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Part III

Millennium Challenge Corporation

**Notice of Entering Into a Compact With
the Government of the Republic of
Benin; Notice**

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 06–05]

Notice of Entering Into a Compact With the Government of the Republic of Benin

AGENCY: Millennium Challenge Corporation.

ACTION: Notice.

SUMMARY: In accordance with Section 610(b)(2) of the Millennium Challenge Act of 2003 (Pub. L. 108–199, Division D), the Millennium Challenge Corporation (MCC) is publishing a summary and the complete text of the Millennium Challenge Compact between the United States of America, acting through the Millennium Challenge Corporation, and the Government of the Republic of Benin. Representatives of the United States Government and the Government of the Republic of Benin executed the Compact documents on February 22, 2006.

Dated: March 6, 2006.

Jon A. Dyck,

*Vice President & General Counsel,
Millennium Challenge Corporation.*

Summary of Millennium Challenge Compact With the Government of the Republic of Benin

I. Introduction

Situated in West Africa, between Nigeria and Togo in the Gulf of Guinea, Benin is a very poor country with a population of nearly seven million, a third of which live in poverty. Progress in development is attributed to reforms initiated in the early 1990s as Benin transitioned from a Marxist-Leninist state towards a pluralistic democracy and market economy.

Despite growth rates averaging 5 percent per year in the past decade, rapid population growth has offset much of these gains and poverty remains widespread. Per capita income in Benin remains below the sub-Saharan African average and rural poverty has

increased in recent years. Benin’s economy is narrowly dependent on cotton production, subsistence agriculture and regional trade through the Port of Cotonou. Key impediments to sustainable economic growth and poverty reduction are a poor investment climate and a lack of dynamic private sector activity. These are hindered by land insecurity, lack of access to capital, an inefficient judicial system, and an increasingly uncompetitive Port of Cotonou.

The five year, approximately \$307 million Millennium Challenge Compact with the Government of Benin (GOB) aims to increase investment and private sector activity in Benin. The program to be funded under the Compact (Program) seeks to remove key constraints to growth and supports improvements in physical and institutional infrastructures. The projects included in the Program reinforce each other and MCC estimates they will together contribute to an economic rate of return (ERR) of 24 percent.

II. Program Overview and Budget

Benin’s MCA Program is a series of strategic investments designed to improve core physical and institutional infrastructure and increase investment and private sector activity. The Program comprises four Projects: “Access to Land,” “Access to Financial Services,” “Access to Justice,” and “Access to Markets.”

1. Access to Land (“Land Project”) (approximately \$36 million): Investment climate studies list land access among the top constraints to business development in Benin. This Project aims to create secure land tenure for the poor and non-poor alike and to create effective, transparent governance of land and property issues. MCC anticipates this Project will reduce the time and cost to obtain a title, reduce the number of land disputes, and increase the perception of land security.

2. Access to Financial Services (“Financial Services Project”) (approximately \$20 million): Due to the high cost or unavailability of credit and

other financial services, small businesses in Benin are unable to expand production and employment. This Project aims to improve the ability of micro, small and medium-sized enterprises (MSMEs) to respond to opportunities by expanding access to financial services. The Project is designed to expand the financial services provided to MSMEs, improve supervision of microfinance institutions (MFIs), increase MFI operational self-sufficiency, decrease MFI portfolio at risk, and increase the number of loans guaranteed with land titles.

3. Access to Justice (“Justice Project”) (approximately \$34 million): A major obstacle to investment and economic growth in Benin is the inefficiency of the judicial system. Only 8 percent of commercial cases filed are resolved within a year. Benin was recently rated by the World Bank as among the most difficult places in the world to enforce a contract. This Project aims to strengthen the institutional environment for business and investment in Benin by improving the ability of the judicial system to resolve claims. The Project is expected to increase the number of cases resolved per year by the Courts of First Instance, increase the number of cases handled by the Arbitration Center, and increase the number of registered enterprises.

4. Access to Markets (“Markets Project”) (approximately \$169 million): The importance of the Port of Cotonou to Benin’s economy has been increasing, while its competitiveness has been steadily decreasing. This Project is designed to promote access to markets by improving Port operations and infrastructure. Specifically, it aims to improve Port performance and security, expand capacity, and reduce costs. MCC anticipates the Project will reduce delays at the Port and increase the volume of imports and exports.

The following table outlines the estimated MCC contribution to the Program by year and category for term of the Compact.

Description	Timeline					
	Compact Y1 (\$US mil)	Compact Y1 (\$US mil)	Compact Y2 (\$US mil)	Compact Y3 (\$US mil)	Compact Y4 (\$US mil)	Compact Y5 (\$US mil)
Access to Land	4.56	10.43	8.55	7.37	5.11	36.02
Access to Financial Services	3.15	5.42	5.41	4.71	0.96	19.65
Access to Justice	3.83	7.85	9.06	6.97	6.56	34.27
Access to Markets	9.45	30.13	66.29	62.36	1.22	169.45
Program Administration & Audits	8.21	7.61	7.75	7.73	7.83	39.13
Monitoring & Evaluation	3.19	1.69	1.24	1.24	1.42	8.78
Estimated Total	32.39	63.13	98.30	90.38	23.10	307.30

III. Impact

The Program is expected to impact up to five million beneficiaries and lift an estimated 250,000 Beninese out of poverty by the year 2015. Specifically, the Land Project is expected to assist an estimated 115,000 rural and urban households with more secure and useful tenure; contribute to a 50 percent reduction in court cases related to land disputes; and result in a 10 percent increase in investment in rural land and a 20 percent increase in investment in urban property. The Financial Services Project is expected to expand financial services to MSMEs by nearly \$60 million (a multiple of three times the Project's funding), thereby increasing MSME value added and incomes of the poor that own, are employed by, or do business with those enterprises. The Justice Project is anticipated to benefit approximately 2.38 million Beninese by bringing courts closer to rural populations and making them more responsive and effective. Finally, a more efficient Port will contribute to importer and exporter value-added by reducing transportation costs and increasing the level of Port operations. It is likely that the anticipated reduction in shipping costs will be passed on to wholesalers and traders, and ultimately be reflected in lower consumer prices. Additional added value in jobs from fish processing and Port operations are expected from improvements in several infrastructure components.

IV. Program Management

GOB will create a legal entity (MCA-Benin) to manage and oversee the implementation of the Program. This entity will be comprised of an eleven-member Board of Directors and a management team. The Board of Directors will make certain strategic decisions and recommendations, provide oversight of the Program implementation and ensure the success of the Program. MCA-Benin's management will be responsible for the implementation of the Program, including contracting, program management, certain financial management functions, and coordination of monitoring and evaluation. In addition, an eight-member Advisory Council will be established to provide recommendations and feedback to the MCA-Benin Board of Directors.

Independent fiscal and procurement agents, selected through international competitive search processes, will be engaged to provide fiscal management and procurement services respectively.

Other Highlights

A. Consultative Process: This Program has undergone one of the most robust consultative processes to date in an MCA-eligible country. Benin's proposal is the product of a genuine, meaningful and participatory consultative process. Guided by the Poverty Reduction Strategy Paper (PRSP), GOB's consultative process included a wide cross-section of private sector and civil society groups in the formulation of Benin's MCA priorities. Benin held several consultative meetings with representatives from various stakeholder groups as well as radio and television events to broadly present the outlines of the proposal and garner feedback from intended beneficiaries. The consultative process was guided by the Benin National Committee (BNC), whose members were elected or delegated by their respective constituencies. Representation on the BNC includes six representatives of GOB, three representatives of civil society, three representatives of the Chamber of Commerce, three representatives of national labor unions, two representatives of the Agricultural Chamber, and one representative of artisan associations.

B. Government Commitment and Effectiveness: The Program has received considerable attention during the Compact development process. GOB allocated \$680,000 for the preparation of the proposal and has committed as part of the Compact to contribute an additional 5 billion CFA (\$9.2 million) to the Program during the Compact Term. One fourth of this contribution has already been included in the national budget for 2006 and will be available immediately following Compact signing. GOB has also expressed its commitment to the Program by its willingness to condition key activities upon requirements for institutional change and policy reform.

C. Sustainability: Sustainability will be ensured through training, capacity building, policy reforms and institutional changes. The Land and Justice Projects contain core training, information and education campaigns that will build public knowledge on land and justice issues, respectively. A key objective of the Financial Services Project is to enhance the sustainability of existing commercial actors that service MSMEs. Beneficiaries of the Challenge Facility can be expected to continue to implement improvements in financial technologies and institutional capacities after Program support ends. The Markets Project includes greater private management of operations, more

efficient land usage, and streamlining of customs processing.

D. Environment and Social Impacts: The Land and Financial Services Projects are expected to have few or no adverse environmental and social impacts. They have been placed in screening category "C" under the MCC Environmental Guidelines. The Land Project is anticipated to have positive social effects as well as to foster land stewardship. The Financial Services Project will incorporate training, technical assistance, and services, where appropriate, on strategies to avoid environmental and social risks and enhance the sustained impact of access to financial services. Both of these projects have specific commitments to take into account gender concerns.

The Justice Project has the potential for modest, adverse environmental and social impacts because of construction of a legal information center and courthouses. The Justice Project has been placed in screening category "B" under the MCC Environmental Guidelines. A framework environmental and social assessment will be required to screen sites once they are proposed and provide guidance for site-specific Environmental Management Plans (EMPs) and Resettlement Action Plans (RAPs) consistent with international best practices. To enhance the social impacts of this project, outreach will be designed to incorporate gender considerations as well as access by vulnerable segments of society.

The Markets Project has been placed in screening category "A" under the MCC Environmental Guidelines and will require a comprehensive Environmental and Social Impact Assessment (ESIA), conducted in phases. As a critical first step, technical, environmental, engineering and economic studies are required to evaluate alternatives and select the preferred design to reduce sedimentation of the harbor access and not adversely impact coastal erosion east of the Port; studies must also analyze disposal of potentially contaminated dredged material, for the selected alternative and new wharf construction. Based on these studies, an ESIA and EMP will be required to address impacts of increased Port activity and new infrastructure and compliance with international marine conventions. An ESIA (combined or separate, according to schedule needs) will be required for landside improvements, including an environmental audit of the existing operations, an Environmental Management Plan/System, and an

overall EMP. Verification is required to determine if economic or physical displacement will occur and a RAP is needed.

E. Donor Coordination: MCC's investment would position the United States Government as the largest bilateral donor to the country. Other major donors to Benin are the Netherlands, Denmark, France, Belgium and Germany.

GOB and MCC have convened various discussions and meetings with donor partners to ensure complementarity. The German development agency, *Deutsche Gesellschaft für Technische Zusammenarbeit* (GTZ), financed a pilot phase of the Rural Land Plans upon which sections of GOB's proposal are based. A recent International Finance Corporation Foreign Investment Advisory Service (FIAS) investigation of the investment climate in Benin will recommend a reform agenda very similar to what is proposed for MCC funding. A number of multilateral and bilateral donors, including the World Bank, France, Denmark, and the Netherlands, have been involved in activities and studies aimed at improving the performance of the Port of Cotonou.

Millennium Challenge Compact Between the United States of America Acting Through the Millennium Challenge Corporation and the Government of the Republic of Benin

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Millennium Challenge Compact

This Millennium Challenge Compact (the "Compact") is made between the United States of America, acting through the Millennium Challenge Corporation, a United States Government corporation ("MCC"), and the Government of the Republic of Benin (the "Government") (referred to herein individually as a "Party" and collectively, the "Parties"). A compendium of capitalized terms defined herein is included, for convenience only, in Exhibit A attached hereto.

Recitals

Whereas, MCC, acting through its Board of Directors, has selected the Republic of Benin as eligible to present to MCC a proposal for the use of Millennium Challenge Account ("MCA") assistance to help facilitate the advance of economic growth and poverty reduction in Benin;

Whereas, the Government has carried out a consultative process with the country's private sector and civil society to outline the country's priorities for the use of MCA assistance and developed a proposal, which final proposal was submitted to MCC on September 5, 2005 (the "Proposal");

Whereas, the Proposal focused on, among other things, improving core

physical and institutional infrastructure to increase investment and private sector activity;

Whereas, MCC has evaluated the Proposal and related documents to determine whether the Proposal is consistent with core MCA principles and includes proposed activities and projects that will advance the progress of Benin towards achieving economic growth and poverty reduction; and

Whereas, based on MCC's evaluation of the Proposal and related documents and subsequent discussions and negotiations between the Parties, the Government and MCC determined to enter into this Compact to implement a program using MCC Funding to advance Benin's progress towards economic growth and poverty reduction (the "Program");

Now, Therefore, in consideration of the foregoing and the mutual covenants and agreements set forth herein, the Parties hereby agree as follows:

Article I. Purpose and Term

Section 1.1 Objectives. The overall objective of this Compact is to increase investment and private sector activity in Benin ("Program Objective"), which is key to advancing the goal of economic growth and poverty reduction in Benin (the "Compact Goal"). The Parties have identified the following project-level objectives (each, a "Project Objective" and together, the "Project Objectives") of this Compact to advance the Program Objective and Compact Goal, each of which is described in more detail in the Annexes attached hereto:

- (a) Strengthen property rights and investment (the "Land Objective");
- (b) Expand access to financial services (the "Financial Services Objective");
- (c) Improve ability of the justice system to enforce contracts and reconcile claims (the "Justice Objective"); and
- (d) Improve access to markets through improvements to the Port of Cotonou ("Markets Objective").

The Government expects to achieve, and shall use its best efforts to ensure the achievement of, the Compact Goal, Program Objective and Project Objectives during the Compact Term. The Program Objective and the individual Project Objectives collectively referred to herein as "Objectives" and each individually as an "Objective."

Section 1.2 Projects. The Annexes attached hereto describe the specific projects and the policy reforms and other activities related thereto (each, a "Project") that the Government will carry out, or cause to be carried out, in

furtherance of this Compact to achieve the Objectives and the Compact Goal.

Section 1.3 Entry into Force;

Compact Term. This Compact shall enter into force on the date of the last letter in an exchange of letters between the Principal Representatives of each Party confirming that each Party has completed its domestic requirements for entry into force of this Compact (including as set forth in Section 3.10) and that all conditions set forth in Section 4.1 have been satisfied by the Government and MCC (the "Entry into Force"). This Compact shall remain in force for five (5) years from the Entry into Force, unless earlier terminated in accordance with Section 5.4 (the "Compact Term").

Article II. Funding and Resources

Section 2.1 MCC Funding.

(a) MCC's Contribution. MCC hereby grants to the Government, subject to the terms and conditions of this Compact, an amount not to exceed Three Hundred Seven Million Two Hundred and Ninety Eight Thousand and Forty United States Dollars (USD \$307,298,040) ("MCC Funding") during the Compact Term to enable the Government to implement the Program and achieve the Objectives.

(i) Subject to Sections 2.1(a)(ii), 2.2(b) and 5.4(b), the allocation of the MCC Funding within the Program and among and within the Projects shall be as generally described in *Annex II* or as otherwise agreed upon by the Parties from time to time.

(ii) If at any time MCC determines that a condition precedent to an MCC Disbursement has not been satisfied, MCC may, upon written notice to the Government, reduce the total amount of MCC Funding by an amount equal to the amount estimated in the applicable Detailed Financial Plan for the Program, Project or Project Activity or sub-activity for which such condition precedent has not been met. Upon the expiration or termination of this Compact, (A) any amounts of MCC Funding not disbursed by MCC to the Government shall be automatically released from any obligation in connection with this Compact and (B) any amounts of MCC Funding disbursed by MCC to the Government as provided in Section 2.1(b)(i), but not re-disbursed as provided in Section 2.1(b)(ii) or otherwise incurred as permitted pursuant to Section 5.4(e) prior to the expiration or termination of this Compact, shall be returned to MCC in accordance with Section 2.5(a)(ii).

(iii) Notwithstanding any other provision of this Compact and pursuant to the authority of Section 609(g) of the Millennium Challenge Act of 2003, as

amended (the "Act"), upon the conclusion of this Compact (and without regard to the satisfaction of all of the conditions for Entry into Force required under Section 1.3), MCC shall make available One Million Five Hundred Thirty Six Thousand Four Hundred and Ninety United States Dollars (USD \$1,536,490) ("Compact Implementation Funding") to facilitate certain aspects of Compact implementation as described in Schedule 2.1(a)(iii) attached hereto; provided, such Compact Implementation Funding shall be subject to (A) the limitations on the use or treatment of MCC Funding set forth in Section 2.3, as if such provision were in full force and effect, and (B) any other requirements for, and limitations on the use of, such Compact Implementation Funding as may be required by MCC in writing; provided, further, that any Compact Implementation Funding granted in accordance with this Section 2.1(a)(iii) shall be included in, and not additional to, the total amount of MCC Funding; and provided further, any obligation to provide such Compact Implementation Funding shall expire upon the expiration or termination of this Compact or five (5) years from the conclusion of this Compact, whichever occurs sooner. Notwithstanding anything to the contrary in this Compact, this Section 2.1(a)(iii) shall provisionally apply prior to Entry into Force.

(b) Disbursements.

(i) Disbursements of MCC Funding. MCC shall from time to time make disbursements of MCC Funding (each such disbursement, an "MCC Disbursement") to a Permitted Account or through such other mechanism agreed by the Parties under and in accordance with the procedures and requirements set forth in Annex I, the Disbursement Agreement or as otherwise provided in any other relevant Supplemental Agreement.

(ii) Re-Disbursements of MCC Funding. The release of MCC Funding from a Permitted Account (each such release, a "Re-Disbursement"), shall be made in accordance with the procedures and requirements set forth in Annex I, the Disbursement Agreement or as otherwise provided in any other relevant Supplemental Agreement.

(c) Interest. Unless the Parties agree otherwise in writing, any interest or other earnings on MCC Funding that accrue (collectively, "Accrued Interest") shall be held in a Permitted Account and accrue in accordance with the requirements for the accrual and treatment of Accrued Interest as specified in Annex I or any relevant

Supplemental Agreement. On a quarterly basis and upon the termination or expiration of this Compact, the Government shall return, or ensure the return of, all Accrued Interest to any United States Government account designated by MCC.

(d) Conversion; Exchange Rate. The Government shall ensure that all MCC Funding that is held in the Permitted Account(s) shall be denominated in the currency of the United States of America ("United States Dollars") prior to Re-Disbursement; provided, that a certain portion of MCC Funding may be transferred to a Local Account and may be held in such Local Account in the currency of the Republic of Benin prior to Re-Disbursement in accordance with the requirements of Annex I and any relevant Supplemental Agreement. To the extent that any amount of MCC Funding held in United States Dollars must be converted into the currency of the Republic of Benin for any purpose, including for any Re-Disbursement or any transfer of MCC Funding into a Local Account, the Government shall ensure that such amount is converted consistent with Annex I, including the rate and manner set forth in Annex I, and the requirements of the Disbursement Agreement or any other Supplemental Agreement between the Parties.

(e) Guidance. From time to time, MCC may provide guidance to the Government through Implementation Letters on the frequency, form and content of requests for MCC Disbursements and Re-Disbursements or any other matter relating to MCC Funding. The Government shall apply such guidance in implementing this Compact.

Section 2.2 Government Resources.

(a) The Government shall provide or cause to be provided such Government funds and other resources, including any Government contributions set out forth on Annex II attached hereto, and shall take or cause to be taken such actions, including obtaining all necessary approvals and consents, as are specified in this Compact or in any Supplemental Agreement to which the Government is a party or as are otherwise necessary and appropriate to effectively carry out the Government Responsibilities or other responsibilities or obligations of the Government under or in furtherance of this Compact during the Compact Term and through the completion of any post-Compact Term activities, audits or other responsibilities. The Government shall submit to the Parliament on an annual basis the amount of the upcoming year's

Government contribution for inclusion in the applicable finance law of Benin and such amount shall be committed in the national budget for that year for purposes of the Program, such contribution to be allocated within and in furtherance of the Program as agreed by the Parties. The Government shall disburse funds on a quarterly basis from this committed amount into an account, held at a bank acceptable to MCC, designated solely for this purpose.

(b) If at any time during the Compact Term, the Government materially reallocates or reduces the allocation in its national budget or any other Beninese governmental authority at a departmental, municipal, regional or other jurisdictional level materially reallocates or reduces the allocation of its respective budget of the normal and expected resources that the Government or such other governmental authority, as applicable, would have otherwise received or budgeted, from external or domestic sources, for the activities contemplated herein, the Government shall notify MCC in writing within fifteen (15) days of such reallocation or reduction, such notification to contain information regarding the amount of the reallocation or reduction, the affected activities, and an explanation for the reallocation or reduction. In the event that MCC independently determines, upon review of the executed national annual budget that such a material reallocation or reduction of resources has occurred, MCC shall notify the Government and, following such notification, the Government shall provide a written explanation for such reallocation or reduction and MCC may (i) reduce, in its sole discretion, the total amount of MCC Funding or any MCC Disbursement by an amount equal to the amount estimated in the applicable Detailed Financial Plan for the activity for which funds were reduced or reallocated or (ii) otherwise suspend or terminate MCC Funding in accordance with Section 5.4(b).

(c) The Government shall use its best efforts to ensure that all MCC Funding is fully reflected and accounted for in the annual budget of the Republic of Benin on a multi-year basis.

Section 2.3 Limitations on the Use or Treatment of MCC Funding.

(a) Abortions and Involuntary Sterilizations. The Government shall ensure that MCC Funding shall not be used to undertake, fund or otherwise support any activity that is subject to prohibitions on use of funds contained in (i) paragraphs (1) through (3) of section 104(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(f)(1)–(3), a United States statute, which

prohibitions shall apply to the same extent and in the same manner as such prohibitions apply to funds made available to carry out Part I of such Act; or (ii) any provision of law comparable to the eleventh and fourteenth provisos under the heading “Child Survival and Health Programs Fund” of division E of Public Law 108–7 (117 Stat. 162), a United States statute.

(b) United States Job Loss or Displacement of Production. The Government shall ensure that MCC Funding shall not be used to undertake, fund or otherwise support any activity that is likely to cause a substantial loss of United States jobs or a substantial displacement of United States production, including:

(i) Providing financial incentives to relocate a substantial number of United States jobs or cause a substantial displacement of production outside the United States;

(ii) Supporting investment promotion missions or other travel to the United States with the intention of inducing United States firms to relocate a substantial number of United States jobs or a substantial amount of production outside the United States;

(iii) Conducting feasibility studies, research services, studies, travel to or from the United States, or providing insurance or technical and management assistance, with the intention of inducing United States firms to relocate a substantial number of United States jobs or cause a substantial displacement of production outside the United States;

(iv) Advertising in the United States to encourage United States firms to relocate a substantial number of United States jobs or cause a substantial displacement of production outside the United States;

(v) Training workers for firms that intend to relocate a substantial number of United States jobs or cause a substantial displacement of production outside the United States;

(vi) Supporting a United States office of an organization that offers incentives for United States firms to relocate a substantial number of United States jobs or cause a substantial displacement of production outside the United States; or

(vii) Providing general budget support for an organization that engages in any activity prohibited above.

(c) Military Assistance and Training. The Government shall ensure that MCC Funding shall not be used to undertake, fund or otherwise support the purchase or use of goods or services for military purposes, including military training, or to provide any assistance to the military, police, militia, national guard or other quasi-military organization or unit.

(d) Prohibition of Assistance Relating to Environmental, Health or Safety Hazards. The Government shall ensure that MCC Funding shall not be used to undertake, fund or otherwise support any activity that is likely to cause a significant environmental, health, or safety hazard. Unless MCC and the Government agree otherwise in writing, the Government shall ensure that activities undertaken, funded or otherwise supported in whole or in part (directly or indirectly) by MCC Funding comply with environmental guidelines delivered by MCC to the Government or posted by MCC on its Web site or otherwise publicly made available, as such guidelines may be amended from time to time (the “Environmental Guidelines”), including any definition of “likely to cause a significant environmental, health, or safety hazard” as may be set forth in such Environmental Guidelines.

(e) Taxation.

(i) Taxes. The Government shall ensure that the Program, any Program Assets, MCC Funding and Accrued Interest shall be free from any taxes imposed under the laws currently or hereafter in effect in the Republic of Benin during the Compact Term. This exemption shall apply to any use of any Program Asset, MCC Funding and Accrued Interest, including any Exempt Uses, and to any work performed under or activities undertaken in furtherance of this Compact by any person or entity (including contractors and grantees) funded by MCC Funding, and shall apply to all taxes, tariffs, duties, and other levies (each a “Tax” and collectively, “Taxes”), including:

(1) To the extent attributable to MCC Funding, income taxes and other taxes on profit or businesses imposed on organizations or entities, other than nationals of the Republic of Benin, receiving MCC Funding, including taxes on the acquisition, ownership, rental, disposition or other use of real or personal property, taxes on investment or deposit requirements and currency controls in the Republic of Benin, or any other tax, duty, charge or fee of whatever nature, except fees for specific services rendered; for purposes of this Section 2.3(e), the term “national” refers to organizations established under the laws currently or hereafter in effect in the Republic of Benin, other than MCA-Benin or any other entity established solely for purposes of managing or overseeing the implementation of the Program or any wholly-owned subsidiaries, divisions, or Affiliates of entities not registered or established under the laws currently or hereafter in effect in the Republic of Benin;

(2) Customs duties, tariffs, import and export taxes, or other levies on the importation, use and re-exportation of goods, services, or the personal belongings and effects, including personally-owned automobiles, for Program use or the personal use of individuals who are neither citizens nor permanent residents of the Republic of Benin and who are present in the Republic of Benin for purposes of carrying out the Program or their family members, including all charges based on the value of such imported goods;

(3) Taxes on the income or personal property of all individuals who are neither citizens nor permanent residents of the Republic of Benin, including income and social security taxes of all types and all taxes on the personal property owned by such individuals, to the extent such income or property are attributable to MCC Funding; and

(4) Taxes or duties levied on the last transaction for the purchase of goods or services funded by MCC Funding, including sales taxes, tourism taxes, value-added taxes (VAT), or other similar charges. The term "last transaction" refers to the last transaction by which the goods or services were purchased for use in the activities funded by MCC Funding.

(ii) This Section 2.3(e) shall apply, but is not limited to (A) any transaction, service, activity, contract, grant or other implementing agreement funded in whole or in part by MCC Funding; (B) any supplies, equipment, materials, property or other goods (referred to herein collectively as "goods") or funds introduced into, acquired in, used or disposed of in, or imported into or exported from, the Republic of Benin by MCC, or by any person or entity (including contractors and grantees) as part of, or in conjunction with, MCC Funding or the Program; (C) any contractor, grantee, or other organization carrying out activities funded in whole or in part by MCC Funding; and (D) any employee of such organizations (the uses set forth in clauses (A) through (D) are collectively referred to herein as "Exempt Uses").

(iii) If a Tax has been levied and paid contrary to the requirements of this Section 2.3(e), whether inadvertently, due to the impracticality of implementation of this provision with respect to certain types or amounts of taxes, or otherwise, the Government shall refund promptly to MCC to an account designated by MCC the amount of such Tax in the currency of the Republic of Benin, within thirty (30) days (or such other period as may be agreed in writing by the Parties) after the Government is notified in writing of

such levy and tax payment, in accordance with procedures agreed by the Parties, whether by MCC or otherwise; provided, however, the Government shall apply national funds to satisfy its obligations under this paragraph and no MCC Funding, Accrued Interest, or any assets, goods, or property (real, tangible, or intangible) purchased or financed in whole or in part (directly or indirectly) by MCC Funding ("Program Assets") may be applied by the Government in satisfaction of its obligations under this paragraph.

(iv) The Parties shall memorialize in a mutually acceptable Supplemental Agreement or Implementation Letter or other suitable document the mechanisms for implementing this Section 2.3(e), including (A) a formula for determining refunds for Taxes paid, the amount of which is not susceptible to precise determination, (B) a mechanism for ensuring the tax-free importation, use, and re-exportation of goods, services, or the personal belongings of individuals (including all Providers) described in paragraph (i)(2) of this Section 2.3(e), (C) a requirement for the provision by the Government of a tax-exemption certificate which expressly includes, inter alia, the thirty (30) day refund requirement of Section 2.3(e)(iii), and (D) any other appropriate Government action to facilitate the administration of this Section 2.3(e).

(f) Alteration. The Government shall ensure that no MCC Funding, Accrued Interest nor Program Assets shall be subject to any impoundment, rescission, sequestration or any provision of law now or hereafter in effect in the Republic of Benin that would have the effect of requiring or allowing any impoundment, rescission or sequestration of any MCC Funding, Accrued Interest or Program Asset.

(g) Liens or Encumbrances. The Government shall ensure that no MCC Funding, Accrued Interest, or Program Assets shall be subject to any lien, attachment, enforcement of judgment, pledge, or encumbrance of any kind (each a "Lien"), except with the prior approval of MCC in accordance with Section 3(c) of Annex I, and in the event of the imposition of any Lien not so approved, the Government shall promptly seek the release of such Lien and if required by final non-appealable order, shall pay any amounts owed to obtain such release; provided, however, the Government shall apply national funds to satisfy its obligations under this Section 2.3(g) and no MCC Funding, Accrued Interest, or Program Assets may be applied by the

Government in satisfaction of its obligations under this Section 2.3(g).

(h) Other Limitations. The Government shall ensure that the use or treatment of MCC Funding, Accrued Interest, and Program Assets shall be subject to and in conformity with such other limitations (i) as required by the applicable law of the United States of America now or hereafter in effect during the Compact Term, (ii) as advisable under or required by applicable United States Government policies now or hereafter in effect during the Compact Term, or (iii) to which the Parties may otherwise agree in writing.

(i) Utilization of Goods, Services and Works. The Government shall ensure that any Program Assets, services, facilities or works funded in whole or in part (directly or indirectly) by MCC Funding, unless otherwise agreed by the Parties in writing, shall be used solely in furtherance of this Compact.

(j) Notification of Applicable Laws and Policies. MCC shall notify the Government of any applicable United States law or policy affecting the use or treatment of MCC Funding, whether or not specifically identified in this Section 2.3, and shall provide to the Government a copy of the text of any such applicable law and a written explanation of any such applicable policy.

Section 2.4 Incorporation; Notice; Clarification.

(a) The Government shall include, or ensure the inclusion of, all of the requirements set forth in Section 2.3 in all Supplemental Agreements to which MCC is not a party and shall use its best efforts to ensure that no such Supplemental Agreement is implemented in violation of the prohibitions set forth in Section 2.3.

(b) The Government shall ensure notification of all of the requirements set forth in Section 2.3 to any Provider and all relevant officers, directors, employees, agents, representatives, Affiliates, contractors, sub-contractors, grantees and sub-grantees of any Provider. The term "Provider" shall mean (i) MCA-Benin and any Government Affiliate or Permitted Designee involved in any activities in furtherance of this Compact or (ii) any third party who receives at least USD \$50,000 in the aggregate of MCC Funding (other than employees of MCA-Benin) during the Compact Term or such other amount as the Parties may agree in writing, whether directly from MCC, indirectly through Re-Disbursements, or otherwise.

(c) In the event the Government or any Provider requires clarification from

MCC as to whether an activity contemplated to be undertaken in furtherance of this Compact violates or may violate any provision of Section 2.3, the Government shall notify, or ensure that such Provider notifies, MCC in writing and provide in such notification a detailed description of the activity in question. In such event, the Government shall not proceed, and shall use its best efforts to ensure that no relevant Provider proceeds, with such activity, and the Government shall ensure that no Re-Disbursements shall be made for such activity, until MCC advises the Government or such Provider in writing that the activity is permissible.

Section 2.5 Refunds; Violation.

(a) Notwithstanding the availability to MCC, or exercise by MCC of, any other remedies, including under international law, this Compact, or any Supplemental Agreement:

(i) If any amount of MCC Funding or Accrued Interest, or any Program Asset, is used for any purpose prohibited under this Article II or otherwise in violation of any of the terms and conditions of this Compact, any guidance in any Implementation Letter, or any Supplemental Agreement between the Parties, MCC may, upon written notice, require the Government to repay promptly to MCC to an account designated by MCC or to others as MCC may direct the amount of such misused MCC Funding or Accrued Interest, or the cash equivalent of the value of any misused Program Asset, in United States Dollars, plus any interest that accrued or would have accrued thereon, within thirty (30) days after the Government is notified, whether by MCC or other duly authorized representative of the United States Government, of such prohibited use; provided, however, the Government shall apply national funds to satisfy its obligations under this Section 2.5(a)(i) and no MCC Funding, Accrued Interest, nor Program Assets may be applied by the Government in satisfaction of its obligations under this Section 2.5(a)(i); and

(ii) If all or any portion of this Compact is terminated or suspended and upon the expiration of this Compact, the Government shall, subject to the requirements of Sections 5.4(e) and 5.4(f), refund, or ensure the refund, to MCC to such account(s) designated by MCC the amount of any MCC Funding, plus any Accrued Interest, promptly, but in no event later than thirty (30) days after the Government receives MCC's request for such refund; provided, that if this Compact is terminated or suspended in part, MCC may request a refund for only the

amount of MCC Funding, plus any Accrued Interest, then allocated to the terminated or suspended portion; provided, further, that any refund of MCC Funding or Accrued Interest shall be to such account(s) as designated by MCC.

(b) Notwithstanding any other provision in this Compact or any other agreement to the contrary, MCC's right under this Section 2.5 for a refund shall continue during the Compact Term and for a period of (i) five (5) years thereafter or (ii) one (1) year after MCC receives actual knowledge of such violation, whichever is later.

(c) If MCC determines that any activity or failure to act violates, or may violate, any Section in this Article II, MCC may refuse any further MCC Disbursements for or conditioned upon such activity, and may take any action to prevent any Re-Disbursement related to such activity.

