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PARTIE OFFICIELLE

**ACTES DU GOUVERNEMENT DE LA REPUBLIQUE
TOGOLAISE**

**LOIS, ORDONNANCES, DECRETS, ARRETES ET
DECISIONS**

ACCORD

PRIMATURE

2019

14 février : MILLENNIUM CHALLENGE CORPORATION

THRESHOLD PROGRAM GRANT AGREEMENT

BETWEEN THE UNITED STATES OF AMERICA,

ACTING THROUGH THE MILLENNIUM CHALLENGE

CORPORATION, AND THE TOGOLESE REPUBLIC,

ACTING THROUGH THE MINISTRY OF ECONOMY AND

FINANCE..... 1

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EXECUTION VERSION**MILLENNIUM CHALLENGE CORPORATION THRESHOLD PROGRAM GRANT****AGREEMENT****BETWEEN**

**THE UNITED STATES OF AMERICA,
ACTING THROUGH THE MILLENNIUM CHALLENGE CORPORATION,**

AND

**THE TOGOLESE REPUBLIC,
ACTING THROUGH THE MINISTRY OF ECONOMY AND FINANCE**

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This THRESHOLD PROGRAM GRANT AGREEMENT (this “*Agreement*”), dated February 14, 2019, is made between the United States of America, acting through the Millennium Challenge Corporation (“*MCC*”), and the Togolese Republic (“*Togo*”), acting through the Ministry of Economy and Finance (the “*Government*,” and collectively with MCC, the “*Parties*,” and each individually, a “*Party*”).

RECITALS

WHEREAS MCC has authorized a program to provide assistance under Section 616 of the Millennium Challenge Act of 2003, as amended, to selected candidate countries that have demonstrated a commitment to strengthening good governance, economic freedom, and investments in people in order to assist such countries to become eligible for a Millennium Challenge Compact (the “*Threshold Program*”); and

WHEREAS MCC has selected Togo as eligible for the Threshold Program; and

WHEREAS the Parties wish to implement the program described herein to achieve the goals and objectives described herein (as such program description and objectives may be amended from time to time in accordance with the terms hereof, the “*Program*”).

NOW, THEREFORE, the Parties agree as follows:

ARTICLE 1.**GOAL AND OBJECTIVES**

Section 1.1 Program Goal. The overall goal of this Agreement is to assist Togo to become eligible for a Millennium Challenge Compact by supporting the implementation of critical institutional and policy reforms that address binding constraints to economic growth in Togo (the “*Program Goal*”). MCC’s assistance provided under this Agreement seeks to strengthen good governance, economic freedom, and investments in the people of Togo.

Section 1.2 Projects and Objectives. The Program consists of the projects described in Annex I (each a “*Project*” and collectively, the “*Projects*”). The objective of each of the Projects (each, a “*Project Objective*” and collectively, the “*Project Objectives*”) is as follows:

(a) The objective of the ICT Project is to increase firm efficiencies, productivity, investments and growth through improved access to high quality, reasonably priced ICT services in Togo. To that end, the four-part project aims to (1) increase competition among existing and future ICT service providers in the sector; (2) strengthen ICT sector regulation; (3) target investments and incentives, where necessary, to increase service in otherwise unprofitable areas; and (4) support greater ICT utilization in the country; and

(b) The objective of the LRAP Project is to improve land tenure security for increased investment in the agricultural sector.

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ARTICLE 2.**GRANT FUNDING****Section 2.1 Grant Funding.**

(a) MCC agrees to grant to the Government, subject to the terms of this Agreement, an amount not to exceed THIRTY FIVE MILLION UNITED STATES DOLLARS (US\$35,000,000) (the “**Grant**”) to support implementation of the Program, as such Program is described in greater detail in Annex I.

(b) Upon signing of this Agreement, MCC agrees to make available to the Government as a portion of the Grant an amount not to exceed FIVE HUNDRED NINETY-THREE THOUSAND UNITED STATES DOLLARS (US\$593,000) (“**Reimbursable Cost Funding**”). Until the initial Disbursement of Grant funds for other than Reimbursable Costs, the Reimbursable Cost Funding may only be used to reimburse the Government for certain costs associated with accelerating implementation of the Program as described in more detail in Annex V (the “**Reimbursable Costs**”).

(c) Upon entry into force of this Agreement in accordance with Section 8.1, MCC agrees to make the balance of the Grant, THIRTY-FOUR MILLION, FOUR HUNDRED, SEVEN THOUSAND UNITED STATES DOLLARS (US\$34,407,000) available to the Government, and the entire Grant may then be used for any purpose permitted under this Agreement.

(d) The Grant shall be disbursed from time to time (each, a “**Disbursement**”) in accordance with the terms of this Agreement, including any conditions to disbursement contained in this Agreement.

Section 2.2 Interest. To the extent that any interest or other earnings accrue on the Grant before such funding is used for a Program purpose, the Government agrees to pay or transfer such amounts to MCC, in accordance with this Agreement.

Section 2.3 Government Resources; Budget.

(a) The Government agrees to provide all funds and other resources that are necessary to carry out the Government’s responsibilities and obligations under this Agreement.

(b) The Government agrees to ensure that the amount of the Grant that it receives or is projected to receive in each of its fiscal years is fully accounted for and identified in its annual, public budget presentation.

(c) Unless the Government discloses otherwise to MCC in writing, the Government agrees that the Grant shall be in addition to, and shall not replace, the resources that the Government would otherwise receive or budget for the activities implemented under the Program.

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Section 2.4 Use of the Grant.

(a) The Government agrees to ensure that the Grant and any Program Assets or services funded by the Grant, in whole or in part, are used solely in furtherance of this Agreement and the Program.

(b) The Government also agrees to ensure that no Grant funding is used for any purpose that would violate United States law or policy, as specified in this Agreement or as further notified to the Government in writing by MCC, including but not limited to the following purposes:

(i) for assistance to, or training of, the military, police, militia, national guard or other quasi-military organization or unit;

(ii) for any activity that is likely to cause a substantial loss of United States jobs or a substantial displacement of United States production;

(iii) to undertake, fund or otherwise support any activity that is likely to cause a significant environmental, health or safety hazard, as further described in MCC's *Environmental Guidelines* posted at www.mcc.gov (the "**MCC Website**") or otherwise made available by MCC to the Government ("**MCC Environmental Guidelines**"); or

(iv) to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions, to pay for the performance of involuntary sterilizations as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations or to pay for any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning.

Section 2.5 Taxes.

(a) Unless the Parties agree otherwise, the Government agrees to ensure that the Grant is free from any and all existing or future taxes, duties, levies, contributions, or other similar charges (but not fees or charges for services that are generally applicable in Togo, reasonable in amount and imposed on a non-discriminatory basis) ("**Taxes**") of or in Togo (including any such Taxes imposed by a national, regional, local or other governmental or taxing authority of or in Togo). Specifically, and without limiting the generality of the foregoing, the Government agrees that the general exemption of the previous sentence applies to (i) any tariffs, customs duties, import taxes, export taxes, and other similar charges on any goods, works or services introduced into Togo in connection with the Program; (ii) sales tax, goods and services tax, value-added tax, excise tax, property transfer tax, and other similar charges on any transactions involving goods, works, or services in connection with the Program; (iii) taxes and other similar charges on ownership, possession or use of any property in connection with the Program; and (iv) taxes and other similar charges on income, profits or gross receipts attributable to work performed in connection with the Program and related social security taxes and other similar charges on all natural or legal persons performing work in connection with the Program except, in the case of this clause (iv), (A) natural persons who are citizens or permanent residents of Togo; and (B)

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legal persons formed under the laws of Togo (but excluding the Accountable Entity and any other entity formed for the purpose of implementing the Government's obligations hereunder).

(b) The Government agrees to use the mechanisms set forth in Annex VI to implement the Tax exemption required by Section 2.5(a). If necessary, the Government and MCC may enter into one or more additional agreements to further define and detail the mechanisms to implement and ensure the benefits of the exemption from Taxes contemplated by Section 2.5(a). Such mechanisms may include exemptions that have been granted in accordance with applicable law, refund or reimbursement of Taxes by the Government to MCC, the Accountable Entity or to the taxpayer, or payment by the Government to the Accountable Entity or MCC, for the benefit of the Program, of an agreed amount representing any collectible Taxes on the items described in this Section 2.5.

(c) If a Tax has been paid contrary to the requirements of this Section 2.5, the Government agrees to refund promptly to MCC (or to another party designated by MCC) the amount of such Tax in United States dollars or the currency of Togo within sixty days (or such other period as may be agreed in writing by the Parties) after the Government is notified in writing (whether by MCC or the Accountable Entity) that such Tax has been paid.

(d) The Government may not apply any portion of the Grant, including any proceeds thereof, or Program Assets, to satisfy its obligations under this Section 2.5.

(e) The Parties understand that the Grant is considered United States assistance under the *Agreement*, between the Government of the United States and the Government of the Togolese Republic providing for economic, technical and related assistance, effected by exchange of notes on December 22, 1960, as amended from time to time (the "***Bilateral Agreement***"). If there are conflicts or inconsistencies between any parts of this Section 2.5 and the *Bilateral Agreement*, the provisions of this Section 2.5 prevail over those of the *Bilateral Agreement*.

ARTICLE 3.

GOVERNMENT ASSURANCES AND RESPONSIBILITIES

Section 3.1 Government Assurances. The Government hereby assures MCC that the information provided to MCC by or on behalf of the Government in the course of reaching this Agreement is true, correct, and complete in all material respects.

Section 3.2 Government Responsibilities.

(a) Principal Responsibility. The Government is responsible for overseeing and supervising the implementation of the Program.

(b) Accountable Entity. The Government hereby designates Unite d'Execution du Millennium Challenge Account-Togo (referred to herein as the "***Accountable Entity***") to implement the Program and to exercise and perform the Government's right and obligation to oversee, supervise, and implement the Program. Accordingly, the Government agrees that such entity shall: (i) have the authority to bind the Government with regard to the Program (including,

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without limitation, the legal authority to execute contracts, grants, cooperative agreements or other, similar arrangements); and (ii) act in accordance with MCC's *Guidelines for Accountable Entities and Implementation Structures* provided by MCC or posted on the MCC Website (the "**MCC Governance Guidelines**"). The designation of the Accountable Entity contemplated by this Section 3.2(b) does not relieve the Government of any obligations or responsibilities hereunder or under any related agreement, for which the Government remains fully responsible. Any provision of this Agreement obligating the Accountable Entity to take any action or refrain from taking any action, as the case may be, means that the Government is obligated to cause the Accountable Entity to take such action or refrain from taking such action, as the case may be. MCC hereby acknowledges and consents to the designation in this Section 3.2(b).

(c) Policy Performance. In addition to undertaking the specific policy, legal, and regulatory reform commitments identified in this Agreement (if any), the Government agrees to seek to maintain and to improve its level of performance under the policy criteria identified in Section 607 of the Millennium Challenge Act of 2003, as amended.

(d) Achievement of Project Objectives. The Government agrees to take all necessary or appropriate steps to achieve each of the Project Objectives prior to the Completion Date (including, without limitation, funding all costs that exceed the Grant and are required to carry out the terms hereof and achieve such objectives, except as MCC otherwise agrees).

(e) Intellectual Property. The Government grants to MCC a perpetual, irrevocable, royalty-free, worldwide, fully paid, assignable right and license to practice or have practiced on its behalf (including the right to produce, reproduce, publish, repurpose, use, store, modify or make available) any portion or portions of Intellectual Property as MCC sees fit in any medium, now known or hereafter developed, for any purpose whatsoever.

(f) Impoundment; Liens or Encumbrances. The Government agrees to ensure that neither the Grant nor any asset acquired with Grant funding is at any time subject to any impoundment, rescission, sequestration, liquidation, 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 is nonetheless imposed, the Government agrees to promptly seek the release of such Lien and, if such Lien is imposed by a final non-appealable court order, agrees to pay any amounts due in order to obtain such release; *provided, however*, that the Government may not apply any portion of the Grant, including any proceeds thereof or Program Assets, to satisfy any of its obligations under this Section 3.2(f); and *provided, further*, that nothing in this Section 3.2(f) shall be deemed to waive any immunities enjoyed by the Government under international law.

(g) Insurance; Performance Guaranties. The Government agrees to ensure to MCC's satisfaction that all Program Assets are insured and to arrange such other appropriate insurance to cover against risks or liabilities associated with the Program and the transactions contemplated thereby, including by requiring Providers or Covered Providers to obtain adequate insurance and to post adequate performance bonds or other guaranties. The Government or the Accountable Entity shall be named as the payee (or an additional insured, as the case may be) on any such insurance and the beneficiary of any such guaranty or bonds. The Government agrees to promptly notify MCC of the payment of any proceeds from claims paid under such insurance or

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guaranty, and to ensure that any such proceeds are used to replace or repair any lost, stolen, or damaged Program Assets; *provided, however*, that, at MCC's election, such proceeds shall be deposited in an account as designated by or as otherwise directed by MCC.

(h) Autonomy. The Government agrees to ensure that (i) no decision of the Accountable Entity is modified, supplemented, unduly influenced, or rescinded by any governmental authority, except by a non-appealable judicial decision or as otherwise approved by MCC, and (ii) the authority of the Accountable Entity is not expanded, restricted, or otherwise modified, except in accordance with this Agreement or as otherwise approved by MCC in writing.

(i) Performance Liabilities. No Grant funding or any Program Assets may be used to pay any damages, including any indemnification-related payments, incurred or owed by the Government or the Accountable Entity under any agreement between the Government or the Accountable Entity, on the one hand, and any third party on the other hand.

(j) Publicity. The Government agrees to give appropriate publicity to this Agreement as a program to which the United States of America, through MCC, has contributed, including by posting this Agreement, in English, as MCC may request, on an agreed website, identifying the Grant activity sites and marking assets acquired with the Grant, all in accordance with MCC's *Standards for Global Marking* provided by MCC or posted on the MCC Website (the "**MCC Marking Standards**"); *provided, however*, that any press release or announcement regarding MCC or the fact that MCC is making the Grant or any other publicity materials referencing MCC shall be subject to MCC's prior written approval. MCC may post this Agreement on the MCC Website. MCC may also freely use any information it receives in any report or document provided to it with respect to the Program, the Grant, or this Agreement.

(k) Due Care. The Government agrees to ensure that the Program is implemented with, and that the Government carries out its obligations hereunder with, due care, efficiency, and diligence in conformity with sound technical, financial, and management practices, and in conformity with this Agreement, each Implementation Letter, the Program Guidelines, and any supplemental agreement to this Agreement.

(l) Further Assurances. The Government agrees to promptly do and perform such other and further acts, and take all necessary and appropriate actions, including using its best efforts to obtain all necessary approvals and consents to otherwise effectively carry out the obligations of the Government set forth in this Agreement.

ARTICLE 4.

IMPLEMENTATION FRAMEWORK

Section 4.1 Program Implementation Plan. The Parties agree that the framework for the Program's implementation shall be further elaborated in a set of documents, in form and substance approved by MCC, consisting of: (i) the Detailed Financial Plan; (ii) one or more Procurement Plans; (iii) a Work Plan; and (iv) an Audit Plan (each, an "**Implementation Plan Document**" and, collectively, the "**Implementation Plan**"). The Government agrees to submit its proposed Implementation Plan for review and approval by MCC by the timeframes set forth

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in this Agreement and at least on an annual basis thereafter (or in such other interval as may be required by the Program Guidelines). MCC agrees to review the proposed Implementation Plan and as necessary may request the Government to submit clarifications or adjustments. The Government agrees to submit an updated Implementation Plan or updated Implementation Plan Document during any quarter in which significant changes or modifications are made to a Project or to the Program, or when the Government determines that the expected results, targets, and milestones for the specified year are not likely to be achieved; *provided, however*, that an updated Detailed Financial Plan shall be submitted each quarter and an updated Procurement Plan shall be submitted at least every six months. In such instances, the Government agrees to submit to MCC for approval a proposed revised Implementation Plan or updated Implementation Plan Document (as applicable) on the same date as the next Disbursement Request is due. The Government agrees to ensure that the implementation of the Program is conducted in accordance with the Implementation Plan.

(a) Detailed Financial Plan. Unless MCC agrees otherwise, the Government agrees to develop, adopt, and implement a detailed financial plan (as approved by MCC) in accordance with the MCC Reporting Guidelines (as supplemented or otherwise modified from time to time, the “**Detailed Financial Plan**”). The Detailed Financial Plan shall set forth the funding requirements for each activity of 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. Annex III, attached hereto, sets forth the allocation of Grant funding for the Program. Annex III may be modified from time to time by agreement of the Parties in accordance with the terms of this Agreement.

(b) Procurement Plan. The Government agrees to develop, adopt, and implement a procurement plan covering each procurement relating to the Program (each, a “**Procurement Plan**”), and submit such Procurement Plan to MCC for approval before commencing the relevant procurement. Each Procurement Plan shall identify, among other things, the method of procurement for the goods, works, or services to be procured. The Government agrees to ensure that all goods, works or services are procured using the procurement method as approved in each Procurement Plan, and to comply with the method of procurement outlined in such Procurement Plan.

(c) Work Plan. The Government agrees to develop, adopt, and implement a work plan, in form and substance satisfactory to MCC, for the overall administration of the Program (the “**Work Plan**”). In addition, the Government agrees to develop, adopt, and implement such other work plans relating to the Projects and/or Activities as MCC may request from time to time.

(d) Audit Plan. The Government agrees to develop, adopt, and implement a plan, in accordance with the MCC Audit Guidelines, for the audit of the expenditures of the entities that are subject to audit pursuant to the MCC Audit Guidelines (the “**Audit Plan**”). The Audit Plan shall be in form and substance satisfactory to MCC and shall be developed no later than sixty days before the end of the first period to be audited. Unless MCC agrees otherwise in writing, the Government agrees to engage one or more auditors as contemplated in the MCC Audit Guidelines (each, an “**Auditor**”) to undertake the audits contemplated by the Audit Plan.

