detail as ADB shall reasonably request, on the execution and initial operation of the Project, including its cost, the performance by JPG or the concerned IA of its obligations under this Project Agreement and the accomplishment of the purposes of the Loan.

Section 2.09. To the extent relevant to the Project, JPG through JPMO shall, and shall cause each IA to, (i) maintain separate accounts for the Project financed by the Loan and for its overall operations; (ii) have such accounts and related financial statements (balance sheet, statement of income and expenses, and related statements) audited annually, in accordance with appropriate auditing standards consistently applied, by external auditors whose qualifications, experience and terms of reference are acceptable to ADB; and (iii) furnish to ADB, promptly after their preparation but in any event not later than 6 months after the close of the fiscal year to which they relate, certified copies of such audited accounts and financial statements and the report of the auditors relating thereto (including the auditors' opinion on the use of the Loan proceeds and compliance with the covenants of the Loan Agreement as well as on the use of the procedures for statement of expenditures), all in the English language. JPG through JPMO shall, and shall cause each IA through CMG or YMG to, to the extent relevant to the Project, furnish to ADB such further information concerning such accounts and financial statements and the audit thereof as ADB shall from time to time reasonably request.

(b) JPG shall enable ADB, upon ADB's request, to discuss each IA's financial statements and its financial affairs from time to time, with the auditors appointed by the concerned IA, as the case may be, pursuant to Section 2.09(a) hereabove, and shall authorize and require any representative of such auditors to participate in any such discussions requested by ADB, provided that any such discussion shall be conducted only in the presence of an authorized officer of the concerned IA as applicable, unless the concerned IA shall otherwise agree.

Section 2.10. JPG shall enable ADB's representatives to inspect the Project, the Goods and Works financed out of the proceeds of the Loan, all other plants, sites, properties and equipment of the IAs to the extent relevant to the Project, and any relevant records and documents.

Section 2.11. (a) JPG shall cause each IA through CMG or YMG, as applicable, to, promptly as required, take all action within its powers to maintain its corporate existence, to carry on its operations, and to acquire, maintain and renew all rights, properties, powers, privileges and franchises which are necessary in the carrying out of the Project or in the conduct of its business.

(b) JPG shall ensure through CMG or YMG that each IA at all times conducts its business in accordance with sound administrative, financial, environmental, and where applicable, wastewater management water supply, solid waste management, or heating practices, and under the supervision of competent and experienced management and personnel.

(c) JPG shall ensure through CMG or YMG that each IA at all times operates and maintains its plants, equipment and other property, and from time to time, promptly as needed, make all necessary repairs and renewals thereof, all in accordance with sound administrative, financial, engineering, environmental, and where applicable, wastewater management, water supply, solid waste management, or heating practices, and maintenance and operational practices.

Section 2.12. Except as ADB may otherwise agree, JPG shall, and shall ensure that CMG, YMG and any IA, not sell, lease or otherwise dispose of any of its assets which shall be required for the efficient carrying on of its operations or the disposal of which may prejudice its ability to perform satisfactorily any of its obligations under this Project Agreement and the Onlending Agreement.

Section 2.13. Except as ADB may otherwise agree, JPG shall, and shall ensure that CMG, YMG and the IAs apply the proceeds of the Loan to the financing of expenditures on the Project in accordance with the provisions of the Loan Agreement, this Project Agreement and the Onlending Agreement, and shall ensure that all Goods, Works and consulting services financed out of such proceeds are used exclusively in the carrying out of the Project.

Section 2.14. Except as ADB may otherwise agree, JPG shall ensure that CMG, YMG and each IA duly performs all its obligations under the Onlending Agreement, and shall not take, or concur in, any action which would have the effect of assigning, amending, abrogating or waiving any rights or obligations of the parties under the Onlending Agreement.

Section 2.15. JPG shall through JPMO, CMG or YMG promptly notify ADB of any proposal to amend, suspend or repeal any provision of any IA's Charter and shall afford ADB an adequate opportunity to comment on such proposal prior to taking any action thereon.

