LOAN AGREEMENT
(Ordinary Operations)

(Hubei Yichang Comprehensive Elderly Care Demonstration Project)

between

PEOPLE'S REPUBLIC OF CHINA

and

ASIAN DEVELOPMENT BANK

DATED 31 May 2019

PRC 49309
LOAN AGREEMENT
(Ordinary Operations)

LOAN AGREEMENT dated 31 May 2019 between PEOPLE’S REPUBLIC OF CHINA ("Borrower") and ASIAN DEVELOPMENT BANK ("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 Yichang Municipal Government ("YMG") and for this purpose the Borrower will make available, through Hubei Provincial Government ("HPG"), to YMG 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 of one part, and HPG and YMG of the other part;

NOW THEREFORE the parties hereto agree as follows:

ARTICLE I

Loan Regulations; Definitions

Section 1.01. All the provisions of ADB’s Ordinary Operations Loan Regulations, dated 1 January 2017 ("Loan Regulations"), are hereby made applicable to this Loan Agreement with the same force and effect as if they were fully set forth herein, subject, however, to the following modifications:

(a) Section 2.01(uu) is deleted and the following is substituted therefor:

"Project Agreement" means the Project Agreement of even date herewith between ADB, HPG and YMG, as such agreement may be amended from time to time; and such project agreement includes all schedules to the Project Agreement.

(b) The term "Project Executing Agency" appearing in Sections 7.01(a)(i), 9.01(d), 9.01(f), 9.01(k), 10.01(c) and 10.02(c) of the Loan Regulations shall be substituted by the term "YMG".

Section 1.02. Wherever used in this Loan Agreement, the several terms defined in the Loan Regulations have the respective meanings therein set forth unless modified herein or the context otherwise requires. Additional terms used in this Loan Agreement have the following meanings:
(a) "CECC" means a community-based elderly care center to be constructed or rehabilitated under the Project;

(b) "Consulting Guidelines" means the Guidelines on the Use of Consultants by Asian Development Bank and its Borrowers (2013, as amended from time to time);

(c) "Consulting Services" means the services to be financed out of the proceeds of the Loan;

(d) "EC-IT" means elderly care information and technology;

(e) "EMP" means the environmental management plan for the Project, including any update thereto, incorporated in the IEE;

(f) "Environmental Safeguards" means the principles and requirements set forth in Chapter V, Appendix 1, and Appendix 4 (as applicable) of the Safeguard Policy Statement;

(g) "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;

(h) "HIV/AIDS" means human immunodeficiency virus/acquired immune deficiency syndrome;

(i) "ICT" means information and communication technology;

(j) "IEE" means the initial environmental examination for the Project, including any update thereto, prepared and submitted by YMG and cleared by ADB;

(k) "Involuntary Resettlement Safeguards" means the principles and requirements set forth in Chapter V, Appendix 2, and Appendix 4 (as applicable) of the SPS;

(l) "JTKY" means YCJT Group Kangyang Industry Investment Co. Ltd, wholly owned by YMG, organized under the laws of the PRC, which is responsible for the implementation of the Project, as further described in the PAM, or any alternative or successor thereto acceptable to ADB;

(m) "Loan Disbursement Handbook" means ADB's Loan Disbursement Handbook (2017, as amended from time to time);

(n) "Management Letter" means formal communications from the auditor to the client management in accordance with the International Standard on Auditing 265 (communicating deficiencies in internal control to those charged with governance and management), which is not required to be provided separately as it is equivalent to the Audit Findings and
Recommendations prepared by the Project auditor and submitted to ADB:

(o) "O&M" means operation and maintenance;

(p) "PAM" means the project administration manual for the Project dated 13 November 2018 and agreed between YMG and ADB, as updated from time to time in accordance with the respective administrative procedures of the YMG and ADB;

