Financing Agreement

(Additional Financing For the Groundwater and Soil Conservation Project)

between

REPUBLIC OF YEMEN

and

INTERNATIONAL DEVELOPMENT ASSOCIATION

Dated October 13, 2008
GRANT NUMBER H420 RY

FINANCING AGREEMENT

Agreement dated October 13, 2008, entered into between REPUBLIC OF YEMEN (“Recipient”) and INTERNATIONAL DEVELOPMENT ASSOCIATION (“Association”) for the purpose of providing additional financing for activities related to the Original Project (as defined in the Appendix to this Agreement). 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 nine million two hundred thousand Special Drawing Rights (SDR 9,200,000) (“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.
ARTICLE III - PROJECT

3.01. The Recipient declares its commitment to the objectives of the Project. To this end, the Recipient shall carry out the Project through MAI 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 - TERMINATION

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

ARTICLE V - REPRESENTATIVE; ADDRESSES

5.01. The Recipient’s Representative is the Minister of Planning and International Cooperation of the Recipient.

5.02. 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
5.03. 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 248423 (MCI) 1-202-477-6391
Washington, D.C.

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

REPUBLIC OF YEMEN

By /s/ Abdul Kareem Al-Arhabi
Authorized Representative

INTERNATIONAL DEVELOPMENT ASSOCIATION

By /s/ Emmanuel Mbi
Authorized Representative
SCHEDULE 1

Project Description

The objective of the Project is to assist the Recipient in promoting groundwater conservation in farming areas and increasing surface and groundwater availability, through: (a) the improvement of irrigation water use efficiency; (b) the improvement of recharge and protection of watersheds; and (c) the support of groundwater management framework and institutions.

The Project consists of the Original Project.
SCHEDULE 2

Project Execution

Section I. Implementation Arrangements

A. Institutional Arrangements

1. The Recipient shall vest responsibility for the implementation of the Project in MAI, in accordance with the Project Implementation Plan (PIP). Except as the Association shall otherwise agree, the Recipient shall not amend or waive any provision of the PIP 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. The Recipient shall maintain the Steering Committee, with membership acceptable to the Association as set forth in the PIP. The Steering Committee shall have overall responsibility for Project oversight and coordination.

3. For purposes of assisting MAI in the implementation of the Project and in order to ensure proper coordination of the execution of the Project, the Recipient shall maintain the PCU, within MAI, with professional staff in adequate numbers whose qualifications, experience and terms of reference shall be acceptable to the Association. The PCU shall operate under the auspices of the Steering Committee. The functions of the PCU shall include, inter alia, responsibility for: (a) overall day to day management and coordination of the Project; (b) the environment, social, procurement and disbursement processes under the Project and the supervision of the work of the field units; (c) monitoring Project performance including the Environmental Management Plan, and implementation progress in accordance with the targets and indicators agreed upon with the Association; (d) management of the technical assistance components of the Project; (e) preparation, for submission to the Association, of annual work plans and updated procurement plans including a progress report on the EMP implementation; (f) entering into tripartite agreements for saving water with the beneficiaries and water users groups or other irrigation management bodies; and (g) preparation, for submission to the Association, of the reports referred to under paragraph B of this Schedule. Key staff of the PCU shall consist of a director, a procurement specialist, an environment specialist and a financial management specialist.

4. The Recipient shall maintain within the regional offices of MAI, ten (10) field units to supervise the work and provide overall guidance to the beneficiaries. Irrigation advisory service units, established within the said field units, shall provide technical guidance to the beneficiaries on the options of water saving schemes available under the Project, the use of the irrigation equipment installed,
the irrigation application techniques, water monitoring and the specific responsibilities of the beneficiaries.

5. The Recipient shall ensure that no irrigation equipment procured under the Project shall be provided to the beneficiaries, unless a tripartite agreement has been entered into between the beneficiaries, representatives of the Recipient, and water users groups, local agricultural cooperatives or local authorities. The said tripartite agreement shall include the eligibility criteria acceptable to the Association as set forth in the PIP.

B. Anti-Corruption

The Recipient shall ensure that the Project activities financed out of the proceeds of the Financing are carried out in accordance with the provisions of the Anti-Corruption Guidelines.

