Project Agreement

(Fujian Fishing Ports Project)

between

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

and

FUJIAN PROVINCE

Dated 2014
Agreement dated 2014, entered into between INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT ("Bank") and FUJIAN PROVINCE ("Project Implementing Entity") ("Project Agreement") in connection with the Loan Agreement ("Loan Agreement") of same date between PEOPLE'S REPUBLIC OF CHINA ("Borrower") and the Bank. The Bank and the Project Implementing Entity hereby agree as follows:

ARTICLE I — GENERAL CONDITIONS; DEFINITIONS

1.01. The General Conditions (as defined in the Appendix to the Loan Agreement) constitute an integral part of this Agreement.

1.02. Unless the context requires otherwise, the capitalized terms used in this Agreement have the meanings ascribed to them in the Loan Agreement or the General Conditions.

ARTICLE II — PROJECT

2.01. The Project Implementing Entity declares its commitment to the objective of the Project. To this end, the Project Implementing Entity shall carry out the Project in accordance with the provisions of Article V of the General Conditions, and shall provide promptly as needed, the funds, facilities, services and other resources required for the Project.

2.02. Without limitation upon the provisions of Section 2.01 of this Agreement, and except as the Bank and the Project Implementing Entity shall otherwise agree, the Project Implementing Entity shall carry out the Project in accordance with the provisions of the Schedule to this Agreement.

ARTICLE III — REPRESENTATIVE; ADDRESSES

3.01. The Project Implementing Entity's Representative is its Governor or a Vice-Governor, or such other person or persons as said Governor or Vice-Governor shall designate in writing, and the Project Implementing Entity shall furnish to the Bank sufficient evidence of the authority and the authenticated specimen signature of each such person.

3.02. The Bank's Address is:

International Bank for Reconstruction and Development
1818 H Street, NW
Washington, DC 20433
United States of America
Cable: INTBAFRAD
Telex: 248423(MCI) or 64145(MCI)
Facsimile: 1-202-477-6391

Washington, D.C.

3.03. The Project Implementing Entity’s Address is:

No. 26 Yeshan Rd.,
Fuzhou, Fujian Province 350003
People’s Republic of China

Facsimile:
0591-87878762

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

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

By 
Authorized Representative

Name: Klaus Rohland
Title: Country Director, China

FUJIAN PROVINCE

By 
Authorized Representative

Name: Su Shulin
Title: Governor

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SCHEDULE

Execution of the Project

Section I. Institutional and Implementation Arrangements

A. Institutional Arrangements

1. In order to ensure the proper carrying out of the Project, the Project Implementing Entity shall maintain, throughout the period of implementation of the Project the following entities with composition, powers, functions, funds, staffing, facilities and other resources acceptable to the Bank:

   (a) Fujian Project Leading Group, to provide leadership, policy guidance and coordination in the preparation and implementation of the Project.

   (b) Fujian Provincial Project Management Office, responsible for the overall implementation of the Project, including procurement, financial management, supervision, and monitoring and evaluation of the progress of the Project.

   (c) Xia’pu Project Management Office, specifically responsible for the day-to-day implementation of Parts A and B of the Project in Xia’pu County, including procurement, financial management, supervising contractors and consultants, and monitoring and reporting on the progress of Parts A and B of the Project.

2. For the purpose of assisting the Project Implementing Entity with the carrying out of Parts A and B of the Project, the Project Implementing Entity, through Xia’pu County, shall enter into an agreement (the “Subsidiary Agreement - XSAIOC”) with XSAIOC, under terms and conditions acceptable to the Bank, which shall include those set forth in Annex A to this Schedule.

3. For the purpose of assisting the Project Implementing Entity, through Xia’pu County, with the carrying out of Part C of the Project, the Project Implementing Entity shall enter into an agreement (the “Subsidiary Agreement - FOTS”) with FOTS, under terms and conditions acceptable to the Bank, which shall include those set forth in Annex B to this Schedule.

4. The Project Implementing Entity, through Xia’pu County, shall exercise its rights under the Subsidiary Agreement – XSAIOC and the Subsidiary Agreement - FOTS in such manner as to protect the interests of the Borrower and the Bank, and to accomplish the purposes of the Loan, and except as the Bank shall otherwise agree, not assign, amend, abrogate or waive the Subsidiary Agreements referred to herein or any provision thereof.

