

PROGRAM IMPLEMENTATION AGREEMENT
BETWEEN
THE REPUBLIC OF BENIN
AND
THE UNITED STATES OF AMERICA,
ACTING THROUGH
THE MILLENNIUM CHALLENGE CORPORATION

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PROGRAM IMPLEMENTATION AGREEMENT

PREAMBLE

This PROGRAM IMPLEMENTATION AGREEMENT (this “*Agreement*”) is between the Republic of Benin (the “*Government*”), and the United States of America (the “*United States*”), acting through the Millennium Challenge Corporation, a United States government corporation (“*MCC*”) (individually, a “*Party*” and collectively, the “*Parties*”).

Recalling that the Millennium Challenge Compact between the United States, acting through MCC, and the Government signed on December 14, 2022 (the “*Compact*”), sets forth the general terms on which MCC shall provide assistance of up to US\$202,000,000 to the Government for a program to reduce poverty through economic growth in Benin and advance regional economic integration, increased regional trade, or cross-border collaboration;

Recalling that the Government has designated MCA-Benin Regional to carry out certain rights and obligations of the Government under the Compact and related agreements; and

Recognizing that the Parties wish to specify further the terms for implementing the Compact and the Program;

The Parties hereby agree as follows:

ARTICLE 1.

GENERAL RESPONSIBILITIES OF THE GOVERNMENT

Section 1.1 Definitions.

Capitalized terms and acronyms used in this Agreement and not defined in this Agreement have the meanings provided in the Compact. All other capitalized terms and acronyms have the meanings provided in Annex I.

Section 1.2 Role of the Government.

(a) Government Responsibilities. The Government shall promptly take all necessary or appropriate actions to carry out all of its obligations under the Compact, this Agreement, and any other Supplemental Agreement (including any post-Compact Term activities, audits or other responsibilities), and to delegate its rights and responsibilities to entities, including MCA-Benin Regional, adequate to enable them (each a “*Permitted Designee*”) to oversee and manage the implementation of the Program on behalf of the Government.

(b) Government Undertakings. The Government hereby affirms as follows:

(i) Impoundment; Liens or Encumbrances. The Government shall ensure that (A) no Program Assets are subject to any impoundment, rescission, sequestration, liquidation, or to any provision of law now or hereafter in effect in Benin that would have the effect of allowing any such impoundment, rescission, sequestration, or liquidation and (B) no Program Asset is subject to any lien, attachment, enforcement of judgment, pledge, or encumbrance of any kind (each, a "*Lien*"), except with MCC's prior written approval. In the event any Lien not so approved is imposed, the Government shall promptly seek the release of such Lien and, if such Lien is required by a final and non-appealable court order, shall pay any amounts due in order to obtain such release; *provided, however*, that the Government shall not use MCC Funding, the Government Contribution, or any Program Assets to satisfy any such obligation.

(ii) Disposal of Program Assets Consisting of Real Property. The Government shall ensure that no Program Asset consisting of real property is (A) subject to any lease or sub-lease arrangement, in whole or in part or (B) sold, donated or otherwise disposed of, in whole or in part; except, in each of the foregoing cases, with MCC's prior written approval. In addition, any Program Asset consisting of real property that is retained by MCA-Benin Regional after the expiration or termination of the Compact shall, in accordance with the terms of the *Program Closure Guidelines*, be subject to a reversionary interest of MCC for a period of five (5) years commencing on the last day of the Closure Period; and if at any time during that five-year period, the Government wishes to sell the real property or use it for a purpose that is not related to the Program or does not continue to further the Program objectives, the Government shall compensate MCC for its interest in the real property by paying to MCC an amount equal to the fair market value of MCC's reversionary interest in the real property determined at such time.

(iii) Environmental and Social Performance. Unless MCC and the Government agree otherwise in writing, the Government shall ensure that all Projects and Activities undertaken, funded, or otherwise supported in whole or in part (directly or indirectly) by MCC Funding under the Compact comply with the Environmental Guidelines, including the environmental and social performance standards set forth in the IFC Performance Standards that have been incorporated by reference into the Environmental Guidelines. The Government also shall ensure that the Projects and Activities comply with all national environmental laws and regulations, licenses and permits, except to the extent such compliance would be inconsistent with the Compact. Where there is a difference between national environmental laws and regulations and the standards required by the Compact, the Government shall ensure that the stricter standard is followed. Unless MCC agrees otherwise in writing, the Government shall fund all costs of environmental and social mitigation measures necessary for the Program (including, without limitation, costs of resettlement) that are not specifically provided for in the Compact, or that exceed the amount of MCC Funding and/or Government Contribution specifically allocated for such costs in the Detailed Financial Plan for any Project or Activity.

(iv) Gender and Social Inclusion. Unless MCC and the Government agree otherwise in writing, the Government shall ensure that all Projects and Activities undertaken, funded, or otherwise supported in whole or in part (directly or indirectly) by MCC Funding comply with the MCC Gender Policy, *MCC Counter-Trafficking in Persons Policy*, and the *MCC Operational Requirements and Milestones for Social Inclusion and Gender Integration*.

Section 1.3 Role of MCA-Benin Regional.

(a) Designation of MCA-Benin Regional.

(i) Pursuant to Section 3.2(b) of the Compact, the Government has designated MCA-Benin Regional, an independent and autonomous entity, as the primary agent of the Government to implement the Program and to exercise and perform the Government's right and responsibility to oversee, manage, and implement the Program, including without limitation, managing the implementation of Projects and Activities, allocating resources, and managing procurements (the "***Designated Rights and Responsibilities***"). The Parties note that the Government remains ultimately responsible for the performance of the Government's obligations under or in relation to the Compact and this Agreement.

(ii) The Government shall ensure that MCA-Benin Regional is and remains throughout the Compact Term (and during the Closure Period as provided in the Closure Plan), duly organized, sufficiently staffed, and empowered to exercise the Designated Rights and Responsibilities.

(iii) The "Accountable Entity" referenced in the Program Guidelines shall be deemed to refer to MCA-Benin Regional, and all obligations assigned to the "Accountable Entity" in the Program Guidelines shall be obligations of MCA-Benin Regional.

(b) Additional Government Undertakings with Respect to MCA-Benin Regional. The Government hereby affirms to MCC as follows:

(i) Power and Authorization. MCA-Benin Regional has the power and authority to (A) bind the Government to the full extent of the Designated Rights and Responsibilities; (B) execute and deliver each agreement, certificate, or instrument contemplated by this Agreement, the Compact, any other Supplemental Agreement, or the Program Guidelines; and (C) perform its obligations under this and each such other agreement, certificate, or instrument contemplated by this Agreement, the Compact, any other Supplemental Agreement, any Implementation Letter, or the Program Guidelines.

(ii) Government Responsibilities. MCA-Benin Regional (A) shall carry out the Designated Rights and Responsibilities (including all obligations specified as MCA-Benin Regional obligations in the Compact, this Agreement, the CDF Agreement, or any other Supplemental Agreement) with due care, efficiency and diligence in conformity with sound technical, financial and management practices, and in conformity with the Compact, this Agreement, the CDF Agreement, any other Supplemental Agreement and the Program

Guidelines; (B) except as provided in Section 2.6 or with respect to an Implementing Entity, shall not assign, delegate or otherwise transfer any of the Designated Rights and Responsibilities without the prior written consent of MCC; and (C) shall not undertake any activities, duties, or responsibilities other than the Designated Rights and Responsibilities without the prior written consent of MCC.

(iii) Government Representations. MCA-Benin Regional shall confirm each representation that it makes on behalf of the Government in any agreement, certificate, or instrument delivered by MCA-Benin Regional with all necessary Permitted Designees prior to providing such representation to MCC.

(iv) Autonomy. The Government shall ensure that (A) no decision of MCA-Benin Regional is modified, supplemented, unduly influenced, or rescinded by any governmental authority, except by a final and non-appealable judicial decision and (B) the authority of MCA-Benin Regional shall not be expanded, restricted, or otherwise modified, except in accordance with this Agreement and the Compact.

(v) Governance of MCA-Benin Regional. MCA-Benin Regional shall adopt internal rules and regulations or bylaws ("**Bylaws**") and a human resource manual ("**HR Manual**"), each in form and substance satisfactory to MCC, that shall provide the framework for MCA-Benin Regional's operations and administration and the general terms and conditions for employment of its staff. MCA-Benin Regional shall conduct its operations and management in accordance with the Governing Documents (including the Bylaws) and the Governance Guidelines.

(vi) Funded Agreements; General Provisions Annex. MCA-Benin Regional shall provide the Fiscal Agent (and MCC if it so requests) a copy of each agreement that is funded (directly or indirectly) with MCC Funding or the Government Contribution (each a, "**Funded Agreement**"), regardless of whether MCC has approval rights with respect to such agreement. Unless otherwise instructed by MCC, MCA-Benin Regional shall include in each Funded Agreement (A) a covenant that the counterparty to such agreement (each a, "**Counterparty**") shall comply with (i) the General Provisions Annex and (ii) any instruction received by such Counterparty from MCC regarding the performance by such Counterparty of the terms of the General Provisions Annex notwithstanding any other instruction given by MCA-Benin Regional; and (B) a right for MCA-Benin Regional to terminate such Funded Agreement if such Counterparty fails to comply with the General Provisions Annex or any such instruction of MCC.

(vii) Insurance; Performance Guaranties. MCA-Benin Regional shall, to MCC's satisfaction, cause all Program Assets to be insured (including, without limitation, through self-insurance) and shall arrange such other appropriate insurance to cover against risks or liabilities associated with the operations of the Program, including by requiring Providers to obtain adequate insurance and to post adequate performance bonds or other guaranties. With MCC's prior consent, MCC Funding may be used to pay the costs of obtaining such insurance. MCA-Benin Regional (or, as appropriate and with MCC's prior approval, another entity) shall be

named as the payee on any such insurance and the beneficiary of any such guaranty or bonds. If not already named as the insured party, MCA-Benin Regional (and MCC, if it so requests) shall be named as additional insureds on any such insurance. The Government shall promptly notify MCC of the payment of any proceeds from claims paid under such insurance or guaranty and shall ensure that such proceeds shall be used to replace or repair any lost or damaged Program Assets; **provided, however**, that, at MCC's election, such proceeds shall be deposited in a Permitted Account as designated by MCA-Benin Regional or as otherwise directed by MCC.

