

GOVERNANCE AGREEMENT

By and among

THE MILLENNIUM CHALLENGE CORPORATION,

THE GOVERNMENT OF THE REPUBLIC OF GHANA

Acting Through

THE MINISTRY OF PUBLIC SECTOR REFORM,

and

THE MILLENNIUM DEVELOPMENT AUTHORITY

Dated as of February 16, 2007

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Exhibit A: Definitions

GOVERNANCE AGREEMENT

This **GOVERNANCE AGREEMENT** (this “*Agreement*”) is entered into as of February 16, 2007 by and among the Millennium Challenge Corporation, a United States Government corporation (“*MCC*”), the Government of the Republic of Ghana (the “*Government*”), acting through the Ministry of Public Sector Reform (the “*Ministry*”), and the Millennium Development Authority, a public corporation organized under Ghanaian law (“*MiDA*,” and each of MCC, the Ministry, and MiDA, a “*Party*,” or collectively, “*Parties*”).

Capitalized terms used in this Agreement but not defined in Exhibit A shall have the meanings given to them in the Compact.

RECITALS

WHEREAS, the United States of America, acting through MCC, and the Government executed the Millennium Challenge Compact on August 1, 2006 (the “*Compact*”) that sets forth the general terms and conditions on which MCC will provide funding of up to US\$ 547,009,000 to the Government for a Millennium Challenge Account program to reduce poverty through economic growth in Ghana; and

WHEREAS, as a condition precedent to the initial MCC Disbursement under the Compact, the Parties must execute and deliver a governance agreement that specifies the organizational structure of MiDA and the respective powers, rights and duties of the Board of Directors of MiDA (the “*Board*”) and the management unit of MiDA (the “*Management*”), as well as the formation and role of the three zonal advisory committees (each, a “*Zonal Advisory Committee*”).

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the Parties hereby agree:

ARTICLE I.

BOARD OF MiDA

Section 1.1 Composition. The Board shall consist of at least nine (9) but no more than eleven (11) voting members (each, a “*Voting Member*”) and four (4) non-voting observers (each, an “*Observer*”) consisting of the MCC Representative and each of the three Zonal Representatives. Each Voting Member and each Observer shall be referred to in this Agreement as a “*Member*.” The Voting Members, by majority vote, and subject to MCC approval, may alter the size of the Board so long as the total does not exceed eleven (11) members.

Section 1.2 Appointment of Voting Members.

(a) The following Voting Member positions (each, a “*Government Member*”) shall be filled by the individuals, during the Compact Term, holding the offices identified and all Government Members shall serve in their capacity as the applicable Government official and not in their personal capacity:

(i) The Chair;

(ii) The Minister, or any other government official of the rank of director or higher, from the Ministry of Food and Agriculture, initially to be the Minister of Food and Agriculture;

(iii) The Minister, or any other official of the rank of director or higher, from the Ministry of Trade, Industry, Private Sector and Presidential Special Initiatives, initially to be the Minister of Trade, Industry, Private Sector and Presidential Special Initiatives;

(iv) The Minister, or any other official of the rank of director or higher, from the Ministry of Local Government, Rural Development and Environment, initially to be the Minister of Local Government, Rural Development and Environment;

(v) The Minister, or any other official of the rank of director or higher, from the Ministry of Finance and Economic Planning, initially to be the Minister of Finance and Economic Planning; and

(vi) The CEO.

(b) Each Government Member shall be appointed for a five (5) year term. In the event that a vacancy is created with respect to one or more Government Members at any time by death, disability, retirement, resignation, removal or any other reason, such Government Member may be replaced by another government official of comparable rank from a ministry or other government body relevant to the Program, subject to approval by MCC (such replacement to be referred to hereinafter as a Government Member).

(c) Two (2) representatives of the private sector shall be appointed as Voting Members (the "**Private Sector Members**"), and one (1) representative of the non-governmental sector shall be appointed as a Voting Member (the "**NGO Member**," together with the Private Sector Members, the "**Civil Members**"), in each case as provided in Section 1.2(d).

(d) Each Private Sector Member shall be selected by the Private Enterprise Foundation. The NGO Member shall be selected by the Ghana Association of Private Voluntary Organizations in Development.

(e) Each Civil Member shall be appointed for a two and one half (2 ½) year term and shall upon expiry of that term be replaced by a new member for the same period. No Civil Member may be reappointed as a Civil Member following expiry of that Civil Member's initial term. In the event that a vacancy is created with respect to one or more Civil Members at any time by death, disability, retirement, resignation, removal or any other reason, a successor shall be selected in accordance with Section 1.2(d); *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 1.1 and 1.2.

(f) 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.

(g) Each Voting Member shall exercise their duties solely in accordance with the best interests of MiDA, the Program 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 1.3 Appointment of the Chair of the Board.

(a) The activities of the Board shall be managed by the chair of the Board (the "**Chair**"). The Chair shall be appointed by the President of the Republic of Ghana and shall initially be Dr. P. Kwesi Nduom, the incumbent Minister of the Ministry.

(b) All documents and reports submitted to MCC by the Board in accordance with this Agreement or the Compact shall be certified by the Chair as (i) having been approved by the Board, and (ii) being true, accurate and complete.

Section 1.4 Appointment of Observers.

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

(i) One (1) representative selected (and from time to time replaced) by MCC (the "**MCC Representative**"); *provided that* MCC may designate an alternate representative to attend one or more meetings of the Board in the event the MCC Representative is unable to attend; and

(ii) Three (3) representatives, each selected (and from time to time replaced) by lot by the district assemblies within each Intervention Zone (each a "**Zonal Representative**").

(b) Except as otherwise expressly provided in this Agreement, each Observer shall have the right to attend all meetings of the Board, to participate in discussions of the Board, and to receive all information and documents provided to the Board, together with any other rights (other than voting rights) granted to a member of the Board pursuant to this Agreement, including access to records, employees or facilities. The Observers shall not have any voting rights with respect to any action to be taken by the Board.

(c) The Board shall invite a representative selected by the registered NGOs representing the environmental community (the "**eNGO Invitee**") to all meetings of the Board, and the eNGO Invitee shall receive all information and documents provided to the Board. The eNGO Invitee shall not have any voting rights with respect to any action to be taken by the Board. Except as otherwise expressly provided in this Agreement, the eNGO Invitee shall have the right to attend all meetings of the Board and to receive all information and documents provided to the Board.

(d) Each of the Government and MiDA 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, this Agreement, or the activities of MiDA, the MCC Representative shall not, in accordance with Section 3(d)(ii)(4) of Annex 1 of the Compact, be subject to the jurisdiction of the courts or any other body of Ghana, nor to any arbitral body, and nothing in such agreements or activities shall be construed as the consent by an MCC Representative to any such jurisdiction.

Section 1.5 Indemnification and Insurance.

