

**EXECUTION VERSION**

**GOVERNANCE AND DISBURSEMENT AGREEMENT**

**among**

**THE GOVERNMENT OF THE REPUBLIC OF MALI,**

**MCA – MALI**

**and**

**THE MILLENNIUM CHALLENGE CORPORATION**

**Dated as of September 17, 2007**

## TABLE OF CONTENTS

	<u>Page</u>
Article I. General Responsibilities of the Parties .....	2
Section 1.1 Definitions.....	2
Section 1.2 Role of the Government.....	2
Section 1.3 Role of MCA-Mali.....	3
Section 1.4 Implementing Entities.....	4
Article II. Implementation Framework.....	4
Section 2.1 Implementation Plan .....	4
Section 2.2 Fiscal Accountability Plan .....	6
Section 2.3 Tax Agreement.....	6
Section 2.4 Environmental Accountability .....	6
Section 2.5 MCC Program Procurement Guidelines .....	7
Section 2.6 Gender Policy.....	7
Section 2.7 Notice; Incorporation .....	7
Section 2.8 Reports; Notices.....	7
Section 2.9 Transactions Subject to MCC Approval.....	9
Section 2.10 Role of Certain Entities in Implementation .....	10
Section 2.11 Publicity .....	11
Article III. Disbursement of MCC Funding.....	12
Section 3.1 Disbursement Process .....	12
Section 3.2 Working Capital.....	13
Section 3.3 Conditions Precedent to the Initial Disbursement Request.....	13
Section 3.4 Conditions Precedent to Each Disbursement.....	14
Section 3.5 Failure to Satisfy Conditions Precedent.....	16
Section 3.6 Provisions Not to Apply to CIF .....	16
Article IV. Effectiveness of this Agreement.....	16
Section 4.1 Effectiveness of this Agreement .....	16
Article V. General Provisions .....	16
Section 5.1 Representatives .....	16
Section 5.2 Communications .....	17
Section 5.3 Counterparts; Signatures.....	18
Section 5.4 Assignments.....	18
Section 5.5 Amendment; Waivers .....	18
Section 5.6 Attachments .....	19
Section 5.7 Inconsistencies .....	19
Section 5.8 Business Days.....	19

Section 5.9	Termination or Suspension of the Compact.....	19
Section 5.10	Termination of this Agreement.....	19
Section 5.11	Survival.....	20
Section 5.12	Information.....	20
Section 5.13	English Language.....	20
Section 5.14	Governing Law.....	20
Section 5.15	References to MCC Website.....	20
Section 5.16	References to Laws, Regulations, Policies and Guidelines.....	20
Section 5.17	References to Governance Agreement, Disbursement Agreement and Program Implementation Agreement.....	21
Section 5.18	Confidentiality.....	21

Schedule 1: Definitions

Schedule 2: Additional Conditions Precedent to Disbursements

Exhibit A: Form of Bylaws of MCA-Mali

## GOVERNANCE AND DISBURSEMENT AGREEMENT

### PREAMBLE

This GOVERNANCE AND DISBURSEMENT AGREEMENT (this “*Agreement*”), dated as of September 17, 2007, is made among the Government of the Republic of Mali (the “*Government*”); MCA-Mali, a *service rattaché* attached to the Office of the President of the Republic of Mali organized under the laws of Mali (“*MCA-Mali*”); and the Millennium Challenge Corporation, a United States Government corporation (“*MCC*” and, collectively with the Government and MCA-Mali, the “*Parties*” and each, individually, a “*Party*”).

### RECITALS

WHEREAS, the Millennium Challenge Compact between the Government of the United States of America, acting through MCC, and the Government, signed in Washington, D.C. on November 13, 2006 (the “*Compact*”), sets forth the general terms on which MCC will provide funding of up to \$460,811,164 to the Government for a Millennium Challenge Account program to reduce poverty through economic growth in the Republic of Mali;

WHEREAS, the Government wishes to designate MCA-Mali to carry out certain rights, responsibilities and duties of the Government under the Compact;

WHEREAS, the Parties wish to specify further the terms for implementing the Compact and the Program;

WHEREAS, it is a condition precedent to Entry into Force of the Compact pursuant to Sections 4.1(a) and (b) of the Compact that the Parties enter into a Disbursement Agreement and Governance Agreement;

WHEREAS, the Parties wish to consolidate the Disbursement Agreement and Governance Agreement into a single agreement, and accordingly, this Agreement shall be deemed to constitute the “Disbursement Agreement”, the “Governance Agreement”, the “Governance and Disbursement Agreement” and the “Program Implementation Agreement” for all purposes under or in connection with the Compact, this Agreement, the Program Guidelines and other guidelines, standards, policies and instructions from time to time applicable to the Compact and the Program, and any documents or communications delivered pursuant thereto; and

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

**ARTICLE I.**  
**GENERAL RESPONSIBILITIES OF THE PARTIES**

Section 1.1 Definitions.

Capitalized terms used in this Agreement and not defined in this Agreement have the meanings provided in the Compact. All other capitalized terms have the meanings provided in Schedule 1.

Section 1.2 Role of the Government.

(a) Government Responsibilities. The Government will promptly take all necessary or appropriate actions to carry out the Government Responsibilities and to designate rights and responsibilities to entities, including MCA-Mali, adequate to enable them (each a “*Permitted Designee*”) to oversee and manage the implementation of the Program on behalf of the Government.

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

(i) Power, Authorization, Etc. MCA-Mali has the power and authority to execute, deliver and perform its obligations under this Agreement, and under each other agreement, certificate, or instrument contemplated hereby or by the Compact, and none of such actions violate or will violate any obligation of the Government or any other Permitted Designee.

(ii) Binding Obligation. This Agreement is a valid, binding and legally enforceable obligation of the Government and of MCA-Mali.

(iii) No Conflict. Neither this Agreement nor the Compact conflicts with, or will conflict with, any international agreement or obligation binding on the Government, or any laws of Mali.

(iv) Autonomy. The Government will ensure that (1) no decision of MCA-Mali is modified, supplemented, unduly influenced or rescinded by any governmental authority, except by a non-appealable judicial decision, and (2) the authority of MCA-Mali will not be expanded, restricted, or otherwise modified, except in accordance with this Agreement and the Compact.

(v) Impoundment; Liens or Encumbrances. The Government will ensure that (1) no Program Asset will be subject to any impoundment, rescission, sequestration or to any provision of law now or hereafter in effect in Mali that would have the effect of allowing any such impoundment, rescission or sequestration, and (2) no Program Asset will be subject to any lien, attachment, enforcement of judgment, pledge, or encumbrance of any kind (each a “*Lien*”), except with MCC’s prior written approval. In the event any Lien not so approved is imposed, the Government will promptly seek the release of such Lien and, if such Lien is required by a final non-appealable court order, will pay any amounts due in order to obtain such release; provided, however, that the

Government must apply national funds (and no Program Asset) to satisfy any such obligation.

(vi) Governance of MCA-Mali. The Government will ensure that MCA-Mali's operations and management are consistent with the Governance Guidelines and the Governing Documents, as agreed by the Parties.

(vii) MCA-Mali Indemnity. If MCA-Mali is held liable under any indemnification or other similar provision of any agreement to which it is a party, then the Government will pay such indemnity in full on behalf of MCA-Mali and will do so with national funds (and no Program Asset).

### Section 1.3 Role of MCA-Mali.

(a) Designation of MCA-Mali.

(i) The Government hereby designates MCA-Mali to act as an agent of the Government to implement the Program and to perform the Government's rights and responsibilities to oversee, manage and implement the Program, including without limitation, managing the implementation of Projects and their activities, allocating resources and managing procurements (the "***Designated Rights and Responsibilities***"). The Government will remain ultimately responsible for the performance of its obligations under or in relation to the Compact and this Agreement, and this designation shall not relieve the Government of any of those obligations.

(ii) MCC hereby acknowledges and consents to that designation.

(iii) The Government will ensure that MCA-Mali is duly organized, sufficiently staffed and empowered, and will cause MCA-Mali, to carry out fully and properly the Designated Rights and Responsibilities, including without limitation its obligations under the Compact, this Agreement, the Program Guidelines and each other agreement, certificate, or instrument contemplated hereby or by the Compact.

(iv) The "***Accountable Entity***" referenced in the Program Guidelines will be deemed to refer to MCA-Mali, and MCA-Mali accepts all obligations assigned in the Program Guidelines to the Accountable Entity as its obligations.

(b) MCA-Mali Undertakings.

(i) MCA-Mali Responsibilities. MCA-Mali will properly and fully carry out the Designated Rights and Responsibilities, and (except as provided in Section 1.4) will not assign, delegate or otherwise transfer any of the Designated Rights and Responsibilities without the prior written consent of MCC.

(ii) Government Representations. MCA-Mali will confirm each representation that it makes on behalf of the Government in any certificate delivered by MCA-Mali with all necessary Permitted Designees prior to providing such representation to MCC.

(iii) Funded Agreements. MCA-Mali will provide the Fiscal Agent (and MCC if it so requests) a copy of each agreement that is funded (directly or indirectly) with MCC Funding, regardless of whether MCC has approval rights with respect to such agreement.

(iv) Insurance; Performance Guaranties. MCA-Mali will, to MCC's satisfaction, cause all Program Assets to be insured and will arrange such other appropriate insurance to cover against risks or liabilities associated with the operations of the Program, including by requiring Providers to obtain adequate insurance and to post adequate performance bonds or other guaranties. MCA-Mali (or, as applicable, an Implementing Entity or a contractor) will be named as the payee on any such insurance and the beneficiary of any such guaranty or bonds. If not already named as the insured party, MCA-Mali and MCC (if it so requests), will be named as additional insureds on any such insurance. The Government will ensure that any proceeds from claims paid under such insurance or guaranty will be used to replace or repair any lost or damaged Program Assets; *provided, however*, that, at MCC's election, such proceeds will be deposited in a Permitted Account as designated by MCA-Mali or as otherwise directed by MCC.

(v) Constitution and Governance of MCA-Mali. MCA-Mali will be constituted and will conduct its operations and management substantially in compliance with the Governance Guidelines and in accordance with the Governing Documents as approved by MCC. MCA-Mali will adopt internal rules and regulations or bylaws relating to its governance (including the selection of Officers and key personnel) substantially in the form of Exhibit A to this Agreement that are consistent with the Governance Guidelines and subject to the approval of MCC.

Section 1.4 Implementing Entities. Subject to the terms of this Agreement and the Compact, MCA-Mali may engage one or more Government Affiliates to implement and carry out any Project or any activities in connection therewith to be carried out in furtherance of the Compact (each, an "***Implementing Entity***"). MCA-Mali will enter into an Implementing Entity Agreement with each Implementing Entity, in form and substance satisfactory to MCC, which sets forth, inter alia, the roles and responsibilities of such Implementing Entity and the Officer to whom such Implementing Entity will report.

## ARTICLE II.

### IMPLEMENTATION FRAMEWORK

Section 2.1 Implementation Plan. The framework for implementation of the Program will be further elaborated in the Implementation Documents in accordance with Annex I to the Compact (collectively, the "***Implementation Plan***"). MCA-Mali will submit its proposed Implementation Plan for review and approval by MCC before initial disbursement of MCC Funding and at least on an annual basis thereafter. MCC will review the proposed Implementation Plan and may, as necessary, request MCA-Mali to submit clarifications or adjustments. MCA-Mali will submit an updated Implementation

Plan or updated Implementation Documents during any quarter in which significant changes or modifications are made to a Project or to the Program, or when MCA-Mali determines that the expected results, targets and benchmarks for the specified year are not likely to be achieved. In such instances, MCA-Mali will submit a proposed revised Implementation Plan or updated Implementation Documents (as applicable) for MCC approval on the same date as the next Periodic Report.

(a) Work Plan. In accordance with Annex I to the Compact, MCA-Mali will develop, adopt and implement a work plan for the overall administration of the Program (the “**Work Plan**”). The Work Plan will set forth: (i) a detailed task list for each activity to be undertaken or funded by MCC Funding (in a level of detail acceptable to MCC), (ii) monitoring and evaluation (“**M&E**”) indicators and targets, (iii) conditions precedent to Disbursements (in addition to any set forth herein), (iv) procurement process steps and (v) where appropriate, the allocation of roles and responsibilities for specific activities, performance requirements, targets, and other programmatic guidelines and related expectations. MCA-Mali will develop a separate annual Work Plan for (1) each Project identified in the Compact, (2) Program administration and (3) M&E.

(b) Detailed Financial Plan. In accordance with Annex I to the Compact, the Multi-Year Financial Plan for the Program, which is set forth in Annex II to the Compact, shows the estimated annual contribution of MCC Funding to administer, monitor and evaluate the Program and to implement each Project (the “**Multi-Year Financial Plan**”). Except as MCC otherwise agrees in writing, MCA-Mali will develop, adopt and implement for each quarter for the upcoming year and on an annual basis for each year of the remaining years of the Compact, a detailed financial plan (as approved by MCC) setting forth funding requirements for the Program (including administrative costs) and for each Project, broken down to the sub-activity level (or lower, where appropriate), and projected both on a commitment and cash requirement basis (each a “**Detailed Financial Plan**”). Development and adoption of the Detailed Financial Plan shall satisfy the requirement that the Government ensure MCA-Mali’s timely delivery of the Detailed Budget pursuant to Section 4(a)(ii) of Annex I of the Compact.