B. Anti-Corruption

The Project Implementing Entity shall ensure that the Project is carried out in accordance with the provisions of the Anti-Corruption Guidelines.
C. Safeguards

1. In carrying out the Project, the Project Implementing Entity shall, and shall cause XSAIOC and FOTS, as applicable, to:

   (a) take all necessary actions to minimize to the extent possible any involuntary loss by persons of shelter, productive assets or access to productive assets or income or means of livelihood, temporarily or permanently, and the displacement of said people in the carrying out of the Project or any part thereof;

   (b) where the acquisition of land or assets or the displacement of people is unavoidable, before initiating the implementation of any works which would result in such acquisition or displacement, make available to such people compensation and, as applicable, relocate and rehabilitate the Displaced Persons in accordance with the RAP and in a manner satisfactory to the Bank; and

   (c) whenever required in terms of the RPF, proceed to have an additional RAP or RAPs: (i) prepared in form and substance satisfactory to the Bank; (ii) except as otherwise agreed with the Bank, submitted to the Bank for review and approval; (iii) thereafter, adopted and publicly disclosed; and (iv) thereafter, to implement, or cause to be implemented, such additional RAP or RAPs in accordance with their terms and in a manner acceptable to the Bank.

2. The Project Implementing Entity shall, and shall cause XSAIOC and FOTS to, implement, as applicable, the Safeguards Instruments in a manner and substance satisfactory to the Bank. Without limitation on the foregoing, the Project Implementing Entity shall ensure that each contract for works financed with the proceeds of the Loan shall include the obligations of the work contractors and any sub-contractor to comply with the relevant provisions of the EMP.

3. The Project Implementing Entity shall not, and shall cause XSAIOC and FOTS not to, amend, suspend, fail to implement or waive the Safeguards Instruments, or any provision thereof, without the prior written concurrence of the Bank.

4. The Project Implementing Entity shall, and shall cause XSAIOC and FOTS to, maintain policies and procedures adequate to enable it to monitor and evaluate, in accordance with guidelines acceptable to the Bank, the implementation of the Safeguards Instruments.

5. Without limitation to the provisions of paragraphs C.1 through C.4 of this Section I or the provisions of paragraph A.1 of Section II below, the Project Implementing Entity, shall, and shall cause XSAIOC and FOTS to, take all measures necessary on their part to regularly collect, compile, and submit to the Bank, as part of the Project Reports, information on the status of compliance with the Safeguards Instruments, giving details of:

   (a) measures taken in furtherance thereof;
b) conditions, if any, which interfere or threaten to interfere with the smooth implementation thereof; and

c) remedial measures taken or required to be taken to address such conditions.

6. In the event of any inconsistency between the provisions of the Safeguards Instruments and the provisions of this Agreement or the Loan Agreement, the provisions of this Agreement and the Loan Agreement shall prevail.

D. Other Implementation Arrangements

1. The Project Implementing Entity shall cause Xia’pu County to prepare and adopt, by not later than June 30, 2016, the Port Operational and Maintenance Manual.

2. No later than six months prior to the completion date of each of the ports to be constructed, rehabilitated and/or upgraded under Part A of the Project, the Project Implementing Entity, through Xia’pu County, shall enter into a contract for the operation and maintenance of the referred ports, with an entity or entities duly qualified to perform such tasks, all under terms and conditions acceptable to the Bank.

Section II. Project Monitoring, Reporting and Evaluation.

A. Project Reports

1. The Project Implementing Entity shall, and shall cause XSAIOC and FOTS to, monitor and evaluate the progress of the Project and prepare Project Reports in accordance with the provisions of Section 5.08 (b) of the General Conditions and on the basis of the indicators set forth in the Results Framework. Each such Project Report shall cover the period of one (1) calendar semester, and shall be furnished to the Bank and the Borrower not later than sixty (60) days after the end of the period covered by such report.

2. Without limitation to the provisions of paragraph A.1 above, the Project Implementing Entity shall prepare, under terms of reference satisfactory to the Bank, and furnish to the Bank no later than June 30, 2017, a consolidated mid-term review report for the Project, summarizing the results of the monitoring and evaluation activities carried out from the inception of the Project, and setting out the measures recommended to ensure the efficient completion of the Project and to further the objectives thereof.

