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LOAN NUMBER 3034-BHU  
[Additional to Loans No. 2464-BHU(SF) and 2463-BHU(OCR)]

AMENDED AND RESTATED PROJECT AGREEMENT  
(Green Power Development Project – Additional Financing)

between

ASIAN DEVELOPMENT BANK

and

DRUK GREEN POWER CORPORATION, LIMITED

and

DAGACHHU HYDRO POWER CORPORATION, LIMITED

DATED 2 OCTOBER 2013

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BHU 37399

## AMENDED AND RESTATED PROJECT AGREEMENT

AMENDED AND RESTATED PROJECT AGREEMENT dated 2 October 2013 between ASIAN DEVELOPMENT BANK ("ADB") and DRUK GREEN POWER CORPORATION, LIMITED ("DGPC") and DAGACHHU HYDRO POWER CORPORATION, LIMITED ("DHPC").

### WHEREAS

(A) by a loan agreement dated 13 February 2009 between the Kingdom of Bhutan ("Borrower") and ADB ("Initial OCR Loan Agreement"), ADB agreed to make a loan to the Borrower from ADB's ordinary capital resources in the amount of fifty-one million Dollars (\$51,000,000) for the purposes of the project described in paragraph 2 of Schedule 1 to the Initial OCR Loan Agreement ("Project");

(B) by a loan agreement dated 13 February 2009 between the Borrower and ADB, ADB agreed to make a loan to the Borrower from ADB's Special Funds resources in an amount in various currencies equivalent to eighteen million eight hundred thirty-two thousand Special Drawing Rights (SDR18,832,000) for the purposes of the Project;

(C) the Borrower obtained cofinancing by way of (i) a loan from Oesterreichische Kontrollbank in an estimated amount equivalent to fifty-five million four hundred sixty thousand Dollars (\$55,460,000) and (ii) a loan from NPPF (as defined in the Initial OCR Loan Agreement) in an amount equivalent to fifteen million Dollars (\$15,000,000);

(D) by a project agreement dated 13 February 2009 between DGPC (as defined below), DHPC (as defined below), and ADB, each of DGPC and DHPC undertook certain obligations towards ADB;

(E) by a Loan Agreement of even date herewith between the Borrower and ADB ("Loan Agreement"), ADB has agreed to make to the Borrower a loan in various currencies equivalent to twenty five million six hundred eighty nine thousand Special Drawing Rights (SDR 25,689,000) 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 DHPC, and that DGPC and DHPC agree to undertake certain obligations towards ADB set forth herein; and

(F) DGPC and DHPC, in consideration of ADB entering into the Loan Agreement with the Borrower, have each agreed to undertake the obligations set forth herein;

NOW THEREFORE the parties hereto agree to amend and restate the Project Agreement as follows:

## ARTICLE I

### Definitions

Section 1.01. Wherever used in this Project Agreement, unless the context otherwise requires, the several terms defined in the Loan Agreement and in the Loan Regulations (as so defined) have the respective meanings therein set forth.

## ARTICLE II

### Particular Covenants

Section 2.01. (a) DGPC shall cause DHPC to, and DHPC shall, 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, DGPC and DHPC shall perform their respective obligations set forth in the Loan Agreement.

Section 2.02. DGPC and DHPC 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 Subsidiary Loan, for the carrying out of the Project.

Section 2.03. (a) In the carrying out of the Project, DGPC and DHPC 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, DGPC and DHPC shall procure all items of expenditures to be financed out of the proceeds of the Subsidiary Loan in accordance with the provisions of Schedule 3 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. DGPC and DHPC shall carry out the Project in accordance with plans, design standards, specifications, work schedules and construction methods acceptable to ADB. DGPC and DHPC 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) DGPC and DHPC shall 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, DGPC and DHPC 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. DGPC and DHPC shall maintain, or cause to be maintained, records and accounts adequate to identify the items of expenditure financed out of the proceeds of the Subsidiary 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, DGPC and DHPC shall cooperate fully to ensure that the purposes of the Subsidiary Loan 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 their respective obligations under this Project Agreement, the Loan Agreement or the Subsidiary Loan Agreement, or the accomplishment of the purposes of the Subsidiary Loan.

(c) ADB, DGPC and DHPC shall from time to time, at the request of any of them, exchange views through their representatives with regard to any matters relating to the Project, DGPC, DHPC or the Subsidiary 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 Subsidiary 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 DGPC and DHPC; and (v) any other matters relating to the purposes of the Subsidiary Loan.

(b) Without limiting the generality of the foregoing, DGPC and DHPC 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, 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 Subsidiary Loan.

Section 2.09. (a) DGPC and DHPC shall (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 Subsidiary Loan proceeds and compliance with the financial covenants of the Loan Agreement and a management letter (which sets out the deficiencies in the internal control of the Project that were identified in the course of the audit, if any); 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, DGPC and DHPC shall (i) provide their respective annual financial statements prepared in accordance with national accrual-based financing reporting standards acceptable to ADB; (ii) have their 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 audits thereof as ADB shall from time to time reasonably request.

(d) DGPC and DHPC 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 DGPC and DHPC 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 DGPC and DHPC, unless DGPC and DHPC shall otherwise agree.

Section 2.10. DGPC and DHPC shall enable ADB's representatives to inspect the Project, the Goods and Works and any relevant records and documents.

Section 2.11. (a) DGPC and DHPC shall, promptly as required, take all action within their powers to maintain their corporate existences, to carry on their 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 their operations.

(b) DGPC and DHPC shall at all times conduct their 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) DGPC and DHPC shall at all times operate and maintain their 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, DGPC and DHPC shall not sell, lease or otherwise dispose of any of their 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 Subsidiary 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, DGPC shall cause DHPC to perform, and DHPC shall duly perform, all of DHPC's obligations under the Loan Agreement, and DGPC shall cause DHPC not to take or concur in, and DHPC 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 Loan Agreement.

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, which, if implemented, could adversely affect the carrying out of the Project or the operation of the Project facilities. DGPC and DHPC shall 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 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 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) 636-2337.

For DGPC

P.O. Box 1351  
Thimphu  
Bhutan

Facsimile Number:

(975) 233 6342/411.

For DHPC

Khebisa  
Dagana  
Bhutan

Facsimile Number:

(975) 646 0830.

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 or DHPC may be taken or executed by DGPC's Managing Director or by such other person or persons as he or she shall so designate in writing notified to ADB.

(b) DGPC or DHPC 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

  
JUAN MIRANDA

Director General  
South Asia Department

DRUK GREEN POWER  
CORPORATION, LIMITED

By

  
DASHO CHHEWANG RINZIN  
Managing Director

DAGACHHU HYDRO POWER  
CORPORATION, LIMITED

By

  
THINLEY DORJI  
Chief Executive Officer