(c) M&E Plan and Indicator Performance Plan. MCA-Mali will develop, adopt and implement a plan (as approved by MCC) that will be derived from Annex III to the Compact and provide the basis for monitoring and evaluating the Program (the “**M&E Plan**”). The M&E Plan will be developed in accordance with the MCC Monitoring and Evaluation Guidelines, will include all of the components and content outlined in such guidelines, and will serve as the primary governing document for M&E activities over the Compact Term. MCA-Mali will develop and adopt on an annual basis a plan that is consistent with the M&E Plan and identifies the full range of key indicators and their corresponding targets to be reported during the course of the forthcoming year (each, an “**Indicator Performance Plan**”). The Indicator Performance Plan will list the key performance indicators identified in each of the Project Work Plans and identify targets to be achieved for each key indicator on a (i) quarterly, (ii) annual and (iii) end-of-Compact basis.

(d) Audit Plan. MCA-Mali will develop, adopt and implement a plan, in accordance with the Audit Guidelines and Section 3.8(d) of the Compact, for the audit of the expenditures of Covered Providers (the “**Audit Plan**”). The Audit Plan will be in form and substance satisfactory to MCC and will be adopted no later than 60 days before the end of the first period to be audited.

(e) Procurement Plan. MCA-Mali will develop, adopt and implement periodic procurement plans for acquiring goods, works, consultant and non-consultant services needed to implement the Compact (each a “**Procurement Plan**”). Each Procurement Plan will be prepared in accordance with the MCC Program Procurement Guidelines, will contain the information required by such guidelines and will be updated in accordance with the schedule set forth in such guidelines.

Section 2.2 Fiscal Accountability Plan. Except as MCC otherwise agrees, MCA-Mali will develop, adopt and implement a manual (as approved by MCC) setting forth the principles, mechanisms and procedures (the “**Fiscal Accountability Plan**”) that MCA-Mali will use to ensure appropriate fiscal accountability for the use of MCC Funding, 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 in the procurement of goods, works and services. The Fiscal Accountability Plan will also include, among other things, requirements with respect to: (a) budgeting, (b) accounting, (c) cash management, (d) financial transactions (receipts and payments), (e) opening and managing permitted accounts, (f) personnel and payroll, (g) travel and vehicle use, (h) asset and inventory control, (i) audits (j) reporting and (k) such other matters that are specified in Annex I to the Compact and agreed by the Parties.

Section 2.3 Tax Agreement. Before the initial Disbursement, the Government and MCC will agree in writing on the mechanisms and the actions the Government will take to facilitate the administration of Section 2.3(e) of the Compact (the “**Tax Implementation Letter**”).

Section 2.4 Environmental Accountability.

(a) Unless MCC and the Government agree otherwise in writing, the Government will ensure that activities undertaken, funded or otherwise supported in whole or in part (directly or indirectly) by MCC Funding comply with the MCC Environmental Guidelines.

(b) MCA-Mali will (i) undertake and complete any environmental impact assessments, environmental assessments, environmental management plans, environmental and social audits and resettlement action plans required under the laws of Mali, the MCC Environmental Guidelines, this Agreement, the Compact or any Supplemental Agreement or as otherwise required by MCC, each in form and substance satisfactory to MCC, and (ii) implement to MCC’s satisfaction any environmental and social mitigation measures identified in such assessments or plans.

(c) The Government will fund all necessary costs of environmental mitigation (including, without limitation, costs of resettlement) not specifically provided for in the budget for any Project.

Section 2.5 MCC Program Procurement Guidelines. The Government and MCA-Mali will comply with the MCC Program Procurement Guidelines in the procurement (including solicitation) of goods, works and services and the award and administration of contracts in furtherance of the Compact. The Government will ensure that any bid challenges are conducted in accordance with the MCC Program Procurement Guidelines.

Section 2.6 Gender Policy. The Government and MCA-Mali will ensure that all stages of Compact implementation involve the meaningful participation of women and men and incorporate gender considerations as set forth in the gender policy delivered by MCC to the Government or posted by MCC on its website or otherwise publicly made available, as the policy may be amended from time to time (the "**MCC Gender Policy**").

Section 2.7 Notice; Incorporation.

(a) The Government will notify all Providers of the requirements of Section 2.3 of the Compact and will include, or ensure the inclusion of, the requirements of Section 2.3 of the Compact in all agreements with a Provider if MCC is not a party to such agreements.

(b) The Government will include, or ensure the inclusion of, the requirements of the MCC Program Procurement Guidelines and:

(i) The relevant paragraphs referenced in Section 3.8(e)(i) of the Compact in all agreements financed with MCC Funding between the Government or any entity of the Government, 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) The relevant paragraphs referenced in Section 3.8(e)(ii) of the Compact in all agreements financed with MCC Funding between the Government or any entity of the Government, on the one hand, and a Provider that does not meet the definition of a Covered Provider; and

(iii) The relevant paragraphs referenced in Section 3.8(e)(iii) of the Compact in all agreements financed with MCC Funding between the Government or any entity of the Government, on the one hand, and a Covered Provider that is a non-profit organization domiciled in the United States.

Section 2.8 Reports; Notices.

(a) Periodic Reports. Unless MCC agrees otherwise in writing, MCA-Mali will provide to MCC on a quarterly basis the periodic reports required by the Reporting Guidelines delivered to the Government or posted by MCC on its website (each, a "**Periodic Report**"). Such Periodic Reports shall be delivered in form and substance satisfactory to MCC in all respects and subject to MCC approval.

(b) Audit Report. MCA-Mali will furnish, or use its best efforts to furnish, to MCC an audit report in a form satisfactory to MCC for each audit required under the Compact, 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 MCC from time to time.

(c) Modifications to M&E Plan. MCA-Mali will furnish to MCC an updated M&E Plan, in form and substance satisfactory to MCC, on an annual basis.

(d) Compact Reports. The Government will provide, or cause to be provided, to MCC at least on each anniversary of the date on which the Compact enters into force (or such other anniversary agreed by the Parties in writing) and otherwise within 30 days of any written request by MCC, or as otherwise agreed in writing by the Parties, the following information:

(i) the name and nationality of each entity to which MCC Funding has been provided;

(ii) the amount of MCC Funding provided to such entity;

(iii) a description of the Program and each Project funded in furtherance of the Compact, including: (1) a statement of whether the Program or any Project was solicited or unsolicited; and (2) a detailed description of the objectives and measures for results of the Program or Project;

(iv) the progress made by the Government toward achieving the Compact Goal and Objectives;

(v) a description of the extent to which MCC Funding has been effective in helping Mali to achieve the Compact Goal and Objectives;

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

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

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

(ix) any report or document required to be delivered to MCC in connection with the Program, under the MCC Environmental Guidelines, any Audit Plan, or any Implementation Document; and

(x) any other report, document or information requested by MCC in connection with the Program or required by the Compact, this Agreement or any Supplemental Agreement between the Parties.

(e) If at any time during the Compact Term, the Government materially reallocates or reduces the allocation in its national budget or any other governmental authority of Mali at a departmental, municipal, regional or other jurisdictional level materially reallocates or reduces the allocation in 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, or fails timely to distribute an allocation budgeted for the activities contemplated herein, the Government must notify MCC in writing within thirty (30) days of such reallocation, reduction or failure to distribute, such notification to contain information regarding the amount of the reallocation, reduction or failure to distribute, the affected activities, and an explanation therefor.

(f) In addition to the Periodic Reports, MCA-Mali will provide to MCC within 30 days of a written request by MCC, or as otherwise agreed by MCC and MCA-Mali in writing, such other reports or documents as MCC may request from time to time as related to any component of the Implementation Plan, the Fiscal Accountability Plan or the Program Guidelines or in connection with any Disbursement.

Section 2.9 Transactions Subject to MCC Approval. Pursuant to Section 3(c) of Annex I to the Compact, each of the following transactions, activities, agreements and documents requires MCC's prior written approval:

- (a) Disbursements;
- (b) the Implementation Plan (including each element or component thereof) and the M&E Plan, and any modification of any of the foregoing;
- (c) agreements (i) between the Government and MCA-Mali or (ii) between the Government, a Government Affiliate, MCA-Mali or any other Permitted Designee, on the one hand, and any Provider or Affiliate of a Provider, which require MCC approval under applicable law, this Agreement, any Governing Document, or any other Supplemental Agreement;
- (d) agreements in which any of the following are appointed, hired or otherwise engaged (together with the agreements listed in paragraph (c) of this Section 2.9, the "**Material Agreements**" and each a "**Material Agreement**"):
  - (i) an Auditor (as defined in the Audit Guidelines) or a Reviewer;
  - (ii) Fiscal Agent;
  - (iii) Procurement Agent;
  - (iv) Bank;
  - (v) Implementing Entity; and

(vi) a member of the Board (including any Observer), any Officer or any other key employee of MCA-Mali (including agreements regarding compensation for any such person);

(e) any modification, termination or suspension of a Material Agreement, or any action that would have equivalent effect;

(f) any agreement that is not at arm's length;

(g) any Pledge;

(h) any Governing Document, including any amendments thereof;

(i) any disposition, in whole or in part, liquidation, dissolution, winding up, reorganization or other change of MCA-Mali, including any revocation or modification of or supplement to any Governing Document related thereto;

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

(k) (i) any change of any member of the Board (including any Observer), of the member serving as the chairman or in the composition or size of the Board, and the filling of any vacant seat of any member of the Board (including any Observer), (ii) any change of any Officer or other key employee of MCA-Mali or in the composition or size of its management, and the filling of any vacant position of any Officer or other key employee of MCA-Mali, and (iii) any material change in the composition or size of any Advisory Council;

(l) any decision by MCA-Mali to engage, accept or manage any funds from any donor agencies or organizations in addition to MCC Funding during the Compact Term; and

(m) any decision to amend, supplement, replace, terminate, or otherwise change any of the foregoing.

#### Section 2.10 Role of Certain Entities in Implementation.

(a) Fiscal Agent. MCA-Mali will engage a Fiscal Agent, who will be responsible for, among other things, (i) ensuring and certifying that Disbursements and Re-Disbursements are properly authorized and documented in accordance with established control procedures set forth in the Fiscal Accountability Plan, Fiscal Agent Agreement and Bank Agreement(s), (ii) providing applicable certifications for Disbursement Requests, (iii) submitting requests to MCC or its paying agent during the Disbursement Period for direct payments to vendors for goods, works and services received by MCA-Mali or for the transfer of funds to a Permitted Account to settle payments in local currency in accordance with the Fiscal Accountability Plan and Detailed Financial Plan, (iv) instructing a Bank to make Re-Disbursements from a Permitted Account, following applicable certification by the Fiscal Agent, (v) maintaining proper accounting of all MCC Funding financial transactions, and (vi)

producing reports on Disbursements in accordance with established procedures set forth in the Fiscal Agent Agreement or the Bank Agreement(s). MCA-Mali will enter into a Fiscal Agent Agreement with the Fiscal Agent, in form and substance acceptable to MCC, which sets forth the roles and responsibilities of the Fiscal Agent and other appropriate terms and conditions.

(b) Auditors and Reviewers. MCA-Mali will engage one or more Auditors (as defined in the Audit Guidelines). As requested by MCC in writing from time to time, MCA-Mali will also engage a Reviewer to (i) conduct general reviews of performance or compliance, (ii) conduct environmental and social audits, and (iii) conduct data quality assessments in accordance with the M&E Plan, as described more fully in Annex III to the Compact, and/or (ii) evaluator to assess performance as required under the M&E Plan. MCA-Mali will select the Auditor(s) or Reviewers in accordance with the Audit Guidelines and the M&E Plan (as applicable). MCA-Mali will enter into an Auditor/Reviewer Agreement with each Auditor or Reviewer, in form and substance acceptable to MCC, that sets forth the roles and responsibilities of the Auditor or Reviewer with respect to the audit, review or evaluation, including access rights, required form and content of the applicable audit, review or evaluation and other appropriate terms and conditions.

(c) Procurement Agent. MCA-Mali will engage a Procurement Agent to carry out and/or certify specified procurement activities in furtherance of the Compact and this Agreement. The roles and responsibilities of the Procurement Agent and the criteria for selection of the Procurement Agent will be as set forth in the MCC Program Procurement Guidelines. MCA-Mali will enter into a Procurement Agent Agreement with the Procurement Agent, in form and substance acceptable to MCC, which 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.

#### Section 2.11 Publicity.

(a) MCA-Mali will give appropriate publicity to the Compact as a program to which the United States, through MCC, has contributed, including by posting the Compact, this Agreement, each Disbursement Request and such other materials, in English, as MCC may request, on the website operated by MCA-Mali (the “***MCA-Mali Website***”), identifying Program activity sites, and marking Program Assets, all in accordance with the MCC Standards for Corporate Marking and Branding, set forth on the MCC Website; *provided, however*, that any press release or announcement regarding MCC or the fact that MCC is funding the Program or any other publicity materials referencing MCC will be subject to MCC’s prior written approval and must be consistent with any instructions provided by MCC in relevant Implementation Letters.

(b) Upon the termination or expiration of the Compact, the Government must, upon MCC’s request, cause the removal of any such markings and any references to MCC in any publicity materials or on the MCA-Mali Website. MCC may post the Compact, and any amendments thereto, on the MCC Website. MCC may freely use any

information it receives in any report or document provided to it in any manner that MCC sees fit.

### ARTICLE III. DISBURSEMENT OF MCC FUNDING

#### Section 3.1 Disbursement Process.

(a) Disbursement Requests. MCA-Mali may request Disbursements to be made under the Compact by submitting a written request substantially in the form of the (“*Form of Disbursement Request*”) posted on the MCC Website (each a “*Disbursement Request*”), duly completed, to MCC not later than 20 days (or such other period of time as may be agreed by MCC) prior to the commencement of each Disbursement Period. Unless otherwise agreed by MCC, MCA-Mali may submit only one Disbursement Request for each quarter (such quarter, or any other period of time as agreed by MCC, the “*Disbursement Period*”). Each Disbursement Request submitted must be accompanied by the Periodic Reports covering such Disbursement Period. Approval of Disbursement Requests; Release of Proceeds.

