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LOAN NUMBER 2973-PRC

PROJECT AGREEMENT

(Ningxia Irrigated Agriculture and Water Conservation Demonstration Project)

between

ASIAN DEVELOPMENT BANK

and

NINGXIA HUI AUTONOMOUS REGION GOVERNMENT

DATED 7 MAY 2013

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PRC 44035

## **PROJECT AGREEMENT**

PROJECT AGREEMENT dated 7 May 2013 between ASIAN DEVELOPMENT BANK ("ADB") of the one part, and NINGXIA HUI AUTONOMOUS REGION GOVERNMENT ("NHARG"), of the other part.

### **WHEREAS**

(A) by a Loan Agreement of even date herewith between PEOPLE'S REPUBLIC OF CHINA ("Borrower") and ADB, ADB has agreed to make to the Borrower a loan of seventy million Dollars (\$70,000,000) on the terms and conditions set forth in the Loan Agreement, but only on the condition that a portion of the proceeds of the loan to be made available to Borrower will be made available through NHARG to NARC, HDG, TCG, and YCG and then through NARC to the Participating NARC Entities and that NHARG agrees to undertake certain obligations towards ADB set forth herein and to cause, as applicable, HDG, TCG, YCG (in relation to NHARG), Nuanquan Farm (in application to NARC) and the Participating NARC Entities to undertake certain obligations set forth herein; and

(B) NHARG 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. (a) 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 with respect to any of the Implementing Agencies or Participating NARC Entities, the term the "Project" means the Subproject or Subprojects implemented by or on the premises of that Implementing Agency or Participating NARC Entity as described in Schedule 1 to the Loan Agreement.

(b) In addition to the terms referred to in subsection (a) hereinabove, the following terms, wherever used in this Project Agreement, unless the context otherwise requires, have the following meanings:

- (i) the expression "NHARG shall and shall cause the Implementing Agencies and the Participating NARC Entities to" means that NHARG shall cause NARC, HDG, TCG YCG and the Participating NARC Entities to undertake the required responsibilities or perform the specified obligations in this Project Agreement; and

- (ii) the word “Project”, when being applied in reference to NARC, HDG, TCG, YCG and the Participating NARC Entities, means the Output or Outputs of the Project under the responsibilities of such entity.

## **ARTICLE II**

### **Particular Covenants**

Section 2.01. (a) NHARG shall and shall cause each Implementing Agency to, and NARC shall and shall cause each Participating NARC Entity 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, NHARG shall perform all obligations set forth in the Loan Agreement to the extent that they are applicable to NHARG, and NHARG shall cause each Implementing Agency to, and NARC shall cause each Participating NARC Entity to perform all obligations set forth in the Loan Agreement and the Schedule to this Project Agreement to the extent they are applicable to the Implementing Agencies and the Participating NARC Entities.

Section 2.02. NHARG 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, NHARG shall and shall cause each Implementing Agency and each Participating NARC Entity to 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, NHARG shall and shall cause each Implementing Agency and each Participating NARC Entity to 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. NHARG shall and shall cause each Implementing Agency and each Participating NARC Entity to carry out the Project in accordance with plans, design standards, specifications, work schedules and construction methods acceptable to ADB. NHARG shall and shall cause each Implementing Agency and each Participating NARC Entity to 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) NHARG shall and shall cause each Implementing Agency and each Participating NARC Entity to take out and maintain with responsible insurers, or make other arrangements satisfactory to ADB for, insurance of 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, NHARG shall and shall cause each Implementing Agency and each Participating NARC Entity 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. NHARG shall and shall cause each Implementing Agency and each Participating NARC Entity to 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 NHARG shall cooperate fully to ensure that the purposes of the Loan will be accomplished.

(b) NHARG shall and shall cause each Implementing Agency to, and NARC shall and shall cause each Participating NARC Entity 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, or the accomplishment of the purposes of the Loan.

(c) ADB and NHARG 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, the Implementing Agencies, the Participating NARC Entities and the Loan.

