

MILLENNIUM CHALLENGE COMPACT

BETWEEN

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

AND

THE GOVERNMENT OF GEORGIA

Millennium Challenge Compact
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MILLENNIUM CHALLENGE COMPACT

This MILLENNIUM CHALLENGE COMPACT (the “*Compact*”) is made between the United States of America, acting through the Millennium Challenge Corporation, a United States Government corporation (“*MCC*”), and the Government of Georgia (the “*Government*”) (referred to herein individually as a “*Party*” and collectively, the “*Parties*”). A compendium of capitalized terms defined herein is included in Exhibit A attached hereto.

RECITALS

WHEREAS, MCC, acting through its Board of Directors, has selected Georgia as eligible to present to MCC a proposal for the use of 2004 and 2005 Millennium Challenge Account (“*MCA*”) assistance to help facilitate poverty reduction through economic growth in Georgia;

WHEREAS, the Government has carried out a consultative process with the country’s private sector and civil society to outline the country’s priorities for the use of MCA assistance and developed a proposal, which was submitted to MCC on September 24, 2004 (the “*Proposal*”);

WHEREAS, the Proposal focused on, among other things, rehabilitation of key regional infrastructure and development of enterprises in the regions of Georgia;

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

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

WHEREAS, the Government has established Millennium Challenge Georgia Fund, established pursuant to Presidential Decree No 561, dated December 3, 2004, and Ministry of Finance Order No. 796, dated December 8, 2004 (“*MCA-Georgia*”), to continue the consultative process and implement the Program;

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

ARTICLE I.
PURPOSE AND TERM

Section 1.1 Objectives. The overall objective of this Compact is increased economic growth and poverty reduction in the regions of Georgia outside of Tbilisi (“**Program Objective**”), which is key to economic growth and poverty reduction in Georgia (“**Compact Goal**”). The Parties have identified the following project-level objectives (each a “**Project Objective**” and together the “**Project Objectives**”) to advance the Program Objective, each of which is described in more detail in the Annexes attached hereto:

(a) Rehabilitation of key regional infrastructure (the “**Key Regional Infrastructure Rehabilitated Objective**”); and

(b) Development of enterprises in regions (the “**Enterprises in Regions Developed Objective**”).

(The Program Objective and the individual Project Objectives are referred to herein collectively as the “**Objectives**” and each individually as an “**Objective**”). The Government expects to achieve, and shall use its best efforts to ensure the achievement of, these Objectives during the Compact Term.

Section 1.2 Projects. The Annexes attached hereto describe the specific projects and the policy reforms and other activities related thereto (each, a “**Project**”) that the Government will carry out, or cause to be carried out, in furtherance of this Compact to achieve the Objectives.

Section 1.3 Entry into Force; Compact Term. This Compact shall enter into force on the date of the last letter in an exchange of letters between the Principal Representatives of each Party confirming that each Party has completed its domestic requirements for entry into force of this Compact and that all conditions set forth in Section 4.1 have been satisfied by the Government and MCC (such date, the “**Entry into Force**”). This Compact shall remain in force for five (5) years from the date of the entry into force of this Compact, unless earlier terminated in accordance with Section 5.4 (the “**Compact Term**”).

ARTICLE II.
FUNDING AND RESOURCES

Section 2.1 MCC Funding.

(a) MCC’s Contribution. MCC hereby grants to the Government, subject to the terms and conditions of this Compact, an amount not to exceed Two Hundred Ninety-Five Million Three Hundred Thousand United States Dollars (USD \$295,300,000) (“**MCC Funding**”) during the Compact Term to enable the Government to implement the Program and achieve the Objectives.

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

(ii) If at any time MCC determines that a condition precedent to an MCC Disbursement has not been satisfied, MCC may, upon written notice to the Government, reduce the total amount of MCC Funding by an amount equal to the amount estimated in the applicable Detailed Financial Plan for the Program or Project activity for which such condition precedent has not been met. Upon the expiration or termination of this Compact, (1) any amounts of MCC Funding not disbursed by MCC to the Government shall be automatically released from any obligation in connection with this Compact and (2) any amounts of MCC Funding disbursed by MCC to the Government as provided in Section 2.1(b)(i), but not re-disbursed as provided in Section 2.1(b)(ii) or otherwise incurred as permitted pursuant to Section 5.4(e) prior to the expiration or termination of this Compact, shall be returned to MCC in accordance with Section 2.5(a)(ii).

(b) Disbursements.

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

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

(c) Interest. Unless the Parties agree otherwise in writing, any interest or other earnings on MCC Funding that accrue or earn (collectively, “*Accrued Interest*”) shall be held in a Permitted Account and accrue or be earned in accordance with the requirements for the earning and treatment of Accrued Interest as specified in Annex I or any relevant Supplemental Agreement. On a quarterly basis and upon the termination or expiration of this Compact, the Government shall return, or ensure the return of, all Accrued Interest to any United States Government account designated by MCC.

(d) Conversion; Exchange Rate. The Government shall ensure that all MCC Funding in the Permitted Account(s) into which MCC Disbursements are made is held in the currency of the United States of America (“*United States Dollars*”) prior to Re-Disbursement; *provided*, that a certain portion of MCC Funding may be transferred to a Local Account and may be held in such Local Account in the currency of Georgia prior to Re-Disbursement in accordance with the requirements of Annex I and any relevant Supplemental Agreement. To the extent that any amount of MCC Funding held in United States Dollars must be converted into the currency of Georgia for any purpose, including for any Re-Disbursement or any transfer of MCC Funding into a Local Account, the Government shall ensure that such amount is converted consistent with

Annex I, including the rate and manner set forth in Annex I, and the requirements of the Disbursement Agreement or any other Supplemental Agreement between the Parties.

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

Section 2.2 Government Resources.

(a) The Government shall provide or cause to be provided such Government funds and other resources, and shall take or cause to be taken such actions, including obtaining all necessary approvals and consents, as are specified in this Compact or in any Supplemental Agreement to which the Government is a party or as are otherwise necessary and appropriate to effectively carry out the Government Responsibilities or other responsibilities or obligations of the Government under or in furtherance of this Compact during the Compact Term and through the completion of any post-Compact Term activities, audits or other responsibilities.

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

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

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

(a) Abortions and Involuntary Sterilizations. The Government shall ensure that MCC Funding shall not be used to undertake, fund or otherwise support any activity that is subject to prohibitions on use of funds contained in (i) paragraphs (1) through (3) of section 104(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(f)(1)-(3)), a United States statute, which prohibitions shall apply to the same extent and in the same manner as such prohibitions apply to funds made available to carry out Part I of such Act; or (ii) any provision of law comparable to

the eleventh and fourteenth provisos under the heading “Child Survival and Health Programs Fund” of division E of Public Law 108-7 (117 Stat. 162), a United States statute.

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

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

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

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

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

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

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

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

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

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

amended from time to time (the “*Environmental Guidelines*”), including any definition of “likely to cause a significant environmental, health, or safety hazard” as may be set forth in such Environmental Guidelines.

(e) Taxation.

(i) Taxes. As required by applicable United States law and consistent with the applicable requirement of Georgian law that international cooperation assistance shall be exempt from taxes, all Program Assets, MCC Funding and Accrued Interest shall be free from any taxes imposed under laws currently or hereafter in effect in Georgia during the Compact Term. This exemption shall apply to any use of any Program Asset, MCC Funding and Accrued Interest, including any Exempt Uses, and to any work performed under or activities undertaken in furtherance of this Compact by any person or entity (including contractors and grantees) funded by MCC Funding, and shall apply to all taxes, tariffs, duties, and other levies (each a “*Tax*” and collectively, “*Taxes*”), including:

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

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

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

(4) Taxes or duties levied on the purchase of goods or services funded by MCC Funding, including sales taxes, tourism taxes, value-added taxes (VAT), or other similar charges.

(ii) This Section 2.3(e) shall apply, but is not limited to (1) any transaction, service, activity, contract, grant or other implementing agreement funded in whole or in part by MCC Funding; (2) any supplies, equipment, materials, property or other goods (referred to

herein collectively as “goods”) or funds introduced into, acquired in, used or disposed of in, or imported into or exported from, Georgia by MCC, or by any person or entity (including contractors and grantees) as part of, or in conjunction with, MCC Funding or the Program; (3) any contractor, grantee, or other organization carrying out activities funded in whole or in part by MCC Funding; and (4) any employee of such organizations (the uses set forth in clauses (1) through (4) are collectively referred to herein as “*Exempt Uses*”).

(iii) If a Tax has been levied and paid contrary to the requirements of this Section 2.3(e), whether inadvertently, due to the impracticality of implementation of this provision with respect to certain types or amounts of taxes, or otherwise, the Government shall refund promptly to MCC to an account designated by MCC the amount of such Tax in the currency of Georgia, within thirty (30) days (or such other period as may be agreed in writing by the Parties) after the Government is notified in writing according to procedures agreed by the Parties, whether by MCC or otherwise, of such levy and tax payment; *provided, however*, the Government shall apply national funds to satisfy its obligations under this Section 2.3(e)(iii) and no MCC Funding, Accrued Interest, or any assets, goods, or property (real, tangible, or intangible) purchased or financed in whole or in part (directly or indirectly) by MCC Funding (“*Program Assets*”) may be applied by the Government in satisfaction of its obligations under this paragraph.

(iv) The Parties shall memorialize in a mutually acceptable Supplemental Agreement or other suitable document the mechanisms for implementing this Section 2.3(e), including (1) a formula for determining refunds for Taxes paid, the amount of which is not susceptible to precise determination, (2) a mechanism for ensuring the tax-free importation, use, and re-exportation of goods, services, or the personal belongings of individuals (including all Providers) described in paragraph (i)(2) of this Section 2.3(e), and (3) any other appropriate Government action to facilitate the administration of this Section 2.3(e).

(v) The Government shall ensure that the tax exemptions provided by this Section 2.3(e) shall apply throughout the Compact Term.

(f) Alteration. The Government shall ensure that neither MCC Funding nor Accrued Interest or Program Assets shall be subject to any impoundment, rescission, sequestration or any provision of law now or hereafter in effect in Georgia that would have the effect of requiring or allowing any impoundment, rescission or sequestration of any MCC Funding, Accrued Interest or Program Asset.

(g) Liens or Encumbrances. The Government shall ensure that no MCC Funding, Accrued Interest, nor Program Assets shall be subject to any lien (each a “*Lien*,” attachment, enforcement of judgment, pledge, or encumbrance of any kind, except with the prior approval of MCC in accordance with Section 3(c) of Annex I, and in the event of the imposition of any Lien not so approved, the Government shall promptly seek the release of such Lien and shall promptly pay any amounts owed to obtain such release; *provided, however*, the Government shall apply national funds to satisfy its obligations under this Section 2.3(g) and no MCC Funding, Accrued Interest, nor Program Assets may be applied by the Government in satisfaction of its obligations under this Section 2.3(g).

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

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

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

Section 2.4 Incorporation; Notice; Clarification.

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

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

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

Section 2.5 Refunds; Violation.

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

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

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

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

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

ARTICLE III.
IMPLEMENTATION

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

Section 3.2 Government Responsibilities.

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

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

(c) The Government shall not designate any person or entity, including any Government Affiliate, to implement, in whole or in part, this Compact or any Supplemental Agreement between the Parties (including any Government Responsibilities or any other responsibilities or obligations of the Government under this Compact or any Supplemental Agreement between the Parties) or to exercise any rights of the Government under this Compact or any Supplemental Agreement between the Parties, except as expressly provided herein or with the prior written consent of MCC; *provided, however*, the Government may designate MCA-Georgia or, with the prior written consent of MCC, such other mutually acceptable persons or entities, to implement some or all of the Government Responsibilities or any other responsibilities or obligations of the Government or to exercise any rights of the Government under this Compact or any Supplemental Agreement between the Parties (referred to herein collectively as “**Designated Rights and Responsibilities**”), in accordance with the terms and conditions set forth in this Compact or such Supplemental Agreement (each, a “**Permitted Designee**”). Notwithstanding any provision herein or any other agreement to the contrary, no such designation shall relieve the Government of such Designated Rights and Responsibilities, for which the Government shall retain ultimate responsibility. In the event that the Government designates any person or entity, including any Government Affiliate, to implement any portion of the Government Responsibilities or other responsibilities or obligations of the Government, or to exercise any rights of the Government under this Compact or any Supplemental Agreement

between the Parties, in accordance with this Section 3.2(c), then the Government shall (i) cause such person or entity to perform such Designated Rights and Responsibilities in the same manner and to the full extent to which the Government is obligated to perform such Designated Rights and Responsibilities, (ii) ensure that such person or entity does not assign, delegate, or contract (or otherwise transfer) any of such Designated Rights and Responsibilities to any other person or entity and (iii) cause such person or entity to certify to MCC in writing that it will so perform such Designated Rights and Responsibilities and will not assign, delegate, or contract (or otherwise transfer) any of such Designated Rights and Responsibilities to any person or entity without the prior written consent of MCC.

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

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

(f) The Government shall ensure that all persons and individuals that enter into agreements to provide goods, services or works under the Program or in furtherance of this Compact shall do so in accordance with the Procurement Guidelines and shall obtain all necessary immigration, business and other permits, licenses, consents and approvals to enable them and their personnel to fully perform under such agreements.

Section 3.3 Government Deliveries. The Government shall proceed, and cause others to proceed, in a timely manner to deliver to MCC all Government deliveries required to be delivered by the Government under this Compact or any Supplemental Agreement between the Parties, in form and substance as set forth in this Compact or in any such Supplemental Agreement.

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

(a) The information contained in the Proposal and any agreement, report, statement, communication, document or otherwise delivered or otherwise communicated to MCC by or on behalf of the Government on or after the date of the submission of the Proposal (i) are true, correct and complete in all material respects and (ii) do not omit any fact known to the Government that if disclosed would (1) alter in any material respect the information delivered, (2) likely have a material adverse effect on the Government's ability to effectively implement, or ensure the effective implementation of, the Program or any Project or to otherwise carry out its responsibilities or obligations under or in furtherance of this Compact, or (3) have likely

adversely affected MCC's determination to enter into this Compact or any Supplemental Agreement between the Parties.

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

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

(d) No payments have been (i) received by any official of the Government or any other government body in connection with the procurement of goods, services or works to be undertaken or funded in whole or in part (directly or indirectly) by MCC Funding, except fees, taxes, or similar payments legally established in Georgia or (ii) made to any third party, in connection with or in furtherance of this Compact, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended (15 USC 78a *et seq.*).

Section 3.5 Implementation Letters; Supplemental Agreements.

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

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

Section 3.6 Procurement; Awards of Assistance.

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

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

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

(iii) Contracts shall be awarded only to qualified and capable contractors that have the capability and willingness to perform the contracts in accordance with the terms and conditions of the applicable contracts and on a cost effective and timely basis; and

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

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

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

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

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

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

Section 3.7 Policy Performance; Policy Reforms. In addition to the specific policy and legal reform commitments identified in Annex I and the Schedules thereto, the Government shall seek to maintain and improve its level of performance under the policy criteria identified in Section 607 of the Millennium Challenge Act of 2003, as amended (the “*Act*”), and the MCA selection criteria and methodology published by MCC pursuant to Section 607 of the Act from time to time (“*MCA Eligibility Criteria*”).

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

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

(b) Government Books and Records. The Government shall maintain, and shall use its best efforts to ensure that all Providers maintain, accounting books, records, documents and other evidence relating to this Compact adequate to show, to the satisfaction of MCC, without limitation, the use of all MCC Funding, including all costs incurred by the Government and the Providers in furtherance of this Compact, the receipt, acceptance and use of goods, services and works acquired in furtherance of this Compact by the Government and the Providers, agreed-upon cost sharing requirements, the nature and extent of solicitations of prospective suppliers of goods, services and works acquired by the Government and the Providers in furtherance of this Compact, the basis of award of Government and other contracts and orders in furtherance of this Compact, the overall progress of the implementation of the Program, and any documents required by this Compact or any Supplemental Agreement between the Parties or reasonably requested by MCC upon reasonable notice (“**Compact Records**”). The Government shall maintain, and shall use its best efforts to ensure that all Covered Providers maintain, Compact Records in accordance with generally accepted accounting principles prevailing in the United States, or at the Government’s option and with the prior written approval by MCC, other accounting principles, such as those (i) prescribed by the International Accounting Standards Committee (an affiliate of the International Federation of Accountants) or (ii) then prevailing in Georgia. Compact Records shall be maintained for at least five (5) years after the end of the Compact Term or for such longer period, if any, required to resolve any litigation, claims or audit findings or any statutory requirements.

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

(d) Audits.

(i) Government Audits. The Government shall, on at least an annual basis and as the Parties may otherwise agree in writing, conduct, or cause to be conducted, financial audits of all MCC Disbursements and Re-Disbursements during the year since the Entry into Force or since the prior anniversary of the Entry into Force in accordance with the following terms, except as the Parties may otherwise agree in writing. As requested by MCC in writing, the Government shall use, or cause to be used, or select, or cause to be selected, an auditor named on the approved list of auditors in accordance with the *Guidelines for Financial Audits Contracted by Foreign Recipients* (the “**Audit Guidelines**”) issued by the Inspector General of the United States Agency for International Development (the “**Inspector General**”), and as approved by MCC, to conduct such annual audits. Such audits shall be performed in accordance with such Guidelines and be subject to quality assurance oversight by the Inspector General in accordance with such Guidelines. An audit shall be completed no later than 90 days after the first anniversary of the Entry into Force of this Compact and no later than 90 days after each anniversary of the Entry into Force of this Compact thereafter, or such other period as the Parties may otherwise agree in writing.

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

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

(iv) Covered Provider. A “**Covered Provider**” is (1) a non-United States Provider that receives (other than pursuant to a direct contract or agreement with MCC) USD \$300,000 or more of MCC Funding in any MCA-Georgia fiscal year or any other non-United States person or entity that receives (directly or indirectly) USD \$300,000 or more of MCC Funding from any Provider in such other party’s fiscal year or (2) any United States Provider that receives (other than pursuant to a direct contract or agreement with MCC) USD \$500,000 or more of MCC Funding in any MCA-Georgia fiscal year or any other United States person or entity that receives (directly or indirectly) USD \$500,000 or more of MCC Funding from any provider in any such fiscal year.

(v) Corrective Actions. The Government shall use its best efforts to ensure that Covered Providers take, where necessary, appropriate and timely corrective actions in response to audits, consider whether a Covered Provider's audit necessitates adjustment of its own records, and require each such Covered Provider to permit independent auditors to have access to its records and financial statements as necessary.