Section 2.6 Bilateral Agreement. All MCC Funding shall be considered United States assistance under the Economic, Technical and Related Assistance Agreement by and between the Government of the United States of America and the Government of the Republic of Benin, dated May 27, 1961, as amended from time to time (the "Bilateral Agreement"). If there are conflicts or inconsistencies between any parts of this Compact and the Bilateral Agreement, as either may be amended from time to time, the provisions of this Compact shall prevail over those of the Bilateral Agreement.

Article III. Implementation

Section 3.1 Implementation Framework. This Compact shall be implemented by the Parties in accordance with this Article III and as further specified in the Annexes and in relevant Supplemental Agreements.

Section 3.2 Government Responsibilities.

(a) The Government shall have principal responsibility for oversight and management of the implementation of the Program (i) in accordance with the terms and conditions specified in this Compact and relevant Supplemental Agreements, (ii) in accordance with all applicable laws then in effect in Benin, and (iii) in a timely and cost-effective manner and in conformity with sound technical, financial and management practices (collectively, the "Government Responsibilities"). Unless otherwise expressly provided, any reference to the Government Responsibilities or any other responsibilities or obligations of the Government herein shall be deemed to apply to any Government Affiliate

and any of their respective directors, officers, employees, contractors, sub-contractors, grantees, sub-grantees, agents or representatives.

(b) The Government shall ensure that no person or entity shall participate in the selection, award, administration, or oversight of a contract, grant or other benefit or transaction funded in whole or in part (directly or indirectly) by MCC Funding, in which (i) the entity, the person, members of the person's immediate family or household or his or her business partners, or organizations controlled by or substantially involving such person or entity, has or have a direct or indirect financial or other interest or (ii) the person or entity is negotiating or has any arrangement concerning prospective employment, unless such person or entity has first disclosed in writing to the Government the conflict of interest and, following such disclosure, the Parties agree in writing to proceed notwithstanding such conflict. The Government shall ensure that no person or entity involved in the selection, award, administration, oversight or implementation of any contract, grant or other benefit or transaction funded in whole or in part (directly or indirectly) by MCC Funding shall solicit or accept from or offer to a third party or seek or be promised directly or indirectly for itself or for another person or entity any gift, gratuity, favor or benefit, other than items of *de minimis* value and otherwise consistent with such guidance as MCC may provide from time to time.

(c) The Government shall not designate any person or entity, including any Government Affiliate, to implement, in whole or in part, this Compact or any Supplemental Agreement between the Parties (including any Government Responsibilities or any other responsibilities or obligations of the Government under this Compact or any Supplemental Agreement between the Parties) or to exercise any rights of the Government under this Compact or any Supplemental Agreement between the Parties, except as expressly provided herein or with the prior written consent of MCC; provided, however, the Government may designate MCA-Benin or, with the prior written consent of MCC, such other mutually acceptable persons or entities, (each, a "Permitted Designee") to implement some or all of the Government Responsibilities or any other responsibilities or obligations of the Government or to exercise any rights of the Government under this Compact or any Supplemental Agreement between the Parties each in accordance with the terms and conditions set forth

in this Compact or such Supplemental Agreement (referred to herein collectively as "Designated Rights and Responsibilities"). Notwithstanding any provision herein or any other agreement to the contrary, no such designation shall relieve the Government of such Designated Rights and Responsibilities, for which the Government shall retain ultimate responsibility. In the event that the Government designates any person or entity, including any Government Affiliate, to implement any portion of the Government Responsibilities or other responsibilities or obligations of the Government, or to exercise any rights of the Government under this Compact or any Supplemental Agreement between the Parties, in accordance with this Section 3.2(c), then the Government shall (i) cause such person or entity to perform such Designated Rights and Responsibilities in the same manner and to the full extent to which the Government is obligated to perform such Designated Rights and Responsibilities, (ii) ensure that such person or entity does not assign, delegate or contract (or otherwise transfer) any of such Designated Rights and Responsibilities to any person or entity and (iii) cause such person or entity to certify to MCC in writing that it will so perform such Designated Rights and Responsibilities and will not assign, delegate, or contract (or otherwise transfer) any of such Designated Rights and Responsibilities to any person or entity without the prior written consent of MCC.

(d) The Government shall, upon a request from MCC, execute, or ensure the execution of, an assignment to MCC of any cause of action which may accrue to the benefit of the Government, a Government Affiliate or any Permitted Designee, including MCA-Benin, in connection with or arising out of any activities funded in whole or in part (directly or indirectly) by MCC Funding.

(e) The Government shall ensure that (i) no decision of MCA-Benin is modified, supplemented, unduly influenced or rescinded by any governmental authority, except by a non-appealable judicial decision, and (ii) the authority of MCA-Benin shall not be expanded, restricted, or otherwise modified, except in accordance with this Compact, the Governance Agreement, the Governing Documents or any other Supplemental Agreement between the Parties.

(f) The Government shall ensure that all persons and individuals that enter into agreements to provide goods, services or works under the Program or in furtherance of this Compact shall do so in accordance with the Procurement

Guidelines and shall obtain all necessary immigration, business and other permits, licenses, consents and approvals to enable them and their personnel to fully perform under such agreements.

Section 3.3 Government Deliveries.

The Government shall proceed, and cause others to proceed, in a timely manner to deliver to MCC all reports, notices, certificates, documents or other deliveries required to be delivered by the Government under this Compact or any Supplemental Agreement between the Parties, in form and substance as set forth in this Compact or in any such Supplemental Agreement.

Section 3.4 Government Assurances.
The Government hereby provides the following assurances to MCC that as of the date this Compact is signed:

(a) The information contained in the Proposal and any agreement, report, statement, communication, document or otherwise delivered or otherwise communicated to MCC by or on behalf of the Government on or after the date of the submission of the Proposal (i) are true, correct and complete in all material respects and (ii) do not omit any fact known to the Government that if disclosed would (A) alter in any material respect the information delivered, (B) likely have a material adverse effect on the Government's ability to effectively implement, or ensure the effective implementation of, the Program or any Project or to otherwise carry out its responsibilities or obligations under or in furtherance of this Compact, or (C) have likely adversely affected MCC's determination to enter into this Compact or any Supplemental Agreement between the Parties.

(b) Unless otherwise disclosed in writing to MCC, the MCC Funding made available hereunder is in addition to the normal and expected resources that the Government usually receives or budgets for the activities contemplated herein from external or domestic sources.

(c) This Compact does not conflict and will not conflict with any international agreement or obligation to which the Government is a party or by which it is bound.

(d) No payments have been (i) received by any official of the Government or any other government body in connection with the procurement of goods, services or works to be undertaken or funded in whole or in part (directly or indirectly) by MCC Funding, except fees, taxes, or similar payments legally established in the Republic of Benin (subject to Section 2.3(e)) and consistent with the applicable requirement of Beninese law

or (ii) made to any third party, in connection with or in furtherance of this Compact, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended (15 U.S.C. 78a *et seq.*).

Section 3.5 Implementation Letters; Supplemental Agreements.

(a) MCC may, from time to time, issue one or more letters to furnish additional information or guidance to assist the Government in the implementation of this Compact (each, an "Implementation Letter"). The Government shall apply such guidance in implementing this Compact.

(b) The details of any funding, implementing and other arrangements in furtherance of this Compact may be memorialized in one or more agreements between (A) the Government (or any Government Affiliate or Permitted Designee) and MCC, (B) MCC and/or the Government (or any Government Affiliate or Permitted Designee) and any third party, including any of the Providers or Permitted Designee or (C) any third parties where neither MCC nor the Government is a party, before, on or after the Entry into Force (each, a "Supplemental Agreement"). The Government shall deliver, or cause to be delivered, to MCC within five (5) days of its execution a copy of any Supplemental Agreement to which MCC is not a party.

Section 3.6 Procurement; Awards of Assistance.

(a) The Government shall ensure that the procurement of all goods, services and works by the Government or any Provider in furtherance of this Compact shall be consistent with the procurement guidelines (the "Procurement Guidelines") reflected in a Supplemental Agreement between the Government (and/or a mutually acceptable Government Affiliate or MCA-Benin) and MCC (the "Procurement Agreement"), which Procurement Guidelines shall include the following requirements:

(i) Internationally accepted procurement rules with open, fair and competitive procedures are used in a transparent manner to solicit, award and administer contracts, grants, and other agreements and to procure goods, services and works;

(ii) Solicitations for goods, services, and works shall be based upon a clear and accurate description of the goods, services or works to be acquired;

(iii) Contracts shall be awarded only to qualified and capable contractors that have the capability and willingness to perform the contracts in accordance with the terms and conditions of the

applicable contracts and on a cost effective and timely basis; and

(iv) No more than a commercially reasonable price, as determined, for example, by a comparison of price quotations and market prices, shall be paid to procure goods, services, and works.

(b) The Government shall maintain, and shall use its best efforts to ensure that all Providers maintain, records regarding the receipt and use of goods, services and works acquired in furtherance of this Compact, the nature and extent of solicitations of prospective suppliers of goods, services and works acquired in furtherance of this Compact, and the basis of award of contracts, grants and other agreements in furtherance of this Compact.

(c) The Government shall use its best efforts to ensure that information, including solicitations, regarding procurement, grant and other agreement actions funded (or to be funded) in whole or in part (directly or indirectly) by MCC Funding shall be made publicly available in the manner outlined in the Procurement Guidelines or in any other manner agreed upon by the Parties in writing.

(d) The Government shall ensure that no goods, services or works may be funded in whole or in part (directly or indirectly) by MCC Funding which are procured pursuant to orders or contracts firmly placed or entered into prior to the Entry into Force, except as the Parties may otherwise agree in writing.

(e) The Government shall ensure that MCA-Benin and any other Permitted Designee follows, and uses its best efforts to ensure that all Providers follow, the Procurement Guidelines in procuring (including soliciting) goods, services and works and in awarding and administering contracts, grants and other agreements in furtherance of this Compact, and shall furnish MCC evidence of the adoption of the Procurement Guidelines by MCA-Benin no later than the time specified in the Disbursement Agreement.

(f) The Government shall include, or ensure the inclusion of, the requirements of this Section 3.6 into all Supplemental Agreements between the Government, any Government Affiliate or Permitted Designee or any of their respective directors, officers, employees, Affiliates, contractors, sub-contractors, grantees, sub-grantees, representatives or agents, on the one hand, and a Provider, on the other hand.

Section 3.7 Policy Performance; Policy Reforms. In addition to the specific policy and legal reform commitments identified in Annex I and the Schedules thereto, the Government

shall seek to maintain and to improve its level of performance under the policy criteria identified in Section 607 of the Act, and the MCA selection criteria and methodology published by MCC pursuant to Section 607 of the Act from time to time ("MCA Eligibility Criteria").

Section 3.8 Records and Information; Access; Audits; Reviews.

(a) Reports and Information. The Government shall furnish to MCC, and shall use its best efforts to ensure that all Providers and any other third party receiving MCC Funding, as appropriate, furnish to the Government (and the Government shall provide to MCC), any records and other information required to be maintained under this Section 3.8 and such other information, documents and reports as may be necessary or appropriate for the Government to effectively carry out its obligations under this Compact, including under Section 3.12.

(b) Government Books and Records. The Government shall maintain, and shall use its best efforts to ensure that all Providers maintain, accounting books, records, documents and other evidence relating to this Compact adequate to show, to the satisfaction of MCC, without limitation, the use of all MCC Funding, including all costs incurred by the Government and the Providers in furtherance of this Compact, the receipt, acceptance and use of goods, services and works acquired in furtherance of this Compact by the Government and the Providers, agreed-upon cost sharing requirements, the nature and extent of solicitations of prospective suppliers of goods, services and works acquired by the Government and the Providers in furtherance of this Compact, the basis of award of Government and other contracts and orders in furtherance of this Compact, the overall progress of the implementation of the Program, and any documents required by this Compact or any Supplemental Agreement between the Parties or reasonably requested by MCC upon reasonable notice ("Compact Records"). The Government shall maintain, and shall use its best efforts to ensure that all Covered Providers maintain, Compact Records in accordance with generally accepted accounting principles prevailing in the United States, or at the Government's option and with the prior written approval by MCC, other accounting principles, such as those (1) prescribed by the International Accounting Standards Committee (an affiliate of the International Federation of Accountants) or (2) then prevailing in Benin. Compact Records shall be

maintained for at least five (5) years after the end of the Compact Term or for such longer period, if any, required to resolve any litigation, claims or audit findings or any statutory requirements.

(c) Access. Upon the request of MCC, the Government, at all reasonable times, shall permit, or cause to be permitted, authorized representatives of MCC, the Inspector General, the United States Government Accountability Office, any auditor responsible for an audit contemplated herein or otherwise conducted in furtherance of this Compact, and any agents or representatives engaged by MCC or a Permitted Designee to conduct any assessment, review or evaluation of the Program, at all reasonable times the opportunity to audit, review, evaluate or inspect activities funded in whole or in part (directly or indirectly) by MCC Funding or undertaken in connection with the Program, the utilization of goods and services purchased or funded in whole or in part (directly or indirectly) by MCC Funding, and Compact Records, including of the Government or any Provider, relating to activities funded or undertaken in furtherance of, or otherwise relating to, this Compact, and shall use its best efforts to ensure access by MCC, the Inspector General, the United States Government Accountability Office or relevant auditor, reviewer or evaluator or their respective representatives or agents to all relevant directors, officers, employees, Affiliates, contractors, representatives and agents of the Government or any Provider.

(d) Audits.

(i) Government Audits. The Government shall, on at least an annual basis and as the Parties may otherwise agree in writing, conduct, or cause to be conducted, financial audits of all MCC Disbursements and Re-Disbursements during the year since the Entry into Force or since the prior anniversary of the Entry into Force in accordance with the following terms, except as the Parties may otherwise agree in writing. As requested by MCC in writing, the Government shall use, or cause to be used, or select or cause to be selected, an auditor named on the approved list of auditors in accordance with the "Guidelines for Financial Audits Contracted by Foreign Recipients" (the "Audit Guidelines") issued by the Inspector General of the United States Agency for International Development (the "Inspector General"), and as approved by MCC, to conduct such annual audits. Such audits shall be performed in accordance with such Audit Guidelines and be subject to quality assurance oversight by the

Inspector General in accordance with such Audit Guidelines. An audit shall be completed and delivered to MCC no later than 90 days after the first period to be audited and no later than 90 days after each anniversary of the Entry into Force thereafter, or such other period as the Parties may otherwise agree in writing.

(ii) Audits of U.S. Entities. The Government shall ensure that Supplemental Agreements between the Government or any Provider, on the one hand, and a United States non-profit organization, on the other hand, state that the United States organization is subject to the applicable audit requirements contained in OMB Circular A-133, notwithstanding any other provision of this Compact to the contrary. The Government shall ensure that Supplemental Agreements between the Government or any Provider, on the one hand, and a United States for-profit Covered Provider, on the other hand, state that the United States organization is subject to audit by the cognizant United States Government agency, unless the Government and MCC agree otherwise in writing.

(iii) Audit Plan. The Government shall submit, or cause to be submitted, to MCC no later than 20 days prior to the date of its adoption a plan, in accordance with the Audit Guidelines, for the audit of the expenditures of any Covered Providers, which audit plan, in the form and substance as approved by MCC, the Government shall adopt, or cause to be adopted, no later than sixty (60) days prior to the end of the first period to be audited (such plan, the "Audit Plan").

(iv) Covered Provider. A "Covered Provider" is (A) a non-United States Provider that receives (other than pursuant to a direct contract or agreement with MCC) USD \$300,000 or more of MCC Funding in any MCA-Benin fiscal year or any other non-United States person or entity that receives, directly or indirectly, USD \$300,000 or more of MCC Funding from any Provider in such fiscal year or (B) any United States Provider that receives (other than pursuant to a direct contract or agreement with MCC) USD \$500,000 or more of MCC Funding in any MCA-Benin fiscal year or any other United States person or entity that receives, directly or indirectly, USD \$500,000 or more of MCC Funding from any Provider in such fiscal year.

(v) Corrective Actions. The Government shall use its best efforts to ensure that Covered Providers take, where necessary, appropriate and timely corrective actions in response to audits, consider whether a Covered Provider's

audit necessitates adjustment of its own records, and require each such Covered Provider to permit independent auditors to have access to its records and financial statements as necessary.

(vi) Audit Reports. The Government shall furnish, or use its best efforts to cause to be furnished, to MCC an audit report in a form satisfactory to MCC for each audit required by this Section 3.8, other than audits arranged for by MCC, no later than 90 days after the end of the period under audit, or such other time as may be agreed by the Parties from time to time.

(vii) Other Providers. For Providers who receive MCC Funding under this Compact pursuant to direct contracts or agreements with MCC, MCC shall include appropriate audit requirements in such contracts or agreements and shall, on behalf of the Government, unless otherwise agreed by the Parties, conduct the follow-up activities with regard to the audit reports furnished pursuant to such requirements.

(viii) Audit by MCC. MCC retains the right to perform, or cause to be performed, the audits required under this Section 3.8 by utilizing MCC Funding or other resources available to MCC for this purpose, and to audit, conduct a financial review, or otherwise ensure accountability of any Provider or any other third party receiving MCC Funding, regardless of the requirements of this Section 3.8.

(e) Application to Providers. The Government shall include, or ensure the inclusion of, at a minimum, the requirements of:

(i) Paragraphs (a), (b), (c), (d)(ii), (d)(iii), (d)(v), (d)(vi), and (d)(viii) of this Section 3.8 into all Supplemental Agreements between the Government, any Government Affiliate, any Permitted Designee or any of their respective directors, officers, employees, Affiliates, contractors, sub-contractors, grantees, sub-grantees, representatives or agents (each, a "Government Party"), on the one hand, and a Covered Provider that is not a non-profit organization domiciled in the United States, on the other hand;

(ii) Paragraphs (a), (b), (c), (d)(ii), and (d)(viii) of this Section 3.8 into all Supplemental Agreements between a Government Party and a Provider that does not meet the definition of a Covered Provider; and

(iii) Paragraphs (a), (b), (c), (d)(ii), (d)(v) and (d)(viii) of this Section 3.8 into all Supplemental Agreements between a Government Party and a Covered Provider that is a non-profit organization domiciled in the United States.

(f) Reviews or Evaluations. The Government shall conduct, or cause to be conducted, such performance reviews, data quality reviews, environmental and social audits, or program evaluations during the Compact Term or otherwise and in accordance with the M&E Plan or as otherwise agreed in writing by the Parties.

(g) Cost of Audits, Reviews or Evaluations. MCC Funding may be used to fund the costs of any Audits, reviews or evaluations required under this Compact, including as reflected on Exhibit A to Annex II, and in no event shall the Government be responsible for the costs of any such Audits, reviews or evaluations from financial sources other than MCC Funding.

Section 3.9 Insurance; Performance Guarantees. The Government shall, to MCC's satisfaction, insure or cause to be insured all Program Assets and shall obtain or cause to be obtained such other appropriate insurance and other protections to cover against risks or liabilities associated with the operations of the Program, including by requiring Providers to obtain adequate insurance and post adequate performance bonds or other guarantees. MCA-Benin or the Implementing Entity, as applicable, shall be named as the payee on any such insurance and the beneficiary of any such guarantee, including performance bonds. MCC, and to the extent it is not named as the insured party, MCA-Benin shall be named as additional insureds on any such insurance or other guarantee, to the extent permissible under applicable laws. The Government shall ensure that any proceeds from claims paid under such insurance or any other form of guarantee shall be used to replace or repair any loss of Program Assets or to pursue the procurement of the covered goods, services, works, or otherwise; provided, however, at MCC's election, such proceeds shall be deposited in a Permitted Account as designated by MCA-Benin and acceptable to MCC or as otherwise directed by MCC. To the extent MCA-Benin is held liable under any indemnification or other similar provision of any agreement between MCA-Benin, on the one hand, and any other Provider or other third party, on the other hand, the Government shall pay in full on behalf of MCA-Benin any such obligation; provided, further, the Government shall apply national funds to satisfy its obligations under this Section 3.9 and no MCC Funding, Accrued Interest, or Program Asset may be applied by the Government in satisfaction of its obligations under this Section 3.9.

Section 3.10 Domestic Requirements. The Government shall proceed in a timely manner to seek ratification of this Compact, as necessary or required by the laws of the Republic of Benin, or similar domestic requirement, in order that (i) this Compact shall be given the status of an international agreement, (ii) this Compact shall take precedence and prevail over the domestic laws of Benin now or hereafter in effect and (iii) each of the provisions of this Compact is valid, binding and in full force and effect under Beninese law. The Government shall initiate such process promptly after the conclusion of this Compact. Notwithstanding anything to the contrary in this Compact, this Section 3.10 shall provisionally apply prior to Entry into Force.

Section 3.11 No Conflict. The Government shall undertake not to enter into any agreement in conflict with this Compact or any Supplemental Agreement during the Compact Term.

Section 3.12 Reports. The Government shall provide, or cause to be provided, to MCC at least on each anniversary of the Entry into Force (or such other anniversary agreed by the Parties in writing) and otherwise within thirty (30) days of any written request by MCC, or as otherwise agreed in writing by the Parties, the following information:

(a) The name of each entity to which MCC Funding has been provided;

(b) The amount of MCC Funding provided to such entity;

(c) A description of the Program and each Project funded in furtherance of this Compact, including:

(i) A statement of whether the Program or any Project was solicited or unsolicited; and

(ii) A detailed description of the objectives and measures for results of the Program or Project;

(d) The progress made by Benin toward achieving the Compact Goal and Objectives;

(e) A description of the extent to which MCC Funding has been effective in helping Benin to achieve the Compact Goal and Objectives;

(f) A description of the coordination of MCC Funding with other United States foreign assistance and other related trade policies;

(g) A description of the coordination of MCC Funding with assistance provided by other donor countries;

(h) Any report, document or filing that the Government, any Government Affiliate or any Permitted Designee submits to any government body in connection with this Compact;

(i) Any report or document required to be delivered to MCC under the Environmental Guidelines, any Audit Plan, or any component of the Implementation Plan; and

(j) Any other report, document or information requested by MCC or required by this Compact or any Supplemental Agreement between the Parties.

Article IV. Conditions Precedent; Deliveries

Section 4.1 Conditions Prior to the Entry into Force and Deliveries. As conditions precedent to the Entry into Force, the Parties shall satisfy the conditions set forth in this Section 4.1.

(a) The Government (or a mutually acceptable Government Affiliate) and MCC shall execute a Disbursement Agreement, which agreement shall be in full force and effect as of the Entry into Force.

(b) (i) The Government shall deliver one or more of the Supplemental Agreements or other document identified on Exhibit B attached hereto, which agreements or other documents shall be fully executed by the parties thereto and in full force and effect, or (ii) the Government (or a mutually acceptable Government Affiliate) and MCC execute one or more term sheets that set forth the material and principal terms and conditions that will be included in any such Supplemental Agreement or document that has not been entered into or effective as of the Entry into Force (the "Supplemental Agreement Term Sheets").

(c) The Government (or a mutually acceptable Government Affiliate) and MCC shall execute a Procurement Agreement, which agreement shall be in full force and effect as of the Entry into Force.

(d) The Government shall deliver a written statement as to the incumbency and specimen signature of the Principal Representative and each Additional Representative of the Government executing any document under this Compact, such written statement to be signed by a duly authorized official of the Government other than the Principal Representative or any such Additional Representative.

(e) The Government shall deliver a certificate signed and dated by the Principal Representative of the Government, or such other duly authorized representative of the Government acceptable to MCC, that:

(i) Certifies the Government has completed all of its domestic requirements for (1) this Compact to be given the status of an international agreement, (2) this Compact to take

precedence and prevail over the domestic laws of Benin now or hereafter in effect and (3) each of the provisions of this Compact to be valid, binding and in full force and effect under Beninese law; and

(ii) Attaches thereto, and certifies that such attachments are, true, correct and complete copies of all decrees, legislation, regulations or other governmental documents relating to its domestic requirements for this Compact to enter into force and the satisfaction of Section 3.10, which MCC may post on its Web site or otherwise make publicly available.

(f) MCC shall deliver a written statement as to the incumbency and specimen signature of the Principal Representative and each Additional Representative of MCC executing any document under this Compact such written statement to be signed by a duly authorized official of MCC other than the Principal Representative or any such Additional Representative.

(g) The Government has not engaged subsequent to the conclusion of this Compact in any action or omission inconsistent with the MCA Eligibility Criteria, as determined by MCC in its sole discretion.

Section 4.2 Conditions Precedent to MCC Disbursements or Re-Disbursements. Prior to, and as condition precedent to, any MCC Disbursement or Re-Disbursement, the Government shall satisfy, or ensure the satisfaction of, all applicable conditions precedent in the Disbursement Agreement.

Article V. Final Clauses

Section 5.1 Communications. Unless otherwise expressly stated in this Compact or otherwise agreed in writing by the Parties, any notice, certificate, request, report, document or other communication required, permitted, or submitted by either Party to the other under this Compact shall be (a) in writing, (b) in English and (c) deemed duly given: (i) Upon personal delivery to the Party to be notified; (ii) when sent by confirmed facsimile or electronic mail, if sent during normal business hours of the recipient Party, if not, then on the next business day; or (iii) three (3) business days after deposit with an internationally recognized overnight courier, specifying next day delivery, with written verification of receipt to the Party to be notified at the address indicated below, or at such other address as such Party may designate:

To MCC: Millennium Challenge Corporation, Attention: Vice President of Operations (with a copy to the Vice President and General Counsel), 875

Fifteenth Street, NW., Washington, DC 20005, United States of America, Facsimile: (202) 521-3700, Phone: (202) 521-3600, e-mail: VPOperations@mcc.gov (Vice President of Operations); VPGeneralCounsel@mcc.gov (Vice President and General Counsel).

To the Government: Ministry of Finance and Economy, Attention: Minister of Finance and Economy, Route de l'Aéroport, P.O. Box 302, Cotonou, Republic of Benin, Facsimile: 229 21 30 18 51, Phone: 229 21 30 69 38.

With a copy to: Office of the Head of State, Attention: Chief of Staff, Présidence de la République, Avenue de la Marina, Cotonou, Republic of Benin, Facsimile: 229 21 30 00 90, Phone: 229 21 30 06 36, MCA-Benin (to be formed), Attention: National Coordinator, Immeuble Espace Dina, 6th Floor, Boulevard Saint Michel, Cotonou, Republic of Benin, Facsimile: 229 21 32 83 22, Phone: 229 21 32 83 19, e-mail: mcabenin@yahoo.com.

Notwithstanding the foregoing, any audit report delivered pursuant to Section 3.8, if delivered by facsimile or electronic mail, shall be followed by an original in overnight express mail. This Section 5.1 shall not apply to the exchange of letters contemplated in Section 1.3 or any amendments under Section 5.3.

Section 5.2 Representatives. Unless otherwise agreed in writing by the Parties, for all purposes relevant to this Compact, the Government shall be represented by the individual holding the position of, or acting as, Minister of Finance and Economy of the Republic of Benin, and MCC shall be represented by the individual holding the position of, or acting as, Vice President for Operations (each, a "Principal Representative"), each of whom, by written notice to the other Party, may designate one or more additional representatives (each, an "Additional Representative") for all purposes other than signing amendments to this Compact. The names of the Principal Representative and any Additional Representative of each of the Parties shall be provided, with specimen signatures, to the other Party, and the Parties may accept as duly authorized any instrument signed by such representatives relating to the implementation of this Compact, until receipt of written notice of revocation of their authority. A Party may change its Principal Representative to a new representative of equivalent or higher rank upon written notice to the other Party, which notice shall include the

specimen signature of the new Principal Representative.

Section 5.3 Amendments. The Parties may amend this Compact only by a written agreement signed by the Principal Representatives of the Parties and subject to the respective domestic approval requirements to which this Compact was subject.

Section 5.4 Termination; Suspension.

(a) Subject to Section 2.5, either Party may terminate this Compact in its entirety by giving the other Party thirty (30) days' written notice.

(b) Notwithstanding any other provision of this Compact, including Section 2.1, or any Supplemental Agreement between the Parties, subject to Section 2.5, MCC may suspend or terminate this Compact or MCC Funding, in whole or in part, and any obligation or sub-obligation related thereto, upon giving the Government written notice, if MCC determines, in its sole discretion, that:

(i) Any use or proposed use of MCC Funding or Program Assets or continued implementation of the Compact would be in violation of applicable law or United States Government policy, whether now or hereafter in effect;

(ii) The Government, any Provider, or any other third party receiving MCC Funding or using Program Assets is engaged in activities that are contrary to the national security interests of the United States;

(iii) The Government or any Permitted Designee has committed an act or omission or an event has occurred that would render the Republic of Benin ineligible to receive United States economic assistance under Part I of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2151 *et seq.*), by reason of the application of any provision of the Foreign Assistance Act of 1961 or any other provision of law;

(iv) The Government or any Permitted Designee has engaged in a pattern of actions or omissions inconsistent with the MCA Eligibility Criteria, or there has occurred a significant decline in the performance of the Republic of Benin on one or more of the eligibility indicators contained therein;

(v) The Government or any Provider has materially breached one or more of its assurances or any covenants, obligations or responsibilities under this Compact or any Supplemental Agreement;

(vi) An audit, review, report or any other document delivered in furtherance of the Compact or any Supplemental Agreement or any other evidence reveals that actual expenditures for the Program or any Project or Project

Activity were greater than the projected expenditure for such activities identified in the applicable Detailed Financial Plan or are projected to be greater than projected expenditures for such activities;

(vii) If the Government (A) materially reallocates or reduces the allocation in its national budget or any other Government budget of the normal and expected resources that the Government would have otherwise received or budgeted, from external or domestic sources, for the activities contemplated herein, (B) fails to contribute or provide the amount, level, type and quality of resources required to effectively carry out the Government Responsibilities or any other responsibilities or obligations of the Government under or in furtherance of this Compact, or (C) fails to pay any of its obligations as required under this Compact or any Supplemental Agreement, including such obligations which shall be paid solely out of national funds;

(viii) If the Government, any Provider, or any other third party receiving MCC Funding or using Program Assets, or any of their respective directors, officers, employees, Affiliates, contractors, sub-contractors, grantee, sub-grantee, representatives or agents, is found to have been convicted of a narcotics offense or to have been engaged in drug trafficking;

(ix) Any MCC Funding or Program Assets are applied, directly or indirectly, to the provision of resources and support to, individuals and organizations associated with terrorism, sex trafficking or prostitution;

(x) An event or condition of any character has occurred that: (A) Materially and adversely affects, or is likely to materially and adversely affect, the ability of the Government or any other party to effectively implement, or ensure the effective implementation of, the Program or any Project or to otherwise carry out its responsibilities or obligations under or in furtherance of this Compact or any Supplemental Agreement or to perform its obligations under or in furtherance of this Compact or any Supplemental Agreement or to exercise its rights thereunder; (B) makes it improbable that the Objectives will be achieved during the Compact Term; (C) materially and adversely affects the Program Assets or any Permitted Account or (D) constitutes misconduct injurious to MCC, or constitutes a fraud or a felony, by the Government, any Government Affiliate, Permitted Designee or Provider, or any officer, director, employee, agent, representative, Affiliate, contractor,

grantee, subcontractor or sub-grantee of any of the foregoing;

(xi) The Government or any Permitted Designee or Provider has taken any action or omission or engaged in any activity in violation of, or inconsistent with, the requirements of this Compact or any Supplemental Agreement to which the Government or any Permitted Designee or Provider is a party;

(xii) There has occurred a failure to meet a condition precedent or series of conditions precedent or any other requirements or conditions in connection with MCC Disbursement as set out in and in accordance with any Supplemental Agreement between the Parties; or

(xiii) Any MCC Funding, Accrued Interest or Program Asset becomes subject to a Lien without the prior approval of MCC, and the Government fails to obtain the release of such Lien (at its own expense and not with MCC Funding, Accrued Interest, or Program Assets) within thirty (30) days after the imposition of such Lien.

(c) MCC may reinstate any suspended or terminated MCC Funding under this Compact or any Supplemental Agreement if MCC determines, in its sole discretion, that the Government or other relevant party has demonstrated a commitment to correcting each condition for which MCC Funding was suspended or terminated.

(d) The authority to suspend or terminate this Compact or any MCC Funding under this Section 5.4 includes the authority to suspend or terminate any obligations or sub-obligations relating to MCC Funding under any Supplemental Agreement without any liability to MCC whatsoever.

(e) All MCC Disbursements and Re-Disbursements shall cease upon expiration, suspension, or termination of this Compact; provided, however, (i) reasonable expenditures for goods, services and works that are properly incurred under or in furtherance of this Compact before expiration, suspension or termination of this Compact and (ii) reasonable expenditures for goods and services (including certain administrative expenses) properly incurred within one hundred and twenty (120) days after the expiration, suspension or termination of the Compact in connection with the winding up of the Program may be paid from MCC Funding, provided that in the case of clauses (i) and (ii) the request for such payment is (A) properly submitted within ninety (90) days after the expiration, suspension or termination of the Compact and (B) subject to the prior written consent of MCC.

(f) Other than payments permitted pursuant to Section 5.4(e), in the event of the suspension or termination of this Compact or any Supplemental Agreement, in whole or in part, the Party, at MCC's sole discretion, shall suspend, for the period of the suspension, or terminate, or ensure the suspension or termination of, as applicable, any obligation or sub-obligation of the Parties to provide financial or other resources under this Compact or any Supplemental Agreement, or to the suspended or terminated portion of this Compact or such Supplemental Agreement, as applicable. In the event of such suspension or termination, the Government shall use its best efforts to suspend or terminate, or ensure the suspension or termination of, as applicable, all such noncancelable commitments related to the suspended or terminated MCC Funding. Any portion of this Compact or any such Supplemental Agreement that is not suspended or terminated shall remain in full force and effect.