### **ARTICLE III**

#### **Effective Date; Termination**

Section 3.01. This Project Agreement shall come into force and effect on the date on which the Loan Agreement shall come into force and effect. ADB shall promptly notify JPG of such date.

Section 3.02. All the provisions of this Project Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the Loan Agreement.

### **ARTICLE IV**

#### **Miscellaneous**

Section 4.01. Any notice or request required or permitted to be given or made under this Project Agreement and any agreement between the parties contemplated by this Project 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, facsimile or radiogram to the party to which it is required or permitted to be given or made at its 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 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) 636-2407.

For JPG

Room 2911, Construction Building  
No. 287 Guiyang Street, Kuancheng District  
Changchun, Jilin 130051  
People's Republic of China

Facsimile Number:

86-431-82752539.

Section 4.02. (a) Any action required or permitted to be taken, and any documents required or permitted to be executed, under this Project Agreement [or under Section 7.01 of the Loan Agreement] by or on behalf of JPG may be taken or executed by its Governor or by such other person or persons as the Governor shall so designate in writing notified to ADB.

(b) JPG shall furnish to ADB sufficient evidence of the authority of each person who will act under paragraph (a) of this Section, together with the authenticated specimen signature of each such person.

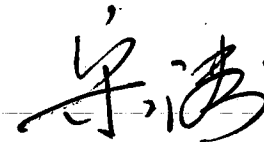
Section 4.03. No delay in exercising, or omission to exercise, any right, power or remedy accruing to either party under this Project Agreement upon any default shall impair any such right, power or remedy or be construed to be a waiver thereof or an acquiescence in such default; nor shall the action of such party in respect of any default, or any acquiescence in any default, affect or impair any right, power or remedy of such party in respect of any other or subsequent default.

IN WITNESS WHEREOF the parties hereto, acting through their representatives thereunto duly authorized, have caused this Project 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.

ASIAN DEVELOPMENT BANK

By   
HARUHIKO KURODA  
President

JILIN PROVINCIAL GOVERNMENT

By   
SONG TAO  
Authorized Representative

## SCHEDULE

### Execution of Project; Financial Matters

#### Implementation Arrangements

1. JPG will be the Project Executing Agency for the Project and have overall responsibility for the Project.
2. The Jilin Project Leading Group (JPLG) which has been established for implementing the Project at the provincial level, headed by a Vice Governor and comprising the heads of Jilin Development Reform Commission, Jilin Construction Bureau, and Jilin Finance Bureau, shall provide overall policy guidance, facilitate inter-agency coordination and resolve any institutional problems affecting Project implementation. The PLGs which have been established in the cities of Changchun and Yanji shall provide overall policy guidance, facilitate inter-agency coordination and resolve any institutional problems affecting Project implementation at the municipal level.
3. The Jilin Project Management Office (JPMO), which has been established in Jilin Construction Bureau, shall be led by JPLG and comprise staff of Jilin Development Reform Commission, Jilin Construction Bureau and Jilin Finance Bureau, and shall perform the daily work of JPLG. The Project Management Offices established in CMG and YMG shall report to JPMO and also coordinate and monitor activities of the IAs.
4. The following IAs shall be responsible for day-to-day implementation activities:
  - (i) Changchun Water Supply Company (CWSC) responsible for the Changchun Water Supply Subcomponent (Subcomponent 1.1);
  - (ii) Changchun Jingyuetan Tourism Construction Group Limited Company (CJTCCG) responsible for the Changchun Wastewater Management Subcomponent (Subcomponent 1.2);
  - (iii) Changchun Municipal Liya Environmental Sanitation and Infrastructure Construction Limited Company (CMLESICC) responsible for the Changchun Solid Waste Management Subcomponent (Subcomponent 1.3);
  - (iv) Yanji Water Supply Company (YWSC) responsible for the Yanji Water Supply Subcomponent (Subcomponent 2.1);
  - (v) Yanji Sewage Treatment Company (YSTC) responsible for the Yanji Wastewater Management Subcomponent (Subcomponent 2.2); and
  - (vi) Yanji Investment and Development Company (YIDC) responsible for the Yanji Thermal Power Plant Heating Networks and Yanji Central Heating Secondary Networks Subcomponents (Subcomponents 3.1 and 3.2).