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

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

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

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

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

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

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

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

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

Section 3.9 Insurance. The Government shall, to MCC's satisfaction, insure or cause to be insured all Program Assets and shall obtain or cause to be obtained such other appropriate insurance and other protections to cover against risks or liabilities associated with the operations of the Program, including by requiring Providers to obtain adequate insurance and post adequate performance bonds or other guarantees. MCA-Georgia shall be named as the insured party on any such insurance and the beneficiary of any such guarantee, including performance bonds. MCC shall be named as additional insured on any such insurance or other guarantee, to the extent permissible under applicable laws. The Government shall ensure that any proceeds from claims paid under such insurance or any other form of guarantee shall be used to replace or repair any loss of Program Assets or to pursue the procurement of the covered goods, services or works; *provided, however*, at MCC's election, such proceeds shall be deposited in a Permitted Account as designated by MCA-Georgia and acceptable to MCC or otherwise as directed by MCC. To the extent MCA-Georgia is held liable under any indemnification or other similar provision of any agreement between MCA-Georgia, on the one hand, and any other Provider or other third party, on the other hand, the Government shall pay in full on behalf of MCA-Georgia any such obligation; *provided, further*, the Government shall apply national funds to satisfy its obligations under this Section 3.9 and no MCC Funding, Accrued Interest, or Program Asset may be applied by the Government in satisfaction of its obligations under this Section 3.9.

Section 3.10 Domestic Requirements. The Government shall proceed in a timely manner to seek any required ratification of this Compact or similar domestic requirement, which process the Government shall initiate promptly after the conclusion of this Compact. Notwithstanding anything to the contrary in this Compact, this Section 3.10 shall provisionally apply prior to the Entry into Force.

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

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

- (a) The name of each entity to which MCC Funding has been provided;
- (b) The amount of MCC Funding provided to such entity;
- (c) A description of the Program and each Project funded in furtherance of this Compact, including:

- (i) A statement of whether the Program or any Project was solicited or unsolicited; and
- (ii) A detailed description of the objectives and measures for results of the Program or Project;
- (d) The progress made by Georgia toward achieving the Compact Goal and Objectives;
- (e) A description of the extent to which MCC Funding has been effective in helping Georgia to achieve the Compact Goal and Objectives;
- (f) A description of the coordination of MCC Funding with other United States foreign assistance and other related trade policies;
- (g) A description of the coordination of MCC Funding with assistance provided by other donor countries;
- (h) Any report, document or filing that the Government, any Government Affiliate or any Permitted Designee submits to any government body in connection with this Compact;
- (i) Any report or document required to be delivered to MCC under the Environmental Guidelines, any audit plan, or any component of the Implementation Plan; and
- (j) Any other report, document or information requested by MCC or required by this Compact or any Supplemental Agreement between the Parties.

ARTICLE IV.
CONDITIONS PRECEDENT; DELIVERIES

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

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

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

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

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

(e) The Government shall deliver a letter signed and dated by the Principal Representative of the Government certifying:

(i) That the Government has completed all of its domestic requirements for this Compact to be fully enforceable under Georgian law; and

(ii) That attached thereto are true, correct and complete copies of any decree, legislation, regulation or other governmental document relating to its domestic requirements for this Compact to enter into force, which MCC may post on its website or otherwise make publicly available.

(f) The Government shall have amended the Charter of MCA-Georgia to the satisfaction of MCC to provide for, among other things, waiver of control by the state controlling body over the operations and management of MCA-Georgia.

(g) MCC shall deliver a letter signed and dated by the Principal Representative of MCC certifying that MCC has completed its domestic requirements for this Compact to enter into force.

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

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

ARTICLE V. FINAL CLAUSES

Section 5.1 Communications. Unless otherwise expressly stated in this Compact or otherwise agreed in writing by the Parties, any notice, certificate, request, report, document or other communication required, permitted, or submitted by either Party to the other under this Compact

shall be: (a) in writing; (b) in English; and (c) deemed duly given: (i) upon personal delivery to the Party to be notified; (ii) when sent by confirmed facsimile or electronic mail, if sent during normal business hours of the recipient Party, if not, then on the next business day; or (iii) two (2) business days after deposit with an internationally recognized overnight courier, specifying next day delivery, with written verification of receipt to the Party to be notified at the address indicated below, or at such other address as such Party may designate:

To MCC:

Millennium Challenge Corporation
Attention: Vice President for Country Programs
(with a copy to the Vice President and General Counsel)
875 Fifteenth Street, N.W.
Washington, DC 20005
United States of America
Facsimile: (202) 521-3700
Email: VPCountryPrograms@mcc.gov (Vice President for Country Programs);
VPGeneralCounsel@mcc.gov (Vice President and General Counsel)

To the Government:

Office of the Prime Minister
Attention: Prime Minister
7 Pavle Ingorokva Str.
Tbilisi, 0134 Tbilisi Georgia
Tel: (995-32) 92-22-43
Fax: (995-32) 92-10-69

With a copy to:

Chief Executive Officer
Millennium Challenge Georgia Fund
4 Sanapiro St.
Tbilisi, 0105 Georgia
Tel: (995-32) 93-91-12; 93-91-13; 93-91-33
Fax: (995-32) 93-91-44
Email: lashanidze@mcg.ge

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

Section 5.2 Representatives. Unless otherwise agreed in writing by the Parties, for all purposes relevant to this Compact, the Government shall be represented by the individual holding the position of, or acting as, Prime Minister of Georgia, and MCC shall be represented by the individual holding the position of, or acting as, Vice President for Country Programs (each, a “*Principal Representative*”), each of whom, by written notice, may designate one or

more additional representatives (each, an “***Additional Representative***”) for all purposes other than signing amendments to this Compact. The names of the Principal Representative and any Additional Representative of each of the Parties shall be provided, with specimen signatures, to the other Party, and the Parties may accept as duly authorized any instrument signed by such representatives relating to the implementation of this Compact, until receipt of written notice of revocation of their authority. A Party may change its Principal Representative to a new representative of equivalent or higher rank upon written notice to the other Party, which notice shall include the specimen signature of the new Principal Representative.

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

Section 5.4 Termination; Suspension.

(a) Subject to Section 2.5 and paragraphs (e) through (h) of this Section 5.4, either Party may terminate this Compact in its entirety by giving the other Party thirty (30) days’ written notice.

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

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

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

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

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

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

(vi) An audit, review, report or any other document or other evidence reveals that actual expenditures for the Program or any Project or any Project Activity were greater than the projected expenditure for such activities identified in the applicable Detailed Financial Plan or are projected to be greater than projected expenditures for such activities;

(vii) If the Government (1) materially reduces the allocation in its national budget or any other Government budget of the normal and expected resources that the Government would have otherwise received or budgeted, from external or domestic sources, for the activities contemplated herein; (2) fails to contribute or provide the amount, level, type and quality of resources required to effectively carry out the Government Responsibilities or any other responsibilities or obligations of the Government under or in furtherance of this Compact; or (3) fails to pay any of its obligations as required under this Compact or any Supplemental Agreement, including such obligations which shall be paid solely out of national funds;

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

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

(x) An event or condition of any character has occurred that: (1) materially and adversely affects, or is likely to materially and adversely affect, the ability of the Government or any other party to effectively implement, or ensure the effective implementation of, the Program or any Project or to otherwise carry out its responsibilities or obligations under or in furtherance of this Compact or any Supplemental Agreement or to perform its obligations under or in furtherance of this Compact or any Supplemental Agreement or to exercise its rights thereunder; (2) makes it improbable that the Objectives will be achieved during the Compact Term; (3) materially and adversely affects the Program Assets or any Permitted Account; or (4) constitutes misconduct injurious to MCC, or constitutes a fraud or a felony, by the Government, any Government Affiliate, Permitted Designee or Provider, or any officer, director, employee, agent, representative, Affiliate, contractor, grantee, subcontractor or sub-grantee thereof;

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

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

(xiii) Any MCC Funding, Accrued Interest or Program Asset becomes subject to a Lien without the prior approval of MCC, and the Government fails to (i) obtain the release of such Lien and (ii) pay solely with national funds (and not with MCC Funding, Accrued Interest or Program Assets) any amounts owed to obtain such release, all within 30 days after the imposition of such Lien.

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

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

(e) All MCC Funding shall terminate upon expiration or termination of the Compact Term; *provided, however*, reasonable expenditures for goods, services and works that are properly incurred under or in furtherance of this Compact before expiration or termination of the Compact Term may be paid from MCC Funding, provided that the request for such payment is properly submitted within sixty (60) days after such expiration or termination.

(f) Except for payments which the Parties are committed to make under noncancelable commitments entered into with third parties before such suspension or termination, the suspension or termination of this Compact or any Supplemental Agreement, in whole or in part, shall suspend, for the period of the suspension, or terminate, or ensure the suspension or termination of, as applicable, any obligation or sub-obligation of the Parties to provide financial or other resources under this Compact or any Supplemental Agreement, or to the suspended or terminated portion of this Compact or such Supplemental Agreement, as applicable. In the event of such suspension or termination, the Government shall use its best efforts to suspend or terminate, or ensure the suspension or termination of, as applicable, all such noncancelable commitments related to the suspended or terminated MCC Funding. Any portion of this Compact or any such Supplemental Agreement that is not suspended or terminated shall remain in full force and effect.

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

(h) Prior to the expiration of this Compact or upon the termination of this Compact, the Parties shall consult in good faith with a view to reaching an agreement in writing on (i) the post-Compact Term treatment of MCA-Georgia, (ii) the process for ensuring the refunds of MCC Disbursements that have not yet been released from a Permitted Account through a valid

Re-Disbursement nor otherwise committed in accordance with Section 5.4(e), or (iii) any other matter related to the winding up of the Program and this Compact.

Section 5.5 Privileges and Immunities. MCC is an agency of the Government of the United States of America and its personnel assigned to Georgia will be notified pursuant to the Vienna Convention on Diplomatic Relations as members of the mission of the Embassy of the United States of America. The Government shall ensure that any personnel of MCC, including individuals detailed to or contracted by MCC, and the members of the families of such personnel, while such personnel are performing duties in Georgia, shall enjoy the privileges and immunities that are enjoyed by a member of the United States Foreign Service, or the family of a member of the United States Foreign Service, as appropriate, of comparable rank and salary of such personnel, if such personnel or the members of the families of such personnel are not a national of, or permanently resident in Georgia.

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

Section 5.7 Inconsistencies.

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

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

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

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

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

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

Section 5.10 Interpretation; Definitions.

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

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

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

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

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

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

(g) References to any Affiliate or Government Affiliate herein shall include any of their respective directors, officers, employees, affiliates, contractors, sub-contractors, grantees, sub-grantees, representatives, and agents.

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

Section 5.11 Signatures. Other than a signature to this Compact or an amendment to this Compact pursuant to Section 5.3, a signature delivered by facsimile or electronic mail in

accordance with Section 5.1 shall be deemed an original signature, and the Parties hereby waive any objection to such signature or to the validity of the underlying document, certificate, notice, instrument or agreement on the basis of the signature's legal effect, validity or enforceability solely because it is in facsimile or electronic form. Such signature shall be accepted by the receiving Party as an original signature and shall be binding on the Party delivering such signature.

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

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

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

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

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

Section 5.17 Publicity; Information and Marking. The Government shall give appropriate publicity to this Compact as a program to which the United States, through MCC, has contributed, including by posting this Compact, and any amendments thereto, on the MCA-Georgia Website, identifying Program activity sites, and marking Program Assets; *provided*, any

announcement, press release or statement regarding MCC or the fact that MCC is funding the Program or any other publicity materials referencing MCC, including the publicity described in this Section 5.17, shall be subject to prior approval by MCC and shall be consistent with any instructions provided by MCC from time to time in relevant Implementation Letters. Upon the termination or expiration of this Compact, MCC may request the removal of, and the Government shall, upon such request, remove, or cause the removal of, any such markings and any references to MCC in any publicity materials or on the MCA-Georgia Website.

[SIGNATURE PAGE BEGINS ON THE NEXT PAGE.]

IN WITNESS WHEREOF, the undersigned, duly authorized by their respective governments, have signed this Compact this 12th day of September, 2005 and this Compact shall enter into force in accordance with Section 1.3.

Done at New York, NY in the English language.

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

FOR THE GOVERNMENT OF GEORGIA

Name: Charles O. Sethness
Title: Vice President

Name: Salome Zourabichvili
Title: Minister of Foreign Affairs

EXHIBIT A

DEFINITIONS

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

Accrued Interest is any interest or other earnings on MCC Funding that accrues or are earned.

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

ADA means the Agribusiness Development Activity, a Project Activity under the Enterprise Development Project described in Section 2(b) of Schedule 2 of Annex I.

ADA Manager means the manager who will be selected to set up and manage the Agribusiness Development Activity.

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

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

Agreed Standards shall have the meaning set forth in Section 6(a)(ii)(4)(A) of Schedule 1 of Annex I.

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

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

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

Auditor/Reviewer Agreement is an agreement between MCA-Georgia and each Auditor or Reviewer, in form and substance satisfactory to MCC, that sets forth the roles and responsibilities of the Auditor or Reviewer with respect to the audit, review or evaluation, including access rights, required form and content of the applicable audit, review or evaluation and other appropriate terms and conditions such as payment of the Auditor or Reviewer.

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

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

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

Chair means the Chair of the Supervisory Board.

Chief Executive Officer means the Chief Executive Officer of MCA-Georgia.

Civil Observer is a representative of civil society nominated by the Stakeholders' Committee (as described in Section 3(d)(ii)(2)(B)(ii) of Annex I) to serve as a non-voting Observer on the Supervisory Board.

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

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

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

Compact Reports are any documents or reports delivered to MCC in satisfaction of the Government's reporting requirements under this Compact or any Supplemental Agreement between the Parties.

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

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

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

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

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

EBRD means European Bank for Reconstruction and Development.

Eligible Governmental Entity means each regional government, local government, local self-government, municipal utility or the central government (to the extent that it owns or operates assets in the Regions) that will receive RID Grants under a sub-activity of the Regional Infrastructure Development Activity as described in Section 2(c)(i) of Schedule 2 of Annex I.

Energy Advisors means the firm(s) that will be engaged to support the Ministry of Energy under a sub-activity of the Energy Rehabilitation Activity described in Section 2(b) of Schedule 1 of Annex I.

Energy Rehabilitation Activity is the Project Activity described in Section 2(b) of Schedule 1 of Annex I.

ESI Manager means the Environmental and Social Impact Manager.

Energy Rehabilitation Activity is the Project Activity related to energy rehabilitation described in Section 2(b) of Schedule 1 of Annex I.

Enterprise Development Project is the project described in Schedule 2 of Annex I, that the Parties intend to implement in furtherance of the Enterprises in Regions Developed Objective.

Enterprises in Regions Developed Objective is the Project Objective of the Enterprise Development Project.

Entry into Force means the entry into force of this Compact, which shall be on the date of the last letter in an exchange of letters between the Principal Representatives of each Party confirming that all conditions set forth in Section 4.1 have been satisfied by the Government and MCC.

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

ESI Manager means the environmental and social impact manager described in Section 5 of Schedule 1 of Annex I.

Evaluation Component means the component of the M&E Plan that specifies a methodology, process and timeline for the evaluation of planned, ongoing, or completed Project Activities to determine their efficiency, effectiveness, impact and sustainability.

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

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

Final Fund Documents shall have the meaning set forth in Section 2(a)(i) of Schedule 2 of Annex I.

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

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

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

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

Fiscal Agent Agreement is an agreement between MCA-Georgia and each Fiscal Agent, in form and substance satisfactory to MCC, that sets forth the roles and responsibilities of the Fiscal Agent and other appropriate terms and conditions, such as payment of the Fiscal Agent.

GEL means Georgian Lari.

Georgia Regional Development Fund is an independently managed investment fund that will be created under the Investment Fund Activity of the Enterprise Development Project.

GGIC means Georgia Gas International Corporation.

Governance Regulations means the governance regulations promulgated in furtherance of the Compact and applicable law, which shall be in a form and substance satisfactory to MCC and which specify how MCA-Georgia shall be organized and what its roles and responsibilities are.

Government means the Government of Georgia.

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

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

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

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

GRDF means the Georgia Regional Development Fund as described in Section 2 of Schedule 2 of Annex I.

GRDF Governing Board means the governing board of the GRDF.

IFAD means the International Fund for Agricultural Development.

IFC means the International Finance Corporation.

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

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

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

Implementing Entity Agreement is an agreement between MCA-Georgia (or the appropriate Outside Project Manager) and an Implementing Entity, in form and substance satisfactory to MCC, that sets forth the roles and responsibilities of such Implementing Entity and other appropriate terms and conditions, such as payment of the Implementing Entity.

Indicative Term Sheet is a term sheet containing the indicative proposed terms of the GRDF as described in Section 2 of Schedule 2 of Annex I.

Indicator Baseline means the value of an Indicator for a Project Activity and Objective prior to it being affected by the Program.

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

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

Investment Committee is a committee of the GRDF as described in Section 2 of Schedule 2 of Annex I.

Investment Manager is the manager that will manage the GRDF as described in Section 2 of Schedule 2 of Annex I.

Investment Period means the investment period of the GRDF, which shall run for five years from the Entry into Force, subject to an earlier termination upon termination of the Compact as described in Section 2 of Schedule 2 of Annex I.

Key Regional Infrastructure Rehabilitated Objective is the Project Objective of the Regional Infrastructure Rehabilitation Project.

KfW means Kreditanstalt für Wiederaufbau.

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

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

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

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

Management Team means the management team of MCA-Georgia to have overall management responsibility for the implementation of this Compact and further described in Section 3(d)(iii) of Annex I.

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

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

Material Terms of Reference means any terms of reference for the procurement of goods, services or works that require MCC approval under applicable law, the Governance Regulations, the Procurement Agreement, Procurement Guidelines, or any Supplemental Agreement.

MCA means the 2004 and 2005 Millennium Challenge Account.

MCA-Georgia shall have the meaning set forth in the Recitals.

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

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

MCC means the Millennium Challenge Corporation.

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

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

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

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

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

MDDPII means the World Bank's Municipal Development and Decentralization Project II.

MDF means the Municipal Development Fund, an entity that will implement the Regional Infrastructure Development Activity and further described in Section 2(c)(iv) of Schedule 1 of Annex I.

Monitoring Component means the component of the M&E Plan that specifies how progress toward the Objectives and Project Activity Outcomes will be monitored.

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

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

Non-Transfer Condition shall have the meaning set forth in Section 6(a)(ii)(3) of Schedule 1 of Annex I.

Objective(s) are the following objectives of this Compact that have been identified by the Parties, each of which is (i) key to advancing the Compact Goal and (ii) described in more detail in the Annexes attached hereto: (a) the Key Regional Infrastructure Rehabilitated Objective and (b) the Enterprises in Regions Developed Objective.

