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**GRANT NUMBER H449 RY**

# **Financing Agreement**

**(Water Sector Support Project)**

**between**

**REPUBLIC OF YEMEN**

**and**

**INTERNATIONAL DEVELOPMENT ASSOCIATION**

**Dated March 20, 2009**

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**GRANT NUMBER H449 RY**

**FINANCING AGREEMENT**

AGREEMENT dated March 20, 2009, entered into between REPUBLIC OF YEMEN (“Recipient”) and INTERNATIONAL DEVELOPMENT ASSOCIATION (“Association”). The Recipient and the Association hereby agree as follows:

**ARTICLE I - GENERAL CONDITIONS; DEFINITIONS**

- 1.01. The General Conditions (as defined in the Appendix to this Agreement) constitute an integral part of this Agreement.
- 1.02. Unless the context requires otherwise, the capitalized terms used in this Agreement have the meanings ascribed to them in the General Conditions or in the Appendix to this Agreement.

**ARTICLE II - FINANCING**

- 2.01. The Association agrees to extend to the Recipient, on the terms and conditions set forth or referred to in this Agreement a grant in an amount equivalent to fifty seven million nine hundred thousand Special Drawing Rights (SDR 57,900,000) (“Financing”) to assist in financing the project described in Schedule 1 to this Agreement (“Project”).
- 2.02. The Recipient may withdraw the proceeds of the Financing in accordance with Section IV of Schedule 2 to this Agreement.
- 2.03. The Maximum Commitment Charge Rate payable by the Recipient on the Unwithdrawn Financing Balance shall be one-half of one percent (1/2 of 1%) per annum.
- 2.04. The Payment Dates are March 1 and September 1 in each year.
- 2.05. The Payment Currency is United States Dollars.

**ARTICLE III - PROJECT**

- 3.01. The Recipient declares its commitment to the objectives of the Project and the Program. To this end, the Recipient shall carry out the Project through MAI and MWE in accordance with the provisions of Article IV of the General Conditions.
- 3.02. Without limitation upon the provisions of Section 3.01 of this Agreement, and except as the Recipient and the Association shall otherwise agree, the Recipient shall ensure that the Project is carried out in accordance with the provisions of Schedule 2 to this Agreement.

**ARTICLE IV - REMEDIES OF THE ASSOCIATION**

- 4.01. The Additional Events of Suspension consist of the following:
  - (a) (i) Subject to subparagraph (ii) of this paragraph, the right of the Recipient to withdraw the proceeds of the Co-financing Grants shall have been suspended, cancelled or terminated in whole or in part, pursuant to the terms of the Co-financing Grant Agreements.
  - (ii) Subparagraph (i) of this paragraph shall not apply if the Recipient establishes to the satisfaction of the Association that:
    - (A) such suspension, cancellation or termination is not caused by the failure of the Recipient to perform any of its obligations under the Co-financing Grant Agreements; and
    - (B) adequate funds for the Project are available to the Recipient from other sources on terms and conditions consistent with the obligations of the Recipient under the Co-financing Grant Agreements.
- (b) The Recipient shall have failed to perform any of its obligations under the Co-financing Grant Agreements.
- (c) The PIM referenced in Section 5.01 (c) of this Agreement, or any part thereof, shall have been amended, suspended, abrogated, repealed or waived, so as to affect materially and adversely, in the opinion of the Association, the carrying out of the Project.

**ARTICLE V - EFFECTIVENESS; TERMINATION**

- 5.01. The Additional Conditions of Effectiveness consist of the following:
- (a) The Co-financing Agreements have been executed and delivered and all conditions precedent to their effectiveness or to the right of the Recipient to make withdrawals thereunder (other than the effectiveness of this Agreement) have been fulfilled.
  - (b) The Financial Management Manuals have been adopted in form and substance satisfactory to the Association and an internal audit department has been established in accordance with sound financial standards and practices, with professional staff in adequate numbers whose qualifications, experience and terms of reference are acceptable to the Association.
  - (c) The PIM in form and substance satisfactory to the Association has been adopted by the Recipient.
  - (d) The Annual Operating Plan for the first year of the Project has been adopted by the Recipient in form and substance satisfactory to the Association.
  - (e) The Recipient has established a financial management system in accordance with consistently applied accounting standards acceptable to the Association and has retained financial management consultants with qualifications and terms of reference acceptable to the Association.
- 5.02. The Effectiveness Deadline is the date one hundred twenty (120) days after the date of this Agreement.