(a) The Government shall indemnify and hold harmless each Member of the Board and each Officer and other employee of the Management, from and against any and all claims, losses, actions, liabilities, costs, damages or expenses, including reasonable attorneys' fees and expenses, arising or incurred by such Member, Officer or other employee by reason of such Member's activities as a Member of the Board or such Officer's or other employee's activities within the Management, as applicable; *provided that* the Government shall have no obligation to indemnify any Voting Members of the Board or Officers or other employees of the Management under this Section 1.5 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. The indemnification rights granted to each Member of the Board, or Officer or other employee of the Management pursuant to the preceding sentence are contractual rights that, notwithstanding anything to the contrary in this Agreement (including the amendment provisions of Section 5.3), cannot be diminished without the consent of the beneficiary of such rights.

(b) The Government shall ensure, at the Government's sole cost and expense, that appropriate insurance is obtained and appropriate indemnifications and other protections are provided, acceptable to MCC and to the fullest extent permitted under the laws of Ghana, to ensure that (A) Civil Members and Observers shall not be held personally liable for the actions or omissions of the Board or MiDA and (B) Officers shall not be held personally liable for the actions or omissions of the Board, MiDA or actions or omissions of the Officer so long as properly within the scope of Officer's authority.

(c) The Government shall act in accordance with the relevant provisions of the Compact, including Section 3.9 and Section 3(d)(ii)(4) of Annex I of the Compact, in fulfilling its obligations under this Section 1.5.

Section 1.6 Role of the Board.

(a) Subject to MCC's contractual rights of approval as set forth in the Compact (including Section 3(c) of Annex I of the Compact), in this Agreement, or in any Supplemental Agreement, the Board shall have the following responsibilities and authority (which may not be delegated further):

(i) Oversight with respect to (1) the Management, (2) the overall implementation of the Program in accordance with the Compact and the Supplemental Agreements, including oversight of the Implementation Documents and any component plans thereto, as amended from time to time in accordance with the Compact and the Supplemental Agreements; and (3) the performance by MiDA (or by such other mutually acceptable persons or

entities as to which MCC has provided its written consent) of the MiDA Designated Rights and Responsibilities, in each case, pursuant to the terms and conditions of Section 3.2(c) of the Compact.

(ii) Consideration of the Zonal Advisory Committees' views or recommendations made pursuant to Section 3.2(b), and, if the Board deems it advisable, requiring the Management to provide responsive information and documents to the Board or, as applicable, the Zonal Advisory Committees.

(iii) Performance of such other obligations and oversight functions in respect of MiDA activities as contemplated by the Compact and the Governing Documents.

(b) Without limiting the foregoing provisions of this Section 1.6, each of the following actions of MiDA are specifically subject to the prior approval of the Board (each, a "**Board Action**"):

(i) Submission of any MCC Disbursement Request by MiDA to MCC (which approval shall include the approval of all attachments to such MCC Disbursement Request as provided in the Disbursement Agreement);

(ii) Submission to MCC of each Implementation Document (including each component thereto) and any material amendments or supplements thereto;

(iii) Submission to MCC of the Audit Plans;

(iv) Entering into any Material Agreement to which MiDA is a party;

(v) Entering into any modification, termination or suspension of any agreement referenced in Section 1.6(b)(iv) above, and any action that would have the effect of modifying, terminating or suspending any such agreement;

(vi) Entering into any agreement that is (A) not at arm's length or (B) with a party related to MiDA or any of its Affiliates;

(vii) Any Re-Disbursement to any Provider to the extent that MCC has notified MiDA and the Fiscal Agent that MCC wishes to review and approve such Re-Disbursement;

(viii) Any Pledge;

(ix) Any material amendments or supplements to regulations, contractual arrangements (including the Governance Agreement) or other charter document establishing or governing MiDA;

(x) Any decision to dispose of, in whole or in part, liquidate, dissolve, wind up, reorganize or effect other change of MiDA's Board or Management, including any revocation or modification of or supplement to any Governing Document related thereto or any subsidiary or Affiliate of MiDA; *provided that* each such decision shall require approval of at

least seventy-five percent (75%) of the Voting Members present at a meeting at which there is a Quorum;

- (xi) Any change in the character or location of any Permitted Account;
- (xii) Any formation or acquisition of any direct or indirect subsidiary, or other Affiliate, of MiDA;
- (xiii) (A) Any change of any member of the Board (including any Observer), of the member serving as the Chair or in the composition of the Board, and the filling of any vacant seat of any member of the Board (including any Observer), (B) any change of any Officer or other key employee of MiDA or in the composition of the Management, and the filling of any vacant position of any Officer or other key employee of MiDA, and (C) any change in the composition of any Zonal Advisory Committee;
- (xiv) Any decision to engage, to accept or to manage any funds from any donor agencies or organizations in addition to the MCC Funding during the Compact Term;
- (xv) Any decision to amend, supplement, replace, terminate, or otherwise change any of the foregoing;
- (xvi) Any other activity, agreement, document, transaction or any other action that requires Board approval pursuant to the Compact, applicable law, any Governing Document, the Procurement Agreement, the Disbursement Agreement, or any other Supplemental Agreement;
- (xvii) At MCC's request, submission to MCC (or the Government) of any Compact Report;
- (xviii) Submission to MCC for approval of any amendment or supplement to the Multi-Year Financial Plan , the Detailed Budget, or any component thereof, pursuant to Section 4(a)(iv) of Annex I to the Compact; and
- (xix) Any proposal that would amend, replace, terminate, suspend or otherwise change any Board Action previously approved by the Board.

Section 1.7 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 every two months and more frequently as may be necessary. Special meetings of the Board may be called if requested by 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. Notice stating the place, date, time and agenda of the meeting shall be given to each Member by the Secretary of MiDA (a) in respect of a regular bimonthly meeting, either by hand, mail or facsimile at least seven (7) days prior to the date of the regular meeting, and (b) 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, (x) any Member may waive, in writing, the requirement to receive notice in respect of any such meeting, and (y) 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. All documents to be discussed at any Board meeting shall be in English, and the English language version of all such documents shall be made available to all Members prior to the date of such Board meeting.

Section 1.8 Quorum; Voting.

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

(b) Except as set forth in Sections 1.6(b)(x) and 1.9, 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. 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 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 1.9, each decision, election, appointment or action by the Board, whether specifically set forth in this Agreement or otherwise, shall be made in accordance with the procedures set forth in this Section 1.8.

Section 1.9 Action by Written Consent. Unless otherwise provided by this Agreement, 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 (a) a written notice of such proposed action is sent (including by electronic means) to all Members, and (b) 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 1.10 Meetings by Means of Conference Telephone. Unless otherwise provided by this Agreement, 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 1.10 shall constitute presence in person at such meeting.

Section 1.11 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 resolutions approved at such meeting shall be reflected in the minutes of the meeting which will be recorded by the Secretary of MiDA, 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 on the MiDA Website within two (2) weeks after each meeting.

Section 1.12 Remuneration and Reimbursement. Members shall not receive any remuneration or reimbursement 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 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. A Member who has an interest directly or indirectly in a contract or other transaction proposed to be entered into with MiDA shall disclose that interest to the Board and is disqualified from participating in any deliberations of the Board in respect of the contract or transaction. A Member who fails to disclose such an interest shall be removed from the Board.

