

Public Disclosure Authorized

CONFORMED COPY

GRANT NUMBER H490 RY

Financing Agreement

(Rural Energy Access Project)

between

REPUBLIC OF YEMEN

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated July 10, 2009

GRANT NUMBER H490 RY

FINANCING AGREEMENT

AGREEMENT dated July 10, 2009, entered into between the 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 sixteen million eight hundred thousand Special Drawing Rights (SDR 16,800,000) (“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. The Recipient’s Representative for purposes of taking any action required or permitted to be taken pursuant to this Section is the Minister of Planning and International Cooperation.
- 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 the United States dollars.

ARTICLE III - PROJECT

- 3.01. The Recipient declares its commitment to the objectives of the Project. To this end, the Recipient shall cause the Project to be carried out by the Project Implementing Entity in accordance with the provisions of Article IV of the General Conditions and the Project Agreement.
- 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 Event of Suspension consists of, namely, the following: the Project Implementing Entity's Legislation has been amended, suspended, abrogated, repealed or waived so as to affect materially and adversely the ability of the Project Implementing Entity to perform any of its obligations under the Project Agreement.

ARTICLE V - EFFECTIVENESS; TERMINATION

- 5.01. The Additional Conditions of Effectiveness consist of the following:
 - (a) The Subsidiary Agreement has been executed on behalf of the Recipient and the Project Implementing Entity.
 - (b) The Co-financing Agreements have been executed and delivered and all conditions precedent to their respective effectiveness or to the right of the Recipient to make withdrawals thereunder (other than the effectiveness of this Agreement) have been fulfilled.
 - (c) An internal audit unit has been established within the Project Implementing Entity 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.
 - (d) The Manual of Procedures in form and substance satisfactory to the Association has been adopted by the Recipient.

- (e) 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.
- (f) The Recipient has established a financial management system within the Project Implementing Entity 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.
- (g) The Recipient has established the RESP at Ibb, with professional staff in adequate numbers whose qualifications, experience and terms of reference are acceptable to the Association.

5.02. The Additional Legal Matters consist of the following:

- (a) The Subsidiary Agreement has been duly authorized or ratified by the Recipient and the Project Implementing Entity and is legally binding upon the Recipient and the Project Implementing Entity in accordance with its terms.

5.03. The Effectiveness Deadline is the date one hundred twenty (120) days after the date of this Agreement.

5.04. For purposes of Section 8.05 (b) of the General Conditions, the date on which the obligations of the Recipient under this Agreement (other than those providing for payment obligations) shall terminate is twenty years 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/ Shamshad Akhtar

Authorized Representative

SCHEDULE 1

Project Description

The objectives of the Project are to: (i) improve electricity access of rural populations in the selected Project Area in a financially sustainable manner; and (ii) demonstrate the feasibility of increasing the access to electricity for rural households in off-grid areas through the implementation of solar home systems.

The Project consists of the following parts:

Part A: On-Grid Rural Electrification

Supply and installation of medium voltage transmission lines (at 33-kV and 11-kV), sub-stations, transformers, distribution materials including meters, and related civil works for on-grid rural electrification in the Project Area to establish about 174,000 new connections through the carrying out of works and provision of goods and consultants' services.

Part B: Off-Grid Rural Electrification

Supply and installation of about 18,000 new connections for off-grid rural electrification in selected isolated rural communities within the Project Area using solar home systems through the carrying out of works and provision of goods and consultants' services.

Part C: Institutional Support and Technical Assistance

1. Strengthening the institutional capacity of the agencies responsible for carrying out the on-grid and the off-grid rural electrification delivery services within the Project Area, through the provision of goods, consultants' services and training.
2. Strengthening the institutional capacity of the Project Implementing Entity, through the provision of goods, consultants' services and training.
3. Supporting the establishment and initial operation of the eligible RESPs within the Project Area, through the provision of goods, consultants' services and training.
4. Designing and implementing a tariff framework that will ensure the financial sustainability of the eligible RESPs, through the provision of consultants' services.
5. Provision of support to the PMU, through the provision of consultants' services and goods to strengthen its Project implementation capabilities.
6. Preparation of studies on rural energy with particular emphasis on renewable energy, through the provision of consultants' services.

7. Developing a liquified petroleum gas (LPG) supply strategy to improve access to LPG among the rural population, through the provision of consultants' services.