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Section 4.2 Monitoring and Evaluation. The Government agrees to develop, adopt, and implement a monitoring and evaluation plan (the “**M&E Plan**”) in accordance with MCC’s *Policy for Monitoring and Evaluation of Compacts and Threshold Programs* provided by MCC or posted on the MCC Website (the “**M&E Policy**”). The M&E Plan shall serve as the primary governing document for monitoring and evaluation activities for the Program.

Section 4.3 Procurement and Grants.

(a) The Government agrees to ensure that the procurement of all goods, works, and services required to implement the Program is undertaken solely in accordance with the *MCC Program Procurement Guidelines* provided by MCC or posted on the MCC Website (the “**MCC Program Procurement Guidelines**”). The MCC Program Procurement Guidelines include, among others, the following requirements:

- (i) open, fair, and competitive procedures must be used in a transparent manner to solicit, award, and administer contracts and to procure goods, works, and services;
- (ii) solicitations for goods, works, and services must be based upon a clear and accurate description of the goods, works, and services to be acquired;
- (iii) contracts must be awarded only to qualified contractors that have the capability and willingness to perform the contracts in accordance with their terms on a cost effective and timely basis; and
- (iv) no more than a commercially reasonable price, as determined, for example, by a comparison of price quotations and market prices will be paid to procure goods, works and services.

(b) Unless MCC agrees otherwise, the Government agrees to ensure that any grant issued in furtherance of the Program (each, a “**Program Grant**”) is awarded, implemented, and managed pursuant to open, fair, and competitive procedures administered in a transparent manner acceptable to MCC. In furtherance of this requirement, and prior to the issuance of any Program Grant, the Government and MCC shall agree upon written procedures to govern the identification of potential recipients, including without limitation appropriate eligibility and selection criteria and award procedures.

Section 4.4 Fiscal Accountability. Unless MCC agrees otherwise, the Government agrees to develop, adopt, and implement a manual (as approved by MCC) setting forth the principles, mechanisms, and procedures (the “**Fiscal Accountability Plan**”) that shall be used to ensure appropriate fiscal accountability and compliance with MCC’s *Cost Principles for Accountable Entity Operations* provided by MCC or posted on the MCC Website (the “**MCC Cost Principles**”) for the use of the Grant funding. The Fiscal Accountability Plan shall 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; and (j) reporting. The Fiscal Accountability Plan shall be revised periodically, subject to review and approval by MCC.

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Section 4.5 Environmental, Gender, and other Program Guidelines.

(a) Unless MCC agrees otherwise, the Government agrees to ensure that activities undertaken, funded or otherwise supported in whole or in part (directly or indirectly) by Grant funding comply with the MCC Environmental Guidelines, including the environmental and social performance standards set forth in the Performance Standards on Environmental and Social Sustainability of the International Finance Corporation (as in effect from time to time, the “**IFC Performance Standards**”) that have been incorporated by reference into the MCC Environmental Guidelines. The Government also agrees to ensure that the Program complies with all Togolese environmental laws and regulations, licenses, and permits, except to the extent such compliance would be inconsistent with this Agreement. Unless MCC agrees otherwise in writing, the Government agrees to fund all necessary costs of environmental and social mitigation measures (including, without limitation, costs of resettlement) not specifically provided for, or that exceed the amount of Grant funding specifically allocated for such costs, in the Detailed Financial Plan for any Project.

(b) Unless MCC agrees otherwise, the Government agrees to ensure that activities undertaken, funded or otherwise supported in whole or in part (directly or indirectly) by Grant funding comply with the MCC Gender Policy and the MCC Gender Integration Guidelines.

(c) Unless MCC agrees otherwise, the Government agrees to ensure that activities undertaken, funded or otherwise supported in whole or in part (directly or indirectly) by Grant funding comply with the Program Guidelines, which, if not directly applicable, shall apply, *mutatis mutandis*, to the Program and this Agreement as if references in such guidelines to a “compact” were references to this Agreement.

Section 4.6 Reports.

(a) **Periodic Reports.** Unless MCC agrees otherwise, the Government agrees to provide to MCC the periodic reports required by the *MCC Guidance on Quarterly Accountable Entity Disbursement Request and Reporting Package* provided by MCC or posted on the MCC Website (the “**MCC Reporting Guidelines**”), in each case timely delivered and in form and substance satisfactory to MCC.

(b) **Additional Reports.** In addition to the reports required by Section 4.6(a), the Government agrees to provide to MCC within thirty days of a written request by MCC, or as otherwise agreed by the Parties in writing, such other reports, documents, and information as MCC may request from time to time related to the Program or necessary for implementing, monitoring, or evaluating the Program.

Section 4.7 Records; Accounting; Providers; Access.

(a) **Records.** The Government agrees to maintain, and to use its best efforts to ensure that the Accountable Entity and any Covered Providers maintain, accounting books, records, documents, and other evidence relating to the Program adequate to show, to MCC’s satisfaction, the use of all Grant funding (collectively, the “**Records**”). The Government agrees to furnish or cause to be furnished to MCC upon MCC’s request originals or copies of all such Records.

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(b) Accounting. The Government agrees to maintain, and to use its best efforts to ensure that the Accountable Entity and any Covered Providers maintain, Records in accordance with generally accepted accounting principles prevailing in the United States, or at the Government's option and with MCC's prior written approval, other accounting principles, such as those (i) prescribed by the International Accounting Standards Board or (ii) then prevailing in Togo. Records must be maintained for at least five years after the end of the term of this Agreement or for such longer period, if any, required to resolve any litigation, claims or audit findings, or any statutory requirements.

(c) Access. Upon MCC's request, the Government, at all reasonable times, agrees to permit, or cause to be permitted, authorized representatives of MCC, the Inspector General of MCC ("**Inspector General**"), the United States Government Accountability Office, any auditor responsible for an audit contemplated herein or otherwise conducted in furtherance of this Agreement, and any agents or representatives engaged by MCC or the Government to conduct any assessment, review or evaluation of the Program, the opportunity to audit, review, evaluate or inspect facilities, assets, and activities funded in whole or in part by the Grant funding.

Section 4.8 Audits; Reviews.

(a) Government Audits. Unless MCC agrees otherwise, the Government agrees to conduct, or cause to be conducted, on an annual basis (or on a more frequent basis if requested by MCC in writing), financial audits of all disbursements of Grant funding covering the period from signing of this Agreement until March 31, 2019 and covering each 12-month period thereafter ending March 31, until the Completion Date. Upon MCC's request, the Government agrees to ensure that such audits are (i) conducted by an independent auditor approved by MCC and selected in accordance with MCC's *Guidelines for Financial Audits Contracted by the Millennium Challenge Corporation's Accountable Entities* provided by MCC or posted on the MCC Website (the "**MCC Audit Guidelines**"); and (ii) performed in accordance with the MCC Audit Guidelines. Each audit must be completed and the audit report delivered to MCC no later than 90 days after the end of the applicable audit period, or such other period as the Parties may otherwise agree in writing.

(b) Audits of Other Entities. The Government agrees to ensure that MCC-financed agreements between the Government or any Provider, on the one hand, and (i) a United States nonprofit organization, on the other hand, state that the United States nonprofit organization is subject to the applicable audit requirements contained in the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, issued by the United States Office of Management and Budget; (ii) a United States for-profit Covered Provider, on the other hand, state that the United States for-profit organization is subject to audit by the applicable United States Government agency, unless the Government and MCC agree otherwise in writing; and (iii) a non-United States Covered Provider, on the other hand, state that the non-United States Covered Provider is subject to audit in accordance with the MCC Audit Guidelines.

(c) Corrective Actions. The Government agrees to use its best efforts to ensure that each Covered Provider (i) takes, where necessary, appropriate, and timely corrective actions in response to audits, (ii) considers whether the results of the Covered Provider's audit necessitates

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adjustment of the Government's records, and (iii) permits independent auditors to have access to its records and financial statements as necessary.

(d) Audit by MCC. MCC has the right to arrange for audits of the Government's use of Grant funding.

Section 4.9 Required MCC Approvals. Each of the following transactions, agreements, and documents require MCC's prior written approval:

(a) any Disbursement and each Disbursement Request;

(b) Implementation Plan (including each element or component thereof), the Fiscal Accountability Plan, the M&E Plan, and any modification of any of the foregoing;

(c) all agreements between the Government and the Accountable Entity, and all agreements in which any of the following are appointed, hired or otherwise engaged (each of the foregoing, a "**Material Agreement**"):

(i) Auditor; (ii) Bank;

or

(iii) a member of the Accountable Entity's board of directors (including any observer) or any Officer of the Accountable Entity (including agreements regarding compensation for any such person);

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

(e) any agreement or transaction of the Accountable Entity that is not arm's-length; (f) any pledge of any Grant funding or any Program Assets, or any incurrence of material indebtedness, or any guarantee, directly or indirectly of any indebtedness;

(g) any decree, legislation, regulation, charter, contractual arrangement or other document establishing or governing (other than public laws of general application to all public institutions), or relating to the formation, organization or governance of, the Accountable Entity, and any amendment, supplement, modification, repeal or other alteration thereof or thereto (each, a "**Governing Document**");

(h) any disposition, in whole or in part, liquidation, dissolution, winding up, reorganization or other change of the Accountable Entity;

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

(j) (i) any change of any member of the Accountable Entity's board of directors, any observer, the chairperson of the board, the composition or size of the board or the filling of any vacant seat on the board, or the replacement of any observer; (ii) any change of any Officer of

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the Accountable Entity or in the composition or size of its management unit, and the filling of any vacant position of any Officer of the Accountable Entity;

(k) any decision by the Accountable Entity to engage, accept or manage any funds in addition to the Grant (including from any donor agencies or organizations) prior to the Completion Date, or to engage in any activities or undertake any duties or responsibilities other than those contemplated under this Agreement or any related agreement or document;

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

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

Section 4.10 Implementation Letters. From time to time, MCC may advise the Government in writing on any matters relating to this Agreement, the Grant or implementation of the Program (each, an “**Implementation Letter**”). The Government agrees to use such advice in implementing the Program. The Parties may also issue jointly agreed-upon Implementation Letters to confirm and record their mutual understanding on aspects related to the implementation of this Agreement or other related agreements.

ARTICLE 5.

DISBURSEMENT OF GRANT FUNDING

Section 5.1 Disbursement Process.

(a) Disbursement Requests. The Government may request Disbursements of the Grant by submitting a written request to MCC substantially in the form of the disbursement request provided by MCC or posted on the MCC Website (each, a “**Disbursement Request**”), duly completed, 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 MCC agrees otherwise, the Government may submit only one Disbursement Request for each calendar quarter (such quarter, or any other period of time as agreed by MCC, the “**Disbursement Period**”).

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

(i) Upon receipt of a Disbursement Request, MCC shall determine the appropriate aggregate amount of Disbursements permitted for the applicable Disbursement Period based on, among other things: (A) progress achieved under the Implementation Plan; (B) the amount of funds required to complete the activities described in the accompanying Disbursement Request during such Disbursement Period; and (C) the satisfaction, waiver, or deferral of the conditions precedent applicable to the requested Disbursements.

(ii) MCC may, in its discretion, reject any Disbursement Request completely, or reject or reduce the amount of any Disbursement requested thereunder, based on among other things: (A) any modification made to, or lack of progress under, the Implementation

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Plan; or (B) if any condition precedent applicable to the requested Disbursements has not been satisfied, waived, or deferred.

(iii) Subject to MCC's approval of a Disbursement Request, the proceeds of the approved Disbursements may be transferred, at MCC's election: (A) to a Permitted Account; (B) directly to a third party as payment for goods, works, or services received by the Government or the Accountable Entity, as applicable, in accordance with MCC's common payment system (the "**Common Payment System**") or any alternate payment system approved by MCC; or (C) directly to an employee of the Accountable Entity (or to the Government, as reimbursement for authorized expenses); *provided, however*, that any expenditure of such proceeds is authorized by the Government or the Accountable Entity, as applicable, and any related payment complies with the most recently approved Detailed Financial Plan and the standards and procedures set forth in the Fiscal Accountability Plan.

(iv) Unless MCC agrees otherwise, any Disbursement, or financial commitment involving Grant funding may be made, and a Disbursement Request may be submitted, only if the related expense is provided for in the Detailed Financial Plan and sufficient uncommitted funds exist in the Detailed Financial Plan for that object of expense and for the relevant Disbursement Period.

(c) Permitted Accounts.

(i) Any Grant funding to be disbursed (other than Reimbursable Cost Funding) to a bank account of the Government or Accountable Entity must be deposited in a bank account (the "**Local Account**") established by the Government or the Accountable Entity, as applicable, in the local currency of Togo or United States dollars, as agreed by the Parties, at a financial institution acceptable to MCC. With prior MCC approval, the Accountable Entity may establish such other bank accounts as are needed for the purposes of implementing the Program (each such other bank account, together with the Local Account, a "**Permitted Account**"). Before any Grant funding is deposited into a Permitted Account, the Government agrees to ensure that the Accountable Entity enters into an agreement, in form and substance satisfactory to MCC, with the financial institution approved by MCC to hold such Permitted Account (each a "**Bank**"), which sets forth the signatory authority, access rights, anti-money laundering and anti-terrorist financing provisions, and other terms related to such Permitted Account (each a "**Bank Agreement**"). The terms and operation of the Permitted Accounts shall be set forth in the Fiscal Accountability Plan and the Bank Agreement.

(ii) Unless MCC agrees otherwise, Grant funding held in a Permitted Account shall accrue interest or other earnings in accordance with the applicable Bank Agreement. On a quarterly basis and upon the termination or expiration of this Agreement or the relevant Bank Agreement, the Government agrees to ensure the transfer to MCC of any interest accrued on amounts held in a Permitted Account.

(iii) Unless MCC agrees otherwise, no funds shall be commingled in a Permitted Account other than Grant funding and accrued interest and earnings thereon. MCC has the right, among other things, to view any Permitted Account statements and activity directly

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on-line, and where such viewing is not feasible, the Government agrees to provide copies of such statements to MCC upon its request.

(iv) Unless MCC agrees otherwise, if Grant funding is held in any Permitted Account other than the Local Account, the Government agrees to ensure that such Grant funding is denominated in United States dollars prior to release. Unless MCC agrees otherwise, to the extent that any amount of Grant funding held by a Bank in United States dollars must be exchanged into the currency of Togo for any purpose, the Government agrees to ensure that such exchange is consistent with the requirements of the Bank Agreement.

Section 5.2 Conditions Precedent to Disbursements for Reimbursable Costs. Unless waived or deferred by MCC in writing, the conditions set forth in Annex V and the conditions set forth in Section 5.4 (as applicable) must be met to MCC's satisfaction before each Disbursement of Grant funding for Reimbursable Costs.

Section 5.3 Conditions Precedent to the Initial Disbursement of Grant Funding Other than Reimbursable Cost Funding. Unless waived or deferred by MCC in writing, the conditions set forth in this Section 5.3 and the conditions set forth in Section 5.4 must be met to MCC's satisfaction before the initial Disbursement of Grant funding other than Reimbursable Cost Funding:

(a) Entry into Force. This Agreement has entered into force as provided in Article 8. (b) Detailed Financial Plan. The Government has developed and adopted the Detailed Financial Plan.

(c) Fiscal and Procurement Documents. The Accountable Entity has delivered to MCC an interim Fiscal Accountability Plan and an interim procurement operations manual that has been duly adopted by the Accountable Entity's board of directors in each case.

(d) Permitted Account. To the extent that any portion of the Disbursement is to be held in a Permitted Account, a Bank has been engaged, the Local Account and any other required Permitted Account has been established, and the Accountable Entity has delivered to MCC a copy of the Bank Agreement.

(e) Procurement Agent. The Procurement Agent Manager has been engaged and the Accountable Entity has delivered to MCC a copy of the related Procurement Agent Agreement.

(f) Officers. Each of the Officers has been selected and engaged by the Accountable Entity and approved by MCC.

Section 5.4 Conditions Precedent to Each Disbursement. Unless waived or deferred in writing by MCC, the following conditions must be met to MCC's satisfaction before each Disbursement of the Grant:

(a) Deliverables. The Government has delivered to MCC the following documents, in form and substance satisfactory to MCC:

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(i) a completed Disbursement Request, together with the periodic reports required under Section 4.6, covering the related Disbursement Period; and

(ii) a certificate from the Accountable Entity, dated as of the date of such Disbursement Request, substantially in the form provided by MCC.

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

(i) any applicable conditions precedent in Annex II have been duly satisfied, deferred or waived pursuant to the terms of this Agreement;

(ii) the Government's representations set forth in Section 3.1 are true and correct on and as of the date of such Disbursement Request as though made on and as of such date;

(iii) no material breach of any responsibility, covenant or obligation by the Government, the Accountable Entity or any other Government entity has occurred and is continuing under this Agreement or any related agreement or document;

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

(v) the Implementation Plan Documents and Fiscal Accountability Plan are current and updated and are in form and substance satisfactory to MCC, and there has been progress satisfactory to MCC on the components of the Implementation Plan related to such Disbursement;

(vi) there has been progress satisfactory to MCC on the M&E Plan (including the targets set forth therein, any related baseline data collection requirements set forth therein or any applicable reporting requirements set forth therein for the relevant Disbursement Period);

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

(viii) any Taxes paid with Grant funding through the date ninety days prior to the start of the applicable Disbursement Period have been reimbursed by the Government in full in accordance with Section 2.5; and

(ix) each of the Officers remains engaged, or if a position is vacant, the Government is actively engaged, to MCC's satisfaction, in recruiting a replacement.

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ARTICLE 6.**COMPLETION DATE; TERMINATION AND SUSPENSION**

Section 6.1 Completion Date. Unless the Parties agree otherwise, the date four years after this Agreement enters into force in accordance with Article 8 is the date by which the Parties estimate that all of the activities related to the implementation of the Program and the achievement of the Project Objectives are expected to be completed (the “**Completion Date**”).

