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**GEF TRUST FUND GRANT NUMBER TF 052141 HR  
RELATED TO LOAN NUMBER 7198 HR**

# **Global Environment Facility Trust Fund Grant Agreement**

**(Energy Efficiency Project)**

**between**

**REPUBLIC OF CROATIA**

**and**

**INTERNATIONAL BANK FOR RECONSTRUCTION  
AND DEVELOPMENT**

**acting as an Implementing Agency of the Global Environment Facility**

**Dated November 10, 2003**

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**GEF TRUST FUND GRANT NUMBER TF 052141 HR  
RELATED TO LOAN NUMBER 7198 HR**

**GLOBAL ENVIRONMENT FACILITY TRUST FUND GRANT AGREEMENT**

AGREEMENT, dated November 10, 2003, between REPUBLIC OF CROATIA (the Recipient) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank) acting as an implementing agency of the Global Environment Facility (GEF) in respect of grant funds provided to the GEF Trust Fund by certain members of the Bank as participants of the GEF.

WHEREAS (A) the Bank, pursuant to Resolution No. 91-5 of March 14, 1991 of the Executive Directors of the Bank, established the GEF to assist in the protection of the global environment and promote thereby environmentally sound and sustainable economic development;

(B) following the restructuring of the GEF, such arrangements continued in place on the basis set forth in Resolution No. 94-2 of May 24, 1994, of the Executive Directors of the Bank which, inter alia, established the GEF Trust Fund and appointed the Bank as trustee of the GEF Trust Fund (Resolution No. 94-2);

(C) the second replenishment of the GEF Trust Fund was approved on the basis set forth in Resolution No. 98-2 of July 14, 1998, of the Executive Directors of the Bank (Resolution No. 98-2);

(D) the Recipient, having satisfied itself as to the feasibility and priority of the project described in Schedule 2 to this Agreement (the Project), has requested assistance from the resources of the GEF Trust Fund for funding the Project, and said request having been approved in accordance with the provisions of the Instrument for the Establishment of the Restructured Global Environment Facility approved under Resolution 94-2, and to be funded from contributions to the GEF Trust Fund under Resolution No. 98-2, which may include funds carried over from the first replenishment of the GEF Trust Fund under Resolution No. 94-2;

(E) by an agreement of even date herewith (the Loan Agreement), the Bank has agreed to provide a loan to Hrvatska Elektroprivreda d.d. (HEP) in the amount of EUR 4,400,000 to assist in financing Part A of the Project on the terms and conditions set forth in the Loan Agreement;

(F) by an agreement of even date herewith (the Guarantee Agreement), between the Republic of Croatia and the Bank, the Republic of Croatia has agreed to guarantee the obligations of HEP in respect of the Loan referred to in paragraph (E) of this Preamble;

(G) Parts B and D of the Project will be carried out by HEP with the Recipient's assistance and, as part of such assistance, the Recipient will make a portion of the proceeds of the

GEF Trust Fund Grant available to HEP, as set forth in this Agreement and in the Project Agreement of even date herewith between the Bank and HEP (HEP Project Agreement);

(H) Part C of the Project will be carried out by HBOR with the Recipient's assistance and, as part of such assistance, the Recipient will make a portion of the proceeds of the GEF Trust Fund Grant available to HBOR, as set forth in this Agreement and in the Project Agreement of even date herewith between the Bank and HBOR (HBOR Project Agreement); and

WHEREAS the Bank has agreed, on the basis, inter alia, of the foregoing, to extend the GEF Trust Fund Grant to the Recipient upon the terms and conditions set forth in this Agreement;

NOW THEREFORE, the parties hereto hereby agree as follows:

## **ARTICLE I**

### **General Conditions; Definitions**

Section 1.01. (a) The following provisions of the "General Conditions Applicable to Loan and Guarantee Agreements for Single Currency Loans" of the Bank dated May 30, 1995 (as amended through October 6, 1999), with the modifications set forth in paragraph (b) of this Section (the General Conditions) constitute an integral part of this Agreement:

- (i) Article I;
- (ii) Sections 2.01 (1), (2), (3), (4), (5), (6), (7), (8), (9), (14), (15), (16), (18) and (21); 2.02 and 2.03;
- (iii) Section 3.01;
- (iv) Sections 4.01 and 4.06;
- (v) Article V;
- (vi) Sections 6.01; 6.02 (a), (c), (d), (e), (f), (g), (i), (k), (m), (n), (o) and (p); 6.03, 6.04 and 6.06;
- (vii) Section 8.01 (b);
- (viii) Sections 9.01 (a) and (c), 9.04, 9.05, 9.06, 9.07, 9.08 and 9.09;
- (ix) Sections 10.01, 10.03 and 10.04;
- (x) Article XI; and

(xi) Sections 12.01 (c), 12.03 and 12.04.

(b) The General Conditions shall be modified as follows:

(i) the term “Bank”, wherever used in the General Conditions, other than in Sections 2.01 (6) and 6.02 (f) thereof and the last use of such term in Section 5.01 thereof, means the Bank acting as an implementing agency of the GEF, except that in Section 6.02, the term “Bank” shall also include the Bank acting in its own capacity;

(ii) the term “Borrower”, wherever used in the General Conditions, means the Recipient;

(iii) the term “Loan Agreement”, wherever used in the General Conditions, means this Agreement;

(iv) the term “Loan” and “loan”, wherever used in the General Conditions, means the GEF Trust Fund Grant;

(v) the term “Loan Account”, wherever used in the General Conditions, means the GEF Trust Fund Grant Account;

(vi) a new subparagraph is added after subparagraph (j) in Section 6.02 of the General Conditions, as follows: “an extraordinary situation shall have arisen in which any further disbursement under the GEF Trust Fund Grant would exceed the resources available for disbursement from the GEF.”

