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LOAN NUMBER 3358-PRC

PROJECT AGREEMENT  
(Qingdao Smart Low-Carbon District Energy Project)

between

ASIAN DEVELOPMENT BANK

and

QINGDAO MUNICIPAL GOVERNMENT

DATED 13 APRIL 2016

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PRC 48003

## PROJECT AGREEMENT

PROJECT AGREEMENT dated 13 April 2016 between ASIAN DEVELOPMENT BANK ("ADB") of one part, and QINGDAO MUNICIPAL GOVERNMENT ("QMG") 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 one hundred thirty million Dollars (\$130,000,000) 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, to QMG and, through QMG to QEG and that QMG agrees to undertake certain obligations towards ADB set forth herein; and

(B) QMG, 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.

## ARTICLE II

### Particular Covenants

Section 2.01. (a) QMG shall, and shall cause QEG 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, QMG shall, and shall cause QEG to, perform all obligations set forth in the Loan Agreement to the extent that they are applicable to QMG and QEG, and all obligations set forth in the Schedule to this Project Agreement.

Section 2.02. QMG shall, and shall cause QEG to, make available, promptly as needed, 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 QMG shall, and shall cause QEG 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, QMG shall, and shall cause QEG 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. QMG shall, and shall cause QEG to, carry out the Project in accordance with plans, design standards, specifications, work schedules and construction methods acceptable to ADB. QMG shall, and shall cause QEG 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) QMG shall, and shall cause QEG to, 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, QMG undertakes, and shall cause QEG to undertake, 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. QMG shall, and shall cause QEG 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 QMG shall, and QMG shall cause QEG to, cooperate fully to ensure that the purposes of the Loan will be accomplished.

(b) QMG shall, and shall cause QEG 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 QMG shall and QMG shall cause QEG to from time to time, at the request of either party, exchange views through their representatives with regard to any matters relating to the Project, QMG, QEG and the Loan.

Section 2.08. (a) QMG shall, and shall cause QEG 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 QMG concerning the Project and QEG; and (v) any other matters relating to the purposes of the Loan.

(b) Without limiting the generality of the foregoing, QMG shall and shall cause QEG 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, QMG 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 QMG and QEG of their respective obligations under this Project Agreement and the accomplishment of the purposes of the Loan.

Section 2.09. (a) QMG shall, and shall cause QEG to, (i) maintain separate accounts and records for the Project; (ii) prepare annual financial statements for the Project in accordance with accounting principles acceptable to ADB; (iii) have such financial statements for the Project 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 the Loan Agreement as well as on the use of the procedures for imprest fund(s) and statement of expenditures) and a Management Letter; and (v) furnish to ADB, no later than 6 months after the close of the fiscal year to which they relate, 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 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 by posting them on ADB's website.

(c) In addition to annual audited financial statements referred to in subsection (a) hereinabove, QMG shall cause QEG to (i) provide its annual financial statements prepared in accordance with national accrual-based financing reporting standards acceptable to ADB; (ii) have its 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 (iii) furnish to ADB, no later than 1 month after approval by the relevant authority, copies of such audited financial statements in the English language and such other information concerning these documents and the audit thereof as ADB shall from time to time reasonably request.

(d) QMG shall, and shall cause QEG to, enable ADB, upon ADB's request, to discuss the financial statements for the Project and financial affairs of QMG where they relate to the Project, and the financial statements for the Project and financial affairs of QEG, with the auditors appointed by QMG and QEG pursuant to subsections (a)(iii) and (c) 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 QMG and QEG, unless QMG or QEG shall otherwise agree.

Section 2.10. QMG shall, and shall cause QEG to, enable ADB's representatives to inspect the Project, the Goods and Works and any relevant records and documents related to the Project.

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

(b) QMG shall, and shall cause QEG 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) QMG shall, and shall cause QEG to, at all times operate and maintain its plant, 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, QMG shall, and shall cause QEG to, 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, QMG shall, and shall cause QEG 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.

### **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 QMG of such date.

Section 3.02. (a) 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) 636-2534.

#### For QMG

Qingdao Municipal Government  
No. 11, Xianggang Zhong Road,  
Qingdao City, Shandong Province  
People's Republic of China

Facsimile Number:

(86) 532-8591-1455.

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 QMG may be taken or executed by its Mayor, or by such other person or persons as he or she shall so designate in writing notified to ADB.

(b) QMG 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.