ARTICLE II.

MANAGEMENT OF MiDA

Section 2.1 Appointment.

(a) The Board shall select the chief executive officer (the “**CEO**”) to serve a term not exceeding five (5) years after an open and competitive recruitment and selection process, and appointed in accordance with the Millennium Development Authority Act of 2006, which appointment shall be subject to MCC approval. The Management of MiDA shall be selected and hired by the CEO after an open and competitive recruitment and selection process. The appointment and dismissal of each Officer of the Management shall be subject to the prior approval of MCC and the Board consistent with Section 3(c) of Annex I of the Compact.

(b) The Management shall be composed of qualified experts from the public or private sectors, including such offices and staff as may be necessary to carry out effectively its responsibilities, including the following (each of the positions listed in sub-clauses (i) through (xiv), an “**Officer**”): (i) the CEO, (ii) Internal Auditor, (iii) Legal Counsel, (iv) Director of Agricultural Transformation Program (who shall also act as the Chief Operating Officer of MiDA), (v) Director of Procurement, (vi) Director of Monitoring and Evaluation, (vii) Director of Finance and Administration, (viii) Director of Environmental and Social Impact, and (ix) Community and Public Outreach Manager. Additionally, the Management shall also include: (x) Commercialization of Agriculture Project Manager, (xi) Community Services Project Manager, (xii) Transportation and Agricultural Infrastructure Project Manager, and (xiii) Land Administration Project Manager, each of whom shall report to the Director of Agricultural Transformation Program, and (xiv) Agricultural Financial Services and Bank Capacity Building Manager, who shall report to the Commercialization of Agriculture Project Manager.

(c) The terms of employment for each Officer and for any other employee designated by MiDA as a key employee shall be governed by an employment agreement to be entered into between MiDA and each such member or employee, as applicable. The Management will also be supported by an office manager and appropriate administrative and support personnel. Unless otherwise agreed in writing by the Parties, the Management shall report, through the CEO, directly to the Board. In the case of incapacity, resignation or other unavailability of the CEO, the Director of Agricultural Transformation Program shall serve as the acting CEO and shall

convene as soon as practicable a meeting of the Board to select a new CEO to be appointed in accordance with the Compact and the Governing Documents.

(d) The Legal Counsel shall act as the secretary of MiDA to the Board (the “*Secretary*”) unless the CEO designates another Officer to serve as the Secretary. The Secretary shall be responsible for maintaining MiDA corporate books and records at the offices of MiDA, 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 MiDA generated documents. In addition, the Secretary shall perform such other duties and exercise such other powers as are commonly incidental to the office of a corporate secretary.

Section 2.2 Role of Management Unit. 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 this Agreement, and in any Supplemental Agreement) for the overall management of the implementation of the Program, including:

(a) Development and administration of (i) all components of the Implementation Documents (including the Financial Plan, Procurement Plan, M&E Plan, Fiscal Accountability Plan, and all Program and Project Work Plans), (ii) the Audit Plans and any response to any finding in any Audit, (iii) staffing plans and (iv) any amendments, modifications or supplements to any of the items in Section 2.2(a)(i) - (iii);

(b) Oversight of the implementation of the Projects, including preparation of MCC Disbursement Requests for approval by the Board;

(c) Coordination of the overall Program, each Project, and the other activities contemplated under the Compact and any Supplemental Agreements, including in connection with the performance of any MiDA Designated Rights and Responsibilities;

(d) Management, implementation and coordination of the monitoring and evaluation of the Program and the Projects (including collection and analysis of data);

(e) Development, oversight, management, coordination and implementation of such policies and procedures as may be necessary to facilitate the effective implementation of the Compact and as may be advisable in connection with any Supplemental Agreement, and such other policies, procedures, or activities as may be required or requested by the Board in furtherance of the Compact;

(f) Preparation and review of reports regarding the finances and accounting (including management reporting, accounts receivable, accounts payable, monthly, quarterly and annual financial statements, cash flow statements and projected cash flow requirements), performance, monitoring and evaluation, procurements, budgets, and audit reports of the Program, each Project and the other activities contemplated under, or carried out in furtherance of, the Compact and any other reports requested by the Board;

- (g) Preparation and submission of all reports required by applicable Ghanaian law;
- (h) Maintenance of accounting records for the Program, including for each Project;
- (i) Acquisition and maintenance of a management information system to allow the systematic tracking of programmatic and financial implementation of and performance under the Compact, including each Project;
- (j) Commission and supervision of baseline and ex-post studies for each Project as may be required by the M&E Plan; establishment of data collection, analysis, and reporting systems for the overall Program and for each Project;
- (k) Conduct and oversight of procurements, and other procurement actions (including approvals thereof) in accordance with the Procurement Agreement and the standards set forth in the Procurement Guidelines;
- (l) Administration of the MiDA Website to post current information about Compact-related activities, M&E Plan reporting, financial reporting, and Compact-related procurements (to the extent such procurement postings are required by the Procurement Agreement);
- (m) Provision of advice and written recommendations to the Board on matters constituting Board Actions and in connection therewith, the Management Unit shall prepare and submit to the Board the relevant agreements, documents or actions to be approved, along with a written recommendation to the Board on how to proceed on such agreement, document or action and any other documents needed to support such recommendation;
- (n) Preparation of and submission to the Board of any Compact Report or any other report, document, agreement or action as may be designated or requested by the Board from time to time, along with a written recommendation to the Board on how to proceed;
- (o) Provision of periodic reports to the Board which shall include a report on the Zonal Advisory Committee meetings that occurred during the period covered by such report, and how recommendations of the Zonal Advisory Committees have informed the activities of MiDA;
- (p) Report to and meet with the Zonal Advisory Committees in accordance with Section 3.2(b);
- (q) Preparation and submission of tax exemption certificates related to the Program; and
- (r) Any other responsibilities within the scope of its Program implementation management role that may be required or requested from time to time by the Board.

Section 2.3 Role of CEO.

- (a) Subject to the provisions of the Compact, this Agreement or any other Supplemental Agreement, the CEO shall act as the chief executive officer of MiDA under the supervision of the Board. The CEO shall be responsible for the day-to-day management of

MiDA, represent MiDA to third parties and may enter into contracts on behalf of MiDA, subject to the prior approval of MCC and the Board as set forth herein, in the Compact, and in other Supplemental Agreements. In particular, the CEO shall be charged with:

- (i) Selecting, training, managing and leading the Management;
- (ii) Developing and managing planning of the complete Program, supervising and ensuring the effective implementation of the Program and all Projects (including all components thereof);
- (iii) Representing the program to the Ghanaian public and program partners and serve as the lead representative to MCC, donor community, civil society and private sector and others;
- (iv) Coordinating the ongoing monitoring of the entire Program and each of its Projects and components;
- (v) Publishing periodic status reports, approved by the Board, regarding the Program's progress;
- (vi) Monitoring and managing contract execution and administration with Providers and Implementing Entities; and
- (vii) Such other duties as may be typical for a chief executive officer or as otherwise determined by the Board from time to time, consistent with the Compact, this Agreement and the other Supplemental Agreements.