(vii) Paragraph (c) of Section 9.07 of the General Conditions is modified to read as follows:

“(c) Not later than six months before the Closing Date or such later date as may be agreed for this purpose between the Borrower and the Bank, the Borrower shall prepare and furnish to the Bank a report, of such scope and in such detail as the Bank shall reasonably request, on the execution and initial operation of the Project, its costs and the benefits derived and to be derived from it, the performance by the Borrower and the Bank of their respective obligations under the Loan Agreement and the accomplishment of the purposes of the Loan.”

Section 1.02. Wherever used in this Agreement, unless the context otherwise requires, the several terms defined in the General Conditions and in the Recitals to this Agreement have the respective meanings therein set forth and the following additional terms have the following meanings:

(a) “Beneficiaries” and “Beneficiary” mean collectively the individual energy end users and individually the individual energy end user meeting the Eligibility Criteria (hereinafter defined) for assistance under Parts A and B of the Project;

(b) “Co-financing Bank” means a commercial bank duly established and operating in the Republic of Croatia, selected, in accordance with the criteria and procedures set forth in the PIP, to arrange a commercial loan facility for co-financing Energy Saving Investments under Part A of the Project;

(c) “Eligibility Criteria” means the criteria adopted by HEP and HEP ESCO (hereinafter defined) and included in the PIP (hereinafter defined), for selection of Beneficiaries and Energy Saving Investments (hereinafter defined) under Parts A and B of the Project;

(d) “Energy Performance Service Contract” means a contract to be entered into between HEP ESCO or the Energy Service Provider, as the case may be, and a Beneficiary, the content and terms and conditions of which are set forth in the PIP (hereinafter defined), as the same may be amended from time to time, and such term includes all schedules to any Energy Performance Service Contract;

(e) “Energy Saving Investment” means an energy saving investment made by Beneficiary and eligible, in accordance with the Eligibility Criteria, for financing with proceeds of the GEF Grant or from commercial loans from Participating Banks;

(f) “Energy Service Providers” means commercial enterprises duly registered and operating in the Republic of Croatia and benefiting from commercial loans from Participating Banks under Part C.2 of the Project for the purposes of financing Energy Saving Investments meeting Eligibility Criteria;

(g) “Financial Monitoring Report” means each report prepared in accordance with Section 4.02 of this Agreement;

(h) “Grant Facility Liability Limit” means a limit of a guarantee commitment under the respective Guarantee Facility Agreement;

(i) “Guarantee Facility Account” means the fund established by HBOR pursuant to paragraph 1 of Schedule 1 to the HBOR Project Agreement for the purposes of operating Partial Credit Guarantee Facility (hereinafter defined) under Part C of the Project;

(j) “Guarantee Facility Agreement” means an agreement, the content and terms and conditions of which are set forth in the PIP and which includes, without limitation, definitions of a guarantee holder, covered risks, default and other applicable terms, entered or to be entered into between HBOR and a Participating Bank, or between HBOR and the Co-financing Bank, pursuant to Part B.1 and B.2, respectively, of Schedule 3 to this Agreement;

(k) “HBOR” means Hrvatska Banka za Obnovu i Razvitak (the Croatian Bank for Reconstruction and Development) established pursuant to the Law on the Croatian Bank for Reconstruction and Development (*Narodne Novine*, No. 33/92, 76/93, 108/95 and 8/96);

(l) “HBOR GEF Grant Implementation Agreement” means the agreement to be entered into between the Recipient and HBOR pursuant to Section 3.01 (d) of this Agreement;

(m) “HEP” means Hrvatska Elektroprivreda d.d., a company established pursuant to the Law on Electricity (*Narodne Novine*, 68/01);

(n) “HEP ESCO” means Energy Service Company of Hrvatska Elektroprivreda d.d., established pursuant to Statement on Establishment of March 14, 2002 and registered in the commercial court of Zagreb on April 24, 2002;

(o) “HEP ESCO Project Implementation Agreement” means the agreement to be entered into between the Borrower and HEP ESCO pursuant to paragraph 5 of Schedule 4 of the Loan Agreement between the Bank and HEP;

(p) “HEP GEF Grant Implementation Agreement” means the agreement to be entered into between the Recipient and HEP pursuant to Section 3.01 (c) of this Agreement;

(q) “Mid-Term Review Date” means the date referred to in Part A.2 (c) of Schedule 3 to this Agreement;

(r) “Partial Credit Guarantee Facility” means the guarantee facility provided under Part C of the Project;

(s) “Participating Bank” means a commercial bank duly established and operating in the Republic of Croatia which is eligible, in accordance with the criteria set forth in the PIP, to receive partial credit guarantee from the Partial Credit Guarantee Facility for loans provided to Beneficiaries and Energy Service Providers for Energy Saving Investments;

(t) “PIP” means the Project Implementation Plan adopted by HEP (with respect to implementation of Parts A, B and D of the Project) and HBOR (with respect to implementation of Parts C of the Project), setting forth rules and regulations for implementation of the Project, as the same may be amended from time to time with the agreement of the Bank; and

(u) “Special Account” means the account referred to in Section 2.02 (b) of this Agreement.

## ARTICLE II

### The GEF Trust Fund Grant

Section 2.01. The Bank agrees to make available to the Recipient, on the terms and conditions set forth or referred to in this Agreement, the GEF Trust Fund Grant in an amount in various currencies equivalent to seven million Dollars (\$7,000,000).

Section 2.02. (a) The amount of the GEF Trust Fund Grant may be withdrawn from the GEF Trust Fund Grant Account in accordance with the provisions of Schedule 1 to this Agreement for expenditures made (or, if the Bank shall so agree, to be made) in respect of: (i) the reasonable cost of goods, works and services under Parts B and D of the Project; and (ii) the funding of a Partial Credit Guarantee Facility program under Part C of the Project; required for carrying out the Project and to be financed out of the proceeds of the GEF Trust Fund Grant.