5. JPG, CMG and YMG shall ensure respectively that each IA under its control be maintained as separate legal entity with full financial and managerial autonomy as provided for under the relevant laws of the PRC to be (a) responsible for day to day implementation activities for the concerned Subcomponent(s), (b) responsible for operating the project infrastructures of the concerned Subcomponent(s) developed in Changchun or Yanji; and (c) entitled to receive all monies collected by levying the appropriate water, wastewater, solid waste, or heating tariffs, as applicable.

#### Change in Ownership

6. In the event that (a) any change in ownership of the Project facilities, or (b) any sale, transfer or assignment of the shares of any IA is anticipated, JPG shall, and shall ensure that either CMG or YMG, as the case may be, and the concerned IA consult with ADB at least six months prior to the implementation of such change. JPG through CMG or YMG, as the case may be, and the concerned IA shall ensure that such change shall be carried out in a lawful and transparent manner.

7. JPG shall, and shall cause each IA to, ensure that no material organizational changes (either financial, operational, or structural) to, nor material asset transfers to or from the IA be formally approved or implemented without the prior approval of the Borrower, ADB or JPG if such changes would affect any IA's ability to perform its obligation under the Loan, Project or the Onlending Agreement. JPG and the concerned IA shall ensure that any such change will be made in a lawful and transparent manner through duly certified board resolutions.

#### Corporate Governance and Anticorruption

8. The JPG shall cause each IA to ensure that its respective board of directors operates effectively and fully discharge its supervisory and management responsibilities, including requiring the board of directors to meet at least monthly and discharge all the functions provided for in the company charter.

9. JPG, CMG, and YMG shall ensure that each IA establishes financial control and management arrangements compatible with ADB's *Guidelines for the Financial Governance and Management of Investment Projects Financed by the ADB* and *ADB's Loan Disbursement Handbook*.

10. JPG shall, and shall cause CMG, YMG and each IA to, comply with ADB's *Anticorruption Policy (1998)*, as amended from time to time. JPG shall, and shall cause CMG, YMG and each IA to, agree (a) that ADB reserves the right to investigate any alleged corrupt, fraudulent, collusive or coercive practices relating to the Project and (b) to cooperate fully with and to cause each IA to cooperate fully with any such investigation and to extend all necessary assistance, including providing access to all relevant books and records, as may be necessary for the satisfactory completion of any such investigation. In particular, JPG shall, and shall cause CMG, YMG and each IA to, (a) conduct periodic inspections on the contractors' activities related to fund withdrawals and settlements and (b) ensure that all contracts financed by ADB in connection with the Project include provisions specifying the right of ADB to audit and examine the records and accounts of each IA and all contractors, suppliers, consultants and other service providers as they relate to the Project.

11. JPG shall, and shall cause CMG, YMG and each IA to, undertake the following anticorruption actions: (i) involve respective concerned agencies with oversight responsibility for each IA in bidding and construction to enhance construction quality control and supervise effective work; (ii) introduce a dual-signing system, in which the civil works contract winner signs an anticorruption contract with the employer when they execute the civil works contract; (iii) periodically inspect the contractor's activities related to fund withdrawals and settlements; (iv) engage the project management consultant to support the Jilin Project Management Office (JPMO) and the IAs to ensure good governance, accountability, and transparency in project operations; (v) in consultation with relevant central government ministries update rules and regulations on local and corporate governance and anticorruption and enhance transparency of the IA's operations; and (vi) disclose a summary of the financial statements and Project accounts, schedules of proposed tariff increases and associated public hearings, and tracking of procurement contract awards on the existing Project website of CMG and YMG.

#### Counterpart Financing

12. JPG shall, and shall cause CMG and YMG to, ensure that all local cost financing including cash injection and equity contribution is provided for the Project on a timely basis to enable the full and timely completion of the Project. JPG shall, and shall cause CMG and YMG to, ensure that in the event of any shortfall of funds or cost overruns, JPG, CMG and YMG shall make available such funds including foreign exchange as are required to complete the Project.