Unless MCC agrees otherwise, Grant funding may not be used for expenditures incurred after the Completion Date.

Section 6.2 Termination and Suspension; Expiration.

(a) Either Party may terminate this Agreement without cause in its entirety by giving the other Party 30 days’ written notice; *provided, however*, that notwithstanding such termination, this Agreement shall continue to be effective with respect to any activity for which a Disbursement has already been issued or approved by MCC.

(b) MCC may, upon written notice to the Government, immediately suspend or terminate this Agreement or the Grant, in whole or in part, and any obligation related thereto, if MCC determines that any circumstance identified by MCC, as a basis for suspension or termination (whether in writing to the Government or by posting on the MCC Website) has occurred, which circumstances include but are not limited to the following:

(i) the Government fails to comply with its commitments under this Agreement or any other agreement or arrangement entered into by the Government in connection with this Agreement or the Program;

(ii) an event or series of events has occurred that MCC determines makes it improbable that the Program can be performed, that any of the Project Objectives can be achieved before the Completion Date or that the Government can perform its obligations under this Agreement;

(iii) a use of the Grant or continued implementation of this Agreement would violate applicable law or United States Government policy, whether now or hereafter in effect;

(iv) the Government or any other person or entity receiving Grant funding or using assets acquired in whole or in part with Grant funding is engaged in activities that are contrary to the national security interests of the United States of America;

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

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(vi) the Government has engaged in a pattern of actions inconsistent with the criteria used to determine the eligibility of Togo for assistance under the Threshold Program; and

(vii) a person or entity receiving Grant funding or using assets acquired in whole or in part with Grant funding is found to have been convicted of a narcotics offense or to have been engaged in drug trafficking.

(c) All Disbursements shall cease upon expiration, suspension or termination of this Agreement; *provided, however*, that Grant funding may be used, in compliance with this Agreement, to pay for: (i) reasonable expenditures for goods, works or services that are properly incurred under or in furtherance of this Agreement before expiration, suspension or termination of this Agreement; and *provided, further*, that the request for such expenditures is submitted within 90 days after such expiration, suspension or termination; and (ii) reasonable expenditures (including administrative expenses) properly incurred in connection with the winding up of the Program within 120 days after the expiration, suspension or termination of this Agreement.

(d) Subject to Section 6.2 (c), upon the expiration, suspension or termination of this Agreement: (i) any amounts of the Grant not disbursed by MCC shall be automatically released from any obligation in connection with this Agreement without any action from the Government or MCC; and (ii) any amounts of the Grant disbursed by MCC to the Government but not expended before such expiration, suspension or termination of this Agreement, including any amounts in a Permitted Account, plus accrued interest thereon, shall be returned to MCC within 30 days after the Government receives MCC's request for such return, and the Government agrees to ensure that such amount is returned promptly to such account(s) designated by MCC.

(e) At least one year prior to the expiration, or upon termination, of this Agreement, the Parties agree to consult in good faith with a view to reaching agreement in writing on (i) the treatment of the Accountable Entity after the Completion Date, (ii) the process for ensuring the refunds of Disbursements that have not yet been released from a Permitted Account or committed in accordance with Sections 6.2(c) and (d), and (iii) any other matter related to the winding up of the Program, including the proper disposition of all Program Assets. If the Accountable Entity continues operations after the Completion Date, or following the termination of this Agreement, with sources of funding other than the Grant, the Accountable Entity shall cease to use the name and logo that it used during implementation of the Program, except as otherwise agreed in writing by MCC.

(f) MCC and the Government expect the effects of the Program to be long-ranging and its impact may not be measurable for several years after the Completion Date. Accordingly, MCC and the Government agree to cooperatively monitor the results and evaluate the impacts of the Program in Togo after the termination or expiration of this Agreement.

(g) MCC may reinstate any suspended or terminated portion of the Grant under this Agreement if MCC determines that the Government, or other relevant person or entity, has committed to correct each condition for which the Grant was suspended or terminated.

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Section 6.3 Refunds.

(a) If any Grant funding, any interest or earnings thereon, or any asset acquired in whole or in part with Grant funding is used for any purpose in violation of the terms of this Agreement, then MCC may require the Government to repay to MCC in United States dollars the value of the misused portion of the Grant, interest, earnings or asset, plus interest within 60 days after the Government's receipt of MCC's request for repayment. The Government shall not use Grant funding, proceeds thereof or any other funds received from MCC (assets acquired with Grant funding or with any such other funds) to make such payment.

(b) Notwithstanding any other provision in this Agreement or any other existing agreement to the contrary, MCC's right under this Section 6.3 to obtain a refund shall continue during the term of this Agreement and for a period of (i) five years thereafter or (ii) one year after MCC receives actual knowledge of such violation, whichever is later.

ARTICLE 7.**GOVERNING LAW; AMENDMENTS; GENERAL**

Section 7.1 Governing Law. This Agreement is an international agreement and as such shall be governed by international law.

Section 7.2 Consultations. Either Party may, at any time, request consultations relating to the interpretation or implementation of this Agreement. Such consultations shall begin at the earliest possible date. The Parties agree to enter any such consultations guided by the principle of achieving the Project Objectives in a timely and cost-effective manner, and that any dispute between the Parties arising under or related to this Agreement shall be resolved exclusively through the consultation mechanism set forth in this Section 7.2.

Section 7.3 Representatives. For all purposes relevant to implementation of this Agreement, the Government is represented by the individual holding the position of, or acting as, the Coordonnateur de la Cellule MCC, and MCC is represented by the individual holding the position of, or acting as, the Vice President of the Department of Policy and Evaluation (each of the foregoing, a "***Principal Representative***"). Each Party, by written notice to the other Party, may designate one or more additional representatives (each, an "***Additional Representative***") for all purposes of this Agreement except for purposes of Section 7.7(a). The Government hereby designates the Chief Executive Officer of the Accountable Entity as an Additional Representative for the Government. MCC hereby designates the Deputy Vice President of the Department of Policy and Evaluation as an Additional Representative for MCC. A Party may change its Principal Representative to a new representative that holds a position of equal or higher authority upon written notice to the other Party.

Section 7.4 Communications. Any document or communication required or submitted by either Party to the other under this Agreement must be submitted in writing and, unless MCC agrees otherwise, in English, to such Party's Principal Representative, and, if applicable, to such Party's Additional Representative(s). For this purpose, the address of each Party is set forth below.

EXECUTION VERSIONTo the Government:

The President's Office
Attention: Coordonnateur de la Cellule MCC
Avenue Duisburg 43, Quartier administratif,
Immeuble situé en face du bureau d la FAO près de L'Agence de Solidarité
Nationale à Lomé
Lomé, TOGO
+ 228 22 45 89 73 bamouni.baba@presidence.
gouv.tg

To MCC:

Millennium Challenge Corporation

Attention: Vice President, Department of Policy and Evaluation
(with a copy to the Vice President and General Counsel)
1099 Fourteenth Street, NW, Suite 700
Washington, DC 20005

United States of America

Facsimile: +1 (202) 521-3700

Telephone: +1 (202) 521-3600

Email: VPPolicyEvaluation@mcc.gov (Vice President, Department of Policy and
Evaluation) VPGeneralCounsel@mcc.gov (Vice
President and General Counsel)

Section 7.5 MCC Status. MCC is a United States government corporation acting on behalf of the United States Government in the implementation of this Agreement and the Program. MCC and the United States Government assume no liability for any claims or loss arising out of activities or omissions under this Agreement. The Government waives any and all claims against MCC or the United States Government or any current or former officer or employee of MCC or the United States Government for all loss, damage, injury, or death arising out of activities or omissions under this Agreement, and agrees that it shall not bring any claim or legal proceeding of any kind against any of the above entities or persons for any such loss, damage, injury, or death. The Government agrees that MCC and the United States Government or any current or former officer or employee of MCC or the United States Government shall be immune from the jurisdiction of all courts and tribunals of Togo for any claim or loss arising out of activities or omissions under this Agreement.

Section 7.6 No Assurance of Future Assistance. Nothing contained in this Agreement creates an obligation on the part of MCC to provide any further funding or assistance, other than the Grant, in relation to any other project or program in Togo.

Section 7.7 Amendment.

(a) This Agreement may be amended by written agreement of the Parties. Such agreement shall specify how it enters into force.

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(b) Notwithstanding subsection (a) of this Section, the Parties agree that the Government and MCC may by written agreement, which shall enter into force upon signature (i) modify any annex to this Agreement to, in particular, but without limitation, (A) suspend, terminate or modify any project or activity described in Annex I or create a new project or activity, (B) add, delete or waive any condition precedent described in Annex II, or (C) modify the designation or allocation of funds among the activities identified in Annex III; or (ii) extend the Completion Date; provided that, in each case, any such modification (A) is consistent in all material respects with the Project Objectives, (B) does not cause the amount of the Grant to exceed the aggregate amount specified in Section 2.1(a), and (C) does not cause the Government's responsibilities or contribution of resources to be less than as specified in this Agreement. Any such modification pursuant to this subsection (b) shall not be deemed an amendment of this Agreement pursuant to subsection (a).

Section 7.8 Survival. The Government's obligations under Sections 2.4 (Use of the Grant), 2.5 (Taxes), 3.2 (Government Responsibilities), 4.7 (Records; Accounting; Providers; Access), 4.8 (Audits; Review), 6.2 (Termination and Suspension; Expiration), 6.3 (Refunds), 7.1 (Governing Law), and this Section 7.8 (Survival) shall survive the expiration, suspension, or termination of this Agreement.

Section 7.9 Definitions; Interpretation.

(a) Except as otherwise expressly provided herein, capitalized terms used in this Agreement shall have the respective meanings provided in Annex IV.

(b) Unless expressly provided otherwise: (i) each definition of or reference to any agreement, instrument, law, regulation, policy, guideline, or similar document in this Agreement (or any other agreement entered into in connection with this Agreement), unless otherwise expressly set forth herein, shall be construed as a reference to such agreement, instrument, law, regulation, policy, guideline, or similar document as it may, from time to time, be amended, revised, replaced, or extended, and shall include any agreement, instrument, law, regulation, policy, guideline, or similar document issued under or otherwise applicable or related to such agreement, instrument, law, regulation, policy, guideline, or similar document; (ii) all references herein to Articles, Sections, and Annexes shall be construed to refer to the Articles and Sections of, and Annexes to, this Agreement, all of which form an integral part of this Agreement; (iii) any reference to the phrases "Unless MCC agrees otherwise" or "Unless the Parties agree otherwise" in this Agreement shall be deemed to be followed by "in writing," (iv) any approval right granted to MCC herein shall only be satisfied upon the prior written approval of MCC.

Section 7.10 References to MCC Website. Each reference in this Agreement, or any other agreement entered into in connection with this Agreement, to a document or information available on, or notified by posting on, the MCC Website shall be deemed a reference to such document or information as updated or substituted on the MCC Website by MCC from time to time.

Section 7.11 Signatures. Signatures to this Agreement and to any amendment to this Agreement (and to any other legally binding international agreement related to this Agreement)

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shall be original signatures appearing on the same page or in an exchange of letters or diplomatic notes.

Section 7.12 Grant Reference. The Government agrees to include the grant reference number provided by MCC on all notices, requests, reports or correspondence in connection with the Grant funding.

ARTICLE 8.**ENTRY INTO FORCE**

Section 8.1 Date of Entry into Force. The Government agrees to notify MCC in writing when the Government's necessary internal procedures for this Agreement's entry into force have been completed. Following receipt of this notification, MCC agrees to notify the Government in writing when MCC deems the conditions precedent to entry into force set forth in Section 8.2 have been met to MCC's satisfaction and the United States' necessary internal procedures for entry into force have been completed. This Agreement shall enter into force on the date of MCC's written notification to the Government. This Agreement, upon entry into force, shall prevail over the domestic laws of Togo, as a matter of Togolese domestic law.

Section 8.2 Conditions Precedent to Entry into Force. Each of the following conditions must be fulfilled, in each case to the satisfaction of MCC, before this Agreement enters into force:

- (a) The Government has delivered evidence to MCC that the Accountable Entity has been legally established.
- (b) The Government has delivered to MCC a signed legal opinion, in form and substance satisfactory to MCC, by the Togo Minister of Justice or other legal counsel of the Government acceptable to MCC.
- (c) The Government has delivered to MCC complete, certified copies of all decrees, legislation, regulations or other governmental documents relating to the Government's domestic requirements necessary for this Agreement to enter into force (including evidence of this Agreement's publication in the official Gazette of Togo), which MCC may post on its website or otherwise make publicly available;
- (d) The Government has delivered to MCC an incumbency certificate and specimen of the Government's Principal Representative; and
- (e) MCC has determined that, since the time of signing this Agreement, the Government has not engaged in a pattern of actions inconsistent with the eligibility criteria for MCC assistance.

Section 8.3 Provisional Application. Upon signature of this Agreement, and until this Agreement has entered into force in accordance with Section 8.1, the Parties agree to provisionally apply the terms of this Agreement; provided that, no Grant funding other than Reimbursable Cost Funding shall be made available or disbursed before this Agreement enters into force.

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SIGNATURE PAGE FOLLOWS ON NEXT PAGE

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IN WITNESS WHEREOF, the undersigned, duly authorized by their respective governments have signed this Agreement.

Done at Lomé, Togo, this 14th day of February, 2019.

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

FOR THE TOGOLESE REPUBLIC, acting through THE MINISTRY OF ECONOMY AND FINANCE

/s/

/s/

Name: Cynthia Huger
Title: Vice President, Department of
Administration and Finance and Chief
Financial Officer

Name: Sani Yaya
Title: Minister of Economy and Finance

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ANNEX I**PROGRAM DESCRIPTION**

Unless the Parties agree otherwise, the Government agrees to utilize the assistance provided under this Agreement to support the following Program.

A. SUMMARY OF PROGRAM

The Program consists of the following two Projects and their activities (each, an “*Activity*” and collectively, the “*Activities*”):

1. Increased Competition for the Benefit of Consumers, Independent Regulation, and Expanded Access in the ICT Sector Project (the “*ICT Project*”).

The Activities under the ICT Project are:

(a) Activity 1.1. Strengthen an Effective and Independent Regulator (the “*Regulator Strengthening Activity*”).

The objective of the Regulator Strengthening Activity is to ensure that the Regulator is effective and independent. Becoming “effective and independent” requires that the Regulator have financial and administrative autonomy from other branches of government and that it have the internal skills, capacity, and resources to meet its organizational responsibilities.

The Regulator Strengthening Activity provides technical assistance to the Regulator to enhance its capabilities, assess the status of the ICT sector, develop analytical tools and plans, and initiate a range of actions aimed at promoting effective competitive development of the sector. The sub-Activities, listed below, include a set of initial studies and planning activities, installation of implementation resources to provide capacity to the Regulator, and ongoing technical assistance in the development and implementation of a range of regulatory initiatives.

Because of the particular importance of autonomy and senior leadership capacity for the effective operation of an independent utility regulator, the Parties have agreed (as set forth in Annex II) to certain conditions precedent for the Regulator Strengthening Activity. In particular, the Government and MCC agree that before any technical assistance agreement for the Regulator under this Activity is signed, the Government must provide evidence, satisfactory in form and substance to MCC, that (i) Decree N° 2015-091 /PR has been amended, including to remove any provisions which require MPEN approval of, or agreement to, ARCEP decisions or operations, (ii) a board of directors of ARCEP has been duly appointed in accordance with the laws of Togo, and such board is fully prepared to assume its statutory duties to oversee ARCEP in an independent, neutral manner, and (iii) ARCEP has engaged a Chief Executive Officer who has been given the necessary authority and scope to develop the agency and implement its mandate (including an appropriate strategic plan) (an “*Independent ARCEP CEO*”), and the ARCEP board of directors has developed a specific first year performance plan for the Independent ARCEP CEO that details the functions, responsibilities, and target objectives for the Independent ARCEP CEO’s actions during such first year tenure with ARCEP. In addition, as set forth in

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more detail in Annex II, the Government and MCC agree that the Independent ARCEP CEO's successful performance of his/her responsibilities is a condition precedent to certain Disbursements of Grant funds for the Regulator Strengthening Activity.

(i) Conduct Initial Market/Regulatory Research, Studies, and Planning. This sub-Activity expands the understanding of conditions in the Togo ICT sector, particularly with respect to current and potential competition, and identifies priority regulatory needs and options. The Parties expect that six (6) initial, inter-related studies are to be conducted by selected consultant(s). The findings of the studies shall guide subsequent actions by the Regulator in terms of enhancing the regulatory framework and promoting increased access and effective competitive growth. The following descriptions highlight the key objectives and approach to be pursued for each main area of study. These studies are programmed for the initial 6 to 9 months of the consultant's work.

1. ICT Sector Supply-Side Study: The Parties expect this study to:

(i) review and update previous studies, including the "*aménagement numérique du territoire*," or digital development of the territory; (ii) document the full extent of ICT infrastructure and services in Togo, including trends in investment, network expansion, and future growth plans, breakdowns of infrastructure by location, types of facilities, and operators, and measures of investment costs associated with network components, rollouts and upgrades; (iii) identify scopes of available services (including both wholesale and retail services) by operator and geographic locations; (iv) study the supply of ICT devices (traditional and smart phones, computers, and other equipment, determining the number of sales, prices, trends); and (v) describe the business and labor market in the ICT sector identifying the number of enterprises including formal and informal micro, small, and medium enterprise businesses, and number of employees, by sex, in different categories, salary and wage levels, and trends.

2. ICT Sector Demand-Side: The Parties expect this study to: (i) document the full range of demand for all ICT services in Togo, including recent trends and forecasts of anticipated growth and change, taking into account fixed and mobile voice telephony, fixed and mobile data, private business and government voice and data networks, among others; (ii) measure and disaggregate across sectors (agriculture, energy, education, financial services, and others) for distinct user groups, including residential and individual consumers including women and disadvantaged groups, small, medium and micro, and large enterprises, and various government and public institutions at the national and local levels; (iii) describe geographic breakdowns and quantify for each service and user group the number of users, volumes of use (minutes, bytes, texts, etc.), and amounts spent, providing trends over time and usage trends for Internet web sites and applications, indicating popularity of specific services and types of demand, with data on numbers and sex of users, volumes of utilization, and trends. The Parties expect the consultant to review the available data and carry out surveys across the entire country and to forecast potential demand for different services up to 2025. Surveys of male and female consumers shall obtain data on what is considered to be a socially acceptable use of ICTs for women, and what women consider to be relevant content.