(viii) MCA-Benin Regional Indemnity. If MCA-Benin Regional is held liable under any indemnification or other similar provision of any agreement, then the Government shall pay such indemnity in full on behalf of MCA-Benin Regional and shall not use MCC Funding, the Government Contribution, or any Program Assets to satisfy such obligation. In addition, the Government shall indemnify and hold harmless each member of MCA-Benin Regional's Board (including each observer), each member of any Stakeholders' Committee and each of MCA-Benin Regional's Key Staff and employees from any claim, loss, action, liability, cost, damage or expense incurred by such person in the performance of its duties on behalf of MCA-Benin Regional, **provided, however**, that the Government shall have no obligation to indemnify any such person if and to the extent that any such claims, losses, actions, liabilities, costs, damages or expenses are attributable to the fraud, gross negligence or willful misconduct of such person; and **provided, further**, that the Government shall not use MCC Funding, the Government Contribution, or any Program Assets to satisfy its obligations under this Section 1.3(b)(viii).

(ix) Additional Government Requirements. The Government shall:

(A) without limiting the generality of Section 2.6 of the Compact, fund any severance costs or other financial liabilities incurred by MCA-Benin Regional arising from the termination or expiration of any MCA-Benin Regional employment agreements, pursuant to the terms of such employment agreements;

(B) ensure that foreign personnel (including individual consultants or personnel of firms) providing goods, works, or services under the Compact obtain work permits or such other documents as shall be necessary to enable the foreign personnel to perform services and to remain in Benin for the duration of the Compact; and

(C) in addition to the Government Contribution and any other contributions required under the Compact, provide such resources as are necessary to support the safety and security of the Program, Program Assets, MCC and MCA-Benin Regional staff, consultants, contractors, or other personnel, and any other persons or entities engaged in Program-related activities.

ARTICLE 2.

IMPLEMENTATION FRAMEWORK

Section 2.1 Implementation Plan. The framework for the Program's implementation shall be further elaborated in a set of documents, in form and substance approved by MCC, consisting of (i) Work Plans, (ii) a Detailed Financial Plan, (iii) an Audit Plan, (iv) a Procurement Plan, (v) a Fiscal Accountability Plan, (vi) an M&E Plan, (vii) an Environmental and Social Performance Plan, (viii) a Social and Gender Integration Plan, and (ix) an AFC Action Plan (each, an "**Implementation Plan Document**" and collectively the "**Implementation Plan**"). MCA-Benin Regional shall submit its proposed Implementation Plan for review and approval by MCC before the initial Disbursement of Program Funding and at least on an annual basis thereafter (or in such other interval as may be required by the Program Guidelines). MCC shall review the proposed Implementation Plan and as necessary may request MCA-Benin Regional to submit clarifications or adjustments. MCA-Benin Regional shall submit an updated Implementation Plan or updated Implementation Plan Document during any quarter in which significant changes or modifications are made to a Project or to the Program, or when MCA-Benin Regional determines that the expected results, targets, and milestones for the specified year are not likely to be achieved; **provided, however**, that an updated Detailed Financial Plan shall be submitted each quarter. In such instances, MCA-Benin Regional shall submit to MCC for approval a proposed revised Implementation Plan or an updated Implementation Plan Document (as applicable) on the same date as the next Periodic Report is due. MCA-Benin Regional shall ensure that the implementation of the Program is conducted in accordance with the Implementation Plan.

(a) Work Plan. MCA-Benin Regional shall develop and implement a work plan, in form and substance satisfactory to MCC, for the overall administration of the Program and such other work plans relating to the Projects and/or Activities as MCC may request from time to time (collectively, the "**Work Plans**").

(b) Detailed Financial Plan. The Multi-Year Financial Plan Summary for the Program, which is set forth in Annex II to the Compact, shows the estimated annual contribution of MCC Funding and the overall allocation of the Government Contribution to administer, monitor and evaluate the Program and to implement each Project (the "**Multi-Year Financial Plan**"). Except as MCC agrees otherwise in writing, MCA-Benin Regional shall develop and implement for each quarter for the upcoming year and on an annual basis for each year of the remaining years of the Compact and the Closure Period, a detailed financial plan in accordance with the Reporting Guidelines, setting forth funding requirements for the Program (including administrative costs) and for each Project, broken down to the sub-activity level (or lower, where appropriate), and projected both on a commitment and cash requirement basis (each a "**Detailed Financial Plan**").

(c) Audit Plan. MCA-Benin Regional shall develop and implement an audit plan for the audit of the expenditures of the entities that are subject to audit pursuant to the Audit Guidelines (the "**Audit Plan**"). The Audit Plan shall be in form and substance satisfactory to

MCC and shall be developed no later than sixty (60) days before the end of the first period to be audited.

(d) Procurement Plan. MCA-Benin Regional shall prepare periodic procurement plans for acquiring the goods, works, and consultant and non-consultant services needed to implement the Compact (each a "**Procurement Plan**"). Each Procurement Plan shall be prepared and updated in accordance with the MCC Program Procurement Guidelines. In addition, no later than six months after the Compact is signed, MCA-Benin Regional shall develop and implement a bid challenge system ("**BCS**") that provides suppliers, contractors and consultants that are interested parties the ability to seek review of procurement actions and decisions. The organization, rules and procedures of such BCS shall be subject to MCC approval. Upon MCC's approval of the BCS, MCA-Benin Regional shall publish the BCS on the MCA-Benin Regional Website.

(e) Fiscal Accountability Plan. MCA-Benin Regional shall develop and implement a manual (as approved by MCC) setting forth the principles, mechanisms, and procedures (the "**Fiscal Accountability Plan**") that MCA-Benin Regional shall use to ensure appropriate fiscal accountability for the use of MCC Funding or Government Contribution. The Fiscal Accountability Plan shall also include, among other things, requirements with respect to (i) budgeting, (ii) accounting, (iii) cash management, (iv) financial transactions (receipts and payments), (v) opening and managing Permitted Accounts, (vi) personnel and payroll management, (vii) travel and vehicle use, (viii) asset and inventory control, (ix) audits, and (x) reporting. The Fiscal Accountability Plan shall be revised periodically, subject to review and approval by MCC.

(f) M&E Plan. By the time specified in Annex II to this Agreement, MCA-Benin Regional shall develop and implement an M&E Plan to serve as the primary governing document for monitoring and evaluation activities for the Program over the Compact Term. The M&E Plan shall be developed, implemented, and updated in accordance with the MCC M&E Policy.

(g) Environmental and Social Performance Plans. In accordance with Section 1.2(b)(iii), MCA-Benin Regional shall ensure that activities undertaken, funded, or otherwise supported in whole or in part (directly or indirectly) by MCC Funding or the Government Contribution comply with the Environmental Guidelines, including the IFC Performance Standards that are incorporated by reference therein. Specifically, MCA-Benin Regional shall: (i) cooperate with or complete, as the case may be, any ongoing environmental and social impact assessments, and if necessary, undertake and complete any additional environmental and social assessments and analyses, such as environmental and social management plans, environmental and social audits, resettlement policy frameworks, stakeholder engagement plans, and resettlement action plans required under the laws of Benin, the Environmental Guidelines, this Agreement, the Compact, any other Supplemental Agreement or the Program Guidelines, or as otherwise required by MCC, each in form and substance satisfactory to MCC; (ii) ensure that Project- or Activity-specific environmental and social management plans are developed, maintained, and updated and all relevant measures contained in such plans are integrated into

project design and construction, the applicable procurement documents and associated finalized contracts, in each case, in form and substance satisfactory to MCC; and (iii) implement to MCC's satisfaction appropriate environmental and social mitigation measures identified in such assessments or plans or developed to address environmental and social risks and impacts identified during Compact implementation.

In addition, MCA-Benin Regional may engage the services of a Management Oversight, Social and Environmental Consultant (the "**MOSES**") to enhance MCA-Benin Regional's environmental and social performance and gender and social inclusion capacity. The MOSES shall (i) support MCA-Benin Regional in complying with the *Environmental Guidelines, Gender Policy, Counter-Trafficking in Persons Policy*, MCA-Benin Regional's Social and Gender Integration Plan, and Benin environmental and social regulations and requirements through all phases of the Projects; (ii) provide training and oversee effective implementation of the ESMS and complementary stakeholder engagement plan developed by MCA-Benin Regional; and (iii) maintain sufficient technically qualified staff throughout the period of performance to ensure MCA-Benin Regional's compliance with the policies, plans, and regulations and requirements described in clause (i) above and to MCC's satisfaction.

(h) Social and Gender Integration Plan. To ensure social inclusion and gender integration across the Projects and Activities, address human trafficking, and ensure compliance with the *Gender Policy* and the *Operational Requirements and Milestones for Social Inclusion and Gender Integration*, MCA-Benin Regional shall develop a comprehensive social and gender integration plan (the "**Social and Gender Integration Plan**") that, at a minimum, (i) identifies approaches for regular, meaningful and inclusive consultations with women and other vulnerable and/or underrepresented groups; (ii) sets forth strategies for consolidating the findings and recommendations of Project-specific social and gender analyses into final Project designs; and specifies actions to be taken during the Compact Term to meet the social inclusion and gender equality objectives for the Projects; and (iii) ensures, through monitoring and coordination during Compact implementation, that final Activity designs, construction, and consultant tender documents and implementation plans are consistent with and incorporate the outcomes of the social and gender analyses and recommendations. MCA-Benin Regional shall, on an annual basis, review and update the Social and Gender Integration Plan as needed to reflect lessons learned and Project-specific analysis.

(i) Anti-Fraud and Corruption Action Plan. MCA-Benin Regional shall develop and adopt an anti-fraud and corruption action plan to articulate how MCA-Benin Regional shall supplement MCC-mandated controls to prevent fraud and corruption specific to its operating environment (the "**AFC Action Plan**"). The AFC Action Plan shall be created after completion of, and based on the findings of, an anti-fraud and corruption risk assessment carried out in compliance with the *Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations*. Such anti-fraud and corruption risk assessment shall occur at a time agreed upon between MCA-Benin Regional and MCC. MCC shall approve the AFC Action Plan, monitor its implementation, and refine MCC's oversight strategy in relation to the AFC Action Plan, when necessary.

Section 2.2 Program Procurement Guidelines and Program Grant Guidelines. In accordance with Section 3.6 of the Compact:

(a) MCA-Benin Regional shall comply with the MCC Program Procurement Guidelines in the procurement (including solicitation) of all goods, works, and services and the award and administration of contracts in furtherance of the Compact. In addition, the Government shall ensure that any bid challenges are conducted in accordance with the MCC Program Procurement Guidelines and the BCS; and

(b) MCA-Benin Regional shall comply with the Program Grant Guidelines in the solicitation, award, and administration of grants awarded to any non-Government entity in furtherance of the Program.

Section 2.3 Notice to Providers; Incorporation.

MCA-Benin Regional shall notify all Providers (and all other entities or individuals receiving MCC Funding in connection with the Program) of the requirements of Sections 2.7 and 3.7, and paragraphs (b), (c), and (d) of Section 3.8 of the Compact and shall include, or ensure the inclusion of, the requirements of such provisions in all agreements with a Provider.

Section 2.4 Reports; Notices.