3. The Project Implementing Entity shall provide to the Borrower, not later than three months after the Closing Date, for incorporation in the report referred to in Section 5.08 (c) of the General Conditions all such information as the Borrower or the Bank shall reasonably request for the purposes of that Section.

B. Financial Management, Financial Reports and Audits

1. The Project Implementing Entity shall, and shall cause XSAIOC and FOTS to, maintain a financial management system and prepare financial statements in accordance with
consistently applied accounting standards acceptable to the Bank, both in a manner adequate to reflect the operations, resources and expenditures related to the Project.

2. Without limitation to the provisions of Section II.A hereof, the Project Implementing Entity shall prepare and furnish to the Bank, not later than sixty (60) days after the end of each calendar semester, interim unaudited financial reports for the Project covering the semester, in form and substance satisfactory to the Bank.

3. The Project Implementing Entity shall have, and shall cause XSAIOC and FOTS to have, its financial statements referred to above audited by independent auditors, in accordance with consistently applied auditing standards acceptable to the Bank. Each audit of these financial statements shall cover the period of one fiscal year of the Project Implementing Entity. The Project Implementing Entity shall ensure that the audited financial statements for each period shall be: (a) furnished to the Borrower and the Bank not later than six months after the end of the period; and (b) made publicly available in a timely fashion and in a manner acceptable to the Bank.

Section III. Procurement

All goods, works and services required for the Project and to be financed out of the proceeds of the Loan shall be procured in accordance with the provisions of Section III of Schedule 2 to the Loan Agreement.
ANNEX A

to the
SCHEDULE

Principal Terms and Conditions of the
Subsidiary Agreement - XSAIOC

For purposes of Section I.A.2 of the Schedule to this Agreement, the Subsidiary Agreement (XSAIOC) to be entered into by the Project Implementing Entity, through Xia’pu County, and XSAIOC shall reflect, *inter alia*, the following terms and conditions:

1. For the purpose of assisting the Project Implementing Entity with the carrying out of the Project, the Project Implementing Entity, through Xia’pu County, shall make available to XSAIOC the proceeds of the Loan allocated to Parts A and B of the Project from time to time, under terms and conditions acceptable to the Bank.

2. The Project Implementing Entity, through Xia’pu County, shall have the right to suspend or terminate the right of XSAIOC to use and/or receive the proceeds of the Loan, allocated from time to time to the Project, upon failure by XSAIOC to perform any of its obligations under the Subsidiary Agreement (XSAIOC).

3. XSAIOC shall undertake to:

   (a) assist the Project Implementing Entity, through Xia’pu County, in the carrying out of the Project with due diligence and efficiency and in accordance with appropriate management, financial, and engineering practices, and social and environmental standards, acceptable to the Bank, including the Anti-Corruption Guidelines applicable to recipients of Loan proceeds other than the Borrower, and to provide, promptly as needed, the funds, facilities and other resources required for this purpose;

   (b) maintain, throughout Project implementation, staff in adequate numbers and with terms of reference and qualifications acceptable to the Bank, to be responsible for implementing the Project; and

   (c) without limitation to the foregoing, to take all measures necessary to ensure that the Project be implemented, as applicable, in accordance with the Safeguards Instruments.

4. XSAIOC shall undertake to procure the works, goods and services to be financed out of the proceeds of the Loan, allocated from time to time to the Project, in accordance with the provisions of Section III of Schedule 2 to the Loan Agreement, and utilize such works, goods and services exclusively in the carrying out of the Project.

5. XSAIOC shall undertake to enable the Bank and the Project Implementing Entity, through Xia’pu County, to inspect such sites and works included in the Project, the operation thereof, and any relevant records and documents as the Bank and/or the Project Implementing Entity, through Xia’pu County, shall deem necessary.
6. XSAJOC shall undertake, throughout Project implementation, to:

(a) maintain records and accounts adequate to reflect its operations and financial condition in accordance with sound accounting practices;

(b) have the Project financial statements (balance sheets, statements of income and expenses and related statements) for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Bank;

