
LOAN NUMBER 3042-PRC

PROJECT AGREEMENT
(Inner Mongolia Road Development Project)

between

ASIAN DEVELOPMENT BANK

and

GOVERNMENT OF INNER MONGOLIA AUTONOMOUS REGION

DATED 17 DECEMBER 2013

PRC 43029

PROJECT AGREEMENT

PROJECT AGREEMENT dated 17 December 2013 between ASIAN DEVELOPMENT BANK ("ADB") and GOVERNMENT OF INNER MONGOLIA AUTONOMOUS REGION ("IMAR").

WHEREAS

(A) by a Loan Agreement of even date herewith between the People's Republic of China ("Borrower") and ADB, ADB has agreed to make to the Borrower a loan of two hundred million Dollars (\$200,000,000) on the terms and conditions set forth in the Loan Agreement, but only on the condition that the proceeds of the loan be made available by the Borrower to IMAR and that IMAR agrees to undertake certain obligations towards ADB set forth herein; and

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

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 defined in the Loan Agreement) have the respective meanings therein set forth.

ARTICLE II

Particular Covenants

Section 2.01. (a) IMAR shall and shall cause IMDT and HBOT to carry out the Project with due diligence and efficiency, and in conformity with sound applicable technical, financial, business, and development practices.

(b) In the carrying out of the Project and operation of the Project facilities, IMAR shall perform all obligations set forth in the Loan Agreement to the extent that they are applicable to IMAR, and all obligations set forth in the Schedule to this Project Agreement.

Section 2.02. IMAR shall make available, promptly as needed, and on terms and conditions acceptable to ADB, the funds, facilities, services, land and other

resources as 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, IMAR shall 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, IMAR shall procure all items of expenditures to be financed out of the proceeds of the Loan in accordance with the provisions of Schedule 4 to the Loan Agreement. ADB may refuse to finance a contract where any such item has 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. IMAR shall carry out the Project in accordance with plans, design standards, specifications, work schedules and construction methods acceptable to ADB. IMAR 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) IMAR shall take out and maintain with responsible insurers, or make other arrangements satisfactory to ADB for, insurance against such risks and in such amounts as shall be consistent with sound practice.

(b) Without limiting the generality of the foregoing, IMAR undertakes to insure, or cause to be insured, the Goods to be imported for the Project 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. IMAR shall maintain, or cause to be maintained, records and accounts adequate to identify the 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 IMAR shall cooperate fully to ensure that the purposes of the Loan will be accomplished.

(b) IMAR shall 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, or the accomplishment of the purposes of the Loan.

(c) ADB and IMAR shall from time to time, at the request of any party, exchange views through their representatives with regard to any matters relating to the Project, IMAR and the Loan.

Section 2.08. (a) IMAR shall and shall cause IMDT 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 items of expenditure financed out

of such proceeds; (iii) the Project; (iv) the administration, operations and financial condition of IMAR; and (v) any other matters relating to the purposes of the Loan.

(b) Without limiting the generality of the foregoing, IMAR shall cause IMDT to furnish to ADB periodic 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 period under review, steps taken or proposed to be taken to remedy these problems, and proposed program of activities and expected progress during the following period.

(c) Promptly after physical completion of the Project, but in any event not later than 3 months thereafter or such later date as ADB may agree for this purpose, IMAR shall cause IMDT 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 IMAR and IMDT of their obligations under this Project Agreement and the accomplishment of the purposes of the Loan.

Section 2.09. (a) IMAR shall (i) maintain separate accounts and records for the Project; (ii) prepare annual financial statements for the Project in accordance with financial reporting standards acceptable to ADB; (iii) have such financial statements audited annually by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB, in accordance with international standards for auditing or the national equivalent acceptable to ADB; (iv) as part of each such audit, have the auditors prepare a report (which includes the auditors' opinion on the financial statements, use of the Loan proceeds and compliance with the financial covenants of this Loan Agreement as well as on the use of the procedures for the imprest account(s) and statement of expenditures) and a management letter; and (v) furnish to ADB, no later than 6 months after the end of each related fiscal year, copies of such audited financial statements, audit report and management letter, all in the English language, and such other information concerning these documents and the audit thereof as ADB shall from time to time reasonably request.

