

PROJECT AGREEMENT

(Gansu Heihe Rural Hydropower Development Investment Program – Dagushan
Hydropower Project)

between

ASIAN DEVELOPMENT BANK

and

GANSU PROVINCIAL GOVERNMENT

ZHANGYE CITY GOVERNMENT

GANSU ZHANGYE DAGUSHAN HYDROPOWER COMPANY LIMITED

DATED 4 MARCH 2008

PROJECT AGREEMENT

PROJECT AGREEMENT dated 4 March 2008 between ASIAN DEVELOPMENT BANK (hereinafter called ADB) of the one part and GANSU PROVINCIAL GOVERNMENT (hereinafter called GPG), ZHANGYE CITY GOVERNMENT (hereinafter called ZCG) and GANSU ZHANGYE DAGUSHAN HYDROPOWER COMPANY LIMITED (hereinafter called DHC) of the other part.

WHEREAS

(A) by a Loan Agreement of even date herewith between People's Republic of China (hereinafter called the Borrower) and ADB, ADB has agreed to make to the Borrower a loan of twenty eight million dollars (\$28,000,000) on the terms and conditions set forth in the Loan Agreement, but only on condition that the proceeds of the Loan be made available to DHC through GPG and ZCG and that GPG, ZCG and DHC agree to undertake certain obligations towards ADB as hereinafter in this Project Agreement set forth; and

(B) GPG, ZCG and DHC, in consideration of ADB entering into the Loan Agreement with 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 in the Loan Regulations (as so defined) have the respective meanings therein set forth.

ARTICLE II

Particular Covenants

Section 2.01. (a) GPG, ZCG and DHC shall carry out the Project with due diligence and efficiency, and in conformity with sound administrative, financial, engineering, environmental, and hydropower practices.

(b) In the carrying out of the Project and operation of the Project facilities, GPG, ZCG and DHC shall perform all obligations set forth in the Loan Agreement to the extent that they are applicable to GPG, ZCG and DHC and all obligations set forth in the Schedule to this Project Agreement.

Section 2.02. GPG, ZCG and DHC 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 Loan, for the carrying out of the Project.

Section 2.03. (a) In the carrying out of the Project, DHC 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 consulting services to be financed out of the proceeds of the Loan shall be procured in accordance with the provisions of Schedule 4 to the Loan Agreement. ADB may refuse to finance a contract where Goods, Works or consulting 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. DHC shall carry out the Project in accordance with plans, design standards, specifications, work schedules and construction methods acceptable to ADB. DHC 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) DHC 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, DHC 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 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. DHC shall maintain, or cause to be maintained, records and accounts adequate to identify the Goods, Works and consulting services and other 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 GPG, ZCG and DHC shall cooperate fully to ensure that the purposes of the Loan will be accomplished.

(b) GPG, ZCG and DHC 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 On-lending Agreement, or the accomplishment of the purposes of the Loan.

(c) ADB and GPG, ZCG and DHC 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, DHC and the Loan.

Section 2.08. (a) DHC shall 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 Goods, Works and consulting services and other items of expenditure financed out of such proceeds; (iii) the Project; (iv) the administration, operations and financial condition of DHC; and (v) any other matters relating to the purposes of the Loan.

(b) Without limiting the generality of the foregoing, DHC 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 twelve (12) months thereafter or such later date as ADB may agree for this purpose, DHC 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 DHC of its obligations under this Project Agreement and the accomplishment of the purposes of the Loan.

Section 2.09. (a) DHC shall (i) maintain separate accounts for the Project and for its overall operations; (ii) have such accounts and related financial statements (balance sheet, statement of income and expenses, 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 9 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 Loan proceeds and compliance with the covenants of the Loan Agreement as well as on the use of the procedures for imprest account and statement of expenditures), all in the English language. DHC 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) DHC shall enable ADB, upon ADB's request, to discuss DHC's financial statements and its financial affairs from time to time with the auditors appointed by DHC 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 DHC unless DHC shall otherwise agree.

Section 2.10. DHC shall enable ADB's representatives to inspect the Project, the Goods and Works financed out of the proceeds of the Loan, all other plants, sites, properties and equipment of DHC, to the extent applicable to the Project, and any relevant records and documents.

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

(c) DHC 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, hydropower, environmental, and maintenance and operational practices.

Section 2.12. Except as ADB may otherwise agree, DHC 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, DHC shall 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 Goods, Works and consulting 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, DHC shall duly perform all its obligations under the On-lending 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 On-lending Agreement.