(g) Upon the full or partial suspension or termination of this Compact or any MCC Funding, MCC may, at its expense, direct that title to Program Assets be transferred to MCC if such Program Assets are in a deliverable state; provided, for any Program Asset(s) partially purchased or funded (directly or indirectly) by MCC Funding, the Government shall reimburse to a United States Government account designated by MCC the cash equivalent of the portion of the value of such Program Asset(s), such value as determined by MCC.

(h) Prior to the expiration of this Compact or upon termination of this Compact, the Parties shall consult in good faith with a view to reaching an agreement in writing on (i) the post-Compact Term treatment of MCA-Benin, (ii) the process for ensuring the refunds of MCC Disbursements that have not yet been released from a Permitted Account through a valid Re-Disbursement or otherwise committed in accordance with Section 5.4(e), or (iii) any other matter related to the winding up of the Program and this Compact.

Section 5.5 Privileges and Immunities. MCC is an agency of the Government of the United States of America and its personnel assigned to the Republic of Benin will be notified pursuant to the Vienna Convention on Diplomatic Relations as members of the mission of the Embassy of the United States of America. The Government shall ensure that any personnel of MCC so notified, including individuals detailed to or contracted by MCC, and

the members of the families of such personnel, while such personnel are performing duties in the Republic of Benin, shall enjoy the privileges and immunities that are enjoyed by a member of the United States Foreign Service, or the family of a member of the United States Foreign Service so notified, as appropriate, of comparable rank and salary of such personnel, if such personnel or the members of the families of such personnel are not a national of, or permanently resident in, the Republic of Benin.

Section 5.6 Attachments. Any annex, schedule, exhibit, table, appendix or other attachment expressly attached hereto (collectively, the "Attachments") is incorporated herein by reference and shall constitute an integral part of this Compact.

Section 5.7 Inconsistencies.

(a) Conflicts or inconsistencies between any parts of this Compact shall be resolved by applying the following descending order of precedence:

- (i) Articles I through V and
- (ii) Any Attachments.

(b) In the event of any conflict or inconsistency between this Compact and any Supplemental Agreement between the Parties, the terms of this Compact shall prevail. In the event of any conflict or inconsistency between any Supplemental Agreement between the Parties and any other Supplemental Agreement, the terms of the Supplemental Agreement between the Parties shall prevail. In the event of any conflict or inconsistency between Supplemental Agreements between any parties, the terms of a more recently executed Supplemental Agreement between such parties shall take precedence over a previously executed Supplemental Agreement between such parties. In the event of any inconsistency between a Supplemental Agreement between the Parties and any component of the Implementation Plan, the terms of the relevant Supplemental Agreement shall prevail.

Section 5.8 Indemnification. The Government shall indemnify and hold MCC and any MCC officer, director, employee, Affiliate, contractor, agent or representative (each of MCC and any such persons, an "MCC Indemnified Party") harmless from and against, and shall compensate, reimburse and pay such MCC Indemnified Party for, any liability or other damages which (i) are directly or indirectly suffered or incurred by such MCC Indemnified Party, or to which any MCC Indemnified Party may otherwise become subject, regardless of whether or not such damages relate to any third-party claim, and (ii) arise from or as a result of the

negligence or willful misconduct of the Government, any Government Affiliate, MCA-Benin or any Permitted Designee, directly or indirectly connected with, any activities (including acts or omissions) undertaken in furtherance of this Compact; provided, however, the Government shall apply national funds to satisfy its obligations under this Section 5.8 and no MCC Funding, Accrued Interest, or Program Asset may be applied by the Government in satisfaction of its obligations under this Section 5.8.

Section 5.9 Headings. The Section and Subsection headings used in this Compact are included for convenience only and are not to be considered in construing or interpreting this Compact.

Section 5.10 Interpretation;

Definitions.

(a) Any reference to the term "including" in this Compact shall be deemed to mean "including without limitation" except as expressly provided otherwise.

(b) Any reference to activities undertaken "in furtherance of this Compact" or similar language shall include activities undertaken by the Government, any Government Affiliate, any Permitted Designee, any Provider or any other third party receiving MCC Funding involved in carrying out the purposes of this Compact or any Supplemental Agreement, including their respective directors, officers, employees, Affiliates, contractors, sub-contractors, grantees, sub-grantees, representatives or agents, whether pursuant to the terms of this Compact, any Supplemental Agreement or otherwise.

(c) References to "day" or "days" shall be calendar days unless provided otherwise.

(d) The term "United States Government" shall, for the purposes of this Compact, mean any branch, agency, bureau, government corporation, government chartered entity or other body of the Federal government of the United States.

(e) The term "Affiliate" of a party is a person or entity that controls, is controlled by, or is under the same control as the party in question, whether by ownership or by voting, financial or other power or means of influence.

(f) The term "Government Affiliate" is an Affiliate, ministry, bureau, department, agency, government corporation or any other entity chartered or established by the Government.

(g) References to any Affiliate or Government Affiliate herein shall include any of their respective directors, officers, employees, affiliates,

contractors, sub-contractors, grantees, sub-grantees, representatives, and agents.

(h) Any references to "Supplemental Agreement between the Parties" shall mean any agreement between MCC on the one hand, and the Government or any Government Affiliate or Permitted Designee on the other hand.

(i) A compendium of capitalized terms defined herein is included, for convenience only, in Exhibit A attached hereto.

Section 5.11 Signatures. A signature to this Compact or an amendment to this Compact pursuant to Section 5.3 shall be delivered only as an original signature. With respect to all other signatures, a signature delivered by facsimile or electronic mail in accordance with Section 5.1 shall be deemed an original signature, and the Parties hereby waive any objection to such signature or to the validity of the underlying document, certificate, notice, instrument or agreement on the basis of the signature's legal effect, validity or enforceability solely because it is in facsimile or electronic form; without limiting the foregoing, a signature on an audit report or a signature evidencing any modification identified in Sections 2(b) and (4)(a)(iv) of Annex I, Section 4 of Annex II or Section 5(c) Annex III shall be followed by an original in overnight express mail. Such signature shall be accepted by the receiving Party as an original signature and shall be binding on the Party delivering such signature.

Section 5.12 Designation. MCC may designate any Affiliate, agent, or representative to implement, in whole or in part, its obligations, and exercise any of its rights, under this Compact or any Supplemental Agreement between the Parties. MCC shall inform the Government of any such designation.

Section 5.13 Survival. Any Government Responsibilities, covenants, or obligations or other responsibilities to be performed by the Government after the Compact Term shall survive the termination or expiration of this Compact and expire in accordance with their respective terms. Notwithstanding the termination or expiration of this Compact, the following provisions shall remain in force: Sections 2.2, 2.3, 2.5, 3.2, 3.3, 3.4, 3.5, 3.8, 3.9 (for one year), 3.12, 5.1, 5.2, 5.4(d), 5.4(e) (for one hundred and twenty days), 5.4(f), 5.4(g), 5.4(h), 5.5, 5.6, 5.7, 5.8, 5.9, 5.10, 5.11, 5.12, this Section 5.13, 5.14, and 5.15.

Section 5.14 Consultation. Either Party may, at any time, request consultations relating to the interpretation or implementation of this

Compact or any Supplemental Agreement between the Parties. Such consultations shall begin at the earliest possible date. The request for consultations shall designate a representative for the requesting Party with the authority to enter consultations and the other Party shall endeavor to designate a representative of equal or comparable rank. If such representatives are unable to resolve the matter within 20 days from the commencement of the consultations then each Party shall forward the consultation to the Principal Representative or such other representative of comparable or higher rank. The consultations shall last no longer than 45 days from date of commencement. If the matter is not resolved within such time period, either Party may terminate this Compact pursuant to Section 5.4(a). The Parties shall enter any such consultations guided by the principle of achieving the Compact Goal in a timely and cost-effective manner and by the principles of international law. Any dispute arising under or related to this Compact shall be determined exclusively through the consultation mechanism set forth in this Section 5.14.

Section 5.15 MCC Status. MCC is a United States government corporation acting on behalf of the United States Government in the implementation of this Compact. As such, MCC has no liability under this Compact, is immune from any action or proceeding arising under or relating to this Compact and the Government hereby waives and releases all claims related to any such liability. In matters arising under or relating to this Compact, MCC is not subject to the jurisdiction of the courts or other body of Benin or any other jurisdiction and all disputes arising under or relating to this Compact shall be determined in accordance with Section 5.14.

Section 5.16 Language. This Compact is prepared in English and in the event of any ambiguity or conflict between this official English version and any other version translated into any language for the convenience of the Parties, this official English version shall prevail.

Section 5.17 Publicity; Information and Marking. The Government shall give appropriate publicity to this Compact as a program to which the United States, through MCC, has contributed, including by posting this Compact, and any amendments thereto, on the Web site operated by MCA-Benin ("MCA-Benin Website"), identifying Program activity sites, and marking Program Assets; provided, any announcement, press release or

statement regarding MCC or the fact that MCC is funding the Program or any other publicity materials referencing MCC, including the publicity described in this Section 5.17, shall be subject to prior approval by MCC and shall be consistent with any instructions provided by MCC from time to time in relevant Implementation Letters. Upon the termination or expiration of this Compact, MCC may request the removal of, and the Government shall, upon such request, remove, or cause the removal of, any such markings and any references to MCC in any publicity materials or on the MCA-Benin Website. MCC may post this Compact, and any amendments thereto, on the Web site of MCC. MCC shall have the right to use any information or data provided in any report or document provided to MCC for the purpose of satisfying MCC reporting requirements or in any other manner.

In Witness Whereof, the undersigned, duly authorized by their respective governments, have signed this Compact this 22nd day of February, 2006 and this Compact shall enter into force in accordance with Section 1.3.

Done at Washington, DC in English.

For the United States of America, acting through the Millennium Challenge Corporation, Name: John J. Danilovich, Title: Chief Executive Officer.

For the Government of the Republic of Benin, Name: Cosme Sehlin, Title: Minister of Finance and Economy.

Exhibit A—Definitions

The following compendium of capitalized terms that are used herein is provided for the convenience of the reader. To the extent that there is a conflict or inconsistency between the definitions in this Exhibit A and the definitions elsewhere in the text of this Compact, the definition elsewhere in this Compact shall prevail over the definition in this Exhibit A.

2006 Baseline Data Survey shall have the meaning set forth in Section 2(a)(i) of Annex III.

Accrued Interest is any interest or other earnings on MCC Funding that accrues as specified in Section 2.1(c).

Act means the Millennium Challenge Act of 2003, as amended.

Additional Representative is a representative as may be designated by a Principal Representative, by written notice, for all purposes other than signing amendments to this Compact.

ADR means alternative dispute resolution.

AFD means the Agence Française de Développement.

Advisory Council shall have the meaning set forth in Section 3(e)(i) of Annex I.

Affiliate means the affiliate of a party, which is a person or entity that controls, is controlled by, or is under the same control as the party in question, whether by ownership or by voting, financial or other power or means of influence. References to Affiliate herein shall include any of their respective directors, officers, employees, affiliates, contractors, sub-contractors, grantees, sub-grantees, representatives, and agents.

Arbitration Center Activity is the Project Activity related to expansion of the arbitration center under the Justice Project described in Section 2(a) of Schedule 3 to Annex I.

Attachments are any annex, schedule, exhibit, table, appendix or other attachment expressly attached to this Compact.

Audit Guidelines means the “Guidelines for Financial Audits Contracted by Foreign Recipients” issued by the Inspector General of the United States Agency for International Development.

Audit Plan means a plan, in accordance with the Audit Guidelines, for the audit of the expenditures of any Covered Providers, which audit plan, in the form and substance as approved by MCC, the Government shall adopt, or cause to be adopted, no later than sixty (60) days prior to the end of the first period to be audited.

Auditor means the auditor(s) as defined in, and engaged pursuant to, Section 3(h) of Annex I and as required by Section 3.8(d) of the Compact.

Auditor/Reviewer Agreement is an agreement between MCA-Benin and each Auditor or Reviewer, in form and substance satisfactory 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 terms and conditions such as payment of the Auditor or Reviewer.

Bank(s) means each individually and collectively, any bank holding an account referenced in Section 4(d) of Annex I.

Bank Agreement means an agreement between MCA-Benin and a Bank, satisfactory to MCC, that sets forth the signatory authority, access rights, anti-money laundering and anti-terrorist financing provisions, and other terms related to the Permitted Account.

BDS means business development services.

Beneficiaries means the intended beneficiaries identified in accordance with Annex I.

Bilateral Agreement means the Economic, Technical and Related Assistance Agreement by and between the Government of the United States of America and the Government of the Republic of Benin, dated May 27, 1961, as amended from time to time.

BNC means Benin National Committee.

Board means the independent board of directors of MCA-Benin to oversee MCA-Benin’s responsibilities and obligations under this Compact.

BOC means the fish/seafood inspection handling facility at the Port.

Business Registration Activity is the Project Activity related to the business registration center under the Justice Project described in Section 2(b) of Schedule 3 to Annex I.

CAMeC means the Centre d’Arbitrage, Mediation et Conciliation.

Capacity Building Activity is the Project Activity related to financial institution and borrower capacity building under the Financial Services Project described in Section 2(a) of Schedule 2 of Annex I.

Cellule means the Cellule de Microfinance.

Chair means the Chair of the Board of Directors.

Challenge Facility means a financial innovation and expansion challenge facility or FINECF described in Section 2(a) of Schedule 2 to Annex I.

Chamber means the Chamber of Commerce.

Civil Member(s) means the representatives for the positions identified in Sections 3(d)(ii)(2)(A)(vii)-(xi) of Annex I designated to serve as voting members on the Board for a one-year period.

Compact means the Millennium Challenge Compact made between the United States of America, acting through the Millennium Challenge Corporation, and the Government of the Republic of Benin.

Compact Goal means advancing economic growth and poverty reduction in Benin.

Compact Goal Indicator(s) means the Indicators that will measure the results for the overall Program on the intended Beneficiaries, as set out in the table at Section 2(a)(i) of Annex III.

Compact Implementation Funding shall have the meaning set forth in Section 2.1(a)(iii).

Compact Records shall have the meaning set forth in Section 3.8(b).

Compact Reports are any documents or reports delivered to MCC in satisfaction of the Government’s

reporting requirements under this Compact or any Supplemental Agreement between the Parties.

Compact Term means the term for which this Compact shall remain in force, which shall be the five (5) year period from the Entry into Force, unless earlier terminated in accordance with Section 5.4.

Component shall have the meaning set forth in Section 2(a)(ii)(7) in Schedule 2 of Annex I.

Courts Activity is the Project Activity related to improved services of courts under the Justice Project described in Section 2(c) of Schedule 1 to Annex I.

Covered Provider shall have the meaning set forth in Section 3.8(d)(iv).

Designated Rights and Responsibilities shall have the meaning set forth in Section 3.2(c).

Detailed Financial Plan means the financial plans that specify respectively the annual and quarterly detailed budget and projected cash requirements for the Program (including monitoring and evaluation and administrative costs) and each Project, projected both on a commitment and cash requirement basis.

Disbursement Agreement is a Supplemental Agreement that MCC, the Government (or a mutually acceptable Government Affiliate and MCA-Benin shall enter into that (i) further specifies the terms and conditions of any MCC Disbursements and Re-Disbursements, (ii) is in a form and substance mutually satisfactory to the Parties, and (iii) is signed by the Principal Representative of each Party (or in the case of the Government, the principal representative of the applicable Government Affiliate) and of MCA-Benin.

EMICoV means Benin's national household living standards measurement survey (L'Enquête Modulaire Intégrée sur les Conditions de Vie).

EMPs means Environmental Management Plans.

Entry into Force shall have the meaning set forth in Section 1.3.

Environmental Guidelines means the environmental guidelines delivered by MCC to the Government or posted by MCC on its website or otherwise publicly made available, as such guidelines may be amended from time to time.

ESI Officer means the Environmental and Social Assessment Director, an Officer of MCA-Benin.

ESIAs means environmental and social impact assessments.

EU means the European Union.

Evaluation Component means the component of the M&E Plan that

specifies a methodology, process and timeline for the evaluation of planned, ongoing, or completed Project Activities to determine their impact and likely sustainability.

Exempt Uses shall have the meaning set forth in Section 2.3(e)(ii).

Facility Manager means the qualified independent management entity or entities that shall manage and implement the Challenge Facility.

Final Evaluation shall have the meaning set forth in Section 3(a) of Annex III.

Financial Advisory Committee is a stakeholders group that will provide feedback and input to the Financial Services Project Division.

Financial Enabling Environment Activity is the Project Activity related to financial enabling environment under the Financial Services Project described in Section 2(b) of Schedule 2 to Annex I.

Financial Plan means collectively, the Multi-Year Financial Plan, each Detailed Financial Plan, and each amendment, supplement or other change thereto.

Financial Plan Annex means Annex II of this Compact, which summarizes the Multi-Year Financial Plan for the Program.

Financial Services Objective is a Project Objective of this Compact and means to expand access to financial services.

Financial Services Project is the Access to Financial Services Project, and the Project described in Schedule 2 to Annex I, that the Parties intend to implement in furtherance of the Financial Services Objective.

FINECF means a financial innovation and expansion challenge facility or the Challenge Facility described in Section 2(a) of Schedule 2 of Annex I.

Fiscal Accountability Plan shall have the meaning set forth in Section 4(c) of Annex I.

Fiscal Agent shall have the meaning set forth in Section 3(g) of Annex I.

Fiscal Agent Agreement is an agreement between MCA-Benin and each Fiscal Agent, in form and substance satisfactory to MCC, that sets forth the roles and responsibilities of the Fiscal Agent and other appropriate terms and conditions, such as payment of the Fiscal Agent. "goods" refers to any supplies, equipment, materials, property or other goods.

Governing Document means any decree, legislation, regulation, contractual arrangement (including a governance agreement by and among the Government (or a mutually acceptable Government Affiliate), MCA-Benin and

MCC), or other charter document establishing or governing MCA-Benin.

Government means the Government of the Republic of Benin.

Government Affiliate is an Affiliate, ministry, bureau, department, agency, government, corporation or any other entity chartered or established by the Government. References to Government Affiliate shall include any of their respective directors, officers, employees, affiliates, contractors, sub-contractors, grantees, sub-grantees, representatives, and agents.

Government Members are the government members identified in Section 3(d)(ii)(2)(A)(i)-(vi) of Annex I serving as voting members on the Board, and any replacements thereof in accordance with Section 3(d)(ii)(2)(A) of Annex I.

Government Party means the Government, any Government Affiliate, any Permitted Designee or any of their respective directors, officers, employees, Affiliates, contractors, sub-contractors, grantees, sub-grantees, representatives or agents.

Government Responsibilities shall have the meaning set forth in Section 3.2(a).

GTZ means Deutsche Gesellschaft Für Technische Zusammenarbeit, GmbH.

IEC means information, education and communication campaign.

IEC Activity is the Project Activity related to information, education, and communication Project Activity under the Land Project described in Section 2(d) of Schedule 1 of Annex I.

IFC means the International Finance Corporation.

Implementation Letter is a letter that may be issued by MCC from time to time to furnish additional information or guidance to assist the Government in the implementation of this Compact.

Implementation Plan is a detailed plan for the implementation of the Program and each Project, which will be memorialized in one or more documents and shall consist of: (i) A Multi-Year Financial Plan; (ii) Detailed Financial Plans; (iii) Fiscal Accountability Plan; (iv) Procurement Plan; (v) Program and Project Work Plans; and (vi) M&E Plan.

Implementing Entity means a Government Affiliate, nongovernmental organization or other public- or private-sector entity or persons to which MCA-Benin may provide MCC funding, directly or indirectly, through an Outside Project Manager, to implement and carry out the Projects or any other activities to be carried out in furtherance of this Compact.

Implementing Entity Agreement is an agreement between MCA-Benin (or the

appropriate Outside Project Manager) and an Implementing Entity, in form and substance satisfactory to MCC, that sets forth the roles and responsibilities of such Implementing Entity and other appropriate terms and conditions, such as payment of the Implementing Entity.

Indicators shall mean the quantitative, objective and reliable data that the M&E Plan will use to measure the results of the Program.

Initial Technical Studies means the initial technical studies (engineering pre-feasibility, environmental and economic) related to the Markets Project described in Section 2(a) of Schedule 4 of Annex I.

Inspector General means the Inspector General of the United States Agency for International Development.

ISPS means the International Ship and Port Security Code.

Justice Advisory Committee is a stakeholders group that will provide feedback and input to the Justice Project Division.

Justice Objective is a Project Objective of this Compact and means to improve the ability of the judicial system to enforce contracts and resolve claims.

Justice Project is the Access to Justice Project, and the Project described in Schedule 3 of Annex I, that the Parties intend to implement in furtherance of the Justice Objective.

Land Objective is a Project Objective of this Compact and means to strengthen property rights and investment.

Land Project is the Access to Land Project, and the Project described in Schedule 1 to Annex I, that the Parties intend to implement in furtherance of the Land Project Objective.

Land Project Steering Group is a stakeholders group that will provide feedback and input to the Land Project Division.

Lien means any lien, attachment, enforcement of judgment, pledge, or encumbrance of any kind.

Local Account is an interest-bearing local currency of Benin bank account at a commercial bank, subject to MCC approval, to which the Fiscal Agent may authorize transfer from any U.S. Dollar Permitted Account for the purpose of making Re-Disbursements payable in local currency.

M&E Annex means Annex III of this Compact, which generally describes the components of the M&E Plan for the Program.

M&E Plan means the plan to measure and evaluate progress toward achievement of the Compact Goal and Objectives of this Compact.

Management means the management team or national program coordination

team of MCA-Benin to have overall management responsibility for the implementation of this Compact.

Markets Objective is a Project Objective of this Compact and means to improve the Port of Cotonou.

Markets Project is the Access to Markets Project, and the Project described in Schedule 4 of Annex I, that the Parties intend to implement in furtherance of the Markets Objective.

Material Agreement shall have the meaning set forth in Section 3(c)(i)(5) of Annex I.

Material Re-Disbursement means any Re-Disbursement that requires MCC approval under applicable law, the Procurement Agreement, any Governing Document, or any Supplemental Agreement.

Material Terms of Reference means any terms of reference for the procurement of goods, services or works that requires MCC approval under applicable law, the Procurement Agreement, any Governing Document, or any Supplemental Agreement.

MCA means the Millennium Challenge Account.

MCA-Benin shall have the meaning set forth in Section 3(b) of Annex I and as is further described in Section 3(d) of Annex I.

MCA-Benin Website means the website operated by MCA-Benin.

MCA Eligibility Criteria means the MCA selection criteria and methodology published by MCC pursuant to Section 607 of the Act from time to time.

MCA National Coordinator means the National Coordinator of the Millennium Challenge Account under the Benin National Committee, as described in Section 1(b) of Annex I.

MCC means the Millennium Challenge Corporation.

MCC Disbursement means the disbursement of MCC Funding by MCC from time to time to a Permitted Account or through such other mechanism agreed by the Parties as defined in and in accordance with Section 2.1(b)(i).

MCC Disbursement Request means the applicable request that the Government and MCA-Benin will jointly submit for an MCC Disbursement as may be specified in the Disbursement Agreement.

MCC Funding shall have the meaning set forth in Section 2.1(a).

MCC Indemnified Party means MCC and any MCC officer, director, employee, Affiliate, contractor, agent or representative.

MCC Representative is a representative designated by MCC to serve as an Observer on the Board.

MFIs means micro-finance institutions.

Monitoring Component means the component of the M&E Plan that specifies how the implementation of the Program and progress toward the Compact Goal and Objectives will be monitored.

MSMEs means micro and small- and medium-scale enterprises.

Multi-Year Financial Plan means the multi-year financial plan for the Program and for each Project, which is summarized in Annex II to this Compact.

Multi-Year Financial Plan Summary means a multi-year Financial plan summary attached to this Compact as Exhibit A of Annex II.

“national” means, for purposes of Section 2.3(e), organizations established under the laws currently or hereafter in effect in the Republic of Benin, other than MCA-Benin or any other entity established solely for purposes of managing or overseeing the implementation of the Program or any wholly-owned subsidiaries, divisions, or Affiliates of entities not registered or established under the laws currently or hereafter in effect in the Republic of Benin.

National Coordinator means the National Coordinator of MCA-Benin as defined in Section 3(c)(i) of Annex I.

NGOs means non-governmental organizations.

Objective(s) are the Program Objective together with the following project-level objectives of this Compact that have been identified by the Parties, each of which is (i) key to advancing the Compact Goal and (ii) described in more detail in the Annexes attached hereto: (a) the Land Objective, (b) the Financial Services Objective (c) the Justice Objective and (d) the Markets Objective.

Objective Indicator means the Indicator for each Objective that will measure the ultimate result for each of the individual Projects. A table of Objective Indicator definitions is set forth at Section 2(a)(ii) of Annex III.

Observer(s) means the non-voting members of the Board as identified in Section 3(d)(ii)(2)(B) of Annex I.

Officers shall have the meaning set forth in 3(d)(iii)(3) of Annex I.

OHADA means Organization for the Harmonization of Business Law in Africa.

Outcome Indicator means the Indicator in the M&E Plan that will measure the intermediate results achieved under each of the Project Activities in order to provide early measures of progress towards the accomplishment of the Project Objective. A table of Outcome Indicator definitions is set forth at Section 2(a)(ii) of Annex III.

Output Indicator means the Indicator in the M&E Plan to measure the direct outputs of the Project Activities.

Outside Project Manager means the qualified persons or entities engaged by Management, on behalf of MCA-Benin, to serve as outside project managers in accordance with Section 3(d)(iii)(5) of Annex I.

PAC means the Port Autonome de Cotonou.

Panel shall have the meaning set forth in Section 2(a)(ii)(3) of Schedule 2 to Annex I.

Parties means the United States of America, acting through MCC, and the Government.

Party means (i) the United States of America, acting through MCC or (ii) the Government.

Permitted Account(s) shall have the meaning set forth in Section 4(d) of Annex I.

Permitted Designee shall have the meaning set forth in Section 3.2(c).

PFR means Plan Foncier Rural.

Pledge means any pledge of any MCC Funding or any Program Assets, or any guarantee directly or indirectly of any indebtedness.

Policy Activity is the Project Activity related to policy and legal reform under the Land Project described in Section 2(a) of Schedule 1 of Annex I.

Port means the Port of Cotonou.

Port Advisory Committee is a stakeholders group representing the Markets Project beneficiaries that will provide feedback and input to the Markets Project Division.

Port Institutional Activity means the port institutional and systems improvements Project Activity of the Markets Project as described in Section 2(b) of Schedule 4 to Annex I.

Port Security and Landside Improvements Activity means the port security and landside improvements Project Activity of the Markets Project as described in Section 2(c) of Schedule 4 to Annex I.

Principal Representative means (i) for the Government, the individual holding the position of, or acting as the Minister of State in Charge of Planning and Development of the Republic of Benin, and (ii) for MCC, the individual holding the position of, or acting as, the Vice President for Operations.

Procedural Code shall have the meaning set forth in Section 2(c)(v)(1) of Schedule 3 to Annex I.

Procurement Agent shall have the meaning set forth in Section 3(i) of Annex I.

Procurement Agent Agreement is an agreement between MCA-Benin and each 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, such as payment of the Procurement Agent.

Procurement Agreement is a Supplemental Agreement between the Government (and/or a mutually accepted Government Affiliate or MCA-Benin) and MCC, which includes the Procurement Guidelines, and governs the procurement of all goods, services and works by the Government or any Provider in furtherance of this Compact.

Procurement Guidelines shall have the meaning set forth in Section 3.6(a).

Procurement Plan means a procurement plan adopted by MCA-Benin as set forth in Section 3(i) of Annex I.

Program means a program, to be implemented under this Compact, using MCC Funding to advance Benin's progress towards economic growth and poverty reduction.

Program Annex means Annex I to this Compact, which generally describes the Program that MCC Funding will support in Benin during the Compact Term and the results to be achieved from the investment of MCC Funding.

Program Assets means (i) MCC Funding, (ii) Accrued Interest, or (iii) any assets, goods, or property (real, tangible, or intangible) purchased or financed in whole or in part by MCC Funding.

Program Objective means the overall objective of the Program to which the Project Objectives contribute and means to increase investment and private sector activity in Benin, which is key to advancing the Compact Goal.

Project(s) are the specific projects and the policy reforms, and other activities related thereto that the Government will carry out, or cause to be carried out in furtherance of this Compact to achieve the Objectives and the Compact Goal, specifically the Land Project, the Financial Services Project, the Justice Project and the Markets Project.

Project Activity means the activities that will be undertaken in furtherance of each Project.

Project Director shall have the meaning set forth in Section 3(d)(iii)(3) of Annex I.

Project Division means the divisions that manage the implementation of each Project.

Project Objective(s) means the project-level objectives that will advance the Program Objective and Compact Goal, each of which is described in more detail in the Annexes of this Compact.

Proposal is the proposal for use of MCA assistance submitted to MCC, as

revised, by the Government on September 5, 2005.

Provider shall have the meaning set forth in Section 2.4(b).

PRSP means the Poverty Reduction Strategy Paper.

RAPs means Resettlement Action Plans.

Re-Disbursement is the release of MCC Funding from a Permitted Account.

Registration Activity is the Project Activity related to achieving formal property rights under the Land Project described in Section 2(b) of Schedule 1 of Annex I.

Reviewer shall have the meaning set forth in Section 3(h) of Annex I.

Services and Information Activity is the Project Activity related to improving land registration services and land information management under the Land Project described in Section 2(c) of Schedule 1 of Annex I.

Special Account means a single, completely separate U.S. Dollar interest-bearing account at a commercial bank, acceptable to MCC, to receive MCC Disbursements.

Studies Activity means the feasibility studies and assessments Project Activity of the Markets Project described in Section 2(a) of Schedule 4 to Annex I.

Supplemental Agreement shall have the meaning set forth in Section 3.5(b).

Supplemental Agreement between the Parties means any agreement between MCC on the one hand, and the Government or any Government Affiliate or Permitted Designee on the other hand.

Supplemental Agreement Term Sheets means one or more term sheets that the Government (or mutually acceptable Government Affiliate) and MCC shall execute that set forth the material and principal terms and conditions of each of the Supplemental Agreements identified in Exhibit B attached hereto.

Support Strategy Activity is the Project Activity related to strategy and programmatic coordination under the Land Project described in Section 2(e) of Schedule 1 of Annex I.

Target means each Indicator will have one or more targets that quantifies the result and the expected time by which that result will be achieved.

Tax(es) shall have the meaning set forth in Section 2.3(e)(i).

TEU means twenty-foot equivalent unit, in Euro.

TPI shall have the meaning set forth in Section 2(c)(v) of Schedule 3 to Annex I.

United States Dollars (USD) means the currency of the United States of America.

United States Government shall mean any branch, agency, bureau, government corporation, government chartered entity or other body of the Federal government of the United States.

WAEMU means the West African Economic and Monetary Union.

Waterside Improvements Activity means the waterside improvements Project Activity described in Section 2(d) of Schedule 4 to Annex I.

Work Plans means work plans for the overall administration of the Program and for each Project.

Exhibit B—List of Certain Supplemental Agreements

1. Governing Document Principles.
2. Fiscal Agent Agreement.
3. Procurement Agent Agreement.
4. Form of Implementing Entity Agreement.
5. Form of Bank Agreement.

Schedule 2.1(a)(iii)—Description of Compact Implementation Funding

Compact Implementation Funding

The Compact Implementation Funding provided pursuant to Section 2.1(a)(iii) shall support the following activities and expenditures in an amount not to exceed the amounts specified below:

(a) Conduct some or all Initial Technical Studies as described in Section 2(a)(i) of Schedule 4 of Annex I, in an amount not to exceed USD \$800,000.^{a*}

(b) Conduct the activities related to the 2006 Baseline Data Survey as described in Section 2(a)(i) of Annex III, including: communication and transportation of survey staff, supervision and quality assurance, and data management, in an amount not to exceed USD \$600,000.*

(c) Conduct fiscal and procurement administration activities, in an amount not to exceed USD \$500,000.*

(d) Payments for reasonable and normal staff salaries and administrative expenses of MCA-Benin (or mutually acceptable Government Affiliate) such as rent, computers, and other information technology equipment, in an amount not to exceed USD \$500,000.*

Annex I—Program Description

This Annex I to the Compact (the "Program Annex") generally describes the Program that MCC Funding will support in Benin during the Compact

Term and the results to be achieved from the investment of MCC Funding. Prior to any MCC Disbursement or Re-Disbursement, including for the Projects described herein, MCC, the Government (or a mutually acceptable Government Affiliate) and MCA-Benin shall enter into a Supplemental Agreement that (i) further specifies the terms and conditions of such MCC Disbursements and Re-Disbursements, (ii) is in a form and substance mutually satisfactory to the Parties, and (iii) is signed by the Principal Representative of each Party (or in the case of the Government, the principal representative of the applicable Government Affiliate) and of MCA-Benin (the "Disbursement Agreement"). Except as specifically provided herein, the Parties may amend this Program Annex only by written agreement signed by the Principal Representative of each Party. Each capitalized term in this Program Annex shall have the same meaning given such term elsewhere in this Compact. Unless otherwise expressly stated, each Section reference herein is to the relevant Section of the main body of the Compact.

1. Background and Benin Development Strategy; Consultative Process

(a) Background and Benin Development Strategy

Situated in West Africa, between Nigeria and Togo in the Gulf of Guinea, Benin is a small and very poor country with a population of nearly seven million, a third of which live in poverty. Progress in development is largely a result of reforms initiated in the early 1990s as Benin transitioned from a Marxist-Leninist state towards a pluralistic democracy and market economy.

Despite growth rates averaging 5% per year in the past decade, per capita income in Benin remains below the sub-Saharan African average and rural poverty has increased in recent years. Private sector activity and broad-based investment that would lead to sustainable growth and poverty reduction are hindered by land insecurity, lack of access to capital, an inefficient judicial system, and an uncompetitive Port of Cotonou.

