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LOAN NUMBER 2463/2464(SF)-BHU

PROJECT AGREEMENT  
(Green Power Development Project)

between

ASIAN DEVELOPMENT BANK

and

DRUK GREEN POWER CORPORATION, LIMITED

and

DAGACHHU HYDRO POWER CORPORATION, LIMITED

DATED 13 FEBRUARY 2009

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PAL: BHU 37399

## PROJECT AGREEMENT

PROJECT AGREEMENT dated 13 February 2009 between ASIAN DEVELOPMENT BANK (hereinafter called "**ADB**") and DRUK GREEN POWER CORPORATION, LIMITED (hereinafter called "**DGPC**") and DAGACHHU HYDRO POWER CORPORATION, LIMITED (hereinafter called "**DHPC**").

### WHEREAS

(A) by a Loan Agreement of even date herewith between Kingdom of Bhutan (hereinafter called the "Borrower") and ADB, ADB has agreed to lend to the Borrower an amount in various currencies equivalent to eighteen million eight hundred and thirty-two thousand Special Drawing Rights (SDR 18,832,000) from ADB's Special Funds resources (the "**ADF Loan**") and after the withdrawal and use of the proceeds of the ADF Loan, ADB expects to make a loan of fifty-one million Dollars (\$51,000,000) from ADB's Ordinary Capital Resources (the "**OCR Loan**") to the Borrower upon the terms and conditions set forth in the respective loan agreement;

(B) but only on the condition that (i) the proceeds of the ADF Loan be made available to DGPC to be used as its equity investment in DHPC, which is the Project company and the implementing agency; (ii) the proceeds of the OCR Loan, when made, be made available to DHPC; and (iii) DGPC and DHPC agree to undertake certain obligations towards ADB as hereinafter in this Project Agreement set forth; and

(C) DGPC and DHPC, in consideration of ADB entering into the Loan Agreement dated 13 February 2009 whereby ADB agrees to make the ADF Loan to the Borrower and the Loan Agreement dated 13 February 2009 whereby ADB agrees to make the OCR Loan to the Borrower, have agreed to undertake the obligations hereinafter set forth;

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 Loan Regulations for the ADF Loan, and for the Loan Regulations for the OCR Loan have the respective meanings therein set forth.

## ARTICLE II

### Particular Covenants

Section 2.01. (a) DGPC and DHPC shall carry out the Project with due diligence and efficiency, and in conformity with sound administrative, financial, engineering, environmental, hydropower, and public utility practices.

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

Section 2.02. DGPC and DHPC shall make available, promptly as needed, the funds, facilities, services, equipment, land and other resources which are required, in addition to the proceeds of the OCR Loan and the ADF Loan, for the carrying out of the Project and the operation and maintenance of the Project facilities.

Section 2.03. (a) In the carrying out of the Project, DGPC and DHPC shall employ competent and qualified contractors, acceptable to ADB, to an extent and upon terms and conditions satisfactory to ADB.

(b) Except as ADB may otherwise agree, all Goods, Works, and services to be financed out of the proceeds of the OCR Loan and the ADF Loan shall be procured in accordance with the provisions of Schedule 4 and Schedule 5 to the relevant Loan Agreement. ADB may refuse to finance a contract where Goods, Works, or services have 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. DGPC shall cause DHPC to, and DHPC shall, carry out the Project in accordance with plans, design standards, specifications, work schedules and construction methods acceptable to ADB. DHPC shall furnish, and DGPC shall 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) DGPC shall cause DHPC to, and DHPC shall, take out and maintain with responsible insurers, or make other arrangements satisfactory to ADB for, insurance of the 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, DHPC undertakes to insure, and DGPC undertakes to cause to be insured, the Goods to be imported for the Project and to be financed out of the proceeds of the OCR Loan or the ADF Loan 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. DGPC shall cause DHPC to maintain, and DHPC shall maintain, records and accounts adequate to identify the Goods, Works, and services and

other items of expenditure financed out of the proceeds of the OCR Loan or the ADF 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 DGPC and DHPC shall cooperate fully to ensure that the purposes of the OCR Loan and the ADF Loan and the Project will be accomplished.

(b) DGPC and DHPC 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, the DGPC Subsidiary Loan Agreement or the DHPC Subsidiary Loan Agreement, or the accomplishment of the purposes of the OCR Loan and the ADF Loan.

(c) ADB and DGPC and DHPC 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, DGPC or DHPC, and the OCR Loan and the ADF Loan.

Section 2.08. (a) DGPC and DHPC shall furnish to ADB all such reports and information as ADB shall reasonably request concerning (i) the OCR Loan and the ADF Loan and the expenditure of the proceeds thereof; (ii) the Goods, Works, and services and other items of expenditure financed out of such proceeds; (iii) the Project; (iv) the administration, operations and financial condition of DGPC and DHPC; and (v) any other matters relating to the purposes of the OCR Loan and the ADF Loan.

(b) Without limiting the generality of the foregoing, DGPC and DHPC shall furnish to ADB quarterly 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 quarter under review, steps taken or proposed to be taken to remedy these problems, and proposed program of activities and expected progress during the following quarter.

(c) Promptly after physical completion of the Project, but in any event not later than three (3) months thereafter or such later date as ADB may agree for this purpose, DGPC and DHPC 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 DGPC and DHPC of its obligations under this Project Agreement and the accomplishment of the purposes of the OCR Loan and the ADF Loan.