(b) The Recipient may, for the purposes of the Project, open and maintain, or cause HEP to open and maintain, in Euro a special deposit account in a commercial bank on terms and conditions satisfactory to the Bank, including appropriate protection against set off, seizure or attachment. Deposits into, and payments out of, the Special Account shall be made in accordance with the provisions of Schedule 4 to this Agreement.

Section 2.03. The Closing Date shall be June 30, 2010, or such later date as the Bank shall establish. The Bank shall promptly notify the Recipient of such later date.

### **ARTICLE III**

#### **Execution of the Project**

Section 3.01. (a) The Recipient declares its commitment to the objectives of the Project as set forth in Schedule 2 to this Agreement and, to this end, without any limitation or restriction upon any of its other obligations under this Agreement, shall cause HEP and HEP ESCO to carry out Parts B and D of the Project, and HBOR – Part C of the Project, all with due diligence and efficiency and in conformity with appropriate financial, administrative, engineering, and environmental practices, and shall take or cause to be taken all action, including provision of funds, facilities, services and other resources, necessary or appropriate to enable HEP, HEP ESCO and HBOR to perform such obligations, and shall not take or permit to be taken any action which would prevent or interfere with such performance.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Recipient and the Bank shall otherwise agree, the Recipient shall cause HEP and HBOR to carry out their respective parts of the Project in accordance with the Implementation Program set forth in Schedule 3 to this Agreement.

(c) For the purposes of carrying out Parts B and D of the Project, the Recipient shall make the proceeds of the GEF Trust Fund Grant allocated from time to time to Categories (1), (2), (3) and (4) in the table set forth in paragraph 1 of Schedule 1 to this Agreement, up to an amount equivalent to five million Dollars (\$5,000,000), to HEP, as a grant, under the HEP GEF Grant Implementation Agreement, to be entered into between the Recipient and HEP under terms

and conditions which shall have been approved by the Bank, including, *inter alia*, the provisions of Part C of Schedule 3 to this Agreement;

(d) For the purposes of carrying out Part C of the Project, the Recipient shall make the proceeds of the GEF Trust Fund Grant allocated from time to time to Categories (5) and (6) in the table set forth in paragraph 1 of Schedule 1 to this Agreement, up to an amount equivalent to two million Dollars (\$2,000,000), to HBOR, as a grant, under the HBOR GEF Grant Implementation Agreement, to be entered into between the Recipient and HBOR under terms and conditions which shall have been approved by the Bank, including, *inter alia*, the provisions of Part B of Schedule 3 to this Agreement;

(e) The Recipient shall exercise its rights under both the HEP GEF Grant Implementation Agreement and HBOR Grant Implementation Agreement in such manner as to protect the interests of the Recipient and the Bank and to accomplish the purposes of the Loan, and, except as the Bank shall otherwise agree, the Recipient shall not assign, abrogate or waive the HEP GEF Grant Implementation Agreement or HBOR Grant Implementation Agreement or any provision thereof.

Section 3.02. Except as the Bank shall otherwise agree, procurement of goods, works and services required for Parts B and D of the Project and to be financed out of the proceeds of the GEF Trust Fund Grant shall be governed by the provisions of Schedule 1 to the HEP Project Agreement.

Section 3.03. For the purposes of Section 9.08 of the General Conditions and without limitation thereto, the Recipient, through HEP and HBOR, shall:

(a) prepare, on the basis of guidelines acceptable to the Bank, and furnish to the Bank not later than six (6) months before the Closing Date or such later date as may be agreed for this purpose between the Recipient and the Bank, a plan for the continued achievement of the objectives of the Project; and

(b) afford the Bank a reasonable opportunity to exchange views with the Recipient on said plan.

## **ARTICLE IV**

### **Financial Conditions**

Section 4.01. (a) The Recipient shall cause HEP and HBOR to maintain a financial management system, including records and accounts, and prepare financial statements, all in accordance with accounting standards acceptable to the Bank, consistently applied, adequate to reflect their operations and financial conditions and to register separately the operations, resources and expenditure related to their respective Parts of the Project.

(b) The Recipient shall cause HEP to:



- (i) have its records, accounts referred to in paragraph (a) of this Section, and financial statements (balance sheets, statements of income and expenses and related statements), including those for the Special Account for each fiscal year audited, in accordance with appropriate auditing principles consistently applied, by independent auditors acceptable to the Bank;
- (ii) furnish to the Bank as soon as available, but in any case not later than six (6) months after the end of each such year, the report of such audit by said auditors, of such scope and in such detail as the Bank shall have reasonably requested; and
- (iii) furnish to the Bank such other information concerning said records and accounts and the audit thereof as the Bank shall from time to time reasonably request.

(c) For all expenditures with respect to which withdrawals from the GEF Trust Fund Grant Account were made on the basis of statements of expenditure, the Recipient shall cause HEP to:

- (i) maintain or cause to be maintained, in accordance with paragraph (a) of this Section, records and accounts reflecting such expenditures;
- (ii) retain, until at least one year after the Bank has received the audit report for the fiscal year in which the last withdrawal from the GEF Trust Fund Grant Account was made, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;
- (iii) enable the Bank's representatives to examine such records; and
- (iv) ensure that such records and accounts are included in the annual audit referred to in paragraph (b) of this Section and that the report of such audit contains a separate opinion by said auditors as to whether the statements of expenditure submitted during such fiscal year, together with the procedures and internal controls involved in their preparation, can be relied upon to support the related withdrawals.

(d) The Recipient shall cause HBOR to:

- (i) have its records, accounts and financial statements (balance sheets, statements of income and expenses and related statements), including, statements of income and related statements in respect of the Guarantee Facility Account, for each fiscal year audited, in accordance with auditing standards acceptable to the Bank, consistently applied, by independent auditors acceptable to the Bank;

- (ii) furnish to the Bank and the Recipient as soon as available, but in any case not later than six (6) months after the end of each such year: (A) certified copies of the financial statements referred to in paragraph (a) of this Section for such year as so audited; and (B) an opinion on such statements and report of such audit, by said auditors, of such scope and in such detail as the Bank shall have reasonably requested; and
- (iii) furnish to the Bank and the Recipient such other information concerning such records, accounts and financial statements, and the audit thereof, and concerning said auditors, as the Bank may from time to time reasonably request.