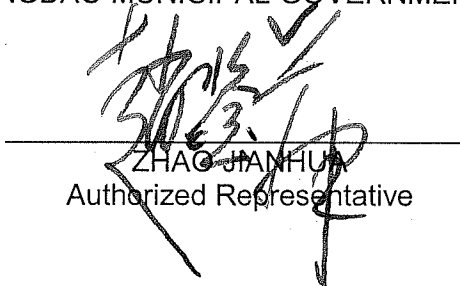
Section 4.03. No delay in exercising, or omission to exercise, any right, power or remedy accruing to either party under this Project Agreement upon any default shall impair any such right, power or remedy or be construed to be a waiver thereof or an acquiescence in such default; nor shall the action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

QINGDAO MUNICIPAL GOVERNMENT

By   
ZHAO JIANHUA  
Authorized Representative



## SCHEDULE

### Execution of Project; Environmental, Social, Financial and Other Matters

#### Implementation Arrangements

1. QMG 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 QMG and ADB. In the event of any discrepancy between the PAM and this Project Agreement, the provisions of this Project Agreement shall prevail.
2. QMG shall ensure that throughout Project implementation, the PMO (a) is fully equipped with professionally skilled and experienced staff including (i) PMO director; (ii) deputy director; (iii) finance and accounting officer; (iv) environmental safeguards officers; (v) procurement officers; (vi) technical staff; and (vii) assistants; and (b) has reasonable office space, equipment, and adequate financial resources required for the timely and smooth implementation of the Project.
3. QMG shall ensure that QEG and any government agencies responsible for the operation and maintenance of the Project facilities shall be fully involved in Project implementation and shall cause such persons and entities to participate in Project design, preparation of bidding documents, procurement and contract management as necessary to ensure achievement of Project goals.

#### Project-Specific Assurances

4. QMG shall ensure that, by the Project Completion Date identified in the Loan Agreement, not fewer than 18,497 household stoves have been permanently retired from operation.

#### Financial Management

5. QMG shall cause QEG to develop and maintain sound financial management systems in accordance with ADB's Financial Management and Analysis of Projects, including the establishment of separate Project accounts and the maintenance of minimum balances to ensure smooth cash flow and the timely settlement of project construction liabilities and future debt servicing. In particular, QMG shall require QEG to maintain (a) a debt service coverage ratio of at least 1.1 times at all times during the principal repayment period of the ADB Loan, and (b) at all times when this Project Agreement is in effect a long-term debt-to-equity ratio of not more than 75:25.
6. If, in the opinion of ADB, it appears that QEG cannot meet the requirements set forth in paragraph 5 above or cannot meet any debt service obligations, QMG shall take appropriate measures for QEG to strengthen its financial management systems, including, but not limited to, provision of necessary financing to QEG.

Environment

7. QMG shall, and shall cause QEG to, 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 set out in ADB's Safeguard Policy Statement (2009, as amended, the "SPS"); and (c) all measures and requirements set forth in the Environmental Management Plan (the "EMP") in the initial environmental examination ("IEE") approved by ADB, and any corrective or preventative actions (i) set forth in a Safeguards Monitoring Report required under the SPS or the Project Agreement, or (ii) which are subsequently agreed between ADB and QMG.

Involuntary Resettlement; Ethnic Minorities

8. QMG shall, and shall cause QEG to, ensure that the Project does not have any indigenous peoples or involuntary resettlement impacts within the meaning of the SPS. In the event that the Project does have any such impact, QMG shall and shall cause QEG to take all steps required to ensure that the Project complies with the applicable laws and regulations of the Borrower and with the SPS.

Human and Financial Resources to Implement Safeguards Requirements

9. QMG shall, and shall cause QEG to, make available all necessary budgetary and human resources to fully implement the environment management plan (EMP).

Safeguards – Related Provisions in Bidding Documents and Works Contracts

10. QMG shall, and shall cause QEG 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 and the EMP (to the extent they concern impacts on the respective affected people under ADB's Environmental Safeguards during construction), and any corrective or preventative actions set forth in (i) a Safeguards Monitoring Report, or (ii) subsequently agreed between ADB and QMG;
- (b) make available a budget for all such environmental and social measures; and
- (c) provide QEG and QMG 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 or the EMP.

Safeguards Monitoring and Reporting

11. QMG shall, and shall cause QEG to, do the following:

- (a) submit Safeguards Monitoring Reports to ADB in respect of implementation of and compliance with Environmental Safeguards and

the EMP, semi-annually during construction and the implementation of the Project and the EMP, and thereafter annually during operation, until the issuance of ADB's Project completion report unless a longer period is agreed in the EMP and disclose relevant information from such reports to the respective affected people under the Environmental 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 IEE or the EMP, 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 promptly after becoming aware of the breach.

#### Prohibited List of Investments

12. QMG shall, and shall cause QEG to, ensure that no proceeds of the ADB Loan are used to finance any activity included in the list of prohibited investment activities provided in Appendix 5 of the SPS.

