

STATUTE OF MCA-KOSOVO

ARTICLE 1. GENERAL

- Section 1.1 Name. Millennium Challenge Account – Kosovo or MCA-Kosovo.
- Section 1.2 Type. An independent and autonomous foundation organized and registered pursuant to the Millennium Challenge Compact, by and between the United States of America acting through the Millennium Challenge Corporation and the Republic of Kosovo, signed on July 15, 2022 and ratified on July 28, 2022 (the “**Compact**”) and Law No. 04/L-057 on the Freedom of Association in Non-Governmental Organizations (the “**Enabling Legal Framework**”).
- Section 1.3 Organization. MCA-Kosovo’s board of directors will have ultimate authority to direct MCA-Kosovo. MCA-Kosovo will consist of (a) a board of directors composed of the members described in Section 3.7 of this Statute (the “**Board**”), (b) an operations team (the “**Operations Unit**”), and (c) if the Board decides to form stakeholders’ committees, one or more stakeholders’ committees to provide advice and input to MCA-Kosovo and to disseminate information concerning Compact implementation to the public (each a “**Stakeholders’ Committee**” and together the “**Stakeholders’ Committees**”), each as more particularly described in this Statute.
- Section 1.4 Defined Terms. Capitalized terms used in this Statute will have the meanings provided in Schedule 1 of this Statute.

ARTICLE 2. PURPOSE AND POWERS

- Section 2.1 Purpose and Authority. MCA-Kosovo will have the purpose of acting as the Government’s primary agent to implement the Program and to perform the Government’s right and obligation to oversee, manage, and implement the Program, including without limitation, managing the implementation of Projects and their activities, allocating resources, and managing procurements. It will be empowered by the Compact, the Program Implementation Agreement and the Enabling Legal Framework with the authority to perform the Government's obligations under the Compact in an independent, transparent, and accountable manner.
- Section 2.2 Powers. MCA-Kosovo will have the following powers and legal capacities without limitation:
- (a) to perform the Designated Rights and Responsibilities under the Compact and related agreements, and to bind the Government to the full extent of such rights and responsibilities;

- (b) to make its own budget and implement the decisions of its Board;
- (c) to expend MCC Funding and Government Contribution;
- (d) to acquire, own, possess and dispose of property in its own name;
- (e) to sue and be sued in its own name;
- (f) to enter into, be bound by and enforce contracts in its own name, with private and public entities including MCC, other Government ministries and sub-entities (such as project implementation units), employees, service providers, and consultants;
- (g) to engage implementing entities, through Supplemental Agreements or Implementing Entity Agreements approved by MCC, and to delegate certain powers in accordance with the Compact with the approval of MCC;
- (h) to insure against all normal commercial risks associated with its activities;
- (i) to open bank accounts in its own name; and
- (j) generally, to perform such duties and exercise such powers of the accountable entity as contemplated by the Compact, the Program Implementation Agreement, and the Program Guidelines.

Section 2.3 MCA-Kosovo will not, directly or indirectly, engage in any activity prohibited under the Compact.

ARTICLE 3. BOARD OF DIRECTORS

Section 3.1 Role of the Board. MCA-Kosovo will be governed by the Board. The Board will have independent decision-making authority and will have ultimate authority and responsibility for the (a) oversight, direction, and decisions of MCA-Kosovo and (b) overall implementation of the Program in accordance with the Compact, the Program Implementation Agreement, and all other Supplemental Agreements. The Board is to be independent and the final decision maker with respect to Compact matters, subject to the rights of approval of MCC contained in the Compact and the Program Implementation Agreement. The Board's decisions will not be subject to review and reversal by any other Government entity or official other than a judicial authority exercising proper jurisdiction.

Section 3.2 Responsibilities of the Board. Without limiting the general responsibilities of the Board as described in Section 3.2 of this Statute, and the non-delegable responsibilities of the Board described in Section 3.3 of this Statute, the Board will:

- (a) follow MCA-Kosovo's Governing Documents including its mission to implement the Compact;

(b) participate actively in overseeing the management of MCA-Kosovo, including evaluation of its reports as well as performance of its staff;

(c) oversee and provide direction to the Operations Unit, and ensure that the Operations Unit is composed of qualified experts from the public or private sectors who are hired through an open and competitive recruitment and selection process;

(d) protect, preserve and manage the assets financed with MCC Funding and ensure that MCC Funding is used for its intended purposes;

(e) keep written minutes of all meetings held by the Board in the Board Document Repository, which will reflect all decisions made and all actions taken;

(f) ensure that MCA-Kosovo's records and accounts are accurate and complete;

(g) ensure that regular audits of MCA-Kosovo by an independent auditor are performed annually; and

(h) actively engage with and consider the recommendations and advice of the Operations Unit made pursuant to Article 4 of this Statute, and, if the Board deems advisable, request that the Stakeholders' Committees provide responsive information and documents to the Board or, as applicable, to the Operations Unit.