Section 4.02. (a) Without limitation upon the Recipient's progress reporting obligations set out in Schedule 3 to this Agreement, the Recipient shall, and shall cause HEP and HBOR, to prepare and furnish to the Bank a Financial Monitoring Report, in form and substance satisfactory to the Bank, which sets forth sources and uses of funds for the Project, both cumulatively and for the period covered by said report, showing separately funds provided under the Grant, and explains variances between the actual and planned uses of such funds.

(b) The first such Financial Monitoring Report shall be furnished to the Bank not later than forty-five (45) days after the end of the first calendar semester after the Effective Date, and shall cover the period from the incurrence of the first expenditure under the Project through the end of such first calendar semester; thereafter, each Financial Monitoring Report shall be furnished to the Bank not later than forty-five (45) days after each subsequent calendar semester, and shall cover such calendar semester.

Section 4.03. (a) Except as the Bank shall otherwise agree, the Recipient shall cause HBOR to maintain a loss rate on non-performing loans of the Participating Banks supported by the Partial Credit Guarantee Facility under Part C.2 of the Project, not exceeding 5% of the outstanding guarantee liability commitment of HBOR to Participating Banks for fiscal year 2004 and thereafter until completion of the Project.

(b) Before November 30 in each of its fiscal years, the Recipient shall cause HBOR to prepare forecasts satisfactory to the Bank, to review whether HBOR would meet the requirements set forth in paragraph (a) in respect of such year and the next following fiscal year, and to furnish to the Bank the results of such review upon its completion.

(c) If any such review shows that HBOR would not meet the requirements set forth in paragraph (a) for the Recipient's fiscal years covered by such review, HBOR shall promptly take all necessary measures (including recovery of loan principal, accrued interest if included, and allowance for reasonable recovery costs) in order to meet such requirements.

Section 4.04. (a) Except as the Bank shall otherwise agree, the Recipient shall cause HEP and HEP ESCO to maintain a loss rate on Beneficiaries' defaults supported by the Partial

Credit Guarantee Facility under Part C of the Project, not exceeding 5% of the outstanding HEP ESCO receivables with respect to Beneficiaries at the end of each fiscal year.

(b) Before November 30 in each of its fiscal years, the Recipient shall cause HEP and HEP ESCO to prepare forecasts satisfactory to the Bank, to review whether HEP and HEP ESCO would meet the requirements set forth in paragraph (a) in respect of such year and the next following fiscal year, and to furnish to the Bank the results of such review upon its completion.

(c) If any such review shows that HEP and HEP ESCO would not meet the requirements set forth in paragraph (a) for the Recipient's fiscal years covered by such review, HEP and HEP ESCO shall promptly take all necessary measures (including recovery of energy end-user payments and allowance for reasonable recovery costs) in order to meet such requirements.

## **ARTICLE V**

### **Remedies of the Bank**

Section 5.01. Pursuant to Section 6.02 (p) of the General Conditions, the following additional events are specified:

(a) PIP shall have been amended, suspended, abrogated, repealed or waived without the prior concurrence of the Bank, and such amendment, suspension, abrogation, repeal or waiver affects materially and adversely the ability of the Recipient to perform any of its obligations under this Agreement; and

(b) HEP GEF Grant Implementation Agreement or HBOR GEF Grant Implementation Agreement, or any provision thereof, shall have been amended, suspended, abrogated, repealed or waived by the Recipient or HEP or HBOR, respectively, without the prior concurrence of the Bank, and such amendment, suspension, abrogation, repeal or waiver affects materially and adversely the ability of the Recipient or HEP or HBOR to perform any of its respective obligations under this Agreement.

## **ARTICLE VI**

### **Effectiveness; Termination**

Section 6.01. The following events are specified as additional conditions to the effectiveness of this Agreement, within the meaning of Section 12.01 of the General Conditions:

(a) the Loan Agreement has been executed and delivered and all conditions precedent to its effectiveness or the right of the Recipient to make withdrawals hereunder, except only the effectiveness of this GEF Trust Fund Grant Agreement, have been fulfilled;

(b) HEP GEF Grant Implementation Agreement, satisfactory to the Bank, has been duly executed by the Recipient and HEP; and

(c) HBOR GEF Grant Implementation Agreement, satisfactory to the Bank, has been duly executed by the Recipient and HBOR.

Section 6.02. The following are specified as additional matters, within the meaning of Section 12.02 (c) of the General Conditions, to be included in the opinion or opinions to be furnished to the Bank:

(a) that the HEP Project Agreement and HBOR Project Agreement have been duly executed by all parties and are legally binding upon the Recipient, and HEP and HBOR, respectively, in accordance with their terms; and

(b) that HEP GEF Grant Implementation Agreement and HBOR GEF Grant Implementation Agreement have been duly executed by the Recipient, and are legally binding upon the Recipient, and HEP and HBOR, respectively, in accordance with their terms.

Section 6.03. The date ninety (90) days after the date of this Agreement is hereby specified for the purposes of Section 12.04 of the General Conditions.

Section 6.04. This Agreement shall continue in effect until the GEF Trust Fund Grant has been fully disbursed and the parties to this Agreement have fulfilled their obligations hereunder.

## ARTICLE VII

### Representative of the Recipient; Addresses

Section 7.01. The Minister of Finance of the Recipient is designated as representative of the Recipient for the purposes of Section 11.03 of the General Conditions.