(a) Unless MCC agrees otherwise in writing, MCA-Benin Regional shall periodically provide to MCC, in form and substance satisfactory to MCC, the reports and information required by the Reporting Guidelines (each, a "**Periodic Report**"). MCA-Benin Regional shall provide the Periodic Reports to MCC on the schedule and in the manner specified in the Reporting Guidelines.

(b) If at any time during the Compact Term, the Government materially reallocates or reduces the allocation in its national budget of the normal and expected resources that the Government would have otherwise received or budgeted, from external or domestic sources, or fails to timely distribute an allocation budgeted for the activities contemplated under the Compact or the Program, the Government, acting through MCA-Benin Regional, must notify MCC in writing within thirty (30) days of such reallocation, reduction, or failure to distribute, such notification to contain information regarding the amount of the reallocation, reduction, or failure to distribute, the affected activities, and an explanation for the reallocation or reduction.

(c) In addition to the Periodic Reports, MCA-Benin Regional shall provide to MCC within thirty (30) days of a written request by MCC, or as otherwise agreed by MCC and MCA-Benin Regional in writing, such other reports, documents, or information as MCC may request from time to time related to the Program.

(d) MCA-Benin Regional shall submit the Periodic Reports and any other reports required hereunder electronically if requested by MCC or otherwise required by the Reporting Guidelines.

(e) MCA-Benin Regional shall periodically provide to MCC, in form and substance satisfactory to MCC, the reports and information regarding the Government Contribution towards the objectives of the Program described in Section 2.6(a) of the Compact as required by the *Guidelines for Country Contributions* (each, a “**Country Contribution Report**”). MCA-Benin Regional shall provide the Country Contribution Reports to MCC on the schedule and in the manner specified in the *Guidelines for Country Contributions*.

Section 2.5 Transactions Subject to MCC Approval.

Each of the following transactions, activities, agreements, and documents requires MCC’s prior written approval:

- (a) Disbursements;
- (b) the Implementation Plan (including each element or component thereof) and any modification of any of the foregoing;
- (c) agreements between the Government and MCA-Benin Regional, and agreements in which any of the following are appointed, hired or otherwise engaged (each, a “**Material Agreement**”):
 - (i) Auditor or Reviewer;
 - (ii) Fiscal Agent;
 - (iii) Procurement Agent;
 - (iv) Bank;
 - (v) Implementing Entity;
 - (vi) Outside Project Manager; and
 - (vii) a member of the Board (including any observer) or any Key Staff of MCA-Benin Regional (including agreements regarding compensation for any such person);
- (d) any modification, termination or suspension of a Material Agreement, or any action that would have equivalent effect;
- (e) any agreement or transaction of MCA-Benin Regional that is not arm’s-length;
- (f) any pledge of any MCC Funding, the Government Contribution, or any Program Assets, or any incurrence of material indebtedness, or any guarantee, directly or indirectly of any indebtedness;
- (g) any decree, legislation, regulation, charter, contractual arrangement or other

document establishing or governing (other than public laws of general application to all public institutions), or relating to the formation, organization or governance of, MCA-Benin Regional (including the Bylaws, HR Manual, and any staffing plan) (each, a “**Governing Document**”);

(h) any disposition, in whole or in part, liquidation, dissolution, winding up, reorganization or other change of MCA-Benin Regional;

(i) any change in character or location of any Permitted Account;

(j) (A) any change of any member of the Board (including any observer), of the member serving as the chairperson or in the composition or size of the Board, and the filling of any vacant seat of any member of the Board (including any observer) and (B) any change of any Key Staff of MCA-Benin Regional or in the composition or size of its operations unit, and the filling of any vacant position of any Key Staff of MCA-Benin Regional (including any process related to the recruitment and selection of any such Key Staff);

(k) Any decision by MCA-Benin Regional to engage, accept, or manage any funds in addition to MCC Funding and the Government Contribution (including from the Government or any donor agencies or organizations) during the Compact Term, or to engage in any activities or undertake any duties or responsibilities other than the Designated Rights and Responsibilities;

(l) any formation or acquisition of a subsidiary or other related entity of MCA-Benin Regional;

(m) any agreement, transaction, decision, or other action or document for which MCC approval is required under any of the Program Guidelines; and

(n) any amendment, supplement, replacement, termination, revocation or other change to any of the foregoing documents or arrangements.

Section 2.6 Role of Certain Entities in Implementation.

(a) Outside Project Manager. MCA-Benin Regional may engage qualified persons or entities to serve as outside project managers (each, an “**Outside Project Manager**”) in the event that it is advisable to do so for the proper and efficient day-to-day management of a Project or Activity; **provided, however,** that, if so required by the MCC Program Procurement Guidelines, the appointment or engagement of any Outside Project Manager shall be made using a competitive selection process and, if required by the MCC Program Procurement Guidelines, shall be subject to approval by the Board and by MCC prior to such appointment or engagement. Upon such approval, MCA-Benin Regional may delegate, assign, or contract to the Outside Project Managers such duties and responsibilities as it deems appropriate with respect to the management of the Implementing Entities and the implementation of the specific Projects or Activities; and **provided, further,** that MCA-Benin Regional shall remain accountable for those duties and responsibilities and all reports delivered by the Outside Project Manager notwithstanding any such delegation, assignment or contract and the Outside Project Manager

shall be subject to the oversight of the Fiscal Agent and Procurement Agent. The Board may determine that it is advisable to engage one or more Outside Project Managers and instruct MCA-Benin Regional and, where appropriate, the Procurement Agent to commence and conduct the competitive selection process for such Outside Project Manager.

(b) Fiscal Agent. MCA-Benin Regional shall engage a Fiscal Agent, who shall be responsible for, among other things, (i) ensuring and certifying that Disbursements are properly authorized and documented in accordance with established control procedures set forth in the Fiscal Agent Agreement and the Bank Agreement, (ii) instructing the Bank to make Disbursements from a Permitted Account or requesting Disbursement be made directly to a provider as payment for goods, works or services in accordance with the Common Payment System or any alternate payment system approved by MCC, as the case may be, and in each case following applicable certification by the Fiscal Agent, (iii) providing applicable certifications for Disbursement Requests, (iv) maintaining proper accounting of all MCC Funding or Government Contribution financial transactions, and (v) producing reports on Disbursements in accordance with established procedures set forth in the Fiscal Agent Agreement or the Bank Agreement. MCA-Benin Regional shall enter into an agreement with the Fiscal Agent, in form and substance satisfactory to MCC, which sets forth the roles and responsibilities of the Fiscal Agent and other appropriate terms and conditions (the "**Fiscal Agent Agreement**"). Unless MCC agrees otherwise in writing, the Fiscal Agent shall be a third party, independent of the Government.

(c) Auditors and Reviewers. MCA-Benin Regional shall engage one or more auditors as contemplated in the Audit Guidelines (each, an "**Auditor**"). As requested by MCC in writing from time to time, MCA-Benin Regional shall also engage one or more independent (i) reviewers to conduct reviews of performance and compliance under the Compact, which reviewer shall have the capacity to (A) conduct general reviews of performance or compliance, (B) conduct audits of environmental and social performance, and (C) conduct data quality assessments in accordance with the M&E Plan, as described more fully in Annex III to the Compact, and/or (ii) evaluators to assess performance as required under the M&E Plan (each, a "**Reviewer**"). MCA-Benin Regional shall select the Auditor(s) and/or Reviewer(s) in accordance with the Audit Guidelines and the M&E Plan, as applicable. MCA-Benin Regional shall enter into an agreement with each Auditor or Reviewer, in form and substance acceptable to MCC, that sets forth the roles and responsibilities of the Auditor or Reviewer with respect to the audit, review, or evaluation, including access rights, required form and content of the applicable audit, review, or evaluation and other appropriate terms and conditions (the "**Auditor / Reviewer Agreement**").

(d) Procurement Agent. MCA-Benin Regional shall engage a Procurement Agent to carry out and/or certify specified procurement activities in furtherance of the Compact and this Agreement. MCA-Benin Regional shall enter into an agreement with the Procurement Agent, in form and substance satisfactory to MCC, that sets forth the roles and responsibilities of the Procurement Agent with respect to the conduct, monitoring and review of procurements and other appropriate terms and conditions (the "**Procurement Agent Agreement**"). Unless MCC

agrees otherwise in writing, the Procurement Agent shall be a third party, independent of the Government.

Section 2.7 Publicity and Transparency.

(a) Subject to Section 2.8, MCA-Benin Regional shall give appropriate publicity to the Compact as a program to which the United States, through MCC, has contributed, including by identifying Program Activity sites, and marking Program Assets, all in accordance with the *Standards for Global Marking*. Upon the termination or expiration of the Compact, the Government, upon MCC's request, shall cause the removal of any such references and markings on the website operated by MCA-Benin Regional (the "*MCA-Benin Regional Website*") or in any Government or MCA-Benin Regional publicity materials.

(b) MCA-Benin Regional shall make information concerning implementation of the Compact publicly available, by posting the following documents in English, on the MCA-Benin Regional Website, all to the extent contemplated by and in accordance with the Governance Guidelines: (i) Compact, this Agreement, and the CDF Agreement (including amendments thereto); (ii) minutes of the meetings of the Board and minutes of the meetings of any Stakeholders' Committees; (iii) the M&E Plan, along with periodic reports and final evaluations on Program performance; (iv) all environmental and social impact assessments and supporting documents for the Projects; (v) all audit reports by an Auditor and any periodic reports or evaluations by a Reviewer; (vi) a summary of all Disbursement Requests; (vii) all procurement policies and procedures (including the BCS and all documents required to be made public by the MCC Program Procurement Guidelines or MCC Program Grant Guidelines); (viii) the AFC Action Plan and related implementation reports; (ix) the Governing Documents and any amendments thereto; and (x) such other materials as MCC may request; **provided, however**, that any press release or announcement regarding MCC or the fact that MCC is funding the Program or any other publicity materials referencing MCC shall be subject to MCC's prior approval and must be consistent with any instructions provided by MCC in relevant Implementation Letters.

(c) Notwithstanding Section 2.7(b), information relating to procurements prior to the award of a contract and confidential information relating to MCA-Benin Regional's agreements with employees, contractors, and consultants shall be excluded from the information and documents made publicly available; **provided, however**, that MCC and MCA-Benin Regional shall mutually determine whether any information to be excluded is confidential.

Section 2.8 Branding and Enforcement.

(a) Subject to Section 4.2(g), MCC hereby grants MCA-Benin Regional a revocable, royalty-free, fully paid, and non-exclusive right and license to use MCC's logo and the names "Millennium Challenge Corporation," "Millennium Challenge Account," and "MCC," in each case, solely in accordance with the *Standards for Global Marking*. Any such use of the logo and names shall be solely for the benefit of MCC, and not inure to the benefit of MCA-Benin Regional. The use of MCC's logo and names shall not create any agency or legal representation, and MCA-Benin Regional has no authority to bind MCC in any way.