#### Cost Recovery and Pro-Poor Tariffs

13. JPG shall, and shall cause CMG and YMG to, ensure that the tariffs for treated water, wastewater services, solid waste services, and heating charged by the concerned IAs are set at a level that ensures full cost recovery of operation and maintenance, depreciation, and financial costs, including debt service obligations, and a reasonable profit margin for the IAs.

14. JPG shall, and shall cause CMG and YMG to, undertake a review of the regulation on tariff regimes prior to the midterm review of Project implementation. Such a review shall include (i) recalculation of minimum cost recovery tariffs based on the actual Project costs, (ii) affordability and willingness-to-pay surveys, (iii) financial/economic benefits, and (iv) extension of the price escalation mechanism to household and commercial users and other potential fees, and charges to encourage water conservation and sound environmental behavior. The findings shall be submitted to ADB for review and discussion during the midterm review of Project implementation.

15. JPG shall, and shall cause CMG and YMG to, ensure that no entity, whether a government agency, institution, or enterprise, regardless of ownership, may be granted an exemption from tariffs established above, or granted a preferential rate or allowed to make late payments without penalties.

16. JPG shall, and shall cause CMG and YMG to, review the impact of tariff adjustments for water, wastewater, solid waste and heating services on the poor and maintain and adjust the tariff subsidies to protect the basic living standards of the urban poor.

17. JPG shall, and shall cause CMG and YMG to, (i) ensure that public hearing be conducted on tariff increases with key stakeholders including representatives of the poor, and

(ii) cultivate public support for tariff reforms through public information and participation programs including presentations at public meetings and news release.

### Financial Management

18. JPG shall through CMG and YMG cause each IA to establish financial control and management arrangements compatible with *Guidelines for Governance and Financial Management* and other relevant guidelines.

19. JPG shall through CMG and YMG cause each IA to have appropriate financial and managerial autonomy, including that the IA be entitled to receive the full amount of user charges levied, net of any amount required by the Finance Bureaus of CMG or YMG, as the case may be, to service debt or provide funds to finance capital investments for the services once Project facilities are fully operational.

20. JPG shall through CMG and YMG cause each IA to, ensure that each IA establishes and maintains a sound financial management system in accordance with the ADB's *Guidelines for Governance and Financial Management*. The financial management system shall comprise: (a) corporate planning, budgeting and budgetary control; (b) accounting consistent with applicable PRC standards; (c) internal control; and (d) data processing. JPG shall through CMG and YMG cause each IA to establish separate bank accounts and maintain minimum balances to ensure smooth cash flow and the timely settlement of Project construction liabilities and future debt servicing.

21. (a) Except as ADB shall otherwise agree, JPG, through CMG or YMG, shall ensure that each IA shall not incur any debt if after the incurrence of such debt the ratio of debt to equity shall be greater than 70 to 30.

(b) For purposes of this paragraph:

- (i) The term "debt" means any indebtedness of the IA maturing by its terms more than one year after the date on which it is originally incurred.
- (ii) Debt shall be deemed to be incurred: (a) under a loan contract or agreement, or conditional sale or transfer or financing lease agreement or other instrument providing for such debt or for the modification of its terms of payment on the date of such contract, agreement or instrument; and (b) under a guarantee agreement, on the date the agreement providing for such guarantee has been entered into.
- (iii) The term "equity" means the sum of the total unimpaired paid-up capital, retained earnings and reserves of the IA not allocated to cover specific liabilities.

(c) Whenever for purposes of this paragraph 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 currency is, at the

time of 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 ADB.

22. (a) Except as ADB shall otherwise agree, commencing from the second year of full commercial operation of the each subcomponent, JPG shall ensure through CMG or YMG that each IA shall not incur any debt unless a reasonable forecast of the revenues and expenditures of the wastewater treatment operations shows that the estimated net revenues of the IA for each fiscal year during the term of the debt to be incurred shall be at least 1.2 times the estimated debt service requirements of the wastewater treatment operations in such year on all debt of the IA including the debt to be incurred and no event has occurred since the date of the forecast which has, or may reasonably be expected in the future to have, a material adverse effect on the financial condition of future operating results of the IA.

