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GRANT NUMBER 0119-BHU(SF)

PROJECT AGREEMENT  
(Asian Development Fund)  
(Green Power Development Project)

between

ASIAN DEVELOPMENT BANK

and

BHUTAN POWER CORPORATION, LIMITED

DATED 13 FEBRUARY 2009

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PAG: BHU 37399

**BHUTAN POWER CORPORATION, LIMITED  
PROJECT AGREEMENT**

PROJECT AGREEMENT dated 13 February 2009 between ASIAN DEVELOPMENT BANK (“**ADB**”) and BHUTAN POWER CORPORATION, LIMITED (“**BPC**”).

WHEREAS

(A) by the ADF Grant Agreement of even date herewith between Kingdom of Bhutan (the “**Recipient**”) and ADB, ADB has agreed to provide to the Recipient a grant of twenty-five million two hundred eighty thousand Dollars (\$25,280,000) on the terms and conditions set forth in the ADF Grant Agreement, but only on the condition that the proceeds of the ADF Grant be made available to BPC and that BPC agrees to undertake certain obligations towards ADB as set forth in this Project Agreement; and

(B) BPC, in consideration of ADB entering into the ADF Grant Agreement with the Recipient, has agreed to undertake the obligations set forth in this Project Agreement;

NOW THEREFORE the parties agree as follows:

**ARTICLE I**

**Definitions**

Section 1.01. Wherever used in this Project Agreement, unless the context otherwise requires, the terms defined in the ADF Grant Agreement and in the Grant Regulations (as so defined) have the respective meanings therein set forth, except that for the purposes of this Project Agreement, the term “the Project” means Part A of the Project, as described in Schedule 1 to the ADF Grant Agreement. “Subproject” means the rural electrification of any of the seven targeted districts, including Lhuentse, Pemagatshel, Punakha, Samdrup Jongkhar, Sarpang, Trashigang and Wangduephodrang, and part of Dagana and Mongar.

**ARTICLE II**

**Particular Covenants**

Section 2.01. (a) BPC shall carry out the Project with due diligence and efficiency, and in conformity with sound administrative, financial, engineering, environmental and rural electrification practices.

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

Section 2.02. BPC 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 ADF Grant, 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, BPC 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, all Goods, Works, and services to be financed out of the proceeds of the ADF Grant shall be procured in accordance with the provisions of Schedule 3 and Schedule 4 to the ADF Grant 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 Recipient and ADB or where the terms and conditions of the contract are not satisfactory to ADB.

Section 2.04. BPC shall carry out the Project in accordance with plans, design standards, specifications, work schedules and construction methods acceptable to ADB. BPC 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) BPC shall take out and maintain with responsible insurers, or make other arrangements satisfactory to ADB for, insurance of the Project facilities and any equipment financed from the proceeds of the ADF Grant 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, BPC undertakes to insure, or cause to be insured, the goods to be imported for the Project and to be financed out of the proceeds of the ADF Grant 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. BPC shall maintain, or cause to be maintained, records and accounts adequate to identify the Goods, Works, and services and other items of expenditure financed out of the proceeds of the ADF Grant, to disclose the use thereof in the Project, to record the progress of the Project and to reflect, in accordance with consistently maintained sound accounting principles, its operations and financial condition.

Section 2.07. (a) ADB and BPC shall cooperate fully to ensure that the purposes of the ADF Grant will be accomplished.

(b) BPC 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 BPC Subsidiary Financing Agreement, or the accomplishment of the purposes of the ADF Grant.

(c) ADB and BPC 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, BPC and the ADF Grant.

Section 2.08. (a) BPC shall furnish to ADB all such reports and information as ADB shall reasonably request concerning (i) the ADF Grant 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 BPC; and (v) any other matters relating to the purposes of the ADF Grant.

(b) Without limiting the generality of the foregoing, BPC 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, BPC 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 BPC of its obligations under this Project Agreement and the accomplishment of the purposes of the ADF Grant.

Section 2.09. (a) BPC shall (i) maintain separate annual accounts for the Project and for its overall operations, with detailed descriptions of the sources of receipts and expenditures; (ii) have such accounts and related annual financial statements (balance sheet, statement of income and expenses, statement of cash flows, and related statements) audited, 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 ADF Grant proceeds and compliance with the financial covenants of the ADF Grant Agreement as well as on the use of the procedures for imprest account/statement of expenditures), all in the English language. BPC 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, BPC shall furnish to ADB:

- (i) within 3 months after the end of each fiscal year, unaudited annual financial statements on its operations for such fiscal year; and

- (ii) within 3 months after the end of each fiscal year, a budget plan (including sources and expenditures of fund) for the ensuing years.

(c) BPC shall enable ADB, upon ADB's request, to discuss BPC financial statements and its financial affairs from time to time with the auditors appointed by BPC 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 BPC unless BPC shall otherwise agree.

Section 2.10. BPC shall enable ADB's representatives to inspect the Project, the Goods, Works, and services financed out of the proceeds of the ADF Grant all other plants, sites, Works, properties and equipment of the BPC, and any relevant records and documents.

Section 2.11. (a) BPC 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) BPC shall at all times conduct its business in accordance with sound administrative, financial, environmental, power and rural electrification practices, and under the supervision of competent and experienced management and personnel.

(c) BPC 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, power and rural electrification practices, and maintenance and operational practices.

Section 2.12. Except as ADB may otherwise agree, BPC 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 the ADF Grant or the Project Agreement.

Section 2.13. Except as ADB may otherwise agree, BPC shall apply the proceeds of the ADF Grant to the financing of expenditures on the Project in accordance with the provisions of the ADF Grant 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, BPC shall duly perform all its obligations under the BPC Subsidiary Financing Agreement, 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 BPC Subsidiary Financing Agreement.

Section 2.15. BPC shall promptly notify ADB of any proposal to amend, suspend or repeal any provision of its 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 Grant Agreement shall come into force and effect. ADB shall promptly notify BPC 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 Grant 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 Grant 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 BPC

Bhutan Power Corporation, Limited  
P.O. Box 580  
Thimphu  
Bhutan

Facsimile Number:  
(975) 2-331988.

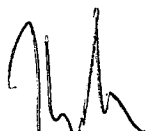
Section 4.02. (a) Any action required or permitted to be taken, and any documents required or permitted to be executed, under this Project Agreement or under Section 7.01 of the ADF Grant Agreement by or on behalf of BPC may be taken or executed by its Managing Director or by such other person or persons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

(b) BPC 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.

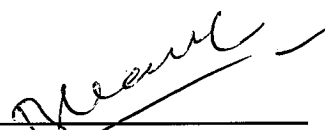
Section 4.03. No delay in exercising, or omission to exercise, any right, power or remedy accruing to either party under this Project Agreement upon any default shall impair any such right, power or remedy or be construed to be a waiver thereof or an acquiescence in such default; nor shall the action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

BHUTAN POWER CORPORATION,  
LIMITED

By  \_\_\_\_\_  
BHARAT TAMANG  
Authorized Representative