(b) MCA-Benin Regional shall create its own logo and use such logo as well as the names "Millennium Challenge Account-Benin Regional" and "MCA-Benin Regional," in each case, solely in accordance with the *Standards for Global Marking*. Subject to Section 4.2(g), MCA-Benin Regional hereby grants MCC an irrevocable, royalty-free, fully paid, and non-exclusive right and license to use the names "Millennium Challenge Account-Benin Regional" and "MCA-Benin Regional," and MCA-Benin Regional's logo.

(c) MCA-Benin Regional shall take all reasonable steps to ensure that the names "Millennium Challenge Account-Benin Regional" and "MCA-Benin Regional," as well as its own logo, shall enjoy maximum protection under the laws now or hereafter in effect in Benin throughout the term of this Agreement. This includes the registration of the names and the logo as a trademark, if appropriate, the monitoring of unauthorized use by third parties, and, in case of detection of unauthorized use, the enforcement of such rights. MCA-Benin Regional shall inform MCC as soon as practicable if it becomes aware of any infringement, threat of infringement, or any other use by a third party that has not been authorized by MCC of any of (i) the names "Millennium Challenge Account-Benin Regional," "MCA-Benin Regional," and/or MCA-Benin Regional's logo; or (ii) the names "Millennium Challenge Corporation," "MCC," and/or MCC's logo. MCA-Benin Regional shall provide MCC assistance to enforce MCC's rights to the names "Millennium Challenge Corporation" and "MCC," as well as to MCC's logo.

Section 2.9 Government Contribution.

(a) In accordance with Section 2.6(a) of the Compact, the Government shall make a Government Contribution toward meeting the objectives of the Compact. Such contribution shall be in addition to the Government's spending allocated toward such objectives in its budget for the year immediately preceding the year that the Compact is signed and shall comply with the provisions of the *Guidelines for Country Contributions*. Annex III to this Agreement sets forth the budget allocation of the Government Contribution to the Projects and program administration over the Compact Term.

(b) Unless otherwise agreed by the Parties in writing, contributions denominated in the local currency of Benin or other foreign currency shall be recorded and converted to United States Dollars at the exchange rate on the date the contribution payment is made or using an average rate over the period of contribution, in each case, using the exchange rates published by the central bank of Benin or such other source acceptable to MCC.

ARTICLE 3.

DISBURSEMENT OF MCC FUNDING

Section 3.1 Disbursement Process.

(a) Disbursement Requests. MCA-Benin Regional may request Disbursements to be made under the Compact by submitting a request in accordance with the Reporting Guidelines (each a "***Disbursement Request***"), duly completed, to MCC not later than twenty (20) days (or

such other period of time as may be agreed by MCC) prior to the commencement of each Disbursement Period. Requests for Disbursement of Program Funding and Compact Facilitation Funding for any Disbursement Period shall be made by separate Disbursement Requests using the applicable form. Except as otherwise permitted by the Reporting Guidelines, MCA-Benin Regional may submit only one Disbursement Request for Program Funding, and one Disbursement Request for Compact Facilitation Funding, for each quarter (such quarter, or any other period of time as agreed by MCC, the “**Disbursement Period**”). Each Disbursement Request submitted must be accompanied by the Periodic Reports covering the corresponding Disbursement Period.

(b) Approval of Disbursement Requests; Release of Proceeds.

(i) Upon receipt of a Disbursement Request, MCC shall determine the appropriate amount of the Disbursement to be authorized based on, among other things, (A) the progress achieved under the Implementation Plan; (B) the amount of funds required to complete the activities described in the Disbursement Request during the corresponding Disbursement Period; and (C) the satisfaction, waiver, or deferral of applicable conditions to such Disbursement. MCC may, in its discretion, disapprove any Disbursement completely or reduce the amount of any Disbursement below that proposed in a Disbursement Request based on its determination of any of the factors set forth in this Section 3.1(b)(i).

(ii) Upon MCC’s approval of a Disbursement Request, the proceeds of the Disbursement may be transferred, at MCC’s election, (A) to a Permitted Account; (B) directly to a third party as payment for goods, works, or services received by MCA-Benin Regional in accordance with the Common Payment System or any alternate payment system approved by MCC; or (C) directly to an employee of MCA-Benin Regional (or to the Government, as reimbursement for authorized expenses of MCA-Benin Regional); **provided, however**, that expenditures of such proceeds (including amounts transferred directly to a provider) are authorized by MCA-Benin Regional, and the related payment complies, as certified by the Fiscal Agent, with the most recently approved Detailed Financial Plan and the standards and procedures set forth in the Fiscal Agent Agreement and the Fiscal Accountability Plan.

(c) Permitted Accounts.

(i) Any MCC Funding to be disbursed to a bank account must be deposited in one or more Permitted Accounts, which shall be established by MCA-Benin Regional and must be held at a financial institution acceptable to MCC and interest-bearing to the extent practicable. MCA-Benin Regional may designate one of the Permitted Accounts to hold funds denominated in the local currency of Benin (the “**Local Account**”) and shall designate one of the Permitted Accounts solely for the deposit of the Government Contribution (“**Government Account**”). MCA-Benin Regional shall notify MCC promptly if any account information for a Permitted Account changes during the Compact Term and provide MCC with the updated information.

(ii) Unless otherwise authorized by MCC in writing, no funds shall be commingled in any Permitted Account set up to receive MCC Funding other than MCC Funding and

accrued interest and earnings thereon. Likewise, no funds other than the Government Contribution and accrued interest and earnings thereon shall be commingled in the Government Account. MCC shall have the right, among other things, to view any Permitted Account statements and activity directly on-line, and where such viewing is not feasible, MCA-Benin Regional shall provide copies of such statements to MCC upon its request. Before any MCC Funding or Government Contribution is deposited into a Permitted Account, MCA-Benin Regional shall enter into an agreement, in form and substance satisfactory to MCC, with the financial institution approved by MCC to hold such Permitted Account (the "**Bank**") that sets forth the signatory authority, access rights, anti-money laundering and anti-terrorist financing provisions, and other terms related to such Permitted Account (the "**Bank Agreement**"). The Fiscal Agent, and in certain specified cases in the Bank Agreement, designated representatives of MCC, shall be the sole signatories on each Permitted Account.

(iii) MCC Funding or Government Contribution proceeds held in the Permitted Accounts may accrue interest or other earnings in accordance with the applicable Bank Agreement. On a quarterly basis and upon the termination or expiration of the Compact or the applicable Bank Agreement, MCA-Benin Regional shall ensure the transfer of all accrued interest on MCC Funding to MCC. Accrued interest on the Government Contribution held in a Permitted Account shall be retained in such account until the funds may be transferred to the Government according to instructions agreed upon between the Bank and the Government.

(iv) Unless MCC agrees otherwise in writing, if MCC Funding is held in any Permitted Account other than the Local Account, MCA-Benin Regional shall ensure that such MCC Funding shall be denominated in the currency of the United States of America prior to its expenditure or transfer to the Local Account. To the extent that any amount of MCC Funding held in United States Dollars must be converted into the currency of Benin for any purpose, MCA-Benin Regional shall ensure that such amount is converted consistent with the requirements of the Bank Agreement or any other applicable Supplemental Agreement.

Section 3.2 Conditions Precedent to Disbursement of Compact Facilitation Funding. The applicable conditions set forth in Annex IV to the Compact must be met to MCC's satisfaction before the initial and each subsequent Disbursement of Compact Facilitation Funding.

Section 3.3 Conditions Precedent to the Initial Disbursement of Program Funding. Unless waived or deferred by MCC, the conditions of this Section 3.3 and the conditions set forth in Section 3.4 must be met to MCC's satisfaction before the initial Disbursement of Program Funding:

(a) Entry into Force. The Compact has entered into force as provided in Article 7 of the Compact.

(b) Key Staff. Each of the Key Staff has been selected and engaged by MCA-Benin Regional and approved by MCC.

(c) Fiscal Accountability Plan. MCA-Benin Regional has developed the Fiscal Accountability Plan (or an interim version), and the plan has been approved by MCC.

(d) Implementation Plan. MCA-Benin Regional has developed a complete Implementation Plan.

(e) Governing Documents. MCA-Benin Regional has been legally established and the Government has provided MCC with copies of all decrees, legislations, or other documents relating to the establishment of MCA-Benin Regional and its operations (including the Bylaws and HR Manual). MCA-Benin Regional has developed and adopted the HR Manual, and the manual has been approved by MCC.

Section 3.4 Conditions Precedent to Each Disbursement of Program Funding. Unless waived or deferred by MCC, the following conditions must be met to MCC's satisfaction before each Disbursement of Program Funding (including the initial Disbursement of Program Funding):

(a) Deliveries. MCA-Benin Regional has delivered to MCC the following documents, reports and information in form and substance satisfactory to MCC:

(i) a completed Disbursement Request, together with the Periodic Reports covering the related Disbursement Period;

(ii) copies of any reports from any technical (including environmental) auditors engaged by MCA-Benin Regional for any Activity delivered since the previous Disbursement Request;

(iii) a certificate of MCA-Benin Regional, dated as of the date of such Disbursement Request, substantially in the form provided by MCC (the "*MCA Disbursement Certificate*");

(iv) a certificate of the Procurement Agent, substantially in the form provided by MCC (the "*Procurement Agent Disbursement Certificate*"); and

(v) a certificate of the Fiscal Agent, substantially in the form provided by MCC (the "*Fiscal Agent Disbursement Certificate*").