Section 3.3 Non-delegable responsibilities of the Board. The Board will have responsibility for considering and approving or disapproving the following items (and such responsibility may not be delegated to the Operations Unit or otherwise):

(a) Fiscal Accountability Plans, M&E Plans, Accountable Entity Anti-Fraud & Corruption Action Plans, the MCA Human Resources Manual, and any material amendments or supplements thereto;

(b) Procurement & Grants Plan Packages;

(c) Agreements between the Government and MCA-Kosovo, and any material amendment, suspension, or termination of such agreements;

(d) Agreements (and any material amendment, suspension, or termination of such agreements) between MCA-Kosovo and (1) any third-party auditor, (2) the Fiscal Agent, (3) the Procurement Agent, (4) any bank, (5) any Implementing Entity, (6) any outside project manager, or (7) any Board member;

(e) The selection, performance evaluation, and termination of the Chief Executive Officer and the final employment agreement with final compensation amount and any amendments thereto;

(f) A form of employment agreement to be used for the other Key Staff and the final employment agreement for Key Staff;

- (g) An organizational staffing plan for at least the Key Staff, and any material amendments or supplements thereto;
- (h) A salary grid/scale with approved salary ranges and benefits for members of the Operations Unit, and any material amendments or supplements thereto;
- (i) MCA-Kosovo's policies as set forth in Article 6 below, and any material amendments or supplements to any such policy;
- (j) Any adoption of an alternative performance evaluation system and related amendments to the MCA Human Resources Manual, and any material changes to a previously-approved alternative performance evaluation system;
- (k) Audit findings and reports of the results of audits received from the audit committee;
- (l) Any agreement that is (a) with a party related to MCA-Kosovo or any party that controls, is controlled by, or is under common control with MCA-Kosovo, or (b) not at arm's length (that is, the parties are not dealing from equal bargaining positions, one party is subject to the other's control or dominant influence, or the transaction is not treated with fairness, integrity, and legality);
- (m) Any material amendments or supplements to the Governing Documents;
- (n) Any decision to dispose of, liquidate, dissolve, wind up, or reorganize the Board, including any decision to add or remove any Board member;
- (o) Any formation or acquisition of a subsidiary or other related entity of MCA-Kosovo;
- (p) Any material changes to the components or structure of MCA-Kosovo;
- (q) Any decision to engage, accept, or manage any funds from any donor agencies or donor organizations in addition to MCC Funding during the term of the Compact; and
- (r) Any other action that requires Board approval pursuant to the Compact, Program Implementation Agreement, any Governing Document, or other Supplemental Agreement.

Section 3.4 Authority of Chief Executive Officer and Executive Committees.

- (a) Chief Executive Officer. All Board members will be entitled to receive the documents provided to the Chief Executive Officer. The Board must review the actions of the Chief Executive Officer for consistency with the Compact, the Governing Documents, and overall Program implementation during regular meetings of the Board. Notice of any actions taken and copies of any documents approved by the Chief Executive Officer will be provided to all members of the

Board within seven (7) calendar days following such action or approval. The Chief Executive Officer will review and approve the following documents:

- (i) any request for Disbursement;
 - (ii) any Implementation Plan Document other than Procurement Plans and any modification thereto; and
 - (iii) any Periodic Report.
- (b) Executive Committees. If so designated by a resolution of the Board, the Board may create Executive Committees responsible for reviewing and approving any actions permitted under the Compact, the Program Implementation Agreement, the Program Guidelines, any Governing Document, or other supplemental agreement. The majority of an Executive Committee will be voting members of the Board, with at least one member appointed from the Non-Government Board Members. The Chief Executive Officer also will be a member of the Executive Committee. All Board members will be entitled to receive the documents provided to the Executive Committee and to participate as observers in the meetings of the Executive Committee upon request. The Board must review the actions of the Executive Committee for consistency with the Compact, the Governing Documents and overall Program implementation during regular meetings of the Board. The Secretary, as defined below, will provide notice of any actions taken and copies of any documents approved by the Executive Committee to all members of the Board within seven (7) calendar days following such action or approval. Specific rules and principles governing other aspects of an Executive Committee (such as size, scope of review and approval (subject to this Section 3.4), meetings (e.g., frequency, notice, and quorum), decision-making thresholds for actions taken in meetings or by written consent) should be set out in the resolution of the Board (as applicable) establishing such Executive Committee.
- (i) An Executive Committee will review and approve any Audit Plan and any modifications thereto.
 - (ii) An Executive Committee (Procurement and Grants Committee) will consider and approve or disapprove any material change to the Procurement & Grants Plan Package in accordance with MCC's Accountable Entity Procurement Policy & Guidelines.

Section 3.5 Other Committees. The Board may form other committees as well, which make recommendations to the Board as appropriate. Such committees may be composed of Voting Members and non-voting observers of the Board and such other persons that may have particular expertise necessary for the committee. All members of such committees will be subject to the policies set forth in Article 6

as more specified in such policy documents. The Board may rely on information, opinions, reports, and similar materials prepared by other committees the Board may create, but the members of the Board remain responsible for actually taking decisions on matters addressed or raised by such committees or that are otherwise necessary or prudent on behalf of MCA-Kosovo and the proper implementation of the Program.