(i) Upon receipt of a Disbursement Request, MCC will determine the appropriate amount of the Disbursement for application during the subsequent related Disbursement Period based on, among other things, (1) the progress achieved under the Implementation Plan, (2) the amount of funds required to complete the activities described in the accompanying Periodic Reports during such Disbursement Period, and (3) the satisfaction, waiver or deferral of applicable conditions to such Disbursement. MCC reserves the right to reduce the amount of any Disbursement in accordance with Section 3.5 hereof.

(ii) Upon MCC’s approval of a Disbursement Request, the proceeds of the approved Disbursement may be transferred, at MCC’s sole election, (1) to a Permitted Account in accordance with the Bank Agreement, (2) directly to a Provider as payment for goods, works or services received by MCA-Mali, or (3) directly to an employee of MCA-Mali as compensation; provided that expenditures of such proceeds during the relevant Disbursement Period (including amounts transferred directly to a Provider or employee of MCA-Mali) are authorized by MCA-Mali and certified by the Fiscal Agent to the effect that such payments comply with the most recently approved Detailed Financial Plan and the standards and procedures set forth in the Fiscal Agent Agreement and Fiscal Accountability Plan.

#### (c) Permitted Accounts.

(i) Prior to the initial Disbursement, MCA-Mali will establish in accordance with Annex I to the Compact: (1) the Local Account denominated in CFA Franc and (2) such other accounts in such banks as MCC and MCA-Mali mutually agree in writing. The terms and operation of the Permitted Accounts shall be set forth in the Fiscal Accountability Plan and the Bank Agreement;

(ii) Unless otherwise authorized by MCC, no other funds will be commingled in a Permitted Account other than MCC Funding and accrued interest thereon. MCC will have the right, among other things, to view any Permitted Account statements and activity directly on-line, and where such viewing is not feasible, the Government will provide copies of such statements to MCC upon its request. Before any MCC Funding is deposited into a Permitted Account, MCA-Mali will enter into a Bank Agreement, satisfactory to MCC, with the financial institution approved by MCC to hold such Permitted Account, which sets forth the signatory authority, access rights, anti-money laundering and anti-terrorist financing provisions, and other terms related to such Permitted Account.

(iii) MCC Funding held in a Permitted Account will accrue interest or other earnings in accordance with the applicable Bank Agreement. On a quarterly basis and upon the termination or expiration of the Compact or such Bank Agreement, MCA-Mali will ensure the transfer of all accrued interest to MCC.

(iv) MCA-Mali will provide in writing to MCC the account name, designated account number and wire transfer instructions for transfers to Permitted Accounts (the “*Account and Wire Transfer Information*”) no later than 10 business days prior to the initial Disbursement. In the event that any Permitted Account or the related Account and Wire Transfer Information changes during the term of the Compact, MCA-Mali will provide to MCC the new information as soon as practicable, but in no event later than 10 business days prior to the requested date for the next Disbursement.

(v) MCA-Mali will ensure that all MCC Funding that is held in any Permitted Account, other than the Local Account, will be denominated in the currency of the United States of America prior to release. To the extent that any amount of MCC Funding held in US Dollars must be converted into the currency of Mali for any purpose, MCA-Mali will ensure that such amount is converted consistent with the requirements of the Bank Agreement or any other applicable Supplemental Agreement.

**Section 3.2 Working Capital.** Each Disbursement Request will authorize Compact funds in an amount equal to Five Hundred Thousand U.S. Dollars (US\$500,000.00) to serve as a contingent funding reserve for the Program (“*Working Capital*”). The funds will be available during the relevant Disbursement Period exclusively for expenses included in the most recent Detailed Financial Plan approved by MCC, but whose timing is earlier than originally projected. Such funds are not to be considered an amount available in addition to the Detailed Financial Plan and shall not be used for expenses for which conditions precedent to Disbursement are not met to MCC’s satisfaction. Requests for the use of Working Capital during a Disbursement Period must be submitted to MCC or its paying agent with the appropriate documentation as required by the Fiscal Accountability Plan.

**Section 3.3 Conditions Precedent to the Initial Disbursement Request.** The following conditions must have been met to MCC’s satisfaction prior to the initial Disbursement Request:

(a) This Agreement must have become effective in accordance with Section 4.1;

(b) Evidence of Taxation Mechanism. Delivery by the Government to MCC of the executed Tax Implementation Letter and any decree, legislation, regulation or other instrument establishing or giving effect to Section 2.3(e) of the Compact, certified, in each case, as being in full force and effect by the Government.

(c) Legal Opinion. An opinion of counsel to MCA-Mali addressed to MCC in a form acceptable to MCC.

(d) MCA-Mali Certificate. Delivery of a certificate of MCA-Mali, substantially in the form of the “MCA Initial Disbursement Certificate” posted on the MCC Website, together with the attachments thereto.

(e) Fiscal Agent Certificate. Delivery of a certificate of the Fiscal Agent, substantially in the form of the “Fiscal Agent Initial Disbursement Certificate” posted on the MCC Website.

(f) Procurement Agent Certificate. Delivery of a certificate of the Procurement Agent, substantially in the form of the “Procurement Agent Initial Disbursement Certificate” posted on the MCC Website.

(g) Schedule 2 Conditions. Satisfaction of each of the conditions precedent for initial Disbursement set forth on Schedule 2.

(h) The applicable conditions set forth in Section 3.4 must have been met to MCC’s satisfaction prior to the initial Disbursement.

Section 3.4 Conditions Precedent to Each Disbursement. The following conditions must have been met to MCC’s satisfaction prior to each Disbursement (including for the initial Disbursement):

(a) Deliveries. MCA-Mali must deliver to MCC the following documents, in form and substance satisfactory to MCC (including subparagraphs (i) through (iii) of this Section 3.4(a) for the initial Disbursement) :

(i) A completed Disbursement Request, together with the Periodic Reports covering the related Disbursement Period.

(ii) Any proposed waiver or deferral (together with a justification) of any condition to such Disbursement.

(iii) The reports then due from any technical (including environmental) auditors engaged by MCA-Mali for any Project Activity.

(iv) A certificate of MCA-Mali, dated as of the date of such Disbursement Request, substantially in the form of the “MCA Disbursement Certificate” posted on the MCC Website.

(v) A certificate of the Fiscal Agent, substantially in the form of the “Fiscal Agent Disbursement Certificate” posted on the MCC Website.

(vi) A certificate of the Procurement Agent, substantially in the form of the “Procurement Agent Disbursement Certificate” posted on the MCC Website.

(b) Other Conditions Precedent. MCA-Mali must satisfy, as MCC determines in its sole discretion, each of the following conditions:

(i) All applicable conditions precedent in Schedule 2 to this Agreement, have been duly satisfied, deferred or waived as provided in this Agreement.

(ii) No material default or breach of any covenant, obligation or responsibility by the Government, MCA-Mali or any Government entity has occurred and is continuing under this Agreement, the Compact or any Supplemental Agreement.

(iii) Activities to be funded with MCC Funding being requested by such Disbursement Request will not violate any applicable law or regulation.

(iv) The Implementation Documents submitted to MCC are current and updated and are in form and substance satisfactory to MCC, and there has been satisfactory progress on the components of the Implementation Plan for any relevant Projects or Project Activities related to such Disbursement;

(v) Satisfactory progress on the M&E Plan for the Program, relevant Project or Project Activity and substantial compliance with the requirements of the M&E Plan (including the targets set forth therein (except for the targets specified in Schedule 2 to this Agreement, which shall require compliance to the extent specified in Schedule 2) and any applicable reporting requirements set forth therein for the relevant Disbursement Period);

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

(vii) Any Taxes paid with MCC Funding through the date 90 days prior to the start of the applicable Disbursement Period have been reimbursed by the Government in full in accordance with Section 2.3(e) of the Compact and the tax exemption mechanisms agreed by the Parties pursuant to Section 2.4;

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

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

(x) MCC has not determined, in its sole discretion, that an act, omission, condition, or event has occurred that would be the basis for MCC to suspend or terminate, in whole or in part, MCC Funding in accordance with Section 5.4 of the Compact.

Section 3.5 Failure to Satisfy Conditions Precedent. MCC may, in its sole discretion, disapprove any Disbursement completely or reduce the amount of any Disbursement by an amount equal to the amount requested for any Program activity for which the relevant condition precedents have not been satisfied, waived or deferred.

Section 3.6 Provisions Not to Apply to CIF. The Parties acknowledge and agree that the provisions of this Article III do not apply to disbursements of Compact Implementation Funding described in Section 2.1(a)(iii) of the Compact, and that such disbursements will be governed by such other agreements or documents entered into between the Government and MCC for the purposes of setting out the terms and conditions to govern Compact Implementation Funding.

#### **ARTICLE IV.**

##### **EFFECTIVENESS OF THIS AGREEMENT**

Section 4.1 Effectiveness of this Agreement. This Agreement will become effective upon the satisfaction of each of the following conditions, each to MCC's satisfaction:

(a) Execution of this Agreement. Execution by each of the Parties to this Agreement and delivery of the executed signature pages to MCC.

(b) Entry into Force. The Compact has entered into force in the manner provided for in Article IV of the Compact.

(c) Permitted Accounts. The Local Account, and any other Permitted Account agreed by the Parties, has been duly established at the Bank in accordance with the Bank Agreement, the Fiscal Agent Agreement and the Fiscal Accountability Plan.

#### **ARTICLE V.**

##### **GENERAL PROVISIONS**

Section 5.1 Representatives.

(a) For all purposes relevant to this Agreement, the Government will be represented by the individual holding the position of, or acting as, Secretary General of the Presidency of the Republic of Mali (the "***Government Principal Representative***"),

MCC will be represented by the individual holding the position of, or acting as, its Vice President for Operations (the “*MCC Principal Representative*”), and MCA-Mali will be represented by the individual holding the position of, or acting as, its Director General (the “*MCA-Mali Principal Representative*”). Each of the Government Principal Representative, the MCC Principal Representative and the MCA-Mali Principal Representative (each, as defined in the Compact, a Principal Representative) may, by written notice, designate one or more additional representatives (each, an “*Additional Representative*”) for all purposes other than signing amendments to this Agreement.

(b) The names of each Party’s Principal Representative and its respective Additional Representatives will be provided, with specimen signatures, to each other Party, and each Party may accept as duly authorized any instrument signed by such Principal Representative or Additional Representative relating to the implementation of this Agreement, until receipt of written notice of revocation of their authority.

(c) A Party may replace its Principal Representative with a new representative that holds a position of equal or higher rank upon written notice to the other Parties, which notice will include the specimen signature of the new Principal Representative.

Section 5.2 Communications. Any document or communication required or submitted by any Party to another under this Agreement must be in writing and, except as otherwise agreed with MCC, in English. For this purpose, the address of each Party is set forth below.

To the Government:

Attention: Secretary General of the Presidency  
Address: Office of the Presidency of the Republic of Mali  
BP 10 Koulouba  
Republic of Mali  
Tel: +223 223-80-30  
Fax: +223 223-0026  
E-mail: [sidibem@mcamali.org](mailto:sidibem@mcamali.org)

To MCA-Mali:

MCA-Mali  
Attention: Director General  
Address: Immeuble Administratif et Commercial de ACI Hamdallaye Zone  
ACI 2000 BP  
2485 Bamako  
Republic of Mali  
Tel: +223 222 5517  
Fax: +223 223-0026  
E-mail: [touremb@mcamali.org](mailto:touremb@mcamali.org)

To MCC:

Millennium Challenge Corporation  
Attention: Vice President, Operations  
875 Fifteenth Street, N.W.  
Washington, D.C. 20005  
United States of America  
Tel: (202) 521-3600  
Fax: (202) 521-3701  
E-mail: VPOperations@mcc.gov (Vice President for Operations);

With a copy to:

Millennium Challenge Corporation  
Attention: Vice President and General Counsel  
875 Fifteenth Street, N.W.  
Washington, D.C. 20005  
United States of America  
Tel: (202) 521-3600  
Fax: (202) 521-3701  
Email: VPGeneralCounsel@mcc.gov (Vice President and General Counsel)

Section 5.3 Counterparts; Signatures. This Agreement may be executed in one or more counterpart signatures, and each counterpart when so executed and delivered shall be an original instrument, but such counterparts together shall constitute a single agreement. Except as otherwise agreed by the Parties in writing, a signature delivered by facsimile or electronic mail shall be deemed an original signature. Such signatures shall be accepted by the receiving Party as an original signature and shall become binding on the Party delivering such signature.

Section 5.4 Assignments.

(a) Assignment by MCC. MCC may assign, delegate or contract its rights and obligations, in whole or in part, under this Agreement to any affiliate, agent, or representative of MCC without the prior consent of the other Parties. MCC will provide written notice to the other Parties upon the effectiveness of any such assignment, delegation or contract.

(b) Assignment by the Government or MCA-Mali. Neither the Government nor MCA-Mali may assign, delegate or contract its rights or obligations under this Agreement without MCC's prior written consent.

Section 5.5 Amendment; Waivers. The Parties may amend this Agreement only by a written agreement signed by the Principal Representative of each Party. Any waiver of a right or obligation arising under this Agreement will be effective only if provided in writing.

Section 5.6 Attachments. Each exhibit, schedule and annex attached hereto constitutes an integral part of this Agreement.

Section 5.7 Inconsistencies. In the event of any conflict or inconsistency between this Agreement and the Compact, the terms of the Compact will prevail. In the event of any conflict or inconsistency between this Agreement and any Supplemental Agreement or any Implementation Document the terms of this Agreement will prevail.