The Program is a series of strategic investments designed to increase investment and private sector activity by improving core physical and institutional infrastructure. The objectives of the Compact are fully consistent with, and directly support, the priority areas identified by the Government in the Poverty Reduction Strategy Paper ("PRSP"). Benin's PRSP

was developed in 2002 with broad participation from Beninese society. Its development plan is based on four pillars: (i) Strengthening the macroeconomic framework over the medium-term; (ii) developing human capital and environmental management; (iii) strengthening good governance and institutional capacity; and (iv) promoting employment and strengthening the ability of the poor to participate in decision-making and production processes. The Program is focused primarily on supporting the fourth pillar of the PRSP.

(b) Consultative Process

The Proposal was the product of a genuine, meaningful and participatory consultative process. By decree, the Government designated the National Coordinator of the Millennium Challenge Account ("MCA National Coordinator"), empowered the Benin National Committee ("BNC") to oversee the Proposal development and charged a Technical Team with shaping the Proposal. The MCA National Coordinator sought the participation of various stakeholders through workshops, meetings, and radio and television events. Initially a vision for the Program was presented to representatives from the government (both central and municipal), the private sector, civil society, labor unions, artisans, and the agricultural sector. Among these groups, members were elected or delegated by their respective constituencies to form the BNC. This MCA working group consists of six government Ministers, three Chamber of Commerce representatives, three civil society representatives (elected), three labor union representatives, two representatives of the Agricultural Chamber (elected), and one representative of the artisan community. Included in the working group are two women, the Vice President of the Chamber of Commerce and another who was elected by NGOs promoting women's rights.

Working sessions were held based on the PRSP to discuss the major constraints to growth. Several iterations of the Proposal's projects were vetted by a broad audience through nationally broadcast radio programs to garner feedback from the targeted beneficiaries. In September the MCA National Coordinator convened a stakeholder meeting in which mayors from all 77 communes, and representatives of microfinance institutions, the donor community and the central government gathered to discuss the land tenure, and financial services components of the Proposal. Continuing consultation

^{a*} Notwithstanding the amount specified for this activity or payment, the total amount of funds disbursed in accordance with Section 2.1(a)(iii) shall not exceed the amount set forth in Section 2.1(a)(iii).

throughout the proposal development process has resulted in widespread endorsement by potential beneficiaries. On-going consultations with stakeholders and beneficiaries are planned during the Compact Term, including at the Project-level.

Following MCC's review of the Proposal and discussions and negotiations of the Parties, the Parties have identified certain mutually acceptable components of the Proposal and other components developed through the discussions of the Parties that together shall constitute the Program. The Program is fully consistent with, and directly supports PRSP, in particular the promoting employment and strengthening the ability of the poor to participate in decision-making and production processes as noted above.

2. Overview

(a) Program Objectives. The Program Goal and Objectives of the Compact are expected to have a substantial impact on increasing economic growth and reducing poverty in Benin. The Program will accelerate economic growth and reduce poverty by removing constraints to investment in key sectors of the Beninese economy. The Program aims to increase investment and private sector activity by improving key institutional and physical infrastructures through four Projects: Access to Land, Access to Financial Services, Access to Justice, and Access to Markets. Respectively, the Projects will address: Insecure land tenure rights; insufficient access to financial services for micro, small and medium-enterprises (MSMEs); an inefficient and under-equipped judicial system; and the degrading competitiveness of the Port. The Projects are complementary and support each other. The Land Project and Financial Services Project will enhance the use of land titles as collateral for loans or refinancing. The Justice Project will support this relationship by increasing the confidence in the judicial system to enforce contracts and collateral interests. The Markets Project will increase the flow of goods through the Port of Cotonou. In turn, improvements to the physical infrastructure will enhance the success of Projects focusing on the institutional environment. The sequencing and geographic selection criteria for activities undertaken in Projects will be influenced by each of the other Projects.

(b) Projects. The Parties have identified, for each Objective, Projects that the Government will implement, or cause to be implemented, using MCC Funding. Each Project is described in

the Schedules to this Program Annex. The Schedules to this Program Annex identify the activities that will be undertaken in furtherance of each Project (each, a "Project Activity") as well as the various activities within a Project Activity. Notwithstanding anything to the contrary in this Compact, the Parties may agree to modify, amend, terminate or suspend these Projects or to create a new project by written agreement signed by the Principal Representative of each Party without amending this Compact; provided, however, any such modification or amendment of a Project or creation of a new project is (i) consistent with the Objectives; (ii) does not cause the amount of MCC Funding to exceed the aggregate amount specified in Section 2.1(a) of this Compact; (iii) does not cause the Government's responsibilities or contribution of resources to be less than specified in Section 2.2 of this Compact or elsewhere in this Compact; and (iv) does not extend the Compact Term. Certain Project Activities of the Program such as the policy reforms, the extension of financial services and court services, and improvements to the Port, will have an impact at the national level. The Land Project will be undertaken in targeted geographic areas of Benin, which are yet to be determined, but will be selected based on the criteria set forth in the applicable Schedule.

(c) Beneficiaries. The intended beneficiaries of each Project are described in the respective Schedule to this Program Annex and Annex III to the extent identified as of the date hereof. The intended beneficiaries shall be identified more precisely during the initial phases of implementation of the Program. The Government shall provide to MCC information on the population of the areas in which the Projects will be active, disaggregated by gender, income level and age. The Parties shall agree upon the description of the intended beneficiaries and the Parties will make publicly available a more detailed description of the intended beneficiaries of the Program, including publishing such description on the MCA-Benin Website. For each Project, the Government shall ensure that MCA-Benin presents to the Advisory Council (i) a detailed description of the intended beneficiaries and (ii) the methodology used to determine the intended beneficiaries within sixty (60) days after the commencement of the Project implementation and completion of the analysis of the intended beneficiaries therein, disaggregated, to the maximum

extent practicable, by income level, gender, and age. The Land Project is expected to assist an estimated 115,000 rural and urban households with more secure and useful tenure, contribute to a 50% reduction in court cases related to land disputes, and result in a 10% increase in investment in rural land and a 20% increase in investment in urban property. The Financial Services Project is expected to increase MSME value added and incomes of the poor that own, are employed by, or do business with those enterprises. The expected result is that by the end of the Compact Term, financial services to MSMEs will have expanded by nearly \$60 million, which represents a multiple of three times the Project's funding. A more efficient Port will contribute to importer and exporter value-added through reducing transportation costs. Moreover, because Benin's road transport industry is relatively competitive, it is likely that the anticipated reduction in shipping costs will be passed on to wholesalers and traders, and ultimately be reflected in consumer prices. The Justice Project is expected to benefit land occupants, title holders, businesses and legal professionals in the jurisdictions where the Project will be active.

Overall, the Program is expected to impact an estimated five million beneficiaries and raise one quarter of a million Beninese out of poverty by 2015.

(d) Civil Society. Civil Society shall participate in overseeing the implementation of the program through its representation on the Board of Directors and the Advisory Council (which will include representatives from non-governmental organizations and private sector entities), as provided in Section 3(d) and Section 3(e), respectively, of this Program Annex. Stakeholders will be able to weigh in by a Land Project steering group and discussion groups for studies, the White Paper, and related legislative drafting. The Financial Services Project and the Markets Project will also incorporate the input of Stakeholders in advisory committees comprising non-governmental organizations and private sector entities. Finally, members of civil society may be recipients of training, technical assistance, or other public awareness programs that are integral to the Projects. In addition, the Work Plans or Procurement Plans for each Project shall note the extent to which civil society will have a role in the implementation of or participation in a particular Project or Project Activity.

(e) Monitoring and Evaluation ("M&E"). Annex III of this Compact generally describes the plan to measure

and evaluate progress toward achievement of the Compact Goal and Objectives of this Compact (the "M&E Plan"). As outlined in the Disbursement Agreement and other Supplemental Agreements, continued disbursement of MCC Funding under this Compact (whether as MCC Disbursements and Re-Disbursements) shall be contingent, among other things, on successful achievement of targets set forth in the M&E Plan.

3. Implementation Framework

The implementation framework and the plan for ensuring adequate governance, oversight, management, monitoring, evaluation and fiscal accountability for the use of MCC Funding is summarized below and in the Schedules attached to this Program Annex, or as may otherwise be agreed in writing by the Parties.

(a) General. The elements of the implementation framework will be further described in relevant Supplemental Agreements and in a detailed plan for the implementation of the Program and each Project, which will be memorialized in one or more documents and shall consist of a Multi-Year Financial Plan, Detailed Financial Plans, a Fiscal Accountability Plan, a Procurement Plan, Program and Project Work Plans, and an M&E Plan (the "Implementation Plan"). MCA-Benin shall adopt each component of the Implementation Plan in accordance with the requirements and timeframe as may be specified in this Program Annex, the Disbursement Agreement or as may otherwise be agreed by the Parties from time to time. MCA-Benin may amend the Implementation Plan or any component thereof without amending this Compact, provided any material amendment of the Implementation Plan or any component thereof has been approved by MCC and is otherwise consistent with the requirements of this Compact and any relevant Supplemental Agreement between the Parties. By such time as may be specified in the Disbursement Agreement or as may otherwise be agreed by the Parties from time to time, MCA-Benin shall adopt one or more work plans for the overall administration of the Program and for each Project (collectively, the "Work Plans"). The Work Plan(s) shall set forth the details of each activity to be undertaken or funded by MCC Funding as well as the allocation of roles and responsibilities for specific Project activities, or other programmatic guidelines, performance requirements, targets, or other expectations for a Project.

(b) Government.

(i) The Government shall promptly take all necessary and appropriate actions to carry out the Government Responsibilities and other obligations or responsibilities of the Government under and in furtherance of this Compact, including undertaking or pursuing such legal, legislative or regulatory actions or procedural changes and contractual arrangements as may be necessary or appropriate to achieve the Objectives, to successfully implement the Program, to designate any rights or responsibilities to any Permitted Designee, and to establish a legal entity, in a form mutually agreeable to the Parties, the form, structure and other features of such legal entity to be determined and agreed upon by the Parties on or before the time specified in the Disbursement Agreement ("MCA-Benin"), which shall be a Permitted Designee and shall be responsible for the oversight and management of the implementation of this Compact on behalf of the Government. The Government shall promptly deliver to MCC certified copies of any documents, orders, decrees, laws or regulations evidencing such legal, legislative, regulatory, procedural, contractual or other actions.

(ii) The Government shall ensure that MCA-Benin is duly authorized and organized, sufficiently staffed and empowered to fully carry out the Designated Rights and Responsibilities. Without limiting the generality of the preceding sentence, MCA-Benin shall be organized, and have such roles and responsibilities, as described in Section 3(d) of this Program Annex and as provided in any Governing Documents; provided, however, the Government or another Permitted Designee may, subject to MCC approval, carry out any of the roles and responsibilities designated to be carried out by MCA-Benin and described in Section 3(d) of this Program Annex or elsewhere in this Program Annex, any Governing Document, or any other Supplemental Agreement prior to and during the initial period of the establishment and staffing and operational formation of MCA-Benin, but in no event longer than the earlier of (1) the formation and convening of organizational meetings of the Steering Committee, formation and operational establishment of MCA-Benin (including the selection and engagement of Officers and key employees), and engagement of the Officers and (2) six months from the Entry into Force, unless otherwise agreed by the Parties in writing.

(iii) Various ministries, bureaus and agencies of the Government may serve as Implementing Entities.

(c) MCC.

(i) Notwithstanding Section 3.1 of this Compact or any provision in this Program Annex to the contrary, and except as may be otherwise agreed upon by the Parties from time to time, MCC must approve in writing each of the following transactions, activities, agreements and documents prior to the execution or carrying out of such transaction, activity, agreement or document and prior to MCC Disbursements or Re-Disbursements in connection therewith:

(1) MCC Disbursements;

(2) Each Detailed Financial Plan, and any amendments thereto;

(3) The Multi-Year Financial Plan and any amendments and annual supplements thereto;

(4) Any Audit Plan;

(5) Agreements (i) between the Government and MCA-Benin, (ii) between the Government, a Government Affiliate, MCA-Benin or any other Permitted Designee on the one hand, and any Provider or Affiliate of a Provider, on the other hand, which require such MCC approval under applicable law, the Procurement Agreement, any Governing Document, or any other Supplemental Agreement or (iii) in which the Government, a Government Affiliate, MCA-Benin or any other Permitted Designee appoints, hires, or engages any of the following in furtherance of this Compact:

(A) Auditor;

(B) Reviewer;

(C) Fiscal Agent;

(D) Procurement Agent;

(E) Each Bank;

(F) Outside Project Manager;

(G) Implementing Entity; and

(H) Board of Directors member, Observer, Officer, and other key employee of MCA-Benin (including any compensation for such person).

(Any agreement described in clause (i) through (iii) of this Section 3(c)(i)(5) and any amendments and supplements thereto, each, a "Material Agreement");

(6) Any modification, termination or suspension of a Material Agreement, or any action that would have the effect of such a modification, termination or suspension of a Material Agreement;

(7) Any agreement that is (A) not at arm's length or (B) with a party related to the Government or MCA-Benin or any of their respective Affiliates;

(8) Any Re-Disbursement (each, a "Material Re-Disbursement") that requires such MCC approval under applicable law, the Procurement

Agreement, any Governing Document, or any Supplemental Agreement;

(9) Any terms of reference (each, a "Material Terms of Reference") for the procurement of goods, services or works that requires such MCC approval under applicable law, the Procurement Agreement, any Governing Document, or any Supplemental Agreement;

(10) The Implementation Plan, including each component plan thereto, and any material amendments and supplements to the Implementation Plan or any component thereto;

(11) Any pledge of any MCC Funding or any Program Assets or any guarantee directly or indirectly of any indebtedness (each, a "Pledge");

(12) Any decree, legislation, regulation, contractual arrangement (including a governance agreement by and among the Government (or a mutually acceptable Government Affiliate), MCA-Benin and MCC), or other charter document establishing or governing MCA-Benin ("Governing Document");

(13) Any disposition (in whole or in part), liquidation, dissolution, winding up, reorganization or other change of (A) MCA-Benin, including any revocation or modification of or supplement to any Governing Document related thereto, or (B) any subsidiary or Affiliate of MCA-Benin;

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

(15) Formation or acquisition of any subsidiary (direct or indirect) or other Affiliate of MCA-Benin;

(16) Any (A) change of a Board of Directors member, Observer, Officer or other key employee or contractor of MCA-Benin, or change in the composition of the Board of Directors of MCA-Benin, including approval of the nominee for Chair, (B) filling of any vacant seat of the Chair, Board of Directors member, or an Observer or vacant position of an Officer, key employee or contractor of MCA-Benin, (C) filling of the seats designated as representatives nominated by the Advisory Council, if any, to the Board of Directors, and (D) filling any vacant seat on the Advisory Council;

(17) The management information system to be developed and maintained by the Management of MCA-Benin, and any material modifications to such system;

(18) Any decision to amend, supplement, replace, terminate, or otherwise change any of the foregoing; and

(19) Any other activity, agreement, document or transaction requiring the approval of MCC in this Compact, applicable law, any Governing

Document, the Procurement Agreement, the Disbursement Agreement, or any other Supplemental Agreement between the Parties. The Chair of the Board of Directors (the "Chair") and/or the National Coordinator of MCA-Benin (the "National Coordinator") or other designated Officer, as provided in applicable Governing Document, shall certify any documents or reports delivered to MCC in satisfaction of the Government's reporting requirements under this Compact or any Supplemental Agreement between the Parties (the "Compact Reports").

(ii) MCC shall have the authority to exercise its approval rights set forth in this Section 3(c) in its sole discretion and independent of any participation or position taken by the MCC Representative at a meeting of the Board of Directors. MCC retains the right to revoke its approval of any matter, agreement, or action if MCC concludes, in its sole discretion, that its approval was issued on the basis of incomplete, inaccurate or misleading information furnished by the Government, MCA-Benin, or any Government Affiliate or Permitted Designee. Notwithstanding any provision in this Compact or any Supplemental Agreement to the contrary, the exercise by MCC of its approval rights under this Compact or any Supplemental Agreement shall not

(1) diminish or otherwise affect the Government Responsibilities or any other obligations or responsibilities of the Government under this Compact or any Supplemental Agreement, (2) transfer any such obligations or responsibilities of the Government, or (3) otherwise subject MCC to any liability.

(d) MCA-Benin.

(i) General. Unless otherwise agreed by the Parties in writing, MCA-Benin shall, as a Permitted Designee, be responsible for the oversight and management of the implementation of this Compact. MCA-Benin shall be governed by applicable law and any Governing Documents, each such Governing Document to be in a form and substance satisfactory to MCC and effective on or before the time specified in the Disbursement Agreement, and based on the following principles:

(1) The Government shall ensure that MCA-Benin shall not assign, delegate or contract any of the Designated Rights and Responsibilities without the prior written consent of the Government and MCC. MCA-Benin shall not establish any Affiliates or subsidiaries (direct or indirect) without the prior written consent of the Government and MCC.

(2) Unless otherwise agreed by the Parties in writing, MCA-Benin shall

consist of (a) an independent board of directors (the "Board") to oversee MCA-Benin's responsibilities and obligations under this Compact (including any Designated Rights and Responsibilities) and (b) a management team or national program coordination team

("Management") to have overall management responsibility for the implementation of this Compact.

(ii) Board.

(1) Formation. The Government shall ensure that the Board shall be formed, constituted, governed and operated in accordance with the terms and conditions set forth in the applicable Governing Document and any other relevant Supplemental Agreement.

(2) Composition. Unless otherwise agreed by the Parties in writing, the Board shall consist of at least nine (9) and no more than eleven (11) voting members, one of whom shall be appointed as the Chair as provided in applicable law, any Governing Document and subject to MCC approval, and the non-voting observers identified below.

(A) The Board shall initially be composed of eleven voting members as follows, provided that the Government members identified in subsections (i)–(vi) below (the "Government Members") may be replaced by another government official of comparable rank from a ministry or other government body relevant to the Program activities, subject to approval by the Government and MCC (such replacement to be referred to thereafter as a Government Member):

(i) Chief of Staff of the Office of the Presidency of the Republic of Benin;

(ii) Chief of Staff of the Ministry of Economy and Finance;

(iii) Chief of Staff of the Ministry of Planning and Development;

(iv) Chief of Staff of the Ministry of Agriculture;

(v) Chief of Staff of the Ministry of Public Works and Transportation;

(vi) Chief of Staff of the Ministry of the Environment, Housing and Urban Planning;

(vii) Representative from civil society (selected following a national assembly of the non-governmental organizations and civil society and based upon selection criteria to be agreed by the Parties, including the capacity and expertise of the individual to hold such position);

(viii) President of the Chamber of Commerce and Industry;

(ix) The Chairman of the Chamber of Agriculture;

(x) Representative from the Mayors' Council (which shall be the public official holding the relevant office as

such office is selected following a national assembly of the mayors throughout Benin); and

(xi) A member of the Board of the National Assembly as designated by the National Assembly.

(B) The non-voting observers (each, an "Observer") shall be:

(i) A representative designated by MCC (the "MCC Representative");

(ii) A representative from the Advisory Council; and

(iii) Representatives-elect for Civil Members (defined below), who will be non-voting observers for a one-year period.

(C) Each Government Member position shall be filled by the individual, during the Compact Term, holding the office identified and such individuals shall serve in their capacity as the applicable Government official and not in their personal capacity; in the event that such member is unable to participate in a meeting of the Board such member's principal deputy may participate in the member's stead.

(D) The positions identified in Section 3(d)(ii)(2)(A)(vii)–(xi) of this Program Annex shall be each individually referred to as a "Civil Member" and collectively as "Civil Members." Each Civil Member position shall be filled by the individual, during the Compact Term, holding the office or position identified in, or selected pursuant to, Section 3(d)(ii)(2)(A)(viii)–(xi) and such individuals shall serve in their capacity as the incumbent in such office or position and not in their personal capacity; in the event that such member is unable to participate in a meeting of the Board such member's principal deputy may participate in the member's stead, provided, however, any action shall be taken only by a proxy signed by the Civil Member. The Civil Member identified in Section 3(d)(ii)(2)(A)(vii) shall serve in their personal capacity and if such member is unable to participate in a meeting of the Board, such member may only send a substitute as permitted in the applicable Governing Document, provided, any action shall be taken only by a proxy signed by the Civil Member. The term of each Civil Member's appointment to the Board shall be thirty (30) months; other than the Civil Member identified in Section 3(d)(2)(ii)(A)(viii) and (ix) which position shall be filled by the individual holding such position during the Compact Term; provided, further if the Civil Member designated pursuant to Section 3(d)(ii)(2)(A)(xi) resigns or is removed from the Board of the National Assembly, the National Assembly shall designate another member of the Board

of the National Assembly to fill this seat on the Board.

(E) The voting members identified in Section 3(d)(ii)(2)(A) by majority vote may alter the size of the Board in accordance with the applicable Governing Document, so long as the total does not exceed eleven members; in the event that such action is taken, any change in the composition of the voting seats shall be subject to the approval of the Government and MCC.

(F) Subject to the Governing Documents, the Parties contemplate that the Chief of Staff of the Office of the Presidency shall initially fill the seat of Chair.

(G) Each Observer shall have rights to attend all meetings of the Board, participate in the discussions of the Board, and receive all information and documents provided to the Board, together with any other rights of access to records, employees or facilities as would be granted to a member of the Board under any Governing Document.

(H) The voting members identified in Section 3(d)(ii)(2)(A) shall exercise their duties solely in accordance with the best interests of MCA-Benin and the Program and its Objectives and may not undertake any action that is contrary to those interests or would result in personal gain or a conflict of interest.

(3) Roles and Responsibilities.

(A) The Board shall oversee the Management, the overall implementation of the Program, and the performance of the Designated Rights and Responsibilities.

(B) Certain actions may be taken and certain agreements, documents or instruments executed and delivered, as the case may be, by MCA-Benin only upon the approval and authorization of the Board provided under applicable law or as set forth in any Governing Document, including each MCC Disbursement Request, selection or termination of certain Providers, any component of the Implementation Plan, certain Re-Disbursements and certain terms of reference.

(C) The Chair shall certify the approval by the Board of all Compact Reports or any other documents or reports from time to time delivered to MCC by MCA-Benin (whether or not such documents or reports are required to be delivered to MCC), and that such documents or reports are true, correct and complete.

(D) Without limiting the generality of the Designated Rights and Responsibilities that the Government may designate to MCA-Benin, and subject to MCC's contractual rights of approval as set forth in Section 3(c) of this Program Annex or elsewhere in this

Compact or any relevant Supplemental Agreement, the Board shall have the exclusive authority as between the Board and the Management for all actions defined for the Board in any Governing Document and which are expressly designated therein as responsibilities that cannot be delegated further.

(4) Indemnification of Civil Members; Observers; and Officers. The Government shall ensure, at the Government's sole cost and expense, that appropriate insurance is obtained and appropriate indemnifications and other protections are provided, acceptable to MCC and to the fullest extent permitted under the laws of the Republic of Benin, to ensure that (A) as Civil Members and Observers shall not be held personally liable for the actions or omissions of the Board or MCA-Benin and (B) as Officers shall not be held personally liable for the actions or omissions of the Board, MCA-Benin or actions or omissions of the Officer so long as properly within the scope of Officer's authority. Pursuant to Section 5.5 and Section 5.8 of this Compact, the Government and MCA-Benin shall hold harmless the MCC Representative for any liability or action arising out of the MCC Representative's role as a non-voting observer on the Board. The Government hereby waives and releases all claims related to any such liability and acknowledges that the MCC Representative has no fiduciary duty to MCA-Benin. In matters arising under or relating to the Compact, the MCC Representative is not subject to the jurisdiction of the courts or any other body of Benin. MCA-Benin shall provide a written waiver and acknowledgement that no fiduciary duty to MCA-Benin is owed by the MCC Representative.

(iii) Management. Unless otherwise agreed in writing by the Parties, the Management shall report, through the National Coordinator or other Officer as designated in any Governing Document, directly to the Board and shall have the composition, roles and responsibilities described below and set forth more particularly in any Governing Document.

(1) Appointment of the National Coordinator. The National Coordinator of MCA-Benin shall be selected by the Board and hired after an open and competitive recruitment and selection process, which appointment shall be subject to MCC approval. Such appointment shall be further evidenced by such document as the Parties may agree.

(2) Appointment of Other Officers. Unless otherwise specified in any

Governing Document, the other Officers of MCA-Benin shall be selected and hired by the National Coordinator after an open and competitive recruitment and selection process, which appointment shall be subject to the approval of the Board and MCC.

(3) Composition. The Government shall ensure that the Management shall be composed of qualified experts from the public or private sectors, including such offices and staff as may be necessary to carry out effectively its responsibilities, each with such powers and responsibilities as set forth in any Governing Document, and from time to time in any Supplemental Agreement between the Parties, including without limitation the following: (i) National Coordinator; (ii) Administration and Finance Director; (iii) Monitoring and Evaluation Director; (iv) Land Project Director, Financial Services Project Director, Justice Project Director and Markets Project Director (each a, "Project Director"); (v) Environmental and Social Assessment Director; (vi) Legal Counsel and (vii) Procurement Director (the persons holding the positions in sub-clauses (i) through (vii) and such other offices as may be created and designated in accordance with any Governing Document and any other Supplemental Agreement between the Parties, shall be collectively referred to as "Officers"). In addition, MCA-Benin will have an implementation staff in each of the Project divisions as described below and administrative or other assistants and staff in other divisions as appropriate and budgeted in the Detailed Financial Plan and provided for in the applicable Work Plan or other Implementation Plan component, and as otherwise agreed by MCC. The Administration and Finance Division and the Procurement Division shall have separate authorizations, duties and responsibilities and each shall report directly only to the National Coordinator and the Board. The Parties contemplate that for purposes of the initial period of operations, and in no event longer than six months, MCA-Benin may appoint an acting National Coordinator, subject to the approval of MCC; provided, following such period, the Board shall ratify the actions of such acting National Coordinator and the Board shall select a permanent National Coordinator through a competitive selection process and subject to MCC approval in accordance with this Annex I. The divisions that manage the implementation of each Project ("Project Division") shall have the following general organizational structure, or such other structure as may be agreed by the

Parties in writing and specified in the applicable Governing Document:

(A) Land Project Division. In addition to the Project Director, there shall be (i) a Senior Land Administration Advisor for period to be specified in the Work Plan, (ii) a National Land Policy Reform Coordinator, and (iii) up to two Activity Implementation Managers. The Land Project Division will also receive feedback and input from a stakeholders group (the "Land Project Steering Group"), the composition and formation of which shall be specified in the applicable Governing Document or Implementation Plan.

(B) Financial Services Project Division. In addition to the Project Director, there shall be (i) an Enabling Environment Activity Coordinator and (ii) a Capacity Building Activity Coordinator. The Financial Services Project Division will also receive feedback and input from a stakeholders group (the "Financial Advisory Committee"), the composition and formation of which shall be specified in the applicable Governing Document or Implementation Plan.

(C) Justice Project Division. In addition to the Project Director, there shall be a Justice Project Coordinator. The Justice Project Division will also receive feedback and input from a stakeholders group (the "Justice Advisory Committee"), the composition and formation of which shall be specified in the applicable Governing Document or Implementation Plan component.

(D) Markets Project Division. The Markets Project Division will also receive feedback and input from a stakeholders group representing the Markets Project beneficiaries (the "Port Advisory Committee"), the composition and formation of which shall be specified in the applicable Governing Document or Implementation Plan.

(4) Roles and Responsibilities.

(A) Management shall assist the Board in overseeing the implementation of the Program and shall have principal responsibility (subject to the direction and oversight of the Board and subject to MCC's contractual rights of approval as set forth in Section 3(c) of this Program Annex or elsewhere in this Compact or any relevant Supplemental Agreement) for the overall management of the implementation of the Program.

(B) Without limiting the foregoing general responsibilities or the generality of Designated Rights and Responsibilities that the Government may designate MCA-Benin, Management shall develop the components of the Implementation Plan, oversee the implementation of the

Projects, manage and coordinate monitoring and evaluation, maintain internal accounting records, conduct and oversee certain procurements, and such other responsibilities as set out in the applicable Governing Document or delegated to Management by the Board from time to time.

(C) Appropriate Officers as designated in the Governing Documents shall have the authority to contract on behalf of MCA-Benin under any procurement under the Program undertaken in accordance with the Procurement Agreement and Procurement Guidelines.

(D) Management shall have the obligation and right to approve certain actions and documents or agreements, including certain Re-Disbursements, MCC Disbursement Requests, Compact Reports, certain human resources decisions and other certain actions, as provided in the applicable Governing Document.

(5) Additional Resources. Management, on behalf of MCA-Benin, shall have the authority to 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; provided, however, that the appointment or engagement of any Outside Project Manager, after a competitive selection process, shall be subject to approval by the Board and MCC prior to such appointment or engagement. Upon Board approval, Management, on behalf of MCA-Benin, 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 Project Activities, subject to Section 3.2(c) of the Compact; provided, however, that the Management and the relevant Project Manager shall remain accountable for those duties and responsibilities and all reports delivered by the Outside Project Manager. Independent of any request from Management, the Board may determine that it is advisable for MCA-Benin to engage one or more Outside Project Managers and the Board may direct Management to commence and conduct the competitive selection process for such Outside Project Manager. Upon a finding by the Board that Management has not responded to such a Board directive, the Board may direct the Procurement Agent to commence and conduct the competitive selection process for one or more Outside Project Managers.

(e) Advisory Council.

(i) Formation and Composition. The Government shall ensure the establishment of an advisory council with both governmental, private sector and non-governmental representatives (the "Advisory Council") consisting of at least eight (8) and no more than eleven (11) members, unless otherwise agreed by the Parties, and comprised of the following members: (A) Chief of Staff of the Ministry of Foreign Affairs and African Integration; (B) Chief of Staff of the Ministry of Industry and Commerce; (C) Chief of Staff of the Ministry of the Interior, Security, and Decentralization; (D) Chief of Staff of the Ministry of Justice; (E) a representative from the Private Sector (selected following a national assembly of the private sector); (F) a representative from the labor unions (selected following a national assembly of the labor unions); (G) a representative from the regional organizations (selected following a national assembly of the regional organizations); and (H) a representative from the National Artisan Federation (selected following a national assembly of the National Artisan Federation). Representatives described in (E) through (H) shall be selected and vacancies filled in accordance with the manner and criteria set forth in the applicable Governing Document, subject to MCC approval. Following the selection of the representatives described in (E) through (H), the results of the selection shall be posted on the MCA-Benin Website and published in the local newspaper. The Government shall take all action necessary and appropriate actions to ensure the Advisory is established consistent with this Section 3(e) and as otherwise specified in the Governing Document or otherwise agreed in writing by the Parties. The composition of the Advisory Council may be adjusted by agreement of the Parties from time to time to ensure, among other things, a cross-section representative of the intended beneficiaries. The number of members of the Advisory Council may be increased, but in no event more than eleven (11), upon the majority vote of the then existing members and the vacancies created by such increase shall be filled by the majority vote of the then existing members, subject to the approval of the Government and MCC.

(1) Each member position identified in Sections 3(e)(i) of this Program Annex shall be filled by the individual, during the Compact Term, holding the office identified and such individuals shall serve in their capacity as the applicable Government official and not in their personal capacity. In the event

that such member is unable to participate in a meeting of the Advisory Council such member's principal deputy may participate in the member's stead.

(2) In the event of a vacancy in positions identified in Sections 3(e)(i) (E) through (H) such vacancy to be filled by nomination of the organization or group for whom such seat is designated and in the same manner as described in Section 3(e)(i) for the initial designation and as otherwise set forth in the applicable Governing Document.

(ii) Role. The Advisory Council shall be a mechanism to provide representatives of the private sector, civil society and local and regional governments the opportunity to provide advice and input to MCA-Benin regarding the implementation of the Compact. During quarterly meetings of the Advisory Council, Management shall present an update on the implementation of this Compact and progress towards achievement of the Objectives. The Advisory Council will have an opportunity to regularly provide to the Board, via the Chair, its views or recommendations on the performance and progress on the Projects and Project Activities, components of the Implementation Plan, procurement, financial management or such other issues as may be presented from time to time to the Advisory Council or as otherwise raised by the Advisory Council. Management shall provide copies of the M&E Plan and related reports to the Advisory Council simultaneously with the transmittal to the Advisory Council of such documents and reports. The Board may, in response to the Advisory Council, require Management to provide such other information and documents as the Board deems advisable and subject to appropriate treatment of the information by the Advisory Council and its members.

(iii) Meetings. The Advisory Council shall hold quarterly meetings of the full Advisory Council as well as such other periodic meetings of the Advisory Council or subcommittees thereof designated along sectoral, regional, or other lines, as may be necessary or appropriate from time to time.

(iv) Board Observer. The Advisory Council shall nominate, by majority decision, one individual, either from the Advisory Council or otherwise, to serve as an Observer to the Board for a one-year term. The Advisory Council shall rotate its representative each year. Any vacancy of the Observer seat designated for the Advisory Council shall be filled by the Advisory Council in same

manner as it would the annual nomination.

(v) Accessibility; Transparency. Advisory Council members will be accessible to the beneficiaries they represent to receive the beneficiaries' comments or suggestions regarding the Program. The minutes of all meetings of the Advisory Council meetings and any subcommittees shall be made public on the MCA-Benin Website in a timely manner.