**ARTICLE VI - REPRESENTATIVE; ADDRESSES**

- 6.01. The Recipient's Representative is the Minister of Planning and International Cooperation.

6.02. The Recipient's Address is:

Ministry of Planning and International Cooperation  
P.O. Box 175  
Sana'a  
Republic of Yemen

Facsimile:

9671 250 665  
9671 250 605

6.03. The Association's Address is:

International Development Association  
1818 H Street, N.W.  
Washington, D.C. 20433  
United States of America

Cable:

Telex:

Facsimile:

INDEVAS  
Washington, D.C.

248423 (MCI)

1-202-477-6391

AGREED at Washington, District of Columbia, United States of America, as of the day and year first above written.

REPUBLIC OF YEMEN

By /s/ Abdulwahab Abdulla Al-Hajjri

Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Laszlo Lovei

Authorized Representative

## **SCHEDULE 1**

### **Project Description**

The objective of the Project is to support the Recipient's implementation of the Program to: (i) strengthen institutions for sustainable water resources management; (ii) improve community-based water resource management; (iii) increase access to water supply and sanitation services; (iv) increase returns to water use in agriculture; and (v) stabilize and reduce groundwater abstraction for agricultural use in critical water basins.

The Project consists of the following parts:

#### **Part A: Water Resources Management**

Strengthening the institutional and policy development capacity of NWRA, within an integrated water resources management framework by: (i) preparing, enhancing and implementing about eleven (11) water basin plans; and (ii) enhancing NWRA's capacity to monitor water quantity and quality, through the carrying out of works and provision of goods, consultants' services and training.

#### **Part B: Urban Water Supply and Sanitation**

Increasing coverage of affordable access to safe and regulated urban water supply and sanitation by: (i) enhancing the management capacity of urban water utilities; (ii) carrying out rehabilitation programs in eligible local corporations; (iii) expanding urban water supply and sanitation coverage, including wastewater treatment facilities; and (iv) developing a program for hygiene and quality of water supply, through the carrying out of works and provision of goods, consultants' services and training.

#### **Part C: Rural Water Supply and Sanitation**

Increasing coverage of affordable and sustainable access to safe rural water supply and sanitation through: (i) the installation of new water and sanitation schemes and the rehabilitation or completion of existing schemes based on the demand responsive approach; (ii) the development of joint rural water supply and sanitation operational manual and data base to increase the implementation efficiency; (iii) strengthening the coordination of rural sector agencies; and (iv) the capacity development of GARWSP and some of its branches, through the carrying out of works and provision of goods, consultants' services and training.

#### Part D: Irrigation

Increasing coverage of efficient irrigation methods to conserve water through: (i) the installation of modern on-farm conveyance and irrigation systems; (ii) the installation of spate diversion infrastructure and related flood control works; (iii) strengthening the National Irrigation Program at MAI; (iv) scaling up the irrigation advisory services to cover selected areas; and (v) the expansion of watershed management program, through the carrying out of works and provision of goods, consultants' services and training.

#### Part E: Institutional Strengthening, Capacity Development and Project Management

1. Strengthening the institutional capacity of MWE and MAI to regulate, coordinate, and administer water policy, through the provision of goods, consultants' services and training.
2. Support to MWE and MAI, to strengthen their Project implementation capabilities, and assist the Executive Secretariat in Project coordination, through the provision of consultants' services, goods and training.

**SCHEDULE 2****Project Execution****Section I. Implementation Arrangements****A. Institutional Arrangements**

1. The Recipient shall vest the overall responsibility for the implementation of the Project in MWE and MAI. The Recipient shall ensure that MWE and MAI shall carry out the Project in accordance with the PIM, the ESMF and the RPF and, except as the Association shall otherwise agree, shall not amend or waive any provision of the PIM, the ESMF or the RPF if, in the opinion of the Association, such amendment or waiver may materially and adversely affect the carrying out of the Project or the achievement of the objectives thereof.