(b) Other Conditions Precedent. MCC has determined in its discretion that:

(i) all applicable conditions precedent in Annex II have been duly satisfied, deferred, or waived as provided in this Agreement;

(ii) no material default or breach of any covenant, obligation or responsibility by the Government, MCA-Benin Regional or any Government entity has occurred and is continuing under the Compact, this Agreement or any other Supplemental Agreement;

(iii) the activities to be funded with such Disbursement shall not violate any applicable law or regulation;

(iv) the Implementation Plan Documents are current and updated and are in form and substance satisfactory to MCC, and there has been both progress on, and compliance with, the components of the Implementation Plan for any relevant Projects or Activities related to such Disbursement (including the targets set forth therein and any applicable reporting requirements set forth therein for the relevant Disbursement Period), in each case, satisfactory to MCC;

(v) all Government entities involved in the implementation of the Program, including the Implementing Entities, are coordinating successfully with MCA-Benin Regional and dedicating the necessary staff and other resources to ensure successful implementation of the Program;

(vi) there has been no material negative finding in any financial audit report delivered in accordance with the Compact and Audit Plan, for the prior two quarters (or such other period as the Audit Plan may require);

(vii) any Taxes paid with MCC Funding through the date ninety (90) days prior to the start of the applicable Disbursement Period have been reimbursed by the Government in full in accordance with Section 2.8(c) of the Compact;

(viii) the Government has satisfied all of its payment obligations, including any insurance, indemnification, tax payments, or other obligations, and contributed all resources required from it, under the Compact, this Agreement and any other Supplemental Agreement;

(ix) MCC does not have grounds for concluding that any matter certified to it in the related MCA Disbursement Certificate, Procurement Agent Disbursement Certificate or Fiscal Agent Disbursement Certificate is not as certified;

(x) no act, omission, condition, or event has occurred that would be the basis for MCC to suspend or terminate, in whole or in part, the Compact or MCC Funding in accordance with Section 5.1 of the Compact;

(xi) each of the Key Staff remains engaged, or if a position is vacant, MCA-Benin Regional is actively engaged, to MCC's satisfaction, in recruiting a replacement;

(xii) MCA-Benin Regional has complied in all material respects with its obligations set forth in Section 2.1(d) with respect to the establishment of a BCS and its obligations set forth in Section 2.1(f) with respect to the establishment of an M&E Plan; and

(xiii) The Government has complied in all material respects with its obligations set forth in Section 2.9 with respect to the making of its contributions in accordance with the projected timeline set forth in Annex III.

Section 3.5 Authorized Expenditures. Except as MCC agrees otherwise in writing, a Disbursement, or financial commitment involving MCC Funding or the Government Contribution may be made, and a Disbursement Request may be submitted, only if the related expense is provided for in the Detailed Financial Plan and sufficient uncommitted funds exist in the Detailed Financial Plan for the relevant period.

ARTICLE 4.

ENTRY INTO FORCE OF THIS AGREEMENT; CONSEQUENCES OF COMPACT TERMINATION, SUSPENSION OR EXPIRATION

Section 4.1 Entry into Force of this Agreement. This Agreement shall enter into force upon the later of (a) the signing of this Agreement by each of the Parties to this Agreement and (b) the date that the Compact enters into force as provided in Article 7 of the Compact; *provided, however,* that the Parties agree that upon signature of this Agreement, and until this Agreement enters into force, the Parties shall provisionally apply the terms of this Agreement.

Section 4.2 Consequences of Compact Termination, Suspension or Expiration.

(a) Upon the suspension, in whole or in part, of the Compact or any MCC Funding, all applicable Disbursements shall be suspended, and MCC may request the Government to return any MCC Funding (or portion thereof) on deposit in any Permitted Account; *provided, however,* MCC Funding may be used, in compliance with the Compact and this Agreement and with written consent of MCC, to pay for (i) reasonable expenditures for goods, works, or services that were properly incurred under or in furtherance of the Program before the suspension of the Compact or any MCC Funding; and (ii) reasonable costs incurred in connection with the suspension of the Compact or any MCC Funding.

(b) Upon the termination, in whole or in part, of the Compact or any MCC Funding, all applicable Disbursements shall cease; *provided, however,* MCC Funding may be used, in compliance with the Compact and this Agreement and with written consent of MCC, to pay for (i) reasonable expenditures for goods, works, or services that were properly incurred under or in furtherance of the Program before termination of the Compact or any MCC Funding, and (ii) reasonable expenditures (including administrative expenses) properly incurred in connection with the winding up of the Program (or any part thereof) within 120 days after the termination of the Compact or any MCC Funding.

(c) Upon expiration of the Compact, all Disbursements shall cease; *provided, however,* MCC Funding may be used, in compliance with the Compact, this Agreement, and the Program Guidelines, to pay for (i) reasonable expenditures for goods, works, or services that were properly incurred under or in furtherance of the Program before expiration of the Compact, and (ii) reasonable expenditures (including administrative expenses) properly incurred in connection with the winding up of the Program during the Closure Period.

(d) Subject to Sections 4.2(b) and (c), upon the expiration or termination of the Compact or MCC Funding, the Government shall return to MCC any amounts of MCC Funding on deposit in any Permitted Account but not expended before the expiration or termination, plus accrued interest thereon within thirty (30) days after the Government receives MCC's request for such return; **provided, however**, that if the Compact is terminated in part, only the amount of MCC Funding allocated to the terminated portion shall be subject to return.

(e) Upon the full or partial termination of the Compact or any MCC Funding, MCC may, at its expense, direct that title to any Program Assets be transferred to MCC if such Program Assets are in a deliverable state, and the Government shall promptly effect such transfer upon such direction; **provided, however**, that, for any Program Asset not in a deliverable state and any Program Asset partially purchased or funded with MCC Funding, the Government, upon MCC's request, shall reimburse MCC in United States Dollars the cash equivalent of the fair market value of such Program Asset or portion thereof, as such is determined by MCC.

(f) Prior to expiration, or upon termination, of the Compact, MCA-Benin Regional shall prepare a plan for administrative closure and sustainability of the Program in accordance with the *Program Closure Guidelines* (the "**Closure Plan**"). During the Closure Period, MCA-Benin Regional shall take all steps necessary to close the Program in an orderly manner in accordance with the Closure Plan and the *Program Closure Guidelines*.

(g) No later than 120 days after the expiration or termination of the Compact, unless the *Standards for Global Marking* permits otherwise, (i) the licenses granted to MCA-Benin Regional in Section 2.8(a) shall terminate with immediate effect; (ii) the Government shall ensure that MCA-Benin Regional ceases to be named "Millennium Challenge Account-Benin Regional" and/or "MCA-Benin Regional;" and (iii) the Government shall take reasonable steps to ensure that such names and any associated logo, as well as the names "Millennium Challenge Corporation" and "MCC," as well as any logo associated therewith, are no longer used by MCA-Benin Regional or any other entity for any purpose not authorized by MCC. Furthermore, upon expiration or termination of the Compact, MCA-Benin Regional shall assign and hereby assigns and transfers to MCC all rights, title, and interest to the names "Millennium Challenge Account-Benin Regional," "MCA-Benin Regional," "Millennium Challenge Corporation," "MCC," as well as MCA-Benin Regional's logo and MCC's logo that it might have acquired during the term of this Agreement.

(h) MCC and the Government recognize that the effects of the Compact are long-ranging and its impact on reducing poverty may not be measurable for several years after the Compact ceases to be in force. Accordingly, MCC and the Government agree to cooperatively monitor the results and evaluate the impacts of the Compact on reducing poverty through economic growth in Benin after the Compact ceases to be in force. To that end and as part of the orderly closure of the Program, the Parties shall develop a post-Compact monitoring and evaluation plan that describes the future monitoring and evaluation activities, the individuals and organizations that shall undertake these activities, and a budget framework for future monitoring and evaluation, provided, however, that nothing in this Section 4.2(h) shall be construed as

committing MCC to provide any assistance to the Government after the Compact ceases to be in force. The Government shall provide all resources necessary (including both financial and personnel) to fulfill the tasks undertaken by the Government under the post-Compact monitoring and evaluation plan.

ARTICLE 5.

GENERAL PROVISIONS

Section 5.1 Representatives. The provisions of Section 4.2 of the Compact are incorporated herein by reference as if fully set forth herein.

Section 5.2 Communications. The provisions of Section 4.1 of the Compact are incorporated herein by reference as if fully set forth herein.

Section 5.3 Assignments by the Government. The Government may not assign, delegate, or contract implementation of its rights or obligations under this Agreement without MCC's prior written consent. The Government agrees, upon request by MCC, to execute an assignment to MCC of any contractual right or cause of action which may accrue to the Government or MCA-Benin Regional in connection with or arising out of the contractual performance or breach of performance by a party to a contract financed in whole or in part by MCC Funding.

Section 5.4 Amendment; Waivers. The Parties may amend this Agreement only by a written agreement signed by the Parties. Such agreement shall provide how it enters into force; *provided, however*, that the Government and MCC may by written agreement, signed by the Principal Representative or any Additional Representative of each Party and which shall enter into force upon signature, modify any annex hereto. The Parties understand that any modification of this Agreement may be entered into by the Government without the need for further action by the Government (including any parliamentary action), or satisfaction of any additional domestic requirements of Benin. Any waiver of a right or obligation arising under this Agreement shall be effective only if provided in writing.

Section 5.5 Attachments. Each exhibit, schedule, and annex attached to this Agreement constitutes an integral part of this Agreement.

Section 5.6 Inconsistencies. In the event of any conflict or inconsistency between this Agreement and the Compact, the terms of the Compact shall prevail. In the event of any conflict or inconsistency between this Agreement and any other Supplemental Agreement or any Implementation Plan Document the terms of this Agreement shall prevail.

Section 5.7 Termination of this Agreement.

(a) MCC may terminate this Agreement in whole or in part, by giving the Government thirty (30) days' written notice. This Agreement shall terminate simultaneously

with the termination of the Compact by the Government in accordance with Section 5.1(a) of the Compact.

(b) MCC may immediately terminate this Agreement, in whole or in part, by written notice to MCA-Benin Regional and the Government, if MCC determines that any event that would be a basis for termination or suspension of the Compact or MCC Funding under Section 5.1(b) of the Compact has occurred.

(c) Unless terminated earlier in accordance with the terms hereof, this Agreement shall cease to be in force simultaneously with the expiration or termination of the Compact; ***provided, however,*** that, if MCC determines, consistent with Section 4.2(b) or (c), that obligations incurred (and previously approved by MCC in a Disbursement Request) prior to the expiration or termination of the Compact remain to be paid, then the provisions of this Agreement shall apply until such date as such obligations are satisfied.

Section 5.8 Survival. Notwithstanding any expiration, suspension or termination of this Agreement, the following provisions of this Agreement shall survive: Sections 1.2(b)(i), 1.2(b)(ii), 2.7, 4.2, 5.1, 5.2, 5.3, 5.7(c), 5.8, 5.9, and 5.10.

Section 5.9 Information Provided to MCC. MCC may use or disclose any information in any Disbursement Request, report, or document developed or delivered in connection with the Program: (a) to its employees, contractors, agents, and representatives; (b) to any United States inspector general or the United States Government Accountability Office or otherwise for the purpose of satisfying MCC's own reporting requirements; (c) to post on the MCC Website for the purpose of making certain information publicly available and transparent; (d) in connection with publicizing MCC and its programs; or (e) in any other manner.

Section 5.10 Governing Law. The Parties acknowledge and agree that this Agreement is an international agreement entered into for the purpose of implementing the Compact and as such shall be interpreted in a manner consistent with the Compact and shall be governed by the principles of international law.

Section 5.11 Signatures. Signatures to this Agreement and to any amendment to this Agreement shall be original signatures appearing on the same page or in an exchange of letters or diplomatic notes.