Section 7.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Recipient:

Ministry of Finance  
Katanciceva 5  
10000 Zagreb  
REPUBLIC OF CROATIA

Telex:	Facsimile:
862-21215 862-28133	3851 492 2583

For the Bank:

International Bank for  
Reconstruction and Development  
1818 H Street, N.W.  
Washington, D.C. 20433  
United States of America

Cable address:	Telex:	Facsimile:
INTBAFRAD Washington, D.C.	248423 (MCI) or 64145 (MCI)	(1-202) 477-6391

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in Zagreb, Republic of Croatia, as of the day and year first above written.

REPUBLIC OF CROATIA

By /s/ Mato Crkvenac

Authorized Representative

INTERNATIONAL BANK FOR  
RECONSTRUCTION AND DEVELOPMENT  
as an Implementing Agency of the Global Environment Facility

By /s/ Anand K. Seth

Director  
South Central Europe Country Unit  
Europe and Central Asia

## SCHEDULE 1

### Withdrawal of the Proceeds of the GEF Trust Fund Grant

1. The table below sets forth the Categories of items to be financed out of the proceeds of the GEF Trust Fund Grant, the allocation of the amounts of the GEF Trust Fund Grant to each Category and the percentage of expenditures for items so to be financed in each Category:

<u>Category</u>	<u>Amount of the GEF Trust Fund Grant Allocated (Expressed in Dollars)</u>	<u>% of Expenditures to be Financed</u>
1. Goods	1,200,000	100% of foreign expenditures, 100% of local expenditures (ex-factory cost) and 85% of local expenditures for other items procured locally
2. Works	440,000	100% of foreign expenditures, and 85% of local expenditures
3. Supply and installation	1,000,000	100% of foreign expenditures, 100% of local expenditures (ex-factory cost) and 85% of local expenditures for other items procured locally
4. Consultants' services and training	1,760,000	100% of foreign expenditures, 75% of local expenditures
5. Guarantee Facility for the Co-financing Bank under Part C.1 of Project	800,000	100% of the amount of the guarantee commitment under the Guarantee Facility Agreements with the Co-financing Bank
6. Guarantee Facility for Participating Banks		100% of the amount of the Grant Facility Liability Limit under each executed Guarantee Facility Agreement

<u>Category</u>	<u>Amount of the GEF Trust Fund Grant Allocated (Expressed in Dollars)</u>	<u>% of Expenditures to be Financed</u>
(a) under the first Phase of Part C.2 of the Project	600,000	
(b) under the Second Phase of Part C.2 of the Project	600,000	
7. Unallocated	<u>600,000</u>	
TOTAL	<u>7,000,000</u>	

2. For the purposes of this Schedule:

(a) the term “foreign expenditures” means expenditures in the currency of any country other than that of the Recipient for goods or services supplied from the territory of any country other than that of the Recipient;

(b) the term “local expenditures” means expenditures in the currency of the Recipient; or for goods or services supplied from the territory of the Recipient; and

(c) “the First Phase of Part C.2 of the Project” means the phase commencing on the Effective Date and ending on the Mid-Term Date; and “the Second Phase of Part C.2 of the Project” means the phase commencing on or about the Mid-Term Date and ending on the completion of the Project.

3. Notwithstanding the provisions of paragraph 1 above, no withdrawals shall be made:

(a) in respect of payments made for expenditures prior to the date of this Agreement except that withdrawals, in an amount not exceeding \$500,000 may be made on account of payments made for expenditures before that date but after July 1, 2003;

(b) in respect of payments under Category (5) of the table in paragraph 1 of this Schedule until the Bank has been furnished with evidence satisfactory to the Bank that a Guarantee Facility Agreement between HBOR and the Co-financing Bank, acceptable to the Bank, has been duly authorized and executed in compliance with the provisions of this Agreement and is valid and enforceable in accordance with its terms;

(c) in respect of payments under Category (6) (a) of the table in paragraph 1 of this Schedule in connection with any Guarantee Facility Agreement until the Bank has been furnished with evidence satisfactory to the Bank that a Guarantee Facility Agreement between HBOR and a



Participating Bank, acceptable to the Bank, has been duly authorized and executed in compliance with the provisions of this Agreement and is valid and enforceable in accordance with its terms; and

(d) in respect of payments under Category (6) (b) of the table in paragraph 1 of this Schedule in connection with any Guarantee Facility Agreement until: (i) the Bank has received evidence satisfactory to the Bank that HBOR has increased a ratio of its liabilities to reserves to at least 2:1 pursuant to Section 4.04 of the Project Agreement; and (ii) the Bank has been furnished with evidence satisfactory to the Bank that a Guarantee Facility Agreement between HBOR and a Participating Bank, acceptable to the Bank, has been duly authorized and executed in compliance with the provisions of this Agreement and is valid and enforceable in accordance with its terms.

4. The Bank may require withdrawals from the GEF Trust Fund Grant Account to be made on the basis of statements of expenditure for expenditures for: (a) contracts for works, goods and for supply and installation services, costing less than \$200,000 equivalent each, with the exception of such contracts for the first five Energy Performance Service Contracts for which withdrawals may be made on the basis of statements of expenditure only after they have been reviewed by the Bank in accordance with the provisions of Part D.2 of Section I of Schedule 1 to the HEP Project Agreement; and (b) services for consulting firms under contracts costing less than \$100,000 equivalent, and services for individual consultants under contracts costing less than \$50,000 equivalent, except for the contracts with consulting firms or individuals which shall be subject to the Bank's prior review in accordance with the provisions of Part D.2 of Section II of Schedule 1 to the HEP Project Agreement, all under such terms and conditions as the Bank shall specify by notice to the Recipient.