2. MWE shall cause: (a) NWRA to carry out Part A of the Project; (b) the PMU to carry out Part B of the Project; and (c) GARWSP to carry out Part C of the Project. MAI shall carry out Part D of the Project. Part E of the Project shall be jointly carried out by MWE and MAI.

3. For the purpose of ensuring the proper coordination and execution of the Project, the Recipient shall maintain the IMSC throughout the duration of the Project. The IMSC shall be chaired by the Minister of Planning and International Cooperation, with membership consisting of the Ministers of Water and Environment; Agriculture and Irrigation; Finance; and Local Administration. The IMSC shall approve the Annual Operating Plans and review progress and financial reports. The IMSC shall be assisted in the carrying out of its duties by an Executive Secretariat, with staffing and terms of reference satisfactory to the Association. The functions of said Executive Secretariat shall include, inter alia: (a) overall follow up and coordination of the implementation of the Project; (b) review of the Annual Operating Plans; (c) review of the audited Financial Statements for the Project; (d) carrying out quarterly internal audits of the Project related financial transactions of MAI, NWRA, GARWSP and the PMU; and (e) review and consolidation of the Project reports prepared by MAI, NWRA, GARWSP and the PMU for their respective Part of the Project.

4. For the purpose of proper implementation of the Project activities, the Recipient shall: (a) cause MAI, NWRA, GARWSP and PMU to prepare their respective Annual Operating Plans in accordance with the PIM to cover the period of one year and to submit same by no later than July 1<sup>st</sup> of each year to the Executive Secretariat; and (b) cause the Executive Secretariat to review the said plans and furnish same to the Association within ten days thereafter.

**B. Anti-Corruption**

The Recipient shall ensure that the Project is carried out in accordance with the provisions of the Anti-Corruption Guidelines.

**C. Safeguards**

The Recipient shall ensure that: (i) remedial measures are taken during the implementation and operation of the Project to offset or reduce adverse environmental impacts in accordance with the findings and provisions set forth in the ESMF; and (ii) all land acquisition required for the purposes of carrying out activities under the Project, and activities related to the resettlement of Project affected people in connection with such activities, shall be completed prior to commencing the carrying out of such activities, and in accordance with the provisions set forth in the RPF.

**Section II. Project Monitoring, Reporting and Evaluation****A. Project Reports**

The Recipient shall monitor and evaluate the progress of the Project and prepare Project Reports in accordance with the provisions of Section 4.08 of the General Conditions and on the basis of the indicators agreed with the Association. Each Project Report shall cover the period of one calendar semester, and shall be furnished to the Association not later than forty five (45) days after the end of the period covered by such report.

**B. Financial Management, Financial Reports and Audits**

1. The Recipient shall maintain or cause to be maintained a financial management system in accordance with the provisions of Section 4.09 of the General Conditions.

2. The Recipient shall cause MAI, NWRA, GARWSP and the PMU to prepare and furnish to the Association not later than forty five (45) days after the end of each calendar quarter, interim unaudited financial reports for their respective Part of the Project covering the quarter, in form and substance satisfactory to the Association.

3. The Recipient shall cause MAI, NWRA, GARWSP and the PMU to have their respective Financial Statements audited in accordance with the provisions of Section 4.09 (b) of the General Conditions. Each audit of the Financial Statements shall cover the period of one fiscal year of the Recipient. The audited Financial Statements for each such period shall be furnished to the Association not later than six (6) months after the end of such period.

**Section III. Procurement**

**A. General**

1. **Goods and Works.** All goods and works required for the Project and to be financed out of the proceeds of the Financing shall be procured in accordance with the requirements set forth or referred to in Section I of the Procurement Guidelines, and with the provisions of this Section.
2. **Consultants' Services.** All consultants' services required for the Project and to be financed out of the proceeds of the Financing shall be procured in accordance with the requirements set forth or referred to in Sections I and IV of the Consultant Guidelines, and with the provisions of this Section.
3. **Definitions.** The capitalized terms used below in this Section to describe particular procurement methods or methods of review by the Association of particular contracts, refer to the corresponding method described in the Procurement Guidelines, or Consultant Guidelines, as the case may be.