Section 2.08. (a) NHARG shall and shall cause each Implementing Agency to, and NARC shall and shall cause each Participating NARC Entity 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 the Implementing Agencies and Participating NARC Entities; and (v) any other matters relating to the purposes of the Loan.

(b) Without limiting the generality of the foregoing, NHARG shall and shall cause each Implementing Agency to, and each of NARC and the Participating NARC Entities shall 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, NHARG shall and shall cause each Implementing Agency and each Participating NARC Entity to, and they shall, 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 the Executing Agency, the Implementing Agencies and the Participating NARC Entities of its obligations under this Project Agreement and the accomplishment of the purposes of the Loan.

Section 2.09. (a) NHARG shall and shall cause each Implementing Agency and through NARC each Participating NARC Entity to, and they 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; and (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) NHARG shall and shall cause each Implementing Agency and through NARC each Participating NARC Entity to, and each of them shall enable ADB, upon ADB's request, to discuss the financial statements for the Project and their financial affairs where they relate to the Project with the auditors appointed by each of them pursuant to subsections (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 NHARG, the Implementing Agencies and/or Participating NARC Entities as the case may be, unless they shall otherwise agree.

Section 2.10. NHARG shall and shall cause the Implementing Agencies and Participating NARC Entities to, and each of them shall enable, ADB's representatives to inspect the Project, the Subprojects, the Project Crops, the Goods and Works and any relevant records and documents.

Section 2.11. (a) NHARG shall and shall cause the Implementing Agencies and the Participating NARC Entities to, promptly as required, take all action within its powers to maintain its legal or 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 operations.

(b) NHARG shall and shall cause the Implementing Agencies and the Participating NARC Entities to, at all times 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.

(c) NHARG shall and shall cause the Implementing Agencies and the Participating NARC Entities to at all times 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, NHARG shall not, and NHARG shall ensure that the Implementing Agencies and the Participating NARC Entities 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, NHARG shall and shall cause the Implementing Agencies and the Participating NARC Entities to 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.

Section 2.14. Except as ADB may otherwise agree, NHARG shall and NHARG shall cause the Implementing Agencies to duly perform all its obligations under the relevant Onlending Agreements, 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 relevant Onlending Agreements. Except as ADB may otherwise agree, NARC shall and shall cause the Participating NARC Entities to duly perform all its obligations under the relevant Onlending Arrangements, 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 relevant Onlending Arrangements.

Section 2.15. NHARG shall and shall cause the Implementing Agencies to, and NARC shall cause the Participating NARC Entities to promptly notify ADB of any proposal to amend, suspend or repeal any provision of its constitutional documents, which, if implemented, could adversely affect the carrying out of the Project or the operation of the Project facilities. NHARG shall and shall cause the Implementing Agencies to, and NARC shall cause the Participating NARC Entities to afford ADB an adequate opportunity to comment on such proposal prior to taking any affirmative 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 comes into force and effect. ADB shall promptly notify NHARG and NARC 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, 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) 636-2301.

For NHARG

416 Jiefang Xijie  
Yinchuan, Ningxia 750001  
People's Republic of China

Facsimile Numbers:

(86951) 506 9409  
(86951) 504 5930.

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 NHARG 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.

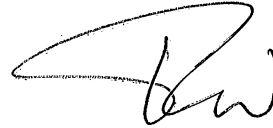
(b) NHARG shall furnish to ADB sufficient evidence of the authority of each person who will act under subsection (a) hereinabove, together with the authenticated specimen signature of each such person.

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

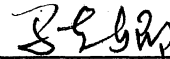
By



ROBERT WIHTOL  
Director General

NINGXIA HUI AUTONOMOUS REGION  
GOVERNMENT

By



MA KEQING  
Ambassador

People's Republic of China to the Philippines



## SCHEDULE

### Execution of Project; Financial Matters

#### Implementation Arrangements

1. NHARG shall and shall cause the Implementing Agencies 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 ADB and NHARG. In the event of any discrepancy between the PAM and this Project Agreement, the provisions of this Project Agreement shall prevail.