(q) "PIE" means the (i) Second People’s Hospital of Yichang; (ii) Yiling District Social Welfare Institute; (iii) Yidu Social Welfare Institute; (iv) Zhijiang Jinrunyuan Construction Investment Holding Group Co.; and (v) Zigui County Chuyuan Investment Co. Ltd, responsible for implementation of certain components of the Project, as further described in the PAM, or any alternatives or successors thereto acceptable to ADB;

(r) "PMO" means the Project management office, established by YMG for implementation of the Project and as described in the PAM;

(s) "Procurement Guidelines" means ADB’s Procurement Guidelines (2015, as amended from time to time);

(i) "Procurement Plan" means the procurement plan for the Project dated 13 November 2018 and agreed between YMG and ADB, as updated from time to time in accordance with the Procurement Guidelines, the Consulting Guidelines, and other arrangements agreed with ADB;

(u) "Project facilities" means facilities to be constructed, procured, rehabilitated and/or maintained under the Project;

(v) "Project Implementation Agreement" means an agreement between (i) YMG and JTKY, or (ii) YMG, JTKY and each of PIES, as the context applies, which describes the concerned parties’ obligations set forth in the Project Agreement and the PAM and requires such parties to comply with the IEE, EMP, RPs and SDGAP;

(w) "RP" means a resettlement plan for the Project, including any update thereto, prepared and submitted by YMG and cleared by ADB;

(x) "Safeguard Policy Statement" or “SPS” means ADB’s Safeguard Policy Statement (2009);

(y) "Safeguards Monitoring Report" means each report prepared and submitted by YMG to ADB that describes progress with implementation of and compliance with the EMP, including any corrective and preventative actions;
(z) "SDGAP" means a social development and gender action plan for the Project, including any update thereto, prepared and submitted by YMG and cleared by ADB; and

(aa) "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 one hundred and fifty million Dollars ($150,000,000), 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 19 years, and a grace period as defined in subsection (c) hereinafter.

(c) The term "grace period" as used in subsection (b) hereinafore 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:

(a) LIBOR;

(b) 0.60% as provided by Section 3.02 of the Loan Regulations less a credit of 0.10% as provided by Section 3.03 of the Loan Regulations; and

(c) a maturity premium of 0.20% as provided by Section 3.03 of the Loan Regulations.

Section 2.03. The Borrower shall pay a commitment charge of 0.15% per annum. Such charge shall accrue on the full amount of the Loan (less amounts withdrawn from time to time), commencing 60 days after the date of this Loan Agreement.

Section 2.04. Interest and other charges on the Loan shall be payable semiannually on 1 June and 1 December 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 unWithdrawed, 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 subsection (a) hereinafore that is accepted by ADB shall be considered a "Conversion", as defined in Section 2.01(f) 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 through HPG to YMG upon terms and conditions satisfactory to ADB. Except as ADB may otherwise agree, the terms for the proceeds of the Loan made available to YMG shall include: (i) commitment charge and interest at the rates identical to those applied to the Loan; (ii) a repayment period including a grace period identical to those applied to the Loan; and (iii) YMG bearing the foreign exchange and interest rate variation risks of the proceeds of the Loan made available thereto.

(b) The Borrower shall cause the proceeds of the Loan to be applied exclusively 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 proceeds of the Loan shall be allocated and withdrawn 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, the Borrower shall procure, or cause to be procured, the items of expenditure to be financed out of the proceeds of the Loan in accordance with the provisions of Schedule 4 to this Loan Agreement.
Section 3.04. The Loan Closing Date for the purposes of Section 9.02 of the Loan Regulations shall be 31 December 2024 or such other date as may from time to time be agreed between the Borrower and ADB.

ARTICLE IV

Particular Covenants

Section 4.01. In the carrying out of the Project and operation of the Project facilities, the Borrower shall perform, or cause to be performed, all obligations set forth in Schedule 4 to this Loan Agreement and the Project Agreement.

Section 4.02. The Borrower shall enable ADB’s representatives to inspect the Project, the Goods, Works and Services, and any relevant records and documents.