(b) The CEO must approve in writing each of the following in accordance with this Agreement (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 CEO's approval as set forth in the Fiscal Accountability Plan;
- (iii) Certain procurement decisions requiring CEO's approval as set forth in the Procurement Agreement;
- (iv) Any human resource decisions for any employee of MiDA other than any Officer or any other key employee;
- (v) Any amendment or supplement to the Multi-Year Financial Plan, the Detailed Budget, or any component thereof, that does not require Board Action under Section 1.6(b)(xviii) above; and

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

Section 2.4 Reporting Requirements. The CEO, 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 MiDA).

Section 2.5 Restrictions on Use of MCC Funding.

(a) MiDA shall ensure that the use of MCC Funding complies with, and shall monitor the Permitted Accounts in accordance with, (i) Section 2.3 of the Compact, (ii) any United States laws, regulations and executive orders regarding money laundering, terrorist financing, restrictive trade practices or boycotts, United States sanctions laws and regulations, and all other economic sanctions or other restrictions promulgated from time to time by means of any statute, executive order, regulation or as administered by the Office of Foreign Assets Control of the United States Treasury Department or any successor governmental authority, including, 18 U.S.C. Section 1956, 18 U.S.C. Section 1957, 18 U.S.C. Section 2339A, 18 U.S.C. Section 2339B, 18 U.S.C. Section 2339C, 18 U.S.C. Section 981, 18 U.S.C. Section 982, Executive Order 13224 Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism, 15 C.F.R. Part 760, and those economic sanctions programs enumerated at 31 C.F.R. Parts 500 through 598, and (iii) any applicable Ghanaian laws regarding terrorist financing, money laundering, or similar activity.

(b) MiDA shall verify, or cause to be verified, appropriately any individual, corporation or other entity with access to or recipient of funds, such verification may include verifying if such name appears on applicable watch lists such as the lists maintained on www.epls.gov, www.ofacompliance.com, or on the consolidated list of individuals and entities maintained by the “1267 Committee” of the United Nations Security Council.

(c) MiDA shall (i) conduct such verification in connection with Re-Disbursements or at such time as MCC may from time to time reasonably request, including a review of any verification report generated by the Bank pursuant to the Bank Agreement and (ii) on at least a quarterly basis or such other reasonable period as MCC may request from time to time deliver a report of such monitoring and verification.

(d) MiDA represents and warrants that no payments have been or will be received by any Member, Officer or other employee in connection with this Agreement and no payments have been made by MiDA or any of its Members, Officers or other employees in connection with this Agreement, in violation of the United States Foreign Corrupt Practices Act of 1977 (the “*FCPA*”), as amended (15 U.S.C. 78a et seq.) or that would be in violation of the FCPA if the party were deemed to be a United States person or entity or in violation of any applicable Ghanaian laws or regulations regarding anti-bribery or corruption.

ARTICLE III.
ZONAL ADVISORY COMMITTEES

Section 3.1 Composition.

(a) The Government shall ensure the establishment of three Zonal Advisory Committees, one for each of the three Intervention Zones. Each Zonal Advisory Committee shall be comprised, unless otherwise agreed by the Parties, of the following members: (i) a district planning officer from each district within the applicable Intervention Zone, (ii) a district director of agriculture from each district within the applicable Intervention Zone, (iii) a district chief executive from each district within the applicable Intervention Zone, (iv) an elected representative from each district assembly from the applicable Intervention Zone, (v) a regional environmental officer from each region within the applicable Intervention Zone, and (vi) the Member of Parliament who represents constituents residing within the applicable Intervention Zone; provided, however, if two or more Members of Parliament represent constituents residing within the applicable Intervention Zone, such Members shall rotate their membership on the Zonal Advisory Committee pursuant to a schedule agreed upon by such Members of Parliament.

(b) Each member position identified in Section 3.1(a) above shall be filled by the individual, during the Compact Term, holding the office identified and such individual shall serve in his capacity as the applicable Government official and not in his personal capacity.

(c) Each member of a Zonal Advisory Committee may appoint a deputy to serve when such member is unable to participate in a meeting of such Zonal Advisory Committee.

(d) The composition of each Zonal Advisory Committee may be adjusted by agreement of the Parties from time to time to ensure, among other things, a cross-section representative of the intended beneficiaries.

Section 3.2 Role and Responsibilities.

(a) Each Zonal Advisory Committee shall be used as a mechanism to provide representatives of the private sector, civil society and local and regional governments with the opportunity to provide advice and input to MiDA regarding the implementation of the Compact. At the request of each Zonal Advisory Committee, the Management shall provide such information and documents as the Board deems advisable, subject to appropriate treatment of such information and documents by the members of each Zonal Advisory Committee.

(b) During each meeting of each Zonal Advisory Committee, the Management shall present an update on the implementation of this Compact and progress towards achievement of the Objectives. Each Zonal Advisory Committee shall then provide its views or recommendations on the performance and progress on the Projects and Project Activities, any Implementation Document, procurement, financial management or such other issues as may be presented from time to time to each Zonal Advisory Committee or as otherwise raised by each Zonal Advisory Committee.

(c) Each Zonal Advisory Committee 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 such Zonal Advisory Committee in conjunction with the Management of MiDA.

(d) The members of each Zonal Advisory Committee shall not receive any remuneration in connection with the performance of their duties on the Zonal Advisory Committees; *provided, however*, the MiDA may reimburse members of the Zonal Advisory Committee for reasonable expenses arising from their attendance at regular or special meetings so long as such reimbursements are consistent with the Compact and the Detailed Budget.

Section 3.3 Meetings; Decisions.

(a) Each Zonal Advisory Committee shall hold at least two meetings per year, as well as such other periodic meetings of the Zonal Advisory Committee or any subcommittees thereof designated along sectoral, regional, or other lines, as may be necessary or appropriate from time to time. A special meeting may also be convened at the request of two (2) members of the Zonal Advisory Committee, the CEO, or the Chair. The Civil Society Stakeholders shall be invited to participate in all such meetings.

(b) A notice stating the place, date, time and agenda of each Zonal Advisory Committee meeting shall be given to each member of the Zonal Advisory Committee by MiDA, in coordination with the secretary of the Zonal Advisory Committee (i) in respect of a regular meeting, either by hand, mail or facsimile at least seven (7) days prior to the date of such regular meeting, and (ii) in respect of a special 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 meeting. Notwithstanding the foregoing, (x) any member of the Zonal Advisory Committee may waive, in writing, the requirement to receive notice in respect of any such meeting, and (y) a member's presence at any such Zonal Advisory Committee meeting shall constitute waiver by such member of the requirement to receive notice of such meeting. A valid meeting of the Zonal Advisory Committee may not be held unless each member of the Zonal Advisory Committee receives such notice (or waives or is deemed to waive such notice) of such meeting.