(f) Implementing Entities. Subject to the terms and conditions of this Compact and any other Supplemental Agreement between the Parties, MCA-Benin may provide MCC Funding, directly or indirectly through an Outside Project Manager, to one or more Government Affiliates or to one or more nongovernmental organizations or other public- or private-sector entities or persons to implement and carry out the Projects or any other activities to be carried out in furtherance of this Compact (each, an "Implementing Entity"). The Government shall ensure that MCA-Benin (or the appropriate Outside Project Manager) enters into an agreement with each Implementing Entity, in form and substance satisfactory to MCC, that sets forth the roles and responsibilities of such Implementing Entity and other appropriate terms and conditions, such as payment of the Implementing Entity (the "Implementing Entity Agreement"). An Implementing Entity shall report directly to the relevant Project Manager or Outside Project Manager, as designated in the applicable Implementing Entity Agreement or as otherwise agreed by the Parties. The Implementing Entities shall be either (i) pre-determined ministries, bureaus or agencies of the Government based on their sector expertise with respect to certain activities or (ii) government bodies, businesses, micro-finance institutions ("MFIs") and/or non-governmental organizations, vendors and contractors selected according to a the Procurement Guidelines.

(g) Fiscal Agent. The Government shall ensure that MCA-Benin engages one fiscal agent following an international competitive process (a "Fiscal Agent") who shall be responsible for, among other things: (i) Assisting MCA-Benin in preparing the Fiscal Accountability Plan, (ii) ensuring and certifying that Re-Disbursements are properly authorized and documented in accordance with established control procedures set forth in the Disbursement Agreement, the Fiscal Agent Agreement and other relevant Supplemental Agreements; (iii) Re-Disbursing from, cash management and

account reconciliation of a Bank Account established and maintained by the Fiscal Agent for the purpose of instructing Bank to make Re-Disbursements from a Permitted Account (to which Fiscal Agent has sole signature authority), following applicable certification by the Fiscal Agent; (iv) providing applicable certifications for MCC Disbursement Requests; (v) maintaining and retaining proper accounting, records and document disaster recovery system of all MCC Funded financial transactions and certain other accounting functions; (vi) producing reports on MCC Disbursements and Re-Disbursements (including any requests therefore) in accordance with established procedures set forth in the Disbursement Agreement, the Fiscal Agent Agreement, the Fiscal Accountability Plan, or any other relevant Supplemental Agreements, (vii) preparing budget development procedures and the Compact implementation budget, (viii) managing funds control, (ix) inventory control, and (x) internal management of the Fiscal Agent operations. Upon the written request of MCC, the Government shall ensure that MCA-Benin terminates the Fiscal Agent, without any liability to MCC, and the Government shall ensure that MCA-Benin engages a new Fiscal Agent, subject to the approval by the Board and MCC. The Government shall ensure that MCA-Benin enters into an agreement with each Fiscal Agent, in form and substance satisfactory to MCC, that sets forth the roles and responsibilities of the Fiscal Agent and other appropriate terms and conditions, such as payment of the Fiscal Agent (each, a "Fiscal Agent Agreement"), such Fiscal Agent Agreement shall not be terminated until MCA-Benin has engaged a successor Fiscal Agent or as otherwise agreed by MCC in writing.

(h) Auditors and Reviewers. The Government shall ensure that MCA-Benin carries out the Government's audit responsibilities as provided in Sections 3.8(d), (e) and (f) of this Compact, including engaging one or more auditors (each, an "Auditor") required by Section 3.8(d) of this Compact. As requested by MCC in writing from time to time, the Government shall ensure that MCA-Benin also engages (i) an independent reviewer to conduct reviews of performance and compliance under this Compact pursuant to Section 3.8(f) of this Compact, which reviewer shall have the capacity to (A) conduct general reviews of performance or compliance, (B) conduct environmental audits, (C) conduct data quality assessments in

accordance with the M&E Plan, as described more fully in Annex III, and/or (ii) an independent evaluator to assess performance as required under the M&E Plan (each, a "Reviewer"). MCA-Benin shall select the Auditor(s) or Reviewers in accordance with any Governing Document or other relevant Supplemental Agreement. The Government shall ensure that MCA-Benin enters into an agreement with each Auditor or Reviewer, in form and substance satisfactory 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 such as payment of the Auditor or Reviewer (the "Auditor/Reviewer Agreement"). In the case of a financial audit required by Section 3.8(f) of the Compact, such Auditor/Reviewer Agreement shall be effective no later than 120 days prior to the end of the relevant fiscal year or other period to be audited; provided, however, if MCC requires concurrent audits of financial information or reviews of performance and compliance under this Compact, then such Auditor/Reviewer Agreement shall be effective no later than the date agreed by the Parties in writing.

(i) Procurement Agent. The Government shall ensure that MCA-Benin engages one or more procurement agents through international competitive process (each, a "Procurement Agent") to carry out and/or certify specified procurement activities in furtherance of this Compact on behalf of the Government, MCA-Benin, the Project Manager or Implementing Entity. The roles and responsibilities of such Procurement Agent and the criteria for selection of a Procurement Agent shall be as set forth in the applicable Implementation Letter or Supplemental Agreement. The Government shall ensure that MCA-Benin enters 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, such as payment of the Procurement Agent (the "Procurement Agent Agreement"). Any Procurement Agent shall adhere to the procurement standards set forth in the Procurement Agreement and Procurement Guidelines and ensure procurements are consistent with the procurement plan adopted by MCA-

Benin pursuant to the Procurement Agreement (the "Procurement Plan").

4. Finances and Fiscal Accountability

(a) Financial Plans.

(i) Multi-Year Financial Plan. The multi-year financial plan for the Program and for each Project (the "Multi-Year Financial Plan") is summarized in Annex II to this Compact.

(ii) Detailed Financial Plan. During the Compact Term, the Government shall ensure that MCA-Benin timely delivers to MCC financial plans that specify respectively the annual and quarterly detailed budget and projected cash requirements for the Program (including monitoring and evaluation and administrative costs) and each Project, projected both on a commitment and cash requirement basis (each a "Detailed Financial Plan"). Each Detailed Financial Plan shall be delivered by such time as specified in the Disbursement Agreement or as may otherwise be agreed by the Parties. The Multi-Year Financial Plan and each Detailed Financial Plan and each amendment, supplement or other change thereto are collectively, the "Financial Plan."

(iii) Expenditures. No financial commitment involving MCC Funding shall be made, no obligation of MCC Funding shall be incurred, and no Re-Disbursement shall be made or MCC Disbursement Request submitted for any activity or expenditure, unless the expense is provided for in the Detailed Financial Plan and unless uncommitted funds exist in the balance of the Detailed Financial Plan for the relevant period or unless the Parties otherwise agree in writing.

(iv) Modifications to Multi-Year Financial Plan or Detailed Financial Plan. Notwithstanding anything to the contrary in this Compact, MCA-Benin may amend or supplement the Multi-Year Financial Plan, or any component thereof or any Detailed Financial Plan without amending this Compact, provided any material amendment or supplement has been approved by MCC and is otherwise consistent with the requirements of this Compact including Section 4 of Annex II and any relevant Supplemental Agreement between the Parties; provided, however, MCA-Benin may modify the Detailed Financial Plan to reallocate MCC Funding without MCC prior approval to the extent that in the aggregate during the Compact Term the:

(1) Reallocation of funds within a Project would not reduce or increase any line item in the Detailed Financial Plan for a Project Activity more than the

lesser of 10% of such relevant line item in the Detailed Financial Plan or USD \$2,000,000, taking into account any modifications made pursuant to paragraph (B) such that any modifications made pursuant to (A) and (B) in the aggregate shall not exceed USD \$2,000,000;

(2) Re-allocation of funds within a Project Activity would not reduce or increase any line item in the Detailed Financial Plan for a sub-activity more than the lesser of 10% of the relevant line item in the Detailed Financial Plan or USD \$2,000,000 taking into account any modifications made pursuant to paragraph (A) such that any modifications made pursuant to (A) and (B) in the aggregate shall not exceed USD \$2,000,000;

(3) Re-allocation of funds between Projects would not reduce or increase any line item in the Detailed Financial Plan for a Project Activity more than the lesser of 10% of the relevant line item in the Detailed Financial Plan or USD \$500,000;

(4) Re-allocation of funds within Monitoring and Evaluation category of the Detailed Financial Plan would not reduce or increase more than the lesser of 10% of the relevant line item in the Detailed Financial Plan for the M&E activity or USD \$500,000; or

(5) Re-allocation of funds within Program Administration category of the Detailed Financial Plan would not reduce or increase more than the lesser of 10% of the relevant line item in the Detailed Financial Plan for the Program Administration expense category or USD \$500,000.

With respect to any modification pursuant to subparagraphs (1)–(5) above, such modification (A) shall be consistent with the Objectives and the Implementation Plan; (B) shall not materially adversely impact the applicable Project, Project Activity, sub-activity, M&E activity or Program administration activity; (C) shall not cause the amount of MCC Funding to exceed the aggregate amount specified in Section 2.1(a) of this Compact; and (D) shall not cause the Government's obligations or responsibilities or overall contribution of resources to be less than as specified in Section 2.2(a) of this Compact, this Annex I or elsewhere in this Compact; provided, further, that MCA-Benin shall promptly deliver to MCC any such modified Detailed Financial Plan, together with a modified Multi-Year Financial Plan to reflect the corresponding modifications, and further reflected in the Detailed Financial Plan submitted with the MCC Disbursement Request at the next Disbursement Period.

(b) Disbursement and Re-Disbursement. The Disbursement Agreement (and disbursement schedules thereto), as amended from time to time, shall specify the terms, conditions and procedures on which MCC Disbursements and Re-Disbursements shall be made. The obligation of MCC to make MCC Disbursements or approve Re-Disbursements is subject to the fulfillment, waiver or deferral of any such terms and conditions. The Government and MCA-Benin shall jointly submit the applicable request for an MCC Disbursement (the "MCC Disbursement Request") as may be specified in the Disbursement Agreement. MCC will make MCC Disbursements in tranches to a Permitted Account from time to time as provided in the Disbursement Agreement or as may otherwise be agreed by the Parties, subject to Program requirements and performance by the Government, MCA-Benin and other relevant parties in furtherance of this Compact. Re-Disbursements will be made from time to time based on requests by an authorized representative of the appropriate party designated for the size and type of Re-Disbursement in accordance with any Governing Document and Disbursement Agreement; provided, however, unless otherwise agreed by the Parties in writing, no Re-Disbursement shall be made unless and until the written approvals specified herein or in any Governing Document and Disbursement Agreement for such Re-Disbursement have been obtained and delivered to the Fiscal Agent.

(c) Fiscal Accountability Plan. By such time as specified in the Disbursement Agreement or as otherwise agreed by the Parties, MCA-Benin shall adopt as part of the Implementation Plan a fiscal accountability plan that identifies the principles, mechanisms and procedures to ensure appropriate fiscal accountability for the use of MCC Funding provided under this Compact, including the process to ensure that open, fair, and competitive procedures will be used in a transparent manner in the administration of grants or cooperative agreements and the procurement of goods and services for the accomplishment of the Objectives (the "Fiscal Accountability Plan"). The Fiscal Accountability Plan shall set forth, among other things, requirements with respect to the following matters: (i) Re-Disbursement, cash management and account reconciliation; (ii) funds control and documentation; (iii) accounting standards and systems; (iv) content and

timing of reports; (v) preparing budget development procedures and the Compact implementation budget; (vi) policies concerning records, document disaster recovery and public availability of all financial information; (vii) procurement and contracting practices, including timely payment to vendors; (viii) inventory control; (ix) the role of independent auditors; (x) the roles of fiscal agents and procurement agents; (xi) separation of duties and internal controls; and (xii) certifications, powers, authorities and delegations.

(d) Permitted Accounts. The Government shall establish, or cause to be established, such accounts (each, a "Permitted Account," and collectively "Permitted Accounts") as may be agreed by the Parties in writing from time to time, including:

(i) A single, completely separate U.S. Dollar interest-bearing account (the "Special Account") at a commercial bank, subject to MCC approval, that is procured through a competitive process;

(ii) If necessary, an interest-bearing local currency of Benin account (the "Local Account") at a commercial bank, subject to MCC approval, that is procured through a competitive process to which the Fiscal Agent may authorize transfer from any U.S. Dollar Permitted Account for the purpose of making Re-Disbursements payable in local currency; and

(iii) Such other interest-bearing accounts to receive MCC Disbursements in such banks as the Parties mutually agree upon in writing.

No other funds shall be commingled in a Permitted Account other than MCC Funding and Accrued Interest thereon. All MCC Funding held in an interest-bearing Permitted Account shall earn interest at a rate of no less than such amount as the Parties may agree in the respective Bank Agreement or otherwise. MCC shall have the right, among other things, to view any Permitted Account statements and activity directly on-line, where feasible, or at such other frequency as the Parties may otherwise agree. By such time as shall be specified in the Disbursement Agreement or as otherwise agreed by the Parties, the Government shall ensure that MCA-Benin enters into an agreement with each Bank, respectively, satisfactory to MCC, that sets forth the signatory authority, access rights, anti-money laundering and anti-terrorist financing provisions, and other terms related to the Permitted Account, respectively (each, a "Bank Agreement"). For purposes of this Compact, the banks holding an account referenced in Sections 4(d) of this Program Annex are each a "Bank" and

are collectively referred to as the "Banks."

(e) Currency Exchange. The Bank shall convert MCC Funding to the currency of Benin at a rate to which the parties to the Bank Agreement mutually agree with the Bank in the Bank Agreement, subject to MCC approval.

5. Transparency; Accountability

Transparency and accountability to MCC and to the beneficiaries are important aspects of the Program and Projects. Without limiting the generality of the foregoing, in an effort to achieve the goals of transparency and accountability, the Government shall ensure that MCA-Benin:

(a) Establishes an e-mail suggestion box as well as a means for other written comments that interested persons may use to communicate ideas, suggestions or feedback to MCA-Benin.

(b) Considers as a factor in its decision-making the recommendations of the Board, particularly in MCA-Benin's deliberations over pending key Management decisions and key Board decisions as shall be specified in the relevant Governing Document.

(c) Develops and maintains the MCA-Benin Web site in a timely, accurate and appropriately comprehensive manner, such MCA-Benin Web site to include postings of information and documents in English and French.

(d) Posts on the MCA-Benin Website and otherwise makes publicly available via appropriate mediums (including radio and print) in the appropriate language the following documents or information from time to time:

(i) All minutes of the meetings of the Advisory Council and the meetings of the Board; provided, however, in certain instances of sensitivity and solely as specified and in accordance with the Governing Documents meeting minutes may be maintained solely in the corporate records of MCA-Benin without public release;

(ii) The M&E Plan, as amended from time to time, along with periodic reports on Program performance;

(iii) Such financial information as may be required by this Compact or as may otherwise be agreed from time to time by the Parties;

(iv) All Compact Reports;

(v) All audit reports by an Auditor and any periodic reports or evaluations by a Reviewer;

(vi) All relevant Environmental Impact Assessments and supporting documents, and such other environmental documentation as MCC may request;

(vii) A copy of the Disbursement Agreement, as amended from time to time;

(viii) A copy of any documents related to the formation, organization and governance of MCA-Benin including any Governing Documents, together with any amendments thereto;

(ix) A copy of the Procurement Agreement (including Procurement Guidelines), as amended from time to time and any procurement policies or procedures and standard documents; and

(x) A copy of information derived from each Procurement Plan, as specified in the Procurement Agreement, and all bid requests and awarded contracts.

Schedule 1 to Annex I—Access to Land Project

This Schedule 1 generally describes and summarizes the key elements of an Access to Land Project (the "Land Project") that the Parties intend to implement in furtherance of the Land Project Objective. Additional details regarding the implementation of the Land Project will be included in the Implementation Plan and in relevant Supplemental Agreements.

1. Background

Insecure access to land is a determinant of poverty and a major barrier to income growth in Benin as reflected in the Government's Action Plan and the Poverty Reduction Strategy Document. Investment climate studies list land access among the top constraints to business development in Benin. Therefore, the Government's Access to Land proposal was met with strong civil society support. Inclusion of the Land Project in the Program reflects an understanding of the importance of sound property rights to overall economic growth and to the owners and users of land across Benin.

Currently, the title registration system is expensive, slow, and complex. For a small urban land parcel, titling and registration costs approximately \$1,400 and can take up to two years to complete. As a result, only 1% of households hold a formal title to their land and a majority of the rural population relies on oral customary land rights. In urban areas, individuals occupy land under a weak administrative permit while enterprises occupy state land by concession. Land disputes are prevalent and are estimated to comprise more than 70% of all civil court cases in Benin. Women are often disadvantaged under current practices while investors are unable to acquire sites with confidence. Public investment

in infrastructure is hindered by the lack of land use planning and adequate property tax administration. The lack of registered land rights also limits access to credit, particularly since Benin adheres to agreements under the Organization for Harmonization of Business Law in Africa ("OHADA") requiring land titles as a basis for pledging real property as collateral.

The Government is committed to changing this scenario. The Government has demonstrated a commitment to adopting improved laws, regulations, administrative processes and techniques to meet its ambitious land policy vision. It has already undertaken important legal reforms and experimented with new approaches to formalizing property rights. The Government's view of the importance of converting to titles, albeit in a progressive, voluntary approach, will be promoted and ways to make the process easier will be identified through this Project. With MCA support, a new land policy framework will be developed and over 100,000 households will attain registered land rights. The Land Project will serve both rural and urban areas and will lead to: significantly reduced time and costs to obtain titles and record transfers; fewer land disputes; and increased sense of land security. These improvements should, in turn, motivate investment and contribute, along with other Projects, to income growth.

2. Summary of Projects and Activities in Project and Expected Results

The Land Project is designed to establish secure access to land and efficient land administration services. MCC Funding will support the following Project Activities:

- Policy and Legal Reform: To enable sustainable, efficient land registration services, gender equity, land dispute resolution and expanded use of land as collateral, MCC Funding will support legal, regulatory, administrative and informational reforms within a national land policy framework encompassing both rural and urban land.
- Achieving Formal Property Rights to Land: To provide citizens with more secure and useful records of their land rights, MCC Funding will support conversion of 30,000 occupancy permits to land titles in urban areas and formally document land rights to 300 rural villages directly benefiting around 85,000 households with certificates or titles.

- Improve Land Registration Services and Land Information Management: To reduce time and costs to register land and expand access to land information for public and private uses, MCC

Funding will be used to upgrade and decentralize title registration services in twenty four communes and introduce map-based land information systems in twelve of these communes.

- **Information, Education and Communication:** To create broad awareness of land policy reform, especially among more vulnerable groups, in order to help citizens understand, protect and use their land rights.

- **Support Land Program Coordination:** To strengthen the capacity to manage the reform process and to encourage active participation of key stakeholder representatives, support policy and program coordination advisors, convene a Project steering group, and establish working groups for particular studies.

The M&E Plan (described in Annex III) will set forth anticipated results and, where appropriate, regular benchmarks that may be used to monitor implementation progress. Performance against these benchmarks and the overall impact of the Land Project will be assessed and reported at the intervals to be specified in the M&E Plan or as otherwise agreed by the Parties from time to time. The Parties expect that additional indicators will be identified during the implementation of the Land Project. The expected results from, and the key benchmarks to measure progress on the Project, Project Activities and sub-activities undertaken or funded under the Land Project are set forth in Annex III.

Estimated amounts of MCC Funding for each Project Activity for the Land Project are identified in Annex II of this Compact. Conditions precedent to each Land Project Activity and sequencing of these Project Activities shall be set forth in the Disbursement Agreement or other relevant Supplemental Agreements or component of the Implementation Plan.

The following summarizes the Land Project Activities:

(a) **Project Activity: Policy and Legal Reform (the "Policy Activity").**

Building from the Government's commitment to land reform, under this Policy Activity, MCC funds will support three-stages to establish a more cohesive, functional land policy. The three stages are analysis, policy formulation and legal reform. This Policy Activity is national in scope and will address both urban and rural issues. MCA-Benin shall take account of the relevant outputs of the Policy Activity, as described below, in the full Implementation Plan (to be adopted following the completion of the relevant assessments in this Policy Activity). It is also anticipated that the Policy Activity

will affect the implementation strategy to be used for certain other Land Project activities or sub-activities.

Detailed assessments of a series of topics will be produced by commissioned experts working in consultation with key stakeholder representatives. As a result, decision-makers will be better informed of best options for detailing the legal, administrative and technical solutions needed to achieve secure land rights and efficient land access. Based on the assessment process, a Land Policy White Paper will be prepared to guide public and private actors regarding the reform process. Endorsement from senior Government of Benin officials, including all relevant Ministers will be sought by MCA-Benin. The Policy Activity will also support drafting of a National Land Policy Decree, drafting of any needed legislation and/or amendments, and, finally, the compilation of land laws into a new Land Code to reinforce cohesiveness.

MCC Funding will support the following activities:

(i) Conduct of assessments that will inform policy decisions and Land Project implementation strategies. The assessments will further clarify issues and provide recommendations for refining the reform strategy. Efficiency, affordability, sustainability, gender equity, and the ability to manage the reform process with minimum risk will be considered. The assessments listed below will be conducted by experts and MCA-Benin will convene working groups of stakeholder representatives that will consult on the terms of reference for and the preparation of the assessments described below. MCA-Benin shall ensure that the results of these assessments are incorporated as relevant in the complete and final Work Plans for the activities described in Sections 2(b)–(d) of this Schedule 1. The assessments shall include the following topics, unless otherwise agreed by the Parties:

(1) A review of current practice and proposed reforms related to the administrative structure and functions of national, regional and local agencies involved in implementation of land policy; clarify roles and responsibilities and propose an approach to achieve greater operational efficiency and coherence;

(2) A review of the processes for titling (conversion) and registration to identify specific bottlenecks to an accelerated, quality implementation pace, including a review of technical norms, administrative procedures, evidences accepted and proofs required to participate; taxes, fees and budget

parameters; and the technical specifications of the certification processes (particularly of the Plan Foncier Rural "PFR"); make recommendations for changes to make the process more affordable and/or efficient and its results more sustainable;

(3) An assessment of the number and types of land conflicts encountered in the past under rural and urban pilot activities and how/if these conflicts have been resolved; recommend a strategy for strengthening the capacity to resolve land conflicts under formal and informal means;

(4) An analysis of how to effectively improve women's access to land and the security of their tenure; propose a gender strategy on policy, legal, administrative, and/or project implementation measures and provide guidelines for its implementation;

(5) Following the completion of the assessment described in paragraph (1) above, compare technology options to meet information management needs at national, regional and local levels including mapping data, registration data, land market information and land use planning; compare initial investment costs as well as implied operational and maintenance costs and capacity to sustain the systems; and

(6) An analysis of the operational modalities for the communes in implementing the proposed new rural land law and related financing needs; make recommendations for the content for the regulations to this law.

(ii) Development, formalization and dissemination of a new land policy framework for Benin, that draws on the assessments conducted under the sub-activity described in Section 2(a)(i) above:

(1) Draft and promote a Land Policy White Paper covering rural and urban land and addressing the findings of the assessments conducted under sub-activity described in Section 2(a)(i); seek its immediate endorsement by relevant senior Government of Benin officials for use in implementation of Projects and also a legislative mandate for compliance with its key provisions;

(2) Upon completion of sub-activity described in Section 2(a)(i) above, prepare a new procedural manual for the transformation of urban and rural certificates into land titles;

(3) Review of relevant current law and proposed legislation compared to the requirements of the Land Policy White Paper;

(4) Based on the conclusions reached in paragraph 3 of this Section 2(a)(ii), support the drafting of new or amended laws and regulations as called for such

that the resulting body of land legislation removes disincentives to register land rights and transactions, facilitates compliance with relevant agreements under OHADA; and safeguards vulnerable populations to the extent feasible from risks and undue tax burdens;

(5) Following completion of the sub-activity described in paragraph (4) of this Section 2(a)(ii), support the preparation of a draft unified Land Code for submission to Parliament; and

(6) Conduct public consultation on and dissemination of the new legislation and procedures.

(b) Project Activity: Achieving Formal Property Rights (the "Registration Activity"). By providing roughly 115,000 citizens with more secure and useful property rights, this Registration Activity will demonstrate the effectiveness of Benin's new policy and approaches. Support will be provided for the conversion of urban housing land use permits into land titles in selected neighborhoods primarily in Cotonou, Parakou and Porto Novo. In roughly 300 selected rural villages, the recording of rural land rights through written land plans and certificates of customary ownership will be undertaken using an existing methodology. Additionally, converting rural land certificates to land titles will also be facilitated for beneficiaries that choose to participate. To facilitate progress in the Government's title conversion approach, the Registration Activity will support mapping and related technology improvements and will help communities to identify and resolve any case-specific issues that could arise during tenure formalization.

Specifically, MCC Funding will support the following:

(i) Expansion of formal registration of land rights in urban areas. Based on lessons learned in a pilot project recently conducted by the Government, improve and continue the process of transforming urban housing land permits to titles in selected neighborhoods in Cotonou, Parakou, Porto Novo and possibly other cities. For each neighborhood selected:

(1) Investigation of the current status of land tenure and records and take measures to organize data and prepare the areas for the conversion process;

(2) Organization and engagement of the community as active and informed participants in the conversion process; and

(3) Measurement and mapping individual parcels, conduct public review of parcel maps to gain agreement among community members on the boundaries indicated on the maps, and

issuance of registered land titles (incorporating recommendations of the relevant assessments conducted under sub-activity described in Section 2(a)(i)).

(ii) Expansion of formal land rights in rural areas. Consistent with existing standards and guidelines, expand the creation of rural land plans, land tenure certificates and local land management capacity:

(1) For each rural commune meeting the site selection criteria and chosen by MCA-Benin for participation, (A) conduct of information campaigns, (B) assessment of the socio-economic and land tenure conditions of villages in the area and (C) prepare village profiles including documentation of any location-specific land tenure terms and norms;

(2) Based on the conclusions reached in paragraph (1) above and the application of the more general site selection criteria to the villages within each commune, final selection of villages for implementing the PFR process;

(3) For selected villages, production of land use and tenure maps (the PFR) using a participatory method and submission of the plan for public review and comment; and

(4) Based on the PFR, issuance of rural land use certificates and facilitation of formal, written records of subordinate land rights such as tenancies using improved approaches (e.g., standard lease template).

(iii) Facilitation of voluntary, "on-demand" conversion of rural land certificates into land titles. Conversion of rural land certificates to land titles through an efficient, affordable process. Priority will be given to villages that already have a PFR in place.

(iv) Improvements in capacity for mapping and surveying. To facilitate more rapid registration of land rights and to establish databases that support land information services e.g., for planning and fiscal purposes and for land market research, support the following actions, incorporating as relevant recommendations from sub-activity described in Section 2(a)(i):

(1) Creation of up-to-date digital imagery of Benin's land resources;

(2) Creation of regional scale maps for selected areas of the country indicating major topographic features and infrastructure systems, such regional scale maps will be an important tool to the production of an integrated set of parcel maps generated through the process of property rights formalization; and

(3) Following the completion of the design strategy described in Section 2(d)(iii), training for public and private

professionals in use of digital imagery and in improved surveying and mapping techniques.

(v) Improvement of local capacity to adapt to changing land tenure and use patterns and to resolve case-specific issues that might arise during the implementation of land tenure reforms by:

(1) Supporting communes in rural areas to develop improved social programs and planning for the specific needs of landless peasants and migrants;

(2) Supporting the provision of paralegal, informational and other advisory services related to land access and tenure security to citizens who otherwise would not have access to such services;

(3) Improvement of the capacity of citizens, local authorities and tribunals to resolve disputes related to land tenure;

(4) Establishment of transitional measures, in urban areas, to protect the rights of land occupants with certificates who delay or opt-out of the conversion process; and

(5) In a few pilot sites, introduction of the use of parcel layout plans in irregularly developed neighborhoods as a step prior to the permit-title conversion process (any site in which such plans would call for resettlement of persons to sites outside the neighborhood prior to the conversion of permits to titles may not be selected for participation).

The activities contemplated under this Registration Activity may begin with preparatory activities such as those described in Sections 2(b)(i)(1) and (2), 2(b)(ii)(1) and (2), and 2(b)(v) above under a provisional work plan; provided, however, full implementation will require a complete and final work plan which adopts, to MCC's satisfaction, the recommendations and findings of the relevant reports produced under the Project Activity described in Section 2(a)(i).

(c) Project Activity: Improve Land Registration Services and Land Information Management (the "Services and Information Activity").

To launch the process of moving Benin's land registration system services to the local level, new offices of the national property registry will be established (i.e., deconcentration), and, select communes will be supported as authority is transferred to them to manage their land (i.e., decentralization). This Activity will help design, equip and adequately staff new local registry offices. Communes should be chosen from among those in which implementation of the Registration Activity will occur, unless

otherwise agreed in writing with MCC. Some communes will also experiment with a cadastre or parcel-based registration system that may include additional land information used for planning and fiscal purposes. Finally, the Services and Information Activity will help make reliable land market information (e.g., recent sales and prices) available for use by households, investors and public offices.

Pending completion of the relevant studies in Policy Activity and incorporation of the recommendations into implementation plans, MCC Funding will support the design and implementation of more accessible, efficient, reliable land registration and information services. The implementation strategy for each sub-activity described below in paragraphs (i), (ii) and (iii) shall promote, to the extent practicable, the harmonization of national, regional, and communal land data and uses including the mapping and certificate lists generated during the PFR process.

Specifically, MCC Funding will support:

(i) Deconcentration of the National Land Registration Services.

(1) The establishment of regional offices in Benin's 12 prefectures and communal service offices in 24 selected communes; and

(2) In the offices established pursuant to paragraph (1) of this Section 2(c)(i), replacement of the manual system of document administration with an automated, digital records management system and training of land registry office staff in the operation of these systems.

(ii) Decentralization of Land Administration.

(1) Assist in development of capacity of approximately 50 communes for land administration, such assistance to include training, acquisition of equipment and transitional operational support; and

(2) Design and implementation of a pilot parcel-based or cadastre-registration system in 12 of the communes where MCC Funding will support decentralization; this sub-activity will support a more comprehensive, systematic approach to the establishment of a cadastre may be demonstrated in three of these twelve communes (one rural, one urban and one peri-urban).

(iii) Design and establishment of an electronic national land market data system.

(iv) Provision of technical assistance, training (consistent with the design strategy completed pursuant to Section 2(d)(iii)) and in relation to the capacity

to manage and to quality control the land information systems established in (i) and (ii) of this Section 2(c).

(d) Project Activity: Information, Education and Communication ("IEC") (the "IEC Activity").

MCA-Benin has an opportunity to promote good governance through appropriate transparency and consultation on the Project throughout the Compact Term. Moreover, informed and widespread participation in planning, dispute resolution and decision-making are necessary for an effective system of land registration. The IEC Activity will ensure citizens have a clear understanding of their rights and responsibilities, and are able to participate fully in the new processes of planning, land securitization and dispute resolution.

Specifically, MCC Funding will support IEC campaigns throughout the Compact Term to include but not limited to the following topics (other topics for these campaigns may be implemented, subject to MCC approval):

(i) Creation of broad awareness and understanding of the changing land policy regime and how it affects the rights of citizens; new processes and services; gender considerations, and, land markets and access to credit.

(ii) Conduct of specific public notice and awareness of each activity and sub-activity and of the results relevant to particular groups or communities.

(iii) Design of a training strategy precedent to implementation of any training in the Registration Activity or Services and Information Activity.

(e) Project Activity: Support Strategy and Programmatic Coordination (the "Support Strategy Activity").

This Project Activity will ensure coordination across the various Project Activities and sub-Activities of the Land Project, across agencies involved in the land policy reform process, and facilitate ongoing consultation with stakeholder groups. In the near term, this is critical to the Project effectiveness in undertaking a comprehensive and diverse set of reform actions. By the end of the Compact Term, the MCA-Benin Access to Land Project division could be transformed into a national coordination unit to lead the completion of the reform implementation process over a longer time period.

Specifically, in addition to an overall Land Project Director and the ordinary Project-related operating expenses, MCC Funding will support:

(i) Complement MCA-Benin management staff with a group of professionals dedicated to "change management and coordination," namely

a National Land Policy Reform Coordinator and a long term policy advisor familiar with international best practice in land administration. Among their roles are, potentially, to (A) lead the process of incorporation of the results of the Policy Activity into practice by both project implementing partners and more generally, in Benin; (B) provide guidance on policy and implementation oversight issues to senior Government officials and MCA-Benin management; (C) facilitate linkages with the Financial Services Project activities as relevant; (D) engage other donors in Project specific coordination; and, (E) respond to beneficiary requests and queries.

(ii) Establishment (including rules regarding selection, composition, roles and frequency of meetings) and convening of a Steering Group for periodic consultations on the implementation of the Land Project e.g., the development of annual work plans, key terms of reference, draft reports and otherwise as appropriate; including key stakeholder representatives, at least one person from each of the MCA-Benin Finance Services Project and the Justice Project divisions, and a gender expert.

(iii) Convening of discussion groups for each of the assessments in Section 2(a)(i) and for the White Paper and corresponding legal reform work.

(iv) Selection of sites for activities undertaken under this Project. Sites shall be chosen by applying selection criteria developed by MCA-Benin, subject to MCC approval, in a fair and transparent manner. MCA-Benin will publicize, including posting on the MCA-Benin Website, both the criteria for selection and the actual sites chosen, giving a brief justification for each site. These criteria will ensure that sites have the following characteristics, among others: representation of the North, South and Central regions of Benin; sites that exhibit both poverty and near-term economic opportunity e.g., urbanizing areas, high-value crop production sites, and places where market participation is expanding; willingness to comply with Benin's Family Code; site of activity under the Financial Services Project and the Justice Project; and location within the scope of the decentralized registry and land information systems to be established under Services and Information Activity set forth in Section 2(c) of this Schedule 1. These characteristics will be strategic to choosing sites that will more readily experience near-term, economically meaningful results including for the poor and women. The completion of this site selection shall be a condition

precedent to certain activities under this Project.

(v) Strengthening of the National Land Commission for the transformation of urban land permits to titles by providing the resources and guidance to enhance the quality and quantity of work it can perform.

