Project Agreement

(Renewable Energy Resources Project)

between

INTERNATIONAL BANK FOR RECONSTRUCTION 
AND DEVELOPMENT

acting as an Implementing Agency of the Global Environment Facility

and

HRVATSKA BANKA ZA OBNOVU I RAZVITAK

Dated July 27, 2005
PROJECT AGREEMENT

AGREEMENT dated July 27, 2005 between 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 and HRVATSKA BANKA ZA OBNOVA I RAZVITAK (HBOR).

WHEREAS (A) by the Global Environment Facility Trust Fund Grant Agreement of even date herewith between Republic of Croatia (the Recipient) and the Bank, the Bank acting as an implementing agency of the GEF has agreed to make available to the Recipient an amount equivalent to five million five hundred thousand Dollars ($5,500,000), on the terms and conditions set forth in the Global Environment Facility Trust Fund Grant Agreement (the GEF Trust Fund Grant Agreement), but only on conditions that HBOR agree to undertake such obligations toward the Bank as are set forth in this Agreement;

(B) the proceeds of the Global Environment Facility Trust Fund Grant (the GEF Trust Fund Grant) provided for under the GEF Trust Fund Grant Agreement will be made available to HBOR in accordance with the HBOR GEF Grant Implementation Agreement between the Recipient and HBOR and on the terms and conditions, satisfactory to the Bank; and

(C) WHEREAS HBOR in consideration of the Bank entering into the Global Environment Facility Trust Fund Grant Agreement with the Recipient, has agreed to undertake the obligations set forth in this Agreement;

NOW THEREFORE the parties hereto hereby agree as follows:

ARTICLE I

Definitions

Section 1.01. Unless the context otherwise requires, the several terms defined in the Global Environment Facility Trust Fund Grant Agreement, the Preamble to this Agreement and in the General Conditions (as so defined) have the respective meanings therein set forth.
ARTICLE II

Execution of the Project

Section 2.01. (a) HBOR declares its commitment to the objectives of the Project as set forth in Schedule 2 to the GEF Trust Fund Grant Agreement, and, to this end, shall carry out the Project with due diligence and efficiency and in conformity with appropriate administrative, financial, and environmental practices, and shall provide, or cause to be provided, promptly as needed, facilities, services and other resources required for the Project.

(b) Without limitation upon the provisions of paragraph (a) of this Section and except as the Bank and HBOR shall otherwise agree, HBOR shall carry out the Project in accordance with the Implementation Program set forth in Schedule 2 to this Agreement and the HBOR GEF Grant Implementation Agreement.

Section 2.02. (a) Except as the Bank shall otherwise agree, procurement of the consulting services and training required for 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 this Agreement, as said provisions may be further elaborated in the Procurement Plan. Procurement of training, and operating costs required for the Renewable Energy Sub-project under Part B of the Project and to be financed out of the proceeds of the GEF Trust Fund Grant shall be governed by the provisions of the PIP.

(b) HBOR together with the Recipient shall update the Procurement Plan in accordance with guidelines acceptable to the Bank, and furnish such update to the Bank not later than 12 months after the date of the preceding Procurement Plan, for the Bank’s approval.

Section 2.03. (a) HBOR shall carry out the obligations set forth in Sections 9.06, 9.07 and 9.08 of the General Conditions (relating, use of services, plans and schedules, records and reports, respectively) in respect of the Project Agreement.

(b) For the purposes of Section 9.07 of the General Conditions and without limitation thereto, HBOR shall:

(i) 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 Bank and HBOR, a plan designed to envisage possible follow-up activities within the objectives of the Project; and
(ii) afford the Bank a reasonable opportunity to exchange views with HBOR on said plan.

Section 2.04. HBOR shall duly perform all its obligations under arrangements referred to in the HBOR GEF Grant Implementation Agreement, including the setting up of a Contingent Loan Facility, under terms satisfactory to the Bank. Except as the Bank shall otherwise agree, HBOR shall not take or concur in any action which would have the effect of amending, abrogating, assigning or waiving the HBOR GEF Grant Implementation Agreement or any provision thereof.

Section 2.05. (a) HBOR shall, at the request of the Bank, exchange views with the Bank with regard to progress of the Project, the performance of its obligations under this Agreement and under the HBOR GEF Grant Implementation Agreement, and other matters relating to the purposes of the GEF Trust Fund Grant.