Objective Indicator means the Indicator for each Objective that will measure the final results of the Projects in order to monitor their success in meeting each of the Objectives. A table of Objective Indicator definitions is set forth at Section 2(b)(i) of Annex III.

Observers means the non-voting observers of the Supervisory Board.

OPIC means the Overseas Private Investment Corporation.

Outside Project Manager means the qualified persons or entities engaged by MCA-Georgia, to serve as outside project managers in accordance with Section 3(e) of Annex I.

Parliament Board Member is the member of Parliament identified in Section 3(d)(ii)(2)(A)(iii) of Annex I serving as voting members on the Supervisory Board, and any replacements thereof in accordance with Section 3(d)(ii)(A) of Annex I.

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

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

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

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

Permitted SMEs shall have the meaning set forth in Section 2(a)(i)(3) of Schedule 2 of Annex I.

Pipeline means the north-south gas pipeline which is Georgia's main trunkline for the transmission of natural gas.

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

Portfolio Company TA Facility means the Portfolio Company Technical Assistance Facility and further described in Section 2(a)(ii) of Schedule 2 of Annex I.

Principal Representative means (i) for the Government, the individual holding the position of, or acting as, the Prime Minister of Georgia, and (ii) for MCC, the individual holding the position of, or acting as, the Vice President for Country Programs.

Procurement Agent(s) are the procurement agents that MCA-Georgia will engage to carry out and/or certify specified procurement activities in furtherance of this Compact on behalf of the Government, MCA-Georgia, any Outside Project Manager or Implementing Entity.

Procurement Agent Agreement is the agreement that MCA-Georgia enters into with the Procurement Agent, in form and substance satisfactory to MCC, that sets forth the roles and responsibilities of the Procurement Agent with respect to the conduct, monitoring and review of procurements and other appropriate terms and conditions, such as payment of the Procurement Agent.

Procurement Agreement is a Supplemental Agreement between the Parties, which includes the Procurement Guidelines, and governs the procurement of all goods, services and works by the Government or any Provider in furtherance of this Compact.

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

Procurement Plan means a procurement plan adopted by MCA-Georgia, which plan shall forecast the upcoming six month procurement activities and be updated every six months.

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

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

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

Program Objective means the overall objective of this Compact, which is to increase economic growth and poverty reduction in the regions of Georgia outside of Tblisi, which is key to advancing the Compact Goal.

Project(s) are the Regional Infrastructure Rehabilitation Project and the Enterprise Development Project, and the policy reforms and other activities related thereto that the Government will carry out, or cause to be carried out in furtherance of this Compact to achieve the Objectives and the Compact Goal.

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

Project Activity Outcome means the outcomes of each Project Activity, which are described in more detail in Annex III.

Project Activity Outcome Indicator is an indicator that will measure the intermediate results achieved under each of the Project Activities, each of which is described in more detail Annex III.

Project Objective(s) means the project-level objectives that will advance the program objective, each of which is described in more detail in Annex III.

Project Road means each of several sub-activities of the Road Rehabilitation Activity described in Section 2(a) of Schedule 1 of Annex I.

Proposal is the proposal for use of MCA assistance submitted to MCC by the Government on September 24, 2004.

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

PRSP is the Poverty Reduction Strategy that Georgia developed in 2003 that describes the macroeconomic, structural and social policies and programs needed to boost economic growth and reduce rates of extreme poverty.

RD MED means the Road Department of the Ministry of Economic Development.

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

Regional Infrastructure Development Activity is the Project Activity described in Section 2(c) of Schedule 1 of Annex I under the Regional Infrastructure Rehabilitation Project.

Regional Infrastructure Rehabilitation Project is the Project described in Schedule 1 of Annex I, that the Parties intend to implement in furtherance of the Key Regional Infrastructure Rehabilitated Objective.

Regions means regions outside the capital city of Tbilisi.

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

RID Grants are the grants that will be made to Eligible Governmental Entities under a sub-activity of the Regional Infrastructure Development Activity, as described in Section 2(c)(i) of Schedule 1 of Annex I.

RID Operations Manual is an operations manual of the Regional Infrastructure Development Activity and further described in Section 2(c)(iii) of Schedule 1 of Annex I.

RID Projects are projects of the Regional Infrastructure Development Activity and described in Section 2(c)(1) of Schedule 1 to Annex I.

Road Rehabilitation Activity is the Samtskhe-Javakheti Road Project Activity described in Section 2(a) of Schedule 1 of Annex I.

Rural Enterprise Grants are grants that will be given to groups of farmers and to private enterprises under the Agribusiness Development Activity as described in Section 2(b)(iii) of Schedule 2 of Annex I.

Service Providers are third-party consultants and other service providers.

SMEs means small and medium enterprises.

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

Stakeholders' Committee means the committee of MCA-Georgia to provide feedback on Program activities to the Supervisory Board and the Management Team and further described in Section 3(d)(iv) of Annex I.

Strategic Vision means the Government's Strategic Vision and Urgent Financing priorities, 2004-2006.

Supervisory Board means the independent board of directors of MCA-Georgia to oversee MCA-Georgia's responsibilities and obligations under this Compact and further described in Section 3(d)(ii) of Annex I.

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

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

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

Target means one or more expected results that specify the expected value and the expected time by which that result will be achieved.

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

UNDP means the United Nations Development Programme.

USAID means the United States Agency for International Development.

USDA means the United States Department of Agriculture.

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

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

Voting Members are the voting members on the Supervisory Board described in Section 3(d)(ii)(2) of Annex I.

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

EXHIBIT B
LIST OF CERTAIN SUPPLEMENTAL AGREEMENTS

1. Governance Agreement
2. Form of Fiscal Agent Agreement
3. Form of Implementing Entity Agreement
4. Form of Bank Agreement

ANNEX I

PROGRAM DESCRIPTION

This Annex I to the Compact (the “*Program Annex*”) generally describes the Program that MCC Funding will support in Georgia during the Compact Term and the results to be achieved from the investment of MCC Funding. Prior to any MCC Disbursement or Re-Disbursement, including for the Projects described herein, MCC, the Government (or a mutually acceptable Government Affiliate) and MCA-Georgia shall enter into a Supplemental Agreement that (i) further specifies the terms and conditions of such MCC Disbursements and Re-Disbursements, (ii) is in a form and substance mutually satisfactory to the Parties, and (iii) is signed by the Principal Representative of each Party (or in the case of the Government, the principal representative of the applicable Government Affiliate) and of MCA-Georgia (the “*Disbursement Agreement*”).

Except as specifically provided herein, the Parties may amend this Program Annex only by written agreement signed by the Principal Representative of each Party. Each capitalized term in this Program Annex shall have the same meaning given such term elsewhere in this Compact. Unless otherwise expressly stated, each Section reference herein is to the relevant Section of the main body of the Compact.

1. Background; Consultative Process.

(a) Background and Georgia Development Strategy. Since the collapse of the Soviet Union, Georgia has faced regional instability, civil conflict, deterioration of infrastructure, decline of enterprises and investments, and a decrease in human productivity. Since the Rose Revolution in November 2003, the Government has taken decisive steps to promote stability, good government and private enterprise development. Georgia is working to build a stronger, more integrated national economy and to stimulate economic growth in the regions outside the capital city of Tbilisi (the “*Regions*”), where poor infrastructure and a poor business environment represent major obstacles to development. Rural Georgia has been affected by rising poverty and weak economic growth. More than 2 million people, or about 40% of the country’s total population, live in the Regions, and poverty in rural Georgia grew by 16% per year, rising from 13.4% in 1997 to 20.9% in 2000. In some parts of the Regions, more than 50% of rural households live below the official poverty line.

Georgia’s 2003 Poverty Reduction Strategy Paper (“*PRSP*”) describes the macroeconomic, structural and social policies and programs needed to boost economic growth and reduce rates of extreme poverty. Among its priorities, the PRSP specifically targets the development of priority sectors of the economy, namely energy, transport, communications, agriculture and tourism. These sectors are vital to the functioning of a sound economy. The PRSP notes that poverty in the Regions is closely tied to the lack of financial resources and the underdevelopment of infrastructure, which together reduce the ability of the poor to access jobs and services such as energy, healthcare, and education. In June 2004, the Government presented its *Strategic Vision and Urgent Financing Priorities, 2004-2006* (“*Strategic Vision*”) to the Donor’s Conference in Brussels. The Strategic Vision reinforces the priorities set out in the PRSP, with five main areas of action. Of particular note among them are efforts to rehabilitate the energy sector, stimulate private sector development, and promote sustainable development in the Regions through a focus on infrastructure, trade and transport and agriculture.

The PRSP and the Strategic Vision served as the foundation from which the Government launched a broad consultative effort to develop the MCC Proposal.

(b) Consultative Process. Building on the PRSP process, the consultative process for developing the MCC Proposal involved several steps. Shortly after being informed of its eligibility for MCA funding, the Government developed a list of priority areas for economic development and began soliciting feedback from a wide variety of civil society actors. MCA-Georgia organized eight community roundtable sessions, including one in each of Georgia's five regions, one with the country's business community, and two with a cross-section of non-governmental organizations (NGOs). MCA-Georgia also sponsored public comment boxes, television advertisements, radio and television talk show programs, brochures and a documentary film. This public outreach generated 2,100 calls, 1,500 web hits, 500 walk-ins, and 400 e-mails and ultimately resulted in 531 specific proposals and more than 140 written inquiries.

Following initial outreach, MCA-Georgia staff prioritized specific proposals on the basis of their likely economic impact, role in reducing poverty and connection to policy reform goals. MCA-Georgia found a strong consensus in favor of interventions in agriculture and food processing, infrastructure and tourism, areas around which an initial Proposal was then developed.

MCA-Georgia posted an abridged proposal on its website, appointed a public outreach officer and continued to hold public outreach sessions. In March 2005, MCA-Georgia held a public meeting for small and medium enterprises with the Georgian Federation of Businesses, then reached out in April to explain its proposal for the Samtskhe-Javakheti road, gas supply pipeline, and the regional infrastructure development facility directly to stakeholders in those project activities.

2. Overview.

(a) Program Objectives. The Program involves a series of specific and complementary interventions that the Parties expect will achieve the Program Objective of increased economic growth and poverty reduction in the regions of Georgia and the Project Objectives of rehabilitating key regional infrastructure and developing enterprises in the Regions.

(b) Projects. The Parties have identified, for each Objective, Projects that they intend for the Government to implement, or cause to be implemented, using MCC Funding, each of which is described in the Schedules to this Program Annex. The Schedules to this Program Annex identify the activities that will be undertaken in furtherance of each Project (each, a "***Project Activity***"). Notwithstanding anything to the contrary in this Compact, the Parties may agree to amend, terminate or suspend these Projects or Project Activities or create a new project by written agreement signed by the Principal Representative of each Party without amending this Compact; *provided, however*, any such amendment of a Project or Project Activity or creation of a new project is (i) consistent with the Objectives; (ii) does not cause the amount of MCC Funding to exceed the aggregate amount specified in Section 2.1(a) of this Compact; (iii) does not cause the Government's responsibilities or contribution of resources to be less than specified in Section 2.2 of this Compact or elsewhere in this Compact; and (iv) does not extend the Compact Term.

(c) Beneficiaries. The intended beneficiaries of each Project are described in the respective Schedule to this Program Annex to the extent identified as of the date hereof. The intended beneficiaries shall be identified more precisely during the initial phases of the implementation of the Program. The Parties shall agree upon the description of the intended beneficiaries of the Program, including publishing such description on the website operated by MCA-Georgia.

(d) Civil Society. Civil society will participate in overseeing the implementation of the Program through its representation through an Observer to the Supervisory Board and through the role of the Stakeholders' Committee, as provided in Section 3(d) of this Program Annex. In addition, the Work Plans and/or Procurement Plans for each Project shall note the extent to which civil society will have a role in the implementation of a particular Project Activity.

(e) Monitoring and Evaluation. Annex III of this Compact generally describes the plan to measure and evaluate progress toward achievement of the Objectives of this Compact (the "*M&E Plan*"). As outlined in the Disbursement Agreement and other Supplemental Agreements, continued payment of MCC Funding under this Compact will be contingent on successful achievement of targets set forth in the M&E Plan.

3. Implementation Framework.

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

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

(b) Government. The Government shall promptly take all necessary and appropriate actions to carry out the Government Responsibilities and other obligations or responsibilities of the Government under and in furtherance of this Compact, including undertaking or pursuing such legal, legislative or regulatory actions, procedural changes and contractual arrangements as may be necessary or appropriate to achieve the Objectives, to successfully implement the Program, and to establish a legal entity, in a form mutually agreeable to the Parties, MCA-Georgia, which shall be responsible for the oversight and management of the implementation of this Compact on behalf of the Government. The Government shall ensure that MCA-Georgia is duly authorized and sufficiently organized, staffed and empowered to fully carry out the Designated Rights and Responsibilities. Without limiting the generality of the preceding sentence, MCA-Georgia shall be organized, and have such roles and responsibilities, as described in Section 3(d) of this Program Annex and as provided in the Governance Agreement and any Governing Documents and in applicable law and in governance regulations promulgated in furtherance thereof (“**Governance Regulations**”), which shall be in a form and substance satisfactory to MCC; *provided, however*, the Government may, subject to MCC approval, carry out any of the roles and responsibilities designated to be carried out by MCA-Georgia and described in Section 3(d) of this Program Annex or elsewhere in this Program Annex, applicable law, the Governance Regulations, or any Supplemental Agreement prior to and during the initial period of the establishment and staffing of MCA-Georgia, but in no event longer than the earlier of (i) the formation of the Supervisory Board and the engagement of each of the Officers and (ii) six months from the Entry into Force, unless otherwise agreed by the Parties in writing.

(c) MCC.

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

(1) MCC Disbursements;

(2) The Financial Plan and any amendments and supplements thereto;

(3) Agreements (i) between the Government and MCA-Georgia, (ii) between the Government, MCA-Georgia or other Government Affiliate, on the one hand, and any Provider or Affiliate of a Provider, on the other hand, which require such MCC approval under applicable law, the Governance Regulations, the Procurement Agreement, Procurement Guidelines or any Supplemental Agreement, or (iii) in which the Government, MCA-Georgia or other Government Affiliate appoints, hires or engages any of the following in furtherance of this Compact:

(A) Auditor;

(B) Fiscal Agent;

- (C) Bank;
- (D) Procurement Agent;
- (E) Outside Project Manager;
- (F) Implementing Entity; and
- (G) Director, Observer, Officer and/or other key employee or contractor of MCA-Georgia, including any compensation for such person.

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

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

(5) Any agreement that is (i) not at arm’s length or (ii) with a party related to the Government, including MCA-Georgia, or any of their respective Affiliates;

(6) Any Re-Disbursement (each, a “**Material Re-Disbursement**”) that requires such MCC approval under applicable law, the Governance Regulations, the Procurement Agreement, Procurement Guidelines or any Supplemental Agreement;

(7) Terms of reference for the procurement of goods, services or works that require such MCC approval under applicable law, the Governance Regulations, the Procurement Agreement, Procurement Guidelines or any Supplemental Agreement (each, a “**Material Terms of Reference**”);

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

(9) Any pledge of any MCC Funding or any Program Assets or any guarantee (directly or indirectly) of any indebtedness (each, a “**Pledge**”);

(10) Any decree, legislation, contractual arrangement or other document establishing or governing MCA-Georgia, including the Governance Regulations, and any disposition (in whole or in part), liquidation, dissolution, winding up, reorganization or other change of (A) MCA-Georgia, including any revocation or modification of, or supplement to, any decree, legislation, contractual arrangement or other document establishing MCA-Georgia, or (B) any subsidiary or Affiliate of MCA-Georgia;

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

(12) Formation or acquisition of any subsidiary (direct or indirect) or other Affiliate of MCA-Georgia;

(13) Any (A) change of a Director, Observer, Officer or other key employee or contractor of MCA-Georgia, or in the composition of the Supervisory Board, including approval of the nominee for Chair, or (B) filling of any vacant seat of the Chair, a Director or an Observer or vacant position of an Officer or other key employee or contractor of MCA-Georgia;

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

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

(16) Any other activity, agreement, document or transaction requiring the approval of MCC in this Compact, applicable law, the Governance Regulations, the Procurement Agreement, Procurement Guidelines, the Disbursement Agreement, or any other Supplemental Agreement between the Parties.

The Chair of the Supervisory Board (the “*Chair*”) and/or the Chief Executive Officer of MCA-Georgia (the “*Chief Executive Officer*”) or other designated officer, as provided in applicable law and the Governance Regulations, shall certify any documents or reports delivered to MCC in satisfaction of the Government’s reporting requirements under this Compact or any Supplemental Agreement between the Parties (the “*Compact Reports*”).

(ii) MCC shall have the authority to exercise its approval rights set forth in this Section 3(c) in its sole discretion and independent of any participation or position taken by the MCC Representative at a meeting of the Supervisory Board. MCC retains the right to revoke its approval of a matter if MCC concludes that its approval was issued on the basis of incomplete, inaccurate or misleading information furnished by the Government or MCA-Georgia.

(d) MCA-Georgia.

(i) General. Unless otherwise agreed by the Parties in writing, MCA-Georgia shall be responsible for the oversight and management of the implementation of this Compact. MCA-Georgia shall be governed by the terms and conditions set forth in applicable law and in the Governance Regulations based on the following principles:

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

subsidiaries (direct or indirect) without the prior written consent of the Government and MCC;
and

(2) Unless otherwise agreed by the Parties in writing, MCA-Georgia shall consist of (A) an independent board of directors (the “**Supervisory Board**”) to oversee MCA-Georgia’s responsibilities and obligations under this Compact (including any Designated Rights and Responsibilities), (B) a management team (the “**Management Team**”) to have overall management responsibility for the implementation of this Compact, and (C) a Stakeholders’ Committee to provide feedback on Program activities to the Supervisory Board and the Management Team.

(ii) Supervisory Board.

(1) Formation. The Government shall ensure that the Supervisory Board shall be formed, constituted, governed, maintained and operated in accordance with applicable law and the terms and conditions set forth in this Section 3(d), the Governance Regulations and relevant Supplemental Agreements. As a condition for Entry into Force, the Government shall have amended the charter of MCA-Georgia, to the satisfaction of MCC, to provide for waiver of the control of the State Controlling Body over the management and operations of MCA-Georgia. The charter of MCA-Georgia shall also be amended to reflect the composition of the Supervisory Board.

(2) Composition. Unless otherwise agreed by the Parties in writing, the Supervisory Board shall consist of (i) eight (8) voting members (the “**Voting Members**”), (ii) the Chief Executive of MCA-Georgia, who shall be a non-voting member, and (iii) two (2) non-voting observers (the “**Observers**”), each of which must be acceptable to MCC, taking into consideration appropriate gender and ethnic representation.