Section 2.15. DHC shall promptly notify ADB of any proposal to amend, suspend or repeal any provision of its Charter 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 Loan Agreement shall come into force and effect. ADB shall promptly notify GPG, ZCG and DHC 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 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

Cable Address:

ASIANBANK
MANILA

Telex Numbers:

29066 ADB PH (RCA)
42205 ADB PM (ITT)
63587 ADB PN (ETPI)

Facsimile Numbers:

(632) 636-2302.

For GPG

Gansu Provincial Government
No. 696 Donggang West Road, Chengguan District,
Lanzhou City
Gansu Province
People's Republic of China

Facsimile Number:

(86-931) 8891043.

For ZCG

Zhangye City Government
 Nanhuan Road
 Zhangye City
 Gansu Province
 People's Republic of China

Facsimile Number:

(86-936) 8360510.

For DHC

Gansu Zhangye Dagushan Power Company Ltd.
 Zhangye City
 Gansu Province
 People's Republic of China

Facsimile Number:

(86-936) 8225763.

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 (i) by or on behalf of GPG may be taken or executed by its Governor or by such other person or persons as the Governor shall so designate in writing notified to ADB; (ii) by or on behalf of ZCG may be taken or executed by its Mayor or by such other person or persons as the Mayor shall so designate in writing notified to ADB; and (iii) by or on behalf of DHC may be taken or executed by the Chairperson of its Board of Directors or by such other person or persons as the Chairperson shall so designate in writing notified to ADB.

(b) Each of GPG, ZCG and DHC 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.

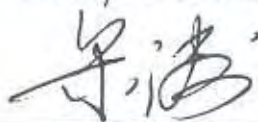
Section 4.03. No delay in exercising, or omission to exercise, any right, power or remedy accruing to either party under this Project Agreement upon any default shall impair any such right, power or remedy or be construed to be a waiver thereof or an acquiescence in such default; nor shall the action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

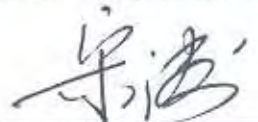
ASIAN DEVELOPMENT BANK

By 
HARUHIKO KURODA
President

GANSU PROVINCIAL GOVERNMENT

By 
SONG TAO
Authorized Representative

ZHANGYE CITY GOVERNMENT

By 
SONG TAO
Authorized Representative

GANSU ZHANGYE DAGUSHAN
HYDROPOWER COMPANY LIMITED

By 
SONG TAO
Authorized Representative

SCHEDULE

Execution of Project

FFA

1. GPG, ZCG and DHC shall ensure that the Project is carried out in accordance with the FFA and all the Schedules (including Annexes) attached thereto.

Power Purchase Agreement

2. DHC shall enter into a power purchase agreement with Zhangye Electric Power Company (ZEPC) and such power purchase agreement shall provide, among other things, that ZEPC shall purchase all of the electricity generated by the Project Power Plant at the tariff determined based on principles described in paragraph 10 of this Schedule.

Financial Performance

3. (a) Except as ADB shall otherwise agree, DHC shall earn, for each fiscal year commencing from the year of commercial operation of the Project Power Plant, an annual return of not less than six (6) percent of the average current net value of DHC fixed assets in operation.

(b) Prior to the beginning of each fiscal year commencing from the year of the start of the commercial operation of the Project Power Plant, DHC shall, on the basis of forecasts prepared by DHC and satisfactory to ADB, conduct a review to ascertain whether it can meet the requirements set forth in paragraph (a) in respect of such year and the next following fiscal year, and shall promptly furnish to ADB the results of such review upon its completion.

(c) For the purposes of this paragraph:

- (i) The annual return shall be calculated by dividing DHC's net operating income for the fiscal year in question by one half of the sum of the current net value of DHC's fixed assets in operation at the beginning and at the end of that fiscal year.
- (ii) The term "net operating income" means total operating revenues less total operating expenses.
- (iii) The term "total operating revenues" means revenues from all sources related to operations, after making adequate provisions for uncollectible debts, but excludes government grants, subsidies and transfers.
- (iv) The term "total operating expenses" means all expenses related to operations, including administration, adequate maintenance, taxes and payments in lieu of taxes, and provision for depreciation on a straight-line basis, or other basis

acceptable to ADB, but excluding interest and other charges on debt.

- (v) The average current gross value of DHC's fixed assets in operation shall be calculated as one half of the sum of the gross value of DHC's fixed assets in operation at the beginning and at the end of the fiscal year.
- (vi) The term "current net value of DHC's fixed assets in operation" means the gross value of DHC's fixed assets in operation less the amount of accumulated depreciation.
- (vii) The terms "operations" or "operating" refer to the operations of DHC.