(b) HBOR shall promptly inform the Bank of any condition which interferes or threatens to interfere with the progress of the Project, the accomplishment of the purposes of GEF Trust Fund Grant, or the performance by HBOR of its obligations under this Agreement and under the HBOR GEF Grant Implementation Agreement.

ARTICLE III

Management and Operations of HBOR

Section 3.01. HBOR shall carry on its operations and conduct its affairs in accordance with sound administrative, financial and environmental practices under the supervision of qualified and experienced management assisted by competent staff in adequate numbers.

Section 3.02. HBOR shall maintain with responsible insurers, or make other provision satisfactory to the Bank, insurance against such risks and in such amounts as shall be consistent with appropriate practice.

ARTICLE IV

Financial Covenants

Section 4.01. (a) HBOR shall 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 its operations and financial condition and to register separately the operations, resources and expenditures related to the Project.
(b) HBOR shall:

(i) have its records, accounts and financial statements (balance sheets, statements of income and expenses and related statements) 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 HBOR’s progress reporting obligations in this Agreement, HBOR shall prepare and furnish to the Bank a Financial Monitoring Report in form and substance satisfactory to the Bank, which:

(i) 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 GEF Trust Fund Grant, and explains variances between the actual and planned uses of such funds;

(ii) sets forth the Special Account for the Project, showing the period opening balance, movements during the period and the period closing balance;

(iii) sets forth the Contingent Loan Fund, showing the period opening balance, movements during the period and the period closing balance;

(iv) describes physical progress in Project implementation, both cumulatively and for the period covered by said report, and explains variances between the actual and planned Project implementation; and
(v) sets forth the status of procurement under the Project, as at the end of the period covered by said report.

(b) The first Financial Monitoring Report shall be furnished to the Bank not later than forty-five (45) days after the end of the first calendar quarter 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 quarter; thereafter, each Financial Monitoring Report shall be furnished to the Bank not later than forty-five (45) days after each subsequent calendar quarter, and shall cover such calendar quarter.

ARTICLE V

Effective Date; Termination; Cancellation and Suspension

Section 5.01. This Agreement shall come into force and effect on the date upon which the GEF Trust Fund Grant Agreement becomes effective.

Section 5.02. (a) This Agreement and all obligations of the Bank and of HBOR thereunder shall terminate on the date on which the GEF Trust Fund Grant Agreement shall terminate in accordance with its terms, and the Bank shall promptly notify HBOR of this event.

Section 5.03. All the provisions of this Agreement shall continue in full force and effect notwithstanding any cancellation or suspension under the General Conditions.

ARTICLE VI

Miscellaneous Provisions

Section 6.01. Any notice or request required or permitted to be given or made under this Agreement and any agreement between the parties contemplated by this 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, telex or facsimile to the party to which it is required or permitted to be given or made at such party’s 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. Deliveries made by facsimile transmission shall also be confirmed by mail. The addresses so specified are:
For the Bank:

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

Cable address: INDEVAS
Telex: 248423 (MCI) or 64145 (MCI)
Facsimile: (202) 477-6391

For HBOR:

Hrvatska banka za obnovu i razvitak
Strossmayerov trg, 9
Zagreb 10000
Republic of Croatia

Facsimile: 3851 4591 523

Section 6.02. Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement on behalf of HBOR may be taken or executed by the President of the Management Board and a member of the Management Board of HBOR or such other person or persons as the President of the Management Board shall designate in writing, and HBOR shall furnish to the Bank sufficient evidence of the authority and the authenticated specimen signature of each such person.

Section 6.03. This Agreement may be executed in several counterparts, each of which shall be an original, and all collectively but one instrument.
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.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT
As an Implementing Agency of the Global Environmental Facility

By /s/ Anand Seth
Authorized Representative

HRVATSKA BANKA ZA OBNOVU I RAZVITAK

By /s/ Anton Kovacev
Authorized Representative

By /s/ Marija Kolaric
Authorized Representative
SCHEDULE 1

Procurement

Section I. General

A. All consultants’ services shall be procured in accordance with Sections I and IV of the “Guidelines: Selection and Employment of Consultants by World Bank Borrowers” dated May 2004 (the Consultant Guidelines), and with the provisions of this Schedule.

B. The capitalized terms used below in this Schedule to describe particular procurement methods or methods of review by the Bank of particular contracts, have the meanings ascribed to them in the Procurement Guidelines, or Consultant Guidelines, as the case may be.