Section 5.8 Business Days. Any reference to “business days” will mean any day other than a Saturday, Sunday, commercial banking holiday in Bamako, Mali, or Washington, D.C., United States, or a federal holiday in Mali or the United States; and any reference to “day” will mean a calendar day. Whenever under the terms hereof the time for giving a notice or performing an act falls on a day that is not a business day, such time will be extended to the next day that is a business day.

Section 5.9 Termination or Suspension of the Compact.

(a) Subject to Section 5.4(e) of the Compact, all Disbursements and expenditures of Disbursement proceeds will cease upon expiration, suspension, or termination of the Compact. Other than payments permitted pursuant to Section 5.4(e) of the Compact, in the event of the suspension or termination of the Compact or any Supplemental Agreement, in whole or in part, the Government will, except as MCC otherwise consents, ensure the suspension or, as applicable, termination of any obligation or sub-obligation of any Party to provide financial or other resources under the Program. In the event of such suspension or termination, the Government will use its best efforts to ensure the suspension or, as applicable, termination of all related commitments of MCC Funding. Any portion of the Compact or any Supplemental Agreement that is not suspended or terminated will remain in full force and effect.

(b) Upon the full or partial suspension or termination of the 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 that, for any Program Asset not in a deliverable state and any Program Asset partially purchased or funded with MCC Funding, the Government will reimburse MCC in United States Dollars the cash equivalent of such portion of the value of such Program Asset, such value as determined by MCC.

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

Section 5.10 Termination of this Agreement.

(a) MCC may terminate this Agreement in its entirety by giving the other Parties 30 days’ written notice.

(b) Unless terminated earlier in accordance with the terms hereof or the Compact, this Agreement will terminate on the date that is 120 days following the expiration or termination of the Compact; provided, however, that, if MCC determines that Disbursements related to obligations incurred prior to the expiration or termination of the Compact remain to be paid, then the term of this Agreement may be further extended by MCC's notice to the Government and MCA-Mali until such date as such obligations are satisfied.

(c) MCC may immediately terminate this Agreement, in whole or in part, by written notice to MCA-Mali and the Government, if MCC determines that any event that would be a basis for termination or suspension of the Compact or MCC Funding under Section 5.4 of the Compact has occurred, including those circumstances stated on the MCC Website.

Section 5.11 Survival. Notwithstanding any expiration, suspension or termination of this Agreement, the following provisions of this Agreement will survive: Sections 1.2(b)(v), 1.3(a)(i), 1.3(b)(iii), 1.3(b)(iv) (for one year), 2.7, 2.8, 2.9, 2.10(b), 5.1, 5.2, 5.3, 5.4, 5.5, 5.6, 5.8, 5.9, 5.10, 5.11, 5.13, 5.14, 5.15, 5.16, 5.17 and 5.18.

Section 5.12 Information. MCC may use any information provided to it in any Disbursement Request or report for the purpose of satisfying MCC's own reporting requirements or in any other manner.

Section 5.13 English Language. This Agreement is prepared and executed in English, and, in the event of any ambiguity or conflict between this official English version and any French translation made for the convenience of the Parties, this official English version will prevail.

Section 5.14 Governing Law. The Parties acknowledge and agree that this Agreement is an international agreement entered into for the purpose of implementing the Compact and as such will be interpreted in a manner consistent with the Compact and will be governed by the principles of international law.

Section 5.15 References to MCC Website. Each reference in the Compact, this Agreement, or any other agreement entered into in connection with this Compact, to a document or information available on, or notified by posting on, the MCC Website will be deemed a reference to such document or information as updated or substituted on the MCC Website by MCC from time to time, and will be deemed to be incorporated by reference into, and to constitute an integral part of, the Compact, this Agreement or such other agreement entered into in connection with the Compact.

Section 5.16 References to Laws, Regulations, Policies and Guidelines. Each reference in the Compact, this Agreement, the Program Guidelines, or any other agreement entered into in connection with the Compact, to a law, regulation, policy, guidelines or similar document shall be construed as a reference to such law, regulation, policy, guidelines or similar document as it may, from time to time, be amended, revised, replaced or extended and shall include any law, regulation, policy, guidelines or similar document issued under

or otherwise applicable or related to such law, regulation, policy, guidelines or similar document.

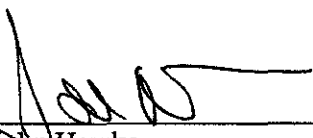
Section 5.17 References to Governance Agreement, Disbursement Agreement and Program Implementation Agreement. Any reference in the Compact, this Agreement, the Program Guidelines, any other agreement entered into in connection with the Compact, or in any law, regulation, policy, guideline or similar document issued or promulgated in connection with the Compact, to the “Governance Agreement”, the “Disbursement Agreement”, the “Governance and Disbursement Agreement” or the “Program Implementation Agreement” shall be deemed a reference to this Agreement, and the Parties shall take such further actions as may be necessary or desirable to give full effect to this provision.

Section 5.18 Confidentiality. All documents, reports, cost estimates, technical data and other information concerning the Program that is not otherwise publicly available shall be treated by the Government and MCA-Mali confidentially in a reasonable and appropriate manner and in accordance with applicable professional standards, *provided, however*, MCA-Mali may post on the MCA-Mali Website or otherwise make publicly available certain information, including financial reports, pursuant to the Compact, this Agreement and any other Supplemental Agreement. Each of the Government and MCA-Mali shall ensure that only those with a need to know and under similar obligations of confidentiality shall have access to any and all information, documents, cost estimates data and other information provided to such Party or otherwise generated in connection with the Compact, this Agreement and the Program. MCA-Mali shall ensure that each member of the Board, Officer and other employee of the Management complies with the confidentiality obligations set forth in this Section 5.18. MCA-Mali shall include obligations of confidentiality similar to those set forth in this Section 5.18 in the employment agreements of each Officer and other employee of the Management.


**SIGNATURE PAGE FOLLOWS ON THE NEXT PAGE**

**IN WITNESS WHEREOF**, each of the Parties has caused this Governance and Disbursement Agreement to be executed by a duly authorized representative as of the day and year first written above.

**MILLENNIUM CHALLENGE CORPORATION**

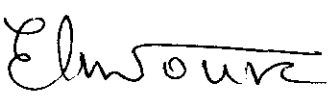
By:   
Name: John Hewko  
Title: Vice President of Operations

**THE GOVERNMENT OF REPUBLIC OF MALI**  
By the **OFFICE OF THE PRESIDENCY**

By:   
Name: Modibo Sidibé  
Title: Secretary General of the Office of the Presidency of the Republic of Mali



**MCA-MALI**

By:   
Name: Mahamane Bania Touré  
Title: Chair of the Board of Directors of MCA-Mali and Interim Director General

## **SCHEDULE 1**

### **DEFINITIONS**

***Account and Wire Transfer Information** has the meaning provided in Section 3.1(c).*

***Additional Representative** has the meaning provided in Section 5.1(a).*

***Advisory Council** has the meaning provided in the Governance Guidelines.*

***Affiliate** has the meaning provided in the Compact.*

***Agreement** has the meaning provided in the preamble.*

***Audit Guidelines** the audit guidelines designated as such delivered by MCC to the Government or posted by MCC on its website or otherwise publicly made available, as the guidelines may be amended from time to time.*

***Audit Plan** has the meaning provided in the Audit Guidelines.*

***Bank** has the meaning provided in the Compact.*

***Bank Agreement** has the meaning provided in the Compact.*

***Board** means the board of directors of MCA-Mali.*

***Compact** has the meaning provided in the first recital to this Agreement.*

***Compact Goal** has the meaning provided in the Compact.*

***Compact Implementation Funding** has the meaning provided in the Compact.*

***Compact Term** means the term of the Compact as provided in Section 1.3 of the Compact.*

***Covered Provider** has the meaning provided in the Compact.*

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

***Detailed Budget** has the meaning provided in the Compact.*

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

***Director General** has the meaning provided in Annex I to the Compact.*

***Disbursement** means any disbursement of MCC Funding.*

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

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

**Entry into Force** means the entry into force of the Compact as provided in Article IV of the Compact.

**Fiscal Accountability Plan** has the meaning provided in Section 2.2.

**Fiscal Agent** has the meaning provided in the Compact.

**Fiscal Agent Agreement** has the meaning provided in the Compact.

**Governance Guidelines** means the Guidelines for Accountable Entities and Implementation Structures and such other guidelines that may be designated as such delivered by MCC to the Government or posted by MCC on its website or otherwise publicly made available, as the guidelines may be amended from time to time .

**Governing Document** has the meaning provided in the Compact and shall include, without limitation, the bylaws of MCA-Mali in the form attached hereto as Exhibit A.

**Government** means the Government of the Republic of Mali, including each of its ministries, bureaus, departments, agencies, government corporations and any other entities chartered or established by the Government, including MCA-Mali.

**Government Principal Representative** has the meaning provided in Section 5.1(a).

**Government Responsibilities** means all of the Government's obligations (including those of MCA-Mali) under this Agreement, the Compact or any Supplemental Agreement, including any post-Compact Term activities, audits or other responsibilities.

**Implementation Document** has the meaning provided in the Compact.

**Implementation Letter** has the meaning provided in the Compact.

**Implementation Plan** has the meaning provided in Section 2.1.

**Implementing Entity** has the meaning provided in Section 1.4.

**Implementing Entity Agreement** has the meaning provided in the Compact.

**Indicator Performance Plan** has the meaning provided in Section 2.1(c).

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

**Local Account** has the meaning provided in the Compact.

**M&E** means monitoring and evaluation of each Project, the Program and the Objectives pursuant to the M&E Plan.

**M&E Plan** has the meaning provided in Section 2.1(c).

**Material Agreement** has the meaning provided in Section 2.9(d).

**MCA-Mali** has the meaning provided in the preamble to this Agreement.

**MCA-Mali Principal Representative** has the meaning provided in Section 5.1(a).

**MCA-Mali Website** has the meaning provided in Section 2.11, with the following address: [www.mcamali.org](http://www.mcamali.org), and any successor or replacement to such website from time to time.

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

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

**MCC Funding** has the meaning provided in the Compact.

**MCC Gender Policy** has the meaning provided in Section 2.7.

**MCC Monitoring and Evaluation Guidelines** means the monitoring and evaluation guidelines designated as such delivered by MCC to the Government or posted by MCC on its website or otherwise publicly made available, as the guidelines may be amended from time to time.

**MCC Principal Representatives** has the meaning provided in Section 5.1(a).

**MCC Program Procurement Guidelines** means the procurement policies and guidelines designated as such delivered by MCC to the Government or posted by MCC on its website or otherwise publicly made available, as the guidelines may be amended from time to time.

**MCC Website** means [www.mcc.gov](http://www.mcc.gov), and any successor or replacement to such website from time to time.

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

**Objective(s)** has the meaning provided in the Compact.

**Observer** has the meaning provided in the Governance Guidelines.

**Officer** has the meaning provided in the Governance Guidelines.

**Parties** has the meanings provided in the preamble to this Agreement.

**Periodic Report** has the meaning provided in Section 2.8(a).

**Permitted Account** has the meaning provided in the Compact.

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

*Pledge* has the meaning provided in the Compact.

*Procurement Agent* has the meaning provided in the Compact.

*Procurement Agent Agreement* has the meaning provided in the Compact.

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

*Program* has the meaning provided in the Compact.

*Program Assets* include MCC Funding, interest accrued thereon, and any assets, goods, or property (real or personal, tangible or intangible) purchased or financed in whole or in part (directly or indirectly) by MCC Funding.

*Program Guidelines* means collectively the Audit Guidelines, the MCC Environmental Guidelines, the MCC Gender Policy, the Governance Guidelines, the MCC Program Procurement Guidelines, the Reporting Guidelines and the MCC Monitoring and Evaluation Guidelines.

*Project* has the meaning provided in the Compact.

*Project Activity* has the meaning provided in the Compact.

*Provider* has the meaning provided in the Compact.

*Re-Disbursement* has the meaning provided in the Compact.

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

*Reviewer* has the meaning provided in the Compact.

*Supplemental Agreement* has the meaning provided in Section 3.5(b) of the Compact.

*Tax(es)* has the meaning provided in the Compact.

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

*Working Capital* has the meaning provided in Section 3.2.

**SCHEDULE 2**  
**CONDITIONS PRECEDENT**

Unless the Parties otherwise agree in writing, the Government, MCA-Mali or any other Permitted Designee, as appropriate, shall satisfy, in form and substance satisfactory to MCC as MCC determines in its sole discretion, each relevant condition precedent described below.

**PART I**  
**PROGRAM level CONDITIONS**

- 1.** Prior to the initial MCC Disbursement and any MCC Disbursement thereafter, each of the following Officers of MCA-Mali shall be selected and engaged, as approved by MCC, and remain engaged, or in the event a position is vacated, MCA-Mali is actively recruiting for the position, to the satisfaction of MCC: (a) Director General, (b) Director of Administration and Finance, (c) Director of Procurement, and (d) Legal Advisor.
- 2.** Prior to the second MCC Disbursement and any MCC Disbursement thereafter, each of the remaining Officers and key personnel of MCA-Mali omitted in paragraph 1 of this Part I to Schedule 2 shall be selected and engaged, as approved by MCC and in accordance with the staffing plan approved by MCC, and remain engaged, or in the event a position is vacated, MCA-Mali is actively recruiting for the position, to the satisfaction of MCC.
- 3.** Prior to the initial MCC Disbursement, MCA-Mali shall submit to MCC the Implementation Documents (including the Detailed Financial Plan, the Work Plan, the Fiscal Accountability Plan, and Procurement Plan, as applicable) duly adopted by the MCA-Mali Board and in a form satisfactory to MCC.
- 4.** Prior to the initial MCC Disbursement for any Project or within 90 days of MCA-Mali engaging the M&E Director (which ever comes later in time), MCA-Mali shall submit to MCC an M&E Plan duly adopted by the MCA-Mali Board and in a form satisfactory to MCC.