(b) ADB shall disclose on its website, the annual audited financial statements for the Project and the opinion of the auditors on the financial statements within 30 days of the date of their receipt.

(c) IMAR shall enable ADB, upon ADB's request, to discuss the financial statements for the Project and financial affairs of IMAR where they relate to the Project with the auditors appointed pursuant to subsection (a)(iii) hereinabove, and shall authorize and require any representative of such auditors to participate in any such discussions requested by ADB. This is provided that such discussions shall be conducted only in the presence of an authorized officer of IMAR, unless IMAR shall otherwise agree.

Section 2.10. IMAR shall and shall cause IMDT to enable ADB's representatives to inspect the Project, the Goods and Works, all other plants, sites, properties and equipment of IMAR and IMDT and any relevant records and documents as they relate to the Project.

Section 2.11. (a) IMAR shall and shall cause IMDT at all times to conduct its operations in accordance with sound applicable technical, financial, business,

development and operational practices, and under the supervision of competent and experienced management and personnel.

(b) IMAR shall and shall cause IMDT at all times to operate and maintain 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 applicable technical, financial, business, development, operational and maintenance practices.

Section 2.12. Except as ADB may otherwise agree, IMAR shall 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.

Section 2.13. Except as ADB may otherwise agree, IMAR shall apply the proceeds of the Loan to the financing of expenditures on the Project in accordance with the provisions of the Loan Agreement and this Project Agreement, and shall ensure that all items of expenditures financed out of such proceeds are used exclusively in the carrying out of the Project.

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 comes into force and effect. ADB shall promptly notify IMAR of such date.

Section 3.02. This Project Agreement and all obligations of the parties hereunder shall terminate on the date on which the Loan Agreement shall terminate in accordance with its terms.

Section 3.03. 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, mail or facsimile 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
6 ADB Avenue
Mandaluyong City
1550 Metro Manila
Philippines

Facsimile Numbers:

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

For IMAR

Inner Mongolia Autonomous Region Department of Transport
No. 68 Dizhiju S. Street Saihai District
Hohhot, People's Republic of China

Facsimile Number:

+86 471 6967588.

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 by or on behalf of IMAR may be taken or executed by its Governor or by such other person or persons as he or she shall so designate in writing notified to ADB.

(b) IMAR shall furnish to ADB sufficient evidence of the authority of each person who will act under subsection (a) hereinabove, 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 as of the day and year first above written, and to be delivered at the principal office of ADB.

ASIAN DEVELOPMENT BANK

By  _____
AYUMI KONISHI
Director General
East Asia Department

GOVERNMENT OF INNER MONGOLIA
AUTONOMOUS REGION

By  _____
KEQING MA
Authorized Representative

SCHEDULE

Execution of Project; Financial Matters

Implementation Arrangements

1. IMAR shall 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 the Borrower and ADB. In the event of any discrepancy between the PAM and this Project Agreement, the provisions of this Project Agreement shall prevail.

Counterpart Support

2. IMAR shall ensure that: (a) counterpart funds necessary for the smooth and successful completion of the Project are provided in a timely manner; (b) additional funds, as and when needed, shall be provided to meet any Project shortfall or cost overruns; and (c) adequate funds are provided, in a timely manner, for the operation and maintenance of the Project roads.

Environment

3. IMAR shall ensure that the preparation, design, construction, implementation and operation of the Project and all Project facilities comply with: (a) all applicable laws and regulations of the Borrower relating to environment, health and safety; (b) the Environmental Safeguards; and (c) all measures and requirements set forth in the EIA, the EMPs, and any corrective or preventative actions (i) set forth in a Safeguards Monitoring Report; or (ii) as subsequently agreed between ADB and IMAR.