3. Beneficiaries

The Land Project will encourage investment in urban and rural land. A new policy framework will enable a progressive transition between customary and administrative land management to markets and a title registration system. With lower transactions costs and fewer disputes, the climate for investment, productivity and finance will be improved. The Land Project will strengthen women's land rights under the law and, more importantly, work to ensure the new family code is practiced widely. In Cotonou, Porto-Novo and Parakou, the three main cities in Benin, up to 30,000 properties currently under administrative certificates will have titles. In twenty-four selected rural communes, as many as 83,000 families in 300 villages will receive a certificate, which can be subsequently turned into a land title. Other rural land users, without full ownership rights, will also have recorded agreements. Accurate land rights information will benefit potential local and international investors, including Benin's diaspora. For example, reliable and cost-effective inquiries of local records will be possible before entering leases or purchasing land. Finally, there will be better capacity for local planning and tax administration which will benefit local municipalities and civil society.

Roughly 115,000 rural and urban households will have more secure and useful tenure, affordable access to reliable land related information and services; a 50% reduction in court cases related to land disputes is targeted, and a modest 10% to 20% investment response is expected to boost income earning opportunities.

4. Donor Coordination; Private Sector; Role of Civil Society

In rural Benin, both Deutsche Gesellschaft für Technische Zusammenarbeit ("GTZ") GmbH (German) and Agence Francaise de Développement ("AFD") (French) have supported successful land use pilot projects under the Program for Natural Resources Conservation and Management. A first phase of these pilot projects has recently ended and both donors have expressed interest in continuing this work. The approach has

been standardized and guidelines established which will be used in implementation of this Project.

In urban areas the Government recently completed a pilot titling project that had positive but limited results. The limited results were due to substantial titling fees, a reluctance to being the initial participant ("first adopter"), insufficient public outreach, and administrative problems relating to certificates previously pledged as collateral. These limitations were identified in the Proposal and will be further addressed in the Implementation Plan for the Registration Activity.

The "Transformation of Assets into Usable Capital in the Least Developed Countries" project initiated by the International Land Coalition has chosen Benin as a pilot country. Under this International Land Coalition initiative, the UNDP will support a stakeholder analysis that could be used to refine the relevant components of the Project Activity Implementation Plans. The Foreign Investors Advisory Service of the International Finance Corporation ("IFC") will soon complete a study of land access and investment. Their preliminary recommendations are generally consistent with this Project, with some sub-activities herein having been derived from it.

Private professionals, e.g., surveyors, are currently called on by the government to implement tasks within the formalization process. To the extent feasible, the Land Project will promote out-sourcing and development of private sector services related to land registration and land markets. Among the key stakeholders that will guide the project implementation planning and participate in the studies undertaken pursuant to the Policy Activity, are bankers and businessmen and civil society organizations, e.g., women's groups. These are the end-users of the improved formal property registration system and their perspectives will provide much-needed insight into final definition of land policy and of the most practical approaches to implementation.

5. U.S. Agency for International Development

No USAID projects focus specifically on land access and security in Benin. However, MCA-Benin will continue to dialogue with USAID to identify areas in which it can complement or coordinate with e.g., women's legal aid.

6. Sustainability

One of the prime concerns that will underlie the series of evaluations conducted in the Policy Activity is the need to ensure that investments can be

sustained and that near-term results translate into long-term sustainable change. The Government has set ambitious targets for decreasing costs of land titling and registration and will be considering further rationalizing fee structures. The final choice of technical solutions for information management and for supporting the process of formalizing land tenure will be chosen on a best-value for cost in the specific context of Benin. The extensive consultation, information dissemination and training embedded across all the Project Activities will reinforce consensus and make it more likely that people can take advantage of the new land policy framework. The review of the law will identify and address disincentives to keep land records formal over time. All together, these features lend themselves to sustainability.

7. Policy; Legal Reform; and Procedural Changes

The Parties have identified the following policy, legal and regulatory reforms and actions that the Government shall pursue in support, and to reach the full benefits, of the Land Project, the satisfactory implementation of which will be conditions precedent to certain MCC Disbursements as provided in the Disbursement Agreement:

(a) Undertake policy, legal and/or procedural changes as called for in the final approved assessment reports produced under the Policy Activity: to simplify, streamline and make affordable all processes related to formal registration of land rights;

(b) Endorse a Land Policy White Paper produced in conjunction with this Project; issue a National Land Policy Decree endorsing its vision, adopt a law requiring compliance with it and pass a unified Land Code to consolidate the body of law that affects land rights;

(c) Reform laws, regulations and administrative processes as needed to remove constraints to the use of land as collateral;

(d) Undertake measures to improve the enforcement of Benin's Family Code, Rural Code, and other legislation, as identified in the gender strategy undertaken pursuant to the Policy Activity, which give and protect women's rights to land; and

(e) Undertake measures to ensure the property taxes do not discourage registration of land transactions and that safeguard against undue tax burdens.

8. Proposals

Under the Land Project, public solicitations for proposals are

anticipated to procure goods and services, as needed, to implement all Land Project Activities. MCA-Benin will develop, subject to MCC approval, a process for consideration of both such proposals. While competitive procurement will be the norm for this Land Project, MCA-Benin may also consider, using a process developed subject to MCC approval, any unsolicited proposals it might receive. Under Strategy Support Activity of this Land Project, a Land Project Steering Group and several working groups will be comprised to guide implementation planning and implementation of the assessments to be conducted under the Policy Activity. MCA-Benin will determine the number and types of participants in these groups. A public call for expressions of interest to participate will be made and candidates will be selected by a panel comprised of MCA-Benin's Land Project Director, Finance Project Director and one other person to be determined by MCA-Benin with MCC approval. The composition of this panel shall be made publicly available as will be their final selection for any particular group.

This Land Project also involves selection of particular communes, villages or urban neighborhoods to participate in Project Activities described in Sections 2(b) and (c) of this Schedule 1. As described in Sections 2(b) and (c), selection criteria for identifying communes, villages or urban neighborhoods to participate and a method to apply these will be developed by MCA-Benin, subject to MCC approval. The criteria, method and final selections (including justifications) will be made known to the public. In addition, MCA-Benin will incorporate into the method for applying the selection criteria a process for consideration of unsolicited offers of participation by particular communes, villages or urban neighborhoods.

Schedule 2 to Annex I—Access to Financial Services Project

This Schedule 2 generally describes and summarizes the key elements of the Access to Financial Services Project (the "Financial Services Project") that the Parties intend to implement in furtherance of the Financial Services Objective. Additional details regarding the implementation of the Financial Services Project will be included in the Implementation Plan and in relevant Supplemental Agreements.

1. Background

Benin has a shallow financial sector that provides limited services to micro and small- and medium-scale

enterprises (one or more of such categories of enterprises, "MSMEs"), particularly those that are involved directly or indirectly in the production of goods in Benin. For example, the banking sector, while possessing significant liquidity, has focused much of its credit services on short-term financings and on larger companies, such as multinationals with branches in Benin. Savings services in Benin have had limited penetration, with only a small fraction of the population owning a bank account. Although the microfinance sector is relatively vibrant in Benin, it faces significant challenges, including the weak institutional capacity of many MFIs and the need for additional monitoring and supervision. Moreover, much of the financial sector has focused on urban areas and on short-term commerce rather than long-term production.

The following factors contribute to the limited scope of financial services to MSMEs:

- High transaction costs, especially in rural areas;
- Lack of reliable information on clients;
- Lack of creditworthiness of many borrowers;
- Limited resources and capacity of some of the financial intermediaries; and
- Perceived risk of clients, in part due to lack of sufficient collateral (such as title) and the inability of lenders to effectively enforce debts or sell collateral upon default, and price and yield risks inherent in agriculture.

These factors constrain the growth of MSMEs in Benin. The high cost or unavailability of credit and other financial services, including savings, limits the capacity of small businesses in Benin to expand production and employment, to respond to business opportunities and to manage risk. Accordingly, alleviating these constraints, and creating a broader and deeper financial sector, should increase incomes of the poor that own, are employed by, or do business with MSMEs.

2. Summary of Projects and Activities in Project and Expected Results

The Financial Services Project is designed to improve the ability of MSMEs, particularly those directly or indirectly involved in production in Benin, to access financial services that will help them improve the sustainability of their businesses.

- The Financial Services Project includes the following two Project Activities:

- Financial Institution and Borrower Capacity Building Activity: This Project Activity aims to (a) improve the capacity of financial institutions to expand existing or establish new services for MSMEs and (b) improve the capacity of MSMEs to access and use expanded financial services productively by improving their creditworthiness; and

- Financial Enabling Environment Activity: This Project Activity will undertake to identify and support legal and policy changes that are needed to facilitate the expansion of the financial sector in Benin.

The M&E Plan (described in Annex III) will set forth anticipated results and, where appropriate, regular benchmarks that may be used to monitor implementation progress. Performance against these benchmarks and the overall impact of Financial Services Project will be assessed and reported at the intervals to be specified in the M&E Plan or as otherwise agreed by the Parties from time to time. The Parties expect that additional indicators will be identified during the implementation of the Financial Services Project. The expected results from, and the key benchmarks to measure progress on, the Project, Project Activities and sub-activities undertaken or funded under the Financial Services Project are set forth in Annex III.

Estimated amounts of MCC Funding for each Project Activity for the Financial Services Project are identified in Annex II of this Compact. Conditions precedent to each Financial Services Project Activity and sequencing of these Project Activities shall be set forth in the Disbursement Agreement or other relevant Supplemental Agreements or applicable component of the Implementation Plan.

The following summarizes the Financial Services Project Activities:

(a) Project Activity: Financial Institution and Borrower Capacity Building (the "Capacity Building Activity")

The overall goal of this Project Activity is to broaden and deepen the financial sector in Benin by improving both the supply of and demand for financial services. It is intended to build the capacity of financial institutions, as well as to improve MSMEs' creditworthiness and ability to use financial services productively.

This Project Activity involves two sub-activities:

- Demand and feasibility assessments; and
- A financial innovation and expansion challenge facility ("FINECF" or the "Challenge Facility").

(i) Demand and Feasibility Assessments. This sub-activity is intended to help shape the criteria and guidelines for the Challenge Facility described in Section 2(a)(ii), and to build on existing studies and improve the quality of information available to potential applicants. Satisfactory completion of these studies, and dissemination of the key findings, shall therefore be conditions precedent to the Challenge Facility. The below studies shall be conducted by an expert or experts retained after an international competitive procurement; terms of reference and procurement for these studies shall be subject to MCC approval. The results of the studies may be further divided or combined into one or more reports, so long as they cover the topics mentioned below or such other topics as the Parties may agree in writing. MCC and MCA-Benin shall consider cost structures where public and private costs for the studies are shared, with the private portion to expand over time.

MCC Funding, together with potential parallel or co-financing from other sources, shall support the following:

(1) Conduct of demand study for services to MSMEs. This will study the demand for innovative and expanded financial services (especially credit and savings) that may be provided to MSMEs by MFIs, banks and other financial institutions. To the extent practical, the study will assess demand particularly among MSMEs involved in production in Benin and in areas where Land Project is likely to be active.

(2) Conduct of economic feasibility and cost assessment. An economic feasibility and cost assessment will determine the effectiveness of certain MFI investments in technologies that have the potential to reduce operating costs, increase the scale of operations and expand services to MSMEs in previously underserved regions and sectors. The technologies that may be explored and identified include, without limitation, smart cards, e-payment systems, management information systems, and biometric technology. To the extent practical, these studies will focus on MFIs operating in areas where the Land Project is likely to be active.

(3) Conduct of demand study for business development services. This will study the demand for, and capacity within Benin to supply, business development services ("BDS") to MSMEs involved in agricultural and non-agricultural sectors. In order to determine capacity to supply such services, the study will investigate specialized BDS providers, MFIs and

agricultural and rural organizations. To the extent practical, these studies will focus on BDS in areas where the Land Project is likely to be active.

(4) Conduct of follow-up research and studies or assessments, as needed during the Compact Term, in the areas covered by the studies and assessments, set forth in paragraphs (1)–(3) of this sub-activity or other similar types of studies.

(ii) Financial Innovation and Expansion Challenge Facility. MCC Funding shall support a demand-driven and competitive mechanism that will co-fund with participants technical assistance and capacity building for both financial institutions and MSMEs. This mechanism requires potential beneficiaries to compete for support based on transparent criteria and to contribute a significant portion of the project costs. These elements help ensure that resources are directed to the most motivated institutions and to the most promising projects. MCC Funding shall finance up to 66% of the cost of selected projects with the share funded by MCC Funding decreasing over time (this is a cap, and in some cases the program criteria may set a lower percentage of support by MCC Funding). Operating costs shall not be eligible for support and the remainder of a project's costs must be provided by private enterprises (which may include NGOs). The Challenge Facility shall emphasize and encourage support for local service providers.

A qualified independent management entity or entities shall manage and implement the Challenge Facility (the "Facility Manager"), acceptable to MCC and MCA-Benin, selected after a competitive tender. Funding for the Challenge Facility shall be conditioned upon: (a) Feasibility and demand studies having been satisfactorily concluded; (b) terms of reference and procurement of Facility Manager being satisfactory to MCC and (c) operating guidelines and criteria for each Component of Challenge Facility having been developed in form and substance satisfactory to MCC. The Challenge Facility itself will not be making debt or equity investments or issuing guarantees to recipients of support; however, its support, it is expected, will enable institutions to better mobilize that capital from others.

MCC Funding will support the following activities, to be undertaken in the manner described:

(1) Identification of viable applicants. The Facility Manager shall filter expressions of interest and identify viable applicants for the three facility

components described below in paragraph (7).

(2) Provision of guidance to applicants and development of operating manual. The Facility Manager will provide guidance to applicants throughout the application procedure; including guiding viable applicants through the process of preparing a brief concept note for review, and ultimately providing assistance with development of the full application. Challenge Facility funds shall assist (where appropriate, based on need) in the development of applications that submit a concept note with significant potential. The Facility Manager shall develop a policy as part of the operating manual that will identify criteria for this assistance.

(3) Review of applications and selection of funding awards. Following submission of applications, an independent panel (the "Panel") shall review applications and make awards based on selection criteria described below and subject to MCC approval. MCA-Benin shall post on the MCA-Benin Website the names and descriptions of applications that receive awards, including amounts of awards.

(4) Development of award criteria. The Facility Manager shall develop (A) award criteria consistent with paragraph (6) below and (B) an operating procedures manual, each subject to MCC and MCA-Benin approval. In developing the award criteria, efforts shall be made to support activities that extend financial services to places outside Cotonou where the Land Project is (or is likely to be) active. Awards, if practical, will be awarded in kind rather than in cash, where technical assistance or equipment or services are required. Unless otherwise agreed by the Parties, the Facility Manager shall be responsible for selecting the provider through a competitive tender, in accordance with the procurement guidelines that govern the Compact.

(5) Support of donor coordination related to the Project Activity. The Facility Manager, to the extent practical, shall support capacity building activities that leverage other donor support or enable the beneficiary to attract financing from other sources (for example, enabling an MFI to attract long-term financing from a bank or enabling an MSME to obtain a loan). MCA-Benin and the Facility Manager shall seek to coordinate with other donors to ensure that the MCA assistance is as effective as possible.

(6) Development of criteria for support by the Challenge Facility. The selection criteria for funding under the Components shall be determined by the

Facility Manager, subject to approval by MCC and MCA-Benin. The Parties anticipate that the criteria will include (without limitation) the following categories:

(A) Market demand (there must be a demonstrated need for the project);

(B) Impact (the project must be expected to contribute, directly or indirectly, to improved incomes and opportunities for a substantial number of poor people; the applicant's commitment to gender issues will be a positive factor);

(C) Effectiveness (the project's impact must be expected to exceed its costs);

(D) Implementation Capacity (applicants must have the capacity to implement the project successfully);

(E) Demonstration effect (the project must be unlikely to be undertaken without the requested financial support. In particular, projects suggested by for-profit entities, while permitted, shall be scrutinized. In addition, pilot projects shall be preferred over projects that involve larger, untested ideas);

(F) Commitment (applicants must show their commitment through the share of project funding they are willing to contribute);

(G) Sustainability (the project must be expected to lead to the improved financial sustainability of funding recipients, and the impact of the project must be expected to extend beyond the termination of funding);

(H) Timing (the financial support of the project must be completed prior to the termination of the proposed Program);

(I) Limitations on Use of Funding (the proposed project must comply with the limitations on use and treatment of MCC Funding as set forth in Section 2.3 of this Compact); and

(J) Other (the Facility Manager shall develop such other selection criteria for Components, including any criteria unique to particular Component).

MCA-Benin shall post on the MCA-Benin Website the selection criteria developed by the Facility Manager, as approved by MCC and MCA-Benin.

(7) Implementation of Challenge Facility Projects. Unless otherwise agreed by the Parties, there shall be the following three sub-facilities (each a "Component" and each described more fully below) and to be funded equally; provided, however, there may be changes in allocations between the Components, subject to MCC approval:

- The Innovation Component;
- The Institutional Strengthening Component; and
- The MSME Business Development Component.

Support under each Component is expected to range from \$25,000 to

\$250,000 per institution. Applications can come from individual institutions or groups of up to ten institutions with one institution taking the lead. Where the total project cost exceeds \$500,000, the application shall be subject to heightened review and additional selection criteria. A call for applications shall be made up to twice per year, and the guidelines and criteria will be clearly communicated. Applications must be supported by a sound business plan by one of the eligible parties. In the event MCA-Benin receives any unsolicited written applications or proposals and such proposals have not been otherwise submitted to the Facility Manager through the call for applications, MCA-Benin shall forward such applications to the Facility Manager. The Facility Manager will evaluate such unsolicited applications in the same manner as those received through the call and identify viable applications in accordance with paragraph (1) above.

(A) The Innovation Component shall support financial institutions (non-banks and banks) that expand their product offering to MSMEs in previously underserved regions and sectors or introduce innovative technologies that lead to economies of scale and reduced operating costs and risks. For example, funding may be used to support investments in technology, management information or communications services, or to provide technical assistance and staff training to assist with the design, implementation and marketing of new financial products or services.

(B) The Institutional Strengthening Component shall seek to strengthen the capacity of selected microfinance institutions in Benin by improving internal controls, transparency, management, and ability to access additional stable financial resources from commercial banks and investors at reduced costs. As a result, MFIs shall be able to provide better quality and cheaper products and services to MSMEs. This Component shall fund technical assistance and grants for equipment or supplies to build capacity within MFIs that significantly serve MSMEs. Unless otherwise agreed by the Parties, 10% of grants under this Component shall go to each of the following:

(i) Promotion of transparency and good governance at MFIs, such as external audits and ratings and internal controls.

(ii) Improvement of management/analysis of long-term credit extended by MFIs with national or regional scope.

(iii) Training or other mechanisms to improve the ability of MFI management to access long-term financing and other stable resources.

(iv) Assistance with compliance with regulatory requirements.

(v) Evaluations of, and technical assistance to improve, operating capacity and efficiency of MFIs.

(C) The MSME Business Development Component shall support business development services for agricultural and non-agricultural MSMEs. The objective is to improve access to finance by improving the MSMEs' creditworthiness and ability to use financial services productively. This Component may include the following types of funding:

(i) Funding to financial institutions, such as MFIs: Assistance designed to improve financial literacy and business management (including through improved marketing, internal controls and accounting), as well as to improve the ability of borrowers to complete credit applications and access credit.

(ii) Funding to rural networks and organizations (such as co-ops and associations): Training and technology to agricultural and rural networks and organizations that present plans to build the creditworthiness and productivity of their MSME members.

(iii) Funding to specialized BDS providers: Training and technology to assist local specialized business development service providers in improving their capacity to provide sustainable services.

(8) Monitoring of progress of the Challenge Facility projects. Funding agreements with entities receiving benefits shall include annual performance benchmarks to indicate progress in meeting objectives, with the form of such agreements subject to the approval of MCA-Benin and MCC and will be specified as conditions to certain Re-Disbursements for the selected Challenge Facility project. In the case of the Institutional Strengthening Component, this might include items such as capitalization and other financial reporting requirements. In the case of the Innovation Component, this might include items such as increased amount of services, number of new clients for all services and number of new credit clients. Failure to meet these benchmarks may lead to termination of project support and in some cases a requirement that the entity repay a portion of the assistance received. Repaid funds shall be used as grant funding to finance other activities under the Challenge Facility.

(9) Conduct of information, education, and communications campaign. To

improve the quality and responsiveness of proposals, a portion of the MCC Funding for FINECF shall be used to support market information campaigns. The campaigns shall inform potential applicants about FINECF's objectives and guidelines for targeted technical assistance and grants. Where appropriate, certain trainings, technical assistance, and services will be provided through FINECF to incorporate information on strategies for avoiding environmental and social risks, using environmental and social review criteria and enhancing the sustainability of loans.

(b) Project Activity: Financial Enabling Environment Activity (the "Financial Enabling Environment Activity").

The objective of the Financial Enabling Environment Activity is to identify and support legal and policy changes that are needed to facilitate the deepening and expansion of the financial sector in Benin.

The Financial Enabling Environment Activity consists of the following sub-activities:

- Strengthening of Microfinance Supervision: Support for Cellule de Microfinance ("Cellule"), microfinance supervisory authority in the Ministry of Finance, and for audits of microfinance institutions.

- Multi-stakeholder forums: Conduct of electronic and/or physical forums to discuss potential improvements to laws and policies relating to an expanded financial sector and use of land titles as collateral.

- Improvement of regulatory environment: Support for financial sector regulatory changes by funding the analysis of and advocacy for such changes.

- Credit Bureau capacity building: Building the capacity of the MFI credit information bureau so that it can track the payment history of borrowers more accurately.

- Land titles as collateral: Provision of support to assist ability of financial institutions to use land titles as collateral in loans or refinancings.

MCC Funding will support the following activities:

(i) Strengthening of Microfinance Supervision.

(1) Build capacity of the Ministry of Finance and Economy's Cellule de Microfinance, which currently serves as the supervisory authority for microfinance in Benin, by providing support in areas such as technical assistance, training, and acquisition of software and equipment. The goal of this support is to improve the supervision, transparency and

governance of MFIs in Benin. MCC Funding will not be used for salaries of Cellule staff. This sub-activity will improve the capacity of the Cellule to increase its monitoring and licensing activities and use resources more effectively;

(2) Improvement of rules and procedures for microfinance. An outside advisor shall be engaged to work with the Cellule to improve rules and procedures in Benin regarding microfinance, and improve the efficiency and effectiveness of the Cellule. It is intended that the advisor shall come for approximately two weeks a quarter, at least for the first year, with limited follow-up visits thereafter; and

(3) Conduct of audits of microfinance institutions, with the goal of further strengthening the supervision of MFIs in Benin. Institutions to be audited will be recommended by the Cellule, with the criteria for selection submitted to MCC for approval. Funding for audits will be conditioned on the development by the Ministry of Finance and Economy of a plan, approved by MCC, for the sustainability of the conduct of audits beyond the Compact Term.

(ii) Multi-stakeholder forums.

(1) Design workshops and electronic forums to promote the discussion and exchange of ideas on policies and strategies for expanding access to financial services. Where relevant, implementers of other Projects in this Program (especially Land Project and Justice Project) will also have representatives involved in the design and implementation of these forums; and

(2) Conduct of workshops and electronic forums designed under paragraph (1) above. Topics for these forums shall be approved by MCC and MCA-Benin and are expected to include, for example (1) actions and initiatives needed to ensure successful use of land titles as collateral for loans (with the participation of the implementers of the Land Project, including the MCA-Benin Land Project division); and (2) legal and regulatory hurdles, at the national and regional level, to development and implementation of expanded financial services and new products. The Government, including the Ministry of Finance, shall participate in these forums and respond to reasonable issues raised therein. The presentations to and results or feedback generated from these forums shall be posted on the MCA-Benin Web site.

(iii) Improvement of regulatory environment. Following completion of initial multi-stakeholder forums convened pursuant to paragraph (ii)

above, MCC Funding shall support analysis of, and advocacy for, changes in West African regional and Benin national regulations of the financial sector that are intended to expand access to financial services prudently. On an annual basis, areas of focus for these regulatory changes shall be agreed upon between MCC and MCA-Benin, and are expected to include the priority reforms identified in the multi-stakeholder forums described above. Other stakeholders may, at this stage, present to MCA-Benin unsolicited proposals for interventions or activities that were not identified in the multi-stakeholder forums. In implementing these activities, MCA-Benin shall coordinate with other development organizations and government agencies involved in the financial sector in Benin and in West Africa.

MCC Funding will support the following:

(1) Technical assistance in identifying areas of regulatory reform; and

(2) Drafting of regulations and/or policy papers, and other acceptable advocacy and consensus building mechanisms in areas of regulatory focus approved by MCC and MCA-Benin of the areas of focus.

(iv) Credit bureau capacity building. To build the capacity of the Consortium Alafia (a microfinance trade association) credit information bureau, MCC Funding will support the following:

(1) Conduct of studies to assess demand, feasibility and cost-effectiveness of the recommended improvements; and

(2) Improvements to Consortium Alafia (a microfinance trade association) credit information bureau, following completion of the studies conducted pursuant to paragraph (1) above and subject to agreement between MCC and MCA-Benin that: there is sufficient demand, that the feasibility has been demonstrated, and that the proposed costs are acceptable. This activity will build capacity of the credit information bureau to track information and more precisely identify customers in a credit information database, including not just negative (i.e., missed payment) information, but also positive (i.e., satisfied payment) information of clients. The activity may also link the credit bureau database with databases that include bank customer data.

(v) Land titles as collateral for loans. This sub-activity will provide technical assistance and other capacity building for financial institutions, particularly MFIs, to support their ability to make title-based-loans or refinance portfolios of loans secured by land titles. The financial institutions to receive this

assistance shall be selected based on criteria developed by MCA-Benin, subject to MCC approval. It is expected that these financial institutions shall be located or serve areas covered by the Land Project. MCA-Benin shall post on the MCA-Benin Web site the selection criteria.

The activities MCC Funding will support under this sub-activity are expected to include, without limitation:

(1) Technical assistance to MFIs to improve credit management and assessment for secured loans and to assist them in using portfolios of secured loans as collateral for MFI financing obtained from banks;

(2) Development of standardized forms; and

(3) Installation of mechanisms of collaboration between financial institutions and land authorities to facilitate and accelerate the treatment of the files of application for credit.

3. Beneficiaries

The principal beneficiaries of the Financial Services Project are expected to be people who own, are employed by, or do business with MSMEs in Benin. Particular efforts shall be made to reach MSMEs in traditionally underserved areas of the country, as well as in areas where the Land Project is likely to be active.

The urban and rural poor will benefit directly, due to their (or the MSME with whom they do business or are employed) gaining access to a broader and more effective menu of financial products and services. They will also benefit indirectly, because financial sector deepening has been shown to lead to economic growth and disproportionately benefit the poor. The Financial Services Project, in particular, will benefit poor women. When managed effectively, microfinance has significant economic and social benefits for women, and by strengthening the microfinance sector in Benin, this Project will extend these benefits to a larger percent of the population. Showing commitment to gender issues will be weighted positively in the criteria for allocating funding in FINECF.

4. Donor Coordination; Private Sector; Role of Civil Society

Donor Coordination: The Financial Services Project complements the activities of other donors. The World Bank, United Nations Development Program, African Development Bank, and several bilateral donors have been active in MFI and other financial sector activities. The demand-driven nature of the FINECF and the requirement for

applicants to demonstrate the need for funding should enhance rather than duplicate donor efforts. In addition, policy and regulatory initiatives funded under this Project will be designed to complement and support the efforts of other donors that are leading similar initiatives at the regional level.

Private Sector: MSMEs are a particular focus of this project, and an assessment of their financial services needs will help drive the focus of the Challenge Facility and efforts to support policy and legal reforms.

Civil Society: The multi-stakeholder forums are designed to solicit suggestions from a wide range of voices in society to improve the regulatory and policy environment. In addition, a number of the recipients of FINECF funding are likely to be local NGOs.

5. U.S. Agency for International Development

USAID was consulted during the design of the Project, and their input will be solicited throughout the implementation and monitoring of the Financial Services Project. This Project will benefit from the lessons learned from USAID's main microfinance project which is nearing the end of its term. To the extent applicable, this Project will be coordinated with ongoing and future agricultural and other programs focused on increasing the breadth and quality of demand for financial services.

6. Sustainability

The Financial Services Project is not intended to create a new, sustainable institution or financial mechanism. Rather, it is intended to enhance the success of existing commercial actors that service MSMEs and make them more sustainable. Beneficiary institutions of the Challenge Facility, for example, can be expected to continue to implement improvements in financial technologies and institutional capacities after Program support ends, since participating institutions are required to present sustainable, economically viable, plans for assistance and demonstrate their financial commitment to the project. Moreover, by demonstrating best practices, the Project will also encourage other financial institutions or business development service providers to follow the innovations of participating institutions.

Support for portions of the Financial Enabling Environment Activity shall be conditioned on Benin having presented and developed a funding and sustainability plan for the microfinance supervisory authority in the Ministry of Finance that is satisfactory to MCC;

such plan may include mechanism for funding via national funds and private funds and adjustments in staffing.

7. Policy; Legal Reform; and Procedural Changes

The Parties have identified the following policy, legal and regulatory reforms and actions that the Government shall pursue in support, and to reach the full benefits, of the Financial Services Project, the satisfactory implementation of which will be conditions precedent to certain MCC Disbursements as provided in the Disbursement Agreement:

(a) The implementers of the Financial Services Project, including the MCA-Benin Financial Services Project division, shall participate in the development of the Land Policy White Paper through representation on the Land Project Steering Committee and in the relevant working group(s). The Government shall commit to adopt the reforms consistent with this Land Policy White Paper that are necessary to ensure effective use of land titles as collateral for loans and to enable financial institutions to effectively enforce their collateral interest in such title;

(b) The Government shall develop a funding and sustainability plan for the Cellule that shows appropriate use of MCC Funding and is satisfactory to MCC, including a commitment to finance significantly increased and adequate staffing for the Cellule as soon as practical through the budget, fees, or another sustainable mechanism. The amount funded by this sustainable funding mechanism must grow over time and eventually replace the MCC Funding. This commitment must be in form and substance acceptable to MCC. In addition, the Government shall commit to working with the outside advisor to the Cellule funded under the Compact and adopting reasonable reforms suggested by advisor;

(c) The Government shall develop and seek MCC approval of a funding and sustainability plan for the implementation of regular audits of microfinance institutions, as well as of a plan for selection of these institutions;

(d) Support for improvements to the credit bureau for microfinance shall be conditioned upon the results of a study (or studies) of feasibility and demand (with procurement approved by MCC). An implementation plan and detailed budget for improvements, based on the results of the feasibility and demand study (or studies), shall be submitted to MCC for approval;

(e) The National Policy for Microfinance shall be adopted in form and substance satisfactory to MCC; and

(f) The Government shall develop and advocate for, and use its best efforts to adopt and implement, those reasonable legal and regulatory reforms, if any, that are identified by the multi-stakeholder forums in the Financial Enabling Environment Activity as necessary to expand, significantly and sustainably, financial services offered to MSMEs. A yearly report, including a summary of the forums and a resulting work plan, shall be submitted to MCC for approval.

8. Proposals

Mechanisms for consideration of solicited and unsolicited Challenge Facility applications shall be as described above in Section 2(a)(ii).

Mechanisms for consideration of solicited and unsolicited proposals for regulatory reforms shall be as described above in Section 2(b)(ii).

In addition, as appropriate, MCA-Benin will develop, subject to MCC approval, a process for consideration of solicited and unsolicited proposals. With respect to solicited proposals, the evaluation process will include, consistent as appropriate with the Procurement Guidelines, the issuance of a published request for proposals with specific identified evaluation criteria and peer reviewers.

Schedule 3 to Annex I—Access to Justice

This Schedule 3 generally describes the key elements of an Access to Justice Project (the “Justice Project”) that the Parties intend to implement. Additional details regarding the implementation of the Access to Justice Project will be included in the Implementation Plan and in relevant Supplemental Agreements.

1. Background

A major obstacle to Benin’s economic growth is the inadequate physical and institutional infrastructure of the judicial system. The judicial system and courthouses serving Benin at independence in 1960 are largely the same system and courthouses that serves Benin now. Archaic laws, few and insufficiently trained judges, insufficient administrative capacity, and poor access to legal information combine with few and old courthouses to deny access to justice to many Beninese. If individuals or businesses dare to proceed into the maze of the courts, expense, delays (it takes an average of 570 days to enforce a contract), and the risk of corruption mean that justice is a highly uncertain result. Business decisions are skewed, and business expansion is stifled by the

reality of slow, costly and uncertain justice.

Throughout West Africa alternative dispute resolution (“ADR”) is becoming an increasingly viable means to resolve commercial disputes. As part of Benin’s obligations under OHADA, the Centre d’Arbitrage, Mediation et Conciliation (“CAMEC”) has been formed within the Chamber of Commerce and Industry in Cotonou. It has not yet begun to conduct arbitrations or other ADR activities.

The Chamber of Commerce (the “Chamber”) has initiated and is managing a successful program in business registration that this Justice Project will build upon. Rather than a lengthy corporate registration proceeding through many offices in many agencies, the Chamber has developed a service that has already reduced the average time for the registration of companies from over three months to ten days by centrally managing the process of corporate registrations. The Business Registration Center is based in Cotonou with small satellite offices in Porto-Novo, Abomey, and Parakou.

The Government has already begun an extensive process of legal reform: hiring additional new judges and court personnel, improving court administration, and building new courthouses. In addition, other donors have already made commitments to the improvement of Benin’s judicial infrastructure. The Inspection General service provides supervision for the courts. It assures that courts are all performing with uniform quality, provides guidance to new judges, and initiates investigations when improper behavior by court personnel is reported. MCC’s contribution will fit with Benin’s ongoing legal reform plans and complement the work of other donors. A notable failure of the current judicial system is the lack of access to legal information and the absence of a central location for legal information—whether it is the decisions of courts, the laws of Benin, or legal texts, either in paper or electronic form. Greater knowledge of the laws and courts of Benin for large numbers of people will lead to greater certainty in commercial transactions, reduced demand for courts in minor disputes, and less fear of the judicial system for more serious disputes. Informed public awareness of legal and judicial issues is critical to public confidence in the judicial system. For this reason, the Government proposed the creation of a Legal Information Center.