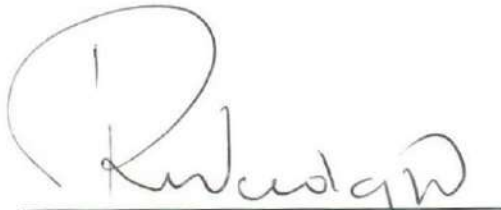
Signature Page Follows on the Next Page

IN WITNESS WHEREOF, each Party, by its duly authorized representative, has signed this Program Implementation Agreement.

Done at Washington, DC, this 14th day of December 2022.

FOR THE REPUBLIC OF BENIN

FOR THE UNITED STATES OF
AMERICA, acting through THE
MILLENNIUM CHALLENGE
CORPORATION



Name: Romuald Wadagni
Title: Minister of Economy and Finance



Name: Alice P. Albright
Title: Chief Executive Officer

Annex I

DEFINITIONS

AFC Action Plan has the meaning provided in Section 2.1(i).

Agreement has the meaning provided in the preamble to this Agreement.

Audit Plan has the meaning provided in Section 2.1(c).

Auditor has the meaning provided in Section 2.6(c).

Auditor / Reviewer Agreement has the meaning provided in Section 2.6(c).

B/L has the meaning provided in Schedule A of Annex V.

Bank has the meaning provided in Section 3.1(c)(ii).

Bank Agreement has the meaning provided in Section 3.1(c)(ii).

BCS has the meaning provided in Section 2.1(d).

Board means the Board of Directors of MCA-Benin Regional.

Bylaws has the meaning provided in Section 1.3(b)(v).

Closure Period means the 120-day period beginning on the first day after the last day of the Compact Term (or, if the Compact is terminated earlier in accordance with its terms, the last day that the Compact was in effect) and ending 120 calendar days thereafter.

Closure Plan has the meaning set forth in Section 4.2(f).

Common Payment System means the system pursuant to which payments of MCC Funding are made directly to vendors as further described in the Fiscal Accountability Plan.

Compact has the meaning provided in the preamble to this Agreement.

Compact Funding has the meaning provided in Annex IV.

Counterparty has the meaning provided in Section 1.3(b)(vi).

Country Contribution Report has the meaning provided in Section 2.4(e).

Designated Rights and Responsibilities has the meaning provided in Section 1.3(a)(i).

Detailed Financial Plan has the meaning provided in Section 2.1(b).

Disbursement Period has the meaning provided in Section 3.1(a).

Disbursement Request has the meaning provided in Section 3.1(a).

DGD has the meaning provided in Annex IV.

DGI has the meaning provided in Annex IV.

DLRI has the meaning provided in Annex IV.

Domestic Credit has the meaning provided in Schedule A of Annex IV.

ETA has the meaning provided in Schedule A of Annex IV.

Exempt Beneficiary has the meaning provided in Annex IV.

Exempt Employers has the meaning provided in Schedule D of Annex IV.

Exempt Entity has the meaning provided in Annex IV.

Exempt Individual has the meaning provided in Annex IV.

Exempt Personal Income has the meaning provided in Schedule D of Annex IV.

Fiscal Accountability Plan has the meaning provided in Section 2.1(e).

Fiscal Agent Agreement has the meaning provided in Section 2.6(b).

Fiscal Agent Disbursement Certificate has the meaning provided in Section 3.4(a)(v).

FOB has the meaning provided in Schedule A of Annex IV.

Funded Agreement has the meaning provided in Section 1.3(b)(vi).

General Provisions Annex means the annex titled *General Provisions* posted from time to time on the MCC Website or otherwise made available to the Government.

Governance Guidelines means MCC's Policy on Accountable Entities and Implementation Structures.

Governing Document has the meaning provided in Section 2.5(g).

Government has the meaning provided in the preamble to this Agreement.

Government Account has the meaning provided in Section 3.1(c)(i).

Health and Safety Management Plan or HSMP means a documented plan or strategy specifying identified hazards and safe work procedures to mitigate, reduce, or control the hazard identified.

HR Manual has the meaning provided in Section 1.3(b)(v).

IFC Performance Standards means the Performance Standards on Environmental and Social Sustainability of the International Finance Corporation, as in effect from time to time.

Implementation Plan has the meaning provided in Section 2.1.

Implementation Plan Document has the meaning provided in Section 2.1.

Key Staff means the following positions in the Operations Unit: (1) national coordinator (also referred to as the director general, chief executive officer, or managing director), (2) each deputy chief executive officer (sometimes referred to as the chief operating officer), if applicable, (3) each project director of a Project, and (4) the highest ranking staff member in the following sectors: (a) finance, (b) legal, (c) procurement, (d) environmental and social performance, (e) gender and social inclusion, and (f) monitoring, evaluation.

Lien has the meaning provided in Section 1.2(b)(i).

Local Account has the meaning provided in Section 3.1(c)(i).

Material Agreement has the meaning provided in Section 2.5(c).

MCA Disbursement Certificate has the meaning provided in Section 3.4(a)(iii).

MCA-Benin Regional Website has the meaning provided in Section 2.7(a).

MCC has the meaning provided in the preamble to this Agreement.

MFRE has the meaning provided in Annex IV.

MOSES has the meaning provided in Section 2.1(g).

Multi-Year Financial Plan has the meaning provided in Section 2.1(b).

OBRGM has the meaning provided in Schedule A of Annex V.

Outside Project Manager has the meaning provided in Section 2.6(a).

Party and Parties have the meaning provided in the preamble to this Agreement.

Periodic Report has the meaning provided in Section 2.4(a).

Permitted Designee has the meaning provided in Section 1.2(a).

Personal Income Taxes has the meaning provided in Schedule D of Annex IV.

Procurement Agent Agreement has the meaning provided in Section 2.6(d).

Procurement Agent Disbursement Certificate has the meaning provided in Section 3.4(a)(iv).

***Procurement Plan** has the meaning provided in Section 2.1(d).*

***Reviewer** has the meaning provided in Section 2.6(c).*

***Social and Gender Integration Plan** has the meaning provided in Section 2.1(h).*

***United States** has the meaning provided in the preamble to this Agreement.*

***VAT** has the meaning provided in Schedule A of Annex V.*

***Work Plan** has the meaning provided in Section 2.1(a).*

Annex II

CONDITIONS PRECEDENT TO PROGRAM FUNDING¹

PART A. Conditions Precedent for Entire Disbursement Request (Applicable to All Projects)

- (i) Before the first Disbursement of Program Funding, MCA-Benin Regional must develop and adopt a comprehensive Social and Gender Integration Plan, in form and substance satisfactory to MCC.
- (ii) Before the first Disbursement of Program Funding, MCA-Benin Regional must develop and adopt a comprehensive M&E Plan, in form and substance satisfactory to MCC.
- (iii) Before the first Disbursement of Program Funding, MCA-Benin Regional must develop and adopt a Fiscal Accountability Plan, in form and substance satisfactory to MCC.
- (iv) Before the first Disbursement of Program Funding, MCA-Benin Regional must develop and adopt an ESMS, including a SEP, each in accordance with the Environmental Guidelines, in form and substance satisfactory to MCC.
- (v) Before the first Disbursement of Program Funding for any activity to be carried out under an implementing entity arrangement, MCA-Benin Regional must deliver to MCC a copy of a signed agreement between MCA-Benin Regional and the relevant Implementing Entity that sets forth the roles and responsibilities of each party with respect to the Project or Activity, which agreement must be in form and substance satisfactory to MCC.
- (vi) Before the first Disbursement of Program Funding for payment under a particular works or construction contract for a given Project or Activity, MCA-Benin Regional must submit evidence, in form and substance satisfactory to MCC, that MCA-Benin Regional or the appropriate Government entity has developed, as appropriate, an ESIA, ESMP, a Health and Safety Management Plan (“*HSMP*”), a RAP, and/or LRP with respect to such Project or Activity, each of which must be in form and substance satisfactory to MCC.
- (vii) Before each Disbursement of Program Funding for payment under a particular works or construction contract for a given Project or Activity, MCA-Benin Regional must submit evidence, in form and substance satisfactory to MCC, that MCA-Benin Regional or the appropriate Government entity is implementing the requirements of each ESIA, ESMP, HSMP, RAP, or LRP as appropriate, for such Project or Activity in all material respects and consistent with the Environmental Guidelines (including the IFC Performance Standards that are incorporated by reference therein).

¹ In the case of the enactment of any law, regulation, policy, or amendments or modifications to any of the foregoing that the Government commits to in this Annex II, the Government shall share a draft of the applicable document with MCC for its review before it is submitted to the final approving authority within the Government.

(viii) Before any Disbursement of Program Funding on or after the commencement of year five (5) of the Compact Term, MCA-Benin Regional must submit to MCC an initial draft Closure Plan in accordance with the MCC Program Closure Guidelines.

PART B. Conditions Precedent for Disbursement of Funds for the Corridor Infrastructure Project

(i) Before the first Disbursement of Program Funding for the Corridor Infrastructure Project, the Government must provide evidence, in form and substance satisfactory to MCC, that SIRAT has been granted legal authority to receive and expend the revenues and any government subsidy allocated for road maintenance and other road works, and has sufficient funding to undertake such works.

(ii) Before the first Disbursement of Program Funding for the Corridor Infrastructure Project, the Government must provide evidence, in form and substance satisfactory to MCC, that (A) there exists a department within SIRAT with the capacity to undertake road maintenance and is fully staffed according to the Government's strategy to undertake contract management and works supervision and (B) this department is able to implement the annual road maintenance program developed by MIT.

(iii) Before the first Disbursement of Program Funding for the Corridor Infrastructure Project, the Government must provide MCC with a copy of a performance agreement, in form and substance satisfactory to MCC, that has been signed between MIT and SIRAT to provide sufficient funding to SIRAT to implement the road maintenance activities set forth in MIT's annual road maintenance program.

(iv) Before the first Disbursement of Program Funding for the Corridor Infrastructure Project, the Government must provide evidence, in form and substance satisfactory to MCC, that SIRAT is fully operational in accordance with the laws of Benin with all staff, management, and financial systems in place for efficient execution of the road maintenance works including contract management, performance monitoring, and works verification.

(v) Before the first Disbursement of Program Funding for the Corridor Infrastructure Project, the Government must provide MCC with (A) a copy of the legal instrument confirming the existence of the RAMU within DGSI and (B) evidence that RAMU is staffed with sufficient capacities to undertake planning and programming for periodic road maintenance and road improvements and the administration of the future road asset management system, both requirements in form and substance satisfactory to MCC.

(vi) Before the first Disbursement of Program Funding for the Corridor Infrastructure Project, the Government must (A) provide evidence, in form and substance satisfactory to MCC, that it has developed a road master plan and a five-year periodic road maintenance plan and (B) on an annual basis commencing on the third anniversary of the Compact's entry into force, provide MCC with evidence, in form and substance satisfactory to MCC, that the five-year periodic road maintenance plan has been updated.