Section 3.6 Fiduciary Duties of Board Members. Except for the non-voting MCC Observer, the members of the Board owe a fiduciary duty to MCA-Kosovo. They must discharge their responsibilities by staying informed and providing appropriate oversight of MCA-Kosovo during Compact implementation, and holding regular meetings to consider and approve activities of MCA-Kosovo as necessary. Members of the Board must exercise objective and independent judgment and discharge their duties in a manner that is in the best interests of the Program and MCA-Kosovo.

Section 3.7 Composition. The Board is composed of nine voting members, and two non-voting observers.

(a) Voting Members.

(i) The voting members of the Board will consist of six members nominated by the Government of Kosovo (each one a “**Government Board Member**” and collectively the “**Government Board Members**”); and three members from the private sector and/or civil society (each one a “**Non-Government Board Member**” and collectively, the “**Non-Government Board Members**,” and together with the Government Board Members, the “**Voting Members**”). The initial composition of Voting Members is as follows:

- (i) Chief of Staff of the Presidency;
- (ii) The First Deputy Prime Minister of Kosovo;
- (iii) Minister of Finance, Labor and Transfers;
- (iv) Minister of Economy;
- (v) Minister of Environment, Spatial Planning and Infrastructure;
- (vi) Minister of Education, Science, Technology and Innovation;
- (vii) One private sector representative; and
- (viii) Two civil society representatives (one representing organizations serving women and one representing Kosovo’s minority groups).

Each Voting Member will have an alternate with clear decision-making authority who can attend Board meetings. The Presidency will be represented by the Deputy Chief of Staff

of the Presidency. The Prime Minister's Office will be represented by the Chief of Staff of the Prime Minister. The remaining Government Board Members will be represented by an official holding the title of Secretary General or equivalent ranking.

(b) Non-Voting Observers.

(i) The Chief Executive Officer of MCA-Kosovo will serve as a non-voting observer of the Board.

(ii) The MCC Observer will serve as a non-voting observer of the Board.

(iii) Other non-voting observers may be added to the Board with the agreement of the Government and MCC. Such non-voting observers will be entitled to attend and participate in all Board meetings and receive all correspondence and documentation provided to the Board.

Section 3.8 Selection; Appointment; Terms.

(a) Each Government Board Member will be a senior-level official from the relevant ministry or department with the authority to act on behalf of and bind the ministry or department he or she represents. Each Government Board Member will serve in his or her capacity as a Government official and not in a personal capacity. If a person serving as a Government Board Member resigns or is removed from such Government office, that person's position on the Board will be taken by such person's successor or another official acting in such Government capacity.

(b) The Non-Government Board Members will be selected through a transparent process established by the relevant non-governmental civil society and private sector organizations, as agreed with MCC.

(c) The term of office for Non-Government Board Members will be two years, which term of office may be renewed. In the event that a vacancy is created with respect to one or more Non-Government Board Members at any time, a successor will be selected in accordance with this Section 3.8.

Section 3.9 Compensation; Indemnification.

(a) Government Board Members will not be entitled to receive remuneration from MCC Funding in connection with the performance of their duties as members of the Board except for reimbursement of reasonable expenses arising from their attendance at regular or special meetings, so long as such reimbursements are (i) consistent with the Compact and the detailed budget for the Program, (ii) are made with the prior approval of MCC, and (iii) are in accordance with the MCC Cost Principles. Non-Government Board Members are permitted to receive remuneration from Government sources or MCC Funding in connection with the performance of their Board duties subject to appropriate controls and limitations, the availability of funds, and MCC prior approval.

(b) Pursuant to the Program Implementation Agreement, the Government is responsible for indemnifying and holding harmless each member of the Board, ***provided*** that the Government will have no obligation to indemnify any members if and to the extent that any claims, losses, actions, liabilities, costs, damages or expenses are attributable to the fraud, gross negligence or willful misconduct of such member.

Section 3.10 Chairperson. The Chair of the Board (“***Chairperson***”) will alternate between the representative of the Ministry of Economy and the representative of the Ministry of Finance, Labor and Transfers with a mandate of two (2) years before alternation with the representative of the Ministry of Economy having the first mandate starting from the date of the first meeting of the Board of Directors.

Section 3.11 Role of the General Counsel as Secretary to the Board.

(a) MCA-Kosovo’s General Counsel or equivalent legal director (as selected and hired in accordance with Section 4.3 of this Statute) will act as the corporate secretary of MCA-Kosovo (the “***Secretary***”); if the General Counsel is not available to perform the function of Secretary, the Chairperson may designate another member of Key Staff to serve as the Secretary until the General Counsel is available to perform such functions.

(b) The Secretary will be responsible for maintaining MCA-Kosovo's corporate books and records at the offices of MCA-Kosovo, giving notice of Board meetings, attending and keeping minutes of Board meetings, signing all documents on which the signature of the Secretary is necessary or appropriate, and attesting to the authenticity of any MCA-Kosovo generated documents. The Secretary will be responsible for uploading the notice, the agenda of issues, and other documents (either public or confidential) for consideration by the Board to the Board Document Repository, and ensuring that the members of the Board have access to the Board Document Repository.