(c) An invitation stating the place, date, time and agenda of each Zonal Advisory Committee meeting shall be given to the FBOs, banking organizations, microfinance institutions, farmer associations, horticultural product associations, women's associations, chambers of commerce, anti-corruption associations, environmental and social organizations, among others ("**Civil Society Stakeholders**"), by MiDA in coordination with the secretary of the Zonal Advisory Committee (i) in respect of a regular meeting, either by hand, mail or facsimile at least seven (7) days prior to the date of such regular meeting, and (ii) in respect of a special 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 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 Zonal Advisory Committee.

(d) The quorum for any meeting of each Zonal Advisory Committee shall be the majority of the members of such Zonal Advisory Committee. All decisions of each Zonal Advisory Committee 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. Except as set forth in Section 3.3(f), each decision, election, appointment or action by each Zonal Advisory Committee, whether specifically set forth in this Agreement or otherwise, shall be made in accordance with the procedures set forth in this Section 3.3(d).

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

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

(g) Unless otherwise provided by this Agreement, the members of each Zonal Advisory Committee may participate in a meeting of the Zonal Advisory Committee 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 3.3(g) shall constitute presence in person at such meeting.

Section 3.4 Accessibility; Transparency. Members of each Zonal Advisory Committee shall make themselves accessible to the beneficiaries they represent for the purpose of receiving the beneficiaries' comments or suggestions regarding the Program. The notices for, and the minutes (including the views or recommendations of the Civil Society Stakeholders expressed) of all meetings of, each Zonal Advisory Committee and any respective subcommittees shall be made public on the MiDA Website or otherwise (including television, radio and print) in a timely manner.

ARTICLE IV.

MCC APPROVAL RIGHTS; OTHER OBLIGATIONS

Section 4.1 MCC Approval Rights. MCC shall have approval rights over any transactions, activities, agreements and documents pursuant to Section 3(c) of Annex I of the Compact, and each such approval shall be procured prior to (a) the execution or carrying out of such transaction, activity, agreement or document, and (b) any MCC Disbursement or Re-Disbursements in connection therewith.

Section 4.2 No Liability on MCC. Notwithstanding anything in this Agreement, the Compact or any Supplemental Agreement to the contrary, the review or approval by MCC of any action, decision, agreement or document of MiDA or the Government (a) shall not impose or create any liability on MCC in respect of such action, decision, agreement or document, and (b) shall not preclude the exercise by MCC of any other rights or privileges that MCC may have pursuant to the Compact, this Agreement, or any other Supplemental Agreement.

Section 4.3 Information Rights. The Fiscal Agent (and MCC to the extent that MCC so notifies MiDA) shall be provided with 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.

Section 4.4 Other Obligations. MiDA shall comply with (a) all applicable Ghanaian law and (b) this Agreement, all relevant provisions of the Compact (including Sections 2.3, 2.5, 3.2 and 3.8 of the Compact), the Disbursement Agreement and other relevant Supplemental Agreements, which provisions are hereby incorporated by reference herein, *mutatis mutandis*. MiDA shall not establish any Affiliates or subsidiaries (direct or indirect) without the prior written consent of the Government and MCC in accordance with Section 3(c)(i) of Annex I of the Compact.

Section 4.5 MCC Approvals. In exercising its approval rights under the Compact, this Agreement and the other Supplemental Agreements, MCC (a) shall act in a reasonably commercial manner and shall not unreasonably withhold its approval, and (b) shall make each decision on a fair and objective basis using the criteria, if any, set forth in the relevant Supplemental Agreement.

Section 4.6 Permitted Designee. In accordance with Section 3.2(c) of the Compact, the Government, acting through the Ministry, hereby designates MiDA, and MiDA hereby undertakes in accordance with that designation, to implement and exercise all of the Government Responsibilities and other responsibilities, rights and obligations of the Government under, contemplated by, or in furtherance of the Compact or any Supplemental Agreement (in accordance with the terms and conditions set forth in the Compact or such Supplemental Agreement) other than any Government Responsibilities and other responsibilities, rights and obligations that the Government is not permitted to delegate or designate under the laws of Ghana or that the Government has otherwise expressly retained for itself as specified in any Supplemental Agreement (the "***MiDA Designated Rights and Responsibilities***"). MiDA agrees that it will not assign, delegate, or contract (or otherwise transfer) any of such MiDA Designated Rights and Responsibilities to any person or entity without the prior written consent of the Government and MCC. Such designation is subject in all events to the provisions of Section 3.2(c) of the Compact.

Section 4.7 Audits.

(a) The first financial year of MiDA shall begin on the date of Entry into Force of the Compact and shall end on December 31, 2007. Each succeeding financial year shall begin on January 1 of such year, and shall end on December 31 of such year; provided, the final financial year shall end on the date of the expiration of the Compact Term.

(b) The financial statements of MiDA shall be audited annually by an independent auditor selected with the prior written consent of MCC. The Management shall assist the auditor and provide all information requested by the auditor. Such annual audit report shall be submitted to MCC within ninety (90) days after the end of each financial year. Upon the request of MCC, or in accordance with the requirements of the Compact or the Audit Plan, MiDA shall arrange for other periodic or special audits to be performed from time-to-time.

(c) MiDA shall keep (i) accurate and systematic books, records, documents and other evidence of the performance by MiDA of the obligations to be performed by MiDA under the Compact, and (ii) all Compact Records, in accordance with the requirements of Section 3.8 of the Compact. MiDA shall permit authorized representatives of MCC, the Inspector General, the United States Government Accountability Office, the Government, the Ministry, any auditor responsible for an audit contemplated herein or otherwise conducted in furtherance of the Compact, and any agents or representatives engaged by any of the foregoing to conduct any assessment, review, audit or evaluation of the Program, at all reasonable times the opportunity to audit, review, evaluate, inspect or copy all records and documents in the control or possession of MiDA (each, an “*Audit*”). MiDA shall ensure access by MCC, the Inspector General, the United States Government Accountability Office, the Government, the Ministry or relevant auditor, reviewer or evaluator or their respective representatives or agents to all of MiDA’s relevant Members, Officers or other employees, Affiliates, contractors, representatives and agents. MiDA shall keep and make available such books, records and documents for a period of at least five (5) years after the expiration or termination of this Agreement, or such longer period if required to resolve any litigation, claims, audit findings or any statutory requirements.

ARTICLE V.

GENERAL PROVISIONS

Section 5.1 Representations and Warranties: Ministry Responsibilities.

(a) MiDA hereby represents and warrants to MCC that, as of the Effective Date, MiDA has the power and authority to execute, deliver and perform its obligations under this Agreement and each other agreement, certificate, or instrument contemplated hereby. The execution, delivery and performance by MiDA of this Agreement and the transactions contemplated herein (i) have been duly authorized by all necessary action and (ii) will not violate (A) any applicable Ghanaian law or (B) any obligation of MiDA. No other action, consent, approval, registration or filing with or any other action by any person, entity or governmental authority is required in connection with the execution and effectiveness of this Agreement. This Agreement is a valid and binding agreement and a legally enforceable obligation of MiDA.