**PART II**  
**BAMAKO-SÉNOU AIRPORT IMPROVEMENT PROJECT**

**PART A. PROJECT LEVEL CONDITIONS**

- 1.** Prior to any MCC Disbursement for the construction of any Airport Improvement Project activities, except construction supervision, the Government shall establish a plan subject to MCC approval, which shall include a timetable and proposal for securing specific funding to address the safety and security deficiencies identified by the United

States Federal Aviation Administration (“*FAA*”), the International Civil Aviation Organization (“*ICAO*”) and other international agencies.

2. Prior to MCC Disbursement for the Airport Improvement Project in Quarter 3, Year 1, MCA-Mali shall enter into Implementing Entity Agreements or other relevant agreements for the duration of the Compact, in a form acceptable to MCC, with AdM, Energie du Mali (“*EdM*”) and Direction Nationale de l’Assainissement et du Contrôle des Pollutions et des Nuisances (“*DNACPN*”) or the relevant Ministry as applicable, to assist with the implementation of the Airport Improvement Project. Should MCA-Mali and MCC determine that a contractor should be engaged as an alternative or in addition to entering into agreements with the relevant Implementing Entities, such consultant or contractor shall be added to the Procurement Plan for the relevant Disbursement Period but no later than prior to MCC Disbursement for the Airport Improvement Project in Quarter 3, Year 1.
3. Prior to MCC Disbursement for the Airport Improvement Project in Quarter 3, Year 1, the Government shall provide a list to MCC of all required Permits, certificates and licenses for the Airport Improvement Project.
4. Prior to any MCC Disbursement for the Airport Improvement Project after Quarter 2, Year 1, an Airport and Industrial Park environmental manager shall be selected and engaged by AdM to oversee the implementation of environmental requirements, subject to MCC approval, and remains engaged, or in the event a position is vacated, AdM is actively recruiting for the position, to the satisfaction of MCC.
5. Prior to any MCC Disbursement for the Airport Improvement Project in Quarter 4, Year 4, AdM will have obtained, or have applied for, ISO 14000 certification.
6. Prior to MCC Disbursement on the Airport Improvement Project in Year 4, Quarter 1, an appropriate mechanism for private sector participation in the management of the landside/commercial facilities of the Airport to enhance the efficiency, effectiveness and quality of their management, maintenance and operations, shall be implemented on the basis of a process and criteria approved by MCC.
7. Prior to MCC Disbursement on the Airport Improvement Project in Year 4, Quarter 1, the Government shall have corrected the safety and security deficiencies identified by the FAA, ICAO and other international agencies, subject to MCC approval.

## **PART B. PROJECT ACTIVITY LEVEL CONDITIONS.**

### **1. Airside Infrastructure Activity.**

(a) Prior to initial MCC Disbursement for construction related to the Airside Infrastructure Activity, except for costs associated with resettlement, evidence shall be submitted to MCC that resettlement, including full compensation, has been implemented in accordance with World Bank OP 4.12 on involuntary resettlement and in a manner satisfactory to MCC.

(b) Prior to initial MCC Disbursement for the Airside Infrastructure Activity, except construction supervision, any required final design documents and environmental impact assessment, environmental management plan/EMS, including HIV/AIDS awareness plan, and resettlement action plan (“**RAP**”) shall be completed and approved by MCC.

(c) Prior to initial MCC Disbursement for construction related to the Airside Infrastructure Activity, the Government shall provide evidence of authorization and commitment to build on the Kabala and Noumoubougou sites, in a form and manner acceptable to MCC.

(d) Prior to initial MCC Disbursement for construction related to the Airside Infrastructure Activity, the Government shall provide evidence that adequate maintenance and operations will be provided for the facilities on the Kabala and Noumoubougou sites, in a form and manner acceptable to MCC

(e) Prior to any MCC Disbursement for the Airside Infrastructure Activity, a Deputy ESI Director for the Airport Improvement and Industrial Park Projects shall be selected and engaged by MCA-Mali, subject to MCC approval, and remains engaged, or in the event a position is vacated, MCA-Mali is actively recruiting for the position, to the satisfaction of MCC.

(f) Prior to any MCC Disbursement for construction related to the Airside Infrastructure Activity, all environmental and other Permits (including any certificates required under Malian law) shall be issued and in full effect in accordance with requirements and schedule determined and approved by MCC and MCA-Mali.

(g) Prior to any MCC Disbursement for construction related to the Airside Infrastructure Activity, the Government shall provide evidence of compliance with the EMP/EMS including commitments by Airport operators of Airside and Landside Infrastructure to abide by the EMP/EMS.

(h) Prior to MCC Disbursement for the Airside Infrastructure Activity in Quarter 4, Year 1, MCA-Mali shall have entered into Implementing Entity Agreements or other relevant agreements for the duration of the Compact, in a form acceptable to MCC, with the relevant Implementing Entities that will assist with the implementation of the Airport Improvement Project. Should MCA-Mali and MCC determine that a contractor should be engaged as an alternative or in addition to entering into agreements with the relevant Implementing Entities, such consultant or contractor shall be added to the Procurement Plan for the relevant Disbursement Period but no later than prior to MCC Disbursement for the Airside Infrastructure Activity in Quarter 4, Year 1.

## **2. Landside Infrastructure Activity.**

(a) Prior to initial MCC Disbursement for construction related to the Landside Infrastructure Activity, except for costs associated with resettlement, evidence shall be submitted to MCC that resettlement, including full compensation, has been implemented

in accordance with World Bank OP 4.12 on involuntary resettlement and in a manner satisfactory to MCC.

(b) Prior to initial MCC Disbursement for the Landside Infrastructure Activity, except construction supervision, any required final design documents, and environmental impact assessment, environmental management plan/EMS, including HIV/AIDS awareness plan, and RAP shall be completed and approved by MCC.

(c) Prior to initial MCC Disbursement for construction related to the Landside Infrastructure Activity, the Government shall provide evidence of authorization and commitment to build on the Kabala and Noumoubougou sites, in a form and manner acceptable to MCC.

(d) Prior to initial MCC Disbursement for construction related to the Airside Infrastructure Activity, the Government shall provide evidence that adequate maintenance and operations will be provided for the facilities on the Kabala and Noumoubougou sites, in a form and manner acceptable to MCC.

(e) Prior to any MCC Disbursement for the Landside Infrastructure Activity, a Deputy ESI Director for the Airport Improvement and Industrial Park Projects shall be selected and engaged by MCA-Mali, subject to MCC approval, and remains engaged, or in the event a position is vacated, MCA-Mali is actively recruiting for the position, to the satisfaction of MCC.

(f) Prior to any MCC Disbursement for construction related to the Landside Infrastructure Activity, all environmental and other permits (including any certificates required under Malian law) shall be issued and in full effect in accordance with requirements and schedule determined and approved by MCC and MCA-Mali.

(g) Prior to any MCC Disbursement for construction related to the Landside Infrastructure Activity, the Government shall provide evidence of compliance with the EMP/EMS including commitments by Airport operators of Airside and Landside Infrastructure to abide by the EMP/EMS.

(h) Prior to MCC Disbursement for the Airside Infrastructure Activity in Quarter 4, Year 1, MCA-Mali shall have entered into Implementing Entity Agreements or other agreements for the duration of the Compact, in a form acceptable to MCC, with the relevant Implementing Entities that will assist with the implementation of the Airport Improvement Project. Should MCA-Mali and MCC determine that a contractor should be engaged as an alternative or in addition to entering into agreements with the relevant Implementing Entities, such consultant or contractor shall be added to the Procurement Plan for the relevant Disbursement Period but no later than prior to MCC Disbursement for the Airside Infrastructure Activity in Quarter 4, Year 1.

(i) Prior to MCC Disbursement for the Landside Infrastructure Activity in Quarter 4, Year 2, MCA-Mali shall initiate a process and a timetable to determine an appropriate mechanism for private sector participation in the landside/commercial facilities of the Airport, through a process and criteria approved by MCC.

**PART III**  
**INDUSTRIAL PARK PROJECT**

**PART A. PROJECT LEVEL CONDITIONS.**

1. Prior to any MCC Disbursement for construction related to the Industrial Park Project, the Government shall provide evidence of ongoing compliance with the EMP/EMS including commitments by Industrial Park users and operators to abide by the EMP/EMS.
2. Prior to any MCC Disbursement after Quarter 2, Year 1 for the Industrial Park Project, an Airport and Industrial Park environmental manager shall be selected and engaged by AdM to oversee the implementation of environmental requirements, subject to MCC approval, and remains engaged, or in the event a position is vacated, AdM is actively recruiting for the position, to the satisfaction of MCC.
3. Prior to MCC Disbursement for any Industrial Park Project activities in Quarter 3, Year 1, MCA-Mali shall enter into Implementing Entity Agreements or other relevant agreements for the duration of the Compact, in a form acceptable to MCC, with AdM, EdM and DNACPN or the relevant Ministry, as applicable, to assist with the implementation of the Industrial Park Project. Should MCA-Mali and MCC determine that a contractor should be engaged as an alternative or in addition to entering into agreements with the relevant Implementing Entities, such consultant or contractor shall be added to the Procurement Plan for the relevant Disbursement Period but no later than prior to MCC Disbursement for any Industrial Park Project activities in Quarter 3, Year 1.
4. Prior to MCC Disbursement for the Industrial Park Project in Quarter 3, Year 1, the Government shall provide a list to MCC of all required permits, certificates and licenses for the Industrial Park Project.
5. Prior to any MCC Disbursement in Quarter 4, Year 4 for the Industrial Park Project, AdM will have obtained, or have applied for, ISO 14000 certification.

**PART B. PROJECT ACTIVITY LEVEL CONDITIONS.**

**1. Primary and Secondary Infrastructure Activity.**

(a) Prior to initial MCC Disbursement and continued disbursements for construction related to the Primary and Secondary Infrastructure Activity, evidence has been submitted to MCC that resettlement, including full compensation, is being implemented according to the phased resettlement plan defined in the RAP and in accordance with World Bank OP 4.12 on involuntary resettlement and in a manner satisfactory to MCC.

(b) Prior to initial MCC Disbursement for construction related to the Primary and Secondary Infrastructure Activity, the Government shall provide evidence of

authorization and commitment to build on the Kabala and Noumoubougou sites, in a form and manner acceptable to MCC.

(c) Prior to initial MCC Disbursement for construction of the Primary and Secondary Infrastructure Activity of the Industrial Park, except construction supervision, the Government shall provide evidence that adequate maintenance and operations will be provided for the facilities on the Kabala and Noumoubougou sites, in a form and manner acceptable to MCC.

(d) Prior to initial MCC Disbursement for the Primary and Secondary Infrastructure Activity and any infrastructure associated with resettlement activity, except construction supervision, any required feasibility study, final design and environmental impact assessment, environmental management plan/EMS, and RAP shall be completed and approved by MCC.

(e) Prior to any MCC Disbursement on the Primary and Secondary Infrastructure Activity of the Industrial Park, a Deputy ESI Director for Airport and Industrial Park Projects shall be selected and engaged by MCA-Mali, subject to MCC approval, and remain engaged, or in the event a position is vacated, MCA-Mali is actively recruiting for the position, to the satisfaction of MCC.

(f) Prior to any MCC Disbursement for construction of the Primary and Secondary Infrastructure Activity, except construction supervision, evidence has been submitted that a private Industrial Park operator shall be selected and engaged through a process and criteria approved by MCC, and remain engaged, or in the event of disengagement of the operator, MCA-Mali is actively recruiting for the position, to manage general operations of the Industrial Park.

(g) Prior to any MCC Disbursement for the Primary and Secondary Infrastructure Activity, except construction supervision, evidence shall be submitted that the Government has enacted regulatory changes to ensure the successful and transparent development, regulation, and management of industrial parks in Mali, or has established a timetable to do so, subject to MCC approval.

(h) Prior to any MCC Disbursement for construction related to the Primary and Secondary Infrastructure Activity, all environmental and other permits (including any certificates required under Malian law) shall be issued and in full effect in accordance with requirements and schedule determined and approved by MCC and MCA-Mali.

(i) Prior to any MCC Disbursement for construction related to the Primary and Secondary Infrastructure Activity, the Government shall designate the entities or relevant Government agencies responsible for the operations and maintenance of utility infrastructure inside and outside the Airport domain.

(j) Prior to MCC disbursement for the Primary and Secondary Infrastructure Activity in Quarter 3, Year 1, MCA-Mali shall have entered into Implementing Entity Agreements or other relevant agreements for the duration of the Compact, in a form acceptable to MCC, with the relevant Implementing Entities that will assist with the

implementation of the Industrial Park Project. Should MCA-Mali and MCC determine that a contractor should be engaged as an alternative or in addition to entering into agreements with the relevant Implementing Entities, such consultant or contractor shall be added to the Procurement Plan for the relevant Disbursement Period but no later than prior to MCC disbursement for the Primary and Secondary Infrastructure Activity in Quarter 3, Year 1.

**2. Resettlement Activity.**

(a) Prior to initial MCC Disbursement for the Resettlement Activity, except construction supervision, any required feasibility study, final design, and environmental impact assessment, environmental management plan/EMS, and RAP shall have been completed and approved by MCC.