4. IMAR shall ensure that: (a) no construction or other works are carried out on the Alatanemole to Amugulang section of S203 that crosses land which is, currently, within the Wuerxun River Core Zone of the Dalai Lake Nature Reserve until such land is re-designated as experimental zone by the relevant authorities in accordance with the applicable laws and regulations of the Borrower relating to nature reserves; and (b) the upgrading of Alatanemole to Amugulang section of S203 comply with all applicable laws and regulations of the Borrower relating to nature reserves, environment, health and safety.

5. IMAR shall ensure that the road and bridge designs of Manzhouli to Alatanemole section and Alatanemole to Amugulang section of S203 that cross Kelulun and Wuerxun rivers, respectively, do not affect the hydrological and ecological functions of the wetlands insofar as the need for a wider bridge span is concerned.

Land Acquisition and Involuntary Resettlement

6. IMAR shall ensure that all land and all rights-of-way required for the Project are made available to the Works contractor(s) in a manner and within timeframes compliant with the RPs and that all land acquisition and resettlement activities are implemented in compliance with: (a) all applicable laws and regulations of the Borrower relating to land acquisition and involuntary resettlement; (b) the Involuntary Resettlement Safeguards; and (c) all measures and requirements set forth in the RPs, and any corrective or preventative

actions (i) set forth in a Safeguards Monitoring Report; or (ii) as subsequently agreed between ADB and IMAR.

7. Without limiting the application of the Involuntary Resettlement Safeguards or the RPs, IMAR shall ensure that no physical or economic displacement takes place in connection with the Project until compensation and other entitlements have been provided to the displaced persons under the Involuntary Resettlement Safeguards as described in and in accordance with the RPs.

Ethnic Minorities

8. IMAR shall ensure that the preparation, design, construction, implementation and operation of the Project and all Project facilities comply with: (a) all applicable laws and regulations of the Borrower relating to ethnic minorities; (b) the Indigenous Peoples Safeguards; and (c) all measures and requirements set forth in the EMDP, and any corrective or preventative actions (i) set forth in a Safeguards Monitoring Report; or (ii) as subsequently agreed between ADB and IMAR.

Human and Financial Resources to Implement Safeguards Requirements

9. IMAR shall make available necessary human and budgetary resources to fully implement, as applicable, the EMPs, the RPs and the EMDP.

Safeguards-Related Provisions in Bidding Documents and Works Contracts

10. IMAR shall ensure that all bidding documents and contracts for Works contain specific provisions that require contractors to:

- (a) comply with the measures relevant to the contractors set forth in the EIA, the EMPs, the RPs and the EMDP (to the extent they concern impacts on the respective affected people under the Environmental Safeguards, the Involuntary Resettlement Safeguards and the Indigenous Peoples Safeguards during construction), and any corrective or preventative actions (i) set forth in a Safeguards Monitoring Report; or (ii) as subsequently agreed between ADB and IMAR;
- (b) make available a budget for all such environmental and social measures;
- (c) provide IMAR with a written notice of any unanticipated environmental, resettlement or ethnic minorities risks or impacts that arise during construction, implementation or operation of the Project that were not considered in the EIA, the EMPs, the RPs and the EMDP;
- (d) adequately record the condition of roads, agricultural land and other infrastructure prior to starting to transport materials and construction;
- (e) reinstate pathways, other local infrastructure, and agricultural land to at least their pre-project condition as early as possible but not later than the completion of construction; and

- (f) (i) comply with all applicable labor laws of the Borrower on the prohibition of child and forced labor; (ii) give equal pay for equal work regardless of gender, ethnicity or social group; (iii) give priority to women in the employment and training opportunities generated in the Project's construction and operation phases; and (iv) disseminate information on sexually or other transmitted diseases (including HIV/AIDS) and human trafficking to sub-contractors/employees and local communities surrounding the Project construction sites.