4. (a) Except as ADB shall otherwise agree, DHC shall not incur any debt unless a reasonable forecast of the revenues and expenditures of DHC shows that the estimated net revenues of DHC for each fiscal year shall be, (i) commencing from the year of the start of the commercial operation of the Project Power Plant, at least 1.2 times, and (ii) within five years of commercial operation of the Project Power Plant, at least 1.3 times, the maximum estimated debt service requirements of DHC in such year on all debt of DHC including the debt to be incurred.

(b) For the purposes of this paragraph:

- (i) The term "debt" means any indebtedness of DHC maturing by its terms more than one year after the date on which it is originally incurred.
- (ii) Debt shall be deemed to be incurred: (a) under a loan contract or agreement or other instrument providing for such debt or for the modification of its terms of payment on the date of such contract, agreement or instrument; and (b) under a guarantee agreement, on the date the agreement providing for such guarantee has been entered into.
- (iii) The term "net revenues" means the difference between:
 - (A) the sum of revenues from all sources related to operations and net non-operating income, after making adequate provisions for uncollectible debts; and
 - (B) the sum of all expenses related to operations including administration, adequate maintenance, taxes and payments in lieu of taxes, but excluding provision for depreciation, other non-cash operating charges and interest and other charges on debt. Lease payments under finance leases must also be included.

- (iv) The term "net non-operating income" means the difference between:
 - (A) revenues from all sources other than those related to operations, and
 - (B) expenses, including taxes and payments in lieu of taxes, incurred in the generation of revenues in (iv)(a) above.
- (v) The term "debt service requirements" means the aggregate amount of repayments (including sinking fund payments, if any) of, and interest and other charges on debt.
- (vi) The term "reasonable forecast" means a forecast prepared by DHC not earlier than nine months prior to the incurrence of the debt in question, which both ADB and DHC accept as reasonable and as to which ADB has notified DHC of its acceptability.
- (vii) The terms "operations" or "operating" refer to the operations of DHC.
- (viii) Whenever for the purposes of this paragraph it shall be necessary to value, in terms of the currency of the Borrower, debt payable in another currency, such valuation shall be made on the basis of the prevailing lawful rate of exchange at which such other currency is at the time of such valuation obtainable for the purposes of servicing such debt, or, in the absence of such rate, on the basis of a rate of exchange acceptable to ADB.

5. (a) Except as ADB shall otherwise agree, DHC shall maintain for each year, (i) commencing from the year of the start of the commercial operation of the Project Power Plant, a ratio of debt to equity not greater than 80:20; and (ii) within five years of commercial operation of the Project Power Plant, a ratio of debt to equity not greater than 75:25.

(b) For purposes of this paragraph:

- (i) The term "debt" means any indebtedness of DHC maturing by its terms more than one year after the date on which it is originally incurred.
- (ii) Debt shall be deemed to be incurred: (a) under a loan contract or agreement, or conditional sale or transfer or financing lease agreement or other instrument providing for such debt or for the modification of its terms of payment on the date of such contract, agreement or instrument; and (b) under a guarantee agreement, on the date the agreement providing for such

guarantee has been entered into. Financial liabilities incurred by DHC who is a lessee under finance leasing agreements may also be included as debt.

- (iii) The term "equity" means the sum of the total unimpaired paid-up capital, retained earnings and reserves of DHC not allocated to cover specific liabilities.
- (iv) Whenever for purposes of this paragraph it shall be necessary to value, in terms of the currency of the Borrower, debt payable in another currency, such valuation shall be made on the basis of the prevailing lawful rate of exchange at which such currency is, at the time of valuation, obtainable for the purposes of servicing such debt, or, in the absence of such rate, on the basis of a rate of exchange acceptable to ADB.

6. (a) Except as ADB shall otherwise agree, DHC shall ensure that for each year, commencing the year of the start of the commercial operation of the Project Power Plant, the accounts receivables are at most equal to the value of two months of sales.

(b) For purposes of this paragraph, the term "accounts receivables" means amount due from others in respect of revenues derived from elements of sales and services.

Environment

7. DHC shall ensure that (a) the Project is designed, constructed, operated, maintained and monitored in accordance with the requirements of the national and local environmental regulations, procedures and guidelines, and ADB's *Environment Policy (2002)*, (b) the Project is designed, constructed, maintained and monitored in accordance with the EMP as reflected in the EIA, SEIA and the EARP, (c) the EMP is updated in accordance with the Heihe river hydropower cascade cumulative environmental impact assessment and detailed engineering design, (d) the updated EMP is incorporated in the bidding documents and civil work contracts, and (e) environmental performance reports are submitted to ADB twice annually during the construction period and during the first two years of operation, including progress made on the mitigation measures, monitoring data, problems encountered, enforcement plan and any violations.