3. ICT Market Competition: The Parties expect this study to review and assess the status and potential of competition in Togo's telecommunications market, including recent trends and forward-looking market prospects. Taking into account the ICT

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sector value chain in Togo, the Parties expect this study to: (i) evaluate competitive conditions and potential in at least the markets for wholesale transmission services and retail end-user mobile, fixed-line, and Internet services; (ii) evaluate the market position of each competitor in each market segment in terms of services offered, customer demand and usage, revenues, market share, growth or decline, including levels of competitive presence in different geographic areas; (iii) identify key barriers, bottlenecks, or other challenges to increased and effective competition in various market segments, and the root causes and potential regulatory solutions to those challenges; (iv) based on information from the supply-side and demand-side studies, along with other direct market research, include a set of analyses of the potential for entry of new private sector actors in wholesale, retail, Internet Service Provider (ISP), and possibly other specialized markets; (v) describe potential market growth, opportunity for geographic or service differentiation, cost and price savings, customer interest, and potential competitors/investors; (vi) identify sector-critical measures that warrant persistent measurement, as well as, propose timelines and content of a cost-effective sector monitoring system; and (vii) recommend potential amendments to the current legislation and regulations and new regulatory levers to ensure a level playing field and the conditions for their implementation.

4. Regulatory Strategic and Operational Planning: The Parties expect this study to: (i) prepare a five-year strategic plan to enhance and develop the organizational structure, functions, and capabilities of the Regulator, and revisions to the sector legislative framework, and (ii) conduct a needs assessment and gap analysis (taking into account any previous analyses or studies conducted in this area) that results in a multi-year roadmap to strengthen and support the Regulator and legislation. The study may:

- Review, improve and complete internal operating procedures, including an operations manual, to guide main functions and responsibilities;
- Define the priority targets and actions, projects and regulatory levers, to be taken each year during this period;
- Indicate investments in the Regulator to be made during the years 2019 – 2023, including necessary equipment, hardware, and software;
- Define trainings, capacity building requirements, and design and identify training programs;
- Elaborate financial plan for the implementation of the strategy;
- Elaborate recruitment plan and engage additional staff as required, with attention to diversity in hiring and promotion;
- Review the current status of ICT sector legislation in Togo, comparing it to international best practices, regional standards, and the objectives of the sector, and propose any changes necessary to achieve such objectives; and

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- Conduct an analysis of the prospect for Togo to prepare an Offer on Telecommunications to the World Trade Organization (WTO), to determine the Government's potential readiness to adopt the standards of the WTO Reference Paper on Telecommunications Services, and provide background, analysis, and recommendations relating to such a prospective WTO commitment.

5. Universal Service/Access Gap Study: The Parties expect this study to: (i) analyze the scope and economic characteristics of gaps in access to telecommunications networks and service in Togo – including basic mobile telephony and broadband Internet– to support planning for implementation of the Universal Service Fund; (ii) identify the locations where service is unavailable or inadequate (“*gap areas*”) and, for each location, determine the geographic size, population—including socioeconomic and demographic profile—in unserved or underserved areas; and (iii) identify towns, villages, relevant terrain, and proximity to existing networks. In coordination with the supply and demand studies, the Parties expect this study to: (i) determine the net capital costs, operating expenses, and anticipated demand and revenues associated with constructing new infrastructure and delivering services in each gap area; (ii) calculate estimated USF subsidy requirements to introduce or upgrade services in each location; and (iii) develop Geographic Information System-based maps of the study findings. The Parties expect the consultant to take into account and build upon all existing studies and data sources previously developed by the Ministry of Post and Digital Economy or the Regulator in this area.

6. Stakeholder Engagement and Communications Plan. The Parties expect this plan to (i) focus on labor issues and sector sensitivities around employment and private sector engagement in the ICT sector in order to proactively manage any reputational risk around real or perceived social impacts through a thoughtful communications campaign engaging all levels of stakeholders; (ii) include a project-level grievance mechanism to properly and systematically handle any discontent that may arise from the ICT Project; and (iii) constitute a living document to guide implementation throughout the life of the ICT Project.

(ii) Permanent Field Presence. This sub-Activity provides full-time technical assistance (TA) to the Regulator for the duration of the ICT Project. The selected TA firm shall have a presence in Lomé, Togo and shall have primary responsibility for project management, which includes: ensuring that the deliverables are consistent with the beneficiary's (Regulator and other appropriate counterparts) requirements, staff development (including arranging relevant training or capacity building activities), and managing relationships with the Accountable Entity. Adjustments to the nature and scope of the TA based on regular assessments of the Regulator's progress may be made.

(iii) Enhanced Regulatory Effectiveness and Competitive Growth. This sub-Activity supports the Regulator in the review, adoption, revision, and implementation of priority regulations, policies, and practices (as defined by initial studies) that enhance the Regulator's internal capacity while establishing a more effective regulatory regime and competitive marketplace. The Parties expect this sub-Activity to be divided across multiple action items during the course of the ICT Project and the scope to be determined by the studies outlined in the diagnostic work described in the sub-Activity “Conduct Initial Market/Regulatory Research, Studies, and Planning,” and iteratively over time in consultation with the Regulator,

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the Accountable Entity, and key stakeholders, including MCC. The Parties expect this sub- Activity to implement a program of training and capacity building as recommended by the study “Regulatory Strategic and Operational Planning,” and as approved by ARCEP. The Parties expect this sub-Activity to include some of the following elements.

- Assistance with Engagement and Training of Key Staff. Support for identifying and recruiting necessary ARCEP technical staff, especially at the “middle management” level, and provision of hands-on training support for such personnel, as needed, with attention to diversity in hiring and promotion, especially at the management level.

Assistance may include close collaboration between designated consultants and counterpart staff in key procedures, functions, and skills, particularly in the execution of priority regulatory activities under this sub-Activity.

- South-South Exchanges and Structured Experiential Learning. Pairing of Togolese ICT sector agencies with one or more countries that have experience in some of the challenges facing the Togolese entities. The goal is to provide structured peer-to-peer learning. This might include pairing with regulatory counterparts in Senegal or Cote d’Ivoire (Francophone countries), Ghana or Kenya (Anglophone countries), or Rwanda.

- North-South Exchanges and Structured Experiential Learning. Pairing of Togolese ICT sector agencies with a Regulator from a country with a more complex digital ecosystem in order to provide structured peer learning on cutting edge issues or possible leapfrogging opportunities.

- Board Training. Specialized training to support the boards of directors at the various agencies and entities in the sector.

- Stakeholder Training. Ongoing training to ICT sector stakeholders on legal and economic issues.

(b) Activity 1.2. Mobilization and Implementation of Universal Service Fund (USF) (the “Universal Service Fund Activity”).

The objective of the Universal Service Fund Activity is to increase access to, and usage of, mobile telephony and internet usage among populations that are currently underserved, including women and the poor. This Activity takes the recommendations from the Regulator

Strengthening Activity to mobilize the USF, which is managed under ARCEP authority and has a mandate to expand ICT access, services, and applications in Togo through obligatory financial contributions from all licensed operators. The Grant provides additional start-up capital to support launch of the fund. Ongoing operator contributions shall provide sustainable resources to the fund during and after the ICT Project period. The specific targets and projects of the USF shall be determined by the fund administration within ARCEP, according to plans and studies developed during the initial stages of MCC technical assistance. The sub-Activities below highlight the anticipated key steps in USF mobilization and operations.

EXECUTION VERSION**(i) Set-Up Organization, Functions, Procedures, Strategy for Fund Operations.**

Mobilizing the USF and making it operational requires, among other things, the development of an organization, recruitment and staff training, development of administrative procedures, an operations manual, and a business plan for an initial planning window. The USF shall be based on principles of open competitive bidding for subsidized projects and it shall utilize standard accounting systems, management protocols, and reporting and audit practices. This may include:

- Organizational setup of the fund including its governance, and determination of key roles and responsibilities; the fund shall initially be part of the Regulator.
- Development of an operations manual that defines transparent rules for procurement of goods and services, project selection, financing criteria, etc., and includes cost effectiveness as a performance metric.
- Development of a universal service strategy that takes into account results of the study “Universal Service Access Gap” and uses an inclusive process through which poor people, women, and people who live in remote areas are able to express their needs (financial inclusion, etc.) and preferences.
- Identification of pilot projects that can be implemented during the first two years.

(ii) Initial Capitalization of USF and Implementation of Pilot Projects. Following mobilization of the USF, this sub-Activity provides an initial capitalization of the USF to support early pilot projects. Pilot project development and award shall be conducted by the USF administration with TA support to ensure effective implementation and training in procurement processes. The specific types of projects shall be determined by various studies previously described. This capitalization would likely occur within the same timeframe as the collection of first mandatory contributions by operators. Any portion of the initial capitalization that is not expended before the Completion Date shall be returned to MCC.

The Parties expect capitalization of the fund to be made in tranches as follows:

Tranche	Amount
1	\$2,000,000
2	\$2,000,000
3	\$3,000,000
TOTAL:	\$7,000,000

(iii) Subsequent Capitalization and Further Execution of Universal Service Fund Activity. This sub-Activity is designed to: (1) deploy USF resources to support continued expansion of ICT access and to help enhance ICT benefits throughout Togo; (2) continue to collect contributions from operators and potentially other sources; (3) implement new USF-supported projects annually, following the priority goals of the strategic plan, including coordination with competitive licensing, as appropriate; and, (4) expand the scope of USF

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programs to include demand-side initiatives such as support for applications and content development. To accomplish this, the fund administration within ARCEP, with support and input from the TA consultant, shall develop annual operating plans based on overall strategy, identifying specific projects and allocations of budgets, and following standard procurement procedures, modified as needed. They shall also conduct ongoing monitoring and evaluation of USF projects and operations, modifying plans and procedures as needed to improve performance.

(c) Activity 1.3. Increase Competition in the Marketplace (the “**Increase Competition Activity**”).

The objective of the Increase Competition Activity is to attract significant new, private, financial and human capital to the Togolese ICT market and is designed to support direct introduction of expanded market competition in the Togo telecommunications sector, where feasible and appropriate. Grant funding would support the Regulator in introducing specific new licenses in major market segments, such as the following illustrative examples:

- *New Wholesale Backbone Infrastructure and Transmission License.* In the case where a new wholesale infrastructure provider is feasible, this may include one or more of the following options:

- License a private operator, consortium, or public-private partnership (PPP) to provide competitive wholesale capacity, including backbone extension to unserved regions.
- License to include both international gateway and national backbone infrastructure and transmission services.
- Potential partnership with fiber networks owned by the Benin Electricity Community (CEB) and/or e-government network.

- *New Retail Mobile and/or Full-Service License.* In the case where a new retail infrastructure provider is feasible, this may include one or more of the following options:

- National license to provide retail voice and data services to all customers.
- License to include mobile and fixed telephone services, as well as ISP Internet.
- License to include necessary frequencies for national (3G+) wireless mobile coverage.
- License to also allow for construction and operation of all needed network facilities, including backhaul.

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The Government shall decide whether and when to proceed with such proactive new competitive licenses based upon the findings of the competitive market study from the Regulator Strengthening Activity and supplemental research by the Regulator.

(d) Activity 1.4. Support for ICT Utilization Policies (the “**ICT Utilization Activity**”).

The objective of the ICT Utilization Activity is to increase utilization of ICT by all types of citizens, especially historically disadvantaged groups and women, as well as small enterprises and public offices, to support the broader contribution of ICT to social and economic development. The Activity includes the following sub-Activities:

(i) ICT Utilization Policy Planning and Program Design. This sub- Activity provides technical assistance to the Ministry of Post and Digital Economy in the development of national policies and programs to promote wider and more effective ICT utilization. The goals of the policies and programs are to provide training, awareness building, efforts to reduce the gender digital gap, and direct support to target users in adopting and/or developing relevant ICT-based services and applications. The range of support activities that may be developed through these initiatives could include, *inter alia*:

- Training classes and workshops;
- Public relations and awareness building programs;
- Entrepreneurial assistance and incubation initiatives;
- ICT applications and content development programs;
- Community-based technical support resources; and
- Public administration training and application development.

(ii) Implementation of ICT Utilization Programs. This sub-Activity provides support for implementing the programs developed under the Universal Service Fund Activity. The Parties expect the programs to be implemented through different partner organizations, such as technical training organizations and consultants, university programs, local community institutions, and government agencies. Some projects in rural areas may also be implemented in partnership with the USF. Key implementation steps for each program include:

- Planning, procurement, and start-up;
- Initial trials, tests;
- Broader roll-out; and
- Monitoring and evaluation.

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2. Land Reform to Accelerate Agricultural Productivity Project (“LRAP Project”)

The Activities under the LRAP Project are:

(a) Activity 2.1: Support the Development of an Improved Regulatory Framework (the “**Improved Regulatory Framework Activity**”).

The Improved Regulatory Framework Activity seeks to improve land governance policy and legislation in Togo by integrating field-tested methodologies into the regulatory framework for the New Land Code, thus lowering land registration costs and time, and increasing access to land registration for existing holders of informal land rights.

The Improved Regulatory Framework Activity shall be supported through technical assistance from one or more selected consultants, and consist of the following four (4) sub-Activities.

(i) Prepare Government Stakeholders across Relevant Sectors to Participate in Development of the Regulatory Framework for the New Land Code (the “**Prepare Stakeholders for Participation sub-Activity**”). This sub-Activity seeks to increase the capacity of national-level stakeholders across the appropriate technical sectors to participate in and contribute to development and application of land governance policy. The Parties agree that a principal product of this sub-Activity shall be a layperson’s guide to the New Land Code, a tool to make the New Land Code accessible and understandable to those who may provide input during the drafting of the regulatory framework for the code. The ministry responsible for urbanization (MUHCV), which had primary responsibility for developing the New Land Code, shall lead and hold primary responsibility for completion of this sub-Activity. Participation and input shall also be required from Government partners, including, but not limited to the ministries responsible for agriculture (MAEH), economy and finance (MEF/DADC) and decentralization/local governance (MATDCL). All activities shall be facilitated by a consultant who shall also be responsible for producing deliverables based on a detailed work plan.

It is also useful for front-line government actors to gain knowledge of how similar land governance issues have been addressed in neighboring countries. Senegal, Benin, Niger, Mali and Burkina Faso have all implemented land governance programs that were included in MCC compacts, and each of these countries offer lessons, some of which are positive and others that are cautionary. Therefore, this sub-Activity includes a small number of study visits to one or more of these countries or such other countries as the Parties may agree.

Additionally, given the prominence of agricultural development policy in existing and proposed land legislation, this sub-Activity examines the land issues encountered from Togo’s experience designing, planning, and establishing development zones or planned agricultural management zones, namely Planned Agricultural Development Areas (ZAAPs) and Agropôles. This requires information collection and analysis by technical agents and officials in pertinent ministries, and likely include organized study visits to agricultural development sites in Togo.

(ii) Identify Drafting Guidelines/Priorities for Application Decrees and Obtain Consensus (the “**Drafting Guidelines/Priorities for Application Decrees sub-Activity**”). This sub-Activity seeks to clarify and achieve consensus regarding land governance policy priorities and principles that are both consistent with the New Land Code and

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applicable to drafting the land code's regulatory framework. The sub-Activity seeks to make explicit the wide variety of objectives that may be pursued in drafting the New Land Code's application decrees (collectively referred to as the New Land Code's "regulatory framework"), and obtain a consensus view among Government stakeholders of drafting guidelines based on careful examination of the different objectives. Among the topics to be examined are: financial costs to rural landholders for registration of their land; level of procedural complexity of the land registration process; technical requirements to register land, such as requirements governing spatial information associated with registered parcels; land information management tools, capacity and institutions; government capacity to apply the New Land Code, and how to achieve balance between capacity and the ambitions of the New Land Code; appropriate legal and informal practices for management of land conflict; gender equity in access to land and obtaining land rights; capacity and timeframe for development of a national rural land cadaster, agricultural investment and development, and emergence and regulation of land markets; and the respective roles of national and local governments in land tenure security, and capacity for decentralized land governance. The drafting guidelines and priorities shall provide a consensus view among Government stakeholders of how – and the extent to which – these topics and others shall be addressed within the New Land Code's regulatory framework.

This sub-Activity shall be led by MUHCV based on its assigned role to lead development of the New Land Code, with substantial participation and support from MAEH, MEF/DADC and MATDCL, and shall be facilitated by the consultant. These ministries shall be responsible for achieving the end-product and ensuring that it is the collective product of Government stakeholders. The primary product shall be a consensus document establishing the guidelines and priorities that shall inform drafting of the regulations for implementation of the New Land Code.

(iii) Design and Plan the Decree Drafting Program (the “*Design and Plan the Decree Drafting Program sub-Activity*”). This sub-Activity shall develop the strategy to ensure full integration of the four land methodologies to be developed under the Develop Methodologies Activity into a regulatory framework that preliminarily identifies 22 application decrees across a broad range of land governance themes. This sub-Activity shall also assist Government stakeholders to identify and analyze rural land registration procedures, requirements and options for titling instruments, and to develop recommendations for lowering costs and the complexity of existing requirements. Finally, this sub-Activity shall examine the legal and institutional processes and practices for adoption of new regulatory decrees and develop a strategy to maximize prospects for adoption of the draft decrees.

This sub-Activity shall be led by MUHCV based on its assigned role to lead development of the New Land Code, with substantial participation and support from MAEH, MEF/DADC and MATDCL, and shall be facilitated by the consultant. These ministries shall be responsible for achieving the end-product and ensuring that it is the collective product of Government stakeholders. The primary product shall be one or more documents proposing: a) a structure or legal framework for the application decrees, b) recommendations for registration of rural land under “customary land title” or similar instrument, and c) a strategy and work plan for adoption and dissemination of the decrees.