(b) Prior to any MCC Disbursement for construction related to the Resettlement Activity, all environmental and other permits (including any certificates required under Malian law) shall be issued and in full effect in accordance with requirements and schedule determined and approved by MCC and MCA-Mali.

**PART IV**

**ALATONA IRRIGATION PROJECT**

**PART A. PROJECT LEVEL CONDITIONS.**

1. Prior to initial MCC Disbursement for any Alatona Irrigation Project activities, except the Road Activity, a memorandum of understanding shall be signed between MCA-Mali and the ON that ensures equitable allocation of dry-season water among the ON zones, measured at the headworks of primary canals.
2. Prior to initial MCC Disbursement for any Alatona Irrigation Project activities, the Government shall provide evidence of its commitment to ensure adequate routine and periodic maintenance on the Niono – Goma Coura Road, within the context of its national road maintenance program funded by the Road Agency (Road Fund).
3. Prior to initial MCC Disbursement and continued disbursements for construction in areas affected by resettlement as described in the RAP or any amendment thereof, except for the Road Activity and costs associated with resettlement, evidence has been submitted to MCC that resettlement, including full compensation, is being implemented according to the phased resettlement plan defined in the RAP and in accordance with World Bank OP 4.12 on involuntary resettlement and in a manner satisfactory to MCC.
4. Prior to any MCC Disbursement for construction related to the Alatona Irrigation Project, the Government shall provide evidence of compliance with the EMP and the RAP for all Alatona Irrigation Project Activities, except the Road Activity.

5. Prior to MCC Disbursement for any Alatona Irrigation Project activities in Quarter 3, Year 1, MCA-Mali shall have entered into Implementing Entity Agreements or other relevant agreements for the duration of the Compact term, in a form acceptable to MCC, with the relevant Implementing Entities that will assist with the implementation of the Alatona Irrigation Project. Should MCA-Mali and MCC determine that a contractor should be engaged as an alternative or in addition to entering into agreements with the relevant Implementing Entities, such consultant or contractor shall be added to the Procurement Plan for the relevant Disbursement Period but no later than prior to MCC disbursement for any Alatona Irrigation Project activities in Quarter 3, Year 1.

6. Prior to MCC Disbursement for the Alatona Irrigation Project in Quarter 3, Year 1 the Government shall provide a list to MCC of all required permits, certificates and licenses for the Alatona Irrigation Project.

7. Prior to any MCC Disbursement for construction related to the Alatona Irrigation Project activities, except the Road Activity, all environmental and other permits (including any certificates required under Malian law) for all Alatona Project Activities shall be issued and in full effect in accordance with requirements and schedule determined and approved by MCC and MCA-Mali.

8. Prior to MCC Disbursement for any Alatona Irrigation Project Activities in Quarter 3, Year 3,<sup>1</sup> at least 800 5-hectare irrigated land plots shall have been distributed in the Alatona Project zone.

9. Prior to MCC Disbursement for any Alatona Irrigation Project activities in Quarter 1, Year 4, a new entity (the “*Revenue Authority*”) shall have been established to manage the collection and use of land revenues generated through the Alatona Irrigation Project. The structure of the Revenue Authority and the operating guidelines will be subject to MCC approval.

10. Prior to MCC Disbursement for any Alatona Irrigation Project Activities in Quarter 1, Year 5, a plan shall be developed for the disposition of financial assets from the credit risk sharing program in the Finance Activity at the end of the Compact Term. The plan must entail either a liquidation of financial assets or a program to be managed by a fiduciary agent. The identification or procurement of the liquidation agent or fiduciary agent must be completed no later than six months prior to the end of the Compact term.

## **PART B. PROJECT ACTIVITY LEVEL CONDITIONS.**

### **1. Road Activity.**

(a) Prior to initial MCC Disbursement for the Road Activity, except for construction supervision, an updated Environmental Impact Assessment, final EMP,

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<sup>1</sup> The quarter corresponding to approximately April 2010, in time for the beginning of the agricultural season.

including HIV/AIDS awareness plan, and RAP shall be completed and approved by MCC for the Niono – Goma Coura Road.

(b) Prior to initial MCC Disbursement for the Road Activity, except for construction supervision and costs associated with resettlement, evidence shall be submitted to MCC that resettlement, including full compensation, has been implemented in accordance with World Bank OP 4.12 on involuntary resettlement and in a manner satisfactory to MCC.

(c) Prior to any MCC Disbursement for the Road Activity, a Deputy ESI Director for the Alatona Irrigation Project shall be selected and engaged by MCA-Mali, subject to MCC approval, and remain engaged, or in the event a position is vacated, MCA-Mali is actively recruiting for the position, to the satisfaction of MCC.

(d) Prior to any MCC Disbursement for construction of the Niono – Goma Coura Road, all environmental and other permits (including any certificates required under Malian law) for the Niono – Goma Coura Road shall be issued and in full effect in accordance with requirements and schedule determined and approved by MCC and MCA-Mali.

(e) Prior to any MCC Disbursement for the Road Activity, except construction supervision, the Government provides evidence of compliance with the EMP and the RAP for Niono – Goma Coura Road.

(f) Prior to the final disbursement for the Road Activity, the Government shall provide evidence that the Niono – Goma Coura Road is included in the annual routine maintenance program funded by the Road Agency (Road Fund), to be managed by Ageroute or Agetipe and executed by private contractors the first year after construction completion.

## **2. Irrigation Activity.**

(a) Prior to initial MCC Disbursement for the Irrigation Activity, except construction supervision, any required engineering feasibility study, final design, environmental impact assessment, EMP, including HIV/AIDS awareness plan and RAP shall be completed and approved by MCC for the Irrigation Activity.

(b) Prior to any MCC Disbursement for the Irrigation Activity, a Deputy ESI Director for the Alatona Irrigation Project shall be selected and engaged by MCA-Mali, subject to MCC approval, and remain engaged, or in the event a position is vacated, MCA-Mali is actively recruiting for the position, to the satisfaction of MCC.

(c) Prior to MCC Disbursement for the Irrigation Activity in Quarter 2, Year 1, the Government shall provide evidence of an allocation of lands for dry season and wet season cultivation in the Alatona zone, in a form satisfactory to MCC.

(d) Prior to MCC Disbursement for the Irrigation Activity in Quarter 2, Year 1, the Government shall provide evidence that the Niger Basin Authority has been notified of the water withdrawals required for the Alatona Irrigation Project.

(e) Prior to MCC Disbursement for the Irrigation Activity in Quarter 3, Year 1, the Government shall provide criteria for selecting land parcel recipients to MCC and the criteria are approved by MCC.

(f) Prior to MCC Disbursement for the Irrigation Activity in Quarter 2, Year 2, the Government shall provide evidence that the annual funds have been allocated for operations and maintenance costs for the primary irrigation network in the ON, including Alatona.

(g) Prior to any MCC Disbursement for the Irrigation Activity in Years 3, 4 and 5, the Government shall provide evidence that the annual funds have been allocated for operations and maintenance costs for the primary irrigation network in the ON, including Alatona.

### **3. Land Activity.**

(a) Prior to MCC Disbursement for the Land Activity in Quarter 1, Year 5, 500 ( $\pm$  10 percent) Alatona land titles have been registered in the land registration office.

### **4. Community Activity.**

(a) Prior to initial MCC Disbursement for the Community Activity, any required engineering feasibility study, final design, environmental impact assessment, EMP, including HIV/AIDS awareness plan and RAP shall be completed and approved by MCC for the Community Activity.

(b) Prior to any MCC Disbursement for the Community Activity, a Deputy ESI Director for the Alatona Irrigation Project shall be selected and engaged by MCA-Mali, subject to MCC approval, and remain engaged, or in the event a position is vacated, MCA-Mali is actively recruiting for the position, to the satisfaction of MCC.

### **5. Agriculture Activity.**

(a) Prior to initial MCC Disbursement for the Agriculture Activity, any required engineering feasibility study, final design, environmental impact assessment, EMP, including HIV/AIDS awareness plan and RAP shall be completed and approved by MCC for the Agriculture Activity.

(b) Prior to initial MCC Disbursement for the Agriculture Activity, the Government shall provide evidence that Fenthion or other banned or restricted pesticides per MCC Environmental Guidelines will not be applied in the Alatona perimeter and areas with any pre-settlement agricultural activities.

(c) Prior to initial MCC Disbursement for the applied agriculture research grants under the Agriculture Activity, the grant manual shall be approved by MCC. The grant manual shall include the description of the application process, evaluation criteria, and the composition of the agriculture research grant selection committee (“*Grant Selection Committee*”).

(d) Prior to any MCC Disbursement for the applied agricultural research grants under the Agriculture Activity, all proposals approved by the Grant Selection Committee above \$50,000 must be approved by MCC prior to the disbursement of any funds.

(e) Prior to any MCC Disbursement for the Agriculture Activity, a Deputy ESI Director for the Alatona Irrigation Project shall be selected and engaged by MCA-Mali, subject to MCC approval, and remain engaged, or in the event a position is vacated, MCA-Mali is actively recruiting for the position, to the satisfaction of MCC.

(f) Prior to MCC Disbursement for the Agriculture Activity in Quarter 1, Year 4, 30 farmers’ organizations shall have achieved pre-cooperative status ( $\pm 10$  percent).

(g) Prior to MCC Disbursement for the Agriculture Activity in Quarter 2<sup>2</sup>, Year 4, the average rice yield in the Alatona shall be 4 tons/ha ( $\pm 10$  percent).

## **6. Finance Activity.**

(a) Prior to MCC Disbursement for the Finance Activity in Quarter 1, Year 4, financial institutions have at least 350 active clients in Alatona ( $\pm 10$  percent).

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<sup>2</sup> The quarter following the first rice harvest of the first tranche of settlement/resettlement.

**EXHIBIT A**  
**FORM OF BYLAWS OF MCA-MALI**

**ARTICLE I.**  
**ESTABLISHMENT OF MCA-MALI**

Section 1.1 Compact.

Pursuant to Law No. 07-32 of 19 June 2007 and Decree No. 07-220/P-RM of 5 July 2007, the Government of the Republic of Mali (the “**Government**”) established MCA-Mali as a service rattaché attached to the Office of the Presidency to implement the Program as described in that certain Millennium Challenge Compact by and between the United States of America, acting through the Millennium Challenge Corporation (“**MCC**”), and the Government, dated as of November 13, 2007 (the “**Compact**”). All capitalized terms not defined herein shall have the meanings set forth in the Compact.

Section 1.2 Permitted Designee.

MCA-Mali shall be a Permitted Designee, responsible for the oversight and management of the implementation of the Compact.

Section 1.3 MCA-Mali Governance Structure.

MCA-Mali shall consist of (a) an independent board (the “**Board**”), (b) a management team (the “**Management**”) and (c) two advisory councils (each an “**Advisory Council**” and together the “**Advisory Councils**”).

**ARTICLE II.**  
**BOARD**

Section 2.1 Roles and Responsibilities.

(a) Subject to MCC’s approval rights as set forth in the Compact (including Section 3(c) of Annex I of the Compact), in these Bylaws, and the Governance and Disbursement Agreement, the Board shall have the following responsibilities and authority (which may not be delegated further) for:

(i) Oversight with respect to (A) the Management, (B) the overall implementation of the Program, and (C) the performance of the Designated Rights and Responsibilities; and

(ii) Consideration of the Advisory Councils’ views or recommendations made pursuant to Article IV of these Bylaws, and, if the Board deems

advisable, requiring the Management to provide responsive information and documents to the Board or, as applicable, each Advisory Council.

(b) Without limiting the foregoing provisions of this Section 2.1, each of the following actions of MCA-Mali, which require MCC approval pursuant to Section 3(c)(i) of Annex I to the Compact, shall be subject to the prior approval the Board (each, a “**Board Action**”):

- (i) MCC Disbursements;
- (ii) Each Implementation Document and any modifications thereto;
- (iii) Any Audit Plan;
- (iv) Agreements (A) between the Government and MCA-Mali and (B) between the Government, a Government Affiliate, MCA-Mali or any other Permitted Designee, on the one hand, and any Provider or Affiliate of a Provider, on the other hand, which require MCC approval under the Compact, the Governance and Disbursement Agreement, any Supplemental Agreement or the MCC Program Procurement Guidelines;
- (v) Agreements in which the Government or MCA-Mali appoints, hires, or engages any of the following in furtherance of the Compact: (A) Auditor, (B) Reviewer, (C) Fiscal Agent, (D) Procurement Agent, (E) Bank, (F) Implementing Entity, and (G) a member of the Board (including any Observer), any Officer or any other key employees of MCA-Mali (including agreements involving the terms of any compensation for any such person);
- (vi) Any modification, termination, or suspension of a Material Agreement (i.e., agreements described in paragraphs (iv) and (v) of this paragraph 2.1(b)) or any action that would have the effect of such modification, termination or suspension of a Material Agreement;
- (vii) Any agreement that is not at arm’s length;
- (viii) Any pledge of any MCC Funding or any Program Assets, or any guarantee, directly or indirectly, of any indebtedness;
- (ix) Any Governing Document;
- (x) Any disposition, in whole or in part, liquidation, dissolution, winding up, reorganization or other change of (A) MCA-Mali, including any revocation, modification or supplement to any Governing Document;
- (xi) Any change in character or location of any Permitted Account;
- (xii) (1) Any change of any member of the Board (including any Observer), of the member serving as the Chair or in the composition or size of the Board, and the filling of any vacant seat of any member of the Board (including any Observer),

(2) any change of any Officer or other key employee of MCA-Mali or in the composition or size of the Management, and the filling of any vacant position of any Officer or other key employee of MCA-Mali, and (3) any material change in the composition or size of any Advisory Council;

(xiii) Any decision by MCA-Mali to engage, to accept or to manage any funds from any donor agencies or organizations in addition to MCC Funding during the Compact Term;

(xiv) Any other activity, agreement, document or transaction requiring MCC approval in the Compact, any Governing Document, the Governance and Disbursement Agreement or as agreed by the Parties.