(vii) Before the first Disbursement of Program Funding for the Corridor Infrastructure Project, the Government must provide MCC with a copy of a road safety audit

agreement, in form and substance satisfactory to MCC, between SIRAT and the *Centre National de Sécurité Routière* that covers design, implementation, and post-implementation of capital and road maintenance works and operational monitoring of the road network.

(viii) Before the first Disbursement of Program Funding for the construction or works related to the Road Rehabilitation Activity, the Government must provide MCC with baseline data, in form and substance satisfactory to MCC, on current truck weighing practices.

PART C. Conditions Precedent for Disbursement of Funds for the ECO Project

(i) Before the first Disbursement of Program Funding for any grant provided under the Freight Vehicle Regulations Sub-Activity, MCA-Benin Regional must provide evidence, in form and substance satisfactory to MCC, that it has developed and adopted an operational manual for awarding the grants.

(ii) Before the first Disbursement of Program Funding for any grant provided under the Freight Vehicle Regulations Sub-Activity, the Government must provide evidence, in form and substance satisfactory to MCC, of the adoption of regulations and installation of data systems to enforce the original manufacturers' specifications for truck axles for freight trucks engaged in cross border transit.

(iii) Before the ninth disbursement of Program Funding for any activity to be carried out under the Customs Border Operations Improvement Activity, the Government must provide evidence, in form and substance satisfactory to MCC, on the alignment of business hours of operations between Benin and Niger customs at joint border and control posts at the Malanville-Gaya border crossing.

Annex III

GOVERNMENT CONTRIBUTION ALLOCATION

| Project | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 | Total |
|--|--------------------|--------------------|--------------------|--------------------|--------------------|---------------------|
| Corridor Infrastructure Project | \$550,000 | \$550,000 | \$550,000 | | | \$1,650,000 |
| Efficient Corridor Operations Project | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Program Administration | \$2,700,000 | \$2,700,000 | \$2,700,000 | \$2,700,000 | \$2,700,000 | \$13,500,000 |
| Grand Total | \$3,250,000 | \$3,250,000 | \$3,250,000 | \$2,700,000 | \$2,700,000 | \$15,150,000 |

Annex IV

TAX SCHEDULES

The Government agrees to ensure that MCA-Benin Regional and all Providers, Covered Providers, Implementing Entities, contractors (prime contractors and subcontractors), consultants, and other entities and individuals providing goods, works or services in furtherance of the Compact (an “*Exempt Entity*” in the case of a legal entity or an “*Exempt Individual*” in the case of a natural person, and in either case an “*Exempt Beneficiary*”), that receive MCC Funding or the Government Contribution (both forms of funding hereinafter to be referred to as “*Compact Funding*”) directly or indirectly are exempt from Taxes in accordance with Section 2.8 of the Compact. The Government further agrees to apply the mechanisms set out in this Annex IV to exempt the grant funding from Tax in accordance with Section 4.2(k) of the CDF Agreement. As the direct beneficiary of the tax exemption under the Compact and the CDF Agreement, MCA-Benin Regional agrees to facilitate and assist any Exempt Beneficiary with the exemption process to ensure compliance with the exemption terms herein.

The following schedules identify specific taxes and mechanisms to implement compliance with the tax exemption under the Compact and the CDF Agreement. The Government shall provide a copy of the Compact and the CDF Agreement to the *Direction Générale des Douanes (“DGD”)*, *Direction de la Législation et des Relations Internationales (“DLRI”)*, the Benin Customs Division, *Direction Générale des Impôts (“DGI”)* through the *Mission Fiscale des Régimes d’Exception (“MFRE”)*, and any other Government entity implicated or which may have a role or responsibility to ensure that the Government implements and satisfies the terms of the Compact and the CDF Agreement and the mechanisms to implement the tax exemption as agreed herein, or as otherwise adopted under the Compact.

Beneficiaries of the tax exemption shall have to provide the documents listed in the following schedules or those which provide substantially equivalent information but for which terminology may vary. No additional requirements may be demanded without modification of these schedules. All applications and requests made of Government authorities in connection with the procedures included in these schedules shall be free of any fees or charges.

Consistent with Section 2.8 of the Compact and Section 4.2(k) of the CDF Agreement, and notwithstanding the exemption methodologies described in these schedules, if a Tax has been paid by an Exempt Beneficiary in connection with the Compact or the CDF Agreement, the Government agrees to refund the amount of Tax paid to that Exempt Beneficiary within (30) days of the receipt of documentation providing evidence of Taxes paid. Exempt Beneficiaries should present this documentation to MFRE and MCA-Benin Regional for MCA-Benin Regional’s tracking purposes.

SCHEDULE A
VALUE ADDED TAX

Legal Basis for Exemption or Reimbursement.

- 1- The Compact (Section 2.8) and the CDF Agreement (Section 4.2(k))
- 2- Articles 2 and 3 of the Decree No. 212/MF/DC/DI dated October 19, 1992 on the tax regime for public procurement under foreign financing.
- 3- Ministerial Order n°0892/MEF/DC/SGM/DGDDI/DGID/DGAE dated April 4, 2014 on the tax and customs duties exemption classification in the Republic of Benin.
- 4- Articles 224 & 225 new of General Tax Code of Benin Republic.

Beneficiaries of Exemption.

Each Exempt Beneficiary

Procedures.

- A. VAT on Imported Goods. Tax exemption authorization is granted by the Benin Customs Division. In order to secure the exemption on value added tax (“**VAT**”) levied on imported goods, Exempt Beneficiaries must follow these steps:
 1. **Registration of the contract.** Within one month of signing a contract for the provision of goods, works, or services covered by this schedule, MCA-Benin Regional shall forward the contract for registration and signature by the Directorate in charge of Registration and Stamps (*Direction de l'Enregistrement et des Timbres*) along with a certification that they are made in connection with the Compact or the CDF Agreement.
 2. **Direct removal of goods procedure.** This procedure is instituted to facilitate the rapid removal of goods by the recipient of an exemption from duties and taxes. It is to submit a direct removal request to the DGD through the Secretariat of DLRI including the following documents:
 - i. copy of the bill of lading (“**B/L**”) or an unbundled B/L if it is a B/L which included other goods not covered by the Contract, or the airway bill (“**ETA**”);
 - ii. original and copies of the suppliers' invoices;
 - iii. packing lists;
 - iv. copy of the contract duly registered per the procedure above, in this case the pages providing information confirming the funding source as related to the Compact and CDF Agreement, the implementation time, the name of the contract parties, and the tax and customs arrangements specified in the contract and the signature page of contracting parties; and
 - v. duty-free request signed by the Exempt Beneficiary.

Note 1: In the event that the goods imported include explosives and accessories this application for exemption must also include authorization for import from the *Office Béninois de Recherches Géologiques et Minières* (“**OBRGM**”).

Note 2: The processing time of the application for direct removal of goods is seventy-two (72) hours if all the documents listed above are included in full in the file. The processing of the file is done by DLRI on behalf of the DGD. The DGD is responsible for ensuring that the DLRI executes their responsibilities according to these schedules.

3. **Provision of credit customs procedure.** As soon as possible, but no later than two weeks after the direct removal of the goods under step 2 above, the Exempt Beneficiary or their representative must file the following documents with the MFRE, depending on the nature of the exemption:

i. Import for works. The required documents are:

1. Duly Registered Markets;
2. Global Statement MP1 (import successive arrivals);
3. Statement MP1 (white color) in triplicate for inward concerned;
4. Copy of invoices (original & copy);
5. Copy of the B/L or the ETA (original & copy);
6. Original copy of the contract(s) or purchase order(s) duly registered;
7. Certification of the value or the certificate of donation (in the case of donations) issued by the entity in charge of determining the customs value of goods (except for cases where goods as not subject to custom inspection);
8. Customs declaration, certificate of insurance;
9. Freight bill (if the value is in free on board (“**FOB**”)); and
10. Application for clearance signed by the contractor in triplicate (if imported by a local supplier). An original and copy of an authorization letter exempting from customs duties and taxes duly signed by the Director General of Customs and/or the Director General of Taxes.

ii. Import for supplies. The required documents are:

1. Duly Registered Markets;
2. Global Statement MP1 (import successive arrivals);
3. Statement MP1 (white color) in triplicate for inward concerned;
4. Copy of invoices (original & copy);
5. Copy of the B/L or the ETA (original & copy);
6. Original copy of the contract(s) duly registered;
7. Certification of the value or the certificate of donation (in the case of donations) issued by the entity in charge of determining the customs value of goods (except for cases where goods as not subject to custom inspection);
8. Customs declaration, certificate of insurance;
9. Freight bill (if the value is in FOB);
10. Application for clearance signed by the contractor in triplicate (if imported by a local supplier);

11. An original and copy of an authorization letter exempting from customs duties and taxes duly signed by the Director General of Customs and/or the Director General of Taxes; and
12. Duty-free request signed by the successful bidder.

B. VAT on Services Imported into Benin. Services sourced from outside of Benin and imported shall be exempt from VAT, and reverse VAT or related withholding shall not attach to or be required for any payments made for such services, regardless of whether those payments are made within or outside of Benin. MCA-Benin Regional may file any documentation appropriate to record VAT on imported services exempted under this provision.

C. VAT on Goods and Services purchased in Benin. In order to secure the exemption on VAT levied on goods purchased in Benin in the form of a domestic credit ("*Domestic Credit*"), the Exempt Beneficiary must follow these steps:

1. MCA-Benin Regional shall issue a copy of an exemption certificate to the Exempt Beneficiary for presentation to vendors to exempt VAT on goods, works, and services procured in Benin. The certificate must be presented to vendors of goods, works, and services when purchasing the same for use on compact projects.
2. The Exempt Beneficiary, who have paid VAT related to the goods, works, and services transacted in Step 1, shall then present to MFRE the certificate presented along with the following documents in order to secure their Domestic Credit equivalent to the VAT not collected:

i. Works.

1. Two copies of MP1 statement (white color);
2. Original copy of duly registered work contract;
3. The statement of account;
4. Proof of payment (transfer order, credit note or bank statement);
5. Request for validation of credit or certification of credit as the case may be;
6. Law provision granting the exemption (in case of credit validation);
7. Original copy of applicant's VAT liability certificate in case of credit validation;
8. Certified invoices printed from tax category D; and
9. Copy of the latest MP2 credit certification (obtained as part of existing credit application).

ii. Goods and services.

1. Two copies of the MP1 statement (white color);
2. Original copy of duly registered work contract or purchase order; and
3. Certified invoices printed from tax category D.

SCHEDULE B

IMPORT AND CUSTOMS DUTIES

Legal Basis for Exemption.