(A) The Voting Members shall be as follows:

- (i) Three (3) members of the executive branch of Government representing Ministries of the Government (one of whom shall be the Prime Minister);
- (ii) One (1) member who shall be the head of the President’s administration (together with the three members listed in (i) above, the “**Government Board Members**”);
- (iii) Two (2) members of Parliament (“**Parliament Board Member**”);
- (iv) One (1) representative of a civil society organization; and

- (v) One (1) representative from the business sector.

The following provisions apply to the Voting Members:

- a. The Voting Members may, by a majority vote, expand the Supervisory Board with the approval of MCC;
- b. Each Government Board Member may be replaced by another government official, subject to approval by the Government and MCC;
- c. Subject to the Governance Agreement, the Parties contemplate that the Prime Minister shall initially fill the seat of Chair; and
- d. Each Government Board Member position shall be filled by the individual then holding the office identified and such individuals shall serve in their capacity as the applicable Government official and not in their personal capacity. In the event that a Government Board Member or a Parliament Board Member is unable to participate in a meeting of the Supervisory Board such member's principal deputy or equivalent (or in the case of a Parliament Board Member, another member of Parliament) may participate in the member's stead.

(B) The Observers shall be:

- (i) A representative (the "***MCC Representative***") appointed by MCC; and
- (ii) One representative of civil society nominated by the Stakeholders' Committee (the "***Civil Observer***"). The initial Civil Observer shall serve for a period of one year from the date of the first Supervisory Board meeting after the Entry into Force, and on each anniversary thereof, the Stakeholders' Committee shall appoint another of its members to serve as a Civil Observer for the subsequent year. The Civil Observer may nominate an alternate from among the Stakeholders' Committee to attend one

or more meetings of the Supervisory Board in the event that the Civil Observer is unable to attend.

The following provision applies to the Observers:

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

(3) Role and Responsibilities.

- (A) The Supervisory Board shall oversee the overall implementation of the Program and the performance of the Designated Rights and Responsibilities.
- (B) Certain actions may be taken, and certain agreements and other documents may be executed and delivered, by MCA-Georgia only upon the approval and authorization of the Supervisory Board as provided under applicable law and in the Governance Regulations, including each MCC Disbursement Request, selection or termination of certain Providers, any component of the Implementation Plan, certain Re-Disbursements and certain terms of reference.
- (C) The Chair shall certify the approval by the Supervisory Board of all Compact Reports or any other documents or reports from time to time delivered to MCC by MCA-Georgia (whether or not such documents or reports are required to be delivered to MCC), and that such documents or reports are true, accurate and complete.
- (D) Without limiting the generality of the Designated Rights and Responsibilities, and subject to MCC's contractual rights of approval as set forth in Section 3(c) of this Program Annex or elsewhere in this Compact or any relevant Supplemental Agreement, the Supervisory Board shall have the exclusive authority for all actions defined for the Supervisory Board under applicable law and in the Governance Regulations and which are expressly

designated therein as responsibilities that cannot be delegated further.

(4) Meetings. The Supervisory Board shall hold at least quarterly meetings as well as such other periodic meetings or subcommittee meetings as may be necessary from time to time.

(5) Indemnification of Civil Observer; MCC Representative. The Government shall ensure, at the Government's sole cost and expense, that appropriate insurance is obtained and appropriate indemnifications and protections are provided, acceptable to MCC, to ensure that Civil Observers shall not be held personally liable for the actions or omissions of the Supervisory Board. Pursuant to Section 5.5 and Section 5.8 of this Compact, the Government and MCA-Georgia shall hold harmless the MCC Representative for any liability or action arising out of the MCC Representative's role as a non-voting observer on the Supervisory Board. The Government hereby waives and releases all claims related to any such liability. In matters arising under or relating to the Compact, the MCC Representative is not subject to the jurisdiction of the courts or other body of Georgia.

(iii) Management Team. Unless otherwise agreed in writing by the Parties, the Management Team shall report, through the Chief Executive Officer or other Officer as designated in the Governance Agreement, directly to the Supervisory Board and to the Stakeholders' Committee, and shall have the composition, roles and responsibilities described below and set forth more particularly in the Governance Agreement and any Governing Document.

(1) Composition. The Government shall ensure that the Management Team shall be composed of qualified experts from the public or private sectors, including such offices and staff as may be necessary to carry out effectively its responsibilities, each with such powers and responsibilities as set forth in the Governance Agreement, any Governing Document, and from time to time in any Supplemental Agreement between the Parties, including without limitation the following: (i) Chief Executive Officer, (ii) a deputy director, (iii) five project directors, (iv) an environment and social impact director, (v) chief financial officer, (vi) a procurement director, (vii) a public outreach director, (viii) a monitoring and evaluation director, and (ix) a general counsel. The Management Team will be supported by an office manager and appropriate administrative and support personnel.

(2) Appointment of Management Team. Unless otherwise specified in the Governance Agreement or any Governing Documents, the Management Team shall be selected and hired by the Chief Executive Officer after an open and competitive recruitment and selection process, which appointment shall be subject to the approval of the Supervisory Board and MCC.

(3) Role and Responsibilities.

(A) The Management Team shall assist the Supervisory Board in overseeing the implementation of the Program and shall have principal responsibility (subject to the direction and

oversight of the Supervisory Board and subject to MCC's contractual rights of approval as set forth in Section 3(c) of this Program Annex or elsewhere in this Compact or any relevant Supplemental Agreement) for the overall management of the implementation of the Program.

- (B) The Management Team shall report to and meet with, on a quarterly basis, the Stakeholders' Committee, and shall include a report on the feedback provided by the Stakeholders' Committee and the ways in which that feedback has informed the activities of MCA-Georgia in the next following quarterly report to the Supervisory Board.
- (C) Without limiting the foregoing general responsibilities or the generality of Designated Rights and Responsibilities that the Government may designate MCA-Georgia, the Management Team shall develop the components of the Implementation Plan, oversee the implementation of the Projects, manage and coordinate monitoring and evaluation, maintain internal accounting records, conduct and oversee certain procurements, and such other responsibilities as set out in the Governance Agreement or delegated to the Management Team by the Supervisory Board from time to time.
- (D) Appropriate Officers shall have the authority to contract on behalf of MCA-Georgia under any procurement under the Program.
- (E) The Management Team shall have the obligation and right to approve certain actions and documents or agreements, including certain Re-Disbursements, MCC Disbursement Requests, Compact Reports, certain human resources decisions, and certain procurement actions, as provided in the Governance Agreement.

(iv) Stakeholders' Committee.

(1) Composition. The Government shall ensure the establishment of a stakeholders' committee (the "*Stakeholders' Committee*") consisting of at least eight (8) members, taking into consideration appropriate gender and ethnic representation, unless otherwise agreed by the Parties, and comprised of the following individuals:

- (A) Three (3) representatives of civil societies, (one of whom shall come from an organization in the Samtske-Javakheti region and one of whom shall come from an environmental

organization) identified through a process that provides widespread notice of the formation of the Stakeholders' Committee;

- (B) The head of the Agrarian Committee of Parliament;
- (C) The head of the Road Department of the Ministry of Economic Development;
- (D) One (1) senior representative from the Ministry of the Environment; and
- (E) Two (2) senior representatives of the business community, one of which should have experience in agribusiness and one of which should have experience in the financial sector.

Each Stakeholders' Committee member may appoint an alternate, approved by majority vote of the other members, to serve when he or she is unable to participate in a meeting of the Stakeholders' Committee.

(2) Formation. The Government shall take all action necessary and appropriate actions to ensure the Stakeholders' Committee is established consistent with this Schedule and as otherwise specified in the Governance Agreement or otherwise agreed in writing by the Parties. The composition of the Stakeholders' Committee may be adjusted by agreement of the Parties from time to time to ensure, among other things, a cross-section representative of the intended beneficiaries. The number of members of the Stakeholders' Committee may be increased, but in no event to more than twelve (12) members, upon the majority vote of the then existing members and the vacancies created by such increase shall be filled by the majority vote of the then existing members, subject to the approval of MCA-Georgia and MCC.

(3) Role and Responsibilities.

- (A) The Stakeholders' Committee shall be a mechanism to provide representatives of the private sector, civil society and local and regional governments the opportunity to provide advice and input to MCA-Georgia regarding the implementation of the Compact.
- (B) During quarterly meetings of the Stakeholders' Committee, the Management Team shall present an update on the implementation of this Compact and progress towards achievement of the Objectives. The Management Team shall provide copies of the M&E Plan, the Implementation Plan, and reports on the Projects and Project Activities.

The Stakeholders' Committee will have an opportunity to regularly provide to the Chief Executive Officer and to the Supervisory Board its views and recommendations. The Supervisory Board may, in response to the Stakeholders' Committee, require the Management Team to provide such other information and documents as the Supervisory Board deems advisable.

- (C) The Management Team shall include in its quarterly reports to the Supervisory Board, a report on the Stakeholders' Committee meetings that occurred during the period covered by such report.
- (D) The Stakeholders' Committee shall appoint one of their members to be the secretary to, among other things, take official minutes of the meetings of the Stakeholders' Committee.

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

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

(e) Outside Project Manager. MCA-Georgia shall have the authority to engage qualified entities to serve as outside project managers (each, an "***Outside Project Manager***") in the event that it is advisable to do so for the proper and efficient day-to-day management of a Project; *provided, however*, that the appointment or engagement of any Outside Project Manager after a competitive selection process shall be subject to approval by the Supervisory Board and MCC prior to such appointment or engagement. Upon Supervisory Board approval, MCA-Georgia may delegate, assign, or contract to the Outside Project Managers such duties and responsibilities as it deems appropriate with respect to the management of the Implementing Entities and the implementation of the specific Projects; and *provided, further*, that the Management Team shall remain accountable for those duties and responsibilities and all reports delivered by the Outside Project Manager notwithstanding any such delegation, assignment or contract and the Outside Project Manager shall be subject to the oversight of the Fiscal Agent and Procurement Agent. The Supervisory Board may determine that it is advisable to engage one or more Outside Project Managers and instruct MCA-Georgia and, where appropriate, a Procurement Agent to commence and conduct the competitive selection process for such Outside Project Manager. The key provisions relating to Outside Project Managers for certain of the Project Activities are set out in the Schedule to this Annex.

(f) Implementing Entities. Subject to the terms and conditions of this Compact and any other Supplemental Agreement between the Parties, MCA-Georgia may provide MCC Funding, (directly or indirectly) through an Outside Project Manager, to one or more Government Affiliates or to one or more nongovernmental or other public- or private-sector entities or persons to implement and carry out the Projects or any other activities to be carried out in furtherance of this Compact (each, an “**Implementing Entity**”). The Government shall ensure that MCA-Georgia (or the appropriate Outside Project Manager) enters into an agreement with each Implementing Entity, in form and substance satisfactory to MCC, that sets forth the roles and responsibilities of such Implementing Entity and other appropriate terms and conditions, such as payment of the Implementing Entity (the “**Implementing Entity Agreement**”). An Implementing Entity shall report directly to MCA-Georgia or the Outside Project Manager, as designated in the applicable Implementing Entity Agreement or as otherwise agreed by the Parties. The key provisions relating to Implementing Entity Agreements for certain of the Project Activities are set out in the Schedules to this Annex.

(g) Fiscal Agent. The Government shall ensure that MCA-Georgia engages one or more fiscal agents (each, a “**Fiscal Agent**”), who shall be responsible for, among other things, (i) ensuring and certifying that Re-Disbursements are properly authorized and documented in accordance with established control procedures set forth in the Disbursement Agreement, the Fiscal Agent Agreement and other relevant Supplemental Agreements, (ii) instructing a Bank to make Re-Disbursements from a Permitted Account, following applicable certification by the Fiscal Agent, (iii) providing applicable certifications for MCC Disbursement Requests, (iv) maintaining proper accounting of all MCC Funding financial transactions, and (v) producing reports on MCC Disbursements and Re-Disbursements (including any requests therefore) in accordance with established procedures set forth in the Disbursement Agreement, the Fiscal Agent Agreement or any other relevant Supplemental Agreements. Upon the written request of MCC, the Government shall ensure that MCA-Georgia terminates a Fiscal Agent, without any liability to MCC, and the Government shall ensure that MCA-Georgia engages a new Fiscal Agent, subject to the approval by the Supervisory Board and MCC. The Government shall ensure that MCA-Georgia enters into an agreement with each Fiscal Agent, in form and substance satisfactory to MCC, that sets forth the roles and responsibilities of the Fiscal Agent and other appropriate terms and conditions, such as payment of the Fiscal Agent (“**Fiscal Agent Agreement**”).

(h) Auditors and Reviewers. The Government shall ensure that MCA-Georgia carries out the Government’s audit responsibilities as provided in Sections 3.8(d), (e) and (f), including engaging one or more auditors (each, an “**Auditor**”) required by Section 3.8(d). As requested by MCC in writing from time to time, the Government shall ensure that MCA-Georgia shall also engage an independent (i) reviewer to conduct reviews of performance and compliance under this Compact pursuant to Section 3.8(f), which reviewer shall have the capacity to (1) conduct general reviews of performance or compliance, (2) conduct environmental audits, and (3) conduct data quality assessments in accordance with the M&E Plan, as described more fully in Annex III, and/or (ii) evaluator to assess performance as required under the M&E Plan (each, a “**Reviewer**”). MCA-Georgia shall select the Auditor(s) or Reviewers in accordance with the Governance Regulations or relevant Supplemental Agreement. The Government shall ensure that MCA-Georgia enters into an agreement with each Auditor or Reviewer, in form and substance satisfactory to MCC, that sets forth the roles and responsibilities of the Auditor or Reviewer with respect to the audit, review or evaluation, including access rights, required form

and content of the applicable audit, review or evaluation and other appropriate terms and conditions such as payment of the Auditor or Reviewer (the “**Auditor / Reviewer Agreement**”). In the case of a financial audit required by Section 3.8(f), such Auditor / Reviewer Agreement shall be effective no later than 120 days prior to the end of the relevant fiscal year or other period to be audited; *provided, however*, if MCC requires concurrent audits of financial information or reviews of performance and compliance under this Compact, then such Auditor / Reviewer Agreement shall be effective no later than a date agreed by the Parties.

(i) Procurement Agent. If requested by MCC, the Government shall ensure that MCA-Georgia engages one or more procurement agents (each, a “**Procurement Agent**”) to carry out and/or certify specified procurement activities in furtherance of this Compact on behalf of the Government, MCA-Georgia, any Outside Project Manager or Implementing Entity. The role and responsibilities of such Procurement Agent and the criteria for selection of a Procurement Agent shall be as set forth in the applicable Implementation Letter or Supplemental Agreement. The Government shall ensure that MCA-Georgia enters into an agreement with the Procurement Agent, in form and substance satisfactory to MCC, that sets forth the roles and responsibilities of the Procurement Agent with respect to the conduct, monitoring and review of procurements and other appropriate terms and conditions, such as payment of the Procurement Agent (the “**Procurement Agent Agreement**”). Any Procurement Agent shall adhere to the procurement standards set forth in the Procurement Agreement and Procurement Guidelines and ensure procurements are consistent with the procurement plan (the “**Procurement Plan**”) adopted by MCA-Georgia, which plan shall forecast the upcoming six month procurement activities and be updated every six months.

4. Finances and Fiscal Accountability.

(a) Financial Plan.

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

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

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

(iv) Modifications to Financial Plan. Notwithstanding anything to the contrary in this Compact, MCA-Georgia may amend or supplement the Financial Plan or any component thereof without amending this Compact, provided any material amendment or supplement has been approved by MCC and is otherwise consistent with the requirements of this Compact and any relevant Supplemental Agreement between the Parties.

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

(c) Fiscal Accountability Plan. By such time as specified in the Disbursement Agreement or as otherwise agreed by the Parties, MCA-Georgia shall adopt as part of the Implementation Plan a fiscal accountability plan that identifies the principles and mechanisms to ensure appropriate fiscal accountability for the use of MCC Funding provided under this Compact, including the process to ensure that open, fair, and competitive procedures will be used in a transparent manner in the administration of grants or cooperative agreements and the procurement of goods and services for the accomplishment of the Objectives (the “**Fiscal Accountability Plan**”). The Fiscal Accountability Plan shall set forth, among other things, requirements with respect to the following matters: (i) funds control and documentation; (ii) separation of duties and internal controls; (iii) accounting standards and systems; (iv) content and timing of reports; (v) policies concerning public availability of all financial information; (vi) cash management practices; (vii) procurement and contracting practices, including timely payment to vendors; (viii) the role of independent auditors; and (ix) the roles of fiscal agents and procurement agents.

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

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

(ii) If necessary, an interest-bearing local currency of Georgia account (the “**Local Account**”) at the commercial bank to which the Fiscal Agent may authorize transfer from any U.S. Dollar Permitted Account for the purpose of making Re-Disbursements payable in local currency; and

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

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

(e) Currency Exchange. The Bank shall convert MCC Funding to the currency of Georgia at a rate to which the Parties mutually agree with the Bank in the Bank Agreement.

5. Transparency; Accountability.

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

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

(b) Considers as a factor in its decision-making the recommendations of the Observers;

(c) Develops and maintains a website (the “**MCA-Georgia Website**”) in a timely, accurate and appropriately comprehensive manner, such MCA-Georgia Website to include postings of information and documents in English and Georgian and other languages where relevant; and

(d) Posts on the MCA-Georgia Website and otherwise makes publicly available from time to time the following documents or information:

(i) The Compact and all Compact Reports;

- Committee;
- (ii) All minutes of the meetings of the Supervisory Board and Stakeholders’
- (iii) The M&E Plan, as amended from time to time, along with periodic reports on Program performance;
- (iv) All relevant Environmental Impact Assessments and supporting documents;
- (v) The Compact and all Compact Reports;
- (vi) All audit reports by an Auditor and any periodic reports or evaluations by a Reviewer;
- (vii) Disbursement Agreement, as amended from time to time;
- (viii) All procurement agreements (including policies, standard documents, procurement plans, and required procedures), requests for proposals, and notices of awarded contracts; and
- (ix) A copy of any legislation and other documents related to the formation, organization and governance of MCA-Georgia, including the Governance Regulations, and any amendments thereto.

SCHEDULE 1 to ANNEX I

REGIONAL INFRASTRUCTURE REHABILITATION PROJECT

This Schedule 1 describes and summarizes the key elements of a regional infrastructure rehabilitation Project that the Parties intend to implement in furtherance of the Key Regional Infrastructure Rehabilitated Objective (the “*Regional Infrastructure Rehabilitation Project*”). Additional details regarding the implementation of the Regional Infrastructure Rehabilitation Project will be included in the Implementation Plan and in relevant Supplemental Agreements.