Section 4.03. The Borrower shall take all actions which shall be necessary on its part to enable HPG and YMG 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.

ARTICLE V

Effectiveness

Section 5.01. A date 90 days after the date of this Loan Agreement is specified for the effectiveness of this Loan Agreement for the purposes of Section 10.04 of the Loan Regulations.

ARTICLE VI

Delegation of Authority

Section 6.01. The Borrower hereby designates YMG as its agent for the purposes of taking any action or entering into any agreement required or permitted under Section 3.03 of this Loan Agreement and under Sections 6.01, 6.02, 6.03, 6.04 and 6.05 of the Loan Regulations.

Section 6.02. Any action taken or any agreement entered into by YMG pursuant to the authority conferred under Section 6.01 of this Loan Agreement shall be fully binding on the Borrower and shall have the same force and effect as if taken by the Borrower.
Section 6.03. The authority conferred on YMG under Section 6.01 of this Loan Agreement may be revoked or modified by agreement between the Borrower and ADB.

ARTICLE VII

Miscellaneous

Section 7.01. The Minister of Finance or Vice 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

Facsimile Number:

+8610 6855 2061

For ADB

Asian Development Bank
6 ADB Avenue
Mandaluyong City
1550 Metro Manila
Philippines

Facsimile Numbers:

(632) 636-2444
(632) 636-2407.
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 as of the day and year first above written and to be delivered at the principal office of ADB.

PEOPLE'S REPUBLIC OF CHINA

By

LIU WEIHUA
Authorized Representative

ASIAN DEVELOPMENT BANK

By

BENEDICT BINGHAM
Authorized Representative
SCHEDULE 1

Description of the Project

1. The objective of the Project is to increase coverage and utilization of elderly care services in Yichang.

2. The Project shall comprise:

Component 1: Improvement of home- and community-based care services and facilities. This will include the (i) development of home-based delivery services and community-based day care with short-stay services; and (ii) rehabilitation or construction of CECCs.

Component 2: Increase of elderly care service capacity and improvement of the related support system. This will include (i) the improvement of dementia care service capacity, and construction of dementia care center; (ii) development of an ICT platform dedicated to elderly care to support the exchange of information, monitoring of elderly care services, and linkage between elderly care and healthcare services; and (iii) strengthening the training capacity of Three Gorges College and the Caregiver and Manager Training and Career Center to meet the demands for human resources in the elderly care sector.

Component 3: Establishment of facilities and services supporting the integration of healthcare and elderly care. This will include (i) strengthening of geriatric care functions through the development of a secondary-level geriatric hospital and expansion of the geriatric capacity of a tertiary-level hospital; and (ii) development of an elderly care nursing home with basic healthcare functions to support the continuity of care for the elderly in need.

Component 4: Development of capacity of elderly care management and project management support. This will include (i) capacity development support to strengthen the management capacity of the Yichang Civil Affairs Bureau, which is responsible for the elderly care sector, and strengthen other related bureaus and agencies to develop an elderly care system in Yichang; (ii) elderly care-related technical support to ensure that designs of respective elderly care or medical facilities and respective functions and services to be delivered under each facility are technically appropriate; and (iii) project management support for YMG, JTKY and PIEs.

3. The Project shall include Consulting Services.

4. The Project is expected to be completed by 30 June 2024.
SCHEDULE 2

Amortization Schedule

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.