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(iv) Draft Regulatory Texts, Collect and Integrate Feedback from Central and Decentralized Actors, and Finalize Regulatory Framework (the “**Draft and Finalize Regulatory Framework sub-Activity**”). This sub-Activity seeks to ensure not only that the regulatory framework of the New Land Code is drafted, but that its drafting results from meaningful participation of all relevant technical agencies, and that the drafting process consists of a multi-stage approach that provides decentralized as well as national-level stakeholders with opportunities to stay informed and to provide feedback. The development of regulations, or regulatory texts, for the New Land Code is expected to involve the creation and adoption of more than 20 separate decrees. These decrees are expected to address multiple aspects of the New Land Code, as well as, the four field-tested land methodologies to be developed under the Develop Methodologies Activity. Each decree needs to be reviewed and vetted by relevant stakeholders, including decentralized stakeholders. Given that these decrees may be drafted and adopted on a rolling basis, MUHCV shall develop a work plan and detailed schedule early in the Program to ensure that the decrees are vetted efficiently and at reasonable cost.

The timing of this sub-Activity should align with the schedule for developing and testing methodologies at field test sites. Once successfully demonstrated at the field sites, these methodologies shall be integrated into the regulatory texts and plans for national implementation of the New Land Code. In addition, knowledge gained in the process of developing the draft decrees may be pertinent to the New Land Code itself, and as a result this sub-Activity shall formulate recommendations for potential revisions to the New Land Code.

The drafting of regulatory texts shall be completed by trained lawyers engaged by the Accountable Entity and under the direction of MUHCV, which shall serve as lead implementer of this sub-Activity. A consultant shall facilitate the process of organizing workshops or meetings at the national and decentralized levels to share draft texts and collect feedback. The key products of this sub-Activity shall be (1) the version of the regulatory texts vetted and revised by Government stakeholders at both the national and decentralized levels, and ready for submission to the regulatory process for adoption, and (2) a communication plan to publicize such regulatory texts. The Government agrees to consider the final draft versions of the decrees for adoption in a timely manner, and to consider any recommendations for revisions to the New Land Code that may be formulated under this sub-Activity.

(b) Activity 2.2. Develop and Field-Test Cost-Effective Methodologies to Secure Customary Land Property Rights (the “**Develop Methodologies Activity**”).

The Develop Methodologies Activity seeks to develop and demonstrate practical land registration and land tenure management methodologies that lower costs, decrease time requirements and make land services more accessible to rural producers requiring formal protection of their customary land rights. Once tested, the methodologies shall be incorporated into the New Land Code regulations, and then utilized for national implementation of the New Land Code.

The Develop Methodologies Activity shall develop and field-test four land methodologies focused respectively on mapping technology, land information management, land registration requirements and procedures, and land conflict management. The Activity shall be supported

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through technical assistance from one or more selected consultants, and consist of the following sub-Activities:

(i) Outreach and Communications at Five Pilot Sites (the “*Outreach and Communications sub-Activity*”). This sub-Activity shall develop and implement a Stakeholder Engagement and Communication Plan to ensure ongoing communications with all pertinent actors (farmers and rural producers, customary authorities, both centralized and decentralized government administrators and technicians, and local government officials) in each of the five prefectures that host a pilot site. The SECP should be efficient and low-cost and shall serve primarily to ensure that local actors are continuously informed regarding LRAP Project objectives, approach and activities at each site, as well as opportunities and ways to participate in LRAP Project activities. The SECP shall also provide a channel for effective communication from local stakeholders to LRAP Project managers. The SECP shall be informed by the Baseline Environmental Study described below. This sub-Activity also includes “launch” workshops at the national and regional levels for each of Togo’s five administrative regions. The objective of these workshops is to introduce the LRAP Project to all the relevant stakeholders. The Parties expect each workshop to be scheduled for one-half to one full day and include participants from the central and local governments, civil society and the private sector. Key agenda items for these workshops are expected to include, but are not limited to, a presentation of the LRAP Project’s objectives, the anticipated results, and the draft work plan. MATDCL shall lead this sub-Activity with input and active participation from relevant Government ministries, as well as support from a consultant to facilitate and ensure design and implementation of the SECP outreach and communications strategy.

(ii) Design Land Property Rights Inventories and Mapping Methodology (the “*Design Property Rights Inventories sub-Activity*”). This sub-Activity encompasses the preparatory stage for conduct of land property rights inventories and mapping field tests. It consists of: A) random sampling to select the specific sites targeted for inventories and field tests within each of the five pilot prefectures, and B) complete design and work planning for conduct of the inventories and mapping field tests. The property rights inventories shall also include validation exercises to ensure that inventoried property rights are equitable and viewed by the relevant stakeholders as legitimate. In designing this validation mechanism, Government stakeholders, assisted by the consultant, shall ensure full representation of women, youth, non-owning land users and other disadvantaged groups.

Preparation for, and design of, the mapping field tests requires reviewing available technologies for collecting the geographic coordinates corresponding to land parcels subject to registration and formalization of property rights. Appropriate technologies must be compatible with development of a geographic information system (“*GIS*”) that includes multiple information layers specifying the nature of the property rights, the identity of the property rights holders, and the geographic location coordinates as well as visual representations of the parcels (broken out by both land use and occupation). The objective is to identify the most cost-effective and practical technology that satisfies accuracy and other technical requirements as specified in Togolese regulations for registration of land property rights. Technological options, such as Mobile Application to Secure Tenure (MAST) developed by USAID in Tanzania and recently tested in Burkina Faso and the Social Tenure Domain Model (STDM) shall be reviewed. Other tablet and smart phone technologies are also in development and may present options for

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application in Togo. This preparatory and design phase seeks to investigate the impact of the absence from Togo of a system of Continuously Operating Reference Stations (CORS), an issue that has been raised by technicians in several ministries as a constraint to efficient and accurate collection of geo-referenced data. These preparations shall result in a detailed design and work plan for field-testing the selected option for mapping parcels and recording associated property rights at pilot sites in each of the five pilot prefectures.

Preparation (design and work planning) for the inventories and mapping field tests requires preliminary targeted collection of site-specific field information, in the form of social and demographic profiles for each of the five pilot prefectures. The information from the profiles provides a basis for development of a random sampling methodology to choose specific pilot sites for property-rights-inventorying and mapping within each prefecture, and also contributes to the baseline environmental study produced under the Inventory and Field Test sub-Activity described below.

The primary products of this sub-Activity shall be: 1) the social and demographic profiles and the random sampling strategy to select the pilot sites, and 2) design of the land inventories and mapping field tests, including the strategy for legitimization of inventoried land rights. MUHCV shall primarily lead this sub-Activity with full participation and support from Government stakeholders who are expected to assist in the development of specific products, especially MAEH for the social and demographic profiles and MEF for the inventory planning.

(iii) Conduct Land Property Rights Inventories and Field-Test Mapping Methodologies at Five Sites (the “*Inventory and Field-Test sub-Activity*”). This sub-Activity consists of 1) additional preparatory work in the social and environmental areas, and 2) implementation of the design produced under the Design Property Rights Inventories sub-Activity.

Regarding the additional preparatory work in the environmental and social areas, the consultant is expected to assist the implementing partners to collect site-specific field information, including from the areas inventoried and mapped, to complete a social and environmental baseline study (“*Baseline Environmental Study*”). This study identifies potential environmental and social risks at the five pilot sites. In addition, the study is informed by the information and analysis of the (ZAAPs) and Agropôles conducted as part of the Prepare Stakeholders for Participation sub-Activity. Furthermore, the Baseline Environmental Study provides the foundation for three specific products to be developed under three separate sub-Activities of the Develop Methodologies Activity: the SECP, a Resettlement Policy Framework, and a Livelihood Restoration Plan.

Regarding the inventories and mapping component of this sub-Activity, the purpose is to exhaustively implement the design produced under the Design Property Rights Inventories sub-Activity. The immediate products of the inventories and mapping field tests following collection of all the field data are the initial populated and geographically-referenced databases, including maps (the database model is designed under the Database sub-Activity). Implementation and results of the inventories and mapping field tests are evaluated in order to formulate

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recommendations and lessons learned to inform the decree drafting process for the mapping methodology.

The primary products under this sub-Activity include: 1) the Baseline Environmental Study for the five pilot sites; 2) the Resettlement Policy Framework; 3) a Livelihood Restoration Plan; and 4) the initial populated database for each pilot site, including maps, along with recommendations and lessons learned to inform the decree drafting process for the mapping methodology. MAEH shall primarily lead development of the first three products, and MUHCV and MEF shall co-lead the development of the fourth product with full participation and support from Government stakeholders who are expected to assist in the development of these products.

(iv) Design Local Property Rights Database along with a Roadmap toward Institutional Arrangements for Local Database Management (the “**Database sub-Activity**”). The sub-Activity seeks to design an accessible and relatively simple property rights GIS database to contain the inventory and mapping information collected under the Inventory and Field-Test sub-Activity. The database is expected to serve as a prototype for a simple, local land information management system appropriate for integration into the regulatory framework for implementation of the New Land Code and for adoption throughout Togo. The local system should be compatible with the national land information management system and policies, and able to synchronize local information with the national system. The sub-Activity also develops a set of low-cost/low-complexity recommendations identifying appropriate institutional arrangements for local management of the property rights database. The products of this sub-Activity include: 1) detailed design and architecture of local land property rights database for five pilot sites, compatible and able to be synchronized with the national land information management system; 2) revised property rights databases for five pilot sites following formalization of land rights and resolution of conflicts; and 3) recommendations and lessons learned to inform the decree drafting process regarding land information management. MEF shall primarily lead this sub-Activity with full participation and support from Government stakeholders who are expected to assist in the development of these products.

(v) Design and Implement Land Registration Methodology (the “**Land Registration Methodology sub-Activity**”). Currently, obtaining a land title requires interaction with 11 distinct institutions and involves some 43 administrative steps (or formalities), most often requiring a minimum of two years along with significant financial costs. Few rural holders of relatively small plots are willing to embark on the process to obtain a full land title. The design phase of this sub-Activity investigates options to secure rural land property rights other than through pursuit of a full land title. Specifically, a working consensus shall be reached among relevant Government officials of an appropriate, streamlined and less-costly process to formalize and secure rural land rights. One potential option is defining and piloting an instrument referred to as a “customary land title,” which would be a step toward making land registration much more equitable and accessible to rural holders of land rights. Development of the design includes identification of procedures, norms and standards for such an instrument and the necessary titling options (individual, joint, collective, etc.). Products of this sub-Activity include: 1) a detailed design and work plan for registration of parcels inventoried and mapped in each of the five pilot sites; 2) implementation of the design and work plan; and 3) recommendations and lessons learned to inform the decree drafting process regarding land

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registration requirements and procedures. MEF shall primarily lead this sub-Activity with full participation and support from Government stakeholders who are expected to assist in the development of these products.

(vi) Design and Implement the Conflict Management Methodology at Five Pilot Sites (the “Conflict Management Methodology sub-Activity”). Land conflicts are pervasive in Togo and reportedly are increasingly difficult to manage. Historically, local, customary land conflict management and resolution systems were in place. Although the modern justice (court) system is currently officially responsible for conflict resolution, many land property rights holders continue to prefer customary means, methods and institutions. Such customary institutions vary in composition and character by locality, and also in degree of functionality.

This sub-Activity develops local profiles of existing systems of both customary and formal (via the court system) conflict resolution for each of the five LRAP Project pilot prefectures. In developing the profiles, a study shall be conducted to determine feasible options for improving local, customary conflict resolution systems, and recommend the best option(s) for field testing, including a mechanism for resolution of grievances that shall likely rely heavily on existing customary systems for grievance management, while also providing a fair and equitable community-based process for determining the reallocation of land where redistribution of land is the appropriate remedy. The mechanism shall be adapted to account for the unique circumstances of each pilot site, and shall subsequently be deployed at each of the pilot sites to address and resolve conflicts identified during the land property rights inventories and mapping field tests. It is possible that certain scenarios, such as relinquishment of land rights in the face of multiple or overlapping claims, could unfold at a field site. In such case, a Livelihood Restoration Plan would be required to ensure that all legitimate rights holders are appropriately compensated and end up at least as well off following the intervention as preceding it.

The primary products under this sub-Activity include: 1) detailed design (built on customary conflict management profiles) for field-testing the best option(s) for conflict/grievance resolution at each of the five LRAP Project pilot sites; and 2) recommendations and lessons learned to inform the decree drafting process regarding the conflict management methodology. MATDCL shall primarily lead this sub-Activity with full participation and support from Government stakeholders who are expected to assist in the development of these products.

(vii) Develop and Implement an Institutionalization Strategy for Land Methodologies at Pilot Sites (the “Develop Institutionalization Strategy sub-Activity”). This sub-Activity focuses on the sustainability prospects of the field-tested methodologies at LRAP Project pilot sites. An analysis shall be conducted to provide the basis for developing an institutionalization strategy to sustain results obtained at pilot sites through the four land methodologies. The strategy may include ongoing monitoring and technical support for land registration by decentralized or local governments, parcel mapping, management of land information and management of land conflict. The scope and scale of the institutionalization strategy should be targeted and realistic and commensurate with available financial resources. The primary products of this sub-Activity include design of the institutionalization strategy and its implementation at the five pilot sites. MUHCV shall lead this sub-Activity with support from

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the consultant who shall be primarily responsible for development of the design and shall assist and support the early stages of its implementation. Government stakeholders, including local Government authorities and possibly other categories of local actors (such as customary authorities) shall be primarily responsible for long-term implementation of the strategy and shall also participate in its design.

In summary, the four land-specific methodologies are expected to lead to:

- More efficient and lower-cost mapping of rural parcels;
- More efficient management of land information;
- Streamlined land registration procedures; and
- Improved management of land conflicts.

Implementation planning and programming of the components of the Develop Methodologies Activity is expected to be challenging given the diverse and inter-linked actions that are in some cases sequential, and in other cases concurrent. The consultant shall coordinate and facilitate field site activities under the direction of the Accountable Entity's LRAP Director and the appropriate Government stakeholder as follows:

<i>Methodology</i>	MUHCV	MEF/DADC	MATDCL
	Methodology 1: Geo-Referencing and Cartography	Methodology 2: Management of Land Information Methodology 3: Land Registration Procedures	Methodology 4: Management of Land Conflicts

B. IMPLEMENTATION ARRANGEMENTS

The Program is to be implemented through the Accountable Entity (with MCC oversight). The roles and responsibilities of the various entities involved in implementation are set forth below.

1. MCC.

MCC agrees to take all appropriate actions to carry out its responsibilities in connection with this Agreement and the Program, including, without limitation, exercise of its approval rights. MCC oversight of the Program is expected to include an MCC country director based in Lomé and an implementation support team from MCC headquarters, as well as MCC-managed consultants, who work in Togo from time to time as necessary to perform their duties.

2. The Government and the Accountable Entity.

(a) Independence and Autonomy.

The Government agrees to take all appropriate actions to carry out its responsibilities in connection with this Agreement and the Program. To do so, the Government has designated the

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Accountable Entity pursuant to Section 3.2(b) to exercise and perform the Government's right and obligation to oversee and implement the Program. The Accountable Entity shall have operational and legal independence, including, *inter alia*, the ability to (1) enter into contracts in its own name; (2) sue and be sued; (3) establish a bank account in its own name; (4) expend Grant funding; and (5) engage contractors, consultants and/or grantees.

The internal operations of the Accountable Entity shall be governed by the terms and conditions of this Agreement, any related MCC policies and the Governing Documents, which shall include bylaws providing further details on the Accountable Entity's internal operations. The bylaws must be in form and substance satisfactory to MCC.

The Accountable Entity shall be administered and managed by a board of directors (*the "Board"*) and a management unit (*the "Management Unit"*).

(b) Board of Directors.

The Board shall have ultimate responsibility for the oversight, direction, and decisions of the Accountable Entity, as well as the overall implementation of the Program. It is comprised of seven voting members. The Board includes the following representatives:

1. Coordonnateur de la Cellule MCC
2. Minister of Economy and Finance,
3. Minister of Post and Digital Economy,
4. Minister of Urbanism, Habitat and Living Environment, and
5. Three non-Government representatives (from the private sector and/or civil society).

The members of the Board may be represented by alternates appointed pursuant to the Governing Documents. The non-Government representatives shall be selected through an open and transparent process in form and substance satisfactory to MCC. Other non-voting members may be included as named in the Governing Documents. In addition, MCC's resident country director in Togo shall serve as a non-voting observer of the Board. The Accountable Entity may also establish other non-executive and non-supervisory bodies, such as advisory councils or stakeholders committees.

(c) Management Unit.

The Management Unit shall report to the Board of Directors and have principal responsibility for the day-to-day operations of the Accountable Entity. The Management Unit shall be led by the Chief Executive Officer (CEO) and shall be composed of the directors and officers as agreed between MCC and the Government. The Government agrees to conduct an open and competitive recruitment for Program-funded positions within the Accountable Entity. The officers shall be supported by appropriate additional staff to enable the Management Unit to execute its roles and responsibilities, subject to MCC approval and availability of Grant funds.

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The Government agrees to provide the Accountable Entity with professional office space, two new vehicles, and an on-call resource for local legal counsel. The Accountable Entity shall be supported by Government-funded staff as needed, and the Government agrees to provide such other in-kind support as required for the performance of the Accountable Entity's duties.

(d) Other Government Entities.

The Government agrees to ensure that Government entities cooperate with the Accountable Entity in the implementation of the Program. As needed, the Accountable Entity and such other Government entities shall enter into appropriate agreements to memorialize such cooperation and to assure the sustainability and maintenance of any Program Assets.

(e) Fiscal and Procurement Management.