- (b) For the purposes of this paragraph:
- (i) The term "debt" means any indebtedness of the IA maturing by its terms more than one year after the date on which it is originally incurred.
  - (ii) Debt shall be deemed to be incurred: (a) under a loan contract or agreement or other instrument providing for such debt or for the modification of its terms of payment on the date of such contract, agreement or instrument; and (b) under a guarantee agreement, on the date the agreement providing for such guarantee has been entered into.
  - (iii) The term "net revenues" means the difference between:
    - (A) the sum of revenues from all sources related to operations and net non-operating income, after making adequate provisions for uncollectible debts; and
    - (B) 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. Lease payments under finance leases must also be included.
  - (iv) The term "net non-operating income" means the difference between:
    - (A) revenues from all sources other than those related to operations, and
    - (B) expenses, including taxes and payments in lieu of taxes, incurred in the generation of revenues in (iv)(A) above.
  - (v) The term "debt service requirements" means the aggregate amount of repayments (including sinking fund payments, if any) of, and interest and other charges on, debt.

- (vi) The term "reasonable forecast" means a forecast prepared by the IA not earlier than nine months prior to the incurrence of the debt in question, which both ADB and the IA accept as reasonable and as to which ADB has notified the IA of its acceptability.
- (vii) The terms "operations" or "operating" refer to the operations of the IA.

(c) Whenever for the purposes of this paragraph 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 ADB.

23. (a) Except as ADB shall otherwise agree, commencing from the second year of full commercial operation of each subcomponent, JPG shall through CMG or YMG cause each IA to maintain a ratio of current assets to current liabilities of not less than 1.2 to 1.

(b) For the purposes of this paragraph:

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

(c) Whenever for the purposes of this paragraph 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 ADB.

### Environment

24. JPG shall cause CMG and YMG to ensure, and shall through CMG and YMG cause each IA to, construct, operate, maintain, and monitor the Project facilities in strict conformity with: (a) all applicable laws and regulations of the Borrower, including national and local regulations and standards for environmental protection, health, labor, and occupational

safety; and (b) *ADB Environmental Policy* and the environmental mitigation and monitoring measures detailed in the approved EIAs, summary environmental impact assessment (SEIA), and environmental management plan (EMP) for the Project.

25. JPG shall cause CMG and YMG to ensure, and shall through CMG and YMG cause each IA to ensure, that (a) all civil works in the Project including water treatment plants and associated pipelines, wastewater treatment plants, wastewater collection systems, solid waste systems, central heating facilities be constructed and operated in accordance with all applicable environmental laws, policies, procedures and guidelines of the Borrower, and ADB's *Environment Policy (2003)* and related operational procedures; (b) any adverse environmental impacts arising from the Project be minimized by implementing the mitigation measures prescribed in the EIA and EMP; (c) civil work contracts entered into with contractors under the Project include provisions relating to the environment including obligating contractors to carry out the mitigation and monitoring measures specified in the EIA and the EMP for the respective Component; and (d) a budget be allocated for all such mitigation and monitoring measures.

26. JPG shall through CMG and YMG to ensure, and shall through CMG and YMG cause the IAs to ensure, that (a) the Project facilities be constructed, operated, maintained and monitored in strict conformity with all relevant laws and regulations of the Borrower, including all applicable national and local environmental protection laws, regulations and standards for water and wastewater treatment, solid waste treatment, sediment and sludge disposal, and the environmental mitigation measures recommended in the EMP and the EIA for the Project be implemented; (b) the mitigation measures be incorporated into the design and bidding documents; (c) justification be provided to ADB for any proposed changes to the mitigation measures required during design, construction, operations and maintenance and provided to ADB within 60 days if any changes to the EIA have to be implemented for safety or emergency reasons; and (d) environmental monitoring programs be monitored and recorded under the guidance and supervision of the Changchun and Yanji Municipal Environmental Protection Bureaus and the monitoring information be submitted to ADB in its semi-annual Project progress reports.

27. JPG shall through CMG and YMG ensure that all sludge and dredged material generated in the course of implementation of the Project is disposed of in accordance with national and local laws and regulations, and that such disposal creates no significant risk of secondary pollution.