5. The Recipient shall promptly refund, and/or cause HEP and HBOR to refund, when applicable, to the Bank, the GEF Trust Fund Grant proceeds disbursed by the Bank, and the investment income generated by the respective Guarantee Facility Agreement therefrom, in whole or in part, at the Bank's option, if:

(a) the Bank shall have determined at any time that any payment made from the GEF Trust Fund Grant Account (or from the investment income generated therefrom) was used for any expenditure not consistent with the provisions of this Agreement;

(b) the Bank shall have determined, at any time, that the Recipient or HEP or HBOR shall have failed to perform any of their respective obligations under HEP GEF Grant Implementation Agreement or HBOR GEF Grant Implementation Agreement, respectively;

(c) expenditures from the GEF Trust Fund Grant Account (or from the investment income generated therefrom) were made: (i) in the territories of any country which is not a member of the Bank or for goods procured in, or services supplied from, such territories; or (ii) on account of any payment to persons or entities, or any import of goods, if such payment or import is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations;

(d) expenditures from the GEF Trust Fund Grant Account (or from the investment income generated therefrom) were made under a contract in respect of which the Bank determines that corrupt or fraudulent practices were engaged in by representatives of the Recipient or HEP or HBOR during the procurement or execution of such contract, without the Recipient or HEP or HBOR having taken timely and appropriate action satisfactory to the Bank to remedy the situation; or

(e) PIP has been amended, suspended, abrogated, repealed or waived in a manner which, in the opinion of the Bank, would materially and adversely affect the implementation of the Project or the attainment of its objectives.

6. Refunds to the Bank of the GEF Trust Fund Grant proceeds, made pursuant to paragraph 5 of this Schedule shall be credited to the GEF Trust Fund Grant Account for subsequent withdrawal or for cancellation in accordance with the provisions of this Agreement. Except for such portions thereof for which a refund to the Bank is required pursuant to the terms of this Agreement, the Recipient may, after the Closing Date of this Project, keep in perpetuity the GEF Trust Fund Grant proceeds disbursed to it but only for the purposes of: (i) continuing the Partial Credit Guarantee Facility as set forth in this Agreement, if the Project objectives under Part C.2 of the Project have been achieved, or (ii) continuing HEP ESCO's activities as set forth in Part B of Schedule 2 to this Agreement, if the Project objectives under Parts C.1 and B have been achieved, or (iii) if the Project objectives under Parts B and C have not been achieved, using such funds in accordance with a plan acceptable to the Bank and consistent with the objectives of reducing greenhouse gas emission on the territory of the Recipient.

## **SCHEDULE 2**

### **Description of the Project**

The objective of the Project is to increase the demand for and supply of energy efficiency projects and services in the Republic of Croatia.

The Project consists of the following parts, subject to such modifications thereof as the Recipient and the Bank may agree upon from time to time to achieve such objectives:

#### Part A: Energy Saving Investments

Improvement of energy efficiency through delivery of energy management services to energy end users through the financing and carrying out under Energy Performance Service Contracts of Energy Saving Investments meeting Eligibility Criteria.

#### Part B: HEP ESCO Project Development and Project Financing

1. Provision of technical assistance to HEP ESCO for implementation of Part A of the Project, including identifying eligible Energy Saving Investments, pre-contract analysis, energy auditing and investment-grade feasibility studies.
2. Financing and carrying out under Energy Performance Service Contracts of Energy Saving Investments meeting Eligibility Criteria.

#### Part C: Partial Credit Guarantee Facility

Establishment of a Partial Credit Guarantee Facility to help:

1. Establish a commercial loan facility to co-finance initial Energy Savings Investments under the Project and mitigate the risk of energy end user default in payment obligations to HEP ESCO; and
2. HBOR underwrite credit guarantees issued by HBOR for Participating Banks providing loans to Beneficiaries and Energy Service Providers for Energy Saving Investments.

#### Part D: Technical Assistance

1. Provision of technical assistance to HEP ESCO for: (i) developing HEP ESCO's capacity to perform under Parts A and B of the Project; (ii) training staff of the Borrower, HEP ESCO and firms working with HEP ESCO on Parts A and B of the Project; (iii) disseminating information to the marketplace, and education for potential eligible beneficiaries on developing contracts with HEP ESCO under Parts A or B of the Project and with commercial banks under Part C of the Project; and (iv) program reporting, monitoring and evaluation.

2. Provision of technical assistance and training for carrying out Part C of the Project.

\* \* \*

The Project is expected to be completed by December 31, 2009.

### **SCHEDULE 3**

#### **Implementation Program**

##### **A. Project Management and Monitoring**

1. The Recipient shall: (a) cause HEP and HBOR to implement their respective Parts of the Project in accordance with the provisions agreed with the Bank and set forth in the PIP; and (b) shall not assign, amend, abrogate or waive the PIP or any provisions thereof, without the Bank's prior concurrence.

2. The Recipient shall and shall cause HEP and HBOR to:

(a) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with indicators acceptable to the Bank, the carrying out of the Project and the achievement of the objectives thereof;

(b) prepare, under terms of reference satisfactory to the Bank, and furnish to the Bank, on or about January 31, 2006, a report integrating the results of the monitoring and evaluation activities performed pursuant to paragraph (a) above, on the progress achieved in the carrying out of the Project during the period preceding the date of said report, including the achievement of liability-to-reserves ratio of HBOR as set forth in Section 4.04 of the HBOR Project Agreement, and setting out the measures recommended to ensure the efficient carrying out of Parts B, C and D of the Project and the achievement of the objectives thereof during the period following such date; and

(c) review with the Bank, by April 30, 2006, or such later date as the Bank shall request (the Mid-Term Review Date), the report referred to in paragraph (b) above, and thereafter, take all measures required to ensure the efficient completion of the Project and the achievement of the objectives thereof, based on the conclusions and recommendations of the said reports and the Bank's views on the matter.

##### **B. Implementation of Part C of the Project**

1. The Recipient, through HBOR, shall request the Bank to disburse the proceeds of the GEF Trust Fund Grant, allocated from time to time to Category (6) set forth in the table in paragraph 1 of Schedule 1 to this Agreement to the Guarantee Facility Account, upon submission by HBOR of a Guarantee Facility Agreement, satisfactory to the Bank, duly executed with a Participating Bank and providing for guarantee commitments in an aggregate not to exceed the equivalent of \$300,000 or such other amount as may be agreed upon by the Bank from time to time (the Guarantee Facility Liability Limit).