(c) The Secretary will prepare minutes that will include at a minimum, the agenda and information regarding when notice was delivered to the members of the Board, the list of attendees and absentees, summaries of the discussion of agenda items and actions taken by the Board, and any actions taken by an Executive Committee.

(d) The written minutes of each Board meeting will be published on the MCA-Kosovo Website within one week the approval of such minutes. In the event that MCA-Kosovo is not able to publish the minutes within two weeks of the corresponding Board meeting, then prior to expiry of the two-week period, MCA-Kosovo must publish a summary of the actions and decisions taken by the Board. The minutes are to be recorded and published in English and may be published in the local language as well. The written minutes will also be uploaded to the Board Document Repository for the Board’s own reference.

Section 3.12 Meetings; Decisions.

(a) The Board will hold as many meetings as are necessary to discharge its duties and ensure the effective implementation of the Compact; such meetings will be at such times and at such places as may from time to time be determined by the Board. At a minimum, the Board will meet once a quarter for regular meetings.

(b) Each meeting of the Board will meet certain minimum standards in order to be considered a valid meeting at which actions taken by the Board are considered valid and effective. These standards will include the following:

(i) Notice. Adequate notice of meetings will be provided to all members of the Board. Notice for regular meetings will be delivered to each member of the Board at least seven (7) days prior to the date of such regular meeting. Notice for special meetings will be delivered to each member of the Board at least forty-eight (48) hours prior to the time of such special meeting. Such notice will (1) be given to both Voting Members and non-voting observers of the Board; (2) specify the date, time, and location of the meeting; and (3) include a copy of an agenda of issues and documents to be considered in either hardcopy or as a link to the Board Document Repository. Notwithstanding the foregoing, (x) any member of the Board may waive, in writing, the requirement to receive notice in respect of any such meeting, and (y) the presence of a member of the Board at any such meeting will constitute waiver by such member of the requirement to receive notice of such meeting. A valid meeting of the Board may not be held unless each member of the Board receives notice (or waives or is deemed to waive notice) of such meeting.

(ii) Quorum. A quorum for all meetings of the Board will be five Voting Members consisting of (A) at least four Government Board Members and at least (B) one Non-Government Board Members. The Voting Members may be represented by their alternates appointed pursuant to Section 3.12(c) of this Statute. If the size of the Board is altered with the approval of MCC, the thresholds for quorum and voting will also be adjusted in a manner approved by MCC.

If a quorum is not present at a meeting of the Board at the time appointed for holding such meeting, the members of the Board present at the meeting may proceed with the agenda. For any actions or decisions voted upon by members of the Board present at such meeting, MCA-Kosovo should, within 48 hours of the time appointed for such meeting, circulate a written draft resolution to members of the Board not in attendance at the meeting and upload the same to the Board Document Repository. Voting Members that were not in attendance at such meeting will be required to provide their vote in writing within seven (7) days of MCA-Kosovo's transmittal and upload of such written draft resolution. Quorum will be deemed to have been achieved if and when a sufficient number of votes (to achieve quorum as specified in the Governing Documents for an in-person Board meeting) are received from Voting Members that were not in attendance, provided that at least one Non-Government Board Member's vote has also been recorded or received.

(iii) Voting.

(1) Except as provided in clause (2) below and Section 7.1 of this Statute, decisions of the Board will be taken by a majority of

the Voting Members attending a meeting at which a quorum is achieved.

- (2) Any decision to dispose of, in whole or in part, liquidate, dissolve, wind up, reorganize or effect other material change to MCA-Kosovo will require approval of at least seventy-five percent (75%) of the Voting Members attending a meeting at which a quorum is achieved.
- (3) Each Voting Member will have one vote.
- (4) In the event of an equality of votes, the Chairperson presiding at the meeting will have a casting or tie-breaking vote.
- (5) Each decision, election, appointment or action by the Board, whether specifically set forth in this Statute or otherwise, will be made in accordance with the procedure set forth in this Section 3.12(b).

(iv) Decisions without a meeting. Urgent decisions may be taken by the Board without a formal meeting if (a) a written draft resolution is circulated to all members of the Board and (b) at least five Voting Members consent in writing to the resolution (of which at least one must be a Government Board Member and at least one must be a Non-Government Board Member).

(v) Meetings by Telephone Conference. Except as otherwise provided in this Statute, the members of the Board may participate in a meeting of the Board by means of a telephone conference or similar communications equipment that enables all persons participating in the meeting to hear and speak to each other. Participation in a Board meeting pursuant to this Section 3.12(b)(v) constitutes presence in person at such meeting.

(c) In the event that a Voting Member is unable to participate in a meeting of the Board, such Voting Member can be replaced only by their designated alternate.

(d) The Chairperson will preside at every meeting of the Board and in the absence of the Chairperson, a Voting Member elected by a majority of the Voting Members present at the meeting will preside. Once Board members have had an opportunity to discuss a particular issue, the Chairperson will facilitate the decision-making process and formal action by the Board to approve, disapprove or delay its decision on the item or document.