This Project also aims at assisting litigants in Benin currently suffering from case backlogs and litigants or

potential litigants who live great distances from current courts. New courts will be built, to an established modern design, beginning late in year two of the Justice Project. Training of current judges and other court personnel will begin in year one of the Justice Project. A financing facility to support legal aid to assist poorer litigants will also be established. The construction of the courts will be linked to growth and training of new judges; as noted Section 6 below, the Government of Benin will hire new judges and other personnel on an appropriate schedule to staff the new courts and to allow for training prior to their assignment to the courts. Finally, the Justice Project will increase the likelihood of success of both the Land Project and Financial Services Project by increasing speed and likelihood of contract enforcement.

2. Summary of Project Activities

The overall objective of the Justice Project is to improve the investment climate by increasing the confidence in the judicial system to enforce contracts. In response to the conditions noted above, this Project has three main components:

- Support the expansion of the Center of Arbitration, Mediation and Conciliation at the Chamber of Commerce;
- Improvement of the Registration Center (Guichet Unique); and
- Improved services of courts including capacity building and training for judges, court personnel, legal aid, and Inspection General service; creation of a legal information center; development of a public awareness campaign; and the construction of new courthouses.

The following summarizes the contemplated Justice Project Activities. The M&E Plan (described in Annex III) will set forth anticipated results and, where appropriate, regular benchmarks that may be used to monitor implementation progress. Performance against the benchmarks and the overall impact of the Justice Project will be assessed and reported at the intervals to be specified in the M&E Plan or as otherwise agreed by the Parties from time to time. The Parties expect that additional benchmarks will be identified during the implementation of the Justice Project. Estimated amounts of MCC Funding for each Project Activity for the Justice Project are identified in Annex II of this Compact. Conditions precedent to each Project Activity and sequencing of the Project Activities shall be set forth in the Disbursement Agreement, other relevant

Supplemental Agreements, or component of the Implementation Plan.

(a) Project Activity: Expansion of the Arbitration Center (“Arbitration Center Activity”).

Increased access to ADR will reduce the burden on courts, reduce the cost of dispute resolution, and allow for faster resolution of commercial disputes.

Companies and individuals engaging in commercial activities are the expected beneficiaries for this Project Activity.

Increased economic activity and a growing number of entrants to commercial activity are expected results, supporting the Program Objective. This Project Activity will facilitate a plan to fully launch operations of CAMEC involves capacity building, public outreach, and budgetary support (e.g., staff costs).

MCC Funding will support the following activities:

(i) Training for arbitrators and CAMEC staff in arbitration procedures and ADR and arbitration management.

(ii) Development of institutional management and operational procedures.

(iii) Promotion of public outreach, including production of training and publicity materials and maintaining of Web site with relevant documents and information.

(iv) Support for staff salaries at the CAMEC; provided, however, MCC Funding will gradually phase out over the Compact Term as an incentive for CAMEC to promote a commercially viable pricing structure for provision of and access to services of the Arbitration Center and to ensure sustainability of the activity after the Compact Term.

(v) Acquisition of new equipment and some additional rented space for CAMEC as increased caseload warrants.

(b) Project Activity: Business Registration Center (Guichet Unique) (“Business Registration Activity”).

The Business Registration Project Activity is intended to greatly reduce the steps required to register a company. This Project Activity will track the reduction of registration time year by year, from the current average of twenty days. MCC support will strengthen current operations in Cotonou, Porto-Novo, Abomey and Parakou and support opening new satellite offices in Natitingou and Lokossa. Investment in existing and new offices will further speed, simplify and reduce the cost of corporate registration, and make this service available to more enterprises. It is expected that these improvements will encourage the formation of companies, boost employment in the formal sector and increase incomes.

MCC Funding will support the following activities:

(i) Evaluation of the performance of existing offices to identify necessary improvements and assist with design of new offices and services of the Business Registration Center.

(ii) Introduction of new services such as a system for registration under the Investment Code.

(iii) Training of new staff in regulations, rules and procedures related to formation of companies.

(iv) Development and maintenance of an electronic database of companies in Benin.

(v) Provision of computers and other office equipment for new offices of the Business Registration Center.

(vi) Conduct of public outreach to business community including seminars and publicity or informational materials.

(c) Project Activity: Improved Services of Courts (“Courts Activity”).

The Courts Activity will allow Benin to move forward its ten year plan for improvement of the judiciary by providing basic training, court management, guidance, and physical and institutional infrastructure.

MCC Funding will support the following activities:

(i) Training of judges and court personnel.

(1) Prior to commencing of activities described in paragraphs (2) through (5) below, design of a comprehensive capacity building strategy for judges and court personnel;

(2) Training of both new and current judges in substantive and procedural matters, particularly in commercial issues as the laws of Benin are modernized and harmonized, under the OHADA process, with the rest of francophone West Africa;

(3) Training of court personnel, including clerks and court officials, in modern case management procedures, use of technology, and other substantive and procedural matters as the courts modernize;

(4) Continuing training of current judges and court staff as well as training of new hires, particularly on commercial issues. This activity will build on training programs already underway supported by various European aid agencies; and

(5) Development of comprehensive training materials and judicial bench-books and other documents to support improved functioning of the courts and further development of local training capacity, to support efforts to institutionalize the capacity building process.

(ii) Inspection General Service. To improve the efficiency of the Inspection

General Service and its ability to serve the increased number of courts contemplated by Benin’s legal reform plan, the work of other donors and this Project:

(1) Training of new and existing personnel of the Inspection General Service to improve their ability to supervise the courts, advise court staff, and identify unethical behavior; and

(2) Development of training materials to build Inspection General Service capacity.

(iii) Legal Information Center. The proposed Legal Information Center to be located in Cotonou will serve not just as law library, but as a center for the disseminating of court decisions, laws, and other legal information. The Legal Information Center will be open to the public, both physically and electronically. The Legal Information Center will: Serve as a central location for case records; convert case records and other legal documents to electronic media; provide public access to laws and other legal documents; serve as a resource and training center for judges, court personnel, and government officials.

MCC Funding will support the following activities:

(1) Following the completion of the Category B environmental and social assessment framework specified in Section 2(c)(v)(3) and an individual EMP or environmental assessment (including an EMP) as determined according to the framework and subject to adoption of the Procedural Code and other Codes specified in Section 2(c)(v)(1), construction and equipment of a new Legal Information Center. Hazardous and toxic materials will not be permitted to be used or result as by-products from construction and operation of the buildings;

(2) Development of an electronic database of legal information and documents; and

(3) Conduct of a public awareness campaign to demystify law and legal proceedings to the broader public. This will involve “open days” at the courts and the Legal Information Center, publication of legal information for non-lawyers, information dissemination via the media, and other outreach efforts such as coordination with the outreach activities of the CAMEC and Business Registration Center to introduce consumers and the broader public to the workings of each institution. Media outreach will also be an important aspect to the public awareness campaign, along with publication of informational and legal materials in French and major local languages, and the development of a web-based

information system based at the Legal Information Center.

(iv) Legal Aid.

(1) Support of poorer litigants gaining access to legal services by law professionals (lawyers and others) and to information materials such as on processes and rights by establishing a fund for this purpose. Initial funding will be USD\$1,000,000. An additional matching amount of up to USD\$1,500,000 will be provided from MCC Funding on a dollar for dollar basis to match funds provided by non-MCC sources, such as other bi-lateral or multilateral donors, foundations or corporations; and

(2) Funding shall be provided to, and services provided by, existing non-governmental organizations ("NGOs") active in Benin, or by a not-for-profit entity established in the future to provide these services. MCA-Benin shall conduct a competitive selection process to determine the best value providers of legal aid services eligible for funding. The selection process shall include an evaluation by, among others, the Justice Project Manager of proposals by candidate NGO for use of funds. Final selection of NGOs and awards shall be subject to MCC approval. Funding shall support selected NGOs implement the proposed legal aid services.

(v) New Courthouses.

This sub-activity, the capstone to the Justice Project, will support the creation of new courthouses "one appellate court in Abomey, a region that is currently lacking in appellate court capacity, and eight courts of first instance (Tribunaux de Premier Instance) ("TPI") distributed throughout the country. Another key requirement for this activity will be that a system for case management is developed as described in Section 2(c)(vi) and that support of legal aid services is undertaken as described in Section 2(c)(iv), likewise in keeping with modern best practices, and implemented prior to construction of the courthouses.

MCC Funding will support the following:

(1) Evaluation of Codes to be adopted. As condition to MCC Disbursements and prior to commencement of construction, a new Code of Civil Commercial, Administrative and Social Procedure of Benin ("Procedural Code") and such other codes as may be identified by the time specified in the Disbursement Agreement and agreed by the Parties, must be passed by the legislature and adopted by the Government. The Procedural Code, as passed by the legislature must be in

keeping with regional best practices, as determined by independent experts;

(2) Select sites for courthouses. MCA-Benin shall select sites based on its identification of viable sites. MCA-Benin shall consider input from civil society and other stakeholders, including any unsolicited proposals for sites from communities or others. The criteria for selection of courthouse locations shall be as follows: (i) Population density in surrounding area; (ii) commercial activity in the surrounding area; (iii) proximity of proposed court site to underserved populations and other courts; (iv) links to other Projects, in particular the Land Project and Financial Services Project and (v) restrictions on selection of sites that are (A) contaminated with toxic or hazardous waste, (B) require major service infrastructure improvements (such as new roads, water supply or treatment, transmission lines or sewage treatment), or (C) in sensitive locations as defined in Appendix C of the Environmental Guidelines;

(3) Preparation of a Category B environmental and social assessment, pursuant to the Environmental Guidelines, for the courthouses and the Legal Information Center will be required to provide pertinent guidance in the form of a framework document. This will allow more rapid and efficient environmental and social assessment of the courthouses and the Legal Information Center. This document will be used to screen sites, according to MCC Environmental Guidelines, focus the content of Environmental Management Plans ("EMPs") or any Resettlement Action Plans ("RAPs"), and provide standard contract/bid clauses for impact mitigation during construction and operation. The framework document will provide criteria for determining when individual environmental and social assessments or solely EMPs of the buildings are needed and will incorporate procedures to address economic or physical displacement consistent with the World Bank policy on Involuntary Resettlement in effect as of the date hereof;

(4) Subject to completion and satisfactory results of the environmental and social assessment framework conducted under paragraph (1) above and an individual EMP or environmental and social assessment (including an EMP) for each construction, as determined according to the framework, construction of four TPI and one appellate court can commence as early as the end of year two of compact, assuming code modernization,

case management, and training goals and other conditions precedent have been achieved. Process of construction of final four courthouses may commence one year after construction starts for first set of TPI, assuming continued satisfaction of conditions precedent and other criteria such as case management and training. Hazardous and toxic materials will not be permitted to be used or result as by-products from construction and operation of the buildings; and

(5) Following the construction undertaken in accordance with paragraph (2) above, equip newly constructed courthouses. This includes computers, furniture, and other necessary items and systems.

(vi) Case Management. To the facilitate increasing the speed and efficiency of the processing cases through judicial system, MCC Funding will support the following:

(1) Conduct of a survey of current case management system and develop recommendations for improvement in case management and will include recommendations regarding administrative risks including time limits to process cases, procedures for assignment of judges to cases, and technology to manage case flow through court system; and

(2) Development by the courts of improved regulations and more effective administrative processes to manage cases and implementation of those regulations and processes. Implementation will include incorporation of recommendations developed in paragraph (1) above which MCA-Benin and MCC deem advisable.

3. Beneficiaries

The intended beneficiaries of the Justice Project will be ordinary citizens as well as MSMEs and other commercial actors. Currently only 8% of commercial cases received in a given year are treated by the system. This case backlog diminishes confidence in the system and increases the potential for corruption. Benin was recently rated by the World Bank's "Doing Business in 2006" as among the most difficult countries in the world to do business. By improving the capacity of the court system to resolve claims, the Project will benefit all users hindered by delays and backlogs. It will also support the benefits of the Land Project and Financial Services Project by increasing the likelihood of timely and appropriate enforcement of contracts and resolution of other disputes. The Legal Information Center is expected to reach a large class of beneficiaries including judges, government officials, business

representatives, and the general public. Poorer litigants will benefit from the legal aid services.

4. Donor Coordination; Role of Private Sector and Civil Society

(a) Donors. The Justice Project will benefit significantly from lessons learned by the European Union ("EU") regarding the construction and equipping of new courthouses. A current EU project is underway to refurbish several existing courthouses and build four new TPIs and appellate court. Assuming the Beninese and others are satisfied with the design of the courts being built by the EU, the Justice Project would follow the same design. Several donors have been engaged with projects related to Access to Justice. Bi-lateral assistance from France and Belgium has supported re-drafting of codes for which MCC will require enactment as conditions precedent to court construction. MCC will coordinate with in particular AFD in connection with the adoption and development of the Procedural Code as the AFD has supported the code redrafting efforts. Their involvement provides some comfort that the codes are modern and harmonized, where appropriate, with codes of neighboring countries. Neither the World Bank nor the African Development Bank have justice sector projects in Benin but both are interested in promoting passage of modernized codes as it will increase the likelihood and degree of success of other World Bank programs. It is anticipated that some of the NGOs supported by the legal aid services activity described in Section 2(c)(iv) may funded as well by other donors and it is also possible that some of the matching funds contemplated with respect to that activity could be provided by other bilateral or multilateral donors (as well as private sector or other sources).

(b) Private Sector. It is anticipated that members of the private bar and business sector will actively participate in the public outreach and other activities of the Business Registration Center, Legal Information Center, and the CAMEC.

(c) Civil Society. Civil society and other stakeholders, including communities or municipalities, will have the opportunity to participate in courthouse selection process or submit proposals for sites as described in Section 2(c)(v)(2).

5. U.S. Agency for International Development

USAID supports a Women's Legal Rights Initiative in Benin that has

offered valuable assistance in the development of this Project.

6. Sustainability

To sustain the Justice Project there will need to be sufficient demand for Alternative Dispute Resolution in Benin and satisfaction by the Government of key conditions precedent related to of court construction, and court design and maintenance. To mitigate the risk of insufficient ADR-related demand, market pricing mechanisms will be built into the CAMEC support. This will promote development of a fee-supported ADR system. Initiation of court construction process will be set at the end of year two of the Compact Term, which will give the Government time to make necessary required Project-related legal reforms. Construction and maintenance will also benefit, respectively, from EU experience in court construction, and be sustained by the increased annual budget of the Ministry of Justice. The Government will ensure the sustainability of the Legal Information Center by ensuring support for adequate staffing of Legal Information Center during and following the Compact Term.

The key to ensuring environmental and social sustainability of the Project is ongoing public consultation. By the time specified in the Disbursement Agreement, MCA-Benin shall engage the Environment and Social Assessment Director, subject to MCC approval, as described in Section 3(d)(iii)(3) of Annex I.

Environmental and social analyses of the courthouses and the Legal Information Center will be conducted as part of the technical survey and design to determine the environmental impacts and existence of economic and physical displacement. In addition to the analyses, EMPs satisfactory to MCC will be developed, implemented and monitored during project implementation.

Disbursement of MCC Funding will be contingent upon issuance of environmental licenses, as needed, or any other required permits and subject to the environmental and social assessment review described as requirements under Sections 2(c)(v)(3) and (4).

7. Policy; Legal Reform; and Procedural Changes

The Parties have identified the following policy, legal and regulatory reforms and actions that the Government shall pursue in support, and to reach the full benefits, of the Justice Project, the satisfactory implementation of which will be

conditions precedent to certain MCC Disbursements as provided in the Disbursement Agreement:

(a) Passage of the new Procedural Code and other codes as identified in accordance with Section 2(c)(v)(1). The new Procedural Code should include adequate provisions pertaining to the speed with which court cases are heard, and the means by which cases proceed through the courts;

(b) Development and implementation of enhanced case management techniques and implementation of the case management system developed based on recommendations formed pursuant to Section 2(c)(vi), including modernized methods of case assignment and case tracking, even though not required as part of the Procedural Code;

(c) Development of CAMEC activities by measures, acceptable to MCC, to facilitate the removal of old cases from the TPI to CACeM;

(d) Undertake, as necessary, steps to support the enforceability of arbitral awards;

(e) As necessary and if evaluation of Business Registration Center indicates warranted, undertake improvements in regulations, policies or procedures related to business registration and company formation;

(f) Hire and train new judges and court personnel sufficient to staff new courts; and

(g) Commitment by the Government of budgetary resources to support salaries for judges and other court personnel and for the maintenance of those courts constructed under this Project.

8. Proposals

Objective selection criteria for the selection of NGOs to be supported by the legal aid sub-activity of the Courts Activity shall be as specified in Section 2(c)(iv)(2). Objective selection criteria and procedures for determining the locations (towns) of the courthouses to be constructed under the Courts Activity shall be as specified in Section 2(c)(v)(2).

Schedule 4 to Annex I—Access to Markets Project

This Schedule 4 generally describes and summarizes the key elements of an Access to Markets Project that the Parties intend to implement in furtherance of the Markets Objective (the "Markets Project"). Additional details regarding the implementation of the Access to Markets Project will be included in the Implementation Plan and in relevant Supplemental Agreements.

1. Background

Benin's economy is dependent on cotton production, subsistence agriculture and an increasingly uncompetitive Port of Cotonou (the "Port"). Key impediments to sustainable economic growth are its poor investment climate and lack of dynamic private sector activity. Benin has long been a strategic trading center and a keystone in the trade corridor that links the landlocked countries of the West African Economic and Monetary Union ("WAEMU") with Nigeria, Europe, and the Americas. Trade and transport have traditionally made up a large part of the nation's economy, and limitations in Benin's transportation network have increased costs for raw materials to the country and the region. The bottleneck at the Port has impeded access to external markets by agricultural and fish/shrimp producers and processors. Improved Port facilities will lower production and marketing costs and encourage greater agricultural production as well as increased trade between Benin and other countries.

This Project is designed to promote access to markets by improvements to the Port of Cotonou, including a fish inspection facility. This Project aims to improve Port performance and security, expand capacity, and reduce costs. A more efficient Port will contribute to importer and exporter value-added through reducing transportation costs and improving product quality. Moreover, because Benin's road transport industry is relatively competitive, it is likely that the anticipated reduction in shipping costs will be passed on to wholesalers and traders, and ultimately be reflected in consumer prices. Finally, both the Project Activities and the policy or other actions the Government will undertake as set forth in Section 6 of this Schedule 4 are designed to reduce the potential for corruption at the Port.

Expanding the Port to meet Benin's long-term developmental needs will require a significant number of large investments. Due to the complexity and scope of the Port expansion plan, not only will it take several years to design, build and construct the facilities to meet a growing future demand but it will also be necessary to accommodate current demands by upgrading existing Port facilities.

2. Summary of Projects and Activities in Project and Expected Results

The objective of the Markets Project is to improve the Port of Cotonou through increasing the efficiency at the Port and volume of goods flowing through the

Port and reducing vehicle operating costs.

The Markets Project includes the following Project Activities:

- **Studies and Port Institutional Activity:** This Project Activity will include key feasibility studies, environmental assessments and revision of master plan for the Port, as well as the computerization and streamlining of customs clearance procedures for merchandise, technical assistance and training in information systems and Port management, and improvements to legal, fiscal and institutional frameworks that govern the sub-activities.

- **Port Security and Landside Improvements:** This Project Activity will address the safety and security aspects of the Port for compliance with international safety requirements (conforming to International Ship and Port Security Code ("ISPS") standards). The expansion and reconfiguration plan for the Port under this Project Activity includes: major improvements to the physical infrastructure including the access gates, access road, vehicle access facilities, storage areas, and the construction of a compulsory inspection facility for fish and seafood products with associated training and technical assistance.

- **Waterside Improvements:** This Project Activity will support the construction of a new South wharf to accommodate additional containerized merchant marine vessels and a dry bulk conveyor system; environmental management improvements; and, an environmentally appropriate solution to address sedimentation of the Port's entrance.

The M&E Plan (described in Annex III) will set forth anticipated results and, where appropriate, regular benchmarks that may be used to monitor implementation progress. Performance against these benchmarks and the overall impact of the Markets Project will be assessed and reported at the intervals to be specified in the M&E Plan or as otherwise agreed by the Parties from time to time. The Parties expect that additional indicators will be identified during the implementation of the Markets Project. The expected results from, and the key benchmarks to measure progress on the Project, Project Activities and sub-activities undertaken or funded under the Markets Project are set forth in Annex III.

Estimated amount of MCC Funding for the Project Activity for this Markets Project is identified in Annex II of this Compact. Conditions precedent to the Project Activities and sequencing of the Project Activities shall be set forth in

the Disbursement Agreement or other relevant Supplemental Agreements or component of the Implementation Plan.

The following summarizes the Markets Project:

The Project will address institutional, landside and waterside improvements necessary to meet the unmet demand and address resulting inefficiencies. Because of the complexity and timing of the sub-activities, the environmental and social assessment requirements will be implemented in a phased manner.

To support the expansion and improvement of the Port, MCC Funding will be used for the following activities:

(a) Project Activity: Feasibility Studies and Assessments ("Studies Activity").

(i) Conduct of initial technical studies (engineering pre-feasibility, environmental and economic) ("Initial Technical Studies") to evaluate in further detail the costs, engineering and environmental aspects of the key waterside components of the Markets Project. These Initial Technical Studies will:

(1) Objectively evaluate alternative schemes that address sedimentation of the harbor access, including but not limited, to the use of other studies and proposals related to erosion control and environmental impacts;

(2) Evaluate the dredging for the new South wharf;

(3) Perform any additional sampling and testing of sediments related to the wharf or other areas to be dredged as part of the harbor access;

(4) Determine needs as well as options for disposal of dredged material;

(5) Evaluate the engineering to the pre-feasibility level; and

(6) Provide expanded information on costs and benefits.

Based on the recommendations of the Initial Technical Studies, the Government shall select, subject to MCC approval, its preferred option that will both reduce sedimentation of the Port access channel and not adversely impact coastal erosion and also select, subject to MCC approval, disposal of dredged material and other key waterside component options.

(ii) Following the satisfactory completion of the Initial Technical Studies, conduct of detailed engineering and economic feasibility studies of the entire Markets Project, including studies to ensure appropriate scheduling and budgeting have been established. These feasibility studies shall include, but not be limited to, studies regarding:

(1) Port container scanning system; and

(2) A dry port facility at Tori.

(iii) Following the satisfactory completion of the Initial Technical

Studies, conduct of Environmental and Social Impact Assessments (“ESIAs”) for landside improvements described in Section 2(c)(ii), fish/seafood inspection and handling facility services described in Section 2(c)(iii), and waterside improvements described in Section 2(d). The ESIAs will address landside and waterside in the following manner:

(1) The ESIA for Port landside rehabilitation/ restructuring shall incorporate an Environmental Management Plan/System (based on an audit of existing operations as well as the assessment of the proposed activities), an overall Environmental Management Plan, language for bid solicitations and construction contracts to implement the EMP, and, if needed, a Resettlement Action Plan (consistent with World Bank Policy on Involuntary Resettlement), all of which shall be subject to MCC approval. Port Autonome de Cotonou (“PAC”) shall adopt the EMP/EMS, implement the HIV/AIDS awareness program and implement any RAP, prior to initiation of construction under the landside improvements activity described in Section 2(c)(ii).

(2) The ESIA for waterside improvements will include an EMP as well as language for bid solicitations and construction contracts to implement the EMP, all of which shall be subject to MCC approval. Such language must cover capital and maintenance dredging and dredged material disposal as well as construction work. PAC shall adopt the EMP prior to initiation of any construction. The ESIA for the waterside may be combined with the ESIA for the landside, if timing of construction activity permits.

(iv) Following the satisfactory completion of the Initial Technical Studies and feasibility studies work to be conducted under Section 2(a)(ii), development of a revised master plan for the Port that consolidates the expected improvements, operational environment and land use for long term planning purposes which master plan shall be completed in conjunction with the feasibility studies work to be conducted under Section 2(a)(ii) and which master plan may be updated periodically thereafter.

(b) Project Activity: Port Institutional and Systems Improvements (“Port Institutional Activity”).

(i) Computerization and streamlining of customs clearance procedures for merchandise including information technology systems, warehouse computer management system, and transit cargo system;

(ii) Improvements in the legal, fiscal and institutional frameworks that

govern Port activities including restructuring concession agreements with stevedoring companies, conducting independent financial audits and project reviews, and implementing with additional consultants the existing and new Port rules and regulations based upon consultant recommendations for port best practices. PAC and the Government will cooperate with the MCA-Benin consultant(s) including providing unlimited access to the PAC Director General, Customs Department and other PAC related entities for development, recommendation and evaluation of potential improvements in PAC and Customs Department policies, procedures, rules and regulation; and

(iii) Training for tug boat and ship pilots for night docking of petroleum cargo ships.

(c) Project Activity: Port Security and Landside Improvements (the “Port Security and Landside Improvements Activity”).

Subject to the satisfactory results of the Studies Activity assessments and studies described in Section 2(a), a plan for renegotiation of PAC concessions and reallocation of berths and land usage satisfactory to MCC, implementation of any RAP, adoption of the EMP and implementation of the HIV/AIDS awareness plan, MCC Funding will support the following capital improvements and other goods and services at the Port:

(i) Port security. Acquisition and installation of, and training associated with, an integrated security system for compliance with ISPS standards, including oceanographic monitoring systems, video surveillance systems, and radio communications systems.

(ii) Landside Improvements.

(1) Front-end engineering and design for major civil and mechanical facilities and works, which shall be completed prior to any sub-activities set forth in this Section 2(c)(ii);

(2) Port road construction and rehabilitation including upgrading and expanding existing Port roads, illumination, and gate system. Other works include constructing an east-side gate, rezoning by berth usage, land and warehousing to achieve efficient operations;

(3) Construction of a dry bulk conveyor system leading to storage/truck loading bins provided by private sector operators;

(4) North wharf structural improvements including reinforcements to wharf substructure (as needed) to accommodate rail mounted gantries and mobile cranes;

(5) Acquisition and implementation of pollution control equipment necessary

to respond to significant discharges of hazardous materials in the Port and other equipment and activities related to the EMP/EMS;

(6) Installation of fire control and prevention equipment;

(7) Construction of a compulsory inspection base for fish and seafood products and facilities for efficiently off-loading and handling product before transport to processing centers, market, or ships for export; and

(8) Technical assistance and training of appropriate regulatory agency staff in seafood/fish inspection and safety administration.

(iii) Fish/seafood inspection and handling facility (“BOC”) services.

(1) Development and adoption of a management plan for the BOC including required training and technical assistance program targeted at inspectors, other employees, and user associations;

(2) Adoption of improved design and procedures for BOC including mechanized off-loading based on required demand study; and

(3) Development and implementation of a user fee system to defray some operation and maintenance costs of the BOC.

(d) Project Activity: Waterside Improvements (the “Waterside Improvements Activity”). Upon completion, satisfactory to MCC, of the Studies Activity described in Section 2(a) and the execution of PAC concessions and reallocation of berths and land usage, each with results satisfactory to MCC and subject to adoption of the EMP and implementation of the HIV/AIDS awareness plan, MCC Funding will support the following waterside improvements:

(i) Front-end engineering and design for major civil and mechanical facilities, works and dredging and dredged material disposal, which shall be completed prior to any sub-activities set forth in this Section 2(d).

(ii) New South wharf construction of approximately 595 meters of berth space for new terminal operations, and mitigating measures associated with dredging and dredged material disposal, in accordance with the results of the Initial Technical Studies.

(iii) Sedimentation control scheme that permits reduction of the sedimentation at the Port entrance and does not adversely impact coastal erosion, in accordance with the results of the Initial Technical Studies.

(iv) Acquisition of additional tug boat with necessary pilot training.

3. Beneficiaries

The principal beneficiaries of the Markets Project are expected to be Beninese importers, exporters and consumers, including individuals and businesses, through improved quality of transportation services and fish processing facilities following the upgrades to and expansion of the Port. The intended beneficiaries will be identified more precisely, and where possible disaggregated by gender, age, location and income level during the initial phases of the implementation of the Markets Project.

The principal intended beneficiaries of this Project are potentially quite broad. As the economy of Benin is driven by foreign trade and that foreign trade is dependent the Port, both consumers of imported products and exporters of Beninese products will benefit directly or indirectly from efficiency gains in Port operations that translate into lower transportation costs of goods or increased operating margins for Beninese operators and businesses.

4. Donor Coordination; Private Sector

(a) Donor Coordination. The World Bank has been working with the Government to expand private management at the Port. The Markets Project Activities will be coordinated with the study of privatization options and competitiveness at the Port that the World Bank expects to complete by December 2006. The Danish and Dutch governments have been active in supporting analyses of improvements at the Port. The Danish and other studies were used to assess the sedimentation and erosion control problems. MCC will coordinate with DANIDA (the Danish aid agency), the Dutch embassy, the Japanese International Cooperation Agency, the World Bank, Islamic Development Bank, African Development Bank, Arab Bank for Economic Development in Africa, OPEC Funds, Saudi Funds, and the Government to (i) assess and address the erosion and port sedimentation problems and (ii) ensure all sub-activities support Port improvements to maximize the benefits available of donor activities.

(b) Private Sector. In order to achieve the expected benefits from MCC Funding, several improvements at the Port are dependent on private sector complementary investments and expanded private sector management services associated with the operations of the Port. MCA-Benin will work with PAC to coordinate with existing private sector operators at the Port, and MCA-Benin and PAC will establish the

appropriate private sector participation at each stage of the sub-activities including renegotiation of existing concession agreements to provide for the appropriate investments by the private operators in the Port.

5. U.S. Agency for International Development; U.S. Government Agencies

MCC will seek to coordinate with USAID during the Compact Term, as appropriate, though there is not currently any USAID activity in this area. In addition MCC will seek to coordinate with the U.S. Department of Homeland Security and U.S. Coast Guard on the Markets Project.

6. Sustainability

(a) Improvements to the cargo handling operations and the physical layout of the Port will improve the financial performance of the Port. The introduction of private sector participation in operations is also critical to the sustainability of the Markets Project. Part of the restructuring of the Port needs to include revenue from the concessions, which are now paid to a different Government agency as a conduit to the state owned stevedoring company, in order to support port services and to increase transparency and Port efficiency.

(b) Investments by private sector tenants and other users of the Port will provide complementary improvements that will contribute to the long-term sustainability of the Port's ability to meet market demand.

(c) The Port's financial condition has suffered from declining revenues and from increasing labor costs. In addition, its revenues have been declining recently due to restrictions on Nigerian import policies.

(d) A rationalized user fee schedule for the BOC will be developed as part of a required demand study to help defray some of the inspection costs associated with its operation and maintenance.

(e) Essential to the environmental sustainability of the Markets Project is the conduct of the Initial Technical Studies, as well as the landside ESIA, the waterside ESIA and the associated EMPs, each as described in Section 2(a).

(f) The key to ensuring environmental and social sustainability of the Project is ongoing public consultation. By the time specified in the Disbursement Agreement, MCA-Benin shall engage the Environment and Social Assessment Director ("ESI Officer"), subject to MCC approval, as described in Section 3(d)(iii)(3) Annex I.

7. Policy; Legal Reform; and Procedural Changes

The Parties have identified the following policy, legal and regulatory reforms and actions that the Government shall pursue in support, and to reach the full benefits, of the Access to Markets, the satisfactory implementation of which will be conditions precedent to certain MCC Disbursements as provided in the Disbursement Agreement:

(a) Renegotiation of existing lease and concession agreements and port leases on terms acceptable to MCC that provide for capital investment based upon the market demand for Port services; in all cases, for any concession within the port right-of-way the PAC shall be the grantor and the beneficiary of the income resulting from the concession or lease. To the extent not covered in the renegotiation of the existing concession agreements, completion of new concession agreements for terminal operations of the new South wharf berths shall include private capital investments acceptable to MCC based upon the demand for Port services;

(b) The Government and PAC shall agree to enforce maritime-related international and regional conventions and agreements to which they are signatory, including the MARPOL International Convention for the Prevention of Pollution from Ships and the UN Convention on the Law of the Sea, and shall also agree to internationally accepted practices, such as the London Dumping Convention and Protocol (to which Benin is not signatory) for the disposal of dredged material, including contaminated material, and the control of pollution in the harbor, its entrance and the landside Port operations;

(c) By the time specified in the Disbursement Agreement, PAC shall create and fill the permanent staff position of PAC Environmental Manager, whose qualifications, selection and replacement shall be acceptable to MCC. The PAC Environmental Manager shall serve as the PAC representative concerning the environmental aspects of the Project Activities and other environmental management activities of PAC. The Government shall ensure that the PAC provides appropriate resources to the PAC Environmental Manager as identified by PAC and as recommended by MCA-Benin port advisor consultant as provided for in Section 2(b)(ii) above and the ESI Officer.