2. The Recipient, through HBOR, shall request the Bank to disburse the proceeds of the GEF Trust Fund Grant, allocated from time to time to Category (5) set forth in the table in

paragraph 1 of Schedule 1 to this Agreement to the Guarantee Facility Account, upon submission by HBOR of Guarantee Facility Agreements, satisfactory to the Bank, duly executed with the Co-financing Bank and providing for guarantee commitments in an aggregate amount not to exceed the equivalent of \$800,000.

3. Without limitation or restriction to the provisions in paragraphs 1 and 2 of this Part B, the Recipient shall entrust HBOR with responsibility for the preparation of withdrawal applications from the GEF Trust Fund Grant Account to the Guarantee Facility Account and for collection of the documents and other evidence to be furnished to the Bank in support of such application.

4. (a) If the Bank shall have determined at any time that any amount outstanding in the Guarantee Facility Account will not be required to cover further guarantee commitments to Participating Banks or to the Co-financing Bank, the Recipient shall cause HBOR, promptly upon notice the Bank, refund to the Bank such outstanding amount;

(b) HBOR may, upon notice to the Bank, refund to the Bank all or any portion of the funds on deposit in the Guarantee Facility Account;

(c) Refunds to the Bank made pursuant to paragraphs (a) and (b) of this paragraph shall be credited to the GEF Trust Fund Grant Account for subsequent withdrawal of for cancellation in accordance with the relevant provisions of this Agreement.

5. If, upon exchange of views during the review referred to in Part C.2 to this Schedule, the Bank shall have established that HBOR has failed to comply with the provisions of Section 4.04 of the HBOR Project Agreement, the Bank may, with a notice to the Recipient and HBOR, terminate disbursements into the Guarantee Facility Account and reallocate the amounts under Category 6 (b) set forth in the table in paragraph 1 of Schedule 1 to this Agreement, to other Parts of the Project, or cancel them, as the case may be.

6. The Recipient shall immediately terminate disbursements into the Guarantee Facility Account of HBOR in the event that:

(a) HBOR GEF Grant Implementation Agreement, or any provision thereof, is amended, suspended, abrogated, waived or repealed by the Recipient or HBOR, without the prior concurrence of the Bank, and such amendment, suspension, abrogation, waiver or repeal materially and adversely affects the ability of the Recipient or HBOR to perform any of its obligations under HBOR GEF Grant Implementation Agreement;

(b) any authority having lawful jurisdiction shall have taken any action for dissolution or disestablishment of HBOR, or for the suspension of its operations, and such dissolution, disestablishment or suspension shall materially and adversely affect the ability of HBOR to carry out their respective obligations under HBOR GEF Grant Implementation Agreement;

(c) HBOR fails to fulfill its obligations under HBOR GEF Grant Implementation Agreement; or

(d) the charter of HBOR is amended, suspended, abrogated, repealed or waived in a manner which, in the opinion of the Bank, would materially and adversely affect the ability of: (i) the Recipient to effectively implement its obligations under the GEF Trust Fund Grant Agreement or HBOR GEF Grant Implementation Agreement; or (ii) HBOR to effectively carry out its obligations under HBOR GEF Grant Implementation Agreement.

7. The Recipient shall cause HBOR:

(a) prior to entering into respective Guarantee Facility Agreement, to obtain the Bank's approval of: (i) all Guarantee Facility Agreements between HBOR and the Co-financing Bank; and (ii) all Guarantee Facility Agreements between HBOR and the Participating Banks; and

(b) prior to entering into the first two transaction guarantee commitments under any Guarantee Facility Agreement, to obtain the Bank's approval on contractual arrangements for said transaction.

C. Implementation of Parts B and D of the Project

1. The Recipient shall cause HEP and HEP ESCO to implement Parts B and D of the Project in accordance with the provisions of the PIP, HEP Project Agreement and the HEP GEF Grant Implementation Agreement, and, for the purposes of carrying out Parts B and D of the Project, HEP shall make available the proceeds of the GEF Trust Fund Grant allocated from time to time to Categories (1), (2), (3) and (4) in the table set forth in paragraph 1 of Schedule 1 to this Agreement, up to an amount equivalent to five million Dollars (\$5,000,000), to HEP ESCO, on a grant basis, under HEP ESCO Project Implementation Agreement which shall have been agreed upon with the Bank and which shall include, inter alia, provisions whereby:

(a) HEP ESCO shall be required to implement Parts B and D of the Project in accordance with the PIP and the provisions of this Agreement, including the obligations of HEP ESCO for verification of fulfillment of the Eligibility Criteria in respect of Beneficiaries and proposed Energy Saving Investments under Part B.2 of the Project;

(b) HEP ESCO shall be required, as part of its responsibility for implementation of Parts B and D of the Project: (i) to maintain the Project financial records and accounts and to make said records and accounts available to the Borrower; (ii) to supervise the implementation of Parts B and D of the Project including supervising the progress of each Energy Saving Investment; and (iii) to prepare and furnish to the Borrower and the Bank quarterly reports on the progress of implementation of Part A of the Project, not later than 45 days after each subsequent calendar quarter; and the first such report shall be furnished to the Borrower and the Bank not later than 45 days after the end of the first calendar quarter after the Effective Date.

2. For the purposes of carrying out Part B.1 of the Project, the Recipient shall cause HEP and HEP ESCO to provide technical assistance to Beneficiaries for preparation of Energy Saving Investments, under contractual arrangements between HEP ESCO and Beneficiaries, whereby Beneficiaries shall repay HEP ESCO the amounts provided for technical assistance if and when an Energy Performance Service Contract for that respective Energy Savings Investment shall have been entered between HEP ESCO and the respective Beneficiary.
3. For the purposes of carrying out Part B.2 of the Project, the Recipient shall cause HEP and HEP ESCO to provide to eligible Beneficiaries goods, works and services for approved Energy Saving Investments on the basis of an Energy Performance Service Contract to be entered into between HEP ESCO and each Beneficiary under terms and conditions set forth in the PIP.
4. The Recipient shall cause HEP to carry out Part D.2 of the Project in coordination with HBOR.
5. The Recipient shall cause HEP and HEP ESCO to obtain the Bank's prior approval for the first five Energy Performance Service Contracts, and thereafter shall cause HEP ESCO to submit for prior approval to the Bank Energy Performance Service Contracts as may be required by the Bank from time to time.