(e) The Board will ensure that MCA-Kosovo will not take (or fail to take) any action with respect to which MCC approval is required pursuant to the Compact, any Governing Document, the Program Implementation Agreement, any Implementation Plan Document, any other Supplemental Agreement, or any Program Guidelines without in each case obtaining the prior approval of MCC (which approval will be in writing unless otherwise indicated).

Section 3.13 MCC Observer.

(a) MCC's Resident Country Director for Kosovo, or such other person as MCC may appoint (the "***MCC Observer***"), will participate in all Board meetings. This will include the right to attend all Board meetings, participate in Board discussions, and receive and review all correspondence and documentation provided to the Board.

(b) The MCC Observer represents MCC's interests with respect to implementation of and compliance with the Compact, and does not owe any fiduciary duty to MCA-Kosovo.

ARTICLE 4. OPERATIONS UNIT

Section 4.1 Role and Duties of Operations Unit.

(a) The Operations Unit will have the principal responsibility (subject to the direction and oversight of the Board, and to any applicable approval or other rights of MCC) for the day-to-day management of the Program, including those roles and responsibilities specifically set forth in the Program Implementation Agreement. The specific duties of the Operations Unit include the following:

(i) Development and administration of (1) all components of the Implementation Plan Documents, (2) the audit plans and responses to any findings in any audit, (3) staffing plans, and (4) any amendments, modifications, or supplements to any of the items in (1) - (3);

(ii) Oversight of the implementation of the Program, including preparation and submission of Disbursement Requests;

(iii) Coordination of the overall Program, each project, and the other activities contemplated under the Compact, including management of contracts and agreements;

(iv) Management, implementation, and coordination of the monitoring and evaluation of the Program and the projects (including collection and analysis of data) and ensuring integration between project implementation and evaluation;

(v) Development, oversight, management, coordination, and implementation of such policies and procedures as may be necessary to facilitate the effective implementation of the Program and such other policies, procedures, or activities as may be required or requested by the Board in furtherance of the Program;

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

(vii) Preparation and submission of all reports required by applicable local law;

(viii) Maintenance of accounting records for the Program, including for each project;

(ix) Acquisition and maintenance of a management information system to allow the systematic tracking of programmatic and financial implementation of and performance under the Program, including each project;

(x) Commissioning and supervision of baseline and ex-post studies for each Project as may be required by the M&E Plan; and establishment of data collection, analysis, and reporting systems for the overall Program and for each project;

(xi) Conduct and oversight of procurements and other procurement actions (including approvals thereof) as required under the Compact and Program Implementation Agreement and the relevant supplemental agreements and the Program Guidelines;

(xii) Compliance with the MCC Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations, including the development and publication of an Accountable Entity Anti-Fraud & Corruption Action Plan and related implementation reports;

(xiii) Administration of the MCA-Kosovo Website, including posting current information about Program-related activities, M&E Plan reporting, financial reporting, and Program-related procurements;

(xiv) Provision of advice and written recommendations to the Board on matters constituting Board actions, accompanied by the relevant agreements, documents, or actions to be approved, and any other documents needed to support such recommendation;

(xv) Preparation of and submission to the Board of any report required by MCC or any other report, document, agreement, or action as may be designated or requested by the Board from time to time, along with a written recommendation to the Board on how to proceed;

(xvi) If a Stakeholders' Committee is established, provision of periodic reports to the public which should include a report on any Stakeholders' Committee meeting that might have occurred during the period covered by such report, and how recommendations of the Stakeholders' Committee have informed the activities of MCA-Kosovo;

(xvii) Preparation and submission of documentation necessary to ensure the tax exemption of MCC Funding related to the Program; and

(xviii) Any other responsibilities within the scope of its role in implementation of the Program that may be required or requested from time to time by the Board.

(b) All plans, reports and other documents delivered to MCA-Kosovo's Board will also be delivered by the Operations Unit to MCC.

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

Section 4.2 Composition.

(a) The Operations Unit includes (i) the following positions (each, a “**Key Staff**”): (1) Chief Executive Officer (“**Chief Executive Officer**” or “**CEO**”), (2) deputy executive officer, (3) project director of a Project, and (4) the highest ranking staff member in the following sectors: (a) finance, (b) legal, (c) procurement, (d) environmental and social performance, (e) gender and social inclusion, and (f) monitoring, evaluation and economics and (5) such other Key Staff as may be agreed upon by the Government and MCC; and (ii) other non-Key Staff positions.

(b) The CEO will manage the day-to-day activities of MCA-Kosovo and will be supported by the Deputy Executive Officers. The CEO may (1) enter into contracts on behalf of MCA-Kosovo, subject to the prior approval of the Board if required herein, in the Compact, any Supplemental Agreement or any Program Guidelines; and (2) review Disbursement Requests to be submitted to MCC in compliance with Section 3.4 above.

(c) The Key Staff will be supported by appropriate administrative and other personnel as needed and in accordance with the staffing plan agreed with MCC and the Detailed Financial Plan.