<table>
<thead>
<tr>
<th>Date Payment Due</th>
<th>Installment Share (Expressed as a % based on 10% annuity)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 June 2025</td>
<td>0.92842</td>
</tr>
<tr>
<td>1 December 2025</td>
<td>0.97484</td>
</tr>
<tr>
<td>1 June 2026</td>
<td>1.02359</td>
</tr>
<tr>
<td>1 December 2026</td>
<td>1.07477</td>
</tr>
<tr>
<td>1 June 2027</td>
<td>1.12850</td>
</tr>
<tr>
<td>1 December 2027</td>
<td>1.18493</td>
</tr>
<tr>
<td>1 June 2028</td>
<td>1.24418</td>
</tr>
<tr>
<td>1 December 2028</td>
<td>1.30638</td>
</tr>
<tr>
<td>1 June 2029</td>
<td>1.37170</td>
</tr>
<tr>
<td>1 December 2029</td>
<td>1.44029</td>
</tr>
<tr>
<td>1 June 2030</td>
<td>1.51230</td>
</tr>
<tr>
<td>1 December 2030</td>
<td>1.58792</td>
</tr>
<tr>
<td>1 June 2031</td>
<td>1.66731</td>
</tr>
<tr>
<td>1 December 2031</td>
<td>1.75068</td>
</tr>
<tr>
<td>1 June 2032</td>
<td>1.83821</td>
</tr>
<tr>
<td>1 December 2032</td>
<td>1.93013</td>
</tr>
<tr>
<td>1 June 2033</td>
<td>2.02663</td>
</tr>
<tr>
<td>1 December 2033</td>
<td>2.12796</td>
</tr>
<tr>
<td>1 June 2034</td>
<td>2.23436</td>
</tr>
<tr>
<td>1 December 2034</td>
<td>2.34608</td>
</tr>
<tr>
<td>1 June 2035</td>
<td>2.46338</td>
</tr>
<tr>
<td>1 December 2035</td>
<td>2.58655</td>
</tr>
<tr>
<td>1 June 2036</td>
<td>2.71588</td>
</tr>
<tr>
<td>1 December 2036</td>
<td>2.85167</td>
</tr>
<tr>
<td>1 June 2037</td>
<td>2.99426</td>
</tr>
<tr>
<td>1 December 2037</td>
<td>3.14397</td>
</tr>
<tr>
<td>1 June 2038</td>
<td>3.30117</td>
</tr>
<tr>
<td>1 December 2038</td>
<td>3.46623</td>
</tr>
<tr>
<td>1 June 2039</td>
<td>3.63954</td>
</tr>
<tr>
<td>1 December 2039</td>
<td>3.82152</td>
</tr>
<tr>
<td>1 June 2040</td>
<td>4.01259</td>
</tr>
<tr>
<td>1 December 2040</td>
<td>4.21322</td>
</tr>
</tbody>
</table>
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; and

(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 2 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 items of expenditure to be financed out of the proceeds of the Loan and the allocation of the Loan proceeds to each such Category ("Table"). (Reference to "Category" in this Schedule is to a Category or Subcategory of the Table).

Basis for Withdrawal from the Loan Account

2. Except as ADB may otherwise agree, the proceeds of the Loan shall be allocated to items of expenditure and disbursed on the basis of the withdrawal percentage for each item of expenditure set forth in the Table.

Reallocation

3. 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 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

4. Except as ADB may otherwise agree, the Loan proceeds shall be disbursed in accordance with the Loan Disbursement Handbook.

Advance Account

5. Except as ADB may otherwise agree, the Borrower shall cause the Hubei Department of Finance to establish after the Effective Date, an advance account for the Loan at a bank. The advance account shall be established, managed, replenished and liquidated in accordance with the Loan Disbursement Handbook, and detailed arrangements agreed upon between the Borrower and ADB. The advance account shall be used only for the Project. The currency of the advance account shall be the Dollar.
Retroactive Financing

6. Withdrawals from the Loan Account may be made to finance eligible 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 items to be retroactively financed, subject to a maximum amount equivalent to 20% of the Loan amount.