SCHEDULE 2

Project Execution

Section I. Implementation Arrangements

A. Institutional Arrangements

1. The Recipient shall cause the Project Implementing Entity to implement the Project in accordance with the Manual of Procedures, the ESIA, the ESMP and the RPF. Except as the Association shall otherwise agree, the Recipient may not amend or waive any provision of the Manual of Procedures, the ESIA, the ESMP and/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. For purposes of assisting the Project Implementing Entity in carrying out the Project, the Recipient shall maintain the PMU, with professional staff in adequate numbers whose qualifications, experience and terms of reference shall be acceptable to the Association. The PMU shall be responsible for managing all procurement, financial management, environmental management and monitoring and evaluation of the Project.

3. The Recipient shall transfer, as equity contribution of the Recipient, to the eligible respective RESP, the existing rural networks, which fall within the territories of such eligible RESP, in accordance with Electricity Law No. 1 of 2009.

4. By no later than September 30, 2012, the Recipient shall cause the Project Implementing Entity to appoint an independent consultant to prepare an ESMP implementation review report.

5. The Recipient shall provide the Project Implementing Entity, promptly as needed, the funds, facilities, services and resources required for the Project and necessary or appropriate to enable the Project Implementing Entity to perform its obligations under the Project Agreement.

B. Subsidiary Agreement

1. To facilitate the carrying out of the Project, the Recipient shall make the proceeds of the Financing available to the Project Implementing Entity under a subsidiary agreement between the Recipient and the Project Implementing Entity, under terms and conditions approved by the Association, which shall include that the on-lending to the Project Implementing Entity shall be: (a) denominated and repayable in Yemeni Rials equivalent (such equivalent to be determined as of the respective date of the withdrawal of the proceeds of the Grant from the Grant Account); (b) charged interest on the principal amount withdrawn and outstanding from time to time at the rate of (one) 1%; and (c) repayable over a period not exceeding thirty (30) years from the date of the Sub-

loan Agreement, inclusive of a grace period not exceeding ten (10) years (“Subsidiary Agreement”).

2. The Recipient shall exercise its rights under the Subsidiary Agreement in such manner as to protect the interests of the Recipient and the Association and to accomplish the purposes of the Financing. Except as the Association shall otherwise agree, the Recipient shall not assign, amend, abrogate or waive the Subsidiary Agreement or any of its provisions.

C. Anti-Corruption

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

D. Safeguards

1. The Recipient shall ensure that remedial measures are taken during the implementation and operation of the Project to offset or reduce adverse environmental and social impacts in accordance with the findings and provisions set forth in the ESIA and the ESMP.

2. The Recipient shall ensure that 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 one month 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 the Project Implementing Entity 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 the Project covering the quarter, in form and substance satisfactory to the Association.

3. The Recipient shall have the Project's 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 or any other period agreed upon with the Association. 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:

Procurement Method
(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.

Procurement Method
(a) Selection Based on the Consultants' Qualifications
(b) Least Cost Selection
(c) Selection under a Fixed Budget
(d) 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:

Category	Amount of the Grant Allocated (expressed in SDR)	Percentage of Expenditures to be Financed (inclusive of Taxes)
(1) Goods and Works under Part A of the Project	10,900,000	100% for Goods and 90% for Works
(2) Goods and Works under Part B of the Project	3,150,000	100% for Goods and 90% for Works
(3) Goods under Part C of the Project	140,000	100%
(4) Consultants' services and Training	2,210,000	100%
(5) Incremental Operating Costs for the Project Implementing Entity	70,000	100%
(6) Incremental Operating Costs for the eligible RESP(s)	140,000	100%
(7) Unallocated	190,000	
TOTAL AMOUNT	<u>16,800,000</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 for the Project Implementing Entity" means expenditures incurred by the Project Implementing Entity for the initial period of twelve (12) months of implementation of the Project on account of utility charges and rent for office space, maintenance and insurance of vehicles, fuel, office supplies, banking charges, communication services, local travel costs, salaries and labor costs for staff but excluding salaries of officials of the Recipient.

(c) the term "Incremental Operating Costs for the eligible RESP(s)" means expenditures incurred by the respective eligible RESP for the initial operation period not

exceeding twenty four (24) months of such RESP, on account of utility charges and rent for office space, maintenance and insurance of vehicles, fuel, office supplies, banking charges, communication services, local travel costs, salaries and labor costs for 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 Category (1), unless the respective RESP for the service territories for which the on-grid installations are intended have been established in a manner satisfactory to the Association and the respective Sub-loan Agreements have been executed.