(b) The Ministry hereby represents and warrants to MCC that, as of the Effective Date, the Ministry has the power and authority to execute, deliver and perform its obligations and each other agreement, certificate, or instrument contemplated hereby on behalf of the Government. The execution, delivery and performance by the Ministry of this Agreement (i) have been duly authorized by all necessary action and (ii) will not violate (A) any applicable Ghanaian law or (B) any obligation of the Ministry, the Government, any Government Affiliate or any Permitted Designee (other than MiDA). No other action, consent, approval, registration

or filing with or any other action by any governmental authority is required in connection with the execution and effectiveness of this Agreement. This Agreement is a valid and binding agreement and a legally enforceable obligation of the Ministry on behalf of the Government.

(c) Notwithstanding any other provision of this Agreement, the Ministry shall retain overall responsibility for ensuring compliance with this Agreement by any Government Affiliate, MiDA and any other Permitted Designee.

Section 5.2 Communications. Any notice, certificate, request, report, approval, document or other communication required, permitted, or submitted by any Party to any other Party under this Agreement shall be (a) in writing, (b) in English, and (c) deemed duly given: (i) upon personal delivery to the Party to be notified; (ii) when sent by confirmed facsimile or electronic mail, if sent during normal business hours of the recipient Party, if not, then on the next business day (with an original copy to follow by mail); or (iii) two (2) business days after deposit with an internationally recognized overnight courier, with written verification of receipt, to the Party or Parties to be notified at the address indicated below, or at such other address as such Party may designate by notice to the other Parties.

To MCC:

Millennium Challenge Corporation
Attention: Vice President for Operations
(with a copy to the Vice President and General Counsel)
875 Fifteenth Street, N.W.
Washington, D.C. 20005
United States of America
Tel: 1-202-521-3600
Fax: 1-202-521-3700
Email: VPOperations@mcc.gov (Vice President for Operations)
VPGeneralCounsel@mcc.gov (Vice President and General Counsel)

To the Ministry:

Ministry of Public Sector Reform
Attention: Minister of Public Sector Reform
Private Mail Bag
Stadium Post Office
Accra, Ghana
Tel: (233-21) 670295
Fax: (233-21) 684086
Email: nduom@africaonline.com.gh

To MiDA:

Attention: Chief Executive Officer
Private Mail Bag 56

Stadium Post Office
Accra, Ghana
Tel: (233-21) 663655
Fax: (233-21) 684086
Email: mesonbenjamin@mida.gov.gh
marmah@mida.gov.gh

Whenever the time for giving a notice or performing an act under this Agreement falls on a day that is not a business day, such time shall be extended to the next day that is a business day.

Section 5.3 Amendment; Waivers. The Parties may amend this Agreement by entering into a written amendment to this Agreement signed by the Principal Representatives of the Parties. The Parties further agree that any waiver, permit, consent or approval of any kind or character on any Party's part of any breach, default or noncompliance under this Agreement or any waiver on such Party's part of any provisions or conditions of this Agreement must be in writing and shall be effective only to the extent specifically set forth in such writing.

Section 5.4 Publicity. In accordance with Section 5.17 of the Compact, MiDA shall post, or cause to be posted, a copy of this Agreement and such other materials as MCC may request, in each case on the MiDA website in English.

Section 5.5 Non-waiver of Remedies. The Parties agree that no delay or omission to exercise any right, power or remedy accruing to any Party, upon any breach, default or noncompliance by another Party under this Agreement, shall impair any such right, power or remedy, nor shall it be construed to be a waiver of any such breach, default or noncompliance, or any acquiescence therein, or of or in any similar breach, default or noncompliance thereafter occurring. All remedies, either under this Agreement, by law, or otherwise afforded to any Party, shall be cumulative and not alternative.

Section 5.6 Attachments. Any exhibit, schedule or other attachment expressly attached hereto (together, the "Attachments") is incorporated herein by reference and shall constitute 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 shall prevail. In the event of any conflict or inconsistency between this Agreement and any other Supplemental Agreement, the terms of this Agreement shall prevail.

Section 5.8 Headings. The Section and Subsection headings used in this Agreement are included for convenience only and are not to be considered in construing or interpreting this Agreement.

Section 5.9 Severability. If one or more provisions of this Agreement is held to be unenforceable under any applicable law, such provisions shall be excluded from this Agreement and the balance of this Agreement shall be interpreted as if such provisions were so excluded and shall be enforceable in accordance with its terms.

Section 5.10 Written Consents, Approvals and Notices. Notices, permits, consents, licenses, approvals and authorizations, and any equivalent actions, to be provided or made hereunder shall only be effective if done in writing.

Section 5.11 Rules of Interpretation. The following rules of construction shall be followed when interpreting this Agreement:

- (a) Words importing the singular also include the plural and vice versa;
- (b) References to natural persons or parties include firms or any other entity having legal capacity;
- (c) Words importing one gender include the other gender;
- (d) The words “include,” “including” and variants thereof mean “includes, but not limited to” and corresponding variant expressions;
- (e) Except as otherwise set forth herein, all references contained herein to the Compact, any Supplemental Agreements, contracts, or other documents shall be deemed to mean the Compact, such Supplemental Agreements, contracts, or documents, as the same may be modified, supplemented, or amended from time to time;
- (f) Each reference to any applicable law shall be construed as a reference to such applicable law as it may have been, or may from time to time be, amended, replaced, extended or re-enacted and shall include any subordinate legislation, rule or regulation promulgated under any such applicable law and all protocols, codes, proclamations and ordinances issued or otherwise applicable under any such law;
- (g) Except as otherwise expressly specified herein, any reference to a Section, clause or Schedule shall mean a Section, clause or Schedule of this Agreement;
- (h) The terms “hereof,” “herein,” “hereto,” “hereunder” and words of similar or like import, refer to this entire Agreement and not any one particular Article, Section, Schedule, or other subdivision of this Agreement;
- (i) Any reference to “business days” shall mean any day other than a Saturday, Sunday, commercial banking holiday in Accra, Ghana or Washington, D.C., United States, or a federal holiday in Ghana or the United States of America; and any reference to “day” shall mean a calendar day;
- (j) All references to notices, permits, licenses, consents, approvals, and authorizations and any equivalent actions hereunder shall mean written notices, permits, licenses, consents, approvals, and authorizations in accordance in accordance with Section 5.10; and
- (k) Any reference to “month,” “quarter,” or “year” shall have the common meaning given such terms based on a calendar year beginning on January 1 and ending on December 31 and divided into four approximately equal quarters beginning on each January 1, April 1, July 1 and October 1 of each such respective calendar year.

Section 5.12 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 the Parties may otherwise agree in writing from time to time, a signature delivered by facsimile or electronic mail in accordance with Section 5.2 shall be deemed an original signature, and the Parties hereby waive any objection to such signature or to the validity of the underlying agreement on the basis of the signature's legal effect, validity or enforceability solely because it is in facsimile or electronic form. Such signatures shall be accepted by the receiving Party as an original signature and shall be binding on the Party delivering such signature.