#### Technical Plan and Quality Control System

2. NHARG shall ensure that planting of the Project Crops on any Subproject Site shall not commence until (i) a Detailed Technical Plan for vineyard development and management, or date production development and management, as the case may be, has been prepared and approved by ADB for such Subproject Site, and (ii) a Quality Control System for vineyards and wineries participating in the Project has been prepared and put into place.

3. When developing the vineyard management techniques to be applied in the Project, the NHARG and the IAs shall take into consideration, as appropriate, recommendations developed for vineyard management and viticulture in the Ongoing Ningxia Project.

#### Model Production and Participation Agreements

4. No later than 6 months after the Effective Date but in any event prior to the commencement of planting of any Project Crops, NHARG shall cause (i) NARC to prepare an agreed Model Production Agreement for production of grapes by, through and based upon an effective consultation process that results in consensual agreement between XXK Winery and the Participating Grape Farmers at the Participating NARC Farms; and (ii) TCG, YCG and HDG to prepare an agreed Model Participation Agreement for the participation of (a) the Participating Date Farmers, and (b) the Participating Grape Farmers from the Participating HDG Agricultural Site, through and based upon an effective consultation process that results in consensual agreement with the Participating Date Farmers and the Participating Grape Farmers from the Participating HDG Agricultural Site.

5. Planting of Project Crops on the Subproject Sites by any group of Participating Farmers shall not commence unless and until a revised Production Agreement (for grape production at the Participating NARC Farms), or a new Participation Agreement (for date production and grape production at the Participating HDG Agricultural Site), based upon and in accordance with the Model Production Agreement or the Model Participation Agreement, as the case may be, has been concluded.

6. NHARG shall ensure that the first Production Agreement and the first Participation Agreement shall be concluded no later than 6 months after the Effective Date.

7. NHARG through NARC shall ensure that contribution of land by the Participating Farmers at the Participating NARC Farms to the grape planting schemes under

the Project shall be voluntary and supported by corresponding Production Agreements which entail an increase in income in connection with participation. NHARG through YCG, TCG and HDG shall ensure that contribution of land by the Participating Date Farmers to the date planting schemes and, in relation to the Participating HDG Farms, by the Participating Grape Farmers at the Participating HDG Area to the corresponding grape planting scheme under the Project shall be voluntary and based upon the provision of incentives, supported by corresponding Participation Agreements.

8. The Model Production Agreement and the Production Agreements based thereon shall reflect agreed production standards and regimes as well as adequate compensation and price incentives to the Participating Farmers (Farmer Incentives) for undertaking the investments to increase the quality of grapes while reducing volume, through planting of the Project Crops and application of drip irrigation technology. The Participation Agreements for the Participating HDG Agricultural Site shall reflect adequate compensation and price incentives to the Participating Farmers (Farmer Incentives) for undertaking the investments to increase the quality of grapes notwithstanding maintenance or reduction of volume, through planting of the Project Crops and application of drip irrigation technology.

#### Business Strategy and Operational Plan

9. No later than 3 months after the Effective Date, NHARG shall have developed and commenced implementation of a Business Strategy and Operational Plan for improving consistency and quality in the growing of grapes and production of wines.

#### Marketing Strategy

10. No later than 3 months after the Effective Date, NHARG shall have developed and commenced implementation of a revised marketing strategy, satisfactory to ADB, for the higher quality wines produced from Project Crops, including detailed plans and projections for the positioning in the market, sale and distribution of such wines within and beyond Ningxia Hui Autonomous Region, including appointment of the necessary personnel with the relevant expertise to carry out such marketing strategy.

#### Date Growers' Association

11. No later than 3 months after the Effectiveness Date, NHARG shall have established date growers associations for the date farmers participating in the Project, which shall carry out the marketing and distribution function.