2. The Closing Date is June 30, 2015.

APPENDIX

Section I. 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. “Category” means a category set forth in the table in Section IV of Schedule 2 to this Agreement.
3. “Co-financier” means: (a) the Islamic Development Bank; and (b) the Agence Française de Développement, referred to in paragraph 10 of the Appendix to the General Conditions.
4. “Co-financing” means an amount of: (a) twenty five million and four hundred thousand United States dollars equivalent to be provided by the Islamic Development Bank; and (b) thirty five million Euros to be provided by the Agence Française de Développement, to be provided by the Co-financiers to assist in financing the Project.
5. “Co-financing Agreement” means the agreement between the Recipient and the Co-financier providing for the Co-financing.
6. “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.
7. “ESIA” means the Recipient’s environmental and social impact assessment for the Project furnished to the Association on March 28, 2009, 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 and social impacts to levels acceptable to the Association.
8. “ESMP” means the Recipient’s environmental and social management plan for the Project furnished to the Association on March 28, 2009, as such plan 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 and social impacts to levels acceptable to the Association.
9. “General Conditions” means the “International Development Association General Conditions for Credits and Grants”, dated July 1, 2005 (as amended

through October 15, 2006), with the modifications set forth in Section II of this Appendix.

10. “Manual of Procedures” means the Project implementation manual, referred to in Section 5.01(d) of, and Section I.A.1 of Schedule 2 to, this Agreement, outlining the institutional and implementation arrangements including, *inter alia*, the eligibility criteria for selection of RESP(s), the Project financial management systems and procedures describing the internal controls, accounting systems, flow of funds, budgeting, reporting and authorization cycles required for carrying out the Project, 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.
11. “Procurement Guidelines” means the “Guidelines: Procurement under IBRD Loans and IDA Credits” published by the Bank in May 2004 and revised in October, 2006.
12. “Procurement Plan” means the Recipient’s procurement plan for the Project, dated April 16, 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.
13. “Project Area” means twelve governorates namely: Taiz, Amran, Hajjah, Dhamar, Al-Mahweet, Ibb, Al-Baida, Lahj, Sanaa, Al-Hodeidah, Abyan and Al-Dhale.
14. “Project Implementing Entity” means the General Authority for Rural Electricity established pursuant to Presidential Decree No. 76 of 2009.
15. “Project Implementing Entity’s Legislation” means Presidential Decree No. 76 of 2009.
16. “PMU” means the Project Management Unit established by the Recipient within the Project Implementing Entity for the management of the Project and referred to in Section I.A.2 of Schedule 2 to this Agreement.
17. “RESP” means the selected rural electricity service provider established in a manner satisfactory to the Association, in accordance with the eligibility criteria set forth in the Manual of Procedures.
18. “RPF” means the Recipient’s resettlement policy framework for carrying out the Project, satisfactory to the Association, dated March 26, 2009, 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.

19. "Sub-loan Agreement" means the sub-loan agreements to be entered into between REA and the eligible RESP.
20. "Subsidiary Agreement" means the agreement referred to in Section I.B of Schedule 2 to this Agreement pursuant to which the Recipient shall make the proceeds of the Financing available to the Project Implementing Entity.

Section II. Modifications to the General Conditions

The modifications to the General Conditions for Credits and Grants of the Association, dated July 1, 2005 (as amended through October 15, 2006) are as follows:

1. Section 2.07 is modified to read as follows:

"Section 2.07. Refinancing Preparation Advance

If the Financing Agreement provides for the repayment out of the proceeds of the Financing of an advance made by the Association or the Bank ("Preparation Advance"), the Association shall, on behalf of the Recipient, withdraw from the Financing Account on or after the Effective Date the amount required to repay the withdrawn and outstanding balance of the advance as at the date of such withdrawal from the Financing Account and to pay all accrued and unpaid charges, if any, on the advance as at such date. The Association shall pay the amount so withdrawn to itself or the Bank, as the case may be, and shall cancel the remaining unwithdrawn amount of the advance."

2. Paragraph (i) of Section 6.02 is modified to read as follows:

"Section 6.02. Suspension by the Association

... (1) *Ineligibility.* The Association or the Bank has declared the Project Implementing Entity ineligible to receive proceeds of any financing made by the Association or the Bank or otherwise to participate in the preparation or implementation of any project financed in whole or in part by the Association or the Bank, as a result of a determination by the Association or the Bank that the Project Implementing Entity has engaged in fraudulent, corrupt, coercive or collusive practices in connection with the use of the proceeds of any financing made by the Association or the Bank."

3. The following terms and definitions set forth in the Appendix are modified or deleted as follows, and the following new terms and definitions are added in alphabetical order to the Appendix as follows, with the terms being renumbered accordingly:

(a) The term “Project Preparation Advance” is modified to read “Preparation Advance” and its definition is modified to read as follows:

“‘Preparation Advance’ means the advance referred to in the Financing Agreement and repayable in accordance with Section 2.07.”