1. Background.

Dilapidated infrastructure, especially the poor condition of the roads, unreliable gas and electricity supply, and deteriorating municipal services, has been consistently identified through the consultative process as a major impediment to economic growth in Georgia. The Government recognizes the importance of adequate and reliable infrastructure services to support manufacturing and commerce, for improved health and the direct impacts on well-being; hence, for economic development more generally.

(a) Samtskhe-Javakheti Road.

The Samtskhe-Javakheti region is one of the poorest regions of Georgia, with a per capita income significantly below the national average and a high dependency on subsistence agriculture. In southern Georgia, deterioration of the roads has cut the region of Samtskhe-Javakheti off from the rest of the country. With high costs to transport produce out of the region, regional farmers are unable to compete with farmers from other regions. Moreover, the poor road infrastructure also creates significant obstacles to importing high quality agricultural inputs and other goods. Rehabilitation of roads in the Samtskhe-Javakheti area is expected to foster economic development in Samtskhe-Javakheti through (i) increasing exports of agricultural products from the region; (ii) increasing social, political and economic integration of the local population in Samtskhe-Javakheti, including ethnic minorities, with the rest of Georgia; (iii) expanding international trade, by providing a more direct transport link from Tbilisi and eastern and southern Georgia to Turkey and by rehabilitating the existing road from Ninotsminda to Armenia; (iv) developing the tourism potential of Vardzia, a World Heritage site; and (v) complementing other road development projects.

(b) Energy Rehabilitation.

Georgia’s main trunkline for the transmission of natural gas is the north-south gas pipeline system (the “*Pipeline*”). The Pipeline receives gas at Georgia’s northern border with Russia, transports gas to Georgian wholesale customers and transits gas to Armenia. In order to secure additional sources of supply for domestic use in Georgia, plans are also underway for the Pipeline to transport gas from Azerbaijan.

Following the break-up of the Soviet Union and with the decline of the Georgian economy, the Pipeline has not been properly maintained. As a consequence, over the past five years, gas losses have amounted to 5% to 9% annually. In addition, the Pipeline suffers from several flaws that put it in jeopardy of catastrophic failure, potentially cutting off the main source of heating

for some 300,000 households and over 5,000 businesses in 46 cities and 230 villages throughout the country, as well as the source of fuel to generate approximately 30% to 35% of the electricity consumed in the country. The pipeline operating company, Georgia Gas International Corporation (“**GGIC**”), has incurred substantial commercial losses to a point where maintenance is no longer financially possible. The Pipeline has degraded to such an extent that it no longer provides an acceptable level of supply security for Georgia, hindering further economic development. The Pipeline requires a comprehensive rehabilitation program.

The Pipeline plays an important but only a partial role in the country’s overall energy balance. In order to support the Ministry of Energy to further develop and implement its energy sector strategy, the Government requires immediate and expert advice in a number of areas.

(c) Regional Infrastructure Development. In the Regions, many governing bodies have been unable to deliver safe, reliable, affordable and accessible public and utility services. It is estimated that more than half the water and sewage systems are beyond their service lives, and similar problems face other services. Local and municipal governments need funding for improvements in regional infrastructure, particularly in water supply, sanitation, irrigation, municipal gasification, roads and solid waste.

2. Summary of Project Activities.

The objective of the Regional Infrastructure Rehabilitation Project is to rehabilitate key regional infrastructure. The Regional Infrastructure Rehabilitation Project includes three Project Activities.

- Samtskhe-Javakheti Road Project Activity (the “**Road Rehabilitation Activity**”). The objective of the Road Rehabilitation Activity is improved transportation for regional trade. The Activity will rehabilitate or construct approximately 245 km of the main road that traverses the Samtskhe-Javakheti region and provide technical assistance for development of a road master plan, maintenance planning and contracting.
- Energy Rehabilitation Project Activity (the “**Energy Rehabilitation Activity**”). The objective of the Energy Rehabilitation Activity is increased reliability of energy supply and reduced losses. The Activity will rehabilitate the Pipeline and provide advisory service to the Government to support the Ministry of Energy to further develop and implement its energy sector strategy.
- Regional Infrastructure Development Project Activity (the “**Regional Infrastructure Development Activity**”). The objective of the Regional Infrastructure Development Activity is improved regional and municipal service delivery. The Activity will provide grants to fund regional and municipal physical infrastructure such as water supply, sanitation, irrigation, municipal gasification, roads and solid waste.

The M&E Plan (described in Annex III) will set forth anticipated results and, where appropriate, regular benchmarks at the Regional Infrastructure Rehabilitation Project level and at each Project Activity level that may be used to monitor implementation progress. Performance against these

benchmarks and the overall impact of the Regional Infrastructure Rehabilitation Project and each Project Activity will be assessed and reported at regular intervals to be specified in the M&E Plan or otherwise agreed by the Parties from time to time. The Parties expect that additional benchmarks will be identified during implementation of each Project Activity. Estimated amounts of MCC Funding for each Project Activity within the Regional Infrastructure Rehabilitation Project are identified in Annex II of this Compact. Conditions precedent to each Project Activity and sequencing of the Project Activities shall be set forth in the Disbursement Agreement or other relevant Supplemental Agreements.

(a) Road Rehabilitation Activity.

(i) Sub-Activities. MCC Funding will be used to:

(1) Rehabilitate or construct, as applicable, the road sections set out below (the “**Project Road**”), as well as (i) rehabilitate and improve existing bridges along the Project Road alignment, (ii) improve existing drainage facilities along the road alignment, (iii) provide road safety features, and (iv) provide local access and ancillary structures:

(A) Teleti-Koda-Tsalka;

(B) Tsalka – Ninotsminda;

(C) Akhalkalaki – Ninotsminda – the Armenian border, and connection to the Turkish border; and

(D) Khertvisi to Vardzia.

(2) Provide technical assistance to the Road Department of the Ministry of Economic Development (“**RDMED**”) for the formulation of a road master plan to prioritize investments in the road sector and for maintenance planning and contracting.

(ii) Outside Project Manager. MCC Funding will be used to engage, through a competitive international tender process acceptable to MCC, a project management firm as an Outside Project Manager to manage and supervise the Road Rehabilitation Activity.

(b) Energy Rehabilitation Activity.

(i) Sub-Activities. MCC Funding will be used to:

(1) Rehabilitate the Pipeline by:

(A) Inspecting the Pipeline to identify weaknesses and defects and formulate a prioritized rehabilitation plan addressing the security and integrity of the Pipeline;

- (B) Repairing the most urgent defects on a priority basis to bring the Pipeline back to an acceptable level of technical integrity for the required throughput capacity; and
- (C) Repairing leaks in the Pipeline to reduce technical losses.

(2) Engage one or more firms (the “*Energy Advisors*”) to support the Ministry of Energy to further develop and implement its energy sector strategy, including, but not limited to, providing technical and feasibility studies essential for investment in regional transmission, gas-fired generation, and hydropower.

(ii) Outside Project Manager. MCC Funding will be used to engage, through a competitive international tender process acceptable to MCC, a project management firm as an Outside Project Manager to manage and supervise the rehabilitation of the Pipeline.

(c) Regional Infrastructure Development Activity.

(i) Sub-Activities. MCC Funding will be used to make grants (“*RID Grants*”) to regional governments, local governments, local self-government units, municipal utilities and the central government (to the extent that it owns or operates assets in the Regions) (each an “*Eligible Governmental Entity*”) for the following types of projects (“*RID Projects*”):

(1) For investment to improve and/or develop regional and/or municipal public infrastructure (including through cooperation with international and/or regional financial institutions) primarily in the water supply, sanitation, irrigation, municipal gasification, roads and solid waste sectors. Other sectors may be considered on a case-by-case basis; and

(2) For technical assistance to ensure sustainability of newly improved or installed infrastructure facilities by (A) addressing issues including tariff design, tariff collection, metering and general utility operations training in order to ensure adequate funding for operation and maintenance of the installed/rehabilitated infrastructure; and (B) building technical capacity of owners of the new or rehabilitated infrastructure assets.

(ii) RID Grant Size. MCC Funding for each RID Grant will be allocated in an amount not to exceed USD \$7,000,000, with the exception of RID Grants for technical assistance for which the maximum amount may not exceed USD \$500,000, except as may be otherwise agreed by MCC. With the exception of grants for technical assistance, the minimum amount of each RID Grant will be USD \$500,000. Pooling of similar and contiguous projects will be allowed to meet the minimum allowable grant value. In instances where MCC Funding is used in parallel with other international and regional financial institutions, the MCC Funding portion shall not exceed the lesser of 35% of the total cost, or USD \$7,000,000 per project.

(iii) RID Project Selection Criteria. To be eligible for MCC Funding, each proposal for a RID Grant must:

(1) Be submitted by an Eligible Governmental Entity and clearly show contribution to the economic and social development in the Regions;

(2) Be a priority for the Eligible Governmental Entity, the targeted area and the local population, as evidenced by citizen input through public hearings and/or other appropriate mechanisms for identifying needs and priorities;

(3) Be restricted to rehabilitation and repair of existing service infrastructure and/or development of new infrastructure required for service delivery. No funding will be provided for commercial enterprises, land acquisition, working capital or other operating budget support, or operations and maintenance;

(4) Outline a technically feasible, least cost approach to addressing a specific problem or need;

(5) Be projected to have a minimum real economic rate of return of not less than 15% or yield benefits that, using an agreed evaluation methodology acceptable to MCC, can be quantified or otherwise identified with an acceptable degree of certainty, as in the case of technical assistance projects;

(6) Be supported by an operations and maintenance plan and budget for a period of at least five years after completion of such RID Project;

(7) Be accompanied by a funding plan demonstrating that the ongoing costs of operations and maintenance for the proposed RID Project will be met:

(A) In whole or in part from user fees or similar charges generated by the proposed RID Project; and/or

(B) In whole or in part by the sponsoring Eligible Governmental Entity from its budget; and/or

(C) In whole or in part by the Government from its budget as set out in a commitment letter from the Government to the Eligible Governmental Entity or other satisfactory documentation.

The Eligible Governmental Entity may apply for technical assistance to assist it to satisfy this criterion;

(8) Be in full compliance with all relevant provisions of Georgian law and regulations, including environmental legislation;

(9) Be in compliance with MCC Environmental Guidelines;

(10) Be in compliance with MCC limitations on the use of funding; and

(11) Be in compliance with the operations manual (the “*RID Operations Manual*”) acceptable to MCC.

(iv) Implementing Entity Arrangement. The Municipal Development Fund (“*MDF*”), the entity currently serving as the project implementation unit for the World Bank’s Municipal Development and Decentralization Project II (“*MDDPII*”), will implement the Regional Infrastructure Development Activity. MCA-Georgia will enter into an Implementing Entity Agreement, called a Collaboration Agreement, with MDF through which it will retain approval rights necessary for it to ensure compliance with limitations on the use of MCC Funding, including approval of the RID Operations Manual. MCA-Georgia will also enter into a separate Service Agreement with the World Bank that sets out certain supervisory and technical support services to be provided by the World Bank in furtherance of the Collaboration Agreement. MCA-Georgia will approve the RID Operations Manual which will provide the MDF supervisory board and the management of MDF with the policies and procedures to be followed during implementation of the Activity. The Government will ensure that MCA-Georgia will obtain and maintain a seat on the MDF supervisory board.

3. Beneficiaries.

(a) Road Rehabilitation Activity.

The principal beneficiaries of the Road Rehabilitation Activity are expected to be the rural/regional population located in and near the Samtskhe-Javakheti region through which the majority of the road traverses. Specific beneficiaries include (i) farmers who use the road to get products to market, (ii) domestic commercial freight transport operators, (iii) international shippers, (iv) users of public transport, (v) private business and tourist travelers, and (vi) service industries supporting transportation and tourism. The population of this region is expected to benefit from enhanced agricultural and trade opportunities afforded them by an improved road. Other benefits include improved access to education, healthcare and employment. The entire population is expected to benefit from improved decision-making, planning and policy-making that may result from the road master plan and RDMED technical assistance.

(b) Energy Rehabilitation Activity.

Beneficiaries include households, businesses and industrial enterprises throughout Georgia that consume gas or electricity. Rehabilitation will improve a situation which currently endangers the environment as well as the health and safety of the population. Another benefit may be carbon credit revenue which may be secured as a result of reduced greenhouse gas emissions related to Pipeline rehabilitation. In addition, the financial condition of GGIC, the Pipeline operating company, will be improved through reduced technical losses and improved cash flow. All energy consumers located throughout Georgia are expected to benefit from implementation of the Government’s energy strategy with the assistance of the Energy Advisors’ services.

(c) Regional Infrastructure Development Activity.

The immediate beneficiaries of the Regional Infrastructure Development Activity are expected to be Eligible Governmental Entities, which will manage the provision of improved services to their citizens through local infrastructure projects such as water supply, sanitation, irrigation, municipal gasification, roads and solid waste. The long-term principal beneficiaries of the Activity include the users of the services in localities in which the Activity funds investment.

4. Donor Coordination; Private Sector; Civil Society.

(a) Road Rehabilitation Activity.

(i) World Bank. The World Bank is currently financing a Secondary and Local Roads Project for approximately USD \$40,000,000 with a USD \$15,000,000 contribution from the Government focused on rehabilitating 500-750 kilometers of paved secondary and local roads. Included in the current and previous World Bank road sector projects is (1) a component to strengthen the management, supervisory and road maintenance capacity of the RDMED; (2) institution building, policy reform, and restructuring of the Ministry of Transport; (3) improving access on the primary road network and (4) institutional strengthening of the Georgian transport agencies. The Road Rehabilitation Activity will complement the World Bank project by further improving the Georgian road network.

(ii) European Bank for Reconstruction and Development (“EBRD”). EBRD is contemplating parallel financing of the rehabilitation of certain road segments (such as Akhalkalaki to Lake Tabatskuri and Lake Tabatskuri to Bakuriani) in the Samtskhe-Javakheti region that connect with segments to be funded under the Road Rehabilitation Activity, which would deepen the potential for economic growth in the region. EBRD may also provide technical assistance for commercialization of operations and maintenance for RDMED.

(iii) Other Donors. The Kuwait Fund for Arab Economic Development has provided Kuwait Dinar 5,000,000 (approximately USD \$15,000,000) for the upgrade, rehabilitation, and reconstruction of approximately 100 km of international roads in Georgia. The Kuwait Fund is currently evaluating an additional assistance program for the upgrade of roads in Tbilisi, which would complement the Road Rehabilitation Activity network outside of Tbilisi.

(b) Energy Rehabilitation Activity.

The possible availability of MCC Funding has raised the interest of the donor community in participating in rehabilitation of the Pipeline.

(i) World Bank. The World Bank is currently implementing an Energy Transit Institution Building Project. From this, the World Bank is contemplating providing approximately USD \$830,000 to the Government for project preparation activities related to the Pipeline.

(ii) EBRD and IFC. In 2003, EBRD and IFC provided upwards of USD \$220,000,000 each in syndicated loans to the private sector developers of the Baku-Tbilisi-Ceyhan Crude Oil Pipeline and the South Caucasus Pipeline, both of which traverse Georgia. EBRD has expressed interest in providing additional assistance related to the Pipeline rehabilitation, if MCC Funding is realized.

(iii) Other Donors and Sources of Funding. If MCC Funding is realized, additional World Bank and/or other funding to support further rehabilitation may be available from the purchase of carbon credits associated with the reduction of methane leakage resulting from the rehabilitation of the Pipeline.

BP, an international oil and gas company with investments in Georgia, is expected to participate in the preparatory surveys for the Pipeline rehabilitation under a separate grant (approximately USD \$500,000).

In addition to the World Bank and EBRD, many other donors such as USAID and KfW have supported the electricity sector for the past decade. Assistance has been provided to support sector reform and restructuring, creation of a regulatory body, rehabilitation of plant and equipment and purchase of emergency energy supply. The engagement of Energy Advisors with MCC Funding represents an extension of such assistance and is complementary to the ongoing work of a very active and energy-focused donor group.

(c) Regional Infrastructure Development Activity.

(i) USAID. USAID/Georgia currently does not undertake large infrastructure projects in Georgia. Their efforts in infrastructure have been primarily in the energy sector and rehabilitation of small, local community infrastructure, such as schools and health care facilities, as part of their rural programs.

(ii) World Bank. The World Bank currently funds small scale infrastructure projects proposed by local governments through its credit facility, MDDPIL. This credit is based on an assessment of the creditworthiness of municipalities and thus has limited applicability to poorer regions. The Regional Infrastructure Development Activity would increase the availability and reach of financing through its grant mechanism and also ensure close coordination on local infrastructure investments, as the MCC Funding and the World Bank loans would be managed by the same administrative unit, the MDF.

(iii) EBRD. EBRD's main operational objectives in Georgia for 2004-2005 complement those of the Regional Infrastructure Development Activity and EBRD has prepared a number of projects which may be candidates for parallel funding under this Activity.

(iv) Other Donors. The World Bank, USAID, KfW and UNDP are working in the water sector through the Georgian Social Investment Fund. Efforts will be made to coordinate the Regional Infrastructure Development Project Activity and Georgia Social Investment Fund activities in the cities where both organizations are working.

5. Sustainability.

(a) Institutional Sustainability.

The implementation of the Regional Infrastructure Rehabilitation Project is designed to support the development of local capacity by providing Georgian professionals and institutions with experience in implementing the infrastructure projects, where appropriate, while maintaining tight fiduciary risk controls. It is anticipated that Georgian construction firms will be competitive as contractors or subcontractors in the bidding for construction packages in all three Project Activities.

The RDMED has received and continues to receive technical assistance from the World Bank to strengthen its capacity in engineering standards and data collection, works monitoring, road maintenance, traffic safety, and interaction and responsiveness with local communities. Such efforts will ensure the effectiveness of this body in overseeing and maintaining the Road as the ultimate owner and responsible entity once the Road Rehabilitation Activity is completed. MCC will provide technical assistance to the RDMED to build capacity in maintenance planning and contracting. The Road Rehabilitation Activity will also provide funding for the commissioning and development of a road master plan to aid in the prioritization of future road investment.

The development of GGIC capacity to prioritize and carry out Pipeline rehabilitation and maintenance works is an essential feature of the design of the Energy Rehabilitation Activity. Close coordination between MCC-funded contractors and GGIC staff during the Pipeline rehabilitation is expected to enhance capacity through on-the-job training. Energy sector generation and transmission sustainability will also be addressed by the Energy Advisors through supporting the Government to further develop and implement its energy sector strategy.