Section II. Particular Methods of Procurement of Consultants’ Services

A. Quality- and Cost-based Selection. Except as otherwise provided in Part B of this Section, consultants’ services shall be procured under contracts awarded on the basis of Quality- and Cost-based Selection. For purposes of paragraph 2.7 of the Consultant Guidelines, the short list of consultants for services estimated to cost less than $200,000 equivalent per contract may comprise entirely national consultants.

B. Other Procedures

1. Quality-based Selection. Services for assignments which the Bank agrees meet the requirements set forth in paragraph 3.2 of the Consultant Guidelines may be procured under contracts awarded on the basis of Quality-based Selection in accordance with the provisions of paragraphs 3.1 through 3.4 of the Consultant Guidelines.

2. Selection Under a Fixed Budget. Services for assignments which the Bank agrees meet the requirements of paragraph 3.5 of the Consultant Guidelines may be procured under contracts awarded on the basis of a Fixed Budget in accordance with the provisions of paragraphs 3.1 and 3.5 of the Consultant Guidelines.

3. Selection Based on Consultants’ Qualifications. Services estimated to cost less than $200,000 equivalent per contract may be procured under contracts awarded in accordance with the provisions of paragraphs 3.1, 3.7 and 3.8 of the Consultant Guidelines.

4. Single Source Selection. Services for tasks in circumstances which meet the requirements of paragraph 3.10 of the Consultant Guidelines for Single Source Selection,
may, with the Bank’s prior agreement, be procured in accordance with the provisions of paragraphs 3.9 through 3.13 of the Consultant Guidelines.

5. **Least-cost Selection.** Services for assignments which the Bank agrees meet the requirements of paragraph 3.6 of the Consultant Guidelines may be procured under contracts awarded on the basis of Least-cost Selection in accordance with the provisions of paragraphs 3.1 and 3.6 of the Consultant Guidelines.

6. **Individual Consultants.** Services for assignments that meet the requirements set forth in the first sentence of paragraph 5.1 of the Consultant Guidelines may be procured under contracts awarded to individual consultants in accordance with the provisions of paragraphs 5.2 through 5.3 of the Consultant Guidelines. Under the circumstances described in paragraph 5.4 of the Consultant Guidelines, such contracts may be awarded to individual consultants on a sole-source basis.

**Section IV. Procurement of Training**

Services for logistical organization of the workshops, study tours, conferences and seminars, but excluding consultant services for preparation of training event or materials, shall be procured in accordance with the Recipient’s administrative procedures provided for in PIP.

**Section V. Review by the Bank of Procurement Decisions**

**Procurement Planning**

The Procurement Plan shall set forth those contracts which shall be subject to the Bank’s Prior Review. All other contracts shall be subject to Post Review by the Bank.
PART A: Project Implementation

1. HBOR shall establish and thereafter maintain during the execution of the Project, the PMU with staff and resources as shall be required to perform its duties in respect of overall management and implementation of the Project, in a manner satisfactory to the Bank;

2. HBOR shall: (a) enter into an agreement with EPEEF, the EPEEF-HBOR Project Implementation Agreement, under terms and conditions which shall have been agreed upon with the Bank and which shall include, inter alia, provisions whereby: (i) the responsibilities and tasks of each entity involved in the implementation of Part B of the Project are described, including the responsibility of EPEEF to carry out the technical due diligence for the feasibility studies under Part B of the Project, in conformity with appropriate administrative, financial and environmental practices; (ii) the commitment of each entity to coordinate and cooperate in their respective activities for the purposes of the implementation of Part B of the Project; (iii) EPEEF’s financial contribution to Part B of the Project is defined; (iv) the conditions and circumstances under which EPEEF would agree to repay the Loans in lieu and place of the Beneficiary as referred to in Part E.2 of this Schedule; and (v) the entities are required to implement Part B of the Project in accordance with the Project Implementation Plan, the relevant provisions of the GEF Trust Fund Grant Agreement and this Agreement.

   (b) exercise its rights under the EPEEF-HBOR Project Implementation Agreement in such a manner as to protect the interests of the Recipient and the Bank and to accomplish the purposes of the GEF Trust Fund Grant, and, except as the Bank shall otherwise agree, HBOR and EPEEF shall not assign, amend, abrogate or waive, the EPEEF-HBOR Project Implementation Agreement or any provision thereof.