#### Production Quality Monitoring

12. NHARG shall cause the IAs to engage in systematic and regular precise monitoring of changes in grape quality over the implementation period of the Project.

#### Pest Control and Fertilizer Management Plans

13. Prior to the commencement of planting of Project Crops, NHARG shall ensure that the IAs have developed and put into operation pest control and fertilizer management plans for each Subproject Site in accordance with the SPS, EMP and detailed arrangements in the PAM.

### Water Use

14. NHARG shall monitor on a regular basis, and report annually on, the water use savings achieved through introduction of the drip irrigation technology and systems at each Subproject Site. Such annual report shall be included in the end-of-year Safeguards Monitoring Report, commencing with the end of the first year of Project implementation. NHARG shall ensure that information regarding the water savings so achieved shall be disseminated to the public through appropriate methods and channels.

15. The Project taken as a whole will not result in an increase in use of water resources or in use of ground water. NHARG shall ensure that the water savings derived from the Project shall be used in an environmentally sustainable manner.

### Community Consultation

16. During Project implementation and for monitoring, an effective Consultation and Participation process will be pursued through the formation and/or strengthening of farmer professional associations, Village Committees and All China Women Federation.

### Participating NARC Entities; Financial Statements

17. In addition to annual audited financial statements specified under Section 2.09 of this Project Agreement, NARC shall cause the Participating NARC Entities to furnish to ADB (i) within 30 days after the end of the first 6 months of each fiscal year, unaudited semiannual financial statements on its operations for such 6 month period; within 2 months after the end of each fiscal year, unaudited annual financial statements on its operations for such fiscal year, and within 2 months after the end of each fiscal year, financial projections of its operations for the ensuing 2 years.

18. Each of NARC and the Participating NARC Entities shall (i) provide to ADB copies of its Charter documents; (ii) make appropriate and standard representations and warranties concerning their legal status, authorization to do business and borrow, and legality of its authorizing documents (Charter); and (iii) while the Loan is outstanding, undertake not to dispose of its assets involved in the Project, not to pay dividends except as may be permitted under paragraph 35 below, and not to grant liens over its assets.

### Safeguards

#### Environment

19. NHARG shall ensure that the preparation, design, construction, implementation, operation and decommissioning 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 IEE, the EMP, and any corrective or preventative actions (i) set forth in a Safeguards Monitoring Report or (ii) as subsequently agreed between ADB and NHARG.

#### Land Acquisition and Involuntary Resettlement

20. NHARG shall ensure that (a) the Project shall not have any involuntary resettlement impacts, within the meaning of the Safeguard Policy Statement; (b) no land

acquisition or involuntary resettlement shall be involved in the Project; (c) all civil Works shall be undertaken on land owned by the Borrower, village collectives or leased by NHARG or any of the IAs; and (d) for the respective Subproject Sites that the land is free of encumbrances. In the event that any unanticipated resettlement impacts are nevertheless unavoidable for any Project activities, NHARG shall inform ADB, prepare an RP for such activities in accordance with the Safeguard Policy Statement, and carry out any such land acquisition and resettlement activities in accordance with the Safeguard Policy Statement and such RP. NHARG through NARC and the IAs shall ensure that contribution of land by the Participating Farmers to the planting schemes under the Project shall be voluntary and supported by the corresponding Production Agreements for grape production (at the Participating NARC Farms) or Participation Agreements in relation to (a) Chinese dates and (b) grape production at the Participating HDG Area, which entail an increase in income in connection with participation.

### Ethnic Minorities

21. NHARG and NARC shall ensure and shall cause the Implementing Agencies, the PIOs and the Participating NARC Entities to 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 indigenous peoples; (b) the Indigenous Peoples Safeguards; and (c) all measures and requirements set forth in the EMDP, RP (if any) and any corrective or preventative actions subsequently agreed with ADB and set forth in the draft EMDP and subsequently specified in the final EMDP.