Safeguards Monitoring and Reporting

11. IMAR shall do the following:

- (a) submit Safeguards Monitoring Reports to ADB:
 - (i) in respect of implementation of and compliance with Environmental Safeguards and the EMPs, semiannually during construction and the implementation of the Project and the EMPs, and thereafter annually during operation, until the issuance of ADB's Project completion report unless a longer period is agreed in the EMPs; and
 - (ii) in respect of implementation of and compliance with Involuntary Resettlement Safeguards and Indigenous Peoples Safeguards and of the RPs and EMDP, semi-annually during the implementation of the Project, the RPs and the EMDP until the issuance of ADB's Project completion report unless a longer period is agreed in the RPs and/or EMDP and disclose relevant information from such reports to the respective affected people under the Environmental Safeguards, the Involuntary Resettlement Safeguards and the Indigenous Peoples Safeguards promptly upon submission;
- (b) if any unanticipated environmental and/or social risks and impacts arise during construction, implementation or operation of the Project that were not considered in the EIA, the EMPs, the RPs, and the EMDP, promptly inform ADB of the occurrence of such risks or impacts, with detailed description of the event and proposed corrective action plan;
- (c) prior to the commencement of land acquisition and resettlement activities, engage an independent agency as an external monitor for the Project; and
- (d) report any actual or potential breach of compliance with the measures and requirements set forth in the EMPs, the RPs or the EMDP, promptly after becoming aware of the breach.

Gender and Development

12. IMAR shall: (a) ensure that the GAP is fully implemented in a timely manner over the entire period of the Project and following ADB's Policy on Gender and Development (1998); and (b) ensure that adequate resources are allocated for this purpose.

Grievance Redress Mechanism

13. IMAR shall ensure that prior to any land acquisition under the Project, a safeguards grievance redress mechanism, acceptable to ADB, is established in accordance with the provisions of the EMPs, RPs and EMDP relating thereto to consider safeguards complaints.

14. IMAR shall further ensure that within 6 months of the Effective Date, a grievance redress mechanism, acceptable to ADB, is established and a task force is functioning effectively to review and document eligible complaints of Project stakeholders related to the Project, any of the service providers, any person responsible for carrying out the Project, complaints on misuse of funds and other irregularities as well as gender issues. The grievance redress mechanism and the task force shall: (a) proactively address grievances; (b) provide the complainants with notice of the chosen mechanism/action; and (c) prepare periodic reports to summarize (i) the number of complaints received and resolved; (ii) chosen actions; and (iii) final outcomes of the grievances and make these reports available to ADB upon request.

Road Design and Safety

15. IMAR shall ensure that the detailed design of the Manzhouli to Alatanemole section of S203 shall: (a) cater for two-way traffic, including all signs, junction designs and shoulder widths; (b) incorporate all safety features listed in the PAM; and (c) conform to a minimum of 3 or 4 star rating as per the Standards of the International Road Assessment Program.

16. Prior to the finalization of the detailed road designs, IMAR shall ensure that independent road safety audits are carried out and the recommendations of these audits are incorporated in such designs.

17. Prior to the operations of the Project roads, IMAR shall ensure that independent road safety audits are carried out and appropriate remedial actions are taken to implement the recommendations of these audits.

Governance and Anticorruption

18. IMAR shall and shall cause IMDT and HBOT to: (a) comply with ADB's Anticorruption Policy (1998, as amended to date) and acknowledge that ADB reserves the right to investigate directly, or through its agents, any alleged corrupt, fraudulent, collusive or coercive practice relating to the Project; and (b) cooperate with any such investigation and extend all necessary assistance for satisfactory completion of such investigation.

19. IMAR shall and shall cause IMDT and HBOT to ensure that the anticorruption provisions acceptable to ADB are included in all bidding documents and contracts, including provisions specifying the right of ADB to audit and examine the records and accounts of

IMAR, IMDT, HBOT and all contractors, suppliers, consultants, and other service providers as they relate to the Project.

Prohibited List of Investments

20. IMAR shall ensure that no proceeds of the Loan are used to finance any activity included in the list of prohibited investment activities provided in Appendix 5 of the SPS.