With respect to the Regional Infrastructure Development Activity, institutional capacity may be strengthened through direct technical assistance to the Eligible Governmental Entities applying for RID Grants. This assistance will allow for the establishment or improvement of service provision and could come in the form of assistance in the areas of financial management capability, tariff design, tariff collection, metering or general utility operations training.

(b) Financial Sustainability.

Proper budgeting and funding of maintenance activities is the key to financial sustainability of the Regional Infrastructure Rehabilitation Project. Lack of maintenance on the Samtskhe-Javakheti Road has resulted in its current dilapidated state and need for major rehabilitation; therefore, regular maintenance and a proper drainage system will be critical to ensuring the long-term impact and realization of benefits from the Road Rehabilitation Activity. As a condition precedent to the first disbursement for the Road Rehabilitation Activity in any fiscal year, MCC will require that a minimum budget be approved for the maintenance of all maintainable national roads and that prior year budgeted amounts have been spent for the intended purpose.

Similarly, the present condition of the Pipeline may be attributed, in large part, to the lack of maintenance over the last decade. The Pipeline rehabilitation and the satisfaction of the

associated conditions are intended to improve the financial sustainability of GGIC through reduced losses, increased revenue and improved cash flow. To promote financial sustainability of GGIC, MCC requires that: (i) in view of GGIC's outstanding tax liabilities, the Georgia Tax Restructuring Committee grant tax relief for past tax liabilities accrued through June 30, 2005 in the form of a fifteen year restructuring plan for such tax liabilities (including a five-year freeze and a ten-year payment period); and (ii) beginning in July 2007, the Georgian National Energy Regulatory Commission permits GGIC to withhold gas as payment in kind from its non-paying customers for transmission charges owed to GGIC, and GGIC will utilize this in-kind payment mechanism to the extent needed to ensure that collection rates (for all services provided) are at least 95% throughout the remainder of the Compact Term.

A lack of attention to maintenance is also seen at the level of local infrastructure where municipalities have consistently been unable to fund maintenance. The Regional Infrastructure Development Activity is intended to improve the financial sustainability of regional and municipal assets through the condition that MCC Funding will be provided only once it is evident that the necessary operations and maintenance of proposed investments will be funded either through user fees or similar charges generated from the RID Project, by the applicable Eligible Government Entity or by the Government.

Funding from MCC for the Regional Infrastructure Rehabilitation Project will depend on the satisfaction of all conditions precedent as set forth in the Disbursement Agreement for road maintenance, maintenance of the Pipeline, and the maintenance of other infrastructure assets funded through the Regional Infrastructure Development Activity.

(c) Environmental and Social Sustainability.

Overall environmental and social sustainability depend on proper implementation of Project safeguards. MCA-Georgia's Management Team will include an Environmental and Social Impact Manager ("*ESI Manager*") whose job will be to ensure that environmental and social mitigation measures (including occupational health and safety issues) are followed for all Project Activities in accordance with the provisions set forth in the Compact and other documents. The ESI Manager will serve as the point of contact for comments and concerns of Project affected parties regarding the implementation of all Project Activities under the Compact and lead the effort to find feasible resolutions to those problems. The ESI Manager will convene periodic public meetings to provide implementation updates and to identify and address public concerns. Should the issue of involuntary resettlement arise, the Regional Infrastructure Rehabilitation Project will be conducted in compliance with the World Bank Policy on Involuntary Resettlement.

6. Policy and Legal Reform; Procedural Changes or Regulatory Actions.

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

(i) Related to the Road Rehabilitation Activity:

(1) Authorization of the use of road design and construction standards consistent with modern European geometrical and physical standards having international applicability, acceptable to MCC;

(2) Maintenance of the Project Road in accordance with measurable performance standards acceptable to MCC and the Government, including winter maintenance and snow removal to keep the Project Road open; and

(3) Prior to the first disbursement in any fiscal year, the Government will approve the road maintenance budget for routine and periodic maintenance for the maintainable road network the forthcoming fiscal year providing for funding of at least the amount set out below, and will expend such amounts for the intended purpose and make-up any budget shortfall from the prior year's road maintenance budget:

(A) fiscal year 2006: Georgian Lari (“*GEL*”) 60 million;

(B) fiscal year 2007: GEL 70 million;

(C) fiscal year 2008: GEL 80 million;

(D) fiscal year 2009: GEL 90 million; and

(E) fiscal year 2010: GEL 100 million.

(ii) Related to the Energy Rehabilitation Activity:

(1) Prior to the first disbursement for Pipeline rehabilitation, the Ministry of Energy will provide documentation satisfactory to MCC outlining the Ministry's plans and strategy for resolving the following four issues currently facing GGIC: (A) Kazbegigazi non-payment to GGIC; (B) Tbilgazi non-payment to GGIC; (C) Physical gas losses by GGIC; and (D) GGIC's tax liabilities;

(2) Prior to the first disbursement for Pipeline rehabilitation, the Georgia Tax Restructuring Committee will have granted tax relief to GGIC, acceptable to MCC, for past tax liabilities accrued through June 30, 2005 in the form of a fifteen year restructuring plan for such tax liabilities (including a five-year freeze and a ten-year payment period);

(3) The Government shall not sell or transfer, or permit to be sold or transferred, the Pipeline and/or a controlling interest in the GGIC group (GGIC and its subsidiaries and affiliates) and shall not place or permit to be placed any Lien on the Pipeline, in each case until the expiration of the Compact Term, except as may be otherwise agreed by MCC in writing (the “*Non-Transfer Condition*”);

- after July 1, 2007:
- (4) Prior to the each disbursement for Pipeline rehabilitation on or after July 1, 2007:
 - (A) GGIC will demonstrate in a form acceptable to MCC that it is maintaining the Pipeline in accordance with satisfactory standards agreed by MCC and the Government that cover the design and construction of gas networks (“*Agreed Standards*”); and
 - (B) GGIC will have obtained authorization, in a form acceptable to MCC, from the Georgian National Energy Regulatory Commission that allows GGIC, starting from July 1, 2007, to withhold gas as payment in kind from its customers for transmission charges owed to GGIC to the extent needed to ensure that collection rates (for all services provided) are at least 95% throughout the remainder of Compact Term; and GGIC will utilize this in-kind payment mechanism to the extent needed to ensure that collection rates (for all services provided) are at least 95% throughout the remainder of Compact Term;
 - (5) In the event that:
 - (A) The GGIC collection rate after July 1, 2007 is below 95% for two consecutive quarters throughout the Compact Term;
 - (B) GGIC does not maintain the Pipeline in accordance with the Agreed Standards; and/or
 - (C) The Government does not comply with the Non-Transfer Condition;
- then:
- (A) Prior to any further disbursement for Pipeline rehabilitation or for any other Project Activity, the Government agrees to reimburse promptly to MCC, in MCC’s discretion, all or a portion of Compact Funding disbursed for the Pipeline; and/or
 - (B) MCC may suspend all or a portion of further disbursements in connection with the Pipeline rehabilitation and/or other Project Activities under the Compact.

(b) To improve its level of performance under the policy criteria identified in Section 607 of the Act and the MCA Eligibility Criteria and to support the Regional Infrastructure Rehabilitation Project, the Government will pursue the following legislative and policy reforms:

(i) Support GGIC to realize the sale of emission reductions in order to fund additional pipeline rehabilitation activities;

(ii) Undertake policy reform and improve legislation governing the infrastructure sectors, including adoption of user fees, as may be appropriate to cover the costs of operations and maintenance;

(iii) Develop, as part of the ongoing decentralization process, appropriate policies and/or legislation on local government budgeting;

(iv) Undertake measures to safeguard the rehabilitated infrastructure from any laws, regulations or policies that may undermine the results of individual projects, including those that adversely restrict local control over budgets for operations and maintenance; and

(v) Such other legal or policy reforms as may be needed to improve efficiency of the infrastructure sectors, including those that are identified through the ongoing consultative process.

SCHEDULE 2 to ANNEX I

ENTERPRISE DEVELOPMENT PROJECT

This Schedule 2 describes and summarizes the key elements of a regional business investment and development project in furtherance of the Enterprises in Regions Developed Objective (the “*Enterprise Development Project*”). Additional details regarding the implementation of the Enterprise Development Project will be included in the Implementation Plan and in relevant Supplemental Agreements.

1. Background.

With 53% of Georgia’s population living in poverty and a majority of these impoverished households living in rural areas, the Government is committed to encouraging economic growth and poverty reduction, primarily in the Regions. Agribusiness, in particular, is a key driver of growth nationally, representing 18% of GDP, and in the Regions where farms and small enterprises engaged in agribusiness constitute an essential source of livelihoods. Other sectors, including tourism, represent substantial growth opportunities in the Regions. However, while the economy in Georgia has experienced significant growth during the past few years, the performance of the rural economy has stagnated.

Of particular concern is the agriculture sector, which accounts for one-quarter of Georgia’s economic output and over 50% of employment. Georgia’s diverse climatic zones and rich natural resources provide the potential for further development of the agriculture and agribusiness sectors, particularly in the Regions. With increased quantity and quality, Georgian agricultural products will better compete with imported food products, thereby improving the living standards of the rural poor. Yet businesses face problems with poor technology, processing, marketing, management skills, and credit access.

The lagging performance of the economy in the Regions and past political uncertainty have contributed to the reluctance of financial institutions and other investors to invest in risk capital. As a result, firms, particularly small and medium enterprises (“*SMEs*”), may not be able to obtain the risk capital they need to grow and may not generate enough cash-flow in the near-term to pay high interest rates on a typical loan (if any long-term loan is available) or may not have sufficient collateral to obtain a loan. Experience in other countries indicates the importance of SMEs to economic development and job creation.

The consultative process in Georgia identified a number of key constraints to growth of small and medium enterprises in the Regions. These include (i) insufficient access to long term risk capital on viable terms, (ii) lack of sophisticated company and investment management skills and corporate governance, (iii) inadequate laws and regulations, (iv) poor enforcement and (v) the need for improved agribusiness productivity, among other items.

2. Summary of Project Activities.

The Enterprise Development Project is designed to provide access to capital on viable terms, support policy reforms to improve the business environment and improve business and technical skills in farms and enterprises.

The Enterprise Development Project consists of two Project Activities:

- The Investment Fund Activity. The objective of the Investment Fund Activity is to increase investment in and improve the performance of SMEs, primarily in the Regions. The Project Activity will create a professionally and independently managed investment fund (the “*Georgia Regional Development Fund*” or “*GRDF*” or such other name as may be agreed by the Parties) to provide capital to SMEs, provide technical assistance for portfolio companies and identify legal and policy reforms to encourage further investment in SMEs.
- The Agribusiness Development Activity (the “*ADA*”). The objective of the ADA is to improve economic performance of agribusinesses. The ADA will accelerate the transformation from subsistence to commercial agriculture through technical assistance, targeted grants and market information. The ADA will provide technical assistance and grants to farmers and agribusinesses in critical value chains that supply agricultural products to the domestic market, as well as disseminate information on regional market prices and volumes.

The GRDF and the ADA will be managed separately, but they are intended to complement one another. For example, GRDF may invest in an entity receiving ADA technical assistance, or farmers may need technical assistance from ADA to take advantage of opportunities to supply products to a GRDF investee company in the processing industry. The managers of the GRDF and the ADA will meet on a regular basis to discuss potential synergies. Any decision-making by GRDF or ADA with respect to business opportunities with the other party will be undertaken as if GRDF and ADA were unrelated parties.

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

(a) Investment Fund Activity.

The Investment Fund Activity involves three sub-activities: (i) creation and capitalization of the GRDF; (ii) portfolio company technical assistance; and (iii) legal and policy environment support.

(i) Creation and Capitalization of GRDF.

MCC Funding will be used to capitalize a professionally and independently managed investment vehicle, to be known as the GRDF.

MCC and MCA-Georgia have agreed to an indicative term sheet as of the date of this Compact (the “*Indicative Term Sheet*”), containing the proposed terms of the GRDF (including its investment policy guidelines and governance structure) and which will form the expected basis for preparation of the final investment guidelines, governance structure and investment management selection, compensation and agreement, and all other terms of the GRDF (the “*Final Fund Documents*”). Because the Indicative Term Sheet represents indicative but non-binding terms, the provisions in the Final Fund Documents may differ from, and will supersede, those in the Indicative Term Sheet. As a Condition Precedent to Disbursement for the GRDF, the Final Fund Documents must be acceptable in form and substance to both MCC and MCA-Georgia.

The GRDF will include the following elements:

(1) Establishment and Term of GRDF.

- (A) Following the satisfaction of conditions precedent contained in the Disbursement Agreement and in accordance with the Final Fund Documents, MCC Funding will be used to organize and establish the GRDF in a legal form and jurisdiction acceptable to MCC. All of the ownership interests in the GRDF are expected to be held initially by a trust (or similar structure acceptable to MCC and MCA-Georgia), the trustee (or similar) of which will be procured through a process acceptable to MCC and will be subject to MCC approval. MCC will be a third party beneficiary to the appropriate Final Fund Documents.
- (B) The investment period of the GRDF shall run for five years from the Entry into Force, subject to an earlier termination upon termination of the Compact (the “*Investment Period*”). All MCC obligations shall terminate at the end of the Investment Period. GRDF is expected to exist for ten years, including a five year wind-down period after the termination of the Investment Period.

- (C) Any distributions to the GRDF will be held for the benefit of beneficiaries to be agreed upon by MCC and MCA-Georgia prior to the end of the Investment Period. Any beneficiary or beneficiaries selected by MCC and MCA-Georgia must be a charitable, educational or other non-profit developmental entity in Georgia that benefits, in substantial part, citizens working in agribusiness and/or other enterprises outside of Tbilisi.

(2) Investment Objective. The primary objective of the GRDF will be to maximize developmental impact, as well as to earn a reasonable and positive financial return, from investments in SMEs in agribusiness, tourism and other sectors, primarily outside of Tbilisi.

(3) Permitted and Prohibited Investments. The GRDF will invest in equity, quasi-equity and debt (subject to limits specified in the Final Fund Documents) issued by enterprises that meet the definition of “permitted investments” (“*Permitted SMEs*”). The Final Fund Documents will have clear criteria for which types of investments are permitted and prohibited, as well as the process by which investment decisions are approved by the GRDF. These criteria will be set forth in the Final Fund Documents. Among the provisions that the Final Fund Documents must contain are the following:

- (A) Permitted sectors. The Final Fund Documents will require a majority of capital to be invested in agribusiness or tourism, with approximately 33% of capital invested in agribusiness, unless otherwise agreed by the Parties.
- (B) Location of businesses. The GRDF will invest primarily outside of Tbilisi; accordingly, the Final Fund Documents will limit the percentage of GRDF capital that can be invested in Tbilisi to 20% unless otherwise agreed by the Parties.
- (C) Developmental and financial criteria. The pipeline of potential investments by the fund will be determined in accordance with criteria used to measure the developmental impact associated with the investment as well as financial rate of return.
- (D) Maximum investment size. The Final Fund Documents will limit the maximum investment size of any one particular investment to 10% of the committed capital of the GRDF unless otherwise agreed by the Parties.
- (E) Stage of Development of Portfolio Companies. The GRDF will invest primarily in existing businesses but may also

invest not more than 15% in start-ups, unless otherwise agreed by the Parties.

- (F) Prohibited Investments. The Final Fund Documents will require compliance with (1) prohibitions on investments, including those that conflict with the limitations on the use of MCC Funding set forth in the Compact, and (2) environmental guidelines and environmental screening procedures (which will be based on MCC's Environmental Guidelines and specified in full in the Final Fund Documents). A full list of prohibited types of businesses will be included in the Final Fund Documents.

(4) Implementing Entity Arrangement; Governance Structure.

- (A) Investment Manager. The GRDF will be managed by a professional, independent and qualified investment manager selected after a competitive tender conducted by the Procurement Agent ("**Investment Manager**"). MCC and MCA-Georgia will each have the right to approve the selection of the Investment Manager and the terms of the Investment Manager's contract, including auditing, reporting and termination provisions.
- (B) GRDF Governing Board. The Investment Manager will report to an independent GRDF governing board ("**GRDF Governing Board**") comprised of individuals with financial and development experience acceptable to MCC and MCA-Georgia. MCC will be entitled to appoint one additional member of, or a non-voting observer on, the GRDF Governing Board. MCA-Georgia will also be entitled to appoint a non-voting observer on the GRDF Governing Board.
- (C) Investment Committee. An investment committee ("**Investment Committee**") acceptable to MCC and MCA Georgia will be responsible for approving investments suggested by the Investment Manager and overseeing the monitoring and evaluation of the performance of those investments. MCC will have the right, in its discretion, to appoint one member, or one non-voting observer, to the Investment Committee.

(5) Relationship of GRDF to MCA-Georgia. All investment decisions will be made by the GRDF and the Investment Manager independently from MCA-Georgia and the Government.

(6) Operating Policies. The Final Fund Documents will include requirements for the GRDF's due diligence/investment process, conflicts policy, internal controls and auditing, and reporting, in each case acceptable to MCC.

(ii) Portfolio Company Technical Assistance Facility.

(1) Establishment. MCC Funding will be used for technical and managerial assistance (the "***Portfolio Company TA Facility***") to be applied by the Investment Manager to improve the performance of portfolio companies following investment or to assist prospective portfolio companies that then become qualified for GRDF investments. The financial resources of the Portfolio Company TA Facility will not be invested in the GRDF or considered part of the management fee or fund expenses. The Portfolio Company TA Facility proceeds will be drawn down by the Investment Manager through separate disbursement requests.

(2) Objective. The Portfolio Company TA Facility will complement the work of the Investment Manager by assisting in the growth and development of the portfolio investees. The Portfolio Company TA Facility is intended to pay, on a cost-sharing basis with investees, a portion of the costs of third-party consultants and other service providers (the "***Service Providers***") that would otherwise have been reasonably considered beyond the capacity of the investee or the obligation of the Investment Manager to pay.

(3) Selection Criteria. Each use of the Portfolio Company TA Facility funding shall be determined jointly by the investee and the Investment Manager on a demand-driven basis according to selection criteria acceptable to MCC. The use of the Portfolio Company TA Facility will be subject to the same statutory limits on the use of MCC Funding as the GRDF. Additional detailed Service Provider selection criteria, conflict of interest provisions, cost-sharing criteria, disbursement and reporting procedures, and further definitions of permitted and prohibited uses of TA Facility resources, shall be provided in the Final Fund Documents.

(iii) Legal and Policy Environment.