## **SCHEDULE 4**

### **Special Account**

1. For the purposes of this Schedule:

(a) the term “eligible Categories” means Categories (1), (2) (3) and (4) set forth in the table in paragraph 1 of Schedule 1 to this Agreement.

(b) the term “eligible expenditures” means expenditures in respect of the reasonable cost of goods, works and services required for the Project and to be financed out of the proceeds of the GEF Trust Fund Grant allocated from time to time to the eligible Categories in accordance with the provisions of Schedule 1 to this Agreement; and

(c) the term “Authorized Allocation” means an amount equivalent to EUR 600,000 to be withdrawn from the GEF Trust Fund Grant Account and deposited into the Special Account pursuant to paragraph 3 (a) of this Schedule.

2. Payments out of the Special Account shall be made exclusively for eligible expenditures in accordance with the provisions of this Schedule.

3. After the Bank has received evidence satisfactory to it that the Special Account has been duly opened, withdrawals of the Authorized Allocation and subsequent withdrawals to replenish the Special Account shall be made as follows:

(a) For withdrawals of the Authorized Allocation, the Recipient shall cause HEP to furnish to the Bank a request or requests for deposit into the Special Account of an amount or amounts which do not exceed the aggregate amount of the Authorized Allocation. On the basis of such request or requests, the Bank shall, on behalf of the Recipient, withdraw from the GEF Trust Fund Grant Account and deposit into the Special Account such amount or amounts as the Recipient shall have requested.

(b) (i) For replenishment of the Special Account, the Recipient shall cause HEP to furnish to the Bank requests for deposits into the Special Account at such intervals as the Bank shall specify.

(ii) Prior to or at the time of each such request, the Recipient shall cause HEP to furnish to the Bank the documents and other evidence required pursuant to paragraph 4 of this Schedule for the payment or payments in respect of which replenishment is requested. On the basis of each such request, the Bank shall, on behalf of the Recipient, withdraw from the GEF Trust Fund Grant Account and deposit into the Special Account such amount as the Recipient shall have requested and as shall have been shown by said documents and other evidence to have been paid out of the Special Account for eligible expenditures. All such deposits shall be

withdrawn by the Bank from the GEF Trust Fund Grant Account under the respective eligible Categories, and in the respective equivalent amounts, as shall have been justified by said documents and other evidence.

4. For each payment made by the Recipient or HEP out of the Special Account, the Recipient or HEP shall, at such time as the Bank shall reasonably request, furnish to the Bank such documents and other evidence showing that such payment was made exclusively for eligible expenditures.

5. Notwithstanding the provisions of paragraph 3 of this Schedule, the Bank shall not be required to make further deposits into the Special Account:

(a) if, at any time, the Bank shall have determined that all further withdrawals should be made by the Recipient directly from the GEF Trust Fund Grant Account in accordance with the provisions of Article V of the General Conditions and paragraph (a) of Section 2.02 of this Agreement;

(b) if the Recipient shall have failed to furnish to the Bank, within the period of time specified in Section 4.01 (b) (ii) of this Agreement, any of the audit reports required to be furnished to the Bank pursuant to said Section in respect of the audit of the records and accounts for the Special Account;

(c) if, at any time, the Bank shall have notified the Recipient of its intention to suspend in whole or in part the right of the Recipient to make withdrawals from the GEF Trust Fund Grant Account pursuant to the provisions of Section 6.02 of the General Conditions; or

(d) once the total unwithdrawn amount of the GEF Trust Fund Grant allocated to the eligible Categories, minus the total amount of all outstanding special commitments entered into by the Bank pursuant to Section 5.02 of the General Conditions with respect to the Project, shall equal the equivalent of twice the amount of the Authorized Allocation.

Thereafter, withdrawal from the GEF Trust Fund Grant Account of the remaining unwithdrawn amount of the GEF Trust Fund Grant allocated to the eligible Categories shall follow such procedures as the Bank shall specify by notice to the Recipient. Such further withdrawals shall be made only after and to the extent that the Bank shall have been satisfied that all such amounts remaining on deposit in the Special Account as of the date of such notice will be utilized in making payments for eligible expenditures.

6. (a) If the Bank shall have determined at any time that any payment out of the Special Account: (i) was made for an expenditure or in an amount not eligible pursuant to paragraph 2 of this Schedule; or (ii) was not justified by the evidence furnished to the Bank, the Recipient shall, promptly upon notice from the Bank: (A) provide such additional evidence as the Bank may request; or (B) deposit into the Special Account (or, if the Bank shall so request, refund to the Bank) an amount equal to the amount of such payment or the portion thereof not so eligible or

justified. Unless the Bank shall otherwise agree, no further deposit by the Bank into the Special Account shall be made until the Recipient has provided such evidence or made such deposit or refund, as the case may be.

(b) If the Bank shall have determined at any time that any amount outstanding in the Special Account will not be required to cover further payments for eligible expenditures, the Recipient shall, promptly upon notice from the Bank, refund to the Bank such outstanding amount.

(c) The Recipient may, upon notice to the Bank, refund to the Bank all or any portion of the funds on deposit in the Special Account.

(d) Refunds to the Bank made pursuant to paragraphs 6 (a), (b) and (c) of this Schedule shall be credited to the GEF Trust Fund Grant Account for subsequent withdrawal or for cancellation in accordance with the relevant provisions of this Agreement, including the General Conditions.

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