(c) furnish to the Bank and the Project Implementing Entity, through Xia'pu County, as soon as available, but in any case not later than six (6) months after the end of each such year: (i) certified copies of the Project financial statements and accounts for such year as so audited; (ii) an opinion on such statements by the auditors referred to in paragraph 6(b) above, in such scope and detail as the Bank and/or the Project Implementing Entity, through Xia'pu County, shall have reasonably requested; and (iii) all such other information concerning said records, accounts and financial statements, as well as the audit thereof, as the Bank and/or the Project Implementing Entity, through Xia'pu County, shall reasonably request;

(d) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with the performance indicators agreed between the Project Implementing Entity and the Bank, the carrying out of the Project and the achievement of the objective thereof; and

(e) to take out and maintain with responsible insurers such insurance, against such risks and in such amounts, as shall be consistent with sound business practice, including, without limitation, such insurance to cover hazards incident to the acquisition, transportation and delivery of goods financed out of the proceeds of the Loan to the place of use or installation, any indemnity thereunder to be made payable in a currency freely usable to replace or repair such goods.
ANNEX B
to the
SCHEDULE

Principal Terms and Conditions of the
Subsidiary Agreement - FOTS

For purposes of Section I.A.3 of the Schedule to this Agreement, the Subsidiary Agreement (FOTS) to be entered into by the Project Implementing Entity and FOTS shall reflect, *inter alia*, the following terms and conditions:

1. For the purpose of assisting the Project Implementing Entity with the carrying out of Part C of the Project, the Project Implementing Entity shall make available to FOTS the proceeds of the Loan allocated to Part C of the Project from time to time, under terms and conditions acceptable to the Bank.

2. The Project Implementing Entity shall have the right to suspend or terminate the right of FOTS to use and/or receive the proceeds of the Loan, allocated from time to time to the Project, upon failure by FOTS to perform any of its obligations under the Subsidiary Agreement (FOTS).

3. FOTS shall undertake to:
   
   (a) assist the Project Implementing Entity in the carrying out of the Project with due diligence and efficiency and in accordance with appropriate management, financial, and engineering practices, and social and environmental standards, acceptable to the Bank, including the Anti-Corruption Guidelines applicable to recipients of Loan proceeds other than the Borrower, and to provide, promptly as needed, the funds, facilities and other resources required for this purpose;
   
   (b) maintain, throughout Project implementation, staff in adequate numbers and with terms of reference and qualifications acceptable to the Bank, to be responsible for implementing Part C of the Project; and
   
   (c) without limitation to the foregoing, to take all measures necessary to ensure that the Project be implemented, as applicable, in accordance with the Safeguards Instruments.

4. FOTS shall undertake to procure the works, goods and services to be financed out of the proceeds of the Loan, allocated from time to time to the Project, in accordance with the provisions of Section III of Schedule 2 to the Loan Agreement, and utilize such works, goods and services exclusively in the carrying out of the Project.

5. FOTS shall undertake to enable the Bank and the Project Implementing Entity to inspect such sites and works included in the Project, the operation thereof, and any relevant records and documents as the Bank and/or the Project Implementing Entity shall deem necessary.
6. FOTS shall undertake, throughout Project implementation, to:

(a) maintain records and accounts adequate to reflect its operations and financial condition in accordance with sound accounting practices;

(b) have the Project financial statements (balance sheets, statements of income and expenses and related statements) for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Bank;

(c) furnish to the Bank and the Project Implementing Entity as soon as available, but in any case not later than six (6) months after the end of each such year: (i) certified copies of the Project financial statements and accounts for such year as so audited; (ii) an opinion on such statements by the auditors referred to in 6 (b) above, in such scope and detail as the Bank and/or the Project Implementing Entity shall have reasonably requested; and (iii) all such other information concerning said records, accounts and financial statements, as well as the audit thereof, as the Bank and/or the Project Implementing Entity shall reasonably request;

(d) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with the performance indicators agreed between the Project Implementing Entity and the Bank, the carrying out of the Project and the achievement of the objective thereof; and

(e) to take out and maintain with responsible insurers such insurance, against such risks and in such amounts, as shall be consistent with sound business practice, including, without limitation, such insurance to cover hazards incident to the acquisition, transportation and delivery of goods financed out of the proceeds of the Loan to the place of use or installation, any indemnity thereunder to be made payable in a currency freely usable to replace or repair such goods.