MCC Funding will be used to engage an expert to identify and support Georgians advocating for key legal and policy reforms affecting the investment environment and to establish and operate a mechanism for this analysis and advocacy. This is intended to be similar to venture capital industry groups in other countries that work with local, key stakeholders and donors to build consensus and advocate for reforms needed for successful risk capital investments. The expert would be supported by an advisory board of key stakeholders acceptable to MCC, such as the Investment Manager, other private equity funds and financial institutions, other private sector participants, donors, and others.

(b) Agribusiness Development Activity.

(i) ADA Establishment and Implementation.

The ADA is expected to contribute to poverty alleviation by accelerating agriculture sector transformation from subsistence production to profitable farms and rural enterprises directly participating in commercial value-chains. The ADA includes three separate sub-activities intended to support the development of Georgia's agriculture and agribusiness sectors.

The ADA will be set up and managed by a professional, independent and qualified manager, acceptable to MCA-Georgia and MCC, selected after a competitive tender (the "**ADA Manager**"). The competitive tender will be conducted by the Procurement Agent, with the assistance of an advisory panel, consisting of independent experts. MCC and MCA-Georgia will each have the right to approve the selection of the ADA Manager.

(ii) Access to Modern Technology.

MCC Funding will be used to provide modern technology to agribusiness processors in at least five agribusiness value-chains that have domestic market growth potential. For example, this could include the following types of activities:

(1) Developing the dairy industry through set-up of milk collection infrastructure to facilitate flow of quality raw product from small farms to processing plants that can better compete in the domestic market;

(2) Establishing private sector input supply centers that service productive yet hard to reach rural areas in order to increase higher value horticulture production for processors and the fresh market;

(3) Developing livestock production contracts with slaughter facilities that will establish the capacity to offer new, high-quality meat products into the growing domestic market;

(4) Facilitating investment in livestock feed processing and sales coupled with the beneficiary firm's financed livestock production agents to improve farm management; and

(5) Introducing new varieties and technology into the potato industry to produce and process products in direct response to domestic market demands.

(iii) Grants to Rural Enterprises.

MCC Funding will be used to provide grants (the "**Rural Enterprise Grants**") to groups of farmers and to private enterprises to apply innovative business solutions and technology to

significantly increase household and agribusiness net revenue through higher productivity, better financing, improved post harvest processing and marketing.

(1) Selection Criteria. An application for a Rural Enterprise Grant must be supported with a sound business plan. Applications should be for equipment or supplies and matched with direct grantee investment in land, facilities, labor or additional equipment. Rural Enterprise Grants will range in value from USD \$5,000 to USD \$50,000, unless otherwise agreed by the Government and MCC. Rural Enterprise Grants will be made in three categories:

- (A) Primary production. Innovative agriculture production technology and practices and development of business linkages of farmers with processors or directly with the market;
- (B) Service providers. Introduction or expansion of input provision of seed, feed, fertilizer, new varieties, equipment leasing, best practices and better farm management among cooperatives and associations; and
- (C) Value adding enterprises. Transfer of technology to add value to raw product through small scale processing equipment, quality assurance systems, processing, packaging, and competitive domestic marketing.

(2) Selection Procedure. A call for applications for Rural Enterprise Grants will be announced by the ADA Manager during the first quarter of each year with clear guidelines and evaluation criteria. The ADA Manager will be responsible for developing award selection criteria, subject to MCA-Georgia and MCC approval. The ADA Manager will establish an independent grant award committee acceptable to MCC and MCA-Georgia that will review grant applications and make grant awards.

(iv) Market Information.

MCC Funding will support a market information campaign that disseminates information to the agriculture and food industry. The market information campaign will:

- (1) Inform rural households and stakeholders about ADA objectives and guidelines for targeted technical assistance and grants;
- (2) Broadcast information on innovations, best practices, and new technology, and highlight “model” farmers’ or entrepreneurs’ success stories; and
- (3) Produce regular reports on farm gate price and volumes of commodity sold from several regional marketing hubs throughout the country including market news/trends of business significance.

3. Beneficiaries.

The principal direct beneficiaries of the GRDF are expected to be SMEs in agribusiness and other sectors in the Regions (and, to a limited extent, Tbilisi) needing risk capital to expand, agricultural producers and other local suppliers doing business with those SMEs, and farmers and rural households in the Regions employed by SMEs or related businesses. Certain activities in the GRDF, such as advocacy for legal and policy reform, will have national scope and impact.

The objective of the ADA is to significantly improve capacities of rural households to engage and benefit from direct participation in the commercial economy. Therefore, the principal direct ADA beneficiaries are rural households that are dependent on agriculture and agribusiness for their livelihood. These are primarily small farmers and SMEs that deliver services to farmers and process raw product. As a result of ADA, over 50,000 rural participants are expected to benefit either directly or indirectly.

4. Donor Coordination.

The Enterprise Development Project complements other donor supported projects, including projects by EBRD, IFC, World Bank, USAID and USDA. The goal and structure of the GRDF is significantly different from those of other donor-supported investment activities. The GRDF will be encouraged to work with other donors' financial institutions to attract capital and expertise to the SME sector in the Regions, especially to businesses in which such institutions may have been reluctant to invest in the absence of the GRDF in Georgia. The ADA is uniquely focused on rural household economic growth and will be reinforced by current activities that foster economic growth in agriculture. Specifically, Enterprise Development Project synergies with key U.S. agencies and other donors are as follows:

(a) Investment Fund Activity.

(i) IFC. IFC is conducting a business development project that focuses on areas such as strengthening corporate governance and encouraging lease financing, as well as an initiative to determine the state of SME development in Georgia and significant legal and other barriers facing Georgian SMEs. Although IFC has previously sponsored investments in businesses in Georgia, the target internal rates of return and sizes of investments have exceeded the typical investment the GRDF is expected to pursue. The IFC business development efforts will complement and reinforce the Investment Fund Activity's efforts to improve the business climate.

(ii) EBRD. EBRD has established several debt and equity investment facilities that can invest in Georgia. EBRD has also established business consulting services using local consultants that offer their services to Georgian businesses at rates partly, and temporarily, subsidized by EBRD. The Investment Manager may (but is not required to) utilize these consulting services when applying technical assistance to one of the portfolio companies. The investment facilities may provide another source of capital for the GRDF's portfolio companies.

(iii) OPIC. There are several OPIC funds that are eligible to invest in Georgia, among other countries. However, the sizes and types of investments that these funds generally pursue differ from, and are larger than, those that the GRDF is expected to pursue. Moreover, OPIC guarantees debt issued by these funds, while MCC Funding would be used as the source of equity capital for the GRDF.

(iv) USAID. The GRDF will complement USAID's financial sector and agricultural activities. These have included AgVantage, the Georgia Enterprise Growth Initiative, the Georgia Microfinance Stabilization and Enhancement activity, the Land Market Development Project, and the banking infrastructure strengthening program to assist the National Bank of Georgia.

(b) Agribusiness Development Activity.

(i) USAID. Of particular relevance to the objectives of the ADA is the USAID-funded project called AgVantage. This activity focuses on developing agricultural export markets and strategic interventions to overcome barriers to increase export sales of agriculture and food products. Later this year, AgVantage will also begin work in policy analysis, legal drafting, training, and limited administrative support to the Ministry of Agriculture and will put in place policies which promote and support the development of private sector agribusiness. The ADA is interested in supporting these efforts and participating in constructive dialogue with the Ministry of Agriculture to create a more conducive environment for private business development.

(ii) USDA. A transition program is underway by USDA/ICD in Georgia. Previous project activity provides opportunities for ADA to build upon progress made, especially in developing meat slaughterhouses and dairy processing in several regional locations. The new focus of USDA's program will most likely include assistance to the Ministry of Agriculture in seed and plant material certification and multiplication, quality assurance capabilities and veterinary inspection services, which complements ADA.

(c) Both Project Activities.

(i) World Bank/IFAD. A new Rural Development Loan has been approved, with a portion to be used to flow through commercial banks and multilateral financial institutions as credit for agribusiness investments. This loan will provide a source of debt finance for businesses that has terms and characteristics different from many of the risk capital investments the GRDF will pursue. Discussions with World Bank and IFAD representatives generated collaborative ideas for loan preparation training and technical assistance to prospective borrowers through the ADA grant program. Also, IFAD has established four regional "Farm Houses" which support a variety of services to farmers including equipment leasing, extension, and input sales. Proposals from the leadership of a Farm House to expand to ADA clients will be encouraged.

5. Sustainability.

(a) Financial and Institutional Sustainability.

The impacts of each of the Project Activities are intended to be sustainable, although neither the GRDF nor the ADA is required to be a sustainable institution. Sustainability will result from the following activities:

(i) Building, through the GRDF, profitable businesses that have an important demonstration effect on similar businesses, as well as investment funds or other financial institutions. To the extent these businesses are profitable, after the Compact Term they can be expected to survive and strengthen key links with other businesses in the value chain as well as pave the way for additional entrepreneurs and providers of finance considering developing the SME sector or Regional enterprises;

(ii) Establishing profitable farms, rural service providers and viable agribusiness that compete in commercial markets and are responsive to market forces and trends;

(iii) Investing in human capacities (skills, access to information and mind-set toward the market) to transform and make their enterprises profitable;

(iv) Building, through each of the Project Activities, sustainable and transferable Georgian enterprise management capacity and entrepreneurial skills, particularly for:

(1) Agribusinesses and other SME businesses that have received assistance from the GRDF or the ADA;

(2) Georgian consulting and technical advisory businesses that have been engaged as part of the Portfolio Company Technical Assistance Facility or the ADA; and

(3) Georgian investment professionals trained by the GRDF;

and providing the enterprises and individuals that have acquired these skills with the ability to apply them to their businesses or transfer them to other businesses in Georgia;

(v) Attracting, as part of the GRDF, additional long-term capital to the agribusiness and other SME sectors in Georgia. Because these providers may have been attracted, because of the GRDF, to sectors and businesses they would not have otherwise financed, the successful performance of these investments will encourage additional investments; and

(vi) Complementing and encouraging reform to remove legal and regulatory impediments to investment and growth in the agribusiness and SME sectors in the Regions as well as nationally, including encouraging best practices for corporate governance.

(b) Environmental and Social Sustainability.

To help ensure that investments made through the GRDF are not likely to cause a significant environmental health or safety hazard, the GRDF will develop investment guidelines acceptable to MCC that will require compliance with MCC Environmental Guidelines, and the Investment Manager will develop an environmental review process and monitoring check-list. To help ensure that investments made through the ADA are not likely to cause a significant environmental health or safety hazard, technical assistance will be provided to include training and guidance on the proper selection, handling, use, storage, and disposal of pesticides and other agricultural chemicals.

6. Policy and Legal Reform.

To improve its level of performance under the policy criteria identified in Section 607 of the Millennium Challenge Act and the MCA Eligibility Criteria and to support the Enterprise Development Project, the Government will pursue the following legislative and policy reforms:

(i) Improve the investment climate, particularly for investments in the agribusiness and other sectors relevant to the Enterprise Development Project, including those reforms identified by working with the expert engaged under the Legal and Policy Environment component of the Investment Fund Activity. Broadly construe reform to include commercial laws, enforcement mechanisms and systematic issues, such as problems with payment systems;

(ii) Provide for effective implementation of the law on additional privatization of agricultural land remaining in state ownership (providing for privatization of large plots of agricultural land);

(iii) Pass effective laws on immovable and moveable property pledge registration and related secured transaction law reform, and provide for implementation; and

(iv) Undertake policy reform and seek to improve legislation governing the agribusiness sector, including:

(1) Refine the National Agricultural Strategy that outlines critical priorities to be undertaken that creates a pro-agribusiness growth environment;

(2) Planning and implementing significant benchmarks for improved legislation for seed and plant material law; and

(3) Planning and implementing significant benchmarks for improved legislation for food safety regulations.

ANNEX II

FINANCIAL PLAN SUMMARY

This Annex II to the Compact (the “*Financial Plan Annex*”) summarizes the Multi-Year Financial Plan for the Program. Each capitalized term in this Financial Plan Annex shall have the same meaning given such term elsewhere in this Compact.

1. General. A multi-year financial plan summary (“*Multi-Year Financial Plan Summary*”) is attached hereto as Exhibit A. By such time as specified in the Disbursement Agreement, MCA-Georgia will adopt, subject to MCC approval, a Multi-Year Financial Plan that includes, in addition to the multi-year summary of anticipated estimated MCC Funding and the Government’s contribution of funds and resources, an estimated draw-down rate for the first year of the Compact based on the achievement of performance milestones, as appropriate, and the satisfaction or waiver of conditions precedent. Each year, at least 30 days prior to the anniversary of the entry into force of the Compact, the Parties shall mutually agree in writing to a Detailed Financial Plan for the upcoming year of the Program, which shall include a more detailed plan for such year, taking into account the status of the Program at such time and making any necessary adjustments to the Multi-Year Financial Plan.

2. Implementation and Oversight. The Multi-Year Financial Plan and each Detailed Financial Plan shall be implemented by MCA-Georgia, consistent with the approval and oversight rights of MCC and the Government as provided in this Compact, the Governance Agreement and the Disbursement Agreement.¹

3. Estimated Contributions of the Parties. The Multi-Year Financial Plan Summary identifies the estimated annual contribution of MCC Funding for Program administration, monitoring and evaluation, and each Project. The Government’s contribution of resources to Program administration, monitoring and evaluation, and each Project shall consist of (i) “in-kind” contributions in the form of Government Responsibilities and any other obligations and responsibilities of the Government identified in this Compact, including contributions identified in the notes to the Multi-Year Financial Plan Summary, (ii) such other contributions or amounts as identified in notes to the Multi-Year Financial Plan Summary, and (iii) such other contributions or amounts as may be identified in relevant Supplemental Agreements between the Parties or as may otherwise be agreed by the Parties; *provided*, in no event shall the Government’s contribution of resources be less than the amount, level, type and quality of resources required to effectively carry out the Government Responsibilities or any other responsibilities or obligations of the Government under or in furtherance of this Compact.

4. Modifications. The Parties recognize that the anticipated distribution of MCC Funding between and among the various Program activities and Project and Project Activities will likely require adjustment from time to time during the Compact Term. In order to preserve flexibility in the administration of the Program, the Parties may, upon agreement of the Parties in writing and without amending the Compact, change the designations and allocations of funds between

¹ The role of civil society in the implementation of the Compact (including through participation on the Stakeholders’ Committee and as an observer on the Supervisory Board), the responsibilities of the Government and MCC in achieving the Compact Goal and Objectives, and the process for the identification of beneficiaries are addressed elsewhere in this Compact and therefore are not repeated here.

Program administration and a Project, between one Project and another Project, between different activities within a Project, or between a Project identified as of the entry into force of this Compact and a new Project, without amending the Compact; *provided, however*, that such reallocation (i) is consistent with the Objectives, (ii) does not cause the amount of MCC Funding to exceed the aggregate amount specified in Section 2.1(a) of this Compact, and (iii) does not cause the Government's obligations or responsibilities or overall contribution of resources to be less than specified in Section 2.2(a) of this Compact, this Annex II or elsewhere in the Compact.

5. Conditions Precedent; Sequencing. MCC Funding will be disbursed in tranches. The obligation of MCC to approve MCC Disbursements and Material Re-Disbursements for the Program and each Project is subject to satisfactory progress in achieving the Objectives and on the fulfillment or waiver of any conditions precedent specified in the Disbursement Agreement for the relevant Program activity or Project or Project Activity. The sequencing of Project activities or Project Activities and other aspects of how the Parties intend the Projects to be implemented will be set forth in the Implementation Plan, including Work Plans for the applicable Project, and MCC Disbursements and Re-Disbursements will be disbursed consistent with that sequencing.

EXHIBIT A

Multi-Year Financial Plan

Component	Year 1	Year 2	Year 3	Year 4	Year 5	Total
	(USD \$ million)					
1. Regional Infrastructure Rehabilitation Project						
(a) Samskhe-Javakheti Road Project Activity*	\$1.00	\$44.49	\$27.74	\$18.90	\$10.07	\$102.20
(b) Regional Infrastructure Development Project Activity	\$8.78	\$20.20	\$20.34	\$9.17	\$1.51	\$60.00
(c) Energy Rehabilitation Project Activity	\$27.55	\$21.95				\$49.50
Sub-Total	\$ 37.3	\$ 86.6	\$ 48.1	\$ 28.1	\$ 11.6	\$ 211.7
2. Enterprise Development Project						
(a) Georgia Regional Development Fund Project Activity	\$5.53	\$6.39	\$7.50	\$6.57	\$6.51	\$32.50
(b) Agribusiness Development Project Activity	\$2.47	\$3.35	\$3.96	\$3.01	\$2.20	\$15.00
Sub-Total	\$ 8.0	\$ 9.7	\$ 11.5	\$ 9.6	\$ 8.7	\$ 47.5
3. Monitoring and Evaluation	\$1.38	\$1.43	\$2.13	\$0.91	\$2.61	\$8.45
Sub-Total	\$ 1.4	\$ 1.4	\$ 2.1	\$ 0.9	\$ 2.6	\$ 8.4
4. Program Administration and Control						
(a) Program Administration	\$2.35	\$2.44	\$2.54	\$2.64	\$2.75	\$12.72
(b) Audit	\$0.49	\$1.00	\$0.64	\$0.41	\$0.26	\$2.80
(c) Fiscal and Procurement Management	\$2.12	\$4.33	\$2.77	\$1.78	\$1.11	\$12.11
Sub-Total	\$ 5.0	\$ 7.8	\$ 6.0	\$ 4.8	\$ 4.1	\$ 27.6
TOTAL ESTIMATED MCC CONTRIBUTION	\$ 51.7	\$ 105.6	\$ 67.6	\$ 43.4	\$ 27.0	\$ 295.3

* Note that in year 1, \$4.1 million of 609(g) funds for the feasibility study, environmental impact assessment and final designs will be spent, to be followed by the procurement of construction services for the actual rehabilitation and construction of the Road.

ANNEX III

DESCRIPTION OF THE M&E PLAN

This Annex III to the Compact (the “*M&E Annex*”) generally describes the components of the M&E Plan for the Program. Each capitalized term in this Annex III shall have the same meaning given such term elsewhere in this Compact.

1. Overview.

MCC and the Government (or a mutually acceptable Government Affiliate or Permitted Designee) shall formulate, agree to and the Government shall implement, or cause to be implemented, an M&E Plan that specifies (i) how progress toward the Objectives and Project Activity Outcomes will be monitored (the “*Monitoring Component*”), (ii) a methodology, process and timeline for the evaluation of planned, ongoing, or completed Project Activities to determine their efficiency, effectiveness, impact and sustainability (the “*Evaluation Component*”), and (iii) other components of the M&E Plan described below. Information regarding the Program’s performance, including the M&E Plan, and any amendments or modifications thereto, as well as periodically generated reports, will be made publicly available on the MCA-Georgia Website and elsewhere.