Section 5.13 Assignment. 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 Ministry or MiDA. MCC shall provide notice to the Ministry and MiDA upon the effectiveness of such assignment, delegation or contract. Neither the Ministry nor MiDA may assign, delegate, revoke, rescind or contract its rights or obligations under this Agreement without the prior consent of MCC. Each of the Ministry, on behalf of the Government, MiDA and MCC acknowledges that MiDA has been designated by the Government as a Permitted Designee as described in Section 3.2(c) of the Compact.

Section 5.14 Entire Agreement. This Agreement, including all Attachments, and all certificates, documents or agreements executed and delivered in connection with and in furtherance of this Agreement, when executed and delivered, shall constitute the entire agreement of the Parties with respect to the subject matter hereof, superseding and extinguishing all prior agreements, understandings and representations and warranties relating to the subject matter hereof.

Section 5.15 Termination; Suspension.

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

(b) Notwithstanding any other provision of this Agreement or any other Supplemental Agreement between MCC and the Government (or any Government Affiliate), MCC may suspend or terminate this Agreement, in whole or in part, and any obligation or sub-obligation related thereto, upon giving the Ministry and MiDA notice, if MCC determines that:

(i) The Compact has been suspended in whole or in part in accordance with Section 5.4 of the Compact;

(ii) 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; or

(iii) Any other event has occurred, or circumstance has arisen, which in the sole opinion of MCC, constitutes a Material Adverse Change (as defined in the Disbursement Agreement).

Section 5.16 Effect of Termination. Notwithstanding any expiration, suspension or termination of this Agreement pursuant to this Article V, the following provisions of this Agreement shall survive: Sections 1.5, 5.5, 5.13, 5.16, 5.17, 5.21, 5.20, and 5.25.

Section 5.17 MCC Status. Each of MiDA and the Ministry recognizes and agrees that MCC is a United States Government corporation acting on behalf of the United States Government in the implementation of the Compact. As such, MCC has no liability under this Agreement and is immune from any action or proceeding arising under or relating to this Agreement. In matters arising under or relating to this Agreement, MCC shall not be subject to the jurisdiction of the courts or other body of Ghana or any other jurisdiction.

Section 5.18 Representatives. For all purposes relevant to this Agreement, the Ministry shall be represented by the individual holding the position of, or acting as, the Minister of Public Sector Reform (the “**Ministry Principal Representative**”), MCC shall be represented by the individual holding the position of, or acting as, Vice President, Operations (the “**MCC Principal Representative**”), and MiDA shall be represented by the individual holding the position of, or acting as, CEO (the “**MiDA Principal Representative**” and, together with the Ministry Principal Representative and the MCC Principal Representative, the “**Principal Representatives**”), each of whom, by written notice, may designate one or more additional representatives (each, an “**Additional Representative**”) for all purposes other than signing amendments to this Agreement. The names of each Party’s Principal Representative and its respective Additional Representatives shall be provided, with specimen signatures, to the other Parties, 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 notice of revocation of their authority. A Party may replace its Principal Representative with a new representative of equivalent or higher rank upon notice to the other Parties, which notice shall include the specimen signature of the new Principal Representative.

Section 5.19 Reports.

(a) Any reports required pursuant to this Agreement, including pursuant to Section 2.4, shall be provided to MCC in a timely manner and in form and substance satisfactory to MCC to afford reasonable and appropriate review of such reports.

(b) MiDA shall deliver to MCC in a timely manner any information or document that arises under or is related to this Agreement that may be required for the fulfillment of the Government’s obligations under the reporting and audit requirements set forth in Section 3.8 of the Compact and any reporting requirements set forth in Section 3.12 of the Compact or as may be otherwise reasonably requested by MCC from time to time.

(c) MCC shall have the right to use any information or data delivered to MCC under this Agreement for the purpose of satisfying MCC reporting requirements or in any other manner.

Section 5.20 Consultation. Any Party may, at any time, request consultations relating to the interpretation or implementation of this Agreement among the Parties. Such consultations shall begin at the earliest possible date. The request for consultations shall designate a representative

for the requesting Party with the authority to enter consultations and the other Parties shall endeavor to designate a representative of equal or comparable rank. If such representatives are unable to resolve the matter within twenty (20) days from the commencement of the consultations, then each Party shall refer the consultation to its Principal Representative or such other representative of comparable or higher rank. The consultations shall last no longer than forty-five (45) days from date of commencement. If the matter is not resolved within such time period, MCC may terminate this Agreement upon notice to the Ministry and MiDA. The Parties shall enter any such consultations guided by the principle of achieving the Compact Goal in a timely and cost-effective manner.

Section 5.21 Governing Law. The Parties agree and acknowledge that this Agreement is entered into for the purpose of implementing the Compact, and as such, it shall be interpreted in a manner consistent with the Compact and shall be governed by the principles of international law.

Section 5.22 Effective Date; Term.

(a) This Agreement shall (a) become effective and enter into force as of the date hereof upon the signature of duly authorized representatives of the Parties (“*Effective Date*”), and (b) end one hundred twenty (120) days following the termination or expiration of the Compact (unless terminated earlier pursuant to the provisions of this Agreement); *provided, however*, that the term of this Agreement may be extended for a period that is longer than one hundred twenty (120) days following the termination or expiration of the Compact if MCC determines that obligations incurred prior to the expiration or termination of the Compact remain to be carried out.

(b) Prior to the expiration or termination of the Compact, the Parties shall consult in good faith with a view to reaching an agreement in writing on (i) the treatment of MiDA following the expiration or termination of the Compact, (ii) the process for ensuring the refunds of MCC Disbursements that have not yet been released from any Permitted Account through a valid Re-Disbursement nor otherwise committed in accordance with Section 5.4(e) of the Compact, and (iii) any other matter related to winding up of the Program, this Agreement, and the Compact, and to the winding up of the activities of MiDA with respect thereto.

Section 5.23 Relationship of the Parties. This Agreement does not create a joint venture, partnership, or other similar relationship between the Parties.

Section 5.24 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 other version translated into another language for the convenience of the Parties, this official English version shall prevail.

Section 5.25 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 Ministry and MiDA confidentially in a reasonable and appropriate manner and in accordance with applicable professional standards, *provided, however*, (a) 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 Government Accountability Office, or others designated by MCC and (b) MiDA may post on the MiDA Website or otherwise make publicly available certain information, including quarterly financial reports, pursuant to the Compact, this Agreement and any other Supplemental Agreement. Each of the Ministry and MiDA 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 this Agreement and the Program. MiDA shall ensure that each Member, Officer and other employee of the Management complies with the confidentiality obligations set forth in this Section 5.25. MiDA shall include obligations of confidentiality similar to those set forth in this Section 5.25 in the employment agreements of each Officer and other employee of the Management.

Section 5.26 Prohibited Actions.