3. HBOR shall implement the Project in accordance with the provisions agreed with the Bank and set forth in the Project Implementation Plan and shall not assign, amend, abrogate or waive said plan or any provisions thereof, without the Bank’s prior concurrence. The Project Implementation Plan shall set forth, inter alia: the Eligibility Criteria, procedures (including selection, appraisal, approval procedures) and environmental assessments for the execution of Part B of the Project; and key instruments for the execution and coordination of the Project (including procurement and financial management procedures).
4. HBOR shall:

   (a) maintain policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with indicators satisfactory 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 May 30, 2007, a mid-term report integrating the results of the monitoring and evaluation activities performed pursuant to paragraph (a) of this Section, on the progress achieved in the carrying out of the Project during the period preceding the date of said report and setting out the measures recommended to ensure the efficient carrying out of the Project and the achievement of the objectives thereof during the period following such date; and

   (c) review with the Bank, by August 31, 2007, or such later date as the Bank shall request, the report referred to in paragraph (b) of this Section, 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 report and the Bank’s views on the matter.

Part B: Contingent Loan Facility

1. HBOR shall establish a Contingent Loan Facility Account for the Contingent Loan Facility in HBOR under commercial practices for the purposes of implementing Part B of the Project, in a manner satisfactory to the Bank.

2. HBOR shall manage and use the proceeds of the Contingent Loan Facility Account in a manner consistent with the purposes and objectives of the GEF Trust Fund Grant Agreement and in accordance with provisions of the PIP, including but not limited to using the proceeds of the Contingent Loan Facility Account exclusively for making payments in connection with the Renewable Energy Sub-financing Loans.

3. HBOR shall act prudently and reasonably in exercising its management obligations in respect of the Contingent Loan Facility, including prudently lending the proceeds of the Contingent Loan Facility, in a manner satisfactory to the Bank and shall deposit income deriving from the Renewable Energy Sub-financing Loan recoveries directly into the Contingent Loan Facility Account.

4. HBOR shall carry out the following with respect to expenditures funded with withdrawals from the Contingent Loan Facility Account:

   (a) maintain records and accounts reflecting such expenditures;
(b) retain for at least one year after the Project Closing Date, all records evidencing such expenditures;

(c) enable the Recipient and the Bank to examine such records; and

(d) ensure that the audit reports contain a separate opinion by the auditors as to whether the records and accounts submitted for the relevant audit, together with the procedures and controls involved in their preparation, can be relied upon to support the related withdrawals.

Part C: Deposits to the Contingent Loan Facility Account from the GEF Trust Fund Grant Account

1. After the Bank has received evidence satisfactory to it that the Contingent Loan Facility Account has been duly opened, withdrawals of the amounts from the GEF Trust Fund Grant Account for deposit into the Contingent Loan Facility Account shall be made as follows:

   (a) HBOR and EPEEF shall execute a Renewable Energy Sub-project Contract, in form and substance acceptable to the Bank, for a Renewable Energy Sub-financing Loan not to exceed the equivalent of $150,000 or such other amount as may be agreed upon by the Bank from time to time, and, for each executed Renewable Energy Sub-project Contract, furnish the Bank with evidence satisfactory to the Bank that said contract has been duly authorized and executed in compliance with the provisions of the PIP and this Agreement; and

   (b) subsequent to execution of each Renewable Energy Sub-project Contract, HBOR shall submit a request to the Bank for withdrawal from the GEF Trust Fund Grant Account and deposit to the Contingent Loan Facility Account an amount equivalent to the Renewable Energy Sub-financing Loan, unless there are already sufficient funds in the Contingent Loan Facility to cover the amount of an additional Loan for example as a result of refunds of Renewable Energy Sub-financing Loans.

2. HBOR shall:

   (a) Prior to entering into the first two Renewable Energy Sub-project Contracts, obtain the Bank’s approval on contractual arrangements for said transaction.

   (b) If the Bank shall have determined at any time that any amount outstanding in the Contingent Loan Facility Account will not be required to cover further Renewable Energy Sub-financing Loans, promptly upon notice from the Bank, refund to the Recipient such outstanding amount. Refunds 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.
3. The Bank shall have the right to terminate disbursements into the Contingent Loan Facility Account in the event that:

(a) HBOR GEF Grant Implementation Agreement, the EPEEF-HBOR Project Implementation Agreement, or any provision thereof, are amended, suspended, abrogated, waived or repealed by the Recipient, EPEEF 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 EPEEF or HBOR to perform any of its obligations under HBOR GEF Grant Implementation Agreement or the EPEEF-HBOR Project Implementation Agreement, respectively;

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

(c) HBOR or EPEEF fails to fulfill their respective obligations under HBOR GEF Grant Implementation Agreement or the EPEEF-HBOR Project 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.