### Human and Financial Resources to Implement Safeguards Requirements

22. NHARG and NARC shall make available and shall cause the IAs, the PIOs and the relevant Participating NARC Entities to make available necessary budgetary and human resources to fully implement the EMP, the RP (if any) and the EMDP.

### Safeguards – Related Provisions in Bidding Documents and Works Contracts

23. NHARG shall ensure and shall cause the IAs and the Participating NARC Entities to ensure that all bidding documents and contracts for Works contain provisions that require contractors to:

- (a) comply with the measures relevant to the contractor set forth in the IEE, the EMP, the RP (if any) (to the extent they concern impacts on affected people during construction) and the EMDP, and any corrective or preventative actions set forth in (i) a Safeguards Monitoring Report or (ii) as subsequently agreed between ADB and NHARG;
- (b) make available a budget for all such environmental and social measures;
- (c) provide the Borrower with a written notice of any unanticipated environmental, resettlement or indigenous peoples risks or impacts that arise during construction, implementation or operation of the Project that were not considered in the IEE, the EMP, the RP (if any) and the EMDP;

- (d) adequately record the condition of roads, agricultural land and other infrastructure prior to starting to transport materials and construction; and
- (e) reinstate pathways, other local infrastructure, and agricultural land to at least their pre-project condition upon the completion of construction.

#### Safeguards Monitoring and Reporting

24. NHARG shall, and shall cause the IAs and the Participating NARC Entities to, do the following:

- (a) submit semiannual Safeguards Monitoring Reports to ADB and disclose relevant information from such reports to affected people 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 IEE, the EMP, the RP 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; and
- (c) report any actual or potential breach of compliance with the measures and requirements set forth in the EMP, the RP or the EMDP promptly after becoming aware of the breach.

#### Prohibited List of Investments

25. NHARG 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.

#### Gender and Social Development

26. NHARG shall, and shall cause IAs to, ensure that: (a) the GAP is implemented, monitored in a timely manner and reported to ADB annually in accordance with principles of ADB's Policy on Gender and Development (1998) and adequate resources are allocated for this purpose; (b) targets under the GAP are achieved; (c) progress in achieving the GAP targets are reflected in the Project progress reports and Project completion report through collection and compilation of sex-disaggregated data, wherever relevant; and (d) bidding documents include provisions as specified in GAP.

27. NHARG shall, and shall cause the IAs to, ensure that the Social Action Plan (SAP) is implemented, monitored in a timely manner, and reported to ADB annually, and that adequate resources are allocated for this purpose.

#### Health Risks

28. In coordination with the local health bureaus, NHARG shall, and shall cause the IAs to, ensure that: (a) the Works contractors disseminate information and conduct

awareness training on the risks and prevention measures of HIV/AIDS and other communicable diseases to their employees, temporary laborers and family members, and subcontractors during the Project implementation; (b) measures to prevent other communicable diseases are implemented, within the construction sites, as specified in the EMP; and (c) these requirements are included in the Works contracts.

#### Labor Standards

29. NHARG shall, and shall cause the IAs to, ensure that the construction contractors (a) provide timely payment of wages and safe working conditions to all male and female workers; (b) pay equal wages to male and female employees for equivalent labor; (c) not employ child labor as required by the relevant laws and regulations of the People's Republic of China; (d) the contractors involved in the Project implementation maximize the employment of local people, particularly women, who meet the job and efficiency requirements for Project construction, operation and maintenance; and (e) such workers are provided with adequate on-the-job training and safety training.

#### Governance and Anticorruption

30. NHARG shall, and shall cause the IAs 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.

31. NHARG shall cause the IAs 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 the EA, IAs, and all contractors, suppliers, consultants, and other service providers as they relate to the Project.

32. Within 3 months after the Effective Date, NHARG shall and shall cause the IAs to, ensure that through a publicly accessible website, information about Project activities is disclosed, including procurement, information on the list of participating bidders, name of the winning bidder, basic details on bidding procedures adopted, amount of contract awarded, and the list of goods and services procured.