(d) The Government and PAC shall provide a permanent office for the MCA-Benin port advisor adjacent to the office

of the Director General of the PAC. The Government and PAC Board of Directors shall facilitate and endorse the assistance by the MCA-Benin port advisor to the Director General of the PAC in the implementation of private management activities and operational improvements associated with the Markets Project;

(e) Execution of private management or concession agreements satisfactory to MCC for the dry bulk conveyor, and the BOC, and other new facilities to be constructed at the Port; Satisfactory progress on meeting ISPS certification, in particular implementing recommendations as specified by MCC in the Disbursement Agreement or otherwise;

(g) Development and ongoing satisfactory implementation of a program to accomplish financial control and other recommendations as may be specified by the independent financial auditor contemplated by the Markets Project;

(h) Commitment shall be made by the Government to fund, or commitments shall be made by another funding source satisfactory to MCC, for amounts in excess of budgeted amount in the financial plan including amounts that may be necessary for environmental mitigation and remediation. All Beninese environmental and other permits (including any necessary or advisable environmental certificates under Benin law) shall be issued, valid and in full effect;

(i) Support the redesign of the BOC to ensure that specifications address likely traffic and activity requirements, including equipment for mechanical unloading of seafood cargo, and that a demand study is completed as specified by MCC;

(j) Support the design, approval and implementation of a rationalized user fee system for the BOC;

(k) Support the design, approval, and implementation of a capacity building training and technical assistance plan for cold chain, product quality assurance;

(l) Satisfactory results from customs and warehouse systems implementation reflected in reduced in Port cargo processing time;

(m) The Government agrees not to institute a container scanning system at the Port (1) until after a study of the effectiveness of such a scanning system has been completed pursuant to Section 2(a)(i) or (2) in the event that MCC determines that the Government proposed scanning system would be detrimental to the effectiveness of MCC investments at the Port;

(n) The Government agrees not to institute or continue a tax, levy, duty, or other charge or any delivery procedure or requirement at the Port or elsewhere since commencement of MCC review on August 1, 2005 of the port proposal which may affect the competitiveness of the Port without the prior consent of MCC; and

(o) Completion of the World Bank privatization and competitiveness study by the time specified in the Disbursement Agreement, with commitments by the PAC and other Government Affiliates to implement recommendations as requested by MCC and satisfactory implementation of such recommendations.

Annex II—Summary of Multi-Year Financial Plan

This Annex II to this Compact (the “Financial Plan Annex”) summarizes the Multi-Year Financial Plan for the Program. Each capitalized term in this Financial Plan Annex shall have the same meaning given such term elsewhere in this Compact.

1. General

A multi-year financial plan summary (“Multi-Year Financial Plan Summary”) is attached hereto as Exhibit A. By such time as specified in the Disbursement Agreement, MCA-Benin will adopt, subject to MCC approval, a Multi-Year Financial Plan that includes, in addition to the multi-year summary of anticipated estimated MCC Funding and the Government’s contribution of funds and resources, an estimated draw-down rate for the first year of the Compact Term based on the achievement of performance milestones, as appropriate, and the satisfaction or waiver of conditions precedent. Each year, at least 30 days prior to the anniversary of Entry into Force, the Parties shall mutually agree in writing to a Detailed Financial Plan for the upcoming year of the Program, which shall include a more detailed plan for such year, taking into account the status of the Program at such time and making any necessary adjustments to the Multi-Year Financial Plan.

2. Implementation and Oversight

The Multi-Year Financial Plan and each Detailed Financial Plan shall be implemented by MCA-Benin, consistent with the approval and oversight rights of MCC and the Government as provided in this Compact, the Governing Documents and the Disbursement Agreement.^b

^b The role of civil society in the implementation of this Compact (including through participants on

3. Estimated Contributions of the Parties

The Multi-Year Financial Plan Summary identifies the estimated annual contribution of MCC Funding for Program administration, monitoring and evaluation, and each Project. The Government’s contribution of resources to Program administration, monitoring and evaluation, and each Project shall consist of (a) “in-kind” contributions in the form of Government Responsibilities and any other obligations and responsibilities of the Government identified in this Compact, including contributions identified in the notes to the Multi-Year Financial Plan Summary, (b) such other contributions or amounts as identified in notes to the Multi-Year Financial Plan Summary, and (c) such other contributions or amounts as may be identified in relevant Supplemental Agreements between the Parties or as may otherwise be agreed by the Parties; provided, in no event shall the Government’s contribution of resources be less than the amount, level, type and quality of resources required to effectively carry out the Government Responsibilities or any other responsibilities or obligations of the Government under or in furtherance of this Compact.

4. Modifications

The Parties recognize that the anticipated distribution of MCC Funding between and among the various Program activities and Project and Project Activities will likely require adjustment from time to time during the Compact Term. In order to preserve flexibility in the administration of the Program, in addition to Section 4(a)(iv) of Annex I, the Parties may, upon agreement of the Parties in writing and without amending this Compact, change the designations and allocations of funds between Program administration and a Project, between one Project and another Project, between different activities within a Project, or between a Project identified as of the Entry into Force and a new Project, without amending this Compact; provided, however, that such reallocation (a) is consistent with the Objectives, (b) does not cause the amount of MCC Funding to exceed the aggregate amount specified in Section 2.1(a) of this Compact, and (c) does not cause the Government’s obligations or responsibilities or overall contribution

the Stakeholders’ Committee and Steering Committee), the responsibilities of the Government and MCC in achieving the Compact Goal and Objectives, and the process for the identification of beneficiaries are addressed elsewhere in this Compact and therefore are not repeated here.

of resources to be less than specified in Section 2.2(a) of this Compact, this Annex II or elsewhere in this Compact.

5. Conditions Precedent; Sequencing

MCC Funding will be disbursed in tranches. The obligation of MCC to approve MCC Disbursements and Material Re-Disbursements for the

Program and each Project is subject to satisfactory progress in achieving the Objectives and on the fulfillment or waiver of any conditions precedent specified in the Disbursement Agreement for the relevant Program activity or Project or Project Activity. The sequencing of Project Activities or

sub-activities and other aspects of how the Parties intend the Projects to be implemented will be set forth in the Implementation Plan, including Work Plans for the applicable Project, and MCC Disbursements and Re-Disbursements will be disbursed consistent with that sequencing.

EXHIBIT A.—MULTI-YEAR FINANCIAL PLAN SUMMARY

[In thousands]

Project	Year 1	Year 2	Year 3	Year 4	Year 5	Total
1. Access to Land:						
(a) Policy Activity	520	260	520	0	0	1,300
(b) Registration Activity	3,310	6,550	4,605	4,375	4,320	23,160
(c) Services and Information Activity ¹	510	3,350	3,205	2,775	620	10,460
(d) IEC Activity	100	150	100	100	50	500
(e) Support Strategy Activity	120	120	120	120	120	600
Sub-Total	4,560	10,430	8,550	7,370	5,110	36,020
2. Access to Financial Services:						
(a) Capacity Building Activity	1,770	3,570	3,870	3,570	270	13,050
(b) Financial Enabling Environment Activity	1,380	1,850	1,540	1,140	690	6,600
Sub-Total	3,150	5,420	5,410	4,710	960	19,650
3. Access to Justice Activity:						
(a) Arbitration Center (CAMEC)	400	160	140	180	0	880
(b) Business Registration Activity	470	830	330	200	0	1,830
(c) Courts Activity ^{2,3}	2,960	6,860	8,590	6,590	6,560	31,560
Sub-Total	3,830	7,850	9,060	6,970	6,560	34,270
4. Access to Markets:						
(a) Studies Activity	5,993	2,101	0	0	0	8,094
(b) Port Institutional Activity	3,251	4,876	1,196	980	1,016	11,319
(c) Port Security and Landside Improvements Activity ⁴	200	23,154	42,158	8,151	200	73,863
(d) Waterside Improvements Activity ⁵	0	0	22,939	53,232	0	76,171
Sub-Total	9,444	30,131	66,293	62,363	1,216	169,447
Monitoring and Evaluation	3,190	1,690	1,240	1,240	1,420	8,780
Sub-Total	3,190	1,690	1,240	1,240	1,420	8,780
Program Administration and Control:						
(a) Program Administration ⁶	3,395	2,795	2,933	2,919	3,015	15,057
(b) Fiscal and Procurement Agent	3,398,688	3,398,688	3,398,688	3,398,688	3,398,688	16,993,440
(c) Audits	1,416,120	1,416,120	1,416,120	1,416,120	1,416,120	7,080,600
Sub-Total ⁷	8,209,808	7,609,808	7,747,808	7,733,808	7,829,808	39,131,040
Total Estimated MCC Contribution⁸	32,383,808	63,130,808	98,300,808	90,386,808	23,095,808	307,298,040

¹ MCC Disbursements in connection with this Activity shall be conditioned upon, among others, the completion, satisfactory to MCC, of the relevant studies in Policy Activity and incorporation of the recommendations into implementation plans as appropriate.

² After the first \$1 million for the legal aid services sub-activity described in Section 2(c)(iv) of Schedule 3 to Annex I, any additional MCC Disbursement for this sub-activity shall be conditioned upon the Government obtaining matching funds to support the legal aid services program described in Section 2(c)(iv) of Schedule 3 of Annex I.

³ MCC Disbursements in connection with the new courthouses sub-activity described in Section 2(c)(v) of Schedule 3 to Annex I, shall be conditioned upon, among others, passage of the Procedural Code and certain other codes, which codes should contain adequate provisions in areas as may be specified by MCC in the relevant Supplemental Agreement (including with respect to the Procedural Code, provisions pertaining to the speed with which court cases are heard, and the means by which cases proceed through the courts).

⁴ MCC Disbursements in connection within the landside improvements sub-activity described in Section 2(c)(ii) of Schedule 4 of Annex I shall be conditioned upon, among others, the following: (i) Renegotiation of existing concession and lease agreements on terms acceptable to MCC that provide for capital investment based upon the demand for Port services, (ii) a contract management program of the dry bulk conveyor system acceptable to MCC, (iii) the completion of Initial Technical Studies, (iv) a Government commitment of funding, or commitments obtained from another funding source (satisfactory to MCC) for amounts in excess of budgeted amount in the Detailed Financial Plan, including amounts that may be necessary for environmental and mitigation, and (v) subject to results, satisfactory to MCC, of feasibility studies and ESIA that includes an environmental audit and EMP, (vi) redesign of the fish inspection facility, (vii) completion of a World Bank privatization and competitiveness study, and (viii) selection of a construction management agent.

⁵ MCC Disbursement in connection with the waterside improvements sub-activity described in Section 2(d) of Schedule 4 of Annex I shall be conditioned upon, among others, the following: (i) Satisfactory results of the Initial Technical Studies, (ii) demonstration, satisfactory to MCC, of improvements in customs and warehouse systems operations, (iii) implementation of recommendations of the independent financial auditor, (iv) obtaining environmental permits, (v) a Government commitment of funding, or commitments obtained from another funding source (satisfactory to MCC) for amounts in excess of budgeted amount in the Detailed Financial Plan, including amounts that may be necessary for environmental and mitigation, (vi) results, satisfactory to MCC, of feasibility studies and ESIA that includes an environmental audit and EMP and (vii) the completion of a long-term management services agreement for the operation of a Port sedimentation facility (or other harbor dredging program, as appropriate) on terms satisfactory to MCC.

⁶ The total administration budget as a percentage of the Program cost is equal to 5.61%.

⁷ The total implementation budget as a percentage of the Program cost is equal to 14.59%.

⁸ Total Government contribution of 5 billion CFA to be included in the annual national budget (1.25 billion CFA per year during the first four years of Compact) and to be allocated in a manner agreed upon by the Parties in writing.

Annex III—Description of the M&E Plan

This Annex III to the Compact (the “M&E Annex”) generally describes the components of the Monitoring and Evaluation (M&E) Plan for the Benin Program, and how progress toward the Compact Goal will be measured. Each capitalized term in this Annex III shall have the same meaning given such term elsewhere in this Compact. This Annex represents the agreement between the Government of Benin and the MCC on the Goals and Objectives of the MCA

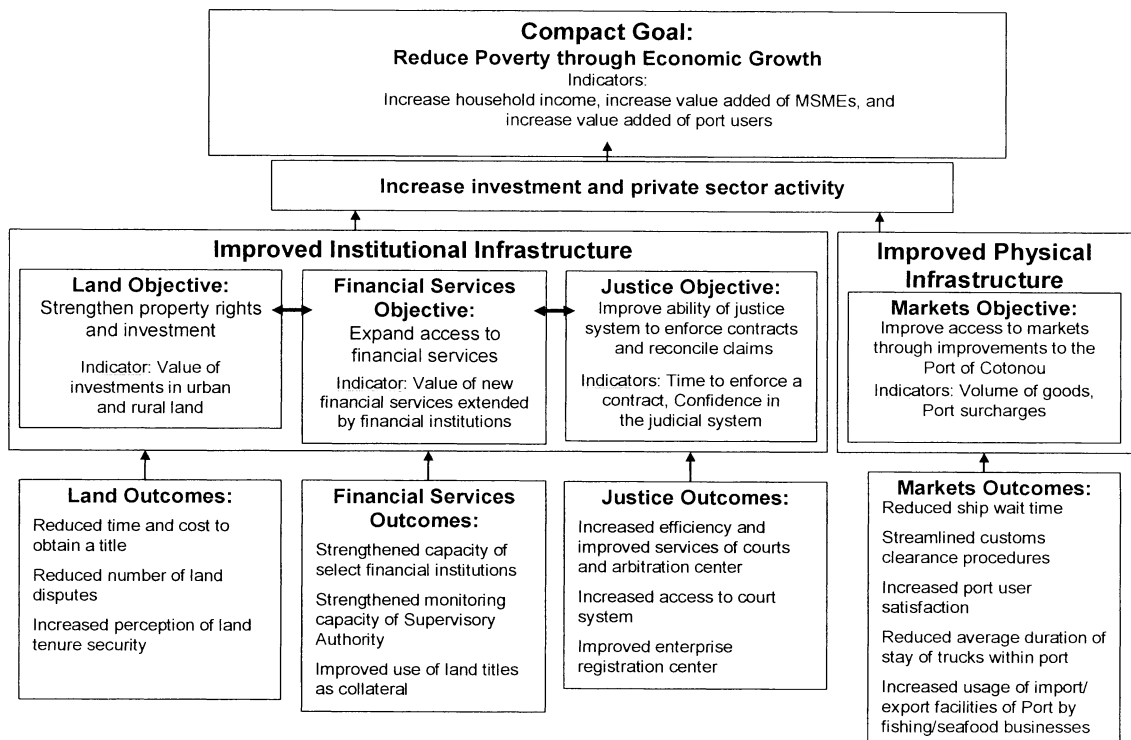
program and the timeline for achieving them.

1. Overview

Prior to disbursement for any Project (other than administrative expenses), the parties shall formulate an M&E Plan that specifies (a) how the implementation of the Program and progress toward the Compact Goal and Objectives will be monitored (the “Monitoring Component”), (b) a methodology, process and timeline for the evaluation of planned, ongoing, or completed Project Activities to

determine their impact and likely sustainability (the “Evaluation Component”), and (c) other components of the M&E Plan described below. Information regarding the Program’s performance, including the M&E Plan, and any amendments or modifications thereto, as well as periodically-generated reports, will be made publicly available on the MCA-Benin Web site and elsewhere. The Compact Goal, Objectives and Outcomes of the MCA-Benin Program are summarized in the following diagram:

Benin Program Logic



2. Monitoring Component

To monitor progress toward the achievement of the Compact Goal, Objectives and Outcomes, the Monitoring Component of the M&E Plan shall contain the following elements:

(a) Indicators. The M&E Plan shall measure the results of the Program using

quantitative, objective and reliable data (“Indicators”). Each Indicator will have one or more targets that quantifies the result and the expected time by which that result will be achieved (“Target”). The M&E Plan will detail the process for measuring and reporting on Indicators at several levels. First, the indicators for

the Compact Goal (each, a “Compact Goal Indicator”) will measure the results for the overall Program on the intended beneficiaries (collectively, the “Beneficiaries”).

Second, the indicators for each Objective (each, an “Objective Indicator”) will measure the ultimate

result for each of the individual Projects. Third, intermediate indicators (each, an "Outcome Indicator") will measure the intermediate results achieved under each of the Project Activities in order to provide early measures of progress towards the accomplishment of the Project Objective. Further, other indicators will be included in the M&E Plan to measure the direct outputs of the Project Activities (each, an "Output Indicator").

Benin's national household living standards measurement survey (L'Enquête Modulaire Intégrée sur les Conditions de Vie ("EMICoV")) will provide baseline data where identified. MCC Funding will support the 2006 baseline survey as well as regular follow-up surveys as described in the

M&E Plan ("2006 Baseline Data Survey"). The Government will also fund a portion of the 2006 baseline survey. All EMICoV data will be disaggregated by gender, income and age group where appropriate. MCC Funding in connection with the 2006 Baseline Data Survey shall support activities such as the following:

- Training of field and data entry staff;
- Conducting pilot test of survey questionnaire;
- Communication and transportation for survey staff;
- Supervision and Quality Assurance; and
- Data Management.

For all indicators, data collection will be disaggregated by gender, income

level and age, where appropriate and to the extent practicable. For some indicators baseline data was not available as of the date of conclusion on the Compact. For such indicators identified in the tables that follow, the M&E Plan and Disbursement Agreement will specify requirements for baseline data collection that shall be met prior to disbursing funds for each Project or Project Activity. Subject to prior written approval from MCC, MCA-Benin may modify and add Indicators or refine the Targets of existing Indicators.

(i) Compact Goal Indicators. The M&E Plan shall contain the Compact Goal Indicators and their definitions, as listed in the table below. The corresponding Targets to be achieved are in the tables that follow.

COMPACT GOAL INDICATORS

Purpose	Indicator	Definition of indicator
Increase household income in land and finance-targeted areas.	Average annual household income in the land and finance areas.	Average revenue and consumption level per household land/finance areas measured through the national living standards measurement survey (EMICoV).
Increase value added to MSMEs	Profits and wages of MSMEs benefiting from Access to Finance capacity building activity.	Additional profits and wages of MSMEs that are clients of institutions that are beneficiaries of the Challenge Facility.
Increase value added due to port infrastructure improvements.	Profits and wages of Port users	Additional profits and wages of Port users.

COMPACT GOAL TARGETS

Indicators	Baseline	Year 1	Year 2	Year 3	Year 4	Year 5
Average household income in the land and finance areas.	TBD ¹ .....	.....	.....	.....	.....	Estimated at 7% increase in treated areas compared to untreated areas
Profits and wages of MSMEs benefiting from the Capacity Building Activity.	Zero ² .....	.....	.....	.....	.....	USD\$5 million.
Additional annual profits and wages of Port users.	Zero .....	.....	.....	.....	.....	USD\$36 million. ³

¹ EMICoV will provide baseline data to be available starting in August 2006. 2004 GNP per capita is estimated at USD\$538.

² Benin will estimate current wages and profits of client enterprises of MFIs in the Demand Study at the end of the third quarter, Year 1 of the Compact Term.

³ Port users include: Ship-owners, firms operating within the port and trucks transporting cargo to and from the Port.

(ii) Objective and Outcome Indicators. The M&E Plan shall contain the Objective and Outcome Indicators and

their definitions, as listed in the tables below. The corresponding Targets to be

achieved are in the tables following the definitions.

ACCESS TO LAND PROJECT INDICATORS

Purpose	Indicator	Definition of indicator
Objective: Strengthen property rights and increase investment in rural and urban land.	Total value of additional investment in targeted rural land parcels. Total value of additional investment in targeted urban land parcels.	Value of investments made to rural land parcels per year; land investment data will come from self-reported data through EMICoV. Value of investments made to urban land parcels per year; land investment data will come from self-reported data through EMICoV.
Outcomes:		

ACCESS TO LAND PROJECT INDICATORS—Continued

Purpose	Indicator	Definition of indicator
Reduced time to obtain new land title	Average time required to obtain a new land title.	Average time associated with obtaining land title, disaggregated by rural and urban areas. ¹
Reduced costs to obtain new land title	Average cost required to obtain a new land title.	Average cost associated with obtaining land title, disaggregated by rural and urban areas. ¹
Perception of land tenure security increased.	Percent of respondents perceiving greater land security.	Share of respondents perceiving land tenure security; as measured through EMICoV. Data should be disaggregated by inhabitants of communities benefiting from the Registration Activity and those that are not.
Reduction in number of land disputes	Number of land disputes brought to court	Total number of land disputes registered at TPIs, per year.
	Number of land disputes reported by commune heads.	Total number of land disputes (not brought to formal court) as reported by commune heads as measured through EMICoV.

¹ Disaggregated time and costs to obtain a land title was not available as of the date of conclusion of the Compact. Going forward, data will be collected and reported for the rural and urban areas separately.

ACCESS TO LAND PROJECT TARGETS

	Baseline	Year 1	Year 2	Year 3	Year 4	Year 5
Objective Level Indicators (Metric of Project success observable by end of Compact Term).						
Total value of additional investment in targeted rural land parcels.	Zero ¹ .....	.....	.....	5% increase from baseline.	.....	10% increase from baseline.
Total value of additional investment in targeted urban land parcels.	Zero (Current level for Cotonou only is USD\$310 million).	.....	.....	8% increase from baseline.	15% increase from baseline.	20% increase from baseline.
Outcome Level Indicators (Early indicators of Project Activities impact on Objectives).						
Average time required to obtain a new land title.	12 months .....	.....	.....	10 months .....	.....	6 months.
Average cost required to obtain a new land title.	USD\$1,300 .....	.....	.....	.....	.....	USD\$180.
Percent of respondents perceiving greater land security.	TBD ¹ .....	.....	.....	30% increase from baseline for beneficiary communes.	.....	50% increase from baseline for beneficiary communities.
Number of land disputes brought to court ..	8000 ² .....	.....	.....	.....	.....	50% reduction in MCA-targeted zones.
Number of land disputes reported by commune heads.	TBD ¹ .....	.....	.....	.....	.....	.

¹ EMICoV will provide baseline data to be available starting in August 2006.

² This baseline figure is an estimate. Data will be verified by quarter 3 of Year 1 of the Compact Term.

ACCESS TO FINANCE PROJECT INDICATORS

Purpose	Indicator	Definition of Indicator
Objective: Expand access to financial services	Value of new financial services offered by financial institutions.	Total incremental increase in value of new credit extended and savings received by financial institutions participating in the project. ¹
Outcomes:		

ACCESS TO FINANCE PROJECT INDICATORS—Continued

Purpose	Indicator	Definition of Indicator
Strengthened capacity of select financial institutions.	Average portfolio-at-risk > 30 days participating MFIs.	Share of value of all loans outstanding that have one or more installments of principal past due over 30 days. Participating institutions will be compared to a national average.
	Operational self-sufficiency of participating MFIs (%).	Operating revenue/(financial expense + loan loss provision + operating expense). Measures extent of cost coverage from operating revenues. Participating institutions will be compared to national average. Indicator values are illustrative of each class/cohort's performance.
Strengthened monitoring capacity of Supervisory Authority.	Number of MFIs supervised by the Microfinance Cellule.	Total number of micro finance institutions that are supervised and have received recommendations from the Ministry of Finance Supervisory Authority.
Improved use of land titles as collateral	Number of new bank credits guaranteed with land titles.	Total number of loans guaranteed by land titles, per year.

¹ Indicator and target will be amended if services other than credit and savings are offered.

ACCESS TO FINANCE PROJECT TARGETS

	Baseline	Year 1	Year 2	Year 3	Year 4	Year 5
Objective Level Indicators (Metric of Project success observable by end of Compact Term):						
Value of new financial services offered by financial institutions	USD\$155 Million in Credit and USD\$73 Million in savings. ¹	.....	.....	USD\$24 Million.	.....	USD\$59 Million.
Outcome Level Indicators (Early indicators of Project Activities impact on Objectives):						
Average portfolio-at-risk > 30 days of participating financial institutions.	10% ² .....	.....	8%	7%	6%	5%
Operational self-sufficiency of participating financial institutions.	103% ² .....	.....	106%	109% .....	.....	112%
Number of MFIs supervised by the Microfinance Cellule.	27 .....	.....	35	40	50	75
Number of new bank credits guaranteed with land titles.	60 .....	.....	.....	100	150	200

¹ Current aggregate value of savings and credit offered in system as cited in National Policy for Micro finance.

² These baseline values represent the national average. Once financial institutions are selected, baselines will be recalculated. Targets values are average values for cohort/class entering the Program after 2, 3, 4, and 5 years.

ACCESS TO JUSTICE PROJECT INDICATORS

Purpose	Indicator	Definition of Indicator
Objective: Improved ability of justice system to enforce contracts and reconcile claims.	Average time required to enforce a contract ... Percent of firms reporting confidence in the judicial system.	Number of days associated with filing payment dispute in court until moment of actual payment. Percent of manufacturing firms who agree with statement "I have confidence in the judicial system."
Outcomes: Increased efficiency and improved services of courts and the arbitration center.	Number of cases processed at Arbitration Center. Percent of all cases resolved in TPI courts per year. Percent of all cases resolved in court of appeals per year.	Number of cases processed at Chamber of Commerce Arbitration Center, per year. Share of number of cases resolved of total cases filed at all TPIs, per year. Share of number of cases resolved of total cases filed at court of appeals, per year.
Increased access to court system	Average distance required to reach TPI (km)	Distance between village and jurisdictional TPI in kilometers.

ACCESS TO JUSTICE PROJECT INDICATORS—Continued

Purpose	Indicator	Definition of Indicator
Improved enterprise registration center	Number of enterprises registered through the registration center. Average time required to register an enterprise (days).	Annual number of enterprises registered with Chamber of Commerce Guichet Unique central or satellite offices. Number of days associated with registering enterprise with Chamber of Commerce Guichet Unique central or satellite offices, per year.

ACCESS TO JUSTICE PROJECT TARGETS

	Baseline	Year 1	Year 2	Year 3	Year 4	Year 5
Objective Level Indicators (Metric of Project success observable by end of Compact Term):						
Average time required to enforce a contract (days).	570 .....	.....	.....	470 .....	.....	370
Percent of firms reporting confidence in the judicial system.	35% .....	.....	.....	47% .....	.....	60%
Outcome Level Baseline Year Indicators (Early indicators of Project Activities impact on Objectives)						
Number of cases processed at Arbitration Center.	0 .....	.....	25	150	200	250
Percent of all cases resolved in TPIs per year.	40% .....	.....	.....	45% .....	.....	50%
Percent of all cases resolved in court of appeals per year.	8%	12%	15%	18%	21%	24%
Average Distance required to reach TPI (km).	50 .....	.....	.....	.....	.....	34
Number of enterprises registered through the business registration center.	9,600 (total to 2004).	.....	.....	1,400	1,000	500
Average time required to register an enterprise (days).	20 .....	.....	.....	10 .....	.....	3

ACCESS TO MARKETS PROJECT INDICATORS

Purpose	Indicator	Definition of indicator
Objective: Improve access to markets through improvements to the Port of Cotonou.	Volume of merchandise traffic through the PAC (million metric tons). Port surcharges due to delay	Total volume of exports and imports passing through Port of Cotonou, per year in million metric tons. Surcharge associated with congestion per twenty-foot equivalent unit ("TEU"), in Euro.
Outcomes: Reduced ship wait time	Bulk ship carriers waiting times at the Port (days).	Number of days bulk carrier must wait at anchor (before proceeding to berth) and at berth.
Streamlined customs clearance procedures	Average customs clearance times at Port	Time associated with moving merchandise through customs procedures.
Increased satisfaction with Port operations among users.	Port user satisfaction	Share of port users satisfied with Port operations, estimated through Port user survey.
Reduced average duration of stay of trucks at Port.	Average duration of stay of trucks at Port	Average duration of stay trucks at Port.
Increased usage of import/export facilities of Port among fishing/seafood businesses.	Volume of seafood exports processed through BOC (tons).	Total volume of seafood exports processed through the BOC (tons).

ACCESS TO MARKETS PROJECT TARGETS

	Baseline	Year 1	Year 2	Year 3	Year 4	Year 5
Objective Level Indicators (Metric of Project success observable by end of Compact Term):						
Volume of merchandise traffic through the PAC (million metric tons)	4.1	4.9	5.2	5.6	5.9	6.3
Port surcharges due to delay (Euros)	125	.....	.....	.....	50	25
Outcomes—Bulk ship carriers waiting times at the Port (days):	7	.....	.....	.....	5	3

ACCESS TO MARKETS PROJECT TARGETS—Continued

	Baseline	Year 1	Year 2	Year 3	Year 4	Year 5
Average customs clearance times at the Port (days)	5	.....	.....	3	.....	1
Port user satisfaction	50%	.....	.....	65%	70%	75%
Average duration of stay of trucks at Port (hours) ...	24	.....	.....	18	12	7
Volume of seafood exports processed through BOC (tons)	0	.....	.....	.....	250	500

Note: Attainment of most targets in the Markets Project tables in the years specified depends on the successful completion of early sub-activities.

(iii) The final M&E Plan will also include a number of activity-level (Output) measures that will track progress toward realizing the direct outputs of the Projects and Activities. Examples of the indicators likely to be included are:

- (1) Number of villages with plan foncier rural (PFRs);
 - (2) Number of urban land titles transformed from permis d'habiter or living permits in Cotonou, Parakou and Porto Novo;
 - (3) Number of clients of financial service providers trained;
 - (4) Average cost of registering an enterprise with Chamber of Commerce Guichet Unique;
 - (5) Number of judicial employees receiving pre-service training; and
 - (6) Port meeting ISPS standards.
- (b) Beneficiaries. The M&E plan shall describe the beneficiaries of the Program in detail, including the expected number of beneficiaries, their income, gender and other general demographic characteristics.

(c) Data Collection and Reporting. The M&E Plan shall establish guidelines for data collection and a reporting framework, including a schedule of Program reporting and responsible parties. In addition, MCA-Benin shall conduct regular assessments of program performance to measure progress on the Goals and Objectives and to alert all parties to any problems in implementation. These assessments will report actual results compared to the Targets on the Indicators referenced in the Monitoring Component, explain deviations between these actual results and Targets, and describe any planned actions to address performance problems. With respect to any data or reports received by MCA-Benin, MCA-Benin shall promptly deliver such reports to MCC along with any other related documents, as specified in the M&E Plan or as may be requested from time to time by MCC, and will make these assessments available to the public on their Web site.

(d) Data Quality Reviews. As determined in the M&E Plan or as

otherwise requested by MCC, the quality of the data gathered through the M&E Plan shall be reviewed to ensure that data reported are as reliable, timely and valid as resources will allow. The objective of any data quality review will be to verify the quality and the consistency of performance data, across different implementation units and reporting institutions. Such data quality reviews also will serve to identify where consistent levels of quality are not possible, given in-country capacity or other constraints.

3. Evaluation Component

The Program shall be evaluated on the extent to which the interventions contribute to the Compact Goal and Objectives. The Evaluation Component shall contain the methodology for conducting the most rigorous impact evaluations feasible and cost-effective, as well as the process and timeline for analyzing data. The Evaluation Component shall contain two types of reports: A Final Program Evaluation and Project, Project Activity, or Interim Evaluations.

(a) Final Evaluation. MCC will engage an independent evaluator to conduct a program evaluation at the expiration or termination of the Program ("Final Evaluation"). The evaluation methodology, timeline, data collection, and analysis requirements will be finalized and detailed in the M&E Plan. The Final Evaluations must at a minimum (i) estimate quantitatively and in a statistically valid way, the causal relationship between the Compact Goals (to the extent possible), the Objectives and Outcomes; (ii) determine if and analyze the reasons why the Compact Goals, Objectives and Outcomes were or were not achieved; and (iii) assess the overlapping benefits of the Projects.

(b) Project or Interim Evaluations. The Evaluation Component in the M&E Plan will also describe other individual Project, Project Activity, or Interim Evaluations. The evaluation methodology, timeline, data collection, and analysis requirements will be finalized and detailed in the M&E Plan.

Determination of the evaluation methodologies will be condition precedent for specified MCC Disbursements.

(c) Ad Hoc Evaluations or Special Studies. In addition to the evaluations described in the M&E Plan, MCC may require ad hoc evaluations or special studies prior to the expiration of the Compact Term. If MCA-Benin engages an evaluator, the evaluator will be an externally contracted independent source subject to the prior written approval of MCC for terms of reference and final selection, following a tender in accordance with the Procurement Guidelines, and otherwise in accordance with any relevant Implementation Letter or Supplemental Agreement. The cost of an independent evaluation or special study may be paid from MCC Funding. If MCA-Benin requires an ad hoc independent evaluation or special study at the request of the Government for any reason, including for the purpose of contesting an MCC determination with respect to a Project or Project Activity or to seek funding from other donors, no MCC Funding or MCA-Benin resources may be applied to such evaluation or special study without MCC's prior written approval.

4. Other Components of the M&E Plan

In addition to the Monitoring and Evaluation Components, the M&E Plan shall include the following components for the Program, Projects and Project Activities, including, where appropriate, roles and responsibilities of the relevant parties and Providers:

(a) Costs. A detailed annual budget estimate for all components of the M&E Plan.

(b) Assumptions and Risks. Any assumptions and risks external to the Program that underlie the accomplishment of the Objectives and Outcomes; provided such assumptions and risks shall not excuse performance of the Parties, unless otherwise expressly agreed to in writing by the Parties.

5. Implementation of the M&E Plan

(a) Approval and Implementation. The approval and implementation of the M&E Plan, as amended from time to time, shall be in accordance with this M&E Annex, and any other relevant Supplemental Agreement. Stakeholders' Committee's review of the completed portions of the M&E Plan shall be required prior to the expiration of the first year of the Program. Review and approval of the M&E Plan shall be completed by time specified in the Disbursement Agreement.

(b) MCC Disbursement and Re-Disbursement for a Project Activity. As a condition to each MCC Disbursement or Re-Disbursement there shall be satisfactory progress on the M&E Plan for the relevant Project or Project Activity, and substantial compliance with the M&E Plan, including any reporting requirements. In addition, for certain activities, collection of baseline data will be condition precedent for specified MCC Disbursements.

(c) Modifications. Notwithstanding anything to the contrary in the Compact, including the requirements of this M&E

Annex, the Parties may modify or amend the M&E Plan or any component thereof, including those elements described herein, without amending the Compact; provided, any such modification or amendment of the M&E Plan is reviewed by the Stakeholders' Committee and has been approved by MCC in writing and is otherwise consistent with the requirements of this Compact and its Objectives, and any relevant Supplemental Agreement between the Parties.

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