Unless MCC agrees otherwise in writing, the Accountable Entity shall engage one or more individuals or a firm with expertise in financial management to serve as fiscal agent (the “**Fiscal Agent**”). In addition, unless MCC agrees otherwise in writing, the Accountable Entity shall also engage two individuals with expertise in public procurement to serve as procurement agent (the more senior individual, the “**Procurement Manager**” and the more junior individual, the “**Procurement Specialist**”, and collectively, the “**Procurement Agent**”). It is expected that the Fiscal Agent and Procurement Agent, respectively, shall perform all services necessary to ensure that: (1) all financial management activities related to the Program are conducted in strict compliance with the terms of this Agreement, the MCC Cost Principles, and other related MCC policies, and (2) all Program-related procurements are conducted in strict compliance with the terms of this Agreement, the MCC Program Procurement Guidelines, and other related MCC policies.

C. MONITORING AND EVALUATION

This Part C of Annex I summarizes the M&E Plan for the Program. The actual structure and content of the M&E Plan, which may differ from that specified in this Part C shall be formulated by MCC and the Government in accordance with the M&E Policy. In addition, the M&E Plan may be modified from time to time as described in the M&E Policy without requiring an amendment to this Part C. The M&E Plan shall be posted publicly on the MCC Website and updated as necessary. The M&E Plan must be finalized no later than six months after this Agreement enters into force.

1. General.

MCC and the Government agree to formulate, and the Government agrees to adopt and implement, an M&E Plan that specifies: (a) how progress toward the Program Goal and the Project Objectives shall be monitored (“**Monitoring Component**”); (b) a process and timeline for the monitoring of planned, ongoing or completed Activities to determine their efficiency and effectiveness; and (c) a methodology for assessment and rigorous evaluation of the outcomes and impact of the Program (“**Evaluation Component**”).

EXECUTION VERSION**2. Program Logic.**

The M&E Plan shall summarize the clearly defined Project-level logic models, which for each Project illustrate how the Activities and sub-Activities (as necessary) contribute to the Project Objectives. These higher-level logic models shall be complemented by lower level logic models at the Project, Activity, and/or sub-Activity levels (as necessary) depending on program design and implementation. All logic models shall clearly summarize the outputs, outcomes, and goal expected to result from the Program. A description of the logic underlying each Project is included below:

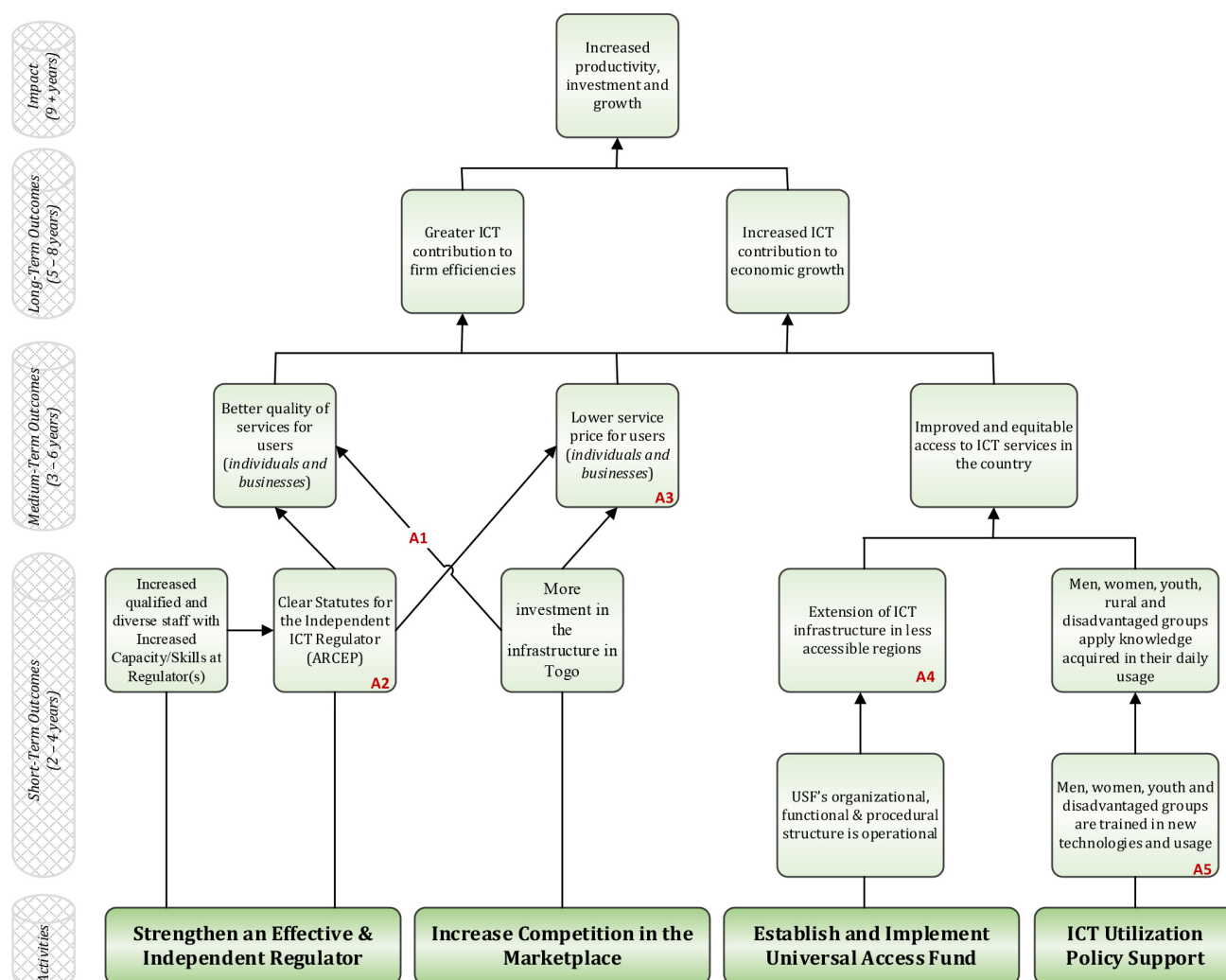
ICT Project

As depicted in the project logic below, the objective of the ICT Project is to increase firm efficiencies, productivity, investments and growth through improved access to high quality, reasonably priced ICT services in Togo. To that end, the four-part project aims to (1) increase competition among ICT service providers in the sector; (2) improve regulation; (3) target investments and incentives, where necessary, to increase service in otherwise unprofitable areas; and (4) support greater ICT utilization in the country. Such an enabling environment is primarily aimed at driving further ICT contribution to economic growth and ICT contribution to firm efficiencies in Togo. Such an improved ICT environment in Togo, in turn, requires (i) improved access to ICT services across the country, (ii) lower ICT service costs and (iii) better quality of ICT-related services for end users.

To ensure medium-term improvements of service quality and coverage across the country, the ICT Project shall first seek to achieve numerous critical shorter-term results, such as extended ICT infrastructure and services across the country (including in remote regions), improved capacities of the regulatory unit, as well as strengthened capacities and skills for end users. Prior to that, a functioning organizational and procedural structure in the management of the Universal Service Fund shall be established, along with a mechanism for ongoing training and guidance on technology usage for end users. Also, to ensure better service prices, the ICT Project shall work on first addressing the market competition challenges and the need for more investment in the country's ICT infrastructure.

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ICT Project Logic

Key Assumptions

A1: Through the ICT Project's technical support and more investment in the ICT infrastructure, operators improve quality of services to end users by expanding 3G technologies or better, minimizing call drops and interferences.

A2: The Regulator having been provided technical support and inputs in the drafting of the rules and regulations and having been provided more and more highly qualified staff is able to exert its independence. Additionally, the ICT Project works with policymakers on improving the right of way legislations, reducing vandalism, and ensuring that private operators have full rights to deploy their infrastructures.

A3: By helping set up a more independent Regulator, in addition to increased infrastructure investments, the ICT Project helps lower end users' service prices for both voice and broadband.

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A4: The ICT Project ensures that ICT firms pay into the USF and that said fund is able to effectively target users in remote areas of the country to improve access to reliable services.

A5: MPEN programs aimed at expanding ICT utilization avoid elite capture, and women and disadvantaged groups shall receive appropriate training and guidance in application of new technologies and ICT usage.

LRAP Project

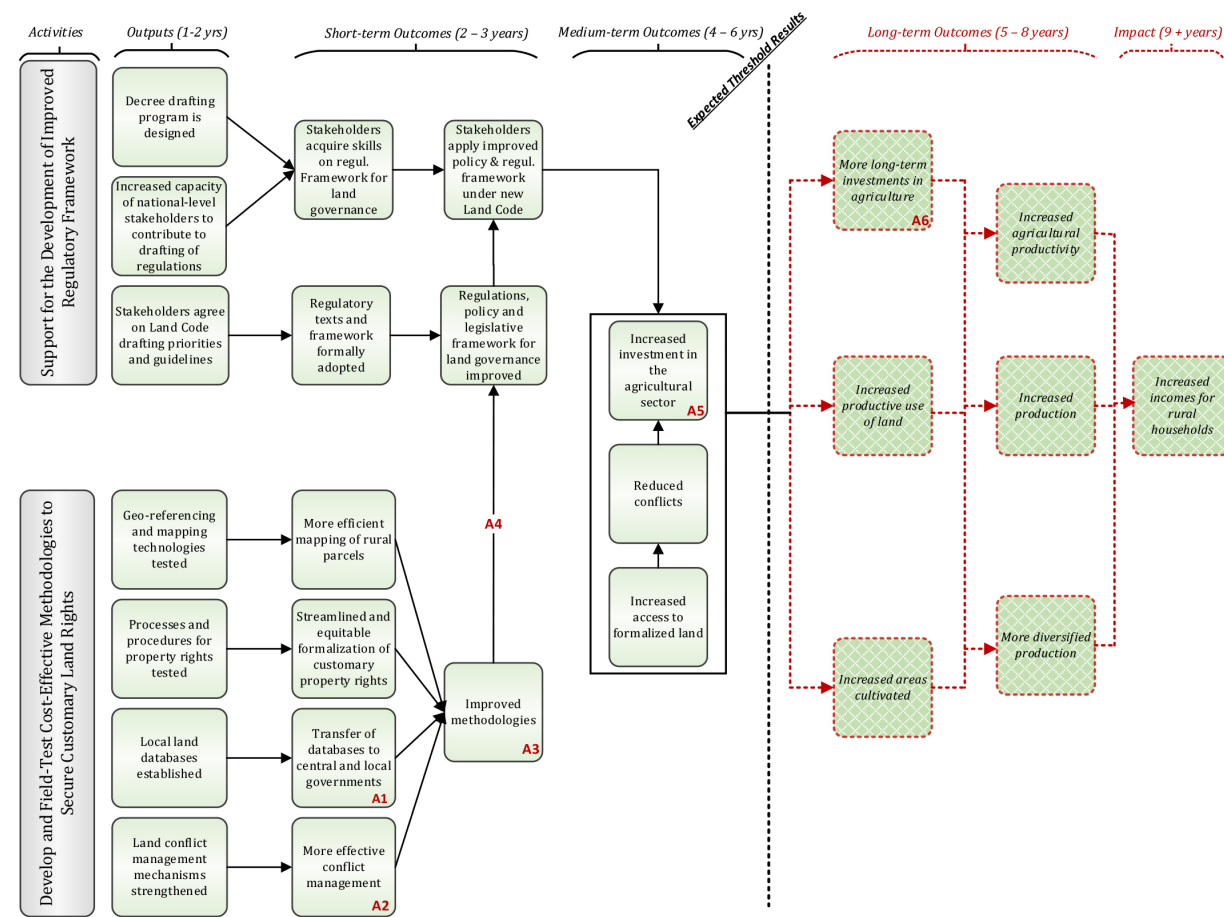
As depicted in the project logic below, the objective of the LRAP Project is to improve land tenure security for increased investment in the agricultural sector. The LRAP Project's medium-term outcomes are expected to be achieved within the 4-year term of the Program except for the increased investment for agriculture outcome, which is anticipated to be evident by year 6. The core element of improved local land governance is conflict-free and secure land tenure, which shall be accomplished at the pilot sites by achieving four results: ensuring that (1) legitimate (legally and socially acceptable) land rights held under the customary system are identified, mapped and recorded; (2) land property information is stored in an appropriate database with

GIS capability; 3) land property rights are formalized and secured by obtaining a legally recognized titling instrument; and (4) land conflicts are resolved or effectively managed. These four outcomes correspond to the four "land methodologies" to be developed at pilot sites and subsequently integrated into the national land governance regulatory framework. In short, the methodologies are referred to as: mapping, land information management, land registration/formalization, and conflict management. This package of interventions shall support the development of a land property rights system that supports a market economy, thus ensuring that land resources shall be allocated to support maximum productivity, and that reliable mechanisms for market-based land transactions are in place for ongoing economically-efficient and secure access to land.

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LRAP Project Logic

Key Assumptions

A1: The databases are functional and user-friendly for each of the five pilot sites.

A2: The LRAP Project sets up more effective mechanisms to address land-related conflicts and secure property rights. Local, traditional and government authorities use those more effective mechanisms in addressing land-related disputes.

A3: The four methodologies are fully implemented in each pilot site through technical and material support by the LRAP Project.

A4: The LRAP Project works with policymakers to ensure that the four field-tested methodologies are integrated into national land legislation and regulation.

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A5 & A6: With improved land policy and tools for land information management, land users have guaranteed security over their plots and increase long-term investments targeting increased agricultural productivity. Also, improved and more equitable access to land are sustained by streamlined and inclusive regulatory procedures that facilitate securitization of property rights for women and youth. The LRAP Project protects women's rights over their property, reduces youth exodus from rural areas toward cities, and increases the presence in rural areas of able bodies and long-term human capital.

3. Monitoring Component.

To monitor progress toward the achievement of results of the Program, the Monitoring Component of the M&E Plan shall identify (a) the Indicators (as defined below), (b) the definitions of the Indicators, (c) the sources and methods for data collection, (d) the frequency for data collection, (e) the party or parties responsible for collecting and analyzing relevant data, and (f) the timeline for reporting on each Indicator to MCC. It should be noted that some indicators shall continue to be tracked after the Completion Date as necessary.

Indicators

The M&E Plan shall measure the results of the Program using quantitative, objective, and reliable data ("**Indicators**").

The M&E Plan shall establish baselines for every Indicator (each a, "**Baseline**"). An Indicator's Baseline should be established prior to the start of the corresponding Project, Activity, and/or sub-Activity. Baselines demonstrate that the problem can be specified in measurable terms, and are thus a pre-requisite for adequate intervention design. The Government agrees to establish Baselines on the selected Indicators or verify already collected Baselines where applicable.

(a) The M&E Plan shall establish a benchmark for each Indicator that specifies the expected value and the expected time by which the result shall be achieved ("**Target**").

(b) The M&E Plan shall indicate which Indicators shall be disaggregated by gender, income level, and age, and beneficiary types to the extent practical and applicable.

(c) MCC's Common Indicators (as described in the M&E Policy) shall also be included as relevant. These shall be denoted by the Common Indicator code.

(d) Subject to prior written approval from MCC and in accordance with the M&E Policy, the Government may add Indicators or refine the definitions and Targets of existing Indicators.

(e) The Accountable Entity must report to MCC on monitoring Indicators in the M&E Plan on a quarterly basis using an Indicator Tracking Table ("**ITT**") in the form provided by MCC. No changes to Indicators, Baselines, or Targets may be made in the ITT until the changes have been approved in the M&E Plan. Additional guidance on Indicator

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reporting is contained in the *MCC Guidance on Quarterly Accountable Entity Disbursement Request and Reporting Package*. In the case that the Accountable Entity submits a six-month disbursement request, the ITT must still be submitted quarterly.

Key Indicators that can be reported on at least an annual basis shall be included in quarterly monitoring indicator reports, while Indicators that require survey data or a longer time period to track shall be tracked for evaluation purposes. The M&E Plan shall contain the monitoring Indicators listed in Schedule A to Annex I.

4. Evaluation Component.

The Evaluation Component of the M&E Plan may contain three types of evaluation activities as necessary: (a) independent evaluations (impact and/or performance evaluations); (b) self-evaluation, and (c) special studies, each of which is further described in the M&E Policy. A description of the expected evaluation methodologies for each Project is described below.

(a) Independent Evaluations.

ICT Project

The ICT Project may be evaluated through a performance evaluation. The

questions that shall guide the design of the evaluation may include:

- To what extent was the ICT Project understood (by all actors) and defined at the beginning of the Program?
- To what extent has the ICT Project helped improve firm productivity, investments and growth?
- To what extent has the ICT Project helped improve competition? To what extent has the ICT Project helped improve pricing, access and quality of the services for users?
- How sustainable are the impacts achieved through the ICT Project? To what extent will the benefits continue to be felt after the end of the ICT Project?
- To what extent was the ICT Project implemented as designed?
- What lessons can be drawn from the ICT Project to inform future projects?

LRAP Project

The LRAP Project is expected to be evaluated through performance and/or impact evaluations. It may undergo additional evaluations using other methodologies, to be determined after detailed definition of pilot site sub-Activities.

The evaluation(s) shall be designed to capture the likely effects of the Project on the expected outcomes of increased access to formalized land, improved conflict resolution capacities, and increased investment in agricultural productivity and, eventually, on the goal of improving land tenure security for increased investments in the agriculture sector (if possible). An independent evaluator or multiple evaluators shall be hired to assess evaluation methodology options.

The questions that shall guide the design of the evaluation may include:

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- To what extent was the LRAP Project understood (by all actors) and defined at the beginning of the Program?
- To what extent has the LRAP Project helped improve land tenure security and increase participants' investments in the agriculture sector?
- To what extent has the LRAP Project helped reduce land-related conflicts.
- What is the percent change in access to formalized land attributable to the LRAP Project?
- How sustainable are the impacts achieved through the LRAP Project? To what extent will the benefits continue to be felt after the end of the LRAP Project?
- To what extent was the LRAP Project implemented as designed?
- What lessons can be drawn from the LRAP Project to inform future projects?