Section 4.3 Selection; Appointment; Dismissal.

(a) The CEO will be selected and hired, subject to MCC’s approval, by the Board after an open and competitive recruitment and selection process.

(b) The members of the Operations Unit other than the CEO will be selected and hired by the CEO following an open and competitive recruitment and selection process. MCA-Kosovo will use only qualified and experienced staff for the performance of its responsibilities under the Compact, the Program Implementation Agreement, and other Supplemental Agreements. MCA-Kosovo will be responsible for and will take all necessary action with respect to any misconduct or failure of any staff retained by MCA-Kosovo.

(c) The terms of employment for each Key Staff and for any other employee will be governed by an employment agreement to be entered into between MCA-Kosovo and each such employee. MCC will not have any direct or indirect liability under such agreements or arrangements.

(d) All members of the Operations Unit may be nationals of Kosovo or of any other country. They will not be considered civil servants pursuant to Law No. 06/L-114 on Public Officials or any future law that might supersede it.

(e) MCA-Kosovo will be responsible for and will take all necessary action with respect to any misconduct or failure of any Key Staff retained by MCA-Kosovo.

Section 4.4 Remuneration. The remuneration of each member of the Operations Unit will comply with the salary grid/scale with approved salary ranges and benefits approved by the Board, ***provided, however,*** that such remuneration will be approved in advance by MCC and comply with the Detailed Financial Plan and the standards provided in the MCC Cost Principles.

ARTICLE 5. STAKEHOLDERS' COMMITTEES

Section 5.1 Role of the Stakeholders' Committees.

(a) One or more Stakeholders' Committees, each in form satisfactory to MCC, may be created to represent the constituencies of the various Projects. MCA-Kosovo will use the Stakeholders' Committees to continue the consultative process throughout Compact implementation. The Stakeholders' Committees will be used primarily to inform the various constituent groups about Program implementation and provide advice and input to MCA-Kosovo concerning the Program, with the goal of promoting transparency. To that end:

(i) the MCA-Kosovo Project directors will present Program-related matters to the Stakeholders' Committees and report back to the Board on the advice provided by them, and regular, periodic interaction between MCA-Kosovo and the Stakeholders' Committees is anticipated; and

(ii) each Stakeholders' Committee will (1) engage the various constituents and intended beneficiaries of the Program on the Program's implementation; and (2) provide advice, guidance, and recommendations to MCA-Kosovo with respect to the implementation of the Program.

(b) At the request of the Board, a Stakeholders' Committee will be responsible for reviewing certain reports, agreements and documents, including the Implementation Plan Documents and the M&E Plan, and providing recommendations to the Board regarding the implementation of the Program. The Board will exercise discretion in choosing which documents, agreements and reports to disclose to any Stakeholders' Committee for its review and, subject to appropriate treatment of such information and documents by the members of the Stakeholders' Committee, will generally include all documents, agreements, and reports except for those which may impede execution of the Program or violate confidentiality. Members of the Stakeholders' Committees will regularly have the opportunity to present their views and recommendations to the Operations Unit and the Board. Members of the Stakeholders' Committees will be accessible to the beneficiaries they represent in order to receive their comments or suggestions regarding the Program.

Section 5.2 Composition.

(a) The size, composition and manner of selection of members of the Stakeholders' Committees will be agreed between the Government and MCC and ratified by the Board. These matters will be dictated by the Project areas and scope of the Program. The membership will, however, include Government, the private sector, civil society and all structures that were consulted in developing the Compact proposal.

(b) The “government” representation in the membership of the Stakeholders’ Committees will be the local and regional governments that were consulted by the Government in the development of its Compact proposal. The non-governmental organizations, civil society and private sector representatives will not be selected by the Government, but rather through a transparent process established by the Stakeholders’ Committees and as agreed to by MCC.

Section 5.3 Appointment; Term. The term of service for members of each Stakeholders’ Committee will be two years, which term of service may be renewed.

Section 5.4 Meetings; Decisions.

(a) Each Stakeholders’ Committee will hold the number of periodic general meetings per year that may be required to discharge its functions.

(b) In compliance with requirements of the Compact, the MCC Governance Guidelines and related Governing Documents, each Stakeholders’ Committee will prepare written summaries of its meetings, including, but not limited to, the following information for each meeting: names of all attendees, agenda items discussed, and recommendations made by the Stakeholders’ Committee at the meeting.

(c) Adequate notice of meetings will be provided to all members of the Stakeholders’ Committee. At least seven (7) days prior written notice will be provided for general meetings.

(d) A majority of the members of a Stakeholders’ Committee will constitute a quorum at any meeting.

(e) Each Stakeholders’ Committee and its members will be subject to the same conflict of interest and confidentiality rules contemplated in Article 6 of this Statute.

Section 5.5 Compensation. Members of the Stakeholders’ Committee will not be entitled to receive remuneration in connection with the performance of their duties as members. Members of the Stakeholders’ Committee may be entitled to reimbursement for reasonable expenditures arising from their attendance at Stakeholder Committee meetings as budgeted for and approved by the Board, with the prior approval of MCC.