28. JPG through CMG and YMG shall, and shall through CMG and YMG to cause each IA to, submit to ADB annual environmental reports commencing from the start of Project implementation until one year after the commencement of operation of the Project Facilities. The reports will include (i) progress made on mitigation measures and monitoring; (ii) problems encountered; (iii) data collected; (iv) any research results; and (v) a corrective action plan if any violation of the Borrower's environmental laws, regulations, standards, rules, policies, or guidelines shall have occurred; and (e) records of Environment Management Plan implementation.

#### Land Acquisition and Resettlement

29. JPG shall through CMG and YMG ensure that: (a) all land and rights-of-way required by the Project are made available in a timely manner; (b) the RPs be implemented promptly and efficiently in accordance with their terms; and the provisions of the RPs, be

implemented in accordance with all applicable laws and regulations of the Borrower, and ADB's *Policy on Involuntary Resettlement*; (c) all affected persons are given adequate opportunity to participate in resettlement planning and implementation; and that they will be at least as well off as they would have been in the absence of the Project. (d) timely provision of counterpart funds be paid for land acquisition and resettlement activities; and (e) any obligations in excess of the RP budget estimates shall be met.

30. JPG shall through CMG, YMG or the relevant IA, ensure that each RP be updated based on the final detailed design, including detailed measurement surveys, for the respective subcomponent of the Project, and such updated RPs be submitted to ADB for its concurrence prior to commencement of any related civil works; and disclosed to affected people in accordance with ADB's applicable information disclosure requirements for resettlement.

31. JPG shall, through CMG and YMG or the relevant IA, also ensure that: (a) adequate staff and resources are committed to supervising and internally monitoring the implementation of each subproject RP and that ADB is provided with quarterly monitoring reports during resettlement implementation, followed by a resettlement completion report for each subproject; (b) an independent agency acceptable to ADB has been contracted to carry out monitoring and evaluation, including data disaggregated by gender where applicable, and forward reports to ADB semi-annually; (c) ADB is promptly advised of any substantial changes in the resettlement impacts and, if necessary, a revised RP is submitted to ADB for its approval; (d) civil works contractors' specifications include requirements to comply with the RPs and entitlements for permanent and temporary impacts to affected persons; and (e) the contractors are supervised to ensure compliance with requirements of the RPs, applicable law and ADB's *Policy on Involuntary Resettlement*.

### Monitoring and Reporting

32. During Project implementation, JPG, through CMG and YMG, shall, or shall through CMG or YMG cause each IA to, develop a Project Performance Monitoring System (PPMS) including baseline performance monitoring, systematic Project performance monitoring, and benefits monitoring and evaluation developed in consultation with ADB, and including monitoring and evaluation on each Component. JPG shall, or shall cause through CMG or YMG the relevant IA to, carry out surveys (a) at the start of Project implementation to establish baseline data, (b) at Project mid-term, (c) at the time of Project completion, and (d) not later than six months after Project completion, to evaluate the Project benefits. Key indicators shall be proposed by JPG and/or each IA and developed in consultation with ADB.

33. JPG, through CMG and YMG, shall, and shall through CMG or YMG cause each IA to, supply monitoring reports to the JPMO, Changchun Project Management Office (CPMO) or Yanji Project Management Office (YPMO) of the implementation of activities under this Project, and a semi-annual report of the implementation of Project activities relevant to such IA under the Project to the JPMO. JPG shall also cause the JPMO, CPMO and YPMO to conduct periodic and random monitoring of the respective Subcomponents implemented by it to determine the degree to which Project funds have been effectively and efficiently used to implement the Project, achieve its objectives, outcomes, and its performance indicators.

34. JPG, CMG, YMG and ADB, in conjunction, shall carry out reviews of the Project during Project implementation. The reviews shall include an examination of budgetary allocations for the Project, operation and maintenance costs, staffing, implementation

arrangements, any environmental, resettlement, gender and indigenous peoples impacts and other achievements under the Project. The review shall include assessing progress for each Component, identifying difficulties and constraints, and determining ways to overcome them.