#### Grievance Redress Mechanism

13. QMG shall cause QEG to establish a safeguards grievance redress mechanism ("GRM") acceptable to ADB in accordance with the provisions of the EMP at the project management office (PMO), within the timeframe specified in the EMP, to consider safeguards complaints.

14. The GRM shall function to (i) review and document eligible complaints of Project stakeholders; (ii) proactively address grievances; (iii) provide the complainants with notice of the chosen mechanism and/or action; and (iv) prepare and make available to ADB upon request 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.

#### Conditions to Award of Works Contracts

15. QMG shall not, and shall cause QEG not to, award any Works contract which involves environmental impacts until QEG has incorporated the relevant provisions from the IEE and EMP into the Works contract.

16. QMG shall not, and shall cause QEG not to, award any Works contract which involves involuntary resettlement impacts or impacts on indigenous peoples.

#### Procurement

17. Except as ADB may otherwise agree, QMG shall, and shall cause QEG to procure all items of expenditures to be financed out of the proceeds of the Loan in accordance

with the provisions of the PAM and in accordance with ADB's Procurement Guidelines (2015, as amended from time to time).

#### Labor and Health

18. QMG shall and shall cause QEG to ensure that the core labor standards and the Borrower's laws and regulations concerning labor are complied with during Project implementation. QMG shall cause QEG to include specific provisions in the bidding documents and contracts financed by ADB under the Project requiring that the contractors, among other things: (a) comply with the Borrower's applicable labor law and regulations and incorporate applicable workplace occupational safety norms; (b) do not use child labor; (c) do not discriminate workers in respect of employment and occupation; (d) do not use forced labor; and (e) disseminate, or engage appropriate service providers to disseminate, information on the risks of sexually transmitted diseases, including HIV/AIDS, to the employees of contractors engaged under the Project and to members of the local communities surrounding the Project area, particularly women. QMG shall and shall cause QEG to strictly monitor compliance with the requirements set forth in this paragraph and provide ADB with regular reports.

#### Gender and Development

19. QMG shall and shall cause QEG to ensure that the principles of gender equity aimed at increasing Project benefits and impacts on women in the Project area consistent with ADB's Policy on Gender and Development (1998) are followed during implementation of the Project, including (a) equal pay to men and women for work of equal value; (b) enabling working conditions for women workers; (c) taking necessary actions to encourage women living in the Project area to participate in the design and implementation of Project activities; and (d) endeavouring to implement all gender-related measures set out in the PAM.

#### Public Awareness

20. QMG and QMG shall undertake, and shall cause QEG to undertake public awareness campaigns through information disclosure, education and consultation on the project and its benefits, including but not limited to information related to the EMP.

#### Governance and Anti-corruption

21. QMG shall, and QEG shall cause QMG to, comply with ADB's Anticorruption Policy (1998, as amended to date) and QMG acknowledges and shall cause QEG to acknowledge ADB's right to investigate, directly or through its agents, any alleged corrupt, fraudulent, collusive or coercive practices relating to the Project. QMG shall and shall cause QEG to agree to cooperate, and cause all other government offices, organizations and entities involved in implementing the Project to cooperate, fully with any such investigation and to extend all necessary assistance, including providing access to all relevant books and records, as may be necessary for the satisfactory completion of any such investigation.

22. QMG shall, and shall cause QEG to ensure that (a) periodic inspections of the Project contractors' activities related to fund withdrawals and settlements are carried out; (b) relevant provisions of ADB's Anticorruption Policy (1998, as amended to date) are included in all bidding documents for the Project; and (c) contracts, financed under the Project, include provisions specifying the right of ADB to audit and examine the records and accounts of QMG

and QEG, the PMO and all contractors, suppliers, consultants, and other service providers as they relate to the Project.

23. In furtherance of the principles of transparency, participation, accountability and zero-tolerance for corruption, QMG shall develop and maintain relevant websites that describe the Project in order to provide the public with information on the Project including setting out (a) a summary of the audited financial statements of the Project; (b) the Procurement Plan and tracking of procurement contract awards; (c) any proposed tariff increases and associated scheduled public hearings; (d) relevant laws and regulations; (e) job opportunities; and (f) information related to pro-poor subsidies or tariff life-lines. QMG shall also periodically make such information available on radio and in newspapers.

Control of QEG; Project Implementation Agreement

24. QMG shall not make any proceeds of the Loan available to QEG until QMG and QEG have entered into a Project Implementation Agreement, in form and substance acceptable to ADB, whereunder QEG agrees to fulfill all of the responsibilities assigned to QEG in the Project Agreement and the PAM. QMG shall maintain control of QEG for the life of the Project, and shall not transfer any ownership interest in QEG to any person without ADB's prior written agreement.