Land Acquisition and Resettlement

8. GPG, ZCG and DHC shall ensure that: (a) all land, rights-of-way, easements, privileges and approvals required for the Project are made available in a timely manner; (b) prior to the commencement of any civil works for any Project facility, all land acquisition, compensation, resettlement and rehabilitation activities will have been completed in accordance with ADB's Policy on Involuntary Resettlement (1995), the RF and the SRP, and the Project site will be free and clear of all obstructions; (c) the SRP, prepared in full consultation with and disclosed to the affected persons, will be updated based on the detailed design and submitted to ABD for review and approval; and (e) an external consultant acceptable to ADB will be engaged to carry out monitoring and evaluation, and report to ADB in accordance with the requirements of the SRP.

Anticorruption

9. (a) GPG, ZCG and DHC shall comply with ADB's Anticorruption Policy (1998, as amended to date) and the Policy relating to Enhancing ADB's Role in Combating Money Laundering and the Financing of Terrorism (2003). GPG, ZCG and DHC (i) acknowledge ADB's right to investigate, directly or through its agents, any alleged corrupt, fraudulent, collusive or coercive practices relating to the Project; (ii) agree 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; and (iii) agree to refrain from engaging in money laundering activities or financing of terrorism and shall allow ADB to investigate any violation or potential violation of these undertakings.

(b) Without limiting the generality of the preceding paragraph, GPG, ZCG and DHC shall (i) conduct periodic inspections on the contractors' activities related to fund withdrawals and settlements and (ii) ensure that all contracts financed by ADB in connection with the Project include provisions specifying the right of ADB to audit and examine the records and accounts of all contractors, suppliers, consultants and other service providers as they relate to the Project.

(c) In addition to these requirements, to deter corruption and increase transparency, the GPG, ZCG and DHC shall disclose, at the designated official website, information about public procurements, including those related to the Project. For each contract, the website shall include information on, among others, 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/services, including consulting services, procured.

Tariff

10. GPG and ZCG shall ensure that the formulated tariff of electricity generated by the Project is adequate to cover operating costs, maintenance and depreciation, financing cost and allow an acceptable return on the net fixed asset.

Policy Change

11. GPG shall consult with ADB in due course of any changes in power pricing, load dispatch and similar other policies that may adversely affect the financial viability of the Project.

Financial Governance

12. ZCG and DHC shall ensure that internal controls of DHC are in accordance with national accounting standards and an independent and autonomous internal audit department is set up in the DHC within 6 months of the Effective Date. DHC shall adopt acceptable computerized accounting and management information systems, and prepare financial statements and reports in accordance with national accounting standards.

Gender

13. (a) GPG, ZCG and DHC shall cause the contractors to maximize their employment of local people who meet the job requirements for the construction of the Project facilities. The contractors shall be required to give due consideration to the manner in which local women in the communities of the Project area can contribute to the construction, operation and maintenance of the Project facilities.

(b) GPG, ZCG and DHC shall take all necessary actions to encourage women living in the Project area to participate in planning and implementing the Project activities. GPG shall cause ZCG and DHC to monitor the Project effects on women during the Project implementation, through, where relevant, gender-disaggregated data collected pursuant to the monitoring and evaluation system referred to in the project performance monitoring system.

Sexually Transmitted Diseases

14. With the assistance of the relevant local authorities, GPG, through ZCG, and DHC shall cause contractors to distribute information on the risks of sexually transmitted diseases to those employed during the Project construction and to the local communities living in the vicinity of the Project.

Women and Child Labor

15. GPG, through ZCG, and DHC shall ensure that: (i) there is no differential payment between men and women for work of equal value and (ii) civil works contractors do not employ child labor in the construction and maintenance activities in accordance with the relevant laws and regulations of the Borrower.

Community Development

16. ZCG shall ensure that five (5) percent tax revenue, which it receives from the sale of power generation under the Project will be allocated, in a manner acceptable to ADB, as additional revenue to the Project affected area within the Sunan County, as described in the EIA, for their community economic development purpose.

Change in Ownership

17. If (i) any change in ownership of the Project facilities, or (ii) sale, transfer, or assignment of DHC's interest in the Project Power Plant is anticipated, GPG, ZCG and DHC shall consult ADB at least six months before such change, sale, transfer or assignment. GPG, ZCG and DHC shall ensure that any proposed change in ownership of the Project facilities be carried out in a legal and transparent manner.

Monitoring and Evaluation

18. GPG, through ZCG, and DHC shall monitor, evaluate and report to ADB the Project's impact through a project performance monitoring system to ensure that the Project facilities are managed effectively and the benefits, particularly to the poor, are maximized. GPG, through ZCG, and DHC shall collect the data agreed with ADB, prior to the Project

implementation and Project completion, and annually thereafter for three years after Project completion.