ARTICLE 6. POLICIES OF MCA-KOSOVO

Section 6.1 Confidentiality. MCC encourages transparency with respect to implementation of the Program; however, certain documents, reports, data, and other information relating to the Program will be treated by the Board as confidential information and handled in a reasonable and appropriate manner to avoid public disclosure. Confidential information includes information, documents, and data relating to MCA-Kosovo personnel matters, conflicts of interest, procurement matters prior to final contract award, and such other data, documentation, or information specified by MCA-Kosovo and agreed with MCC. The Board will ensure that only those with a need to know and under similar obligations of confidentiality have access to any and all of such confidential information, documents, data, and other information. The Board will also ensure that each member of the Board and

Operations Unit complies with the confidentiality obligations set forth in this Section 6.1. The Board will also ensure that MCA-Kosovo adopts a confidentiality policy in line with MCC's Confidential Information Policy, which is incorporated in the MCC Guidance on MCA Human Resources Procedures and Manuals. Notwithstanding the foregoing requirements on confidentiality, all such confidential documents, reports, data, and other information may be provided to MCC, the Inspector General, the Government Accountability Office, or other independent auditors and investigatory bodies that may be designated by MCC.

Section 6.2 Conflicts of Interest Policy and Code of Ethics.

(a) Board members must discharge their professional obligations impartially. Considerations of family ties, friendships, prior affiliations with an organization, or past or current relationships must not affect their decisions in any way. They must notify MCA-Kosovo's General Counsel or the MCA-Kosovo staff member responsible and any others as may be required by the Accountable Entity Anti-Fraud & Corruption Action Plan for answering questions and providing advice about compliance, if there are any circumstances where they think they cannot be impartial or where a third person would reasonably believe they cannot act impartially.

(b) The Board will ensure that MCA-Kosovo adopts a code of ethics and conflict of interest policy in line with MCC's guidance, as set forth in the MCC Guidance on MCA Human Resources Procedures and Manuals. The Board will ensure that such code of ethics and conflict of interest policy is provided, either separately or as part of the MCA Human Resources Manual, to each member of the Board or the Operations Unit together with the name of the MCA-Kosovo staff member responsible for answering questions and providing advice about compliance. That code of ethics and conflict of interest policy will contain, at a minimum, provisions ensuring that all members of the Board or the Operations Unit (i) avoid the conflicts of interest identified in this section, (ii) discharge their duties impartially, (iii) refrain from misusing their position for their benefit or the benefit of relatives or friends of any such member, and (iv) conduct themselves in a way that instills public confidence in the integrity of MCA-Kosovo, including its Board and its staff.

Section 6.3 Anti-Sexual Harassment Policy. The Board will ensure that MCA-Kosovo adopts an anti-sexual harassment policy in line with MCC's guidance as set out in the MCC Guidance on MCA Human Resources Procedures and Manuals. The Board will ensure that the policy on anti-sexual harassment is provided, either separately or as part of the MCA Human Resources Manual, to each MCA Person together with the name of the MCA-Kosovo staff member responsible for answering questions and providing advice about compliance. That policy will contain, at a minimum, provisions ensuring that no MCA Person will engage in, tolerate, encourage, or otherwise permit the sexual harassment of any MCA Person, anyone employed directly or indirectly with MCC Funding or seeking such employment, or beneficiaries of the Program.

Section 6.4 Diversity Strategy. The Board will ensure that MCA-Kosovo adopts a diversity strategy in line with MCC's guidance as set out in the MCC Guidance on MCA

Human Resources Procedures and Manuals. The Board will be responsible for setting diversity objectives and regularly reviewing and discussing diversity outcomes in accordance with the diversity strategy.

Section 6.5 Audit Policy.

(a) Audits performed on MCA-Kosovo will be performed by an independent external auditor appointed by MCA-Kosovo and approved by MCC, and in conformance with the requirements of the Compact and the Program Implementation Agreement.

(b) The National Audit Office of the Republic of Kosovo may perform audits on MCA-Kosovo at the request of the Ministry of Finance, Labor and Transfers acting on behalf of the Government of the Republic of Kosovo following a decision by the Board that considers the implementation timeline, avoids undue burden on MCA-Kosovo, and considers the confidentiality requirements for on-going MCA-Kosovo procurements.

ARTICLE 7. MISCELLANEOUS

Section 7.1 Amendments.

(a) This Statute and any other Governing Document may be altered, amended or repealed at any regular or special meeting of the Board by the affirmative vote of at least seventy-five percent (75%) of the Voting Members attending a meeting at which a quorum is achieved in accordance with Section 3.12(b)(ii) of this Statute, ***provided, however,*** that any such alteration, amendment or repeal will be subject to MCC approval.

(b) Prior notice of such actions must be sent to MCC through the MCC Observer.

(c) The Board will not have the power to alter or amend the Statute in such manner as to create a conflict with the terms of the Compact, the Program Implementation Agreement, or any other Supplemental Agreement.