Section 2.2 Composition. The Board shall be composed of not more than eleven (11) voting members (each, a “**Voting Member**”) and two (2) non-voting observers (each, an “**Observer**”) consisting of a non-voting member designated by MCC (the “**MCC Representative**”) and the representative of an environmental NGO. Each Voting Member and each Observer shall be referred to in these Bylaws as a “**Member**.” The Voting Members, subject to the prior written approval of MCC, may alter the size of the Board in accordance with Section 2.6(c)(ii).

Section 2.3 Appointment of Voting Members.

(a) The following Voting Member positions (each such member identified in subsections (i) through (vi) below, a “**Government Member**”, and each of the other voting members, a “**Civil Member**”) shall be appointed and filled by the individuals, during the Compact Term, representing the ministries or entities specified and named by a decree of the President, or relevant Government entity, following a selection process to be agreed upon by the Parties and MCC approval:

- (i) Representative from President's Office, appointed as the chair of the Board (“**Chair**”);
- (ii) Representative from the Ministry of Equipment and Transport;
- (iii) Representative from the Ministry of Economy and Finance;
- (iv) Representative from the Ministry for the Promotion of Investment and for Small and Medium-Sized Businesses;
- (v) Representative from the Ministry of Agriculture;
- (vi) Representative from the Ministry of Territorial Administration and Local Communities;
- (vii) Representative from the National Committee for Business Owners;
- (viii) Representative from the Chamber of Commerce and Industry;

- (ix) Representative from the Chamber of Agriculture;
- (x) Representative from a civil society organization representing youth; and
- (xi) Representative from a civil society organization representing women.

(b) Each Government Member shall serve in his or her official capacity, for as long as he or she remains in office, and not in a personal capacity. If a person serving as a Government Member resigns or is removed from such Government office or a vacancy is otherwise created with respect to one or more Government Members, that person's position on the Board will be taken by such person's successor in such Government office or, subject to approval by the Government and MCC, by another government official of comparable rank from a ministry or other government body relevant to the Program activities (such replacement to be referred to hereinafter as a Government Member).

(c) Each Civil Member shall be appointed for a two (2) year term and shall upon expiry of that term be replaced by a new Civil Member for the same period or the incumbent Civil Member may be appointed for a new term. In the event that a vacancy is created with respect to one or more Civil Members at any time, a successor shall be selected in accordance with this Section 2.3; *provided* that such nomination and subsequent appointment shall be subject to the prior approval of MCC and otherwise be in accordance with the relevant provisions of Sections 2.1(b) and 2.3(a) of these Bylaws and Section 3(d)(ii) of Annex I of the Compact.

(d) In the event that a Voting Member is unable to participate in a meeting of the Board, such Voting Member may appoint in writing, specifying the duration of such appointment, an alternate to participate for such Voting Member, *provided* that (i) in the case of a Government Member, such alternate shall be such member's principal deputy or equivalent and (ii) in the case of a Civil Member, such alternate must be approved by majority vote of the Voting Members present at such a meeting.

(e) Each Voting Member shall exercise his or her duties solely in accordance with the best interests of MCA-Mali, the Program, the Compact Goal and the Objectives, and shall not undertake any action that is contrary to those interests or would result in personal gain or a conflict of interest.

#### Section 2.4 Appointment of the Chair of the Board.

(a) The activities of the Board shall be managed and coordinated by the chairman of the Board (who shall be known as, the "**Chair**"). The Representative of the President's Office shall serve as the Chair.

(b) The Chair shall preside over all meetings of the Board. In the case of the absence of the Chair (or his/her designated proxy), the Voting Members shall elect one of the Voting Members to act as chairman for the purposes of such meeting.

(c) The Chair shall certify that (i) all documents and reports submitted to MCC by the Board in accordance with these Bylaws or the Compact have been approved by the Board, and (ii) such submissions are true, accurate and complete.

#### Section 2.5 Appointment of Observers; Invitees.

(a) The Observers on the Board shall be appointed as follows:

(i) One (1) representative selected by MCC (the “**MCC Representative**”); *provided* that MCC may designate an alternate representative to attend any meeting of the Board if the MCC Representative is unable to attend; and

(ii) Representative of an environmental NGO, selected pursuant to a process agreed upon by the Parties (the “**Environmental NGO Representative**”).

(b) The Observers shall not have any voting rights with respect to any action to be taken by the Board. Except as otherwise expressly provided in these Bylaws, each Observer shall have the rights set forth in Section 3(d)(ii)(2)(F) of Annex I of the Compact, including the right to attend all meetings of the Board, participate in discussions of the Board, and receive all information and documents provided to the Board, together with any other rights (other than voting rights) granted to a Voting Member of the Board, including access to records, employees or facilities.

(c) Each of the Government and MCA-Mali hereby waives and releases all claims related to any liability or action arising out of each Observer’s role as a non-voting observer on the Board. In all matters arising under or relating to the Compact, these Bylaws, or the activities of MCA-Mali, the waivers, releases and acknowledgements with respect to the MCC Representative, in Section 3(d)(ii)(4) of Annex I of the Compact, shall apply.

(d) Upon invitation by the Chair, any other persons or entities may be invited to participate in meetings of the Board, whose participation is deemed useful to issues under consideration by the Board (the “**Meeting Invitees**”), *provided, however*, the Meeting Invitees may participate only in the relevant portions of the meetings of the Board and shall not be present while the Board votes.

#### Section 2.6 Meetings of the Board.

(a) Meetings of the Board. Regular meetings of the Board shall be held at such time and at such place as may from time to time be determined by the Board, but shall be held at least once each trimester and more frequently as may be necessary. Special meetings of the Board may be called if requested by the Chair or at least one-third of the Members in writing. The Chair shall preside at every meeting of the Board and in the absence of the Chair, a Voting Member elected by a majority of the Voting Members present at the meeting shall preside.

(b) Notice. Notice stating the place, date, time and agenda of the meeting shall be given to each Member by the Secretary of MCA-Mali (i) in respect of a regular

quarterly meeting, either by hand, mail or facsimile at least seven (7) days prior to the date of the regular meeting, and (ii) in respect of a special meeting, either by hand or mail not less than 48 hours before the date of the special meeting or by telephone not less than 24 hours before the date of such special meeting. Notwithstanding the foregoing, (A) any Member may waive, in writing, the requirement to receive notice in respect of any such meeting, and (B) a Member's presence at any such meeting shall constitute waiver by such Member of the requirement to receive notice of such meeting. A valid meeting of the Board may not be held unless each Member receives notice (or waives or is deemed to waive notice) of such meeting.

(c) Quorum; Voting.

(i) At all meetings of the Board, a majority of the Voting Members shall constitute a quorum for the transaction of business (a "*Quorum*").

(ii) Except as set forth in Section 2.7, the decision of a majority of the Voting Members present at any meeting at which there is a Quorum shall be an act of the Board; *provided, however*, that any decision to dispose of, in whole or in part, liquidate, dissolve, wind up, reorganize or effect other change of MCA-Mali's Board or Management, including any revocation or modification of or supplement to any Governing Document related or any subsidiary or Affiliate of MCA-Mali, shall require approval of at least seventy-five percent (75%) of the Voting Members present at a meeting at which there is a Quorum.

(iii) Each Voting Member shall have one (1) vote in respect of any vote on any decision of the Board. If there is a tie vote, the position taken by the Chair, or the Voting Member presiding over the meeting in the absence of the Chair, in such vote shall prevail. If a Quorum is not present at any meeting of the Board, the Members present may adjourn the meeting, without notice other than announcement at the meeting, until a Quorum shall be present. Except as set forth in Section 2.7, each decision, election, appointment or action by the Board, whether specifically set forth in these Bylaws or otherwise, shall be made in accordance with the procedures set forth in this Section 2.6.

(d) Meetings by Means of Conference Telephone. Unless otherwise provided by these Bylaws, the Members may participate in a meeting of the Board by means of a conference telephone, videoconference or similar communications equipment that enables all persons participating in the meeting to hear and speak to each other. Participation in a meeting pursuant to this Section 2.6(d) shall constitute presence in person at such meeting.

Section 2.7 Action by Written Consent.

Unless otherwise provided by these Bylaws, any action required or permitted to be taken at any meeting of the Board may be taken without a meeting, subject to MCC approval, if (i) a written notice of such proposed action is sent (including by electronic means) to all Members, and (ii) at least a majority of all the Voting Members consent in writing to such action. Any such action approved by written consent shall be filed with the minutes

of proceedings of the Board. Notwithstanding the foregoing, if two (2) or more Members so request, the Board shall hold a meeting (by telephone or otherwise) prior to such action by written consent.

#### Section 2.8 Committees.

The Board may create one or more committees and, except as otherwise provide in these Bylaws and the Compact, appoint members of the Board or such other persons as the Committee designates, to serve on such committee or committees. All committee members of each committee shall serve at the pleasure of the Board and shall have the limited authority to make informed recommendations to the Board. The committees shall not have the authority to bind MCA-Mali or the Board. The designation of such committees and the delegation thereto of authority shall not operate to relieve the Board of any responsibilities imposed under these Bylaws, any Governing Document, the Compact or any Supplemental Agreement.

#### Section 2.9 Reporting Requirements.

The agenda of any meeting of the Board, the name of all attendees at such meeting, the issues discussed at such meeting, and all decisions taken by the Board at such meeting shall be reflected in the minutes of the meeting which will be recorded by the Secretary of MCA-Mali, and such minutes shall be signed by the Chair (or the person acting as such at a given meeting). The minutes of each Board meeting shall be posted in French and English on the MCA-Mali Website within two (2) weeks after each meeting.

#### Section 2.10 Remuneration.

Members shall not receive any remuneration in connection with the performance of their duties as Members on (or, as applicable, as Chair of) the Board, except to the extent such remuneration or reimbursement is specifically permitted by policies approved by MCC and adopted by the Board, *provided, however*, that such policies shall be in accordance with the Cost Principles for *Government Affiliates Involved in Compact Implementation*, which may be found on the MCC Website.

#### Section 2.11 Conflicts of Interest.

(a) The Board shall develop and adopt a conflicts of interest policy in accordance with the standards provided in Section 3.2(b) of the Compact and the *Guidelines for Accountable Entities and Implementation Structures*, which may be found on the MCC Website. Such conflicts of interest policy should include, at a minimum, prohibitions to ensure that:

(i) No Member, employee, agent, member of an Advisory Council, member of the Management, or representative of MCA-Mali participates in the selection, award, or administration of a contract, grant or other benefit or transaction funded in whole or in part by MCC Funding in which (A) such person, members of such person's immediate family or household or his or her business partners, or organizations controlled by or substantially involving such affiliate, has or have a financial or other

interest, or (B) such person is negotiating or has any arrangement concerning prospective employment.

(ii) No Member, employee, agent, member of an Advisory Council, member of the Management, or representative of MCA-Mali no Member, solicits, accepts from, or offers to a third party or is promised directly or indirectly for himself 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, or engages in any activity which is, or gives the appearance of being, a conflict of interest.

(b) The Board shall develop and adopt a confidentiality policy in accordance with the standards provided in Section 5.3 of these Bylaws and the *Guidelines for Accountable Entities and Implementation Structures*, which may be found on the MCC Website.

(c) Each Member shall comply with the conflicts of interest and confidentiality policies adopted by the Board.

### **ARTICLE III. MANAGEMENT**

#### Section 3.1 Roles and Responsibilities.

(a) The Management shall assist the Board in overseeing the implementation of the Program and shall have the principal responsibility (subject to the direction and oversight of the Board, and subject to MCC's rights of approval as set forth in the Compact (including Section 3(c) of Annex I of the Compact), in these Bylaws, and in any Supplemental Agreement) for the overall management of the implementation of the Program, including those roles and responsibilities specifically set forth in Section 3(d)(iii)(3) of Annex I of the Compact.

(b) Each member of the Management shall exercise his or her duties solely in accordance with the best interests of MCA-Mali, the Program, the Compact Goal and the Objectives, and shall not undertake any action that is contrary to those interests or would result in personal gain or a conflict of interest.

#### Section 3.2 Composition of Management.

The Management shall be composed of qualified experts, including such officers and staff as may be necessary to carry out effectively its responsibilities, including the following (each of the positions listed in sub-clauses (i) through (ix), an "Officer"):  
(i) the Director General, (ii) Director of Finance and Administration, (iii) Legal Adviser, (iv) Director of Procurement, (v) Director of Environmental and Social Assessment, (vi), Director of Monitoring and Evaluation, (vii) Director of the Airport Improvement Project, (viii) Director of the Industrial Park Project, and (ix) Director of the Alatona

Irrigation Project. The Management shall also include other key employees, an office manager appropriate administrative and support personnel, as needed and in accordance with the staffing plan agreed with MCC and the Detailed Financial Plan.

### Section 3.3 Appointment of Management.

(a) Appointment of Director General. The Board shall select a director general (the “**Director General**”) to serve a term not exceeding the shorter of the Compact Term or five (5) years after an open and competitive recruitment and selection process, who shall be appointed by decree of the Council of Ministers in accordance with Decree No. 07-220/P-RM of 5 July 2007, and which appointment shall be subject to MCC approval. In the case of incapacity, resignation or other unavailability of the Director General, the Chair or Principal Representative of the Government under the Governance and Disbursement Agreement shall appoint an interim Director General, subject to MCC approval, to serve as the acting Director General and shall convene as soon as practicable a meeting of the Board to select a new Director General to be appointed in accordance with the Compact and the Governing Documents.