(a) The Ministry and MiDA hereby represent that no payments have been made to any third party in connection with the Program in violation of the conflict of interest and ethics regulations, and other related provisions, of the applicable Ghanaian law and shall ensure that no such payments will be made. The Ministry and MiDA represent that no payments have been received by any employee, agent or representative of either of the Ministry or MiDA in connection with the procurement of goods and services or works funded or to be funded under the Compact and shall ensure no such payments will be received by any employee, agent or representative of either of the Ministry or MiDA. MiDA shall ensure that each Member, each Officer and each other employee of MiDA complies with the restrictions on payments to certain persons set forth in this Section 5.26(a). MiDA shall include prohibitions similar to those set forth in this Section 5.26(a) in the employment agreement of each Officer and each other employee of MiDA.

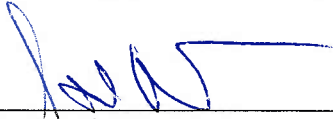
(b) The Ministry and MiDA shall ensure that no Member, Officer, any other employee, agent or representative of the Ministry or MiDA (each, an “affiliate” for purposes of this Section 5.26(b)) shall participate in the selection, award, or administration of a contract, grant or other benefit or transaction financed in whole or in part (directly or indirectly) by MCC Funding in which (i) such affiliate, members of such affiliate’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 (ii) the affiliate is negotiating or has any arrangement concerning prospective employment, unless, in either case, such affiliate has first disclosed in writing to MiDA and MCC the conflict of interest and, following such disclosure, MiDA and MCC have agreed in writing to proceed notwithstanding such conflict. Each of the Ministry and MiDA agrees that it shall not, and shall ensure that none of its respective affiliates (and shall seek to ensure that no other person or entity involved in the selection, award, administration, oversight or implementation of any contract, grant or other benefit or transaction funded in whole or in part (directly or indirectly) by MCC Funding) (x) solicits or accepts from, or offers to, a third party or seeks or is promised directly or indirectly for itself or for another person or entity, any gift, gratuity, favor or benefit, other than items of *de minimis* value and otherwise consistent with such guidance as MCC may provide from time to time, or (y) engages in any activity which is, or gives the appearance of being, a conflict of interest. MiDA shall

include conflict of interest provisions similar to those set forth in this Section 5.26(b) in the employment agreement of each Officer and any other employee of the Management.

SIGNATURE PAGE TO FOLLOW ON NEXT PAGE

IN WITNESS WHEREOF, each of the Parties has caused this 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 for Operations

MINISTRY OF PUBLIC SECTOR REFORM
On behalf of the Government of the Republic of Ghana

By: _____
Name: Dr. P. Kwesi Nduom
Title: Minister of Public Sector Reform

MILLENNIUM DEVELOPMENT AUTHORITY

By: _____
Name: _____
Title: _____

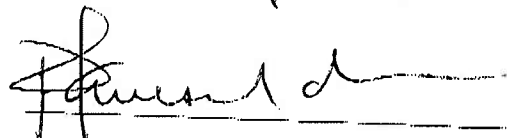
**SIGNATURE PAGE TO THE GOVERNANCE AGREEMENT
BY AND AMONG MILLENNIUM CHALLENGE CORPORATION, MINISTRY OF PUBLIC SECTOR REFORM
ON BEHALF OF THE GOVERNMENT OF THE REPUBLIC OF GHANA
AND MILLENNIUM DEVELOPMENT AUTHORITY**

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

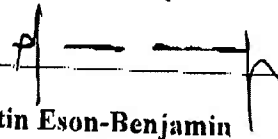
MILLENNIUM CHALLENGE CORPORATION

By: _____
Name: John Hewko
Title: Vice President for Operations

MINISTRY OF PUBLIC SECTOR REFORM
On behalf of the Government of the Republic of Ghana

By:  _____
Name: **Dr. P. Kwesi Nduom**
Title: Minister of Public Sector Reform

MILLENNIUM DEVELOPMENT AUTHORITY

By:  _____
Name: **Martin Eson-Benjamin**
Title: Chief Executive Officer

**SIGNATURE PAGE TO THE GOVERNANCE AGREEMENT
BY AND AMONG MILLENNIUM CHALLENGE CORPORATION, MINISTRY OF PUBLIC SECTOR REFORM
ON BEHALF OF THE GOVERNMENT OF THE REPUBLIC OF GHANA
AND MILLENNIUM DEVELOPMENT AUTHORITY**

EXHIBIT A

DEFINITIONS

***Additional Representative** shall have the meaning set forth in Section 5.18.*

***Agreement** shall have the meaning set forth in the Preamble to this Agreement.*

***Attachments** shall have the meaning set forth in Section 5.6.*

***Audit** shall have the meaning set forth in Section 4.7(c).*

***Board** shall have the meaning set forth in the Recitals to this Agreement.*

***Board Action** shall have the meaning set forth in Section 1.6(b).*

***CEO** shall have the meaning set forth in Section 2.1(a).*

***Chair** shall have the meaning set forth in Section 1.3(a).*

***Civil Members** shall have the meaning set forth in Section 1.2(c).*

***Civil Society Stakeholders** shall have the meaning set forth in Section 3.3(c).*

***Compact** shall have the meaning set forth in the Recitals to this Agreement.*

***Effective Date** shall have the meaning set forth in Section 5.22(a).*

***eNGO Invitee** shall have the meaning set forth in Section 1.4(c).*

***FCPA** shall have the meaning set forth in Section 2.5(d).*

***Government** shall have the meaning set forth in the Preamble to this Agreement.*

***Government Member** shall have the meaning set forth in Section 1.2(a).*

***Management** shall have the meaning set forth in the Recitals to this Agreement.*

***Management Action** shall have the meaning set forth in Section 2.3(b).*

***Material Adverse Change** shall have the meaning set forth in the Disbursement Agreement.*

***MCC** shall have the meaning set forth in the Preamble of this Agreement.*

***MCC Principal Representative** shall have the meaning set forth in Section 5.18.*

***MCC Representative** shall have the meaning set forth in Section 1.4(a)(i)*

***Member** shall have the meaning set forth in Section 1.1.*

***MiDA** shall have the meaning set forth in the Preamble to this Agreement.*

MiDA Designated Rights and Responsibilities shall have the meaning set forth in Section 4.6.

MiDA Principal Representative shall have the meaning set forth in Section 5.18.

Ministry shall have the meaning set forth in the Preamble to this Agreement.

Ministry Principal Representative shall have the meaning set forth in Section 5.18.

NGO Member shall have the meaning set forth in Section 1.2(c).

Observer shall have the meaning set forth in Section 1.1.

Officer shall have the meaning set forth in Section 2.1(b).

Parties shall have the meaning set forth in the Preamble to this Agreement.

Party shall have the meaning set forth in the Preamble to this Agreement.

Principal Representatives shall have the meaning set forth in Section 5.18.

Private Sector Members shall have the meaning set forth in Section 1.2(c).

Quorum shall have the meaning set forth in Section 1.8(a).

Secretary shall have the meaning set forth in Section 2.1(d).

Voting Member shall have the meaning set forth in Section 1.1.

Zonal Advisory Committee shall have the meaning set forth in the Recitals to this Agreement.

Zonal Representative shall have the meaning set forth in Section 1.4(a)(ii).