The M&E Plan shall contain the evaluation Indicators listed in Schedule A to Annex I.

(b) Self-Evaluation. Following the Completion Date, both MCC and the Accountable Entity shall comprehensively assess three fundamental questions: (i) Did the Program meet the Project Objectives; (ii) Why did the Program meet or not meet the Project Objectives; and (iii) What lessons can be learned from the implementation experience (both procedural and substantive). Relevant MCC staff shall draft a performance review within six months after the Completion Date to evaluate these fundamental questions and other aspects of Program performance. Each MCC division shall be responsible for drafting its own section of the performance review, subject to cross-departmental review.

(c) Special Studies. Plans for conducting special studies shall be determined jointly between the Government and MCC before the approval of the M&E Plan. The M&E Plan shall identify and make provision for any special studies, *ad hoc* evaluations, and research that may be needed as part of the monitoring and evaluating of the Program. Either MCC or the Government may request special studies or *ad hoc* evaluations of Projects, Activities, or the Program as a whole, prior to the Completion Date.

The results of all evaluations shall be made publicly available in accordance with the M&E Policy.

5. Data Quality Reviews.

Data Quality Reviews ("**DQR**") are a mechanism to review and analyze the utility, objectivity, and integrity of performance information. DQRs are to cover: a) quality of data, b) data collection instruments, c) survey sampling methodology, d) data collection procedures, e) data entry, storage and retrieval processes, f) data manipulation and analyses, and g) data dissemination. MCC requires that an independent entity conduct the DQR, such as a local or international specialized firm or research organization, or an individual consultant, depending on the size of the program or project in review. The frequency and timing of data quality reviews must be set forth in the M&E Plan; however MCC may request a DQR at any time. DQRs should be timed to occur before or early enough in the term of this Agreement that meaningful remedial measures (if any) may be taken depending on the results of the review. The methodology for the review should include a mix of document and record reviews, site visits, key informant interviews, and focus groups.

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6. Other Components of the M&E Plan.

In addition to the monitoring and evaluation components, the M&E Plan shall include the following components:

(a) Data Collection and Reporting. The M&E Plan shall describe the guidelines that shall be used to collect data, store, process and deliver information to relevant stakeholders in such a way that the Program information collected and verified pursuant to the M&E Plan is at all times accessible and useful to those who wish to use it. The guidelines shall take into consideration the requirement and data needs of the components of the Program, identify responsible parties, and shall be aligned with existing MCC systems, other service providers, and ministries. The M&E Plan shall describe any interim MCC approvals for data collection, analysis, and reporting plans.

(b) Budget. A detailed cost estimate for all components of the M&E Plan.

7. Responsibility for Developing the M&E Plan.

MCC desires to “[refrain] from requesting the introduction of performance indicators that are not consistent with countries’ national development strategies.”¹ For this reason, primary responsibility for developing the M&E Plan lies with the M&E staff of the Accountable Entity with support and input from MCC’s M&E and economist staff. The M&E Plan must be developed in conjunction with key stakeholders, including the Accountable Entity leadership and sector leads, the MCC Resident Country Mission, and other MCC staff (such as Environmental and Social Performance and Gender and Social Inclusion), as well as external stakeholders, as applicable. While the entire M&E Plan must be developed collaboratively, MCC and the Accountable Entity Project/Activity leads are expected to guide the selection of Indicators at the process and output levels that are particularly useful for management and oversight of Projects and Activities.

8. Approval and Implementation of the M&E Plan.

The approval and implementation of the M&E Plan, as amended from time to time, shall be in accordance with this Agreement, any other relevant supplemental agreements, and the M&E Policy. All M&E Plan modifications proposed by the Accountable Entity must be submitted to MCC for prior written approval. The M&E Plan may undergo peer review within MCC before the beginning of the formal approval process.

9. Post-Program M&E Plan.

As part of the planning process for winding up the Program at the end of the term of this Agreement, MCC and the Accountable Entity shall develop a post-Program M&E Plan designed to observe the persistence of benefits created under this Program. This plan should describe future monitoring and evaluation activities, identify the individuals and organizations that shall

¹ Busan Partnership for Effective Development Cooperation, Busan Outcome Document, 1 December 2011, p. 5

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undertake these activities, and provide a budget framework for future monitoring and evaluation. The post-Program M&E Plan should build directly off the M&E Plan.

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SCHEDULE A

TO ANNEX I

INDICATORS

Indicators that shall be used for monitoring the Program and that shall be included in the M&E Plan are set forth below:

Table 1: ICT Project					
Result	Indicator	Definition	Unit	Baseline	End of Threshold Target
Long-Term Indicators					
Greater ICT contribution to consumer efficiencies	Change in Broadband Inter-net, Voice services and data	Percent change in Broadband Internet Penetration ² , Voice penetration ³ , and average data speeds ⁴	Percent	TBD	TBD
Increased ICT contribution to economic growth	Togo ITU IDI Rankings	Change in score and position on the International Telecommunications Union (ITU) IDI Rankings.	Score	1.8	2.5
			Ranking	159/175	129/175
Medium-Term Indicators					
Improved access to ICT services in the country	Service coverage	ICT service coverage rates	Percent	TBD	TBD
Lower service price for users	Average mobile (incl. data) basket prices	Change in Voice and Data Prices in Togo (as percentage of GNP) – ITU for pricing value of Mobile Voice and Data	Ranking	179/184	TBD
			Average Basket Price (USD)	13.33	AVG ⁵
Lower service price for users	Fixed Broadband Prices	Fixed Broadband Prices (as a percentage of GNI) including rakings and Caps - ITU	Ranking	TBD	TBD
			Average Basket Price (USD)	TBD	AVG
Better quality of service for users	QoS (for Voice and Data)	Quality of Experience Measurements/Benchmarking through user surveys and expert assessments. ⁶ These could include: – <u>Upgrades to 3G Service</u> : Coverage of 3G networks and customer subscriptions	TBD	TBD	TBD ⁷

² For each 10% increase in broadband Internet penetration, per capita GDP growth rate increases from 0.24% to 1.50% percent; would be circa 1.5% for Togo.

³ For each 10% increase in voice penetration, per capita GDP growth rate increases from 1.0% to 1.20% percent; would be circa 1.25% for Togo.

⁴ If you double the speeds on average, this drives GDP growth in Africa by a typical (further) 0.3-0.5% per annum.

⁵ Averages of countries of the same categories (income brackets, geography).

⁶ This shall primarily consist of publishing user experience survey results, so as to create incentives for service quality improvement.

⁷ Benchmark shall be Togo-specific. Integra proposes the use of Big Data approach to do this and more in Togo.

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Table 1: ICT Project

Result	Indicator	Definition	Unit	Baseline	End of Threshold Target
		<ul style="list-style-type: none"> – <u>Mobile Voice</u>: Call set-up time, unsuccessful call ratio, dropped calls per cell, congestion factors, % SMS texts delivered, billing accuracy, fault repair time. – <u>Wireless (Broadband) Data</u>: Average download/upload speed, “contention ratio» (actual speed experienced by users), supply time for connection, ratio of packet loss, round-trip delay, fault repair time, maximum cumulative downtime. 			
Activity 1.1: Strengthen an Effective and Independent Regulator					
Short-Term Outcome Indicators					
Clear statutes in Togo for the Independent ICT Regulator (ARCEP)	Statutory Texts or Decrees	Decrees revising (and/or removing) clauses in ARCEP decree which mitigate against its independence (judgement on independence of decrees: red-amber-green)	Levels	Red	Green ⁸
Increased qualified and diverse staff with Increased Capacity/ Skills Base at Regulator(s)	Qualified staff and certified personnel	Proportion of qualified cadre staff & Proportion of personnel that have been trained and certified for what they do at the Regulator	Percent	TBD	TBD
			Percent	0	TBD
Process & Output Indicators					
Regulator Acting Independently	Mechanism established	The institutional processes and systems to demonstrate independence of Regulator (Judgments across are Independent of Government: Independent Decisions Independent Funding Independent Plans Independent Consultations)	Date	TBD	TBD
Activity 1.2: Mobilization and Implementation of Universal Service Fund					
Process & Output Indicators					
Additional capitalization structure established	Amount capitalized	Value of the additional USF amount collected for USF	TBD	TBD	TBD
Activity 1.3: Increase Competition in the Marketplace					

⁸Color-coded scaling shall be a qualitative assessment by ICT experts based on best practices and comparisons with countries with similar income brackets as Togo

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Table 1: ICT Project					
Result	Indicator	Definition	Unit	Baseline	End of Threshold Target
Short-Term Outcomes					
More investment in the infrastructure and services in Togo	Amount invested	Total amount invested by private sector actors in the ICT system for CAPEX & OPEX	USD	TBD	TBD
Process & Output Indicators					
New wholesale backbone infrastructure and transmission license delivered	Number of operators	TBD	Date	TBD	TBD
Activity 1.4: Support for ICT Utilization Policies⁹					
Men, women, youth, rural and disadvantaged acquired knowledge in their daily usage	Knowledge and	Percent change in skills and use of ICT or employment in ICT among Togolese citizens, particularly, women, youth, rural citizens, and other disadvantaged groups or employment in ICT sector	Percent	0	TBD
Men, women, youth, rural and disadvantaged groups are trained in new technologies and usage	Participants trained	Number of participants who have participated in at least one planned training session	Number	0	TBD

Table 2: Land Reform to Accelerate Agricultural Productivity (LRAP)					
Result	Indicator	Definition	Unit	Baseline	End of Threshold Target
Medium-Term Indicators					
Increased investment in the agriculture sector	Land owners investing in improving agricultural productivity	Percentage of land owners reporting use of productive inputs (including improved seeds, fertilizers, etc.)	Percent	TBD	TBD
Reduced conflicts	Conflicts reported	Number of conflicts reported	Number	TBD	TBD

⁹ Outcomes for this Activity shall be jointly determined by the Government and MCC's due diligence studies after signing of this Agreement.

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Table 2: Land Reform to Accelerate Agricultural Productivity (LRAP)

Result	Indicator	Definition	Unit	Baseline	End of Threshold Target
	Conflict resolution rate	Number of conflicts resolved / Total number of conflicts reported	Percent	TBD	TBD
Increased access to formalized land	Change in access to formalized land	Percent change in property formalization as a result of the investment	Percent	TBD	TBD
Activity 2.1: Support the Development of an Improved Regulatory Framework					
Short-Term Indicators					
Better informed stakeholders	Stakeholders informed	Stakeholders having proper information ¹⁰ /total stakeholders surveyed	Percent	TBD	TBD
Improved policy and legislative framework for land governance	Number of regulations adopted	Total number of regulations adopted	Number	0	TBD
Activity 2.2: Develop and Field-Test Cost-Effective Methodologies to Secure Customary Land Property Rights					
Short-Term Outcome Indicators					
Improved methodologies	Methodologies developed and guidance documented to support roll-out	Number of methodologies with implementation guidance documented and delivered to appropriate government entity	Number	0	4
More efficient mapping of rural parcels	Change in plots mapping	Percent change in the plots mapped	Percent	TBD	TBD
Streamlined and equitable formalization of customary property rights	Change in land rights formalization	Percent change in the number of land right formalization	Percent	TBD	TBD
Transfer of databases to central and local governments	Local institutions benefitting from databases	Total number of institutions that have used the local database to complete information transfers	Number	0	TBD
More effective conflict management	Proportion of conflicts resolved	Conflicts resolved/total conflicts reported	Percent	TBD	TBD
Output and Process Indicators					
Processes and procedures for property rights tested	Number of processes and procedures tested	Total number of processes and procedures tested in the pilot sites	Number	0	TBD
Local land databases established	Databases developed	Number of property rights databases developed and launched	Number	0	5

¹⁰ Information broadcasted in local and nation media and communication channels on the improved methodologies.

EXECUTION VERSION**ANNEX II****CONDITIONS PRECEDENT TO DISBURSEMENTS OF GRANT FUNDS OTHER THAN FOR REIMBURSABLE COSTS**

The conditions precedent set forth in this Annex II apply to all Disbursements other than Disbursements for Reimbursable Costs.

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

1) Before the second Disbursement, the Accountable Entity must develop and adopt, in each case, in form and substance satisfactory to MCC:

- a) a Work Plan pursuant to Section 4.1(c), and
- b) a comprehensive Social and Gender Integration Plan in accordance with the MCC Gender Integration Guidelines.

2) Before the second Disbursement, the Accountable Entity must engage a Fiscal Agent, approved by MCC, and deliver a copy of the executed Fiscal Agent Agreement to MCC.

3) Before the third Disbursement, the Accountable Entity must develop and adopt, in each case, in form and substance satisfactory to MCC:

- a) an M&E Plan pursuant to Section 4.2,
- b) a Fiscal Accountability Plan pursuant to Section 4.4,
- c) a Procurement Plan pursuant to Section 4.1(b), and a procurement operations manual and bid challenge system, each as described in the MCC Program Procurement Guidelines,
- d) a comprehensive Program-wide ESMS,
- e) a Stakeholder Engagement and Communications Plan for each of the ICT Project and the LRAP Project, and
- f) a Resettlement Policy Framework for the LRAP Project.

4) Before the third Disbursement, the Accountable Entity must submit evidence, in form and substance satisfactory to MCC, that the Baseline Environmental Study has been completed.

5) Before each Disbursement of funds for payment under any technical assistance contract for a given Project or Activity, the Accountable Entity must submit evidence, in form and substance satisfactory to MCC, that the Accountable Entity is implementing and in compliance in all material respects with the requirements of each of the ESMS, the Stakeholder Engagement and Communications Plan for that Project or Activity, and all of the environmental and social requirements identified in each of the studies conducted as part of such Project or Activity.

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6) Before the first Disbursement of any funds for payment under a particular works or construction contract for a given Project or Activity, the Accountable Entity must submit evidence to MCC that the Accountable Entity or the appropriate Government entity has developed and adopted an Environmental and Social Impact Assessment, an Environmental and Social Management Plan, and/or a Resettlement Action Plan or Livelihood Restoration Plan (as appropriate) with respect to such Project or Activity, each of which must be in form and substance satisfactory to MCC.

7) Before each Disbursement of funds for payment under a particular works or construction contract for a given Project or Activity, the Accountable Entity must submit evidence, in form and substance satisfactory to MCC, that the Accountable Entity or the appropriate Government entity is implementing and in compliance in all material respects with the requirements of each ESIA, ESMP, RAP or LRP, as appropriate, and consistent with the MCC Environmental Guidelines (including the IFC Performance Standards that are incorporated by referenced therein).

PART B. Conditions Precedent to Disbursement of Funds for the ICT Project

1) Before each Disbursement of funds for the ICT Project, no event or series of events, circumstance or condition has occurred since the date this Agreement was signed, or currently exists, which in MCC's reasonable opinion, has adversely affected or could adversely affect the achievement of the ICT Project Objective before the Completion Date.

2) Before the first Disbursement of funds for the Regulator Strengthening Activity occurring after the one-year anniversary of the Independent ARCEP CEO's appointment, and each one- year anniversary thereafter during the term of this Agreement, the Accountable Entity must submit to MCC, (i) evidence, which in MCC's opinion, demonstrates that the Independent ARCEP CEO met, exceeded, or made substantial progress toward his/her expected performance targets for the preceding year, or (ii) evidence that ARCEP and the Independent ARCEP CEO have adopted a plan, sufficient in MCC's opinion, to enable the Independent ARCEP CEO to meet his/her expected performance targets (a "***Performance Improvement Plan***").

3) Before any Disbursement of funds for the Regulator Strengthening Activity occurring after the one-year anniversary of the Independent ARCEP CEO's appointment, if ARCEP and the Independent ARCEP CEO have adopted a Performance Improvement Plan, MCC must have determined, in its sole discretion, that the Independent ARCEP CEO is making satisfactory progress to achieve the goals and targets set forth in the Performance Improvement Plan.

4) Before the first Disbursement of funds for any payment under the first option or renewal period of any technical assistance contract under the Regulator Strengthening Activity (which is expected to be two years after signing of such contract), the Accountable Entity must submit evidence, in form and substance satisfactory to MCC, that:

a) an independent third party, competitively procured by the Accountable Entity and different from the technical assistance provider, has (i) reviewed the status of state-owned enterprises in the Togo ICT sector and concluded that these enterprises are not unduly benefitting

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from Government advantages that materially distort fair market competition, and that these enterprises are subject to the same conditions and regulatory controls as all other market players, including that they have paid all required fees and financial obligations to ARCEP or the Government, as applicable; and (ii) reviewed the operations of ARCEP, and concluded that ARCEP is functioning in an independent manner without undue Government interference; and

b) no official or unofficial barriers inhibit any licensee from fully exercising its rights under its *cahier des charges* on a competitively neutral basis.

5) Before any Disbursement of funds for the second and third tranches for the Universal Service Fund Activity, the Accountable Entity must submit evidence, in form and substance satisfactory to MCC, that, as of the most recent reporting period, operators are substantially in compliance with their payment obligations to ARCEP (including regulatory fees and Universal Service Fund levies) and that ARCEP is engaged in a good faith effort to recover any outstanding amounts owed.

6) Before any Disbursement of funds for the third or any subsequent tranche of the Universal Service Fund Activity, the Accountable Entity must submit evidence, in form and substance satisfactory to MCC, that the Government has published an Expression of Interest seeking private sector investment in Togo's ICT sector.

PART C. Conditions Precedent to Disbursement of Funds for the LRAP Project

1) Before the first Disbursement of funds for the Improved Regulatory Framework Activity, the Accountable Entity must submit evidence that the Government has passed legislation adopting the New Land Code, in form and substance, acceptable to MCC.

2) Before the first Disbursement of funds for the delivery of legally-recognized land titling instruments (such as land property rights certificates, attestations or customary land titles), the Accountable Entity must submit evidence, in form and substance satisfactory to MCC, that the Accountable Entity has established and applied, if necessary, and in conformity with IFC Performance Standards, a Livelihood Restoration Plan, and/or if deemed necessary, a Resettlement Action Plan, also in conformity with IFC Performance Standards.