Part D: Withdrawals from the Contingent Loan Facility Account

HBOR shall make withdrawals from the Contingent Loan Facility Account only for payments made in accordance with a Renewable Energy Sub-financing Loan in accordance with a Renewable Energy Sub-project Contract and the PIP, as a result of an application by a Beneficiary for a Renewable Energy Sub-project.

Part E: Renewable Energy Sub-projects and Renewable Energy Sub-project Contracts

1. For the purposes of carrying out Part B of the Project: (a) Beneficiaries shall be eligible to present Renewable Energy Sub-projects, all in accordance with the Eligibility Criteria and procedures set forth in the Project Implementation Plan;
(b) Sub-projects shall be evaluated and approved by EPEEF and HBOR in their respective capacities and responsibilities, all in accordance with the PIP and the EPEEF-HBOR Project Implementation Agreement and shall be implemented by Beneficiaries in accordance with the procedures set forth in the Project Implementation Plan, in a manner satisfactory to the Bank;

(c) For purposes of each Renewable Energy Sub-project, HBOR and EPEEF shall conclude an agreement with the Beneficiary, the Renewable Energy Sub-project Contract, in a manner satisfactory to the Bank and in accordance with the Project Implementation Plan. Said agreement will provide, inter alia, that the Beneficiary shall be awarded a Renewable Energy Sub-financing Loan to carry out a Renewable Energy Sub-project under the following respective obligations of the parties thereunder, including but not limited to:

(i) a description of the Renewable Energy Sub-project and an estimate of the cost thereof, disbursement schedules and procurement procedures, as they may apply, and the amount of the Beneficiary’s contribution to the cost of the Renewable Energy Sub-project;

(ii) the obligation of the Beneficiary to carry out the Renewable Energy Sub-project with due diligence and efficiency, in conformity with appropriate administrative, financial, and technical practices, and with due regard to environmental factors, and to maintain adequate records;

(iii) the obligation of the Beneficiary to provide all such information as the Bank or Recipient or HBOR or EPEEF shall reasonably request relating to the implementation of the Renewable Energy Sub-project and the performance of the Beneficiary thereunder;

(iv) the obligation of the Beneficiary not to use the proceeds of a Renewable Energy Sub-financing Loan to finance taxes or duties levied or land acquisition;

(v) the obligation of the Beneficiary to procure services under the Renewable Energy Sub-project in accordance with the procedures set forth in the Project Implementation Plan;

(vi) the obligation of the Beneficiary to maintain records and accounts for expenditures incurred under the Renewable Energy Sub-project and financed from the proceeds of the Renewable Energy Sub-financing Loan and to submit to HBOR at regular intervals statements with respect to such records and accounts;
(vii) the obligation of the Beneficiary to repay the amount of the Renewable Energy Sub-financing Loan in accordance with the Renewable Energy Sub-Project Contract; and

(vii) the right of HBOR and the Bank to suspend or terminate the right of the Beneficiary to the use of the proceeds of the Renewable Energy Sub-financing Loan upon failure by such Beneficiary to perform its obligations under such agreement.

2. (a) EPEEF may decide to repay the Loan in lieu and place of the Beneficiary, on the grounds that the Beneficiary’s reasons not to implement a renewable energy project (after having carried out a Renewable Energy Sub-project) are reasonable and satisfactory, all in accordance with the guidelines set forth in the PIP and the provisions of the Renewable Energy Sub-project Contract.

(b) The justification referred to in paragraph (a) above could include among others, the fact that: (i) as a result of the feasibility study, a renewable energy project is financially not viable and all reasonable efforts to seek financing for the renewable energy project are unsuccessful; and (ii) the Beneficiary cannot carry out a renewable energy project as a result of an unforeseeable event beyond its control.

(c) In the event that EPEEF decides to repay a Renewable Energy Sub-financing loan, EPEEF shall inform the Recipient of its decision and document its decision and keep the records for future review by the Bank and the Recipient.