(b) Appointment of Officers and Key Employees. The Management of MCA-Mali shall be selected and hired by the Board after an open and competitive recruitment and selection process. The appointment and dismissal of each Officer and key employee shall be subject to the prior approval of MCC and the Board consistent with Section 3(c) of Annex I of the Compact.

### Section 3.4 Role of Director General and Management Actions.

(a) Role of Director General. The Director General shall act as the chief executive officer of MCA-Mali under the supervision of the Board. The Director General shall be responsible for the successful implementation of the Compact and the day-to-day management of MCA-Mali, represent MCA-Mali to third parties and may enter into contracts on behalf of MCA-Mali, subject to the prior approval of MCC and the Board, as set forth herein, in the Compact, and in other Supplemental Agreements.

(b) Management Actions. The Director General must approve in writing each of the following (each, a “**Management Action**”), which approval responsibility may not be delegated further:

(i) Recommendation to the Board on any matter submitted to the Board for decision as a Board Action;

(ii) Certain Re-Disbursements requiring the Director General’s approval as set forth in the Fiscal Accountability Plan;

(iii) Certain procurement decisions requiring the Director General’s approval as set forth in these Bylaws;

(iv) Any human resource decisions for any employee of MCA-Mali other than any Officer or any other key employee;

(v) Any amendment or supplement to the Multi-Year Financial Plan, the Detailed Financial Plan, or any component thereof, that does not require Board Action under these Bylaws; and

(vi) Any proposal to amend, replace, terminate, suspend or otherwise change any Management Action previously approved by the Management.

### Section 3.5 Role of Legal Advisor as Secretary to the Board.

The Legal Adviser shall act as the corporate secretary of MCA-Mali to the Board (the “**Secretary**”) unless the Director General designates another Officer to serve as the Secretary. The Secretary shall be responsible for maintaining MCA-Mali's corporate books and records at the offices of MCA-Mali, giving notice of Board meetings, attending and keeping minutes of Board meetings, signing all documents on which the signature of the Secretary is necessary or appropriate, and attesting to the authenticity of any MCA-Mali generated documents.

### Section 3.6 Reporting Requirements.

The Director General, with the assistance of the Management, shall promptly deliver and certify any reports, documents or other submissions requested by or required to be delivered to the Board or MCC. Any documents delivered to the Board shall be copied to MCC (unless otherwise notified from time to time by MCC to MCA-Mali). The Management shall report, through the Director General, directly to the Board.

### Section 3.7 Terms of Employment; Remuneration.

(a) Terms of Employment. The terms of employment for each Officer and for any other employee designated by MCA-Mali as a key employee shall be governed by an employment agreement to be entered into between MCA-Mali and each such member or employee, as applicable.

(b) Remuneration. Remuneration paid to each Officer or employee of MCA-Mali in connection with the performance of their duties shall be approved in advance by MCC and comply with the Detailed Financial Plan and the standards provided in the *Cost Principles for Government Affiliates Involved in Compact Implementation*, which may be found on the MCC Website.

### Section 3.8 Conflicts of Interest; Confidentiality.

(a) Each member of the Management shall comply with the conflicts of interest policy adopted by the Board, which shall be incorporated by reference into the employment agreements to be entered into between MCA-Mali and each such member or employee, as applicable.

(b) Each member of the Management shall comply with the confidentiality policy adopted by the Board.

**ARTICLE IV.**  
**ADVISORY COUNCILS**

Section 4.1 Roles and Responsibilities.

(a) Each Advisory Council shall have the roles and responsibilities set forth in Section 3(e)(iii) of Annex I of the Compact.

(b) The Advisory Councils shall be used as a mechanism to give representatives of the private sector, civil society and local and regional governments the opportunity to provide advice and input to MCA-Mali regarding the implementation of the Compact.

(c) The Advisory Councils shall have an opportunity to regularly provide, on at least a quarterly basis, to the Director General and to the Board its views and recommendations. Recommendations or feedback of the Advisory Councils shall be communicated in writing to the Chair of the Board, on at least a quarterly basis. The Chair, with the assistance of the Secretary and the Director General, shall compile such recommendations or feedback to be included in the agenda for the next meeting of the Board, as appropriate, or otherwise presented to the Board for consideration. The Board may, in response to the Advisory Councils' views or recommendations, require the Management to provide such other information and documents as the Board deems advisable.

Section 4.2 Establishment and Composition.

(a) Establishment. The Government shall ensure the establishment by decree of (i) an advisory council to the Board representing the beneficiaries of the Airport Improvement Project and the Industrial Park Project (the "***Airport Domain Advisory Council***"), and (ii) an advisory council to the Board representing the beneficiaries of the Alatona Irrigation Project (the "***Alatona Zone Advisory Council***"). Each Advisory Council shall be independent of MCA-Mali and shall be established to the satisfaction of MCC.

(b) Composition. Each Advisory Council shall consist of no more than fifteen (15) voting members selected pursuant to a process agreed by the Government, MCA-Mali and MCC. The composition of each Advisory Council may be adjusted by agreement of the Government, MCA-Mali and MCC, from time to time, to ensure, among other things, an adequate representation of the intended beneficiaries of the relevant Projects. Each Advisory Council shall initially be comprised of the following members:

(i) Airport Domain Advisory Council. A representative of each of the following entities or the associations representing the following constituencies: (1) Aéroports du Mali; (2) l'Agence Nationale de l'Aviation Civile; (3) la Société d'Assistance Aéroportuaire du Mali; (4) Services de Securite; (5) l'Armée de l'Air; (6) la Douane; (7) Services de Sante; (8) Compagnies Aérienne; (9) Industriels de la Zone

Aéroportuaire; (10) Maraichers installés sur le domaine aéroportuaire; (11) Agences de Voyage; (12) Riverains de l'Aéroport; (13) Usagers de l'Aéroport; (14) Commerçants, Artisans et Transporteurs; and (15) Aviation Générale.

(ii) Alatona Zone Advisory Council. A representative of each of the following entities or the associations representing the following constituencies: (1) the Office du Niger; (2) the Associations et ONG Féminines; (3) the Coordination Régionale des ONG de Ségou; (4) Direction Nationale du Génie Rural; (5) Conseil National des Jeunes du Mali; (6) Association Malienne des Droits de l'Homme; (7) Transporteurs de Niono; (8) l'Association des Vendeurs d'Engrais; (9) l'Association des Commerçants de Niono; (10) Syndicat des Exploitants Agricoles de l'Office du Niger (SEXAGON) or a successor entity; (11) Syndicat des Agriculteurs du Delta Central (SYNADEC) or a successor entity; (12) Chambre Locale d'Agriculture de Niono; (13) l'Union des Artisans du Cercle de Niono; (14) Conseil Communal de Diabaly; and (15) Conseil Communal de Dogofry.

#### Section 4.3 Term of Membership; Alternates; Vacancies.

(a) Term. Each member of an Advisory Council shall be appointed for a two (2) year term and shall upon expiry of that term be replaced by a new member for the same period or the incumbent member shall be appointed for a new two (2) year term.

(b) Alternates. Each member of an Advisory Council may appoint an alternate, approved by majority vote of the other members of such Advisory Council, to serve when the member is unable to participate in a meeting of the Advisory Council.

(c) Vacancies. In the event that a vacancy is created with respect to one or more members of an Advisory Council at any time by death, disability, retirement, resignation, removal or any other reason, a successor shall be selected in accordance with this Section 4.3.

#### Section 4.4 Meetings.

(a) Meetings. Each Advisory Council shall hold at least two (2) general meetings per year, as well as such other periodic meetings of that Advisory Council or any subcommittees thereof designated along sectoral, regional, or other lines, as may be necessary or appropriate from time to time. A special general meeting may also be convened at the request of two (2) members of an Advisory Council, the Director General, or the Chair. Civil Society Stakeholders (including, but not limited to, banking organizations, microfinance institutions, farmer associations, women's associations, chambers of commerce, local government, anti-corruption associations and environmental and social organizations) shall be invited to participate in all such meetings.

(b) Each Advisory Council shall appoint one of its members to be the secretary for the purpose of, among other things, organizing, convening and conducting the meetings and taking the official minutes of the meetings of that Advisory Council in conjunction with the Management of MCA-Mali.

(c) Notice. A notice stating the place, date, time and agenda of each Advisory Council meeting shall be given to each member of that Advisory Council by the secretary of that Advisory Council (i) in respect of a regular general meeting, either by hand, mail or facsimile at least seven (7) days prior to the date of such regular general meeting, and (ii) in respect of a special general meeting, either by mail not less than 48 hours before the date of the special meeting or by hand or telephone not less than 24 hours before the date of such special general meeting. Notwithstanding the foregoing, (x) any member of an Advisory Council may waive, in writing, the requirement to receive notice in respect of any such meeting, and (y) a member's presence at any such Advisory Council meeting shall constitute waiver by such member of the requirement to receive notice of such meeting. A valid meeting of an Advisory Council may not be held unless each member of that Advisory Council receives such notice (or waives or is deemed to waive such notice) of such meeting. All Civil Society Stakeholders shall be invited to participate in all such meetings and afforded an opportunity during each such meeting to present their views or recommendations to the relevant Advisory Council.

(d) Quorum. The quorum for any meeting of an Advisory Council shall be the majority of the members of that Advisory Council. All recommendations of an Advisory Council shall be taken by a majority of the members present at a meeting at which a quorum is present, each member having one (1) vote.

(e) If any member of an Advisory Council shall fail to attend more than two consecutive meetings of that Advisory Council either in person or through a deputy, such member shall be deemed to have resigned from that Advisory Council and such Advisory Council shall appoint an alternate so that vacancies can be filled as soon as possible.

(f) The members of an Advisory Council may participate in a meeting of that Advisory Council in the same manner described in Section 2.6(c) herein.

#### Section 4.5 Action by Written Consent.

Unless otherwise provided in these Bylaws, any action required or permitted to be taken at any meeting of an Advisory Council may be taken without a meeting if (i) notice of such proposed action is sent to all members of that Advisory Council, and (ii) a majority of all the members of that Advisory Council consent in writing to such action. Any such action approved by written consent shall be filed with the minutes of proceedings of the relevant Advisory Council. Notwithstanding the foregoing, if two (2) or more members of an Advisory Council so request, that Advisory Council shall hold a meeting (by telephone or otherwise) prior to such action by written consent.

#### Section 4.6 Reporting.

(a) The Advisory Councils shall notify the Chair and the Director General of all decisions and recommendations taken at their meetings in a timely manner.

(b) Advisory Council members shall make themselves accessible to the beneficiaries they represent for the purpose of receiving the beneficiaries' comments or suggestions regarding the Program.

(c) The minutes of all meetings of the Advisory Councils shall be made posted in French and English on the MCA-Mali website in a timely manner.

Section 4.7 Conflicts of Interest.

Each member of the Advisory Councils shall comply with the relevant provisions of the conflicts of interest policy adopted by the Board.

Section 4.8 Remuneration.

Members of the Advisory Councils shall not receive any remuneration in connection with the performance of their duties as members of such Advisory Councils, *provided, however*, that MCA-Mali may reimburse members of an Advisory Council for reasonable expenses arising from their attendance at regular or special meetings, so long as such reimbursements are consistent with the Detailed Financial Plan and *Cost Principles for Government Affiliates Involved in Compact Implementation*, which may be found on the MCC Website.

**ARTICLE V.  
MISCELLANIOUS**

Section 5.1 Amendments.

These Bylaws may be altered, amended or repealed at any regular or special meeting of the Board by the affirmative vote of at least seventy-five percent (75%) of the Voting Members present at a meeting at which there is a Quorum in accordance with Section 2.6(c)(ii) of these Bylaws, *provided* that any such alteration, amendment or repeal shall be subject to MCC approval in accordance with Section 3(c)(i) of Annex I to the Compact. Prior notice of such amendments must be sent to MCC through the MCC Representative. The Board shall not have the power to alter or amend the Bylaws in such manner as to create a conflict with the terms of the Compact or any Supplemental Agreement.

Section 5.2 Indemnification and Insurance.

Pursuant to Section 3(d)(ii)(4) of Annex I of the Compact, the Government is responsible for insuring, indemnifying and holding harmless each Member of the Board and each Officer and other employee of the Management, *provided* that the Government shall have no obligation to indemnify any Voting Members of the Board or Officers or other employees of the Management if and to the extent that any such claims, losses, actions, liabilities, costs, damages or expenses are attributable to the fraud, gross negligence or willful misconduct of such Voting Member of the Board or such Officer or other employee of the Management.

### Section 5.3 Confidentiality.

All documents, reports, cost estimates, technical data and information concerning the Program that is not otherwise publicly available shall be treated by the Board, the Management Unit and the Stakeholders' Committee confidentially in a reasonable and appropriate manner and in accordance with applicable professional standards, *provided, however*, all such documents, reports, cost estimates, technical data and other information may be provided by MCC to any employees, contractors, agents, representatives of MCC, the Inspector General, the General Accountability Office, or others designated by MCC; *provided, further*, that the Board may cause to be posted on the MCA-Mali website or otherwise make publicly available certain information, including quarterly financial reports. The Board and the Management shall ensure that only those with a need to know and under similar obligations of confidentiality shall have access to any and all information, documents, cost estimates data and information provided to such Party or otherwise generated in connection with these Bylaws and the Program. The Board and the Management shall ensure that each member of the Board and each member of the Management complies with the confidentiality obligations set forth in this Section 5.3. MCA-Mali shall include obligations of confidentiality similar to those set forth in this Section 5.3 in the employment agreements of each member of the Management.