Condition for Withdrawals from Loan Account

7. Notwithstanding any other provision of this Loan Agreement, no withdrawals shall be made from the Loan Account until (i) the Project Implementation Agreement between YMG and JTKY, and (ii) any one of the Project Implementation Agreements between YMG, JTKY and a PIE, on terms and conditions acceptable to ADB, shall have been duly executed and delivered to ADB.
<table>
<thead>
<tr>
<th>Number</th>
<th>Item</th>
<th>Total Amount Allocated for ADB Financing (₦)</th>
<th>Basis for Withdrawal from the Loan Account</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Works, Equipment and Capacity Building**</td>
<td>150,000,000</td>
<td>Up to 100% of total expenditure claimed*</td>
</tr>
<tr>
<td>TOTAL</td>
<td></td>
<td>150,000,000</td>
<td></td>
</tr>
</tbody>
</table>

* Detailed categories and disbursement percentages to be used during disbursement are in the PAM, Table 8.
** Subject to the condition for withdrawal described in paragraph 7 of Schedule 3.
SCHEDULE 4

Procurement of Goods, Works and Consulting Services

General

1. The procurement of Goods, Works and Consulting Services shall be subject to and governed by the Procurement Guidelines, and the Consulting Guidelines, respectively.

2. Except as ADB may otherwise agree, Goods and Works shall be procured and Consulting Services shall be selected and engaged only on the basis of the procurement methods and the selection methods set forth below. These methods are subject to, among other things, the detailed arrangements and threshold values set forth in the Procurement Plan. The Borrower may only modify the procurement methods and the selection methods or threshold values with the prior agreement of ADB, and modifications must be set out in updates to the Procurement Plan.

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

Goods and Works

4. Goods and Works shall be procured on the basis of the procurement methods of procurement set forth below:
   
   (a) National Competitive Bidding; and
   
   (b) Shopping.

Domestic Preference

5. 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.

National Competitive Bidding

6. The Borrower and ADB shall ensure that, prior to the commencement of any procurement activity under national competitive bidding, the Borrower’s national competitive bidding procedures are consistent with the Procurement Guidelines. Any modifications or clarifications to such procedures agreed between the Borrower and ADB shall be set out in the Procurement Plan. Any subsequent change to the agreed modifications and clarifications shall become effective only after approval of such change by the Borrower and ADB.

Procurement Agent

7. The Borrower shall, through HPG, cause YMG to appoint a Procurement Agent to carry out procurement in accordance with the terms and conditions set out in the
Procurement Plan. The Borrower shall ensure that the Procurement Agent follows all of the requirements of this Schedule and the Procurement Plan.

Conditions for Award of Contract

8. The Borrower shall, through HPG, cause YMG, JTKY and PIEs to, not award any Works contracts until:

   (a) YMG, through the Yichang Environmental Protection Bureau, has granted the final approval of the IEE; and

   (b) PMO, JTKY and PIEs, as the case may be, have caused the relevant provisions to be incorporated from the EMP into the Works contract.

Consulting Services

9. Except as set forth in the paragraph below, the Borrower shall, through HPG, cause YMG, JTKY and PIEs to apply Quality— and Cost-Based Selection for Consulting Services.

10. The Borrower shall, through HPG, cause YMG, JTKY and PIEs to also apply Consultants’ Qualifications Selection for preparation of the EC-IT platform, in accordance with, among other things, the procedures set forth in the Procurement Plan.

11. The Borrower shall, through HPG, cause YMG, JTKY and PIEs to recruit the individual consultants in accordance with procedures acceptable to ADB for recruiting individual consultants.

Industrial or Intellectual Property Rights

12. (a) The Borrower shall, through HPG, cause YMG to 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, through HPG, cause YMG to 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.

13. The Borrower shall, through HPG, cause YMG to 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.

ADB’s Review of Procurement Decisions

14. 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; Implementation and Financial Matters

Implementation Arrangements

1. The Borrower shall cause YMG to ensure that the Project is implemented in accordance with the detailed arrangements set forth in the PAM. Any subsequent change to the PAM shall become effective only after approval of such change by YMG and ADB. In the event of any discrepancy between the PAM and this Loan Agreement, the provisions of this Loan Agreement shall prevail.

Counterpart Financing

2. The Borrower shall cause YMG and through YMG, JTKY and PIEs to ensure that (a) all counterpart funds are made available for Project implementation in a timely manner; and (b) O&M of all Project facilities is fully funded.