**B. Particular Methods of Procurement of Goods and Works**

1. **International Competitive Bidding.** Except as otherwise provided in paragraph 2 below, goods and works shall be procured under contracts awarded on the basis of International Competitive Bidding.
2. **Other Methods of Procurement of Goods and Works.** The following table specifies the methods of procurement, other than International Competitive Bidding, which may be used for goods and works. The Procurement Plan shall specify the circumstances under which such methods may be used:

<b>Procurement Method</b>
(a) National Competitive Bidding
(b) Shopping

The procedures to be followed for National Competitive Bidding under this paragraph shall be those set forth in Law No. 23 for 2007, concerning Government Tenders, Auctions and Stores, and its Regulations, subject to the following additional procedures:

- (i) a Recipient-owned enterprise in the Republic of Yemen shall be eligible to bid only if it can establish that it is legally and

financially autonomous, operates under commercial law, and is not a dependent agency of the Recipient;

- (ii) bidding (or pre-qualification, if required) shall not be restricted to any particular class of contractors or suppliers, and non-registered contractors and suppliers shall also be eligible to participate;
- (iii) tenders shall be advertised for at least two (2) consecutive days in two (2) local newspapers of wide circulation;
- (iv) prospective bidders shall be allowed a minimum of thirty (30) days for the preparation and submission of bids, such thirty (30) days to begin with the availability of the bidding documents or the advertisement, whichever is later;
- (v) until national standard bidding documents acceptable to the Association are available, bidding documents approved by the Association shall be used, and may be prepared in Arabic;
- (vi) registration shall not be used to assess bidders' qualifications; qualification criteria (in case pre-qualification was not carried out) and the method of evaluating the qualification of each bidder shall be stated in the bidding documents, and before contract award the bidder having submitted the lowest evaluated responsive bid shall be subject to post-qualification;
- (vii) a foreign bidder shall not be required to register or to appoint an agent as a condition for submitting its bid and, if determined to be the lowest evaluated responsive bidder, shall be given reasonable opportunity to register, without let or hindrance; the registration process shall not be applicable to sub-contractors;
- (viii) all bids shall be submitted in sealed envelopes and may be submitted, at the bidder's option, in person or by courier service;
- (ix) all bids shall be opened at the same time in a public bid opening which bidders shall be allowed to attend and which shall follow immediately after the deadline for submission of bids;
- (x) evaluation of bids shall be carried out in strict adherence to the criteria declared in the bidding documents and contracts shall be awarded to the lowest evaluated responsive bidder, without resorting to the rejection of bids above or below a certain percentage of the pre-bid estimate (bid price bracketing);

- (xi) no bidder shall be requested or permitted to modify its bid after the bid closing date shall have elapsed and bids submitted after the deadline for submission of bids shall be returned to the bidder unopened;
- (xii) post-bidding negotiations with the lowest or any other bidder shall not be permitted;
- (xiii) under exceptional circumstances, the procuring entity may, before the expiration of bid validity, request all bidders in writing to extend the validity of their bids, in which case bidders shall not be requested nor permitted to amend the price or any other condition of their bids; a bidder shall have the right to refuse to grant such an extension without forfeiting its bid security, but any bidder granting such extension shall be required to provide a corresponding extension of its bid security;
- (xiv) price adjustment provisions may be included in contracts for works with a duration of more than eighteen (18) months;
- (xv) rejection of all bids is justified when there is lack of effective competition, or bids are not substantially responsive, however, lack of competition shall not be determined solely on the basis of the number of bidders; and
- (xvi) each contract financed from the proceeds of the Grant shall provide that the contractor or supplier shall permit the Association, at its request, to inspect their accounts and records relating to the performance of the contract and to have such accounts and records audited by auditors appointed by the Association.

### **C. Particular Methods of Procurement of Consultants' Services**

1. **Quality- and Cost-based Selection.** Except as otherwise provided in paragraph 2 below, consultants' services shall be procured under contracts awarded on the basis of Quality and Cost-based Selection.

2. **Other Methods of Procurement of Consultants' Services.** The following table specifies methods of procurement, other than Quality and Cost-based Selection, which may be used for consultants' services. The Procurement Plan shall specify the circumstances under which such methods may be used.