Section 2.09. (a) DGPC and DHPC shall each (i) maintain annual separate accounts for the Project and for their overall operations, with detailed descriptions of the sources of receipts and expenditures, including separate accounts for the OCR Loan and the ADF Loan; (ii) have such accounts and related financial statements (balance sheet, statement of income and expenses, statement of cash flows, and related statements) audited annually, in accordance with appropriate auditing standards consistently applied, by independent auditors whose qualifications, experience and terms of reference are acceptable to ADB; and (iii) furnish to ADB, promptly after their preparation but in any event not later than 6 months after the close of the fiscal year to which they relate, certified copies of such audited accounts and financial statements and the report of the auditors relating thereto

(including the auditors' opinion on the use of the OCR Loan and the ADF Loan proceeds and compliance with the covenants of each Loan Agreement), all in the English language. DGPC and DHPC shall furnish to ADB such further information concerning such accounts and financial statements and the audit thereof as ADB shall from time to time reasonably request.

(b) In addition to annual audited financial statements referred to in paragraph (a) of this Section, DGPC and DHPC shall furnish to ADB:

- (i) within three (3) months after the end of each fiscal year, unaudited annual financial statements on its operations for such fiscal year; and
- (ii) within three (3) months after the end of each fiscal year, an operational budget plan (including sources and expenditures of fund) for the ensuing year.

(c) DGPC and DHPC shall enable ADB, upon ADB's request, to discuss DGPC and DHPC financial statements and its financial affairs from time to time with the auditors appointed by DGPC and DHPC respectively pursuant to Section 2.09(a) hereabove, and shall authorize and require any representative of such auditors to participate in any such discussions requested by ADB, provided that any such discussion shall be conducted only in the presence of an authorized officer of DGPC and DHPC respectively unless DGPC and DHPC shall otherwise agree.

Section 2.10. DGPC and DHPC shall enable ADB's representatives to inspect the Project, the goods, works, and services financed out of the proceeds of the OCR Loan or the ADF Loan, all other plants, sites, works, properties and equipment of the DGPC and DHPC and any relevant records and documents.

Section 2.11. (a) DGPC and DHPC shall, 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 business.

(b) DGPC and DHPC shall at all times conduct its business in accordance with sound administrative, financial, environmental, and hydropower practices, and under the supervision of competent and experienced management and personnel.

(c) DGPC and DHPC shall 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 administrative, financial, engineering, environmental, hydropower practices, and maintenance and operational practices.

Section 2.12. Except as ADB may otherwise agree, DGPC and DHPC 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, DGPC and DHPC shall apply the proceeds of the OCR Loan and the ADF 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 Goods, Works, and services financed out of such proceeds are used exclusively in the carrying out of the Project.

Section 2.14. Except as ADB may otherwise agree, DGPC and DHPC shall duly perform all its obligations under the DGPC Subsidiary Loan Agreement and the DHPC Subsidiary Loan Agreement, respectively, 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 DGPC Subsidiary Loan Agreement and the DHPC Subsidiary Loan Agreement, respectively.

Section 2.15. DGPC and DHPC shall promptly notify ADB of any proposal to amend, suspend or repeal any provision of their respective articles of incorporation and shall afford ADB an adequate opportunity to comment on such proposal prior to taking any 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 ADF Loan Agreement shall come into force and effect. ADB shall promptly notify DGPC and DHPC of such date.

Section 3.02. This Project Agreement and all obligations of the parties hereunder shall terminate on the date on which the ADF 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 ADF Loan Agreement or the OCR 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 or by mail, telegram, cable, telex, facsimile or radiogram 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  
P.O. Box 789  
0980 Manila, Philippines

Facsimile Numbers:

(632) 636-2444  
(632) 636-2338.

For DGPC

P.O. Box 1351  
Thimphu  
Bhutan

Facsimile Number:  
(975) 2-336342.

For DHPC

Thimphu  
Bhutan

Facsimile Number:  
(975) 2-336093.

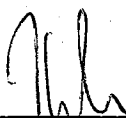
Section 4.02. (a) Any action required or permitted to be taken, and any documents required or permitted to be executed, under this Project Agreement or under Section 7.01 of the Loan Agreement by or on behalf of DGPC and DHPC may be taken or executed by its Managing Director or by such other person or persons as s/he shall so designate in writing notified to ADB.

(b) DGPC and DHPC shall furnish to ADB sufficient evidence of the authority of each person who will act under paragraph (a) of this Section, together with the authenticated specimen signature of each such person.

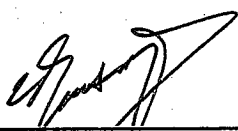
Section 4.03. No delay in exercising, or omission to exercise, any right, power or remedy accruing to either party under this Project Agreement upon any default shall impair any such right, power or remedy or be construed to be a waiver thereof or an acquiescence in such default; nor shall the action 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 and to be delivered at the principal office of ADB, as of the day and year first above written.

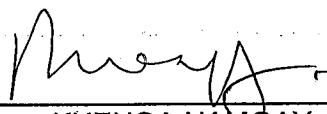
ASIAN DEVELOPMENT BANK

By   
KUNIO SENGA  
Director General  
South Asia Department

DRUK GREEN POWER  
CORPORATION, LIMITED

By   
CHHEWANG RINZIN  
Authorized Representative

DAGACHHU HYDRO POWER  
CORPORATION, LIMITED

By   
KUENGA NAMGAY  
Authorized Representative