EXECUTION VERSION**ANNEX III****ALLOCATION OF GRANT FUNDING**

	Total
ICT Project	\$20,500,000
1. Regulator Strengthening Activity	\$6,250,000
2. Universal Service Fund Activity	\$7,000,000
3. Increase Competition Activity	5,000,000
4. ICT Utilization Activity	2,250,000
LRAP Project	\$8,000,000
1. Improved Regulatory Framework Activity	\$1,250,000
2. Develop Methodologies Activity	\$6,750,000
Monitoring and Evaluation	\$1,300,000
Program Administration	\$5,200,000
Program Total	\$35,000,000

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ANNEX IV**DEFINITIONS**

Accountable Entity has the meaning provided in Section 3.2(b).

Activity or *Activities* has the meaning provided in Section A of Annex I. **Additional**

Representative has the meaning provided in Section 7.3. **Agreement** has the meaning provided in the preamble to this Agreement.

ANSR means l'Agence Nationale du Spectre des Radiofréquences (National Radiofrequency Spectrum Agency) within ARCEP.

ARCEP means l'Autorité de Régulation des Communications Electroniques et des Postes (Togolese Regulatory Authority for Electronic Communications and Post).

Audit Plan has the meaning provided in Section 4.1(d). **Auditor**

has the meaning provided in Section 4.1(d). **Bank** has the meaning provided in Section 5.1(c)(i).

Bank Agreement has the meaning provided in Section 5.1(c)(i).

Baseline has the meaning provided in Section C.3 of Annex I.

Baseline Environmental Study has the meaning provided in Section A.2 of Annex I.

Bilateral Agreement has the meaning provided in Section 2.5(e).

Board has the meaning provided in Section B.2 of Annex I.

Common Payment System has the meaning provided in Section 5.1(b)(iii).

Completion Date has the meaning provided in Section 6.1.

Conflict Management Methodology sub-Activity has the meaning provided in Section A.2 of Annex I.

Covered Provider has the meaning provided in the MCC Audit Guidelines.

Database sub-Activity has the meaning provided in Section A.2 of Annex I.

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DCCF / MEF means *Direction du Cadastre et de la Conservation Foncière / Ministère de l'Economie et des Finances (Directorate for Land and Cadastral Affairs / Togolese Ministry of Economy and Finance)*.

Design and Plan the Decree Drafting Program sub-Activity has the meaning provided in Section A.2 of Annex I.

Design Property Rights Inventories sub-Activity has the meaning provided in Section A.2 of Annex I.

Detailed Financial Plan has the meaning provided in Section 4.1(a).

Develop Institutionalization Strategy sub-Activity has the meaning provided in Section A.2 of Annex I.

Develop Methodologies Activity has the meaning provided in Section A.2 of Annex I.

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

Period has the meaning provided in Section 5.1(a). **Disbursement Request**

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

Section C.5 of Annex I.

Draft and Finalize Regulatory Framework sub-Activity has the meaning provided in Section A.2 of Annex I.

Drafting Guidelines/Priorities for Application Decrees sub-Activity has the meaning provided in Section A.2 of Annex I.

Environmental and Social Impact Assessment or ESIA means a process for predicting, identifying, and assessing the potential environmental and social impacts of a proposed business activity or project, evaluating alternatives and designing appropriate mitigation, management and monitoring measures.

Environmental and Social Management Plan or ESMP means a plan or strategy specifying the measures that shall be taken to ensure that social and environmental impacts, risks and liabilities identified during the ESIA process are effectively managed during the construction, operation and closure of a proposed business activity or project.

Environmental and Social Management System or ESMS means a set of policies, procedures, tools and internal capacity to identify and manage an institution's exposure to the environmental and social risks of its clients, investees or stakeholders.

Evaluation Component has the meaning provided in Section C.1 of Annex I.

Exempt Person means each implementing partner and any natural or legal person providing goods, works or services, directly or indirectly, in furtherance of this Agreement.

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***Fiscal Accountability Plan** has the meaning provided in Section 4.4.*

***Fiscal Agent** has the meaning provided in Section B.2 of Annex I.*

***Fiscal Agent Agreement** means the agreement or agreements by which the Government or Accountable Entity engages or hires the Fiscal Agent and which sets forth the roles and responsibilities of the Fiscal Agent and other appropriate terms and conditions.*

***GIS** has the meaning provided in Section A.2 of Annex I. **Governing Document** has the meaning provided in Section 4.9(g). **Government** has the meaning provided in the preamble to this Agreement. **Grant** has the meaning provided in Section 2.1(a). **ICT** means information and communications technology.*

***ICT Project** has the meaning provided in Section A.1 of Annex I.*

ICT Utilization Activity** has the meaning provided in Section A.1 of Annex I. **IFC

Performance Standards** has the meaning provided in Section 4.5(a). **Implementation

***Letter** has the meaning provided in Section 4.10. **Implementation Plan** has the meaning provided in Section 4.1. **Implementation Plan Document** has the meaning provided in Section 4.1.*

***Improved Regulatory Framework Activity** has the meaning provided in Section A.2 of Annex I. **Increase Competition Activity** has the meaning provided in Section A.1 of Annex I. **Independent ARCEP CEO** has the meaning provided in Section A.1 of Annex I.*

***Indicators** has the meaning provided in Section C.3 of Annex I.*

***Inspector General** has the meaning provided in Section 4.7(c).*

***Intellectual Property** means all registered and unregistered trademarks, service marks, logos, names, trade names, and all other trademark rights; all registered and unregistered copyrights; all patents, inventions, shop rights, know how, trade secrets, designs, drawings, art work, plans, prints, manuals, computer files, computer software, hard copy files, catalogues, specifications, and other proprietary technology and similar information; and all registrations for, and applications for registration of, any of the foregoing, that are financed, in whole or in part, using the Grant.*

***Inventory and Field-Test sub-Activity** has the meaning provided in Section A.2 of Annex I.*

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ITT has the meaning provided in Section C.3 of Annex I.

Lien has the meaning provided in Section 3.2(f).

Land Registration Methodology sub-Activity has the meaning provided in Section A.2 of Annex I.

Livelihood Restoration Plan or LRP means a plan that establishes the entitlements (e.g., compensation, other assistance) of affected persons and/or communities who are economically displaced by a proposed business activity or project, in order to provide them with adequate opportunity to reestablish their livelihoods.

Local Account has the meaning provided in Section 5.1(c)(i). **LRAP** means Land Reform to Accelerate Agricultural Productivity. **LRAP Project** has the meaning provided in Section A.2 of Annex I. **M&E Plan** has the meaning provided in Section 4.2.

M&E Policy has the meaning provided in Section 4.2.

MAEH means Ministère de l'Agriculture, de l'Elevage et de l'Hydraulique (Togolese Ministry of Agriculture, Livestock and Irrigation).

Management Unit has the meaning provided in Section B.2 of Annex I.

MATDCL means Ministère de l'Administration Territoriale, de la Décentralisation et des Collectivités Locales (Togolese Ministry of Territorial Administration, Decentralization, and Local Collectivités).

Material Agreement has the meaning provided in Section 4.9(c). **MCC** has the meaning provided in the preamble to this Agreement. **MCC Audit Guidelines** has the meaning provided in Section 4.8(a). **MCC Cost Principles** has the meaning provided in Section 4.4.

MCC Environmental Guidelines has the meaning provided in Section 2.4(b)(iii).

MCC Gender Integration Guidelines means MCC's Gender Integration Guidelines, as such may be posted on MCC's Website from time to time.

MCC Gender Policy means the MCC Gender Policy (including any guidance documents issued in connection with the guidelines) posted from time to time on the MCC Website or otherwise made available to the Government.

MCC Governance Guidelines has the meaning provided in Section 3.2(b).

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***MCC Marking Standards** has the meaning provided in Section 3.2(j).*

***MCC Program Procurement Guidelines** has the meaning provided in Section 4.3(a).*

***MCC Reporting Guidelines** has the meaning provided in Section 4.6(a).*

***MCC Website** has the meaning provided in Section 2.4(b)(iii).*

***MEF** means Ministère de l'Economie et des Finances (Togolese Ministry of Economy and Finance).*

***Monitoring Component** has the meaning provided in Section C.1 of Annex I.*

***MPEN** means Ministère des Postes et de l'Economie Numerique (Togolese Ministry of Post and Digital Economy).*

***MUHCV** means Ministère de l'urbanisme, de l'habitat et du cadre de vie (Togolese Ministry of Urbanism, Habitat and Living Environment).*

***New Land Code** means Law No. 2018-005 of June 14, 2018.*

***Officer or Officers** has the meaning provided in the MCC Governance Guidelines.*

***Outreach and Communications sub-Activity** has the meaning provided in Section A.2 of Annex I.*

***Party or Parties** has the meaning provided in the preamble to this Agreement.*

***Permitted Account** has the meaning provided in Section 5.1(c)(i).*

***Prepare Stakeholders for Participation sub-Activity** has the meaning provided in Section A.2 of Annex I.*

***Principal Representative** has the meaning provided in Section 7.3.*

***Procurement Agent** has the meaning provided in Section B.2 of Annex I.*

***Procurement Agent Agreement** means the agreement or agreements by which the Government or Accountable Entity engages or hires the Procurement Agent and which sets forth the roles and responsibilities of the Procurement Agent and other appropriate terms and conditions.*

***Procurement Manager** has the meaning provided in Section B.2 of Annex I.*

***Procurement Specialist** has the meaning provided in Section B.2 of Annex I.*

***Procurement Plan** has the meaning provided in Section 4.1(b).*

***Program** has the meaning provided in the recitals to this Agreement.*

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Program Asset means any asset, good or property (real, tangible or intangible) purchased or financed, in whole or in part (directly or indirectly), by the Grant, including any Intellectual Property.

Program Goal has the meaning provided in Section 1.1.

Program Grant has the meaning provided in Section 4.3(b).

Program Guidelines means collectively the MCC Audit Guidelines, the MCC Cost Principles, the MCC Environmental Guidelines, the MCC Gender Policy, the MCC Gender Integration Guidelines and Operational Procedures, the MCC Governance Guidelines, the MCC Marking Standards, the MCC Program Procurement Guidelines, the MCC Reporting Guidelines, the M&E Policy, (including any successor to any of the foregoing), and any other guidelines, policies or guidance papers relating to the administration of a Threshold Program, and, in each case, as from time to time published on the MCC Website.

Project or Projects has the meaning provided in Section 1.2.

Project Objective or Project Objectives has the meaning provided in Section 1.2.

Provider has the meaning provided in the MCC Audit Guidelines.

Records has the meaning provided in Section 4.7(a).

Regulator means ANSR or ARCEP, individually or collectively, as the context may require.

Regulator Strengthening Activity has the meaning provided in Section A.1 of Annex I.

Reimbursable Costs has the meaning provided in Section 2.1(b).

Reimbursable Cost Funding has the meaning provided in Section 2.1(b).

Resettlement Action Plan or RAP means a plan designed to mitigate the negative impacts of the physical displacement of persons caused by project implementation.

Resettlement Policy Framework or RPF means a broad plan or scheme prepared for a proposed business activity or project, based on the principles of the World Bank's Involuntary Resettlement Policy (OP 4.12), that sets forth and defines the principles, organizational arrangements and design criteria to be applied to regulate all circumstances regarding resettlement that may occur in implementation of the business activity or project.

Stakeholder Engagement and Communication Plan or SECP means a plan designed to guide consultations and communications with stakeholders of a proposed business activity or project throughout the life of the business activity or project for the purpose of engaging with stakeholders in a culturally appropriate manner, all as more particularly described in IFC Performance Standard No. 5.

Target has the meaning provided in Section C.3 of Annex I.

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***Taxes** has the meaning provided in Section 2.5(a).*

***TBD** has the meaning provided in Table 1.1 of Schedule A to Annex I.*

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

Threshold Program** has the meaning provided in the recitals to this Agreement. **Universal

***Service Fund Activity** has the meaning provided in Section A.1 of Annex I. **USF** has the meaning provided in Section A.1 of Annex I.*

***US Treasury Current Value of Funds Rate** means the interest rate published by the United States Treasury's Bureau of Fiscal Services that is based on the current value of funds available to the Department of the Treasury and is the rate used for debt collection, cash discounts, and rebate evaluation of the United States Government.*

***Work Plan** has the meaning provided in Section 4.1(c).*

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ANNEX V
CONDITIONS PRECEDENT TO
DISBURSEMENTS FOR REIMBURSABLE COSTS

To expedite implementation of the Program, Reimbursable Cost Funding may be used to reimburse the Government for Reimbursable Costs, subject to the following additional conditions, unless MCC agrees otherwise in writing:

- The Reimbursable Costs must be directly related to an activity in the Schedule of Reimbursable Costs set forth below and the Reimbursable Costs must be incurred on or after the date this Agreement is signed by the Parties.
- The Government must submit a Disbursement Request in accordance with Section 5.1 of this Agreement, along with the following supporting documentation:
 - for Reimbursable Costs consisting of salaries: (i) daily timesheets validated by the Principal Representative showing the calculation of the amount to be reimbursed, (ii) bank payment advice or other supporting documentation to show that the salary was actually paid to the specified recipient, (iii) a copy of the executed employment contract for the specified recipient, and (iv) a copy of a valid photo identification of each specified recipient.
 - for Reimbursable Costs other than for salaries: valid, legible receipts (including transaction dates) and any related purchase orders, executed contracts, or other legal agreement evidencing the cost.
- Before Reimbursable Cost Funding is deposited to a Government bank account, the Government must provide MCC with the account name, designated account number, and wire transfer instructions for the deposit.

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- The following table describes activities and actions that, subject to MCC approval, may be eligible for reimbursement using Reimbursable Cost Funding. Any item in the table for which the cost is not reimbursed before entry into force of this Agreement, may, after entry into force of this Agreement, be considered for allocation of Grant Funding in accordance with Annex III.

Schedule of Reimbursable Costs	
Project/Activity Description	Reimbursable Budget
ICT Project	
Activity 1: Regulator Strengthening Activity	\$55,000
ICT Technical Assistance Request For Proposals (RFP) and Technical Evaluation Panel (TEP)	\$55,000
LRAP Project	
Activity 2: Develop Methodologies Activity	\$55,000
LRAP Technical Assistance RFP and TEP	\$55,000
Program Administration	
Activity 1: Program Administration Activity	\$483,000
Recruitment of Accountable Entity staff	\$350,000
Fiscal/Procurement Agent RFPs and TEPs	\$40,000
Bank RFP and TEP	\$15,000
Temporary Procurement Agent	\$72,000
CEO salary - 1st month	\$6,000
Total Reimbursable Costs	\$593,000

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ANNEX VI**TAX SCHEDULE**

This Schedule sets forth the mechanisms that the Government shall implement to comply with the tax exemption required by Section 2.5 of this Agreement.

The Accountable Entity and all persons (natural and legal) entitled to the tax exemption shall be required to follow the procedures set forth below to claim the exemption. No additional procedures or requirements shall apply, unless agreed by the Parties in writing. The *Office Togolais de Recettes* or Togo Revenue Office (OTR) within the Government is the point of contact for implementing the tax exemption.

Exempt Taxes

All Taxes (as defined in Section 2.5 of this Agreement)

Legal Basis for Exemption

Section 2.5 of this Agreement

Procedure Applicable to All Taxes other than Income Taxes

To claim exemption for any tax (other than income taxes), the applicant must file an application with the *Secrétariat Général du Commissariat des Impôts* or the General Administration Department of OTR. The application must consist of (i) a letter of request stamped for 1000 CFA francs, addressed to the Tax Commissioner of OTR, and referencing this Agreement as the basis for the exemption; (ii) one (1) copy of the relevant documentation depending upon the type of tax for which an exemption is sought (for example, the pro forma invoice in the case of value-added tax, a list of the materials and/or goods being imported and the bill of lading in the case of customs duties and taxes, etc.), (iii) a copy of the *quitus fiscal* or tax clearance, and (iv) one stamp for 1000 CFA francs for each certificate requested. If the Accountable Entity is the applicant, it must also submit its registration card received from OTR. OTR shall review each application and, if the application is complete, issue a tax exemption certificate to the applicant within forty-eight (48) hours as evidence of the exemption.

Procedure Applicable to Corporate and Individual Income Taxes**A. Corporate Income Taxes**

The following procedures apply only to Exempt Persons not formed under the laws of Togo.

1. Any Exempt Person only earning corporate income related to this Agreement in Togo in any given fiscal year is exempt from paying any applicable Taxes on such corporate income and need only declare such corporate income in its year-end filing with OTR solely for informational purposes.
2. Any Exempt Person earning corporate income related to this Agreement and corporate income related to other activities in Togo in any given fiscal year must submit and register each agreement between such Exempt Person and the Government that is funded by this Agreement

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(each, a “*Funded Agreement*”), together with a certification from the Accountable Entity confirming that the goods, services or works to be provided under such agreement form a part of the Program of this Agreement. At the end of any such fiscal year, the Exempt Person may exclude the gross income derived from any Funded Agreement(s) (as verified by the registered Funded Agreement(s)) for the purposes of determining its corporate income tax liability in Togo for any such fiscal year. The Exempt Person need only declare such gross corporate income in its year-end tax filing with OTR solely for informational purposes.

B. Individual Income Taxes

The following procedures apply only to individuals that are not citizens or permanent residents of Togo.

1. Any Exempt Person only earning personal income related to this Agreement in Togo in any given fiscal year is exempt from paying any applicable Taxes on such personal income, and need only declare such personal income in its year-end tax filing with OTR solely for informational purposes.
2. Any Exempt Person earning personal income related to this Agreement and personal income related to other activities in Togo in any given fiscal year may exclude the gross amount of personal income earned with respect to this Agreement for the purposes of determining his/her personal income tax liability in Togo for any such fiscal year. The Exempt Person need only declare such gross personal income in its year-end tax filing with OTR solely for informational purposes.

Dépôt légal n° 3 quarto