<b>Procurement Method</b>
(a) Selection under a Fixed Budget
(b) Selection Based on the Consultants' Qualifications
(c) Least Cost Selection
(d) Single-Source Selection
(e) Individual Consultants

**D. Review by the Association of Procurement Decisions**

The Procurement Plan shall set forth those contracts which shall be subject to the Association's Prior Review. All other contracts shall be subject to Post Review by the Association.

**Section IV. Withdrawal of the Proceeds of the Financing**

**A. General**

1. The Recipient may withdraw the proceeds of the Financing in accordance with the provisions of Article II of the General Conditions, this Section, and such additional instructions as the Association shall specify by notice to the Recipient (including the "World Bank Disbursement Guidelines for Projects" dated May 2006, as revised from time to time by the Association and as made applicable to this Agreement pursuant to such instructions), to finance Eligible Expenditures as set forth in the table in paragraph 2 below.

2. The following table specifies the categories of Eligible Expenditures that may be financed out of the proceeds of the Financing ("Category"), the allocations of the amounts of the Financing to each Category, and the percentage of expenditures to be financed for Eligible Expenditures in each Category:

<b>Category</b>	<b>Amount of the Grant Allocated (expressed in SDR)</b>	<b>Percentage of Expenditures to be Financed (inclusive of Taxes)</b>
(1) Goods, works, consultants' services, training and Incremental Operating Costs for Part A of the Project for:  (a) the first year of the Project  (b) the subsequent duration of the Project	1,830,000  750,000	100%  7.5%
(2) Goods, works, consultants' services, training and Incremental Operating Costs for Part B of the Project for:  (a) the first year of the Project  (b) the subsequent duration of the Project	260,000  11,380,000	100%  51%
(3) Goods, works, consultants' services, training and Incremental Operating Costs for Part C of the Project for:  (a) the first year of the Project  (b) the subsequent duration of the Project	2,580,000  7,320,000	100%  7.6%
(4) Goods, works, consultants' services, training and Incremental Operating Costs for Part D of the Project for:  (a) the first year of the Project  (b) the subsequent duration of the Project	4,180,000  28,620,000	100%  72%

<b>Category</b>	<b>Amount of the Grant Allocated (expressed in SDR)</b>	<b>Percentage of Expenditures to be Financed (inclusive of Taxes)</b>
(5)(a) Goods, consultants' services, training and Incremental Operating Costs for Part E of the Project for MWE for:		
(i) the first year of the Project	180,000	100%
(ii) the subsequent duration of the Project	550,000	27%
(5)(b) Goods, consultants' services, training and Incremental Operating Costs for Part E for MAI for:		
(i) the first year of the Project	60,000	100%
(ii) the subsequent duration of the Project	<u>190,000</u>	27%
<b>TOTAL AMOUNT</b>	<u>57,900,000</u>	

3. For the purpose of this Schedule:

(a) the term "Training" means expenses incurred by the Recipient in connection with carrying out training activities and workshops under the Project, including local travel costs and per diem for local trainees, trainers and workshop attendees, rental of facilities and equipment and training materials; and

(b) the term "Incremental Operating Costs" means expenditures incurred for the implementation of the Project on account of utility charges and rent for office space for the Executive Secretariat, maintenance and insurance of vehicles, fuel, office

supplies, banking charges, communication services, local travel costs, salaries and labor costs for support staff but excluding salaries of officials of the Recipient.

**B. Withdrawal Conditions; Withdrawal Period**

1. Notwithstanding the provisions of Part A of this Section, no withdrawal shall be made:

(a) for payments made prior to the date of this Agreement; or

(b) under Categories (1)(b), (2)(b), (3)(b), (4)(b), (5)(a)(ii), and (5)(b)(ii) unless an Annual Operating Plan for the second and each subsequent year of implementation of the Project, has been approved by the Association.