35. JPG, CMG, YMG and ADB shall undertake a comprehensive midterm review two years after the commencement of Project implementation. The mid-term review shall include a detailed evaluation of (a) scope of the Project, (b) implementation arrangements, (c) resettlement, (d) achievements of the scheduled targets, (e) progress of the agenda for policy reform and institutional development, and (f) reallocation of the Loan proceeds and change to the disbursement percentages, if any. The results of the midterm review shall be discussed by JPG, CMG, YMG and ADB and, if required, appropriate corrective measures shall be formulated to ensure successful Project implementation and achievement of the Project objectives by the loan closing date.

#### Employment and Labor Standards

36. JPG, through CMG and YMG shall, and shall through CMG and YMG cause each IA to, comply with all employment and labor standards set forth in applicable laws, regulations and policies of the Borrower. In addition JPG shall, through CMG and YMG, cause the IAs to ensure that all civil works contracts under the Project contain provisions requiring all civil works contractors engaged under the Project to (a) provide timely payment of wages and safe working conditions to all workers including male and female workers (with such requirements being included in civil works contract and monitored by construction supervision consultants); (b) provide women's employment, where appropriate, and pay equal wages to the women employees for the equivalent work; (c) not employ child labor (as defined in the applicable Borrower's law) in the Project activities; and (d) monitor the effects of the Project on women through collection and compilation of gender-disaggregated data, where applicable, including in the RPs and PPMS. JPG shall through CMG, YMG and each IA require compliance to be monitored by the construction supervision consultants.

37. JPG shall, through CMG and YMG, and shall through CMG and YMG to cause each IA to, in coordination with the responsible agencies, (a) ensure that contractors disseminate information on the risks of transmitting and contracting socially and sexually transmitted diseases, including HIV/AIDS, to their employees during Project implementation; and (b) in coordination with other appropriate agencies, ensure that public awareness and education programs on health and hygiene behavior and managing wastewater and solid waste disposal will be conducted in project area to increase the likelihood that the Project health benefits are realized especially among the poor and vulnerable populations.

38. JPG shall, shall cause CMG and YMG to, and shall through CMG and YMG cause the IAs to, ensure that construction and operational health and safety measures are incorporated into the design and bidding documents, and that health and safety information are disseminated to contractors who, in turn, disseminate such information to those employed during Project implementation and facility operations. Such measures shall, at a minimum, be sufficient to comply with the applicable national laws, and shall also be designed to generate a safe work environment.

#### Social Development and Poverty Reduction Strategy

39. JPG shall, and shall cause CMG and YMG to, ensure that the impact of increased water, wastewater, solid waste, and heating tariffs on the poor is reviewed and the

provision of tariff subsidy or tariff waiver and Minimum Living Standard scheme (MLSS) are maintained to protect the basic living standard of the poor.

40. JPG shall, and shall cause YMG to, ensure that the IAs complete the closure of 318 small coal-fired heat boilers in Yanji by 31 December 2009. The demolishing of boilers shall be carried out in accordance with all applicable Borrower's environmental and safety standards. In accordance with ADB's Social Protection Strategy, JPG shall cause YMG and the concerned IAs to ensure that all workers affected by the closure of the small coal-fired heat boilers under the Project are reemployed in a timely manner and in accordance with the reemployment action plan so that they will be at least as well off as they would have been in the absence of the Project.

#### Training

41. JPG shall ensure that JPMO, in consultation with CPMO and YPMO and with assistance of the implementation consulting services contractor, shall prepare and submit a training plan(s) to be implemented under the Project to ADB for review and concurrence, and ensure that training institutes for such purpose shall be selected in accordance with procedures acceptable to ADB. Following each training event, JPG shall through CMG and YMG cause each IA to submit a training completion report to the JPMO for consolidation and transmission to ADB.

#### Construction Quality

42. JPG shall, shall cause CMG and YMG to, and shall through CMG and YMG cause the IAs to, ensure that all construction work is implemented in accordance with Borrower's technical standards and the construction supervision, quality control and contract management follow national standards and internationally accepted practices.