#### Grievance Redress Mechanism

33. NHARG shall ensure that within 60 days from the Effective Date, (a) a safeguards grievance redress mechanism, acceptable to ADB, is established in accordance with the provisions of the IEE, EMP, or EMDP, as the case may be, to consider safeguards complaints; and (b) a grievance redress mechanism is established and a task force is functioning effectively to: (i) review and document eligible complaints of Project stakeholders; (ii) proactively address grievances; (iii) provide the complainants with notice of the chosen mechanism/action; and (iv) prepare periodic reports to summarize (a) the number of complaints received and resolved, (b) chosen actions, and (c) final outcomes of the grievances and make these reports available to ADB upon request. Eligible complaints include those related to the Project, any of the service providers, any person responsible for carrying out the Project or Subprojects, complaints on misuse of funds and other irregularities and gender-related grievances.

Representations and Warranties

34. NHARG shall cause NARC to and NARC shall ensure that each of the Participating NARC Entities represents and warrants that:

- (a) it is legally registered and incorporated under the Borrower's Company Law and retains this status throughout the period the Onlending Agreements and Onlending Arrangements are outstanding;
- (b) it has the permission within the scope of permitted activities in the Enterprise Legal Certificate issued to it to engage in the agricultural business it is now engaged in and shall retain such authorization throughout the period the Onlending Agreements and Onlending Arrangements are outstanding;
- (c) it has been authorized as required under the Borrower's Company Law and its Charter by the Board of Directors to borrow the onlending loan to carry out the Subproject;
- (d) the information relating to the Participating NARC Entity continues to be true and accurate and not misleading in any material respect;
- (e) the financial statements provided for processing the relevant Subproject are prepared in accordance with accounting principles and the Borrower's Accounting Law and disclosed all liabilities and reserves;
- (f) it is not engaged in or to the best of its knowledge threatened by litigation or arbitration or administrative proceedings the outcome of which could be reasonably expected to have a material adverse effect on the relevant Subproject; and
- (g) it has no outstanding liens on any of its material assets needed for the implementation of the relevant Subproject, other than those with a duration of one year or less.

Negative Covenants of XXK

35. NHARG shall through supervision of NARC direct NARC to ensure, and NARC shall ensure that XXK shall not, and XXK undertakes that it shall not:

- (a) declare or pay dividends or make any distribution on its share capital or purchase redeem or acquire the shares of XXK itself, unless otherwise agreed by NHARG and ADB;
- (b) change its ownership of the Project facilities or sell, transfer or otherwise dispose of all or a substantial part of its assets;
- (c) enter into any agreement for the sale of any XXK Farm;

- (d) enter into any agreement of merger or acquisition involving any XXK Farm;
- (e) enter into any borrowing arrangements other than in the ordinary course of business, provided that such arrangements in the ordinary course of business shall be made with equal standing and not senior to the Onlending Arrangements; and
- (f) enter into any agreement to guarantee or in any way or under any circumstances to assume, condition, or become obligated for all or any part of the financial or other obligations of any third party other than in the ordinary course of business; create or permit to exist any lien on property, revenue, or other assets, present or future, of any XXK Farm.

#### Notification

36. In the event of any breach of the representations and warranties by any Participating NARC Entity as listed in paragraph 34 above, or of occurrence of any event listed in paragraph 35 above, NHARG shall and shall cause the concerned Participating NARC Entity to notify and they shall notify ADB at least 6 months prior to the implementation of such change if such change is initiated by any Participating NARC Entity, or as soon as possible in case of occurrence of such events out of the control of the concerned Participating NARC Entity.

#### Adherence to the Project Agreement

37. NHARG shall no later than 30 days after the signature of this Agreement and in any event prior to the Effectiveness Date, cause NARC to enter into a letter of adherence, in form and substance satisfactory to ADB, through which it adheres to the provisions of this Agreement as if it had been an original signatory hereto.