Section 7.2 Conflict. In the event of conflict between the terms of this Statute and the Compact, the Program Implementation Agreement, or any of the Program Guidelines, the provisions of the Compact, the Program Implementation Agreement or the Program Guidelines, as the case may be, will prevail.

ARTICLE 8. CLOSURE

Section 8.1 Closure. The MCA-Kosovo can be closed only in the case of the expiration or termination of the Compact. The closure process of MCA-Kosovo and the disposition of its assets shall be in conformity with the Compact, the Program Implementation Agreement and relevant Program Guidelines, as the case may be.

Schedule 1

DEFINITIONS

“Accountable Entity Anti-Fraud & Corruption Action Plans” has the meaning of ***“AFC Action Plan”*** provided in the Program Implementation Agreement.

“Audit Plan” has the meaning provided in the Compact.

“Board” has the meaning provided in Section 1.3 of this Statute.

“Board Document Repository” means an online document repository for the notice, the agenda of issues, and other documents (either public or confidential) for consideration by the Board to which members of the Board are granted access throughout the term of the Compact.

“Chairperson” has the meaning provided in Section 3.10 of this Statute.

“Chief Executive Officer” or ***“CEO”*** has the meaning provided in Section 4.2(a) of this Statute.

“Compact” means that certain Millennium Challenge Compact, by and between the United States of America acting through the Millennium Challenge Corporation and the Republic of Kosovo, signed on July 15, 2022, as amended or otherwise modified from time to time.

“Compact Goal” has the meaning provided in the Compact.

“Designated Rights and Responsibilities” has the meaning provided in the Program Implementation Agreement.

“Detailed Financial Plan” has the meaning provided in the Program Implementation Agreement.

“Disbursement” has the meaning provided in the Compact.

“Disbursement Request” has the meaning provided in the Program Implementation Agreement.

“Enabling Legal Framework” has the meaning provided in Section 1.2 of this Statute.

“Executive Committee” means a committee, comprised of selected Board members, authorized to take certain limited actions on behalf of the Board.

“Fiscal Accountability Plan” has the meaning provided in the Program Implementation Agreement.

“Fiscal Agent” has the meaning provided in the Compact.

“Governance Guidelines” has the meaning provided in the Program Implementation Agreement.

“Governing Document” has the meaning provided in the Program Implementation Agreement.

“Government” means the Government of the Republic of Kosovo.

“Government Accountability Office” means the U.S. Government Accountability Office.

“Government Board Members” has the meaning provided in Section 3.7(a) of this Statute.

“Implementation Plan Document” has the meaning provided in the Program Implementation Agreement.

“Implementing Entity” has the meaning provided in the Compact.

“Implementing Entity Agreement” has the meaning provided in the Compact.

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

“Key Staff” has the meaning provided in Section 4.2(a) of this Statute.

“M&E Plan” has the meaning provided in the Compact.

“MCA-Kosovo Website” has the meaning provided in the Program Implementation Agreement.

“MCC Funding” has the meaning provided in of the Compact.

“MCA Human Resources Manual” has the meaning of **“HR Manual”** provided in the Program Implementation Agreement.

“MCA Person” means any member of the Board or the Operations Unit.

“MCC” means the Millennium Challenge Corporation, a United States government corporation.

“MCC Cost Principles” means MCC’s *Cost Principles for Government Affiliates*, as amended from time to time, as published on MCC’s website at <https://www.mcc.gov>.

“MCC Guidance on MCA Human Resources Procedures and Manuals” means MCC’s *Guidance on MCA Human Resources Procedures and Manuals*, as amended from time to time, as published on MCC’s website at <https://www.mcc.gov>.

“MCC Observer” has the meaning provided in Section 3.13 of this Statute.

“MCC Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations” means MCC’s Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations, as amended from time to time, as published on MCC’s website at <https://www.mcc.gov>.

“Non-Government Board Member” has the meaning provided in Section 3.7(a) of this Statute.

“Operations Unit” has the meaning provided in Section 1.3 of this Statute.

“Periodic Report” has the meaning provided in the Program Implementation Agreement.

“Procurement Agent” has the meaning provided in the Compact.

“Procurement & Grants Plan Package” is a plan or plans for acquiring the goods, works, and consultant and non-consultant services needed to implement the Compact and transferring financial assistance in cash or in-kind for a public purpose in furtherance of the Compact; or as otherwise set forth in the Accountable Entity Procurement Policy & Guidelines.

“Program” has the meaning provided in the Compact.

“Program Guidelines” has the meaning provided in the Compact.

“Program Implementation Agreement” means that certain Program Implementation Agreement made by and between the United States of America, acting through the Millennium Challenge Corporation, and the Republic of Kosovo, signed on July 15, 2022, as amended or otherwise modified from time to time.

“Project” has the meaning provided in the Compact.

“Project Objective” has the meaning provided in the Compact.

“Secretary” has the meaning provided in Section 3.11(a) of this Statute.

“Stakeholders’ Committee” has the meaning provided in Section 1.3 of this Statute.

“Supplemental Agreement” has the meaning provided in the Compact.

“Voting Members” has the meaning provided in Section 3.7(a) of this Statute.