C. Safeguards

The Recipient shall ensure that: (a) the EMP will be implemented in a manner acceptable to the Association, (b) no activity shall be undertaken under the Project involving the involuntary acquisition of land or involuntary resettlement of occupants or owners of such land; and (c) any such land required for the purposes of the Project shall be acquired on a voluntary basis pursuant to a memorandum of understanding between the owner/occupant of such land and the Recipient and acceptable to the Association.

Section II. Project Monitoring, Reporting and Evaluation

A. Project Reports

1. 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 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 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 its 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:
<table>
<thead>
<tr>
<th>Procurement Method</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) National Competitive Bidding</td>
</tr>
<tr>
<td>(b) Shopping</td>
</tr>
<tr>
<td>(c) Procurement of Small Works</td>
</tr>
<tr>
<td>(d) Community Participation</td>
</tr>
<tr>
<td>(e) Direct Contracting</td>
</tr>
</tbody>
</table>

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.

<table>
<thead>
<tr>
<th>Procurement Method</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Selection Based on Consultants’ Qualifications</td>
</tr>
<tr>
<td>(b) Single Source Selection</td>
</tr>
<tr>
<td>(c) Individual Consultants</td>
</tr>
</tbody>
</table>

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:

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount of the Financing Allocated (expressed in SDR)</th>
<th>Percentage of Expenditures to be Financed (inclusive of Taxes)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Works</td>
<td>1,530,000</td>
<td>85%</td>
</tr>
<tr>
<td>(2) Goods</td>
<td>7,020,000</td>
<td>100%</td>
</tr>
<tr>
<td>(3) Consultants’ services including audit</td>
<td>340,000</td>
<td>100%</td>
</tr>
<tr>
<td>(4) Training</td>
<td>50,000</td>
<td>100%</td>
</tr>
<tr>
<td>(5) Unallocated</td>
<td>260,000</td>
<td></td>
</tr>
<tr>
<td>TOTAL AMOUNT</td>
<td>9,200,000</td>
<td></td>
</tr>
</tbody>
</table>

B. Withdrawal Conditions; Withdrawal Period

1. Notwithstanding the provisions of Part A of this Section, no withdrawal shall be made for payments made prior to the date of this Agreement.

2. The Closing Date is October 31, 2011.
APPENDIX

Definitions


2. “Category” means a category set forth in the table in Section IV of Schedule 2 to this Agreement.

3. “Environmental Management Plan” or “EMP” means the Recipient’s environmental management plan dated March 5, 2003, and updated on February 7, 2008, including the pest management plan, and aimed at assuring: (i) the adequate development of a screening process to identify any potential negative environment impact under the Project and undertake mitigation measures to reduce any such impacts; (ii) the implementation of a practical monitoring program to determine the effectiveness and timeliness of said interventions; and (iii) the carrying out of effective capacity building and training activities so as to improve environmental awareness and sensitivity among Project staff, counterpart agencies and beneficiaries.


5. “General Conditions” means the “International Development Association General Conditions for Credits and Grants”, dated July 1, 2005 (as amended through October 15, 2006).

6. “MAI” means the Recipient’s Ministry of Agriculture and Irrigation or any successor thereof.

7. “Original Financing Agreement” means the development credit agreement for a Groundwater and Soil Conservation Project between the Recipient and the Association, dated April 23, 2004 as amended to the date of this Agreement (Credit No. 3860 -YEM).

8. “Original Project” means the Project described in the Original Financing Agreement.

9. “PCU” means the Project Coordination Unit established by the Recipient within MAI and referred to in paragraph 3 of Section I.A of Schedule 2 to this Agreement.

11. “Procurement Plan” means the Recipient’s procurement plan for the Project, dated April 21, 2008 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.

12. “Project Implementation Plan” or “PIP” means the Project implementation plan, dated December 3, 2003, as such plan may be updated from time to time by agreement of the Recipient and the Association.

13. “Steering Committee” means the committee established and operating in accordance with the PIP and paragraph 2 of Section I.A of Schedule 2 to this Agreement.