2. The Closing Date is August 31, 2014.

**APPENDIX****Definitions**

1. “Anti-Corruption Guidelines” means the “Guidelines on Preventing and Combating Fraud and Corruption in Projects Financed by IBRD Loans and IDA Credits and Grants”, dated October 15, 2006.
2. “Annual Operating Plan(s)” means each list of annual activities prepared in accordance with the PIM and acceptable to the Association.
3. “Category” means a category set forth in the table in Section IV of Schedule 2 to this Agreement.
4. “Co-financier(s)” means: (a) the Federal Republic of Germany; and (b) the Netherlands Ministry of Foreign Affairs/Ministry of Development Cooperation, referred to in paragraph 10 of the Appendix to the General Conditions.
5. “Co-financing” means an amount of: (a) a proposed grant in an amount of sixty million seven hundred thousand Dollars (\$60,700,000) from the Federal Republic of Germany; and (b) a proposed grant in an amount of forty eight million seven hundred and fifty thousand Dollars (\$48,750,000) as a grant from the Netherlands Ministry of Foreign Affairs/Ministry of Development Cooperation, to be provided by the Co-financier(s) to assist in financing the Project.
6. “Co-financing Agreement” means agreement to be entered into between the Recipient and the Co-financier providing for the Co-financing.
7. “Consultant Guidelines” means the “Guidelines: Selection and Employment of Consultants by World Bank Borrowers” published by the Bank in May 2004 and revised in October 2006.
8. “ESMF” means the Recipient’s environmental and social management framework for the Project furnished to the Association on October 15, 2008, as such framework may be updated from time to time by agreement between the Recipient and the Association, setting forth the mitigating, monitoring and institutional measures to be taken during the implementation and operation of the Project to offset or reduce adverse environmental impacts to levels acceptable to the Association.
9. “Financial Management Manuals” means the manuals acceptable to the Association, describing the internal controls, accounting systems, flow of funds, budgeting, reporting and authorization cycles required for carrying out the Project.

10. “GARWSP” means the Recipient’s General Authority for Rural Water Supply Projects established by virtue of Presidential Decree No. 60 of 2002.
11. “General Conditions” means the “International Development Association General Conditions for Credits and Grants”, dated July 1, 2005 (as amended through October 15, 2006).
12. “TMSC” means the Recipient’s inter ministerial steering committee referred to in Section I.A.3 of Schedule 2 to this Agreement.
13. “MAI” means the Recipient’s Ministry of Agriculture and Irrigation or any successor thereof.
14. “MOPIC” means the Recipient’s Ministry of Planning and International Cooperation or any successor thereof.
15. “MWE” means the Ministry of Water and Environment of the Recipient or any successor thereof.
16. “National Irrigation Program” means the Recipient’s national program for irrigation, set forth in the Ministerial Decree of MAI No. 69 dated November 5, 2008.
17. “NWRA” means the National Water Resources Authority, established and operating under the Recipient’s Decree No. 154 of 1995, as the same may be amended from time to time.
18. “PIM” means the Recipient’s Project implementation manual, referred to in Section I.A.1 of Schedule 2 to this Agreement, outlining the institutional and implementation arrangements including, *inter alia*, Project financial management systems, and the manual of procurement procedures agreed with the Association, for the carrying out of the Project, as the same may be amended with the agreement of the Association.
19. “PMU” means the Project Management Unit established by the Recipient within MWE for the implementation of the Urban Water Supply and Sanitation Project (Credit Number 3700-YEM) and referred to in Section I.A.2 of Schedule 2 to this Agreement.
20. “Procurement Guidelines” means the “Guidelines: Procurement under IBRD Loans and IDA Credits” published by the Bank in May 2004 and revised in October, 2006.
21. “Procurement Plan” means the Recipient’s procurement plan for the Project, dated January 21, 2009, and referred to in paragraph 1.16 of the Procurement

Guidelines and paragraph 1.24 of the Consultant Guidelines, as the same shall be updated from time to time in accordance with the provisions of said paragraphs.

22. “Program” means the Recipient’s updated National Water Sector Strategy and Investment Program (NWSSIP 2009-2015) set forth or referred to in the minutes of the meeting of the IMSC dated January 13, 2009 furnished by the Recipient to the Association.
23. “RPF” means the Recipient’s resettlement policy framework for carrying out the Project, satisfactory to the Association, dated October 15, 2008, as such framework may be amended from time to time by agreement of the Recipient and the Association, which sets out, *inter alia*, the principles and objectives of the RPF, the institutional and implementation arrangements, the requirements of a resettlement action plan including, the eligibility criteria for assistance and rehabilitation entitlements, as well as the monitoring and reporting arrangements to ensure compliance with the provisions of the RPF.