2. Monitoring Component.

To monitor progress toward the achievement of the Objectives and Project Activity Outcomes, the Monitoring Component of the M&E Plan shall identify (i) Program levels, (ii) the Indicators, (iii) the party or parties responsible, the timeline, and the instrument for collecting data and reporting on each Indicator to MCA-Georgia, and (iv) the method by which the reported data will be validated.

(a) Program Levels. The M&E Plan in general, as well as the Monitoring Component in particular, shall describe the Program at multiple levels of aggregation and shall describe the expected Program results at each of those levels.

(i) Compact Goal. The highest level of results to be achieved by the Program, the Compact Goal, is understood to be the aggregation of the estimated benefits of the two Projects and which are indicative of the overall impact expected from all of the Project Activities. While these benefits can be estimated, it is methodologically impossible to attribute with a high degree of precision changes in income at the end of the Compact Term specifically to interventions undertaken under or in furtherance of the Compact due to the existence of other factors, unrelated to the Program, that may affect income changes. However, these estimated benefits may be used to inform future impact evaluation.

Increased Economic Growth and Poverty Reduction in Regions of Georgia			
Goal Indicators	Indicator Definition	Baseline	Year 5
Reduction in poverty gap in the Samtskhe-Javakheti Region	The mean distance separating the population from the poverty line	23.4% (2002)	19.90%
Reduction in poverty incidence in the Samtskhe-Javakheti Region	The fraction of population under the poverty line, defined by SDS as the “subsistence minimum”	56.8% (2002)	50.00%
Incremental increase in household incomes from Compact interventions*	Financial benefits derived from roads, infrastructure investment and pipeline rehabilitation, and GRDF and ADA enterprise development activities	0	TBD

* Setting of targets will be made at the end of Year One, once RID projects have been selected and vehicle operating costs on S-J roads have been determined.

(ii) Project. At the second highest level of the Compact, or the Project level, the M&E Plan shall describe Program activities, results and measures of results’ attainment in two categories which relate to: (1) the Regional Infrastructure Rehabilitation Project and (2) the Enterprise Development Project. The Project Objectives to be achieved by the activities under each of these Projects shall be understood, as with the Compact level benefits, as being indicative of impact and not necessarily measurably attributable to the Program’s interventions within the timeframe of the Compact.

(iii) Project Activity. At the third highest level of the Program, or the Project Activity level, the M&E Plan shall describe the results to be achieved within each Project Activity: (1) the Road Rehabilitation Activity; (2) the Energy Rehabilitation Activity; (3) the Regional Infrastructure Development Activity; (4) the Investment Fund Activity and (5) the Agribusiness Development Activity. The outcomes of each Project Activity (“**Project Activity Outcome**”) shall be understood to be directly attributable to the Compact interventions and measurable within an intermediate period during the Compact Term.

(b) Indicators. The M&E Plan shall measure the results of the Program using quantitative, objective and reliable data (“**Indicators**”). Each Indicator will have one or more expected results that specify the expected value and the expected time by which that result will be achieved (“**Target**”). The M&E Plan will measure and report on Indicators at each of the two levels corresponding to those described above. First, the indicators for each Objective (each, an “**Objective Indicator**”) will measure the final results of the Projects in order to monitor their success in meeting each of the Objectives, including results for the intended beneficiaries identified in accordance with Annex I (collectively, the “**Beneficiaries**”). Second, indicators for each Project Activity (each, a “**Project Activity Outcome Indicator**”) will measure the intermediate results achieved under each of the Project Activities in order to provide an early measure of the likely impact of the Project Activities. For each Indicator for a Project Activity Outcome, and Objective, the M&E Plan shall define a strategy for obtaining and validating the value of such Indicator prior to its being affected by the Program (“**Indicator Baseline**”). All Indicators will be disaggregated by gender, income level and age, to the extent practicable.

(i) Project Objective Indicators. The M&E Plan shall contain the Objective Indicators listed in the table below, with their definitions. The corresponding Indicator Baselines

and Targets to be achieved are in the following tables. MCA-Georgia may add Objective Indicators or refine the Targets of existing Objective Indicators prior to any MCC Disbursement or Re-Disbursement for any Project or Project Activity that may influence that Indicator, or at such other times as may be agreed with MCC, in each case with prior written approval of MCC.

Project Objective Definitions	
Key Regional Infrastructure Rehabilitated	
Goal Indicators	Indicator Definition
Financial benefits stemming from Infrastructure Project investments (in 1,000 USD)	Aggregated data for reduction of vehicle operating costs on rehabilitated roads, increased collection rate of GGIC, and actual operations and maintenance funds from responsible maintaining agencies (local/central government or other agencies)
Enterprises in Regions Developed	
Goal Indicators	Indicator Definition
Aggregate jobs created by Program interventions	Portfolio company jobs will be aggregated with ADA jobs in each year
Aggregate incremental household incomes and business revenues (in 1,000 USD)	Absolute annual increase in household incomes and revenues to companies in both GRDF and ADA

Project Objectives							
Key Regional Infrastructure Rehabilitated							
	Unit	Baseline	Year	Year	Year	Year	Year
			One	Two	Three	Four	Five
Financial benefits stemming from Infrastructure Rehabilitation Project investments (in 1,000 USD)*	number	0					TBD
Enterprises in Regions Developed							
	Unit	Baseline	Year	Year	Year	Year	Year
			One	Two	Three	Four	Five
Aggregate jobs created by Program interventions**	number	0					23,962
Aggregate incremental household incomes and business revenues (in 1,000 USD)**	number	0					59,434

* Setting of targets will be made at the end of Year One, once RID projects have been selected and vehicle operating costs on S-J roads have been determined.

** Portfolio company jobs and income will be aggregated with ADA jobs and income, shown here, in each year when GRDF investments are made.

(ii) **Project Activity Outcome Indicators.** The M&E Plan shall contain the Project Activity Outcome Indicators listed in the table below with their definitions. The baseline and targets to be achieved are shown in the subsequent table. MCA-Georgia may add Project Activity Outcome Indicators or refine the Targets of existing Project Outcome Indicators prior to any MCC Disbursement or Re-Disbursement for any Project Activity that may influence that Indicator, or at such other times as may be agreed with MCC, in each case with prior written approval of MCC.

Activity Outcome Indicator Definitions for Regional Infrastructure Rehabilitation Project	
Improved Transport for Regional Trade: Road Rehabilitation Activity	
Reduction in journey time: Akhalkalaki-Ninotsminda-Teleti (hours)	
Reduction in vehicle operating costs	These costs comprise the economic value of the running costs of the vehicle for the duration of the journey on the section of road or road network, the depreciation and maintenance costs of the vehicle and the associated costs related to the driver/goods transported for the journey.
Increase in internal regional traffic volumes	It is expected that this internal traffic will increase when the Project roads are improved as journey times will be significantly shorter thereby making it more attractive/enticing to the local population to make journeys that they would have thought too time consuming to attempt before the roads were improved
Increased Reliability of Energy Supply and Reduced Losses: Energy Rehabilitation Activity	
Decreased technical losses	Decrease of losses occurring between receiving point on Georgia-Russian border and delivery points to the customers, including Georgia-Armenia border
Reduction in the production of greenhouse gas emissions measured in tons of CO2 equivalent	
Increased collection rate of GGIC	Revenues from Gardabani, industries, gas distribution companies, and consumers of gas
Improved Regional and Municipal Service Delivery: Regional Infrastructure Development Activity	
Number of household beneficiaries served by RID projects (cumulative)	Number of households that benefited from improved water/sanitation, irrigation and/or gas provision
Actual operations and maintenance expenditures (in 1,000 USD)	Allocated and actual operations and maintenance funds from responsible maintaining agencies (local/central government or other agencies) used as a proxy measure of revenues and fees from RID investments

Sub-Activity Output Indicators	
Rehabilitation of Local Physical Infrastructure Sub-Activity	
Number of RID projects completed (cumulative)	Number of rehabilitation projects completed
Value of RID projects (cumulative, mln. USD)	The cumulative total capital invested, where fund size is US\$58 million

Activity Outcome Indicators for Regional Rehabilitation Project							
Improved Transport for Regional Trade: Road Rehabilitation Activity							
	Unit	Baseline	Year 1	Year 2	Year 3	Year 4	Year 5
Reduction in journey time: Akhalkalaki-Ninotsminda-Teleti (hours)	number	6.5	0	0	1	2.5	2.8
Reduction in vehicle operating costs (cumulative)	%	0%	0%	0.5%	2%	6%	15%
Increase in internal regional traffic volumes (cumulative)	%	0%	0%	0.5%	2%	5%	8%

Activity Outcome Indicators for Regional Rehabilitation Project							
Increased Reliability of Energy Supply and Reduced Losses: Energy Rehabilitation Activity							
	Unit	Baseline	Year 1	Year 2	Year 3	Year 4	Year 5
Decreased technical losses	%	5%	5%	4%	3%	2%	2%
Reduction in the production of greenhouse gas emissions measured in tons of CO2 equivalent	number	324,713	696,016	1,117,137	1,195,047	1,247,471	1,278,919
Increased collection rate of GGIC	%	50%	50%	95%	95%	95%	95%
Improved Regional and Municipal Service Delivery: Regional Infrastructure Development Activity							
	Unit	Baseline	Year 1	Year 2	Year 3	Year 4	Year 5
Number of household beneficiaries served by RID projects (cumulative)	number	0	0	2,000	20,000	46,000	53,000
Actual operations and maintenance expenditures (USD)*	number	0	TBD	TBD	TBD	TBD	TBD

* Setting of targets will be made at the end of Year One, once RID projects have been selected and vehicle operating costs on S-J roads have been determined.

Sub-Activity Output Indicators for Regional Infrastructure Development Activity							
Rehabilitation of Local Physical Infrastructure Sub-Activity							
Sub-Activity Output Indicators							
	Unit	Baseline	Year 1	Year 2	Year 3	Year 4	Year 5
Number of RID projects completed (cumulative)	number	0	0	2	8	13	14
Value of RID projects (cumulative, mln. USD)	number	0	8	28	48	57	58

Activity Outcome Indicator Definitions for Enterprise Development Project	
Increased Investment in and Performance of SMEs: Investment Fund Activity	
Georgia Regional Development Fund (GRDF)	
Increase in annual revenue in portfolio companies (in 1,000 USD)	Aggregate increase in revenues of companies in which GRDF invests
Increase in number of portfolio company employees and number of local suppliers	Includes additional number of employees of, as well as additional local suppliers of inputs or services to, companies in which GRDF invests
Increase in portfolio companies' wages and payments to local suppliers (in 1,000 USD)	

Activity Outcome Indicator Definitions for Enterprise Development Project	
Improved Economic Performance in Agribusiness: Agribusiness Development Activity	
Jobs created	Includes jobs created in on farms, input supply services and agribusiness enterprises
Increase in aggregate incremental net revenue to project assisted firms (in 1,000 USD and cumulative over five years)	Aggregate annual increase in Net Revenue (NR) of project assisted agribusinesses, service providers and value added enterprises
Direct household net income (in 1,000 USD cumulative over five years)	Includes direct beneficiaries of the access to modern technology, grants to rural entrepreneurs initiatives
Direct household net income for market information initiative beneficiaries (in 1,000 USD cumulative over five years)	
Number of beneficiaries	Includes population directly employed in and clients of agribusinesses, input supply services and enterprises

Activity Outcome Indicators for Enterprise Development Project								
Increased Investment in and Performance of SMEs: Investment Fund Activity								
Georgia Regional Development Fund (GRDF)								
	Unit	Baseline	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10
Increase in annual revenue in portfolio companies (in 1,000 USD and cumulative)	number	0					22,200	55,000
Increase in number of portfolio company employees and number of local suppliers (cumulative)	number	0					4,400	6,650
Increase in portfolio companies' wages and payments to local suppliers (cumulative)	number	0					9,450	23,900

Improved Economic Performance in Agribusiness: Agribusiness Development Activity								
	Unit	Baseline	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10
Jobs created from project interventions (cumulative)	number	0	597	1,481	2,375	3,174	3,606	NA
Increase in aggregate incremental net revenue to project assisted firms (in 1,000 USD and cumulative over five years)	number	0	45	287	951	2,277	4,448	NA
Direct household net income (in 1,000 USD cumulative over five years)	number	250	160	1,035	3,474	8,415	16,605	NA

Improved Economic Performance in Agribusiness: Agribusiness Development Activity								
	Unit	Baseline	Year 1	Year 2	Year 3	Year 4	Year 5	Year 10
Direct household net income for market information initiative beneficiaries (in 1,000 USD cumulative over five years)	number	250	133	713	1,941	3,929	6,731	NA
Number of beneficiaries (cumulative)	number	0	8,584	20,070	36,625	49,423	57,626	NA

(c) **Data Collection and Reporting.** The M&E Plan shall establish guidelines for data collection and a reporting framework, including a schedule of Program reporting and responsible parties. The Management Team shall conduct regular assessments of program performance to inform MCA-Georgia, Project Managers and the MCC of progress under the Program and to alert these parties to any problems. These assessments will report the actual results compared to the Targets on the Indicators referenced in the Monitoring Component, explain deviations between these actual results and Targets, and in general, serve as a management tool for implementation of the Program. With respect to any data or reports received by MCA-Georgia, MCA-Georgia shall promptly deliver such reports to MCC along with any other related documents, as specified in this Annex III or as may be requested from time to time by MCC.

(d) **Data Quality Reviews.** From time to time, as determined in the M&E Plan or as otherwise requested by MCC, the quality of the data gathered through the M&E Plan shall be reviewed to ensure that data reported are as valid, reliable, and timely as resources will allow. The objective of any data quality review will be to verify the quality and the consistency of performance data, across different implementation units and reporting institutions. Such data quality reviews also will serve to identify where those levels of quality are not possible, given the realities of data collection. The data quality reviewer shall enter into an Auditor / Reviewer Agreement with MCA-Georgia in accordance with Annex I.

3. Evaluation Component.

The Program shall be evaluated on the extent to which the interventions contribute to the Compact Goal. The Evaluation Component shall contain a methodology, process and timeline for analyzing data in order to assess planned, ongoing, or completed Project Activities to determine their efficiency, effectiveness, impact and sustainability. This component should use state-of-the-art methods for addressing selection bias and should make provisions for collecting data from both treatment and control groups, where practicable. The Evaluation Component shall contain two types of reports: Final Evaluations and Ad Hoc Evaluations, and shall be finalized before any MCC Disbursement or Re-Disbursement for specific Program activities or Project Activities.

(a) **Final Evaluation.** MCA-Georgia, with the prior written approval of MCC, may engage an independent evaluator to conduct an evaluation at the expiration or termination of the Compact Term (“**Final Evaluation**”) or at MCC’s election, MCC may engage such independent

evaluator. The Final Evaluation must at a minimum (i) evaluate the efficiency and effectiveness of the Program Activities; (ii) estimate, quantitatively and in a statistically valid way, the causal relationship between the Compact Goal (to the extent possible), the Objectives and Project Activity Outcomes; (iii) determine if and analyze the reasons why the Compact Goal, Objectives and Project Activity Outcomes were or were not achieved; (iv) identify positive and negative unintended results of the Program; (v) provide lessons learned that may be applied to similar projects; (vi) assess the likelihood that results will be sustained over time; and (vii) any other guidance and direction that will be provided in the M&E Plan. To the extent engaged by MCA-Georgia, such independent evaluator shall enter into an Auditor / Reviewer Agreement with MCA-Georgia in accordance with Annex I.

(b) Ad Hoc Evaluations. Either MCC or MCA-Georgia may request ad hoc or interim evaluations or special studies of Projects, Project Activities, or the Program as a whole prior to the expiration of the Compact Term. If MCA-Georgia engages an evaluator, the evaluator will be an externally contracted independent source selected by MCA-Georgia, subject to the prior written approval of MCC, following a tender in accordance with the Procurement Guidelines, and otherwise in accordance with any relevant Implementation Letter or Supplemental Agreement. The cost of an independent evaluation or special study may be paid from MCC Funding. If MCA-Georgia requires an ad hoc independent evaluation or special study at the request of the Government for any reason, including for the purpose of contesting an MCC determination with respect to a Project or Project Activity or to seek funding from other donors, no MCC Funding or MCA-Georgia resources may be applied to such evaluation or special study without MCC's prior written approval.

4. Other Components of the M&E Plan.

In addition to the Monitoring and Evaluation Components, the M&E Plan shall include the following components for the Program, Projects and Project Activities, including, where appropriate, roles and responsibilities of the relevant parties and Providers:

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

(b) Assumptions and Risks. Any assumptions and risks external to the Program that underlie the accomplishment of the Objectives and Project Activity Outcomes; provided, however, such assumptions and risks shall not excuse performance of the Parties, unless otherwise expressly agreed to in writing by the Parties.

5. Implementation of the M&E Plan.

(a) Approval and Implementation. The approval and implementation of the M&E Plan, as amended from time to time, shall be in accordance with the Program Annex, this M&E Annex, the Governance Agreement, and any other relevant Supplemental Agreement.

(b) Stakeholders' Committee. The completed portions of the M&E Plan will be presented to the Stakeholders' Committee at the Stakeholders' Committee's initial meetings, and any amendments or modifications thereto or any additional components of the M&E Plan will be

presented to the Stakeholders' Committee at appropriate subsequent meetings of the Stakeholders' Committee. The Stakeholders' Committee will have opportunity to present its suggestions on the M&E Plan, which the Supervisory Board will take into consideration, as a factor, in its review of any amendments to the M&E Plan during the Compact Term. The Stakeholders' Committee shall deliver an acknowledgement following its review of the M&E Plan and any amendments thereto.

(c) MCC Disbursement and Re-Disbursement for a Project Activity. Unless the Parties otherwise agree in writing, prior to, and as a condition precedent to, the initial MCC Disbursement or Re-Disbursement with respect to certain Project Activities, the baseline data or report, as applicable and as specified in the Disbursement Agreement, with respect to such Project or Project Activity must be completed in form and substance satisfactory to MCC. As a condition to each MCC Disbursement or Re-Disbursement there shall be satisfactory progress on the M&E Plan for the relevant Project or Project Activity, and substantial compliance with the M&E Plan, including any reporting requirements.

(d) Modifications. Notwithstanding anything to the contrary in the Compact, including the requirements of this M&E Annex, MCC and the Government (or a mutually acceptable Government Affiliate or Permitted Designee) may modify or amend the M&E Plan or any component thereof, including those elements described herein, without amending the Compact; provided, any such modification or amendment of the M&E Plan has been approved by MCC in writing and is otherwise consistent with the requirements of this Compact and any relevant Supplemental Agreement between the Parties.