- 1- The Compact (Section 2.8) and the CDF Agreement (Section 4.2(k))
- 2- Articles 2 and 3 of the Decree No. 212 / MF / DC / DI dated October 19, 1992, on the tax regime for public procurement under foreign financing.
- 3- Ministerial Order n°0892/MEF/DC/SGM/DGDDI/DGID/DGAE dated April 4, 2014, on the tax and customs duties exemption classification in Benin Republic.

Beneficiaries of Exemption.

Each Exempt Beneficiary

Procedures.

The Benin Customs Division grants the tax exemption authorization for contracts, imports or enterprises working for the beneficiary of the tax exemption with the approval of that beneficiary or exempt entity.

In order to secure this exemption, which relates to all taxes and duties on imported goods, the Exempt Beneficiary must follow these steps:

1. **Registration of the contract.** Within one month of signing a contract for the provision of goods, works, or services covered by this schedule, MCA-Benin Regional shall forward the contract for registration and signature by the Directorate in charge of Registration and Stamps (*Direction de l'Enregistrement et des Timbres*) along with a certification that they are made in connection with the Compact or the CDF Agreement.
2. **Direct removal of goods procedure.** This procedure is instituted to facilitate the rapid removal of goods by the recipient of an exemption from duties and taxes. A direct removal request should be submitted to the DGD. The record must be filed at the Secretariat of the DLRI along with the following documents:
 - i. copy of the B/L or an unbundled B/L if it is a B/L which included other goods not covered by the Contract, or the ETA;
 - ii. copy of invoices;
 - iii. packing lists;
 - iv. copy of the contract duly registered per the procedure above, in this case the pages providing information confirming the funding source as related to the Compact and the CDF Agreement, the implementation time, the name of the contract parties, and, if applicable, tax and customs arrangements specified in the contract; and
 - v. duty-free request signed by the Exempt Beneficiary.

Note 1: In the event that the goods imported include explosives and accessories this application for exemption must also include authorization for import from the *OBRGM*.

Note 2: The processing time of the application for direct removal of goods is seventy-two (72) hours if all documents listed above are included in full in the file.

3. **Provision of credit customs procedure.** As soon as possible, but no later than two weeks after the direct removal of the goods under step 2 above, the Exempt Beneficiary or their representative must file the following documents with the MFRE, depending on the nature of the exemption:

i. For works. The required documents are:

1. Duly Registered Markets;
2. Global Statement MP1 (import successive arrivals);
3. Statement MP1 (white color) in triplicate for inward concerned;
4. Copy of invoices (original & copy);
5. Copy of the B/L or the ETA (original & copy);
6. Certificate value issued by the unit value of customs (except cases not subject to inspection);
7. Customs declaration, certificate of insurance;
8. Freight bill (if the value is in FOB); and
9. Application for clearance signed by the contractor in triplicate (if imported by a local supplier).

ii. Import for supplies. The required documents are:

1. Duly Registered Markets;
2. Global Statement MP1 (import successive arrivals);
3. Statement MP1 (white color) in triplicate for inward concerned;
4. Copy of invoices (original & copy);
5. Copy of the B/L or the ETA (original & copy);
6. Certificate value issued by the unit value of customs (except cases not subject to inspection);
7. Customs declaration, certificate of insurance;
8. Freight bill (if the value is in FOB);
9. Application for clearance signed by the contractor in triplicate (if imported by a local supplier); and
10. Request for clearance of the beneficiary of the supplies.

SCHEDULE C
CORPORATE INCOME TAX

Legal Basis for Exemption.

- 1- The Compact (Section 2.8) and the CDF Agreement (Section 4.2(k))
- 2- Article 146 of General Tax Code of Benin Republic.

Beneficiaries of Exemption.

Each Exempt Entity, other than legal persons that are legal entities registered under the laws of Benin, *provided that*, in determining if an Exempt Entity has been formed under the laws of Benin for the purposes of this Schedule C, the status of such entity shall be based on its status as of the time it is awarded or executes a Compact-related agreement or contract, and such initial determination shall not change regardless of: (i) the type of agreement or contract used to employ or engage such Exempt Entity, (ii) any laws of Benin that purport to change such status based on period of contract performance or period of time residing and/or working in Benin, and/or (iii) any requirement under the laws of Benin that a company or other legal person must establish a branch office in Benin, or otherwise register or organize itself under the laws of Benin, in order to provide goods, services or works in Benin.

Procedures.

Tax exemption authorization is granted by MFRE. Exempt Individuals covered hereunder must apply to MFRE and provide the following documentation:

1. An income declaration form;
2. a tax exemption certificate as provided by MCA-Benin Regional to the Exempt Entity; and
3. a copy of the contract funded using Compact Funding covered by this Schedule.

Note 1: MCA-Benin Regional and all Exempt Entities shall be entitled to an exemption from corporate income tax and related taxes on income earned from providing services in furtherance of the Compact.

Note 2: MCA-Benin Regional shall not be required to withhold tax from payments made from or with respect to Compact Funding to an Exempt Entity.

SCHEDULE D

SYNTHETIC PROFESSIONAL TAX

Legal Basis for Exemption.

- 1- The Compact (Section 2.8) and the CDF Agreement (Section 4.2(k))
- 2- Article 7 of General Tax Code of Benin Republic.

Beneficiaries of Exemption.

Each Exempt Individual, *provided that*, in determining if an individual is a permanent resident for the purposes of this provision, the status of such individual shall be based on his/her status as of the time that such individual is awarded or executes a Compact-related agreement or contract, and such initial determination shall not change regardless of: (i) the type of contract used to employ or engage such individual and/or (ii) any laws of Benin that purport to change such status based on period of contract performance or period of time residing and/or working in Benin.

Procedures.

1. Each Exempt Individual shall be exempt from any income or other mandatory taxes and charges imposed by the Government or any subdivision thereof, regarding personal income (the "*Personal Income Taxes*") received in connection with income earned from works and services performed in furtherance of the Compact or the CDF Agreement (the "*Exempt Personal Income*").
2. MCA-Benin Regional, the Implementing Entities, the Fiscal Agent and the Procurement Agent and any other vendor who employs eligible beneficiaries (the "*Exempt Employers*"), shall not withhold or pay Personal Income Taxes for the Exempt Individual.
3. Exempt Beneficiaries shall have no obligation to file an income tax return in Benin in relation to Exempt Personal Income.
4. Exempt Employers shall have no obligation under the laws of Benin in connection with the completion of any mandatory filings, registrations and periodic reporting in relation to the Exempt Personal Income of Exempt Beneficiaries.

SCHEDULE E
FRINGE BENEFITS TAX

Legal Basis for Exemption.

The Compact (Section 2.8) and the CDF Agreement (Section 4.2(k))

Beneficiaries of Exemption.

Each Exempt Individual, *provided that*, in determining if an individual is a permanent resident for the purposes of this provision, the status of such individual shall be based on his/her status as of the time that such individual is awarded or executes a Compact-related agreement or contract, and such initial determination shall not change regardless of: (i) the type of contract used to employ or engage such individual and/or (ii) any laws of Benin that purport to change such status based on period of contract performance or period of time residing and/or working in Benin.

Procedures.

Neither MCA-Benin Regional nor any Exempt Individual shall be required to pay or report fringe benefits tax for any fringe benefits provided to their employees with respect to employment or services provided in furtherance of the Compact or the CDF Agreement.

SCHEDULE F

TAXATION OF PETROLEUM PRODUCTS

Legal Basis for Exemption or Reimbursement.

The Compact (Section 2.8) and the CDF Agreement (Section 4.2(k))

Beneficiaries of Exemption.

Exempt Beneficiary

Procedures.

1. Each Exempt Beneficiary shall be exempted from paying any taxes on wholesale or bulk purchases of petroleum products with respect to any purchases made in furtherance of the Compact.
2. MCA-Benin Regional shall facilitate the registration and purchasing of petroleum products wholesale or in bulk for transactions which exceed a *de minimis* threshold which is consistent with MCC policy and the Benin tax code, and is updated from time to time in MCA-Benin Regional's written procedures. MCA-Benin Regional's facilitation shall include providing any necessary certifications or approvals to permit the Exempt Beneficiary to make such purchases without tax.
2. For non-wholesale or bulk purchases made from retail outlets below the *de minimis* threshold, MCA-Benin Regional may not be able to provide exemptions as described above. The Exempt Beneficiary should not make non-wholesale or bulk purchases made from retail outlets from which an exemption is not available and should purchase petroleum products wholesale or in bulk to take advantage of the procedure described above.

Internal MCA-Benin Regional Procedures.

The Exempt Beneficiary shall obtain a proforma invoice from any supplier of petroleum products, indicating an estimate of their fuel requirements for six (6) months. This shall then be submitted to the MCA-Benin Regional project manager for the relevant Project, who shall be required to verify the amounts in the proforma invoice against the bill of quantities in the Exempt Beneficiary's bid documents. Then, the MCA-Benin Regional project manager shall request an exemption certification on behalf of the Exempt Beneficiary. The Director of Administration and Finance of MCA-Benin Regional also shall review the proforma invoices to ensure that the fuel required corresponds with the relevant bid documents and then submits application for exemption of taxes/levies on fuel to the MFRE.

In some cases, the Director of Administration and Finance of MCA-Benin Regional may ask the Exempt Beneficiary's fuel depot to verify if the total liters of fuel, on which tax exemptions were requested, were actually delivered to the depot and were used for the relevant Projects.

SCHEDULE G
COMMUNICATION SERVICE TAX

Legal Basis for Exemption.

The Compact (Section 2.8) and the CDF Agreement (Section 4.2(k))

Beneficiaries of Exemption.

Exempt Beneficiary

Procedures.

MCA-Benin Regional shall provide phone companies its tax exemption certificate, and the tax certificate for any Exempt Beneficiary, for the phone companies to take it into account in the billing of telephone charges paid with Compact Funding. Reports of charges related to tax which are not properly exempted in response shall be reported to MCA-Benin Regional for resolution.

SCHEDULE H

TEMPORARY IMPORT OF VEHICLE OR EQUIPMENT

Legal Basis for Tax Relief.

The Compact (Section 2.8) and the CDF Agreement (Section 4.2(k))

Beneficiaries for Tax Relief.

Exempt Beneficiary

Procedures.

For temporary imports, the Exempt Beneficiary shall submit an application for temporary admission to the DGD. The application must be filed at the Secretariat of the DLRI, and should include the following documents:

1. Copy of the B/L or an unbundled bill of lading if it is a B/L which included other goods not covered by the Compact contract, or the ETA;
2. Copy of invoices;
3. Packing lists;
4. Copy of the contract duly registered per the procedure above, in this case the pages providing information confirming the funding source as related to the Compact or the CDF Agreement, the implementation time, the name of the contract parties, and tax and customs arrangements specified in the contract; and
5. Exemption certificate issued to MCA-Benin Regional.