

## MEMORANDUM OF UNDERSTANDING

entered into between

**Corruption Watch (RF) NPC**

**(Company registration number: 2011/118829/08)**

and

**The National Department of Home Affairs**

**(“The Parties”)**

### **Preamble**

The parties agree that:

**Whereas** the Republic of South Africa has acceded to the 1951 Convention Relating to Status of Refugees, the 1967 Protocol Relating to the Status of Refugees and the 1969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa as well as other human rights instruments, and has in so doing, assumed certain obligations to receive and treat in its territory refugees in accordance with the standards and principles established in international law; and

**Recognising** that the Department of Home Affairs has the national mandate and obligation to ensure refugee protection in South Africa by providing for the reception into South Africa of asylum seekers, regulating applications for recognition of refugee status and providing for the rights and obligations flowing from that status;

**Recognising** that all those who seek asylum in South Africa should have access to all rights in our Constitution, except for the right to vote;

**Recognising** that corruption and bribery undermines the rights of displaced persons within our Republic and undermines efforts aimed towards fair, efficient and meaningful processes for the reception of asylum seekers and the regulation of applications for refugee status; and

**Recognising** that corruption and bribery violates the Constitutional rights of all displaced people in the Republic who should without fear, favour or prejudice seek asylum in South Africa and have their claim adjudicated free of charge, in accordance with the highest standards of transparency in public administration;

**Recognising** that although various state established mechanisms exist for the processing of reports of corruption by refugees and asylum seekers, such mechanisms are often not widely known about and are intimidating to those wishing to report corruption, largely because they fear reprisal and prejudice to their applications for asylum. .

**And recognizing** that co-operation and collaboration between the parties is necessary order to address the scourge of corruption affecting asylum seekers and refugees in South Africa, the parties agree in good faith to the commitments recorded below.

## **The Parties**

1. Corruption Watch is a non-profit civil society organisation. It is independent, and it has no political or business alignment. Corruption Watch intends to ensure that the custodians of public resources act responsibly to advance the interests of the public. Its ultimate objectives include fighting the rising tide of corruption and the abuse of public funds in South Africa, and promoting transparency and accountability to protect the beneficiaries of public goods and services.
2. Corruption Watch has a vision of a corruption free South Africa, one in which educated and informed citizens are able to recognise and report corruption without fear, in which incidents of corruption and maladministration are addressed without favour or prejudice and importantly where public and private individuals are held accountable for the abuse of public power and resources.
3. The Department of Home Affairs is a national department within the executive branch of the South African government. The Department of Home Affairs controls, regulates and facilitates immigration and the movement of persons through ports of entry and the adjudication of asylum claims. It is also the custodian of the National Population Register which includes the recording and issuing of birth, marriage/civil partnership and death certificates. It provides a range of other civic services such as the issuing of identity certificates and passports.

## **Commitments**

4. In light of the Preamble to this memorandum, specifically in reference to the fear which refugees and asylum seekers have in relation to reporting corruption via state established reporting mechanisms, and in light of Corruption Watch's experience in receiving, handling and investigating reports of corruption from refugees and asylum seekers, it is evident that Corruption Watch in collaboration with partners working in this sector are perfectly positioned to receive and process any reports of corruption and wishes to share such

information with the Department of Home Affairs so as to ensure meaningful solutions to corruption in this sector. Corruption Watch therefore agrees to:

- 4.1. Provide the Department of Home Affairs with anonymised reports which contain detailed information on the involvement of departmental officials in corruption affecting refugees and asylum seekers as well as trends and statistics relating to the perpetration of corruption in this sector;
  - 4.2. Co-operate with the Department in the resolution of these complaints, including maintaining confidentiality in respect of Departmental procedures and steps taken to address those complaints;
  - 4.3. Publicly acknowledge the Department as a partner in the resolution complaints and more broadly as a partner in the fight against corrupt activity.
5. In light of the Preamble to this memorandum and in furtherance of anti-corruption efforts aimed at ensuring just and fair administrative practices for the advancement of refugee protection and the proper enforcement of refugee laws and obligations which South Africa has committed to, the Department of Home Affairs agrees to:
- 5.1. Co-operate with Corruption Watch in the establishment of a complaints handling procedure in order to advance the resolution of complaints made to Corruption Watch and advance the anti-corruption goals and targets set by the Department. In this regard the Department of Home Affairs will:
    - 5.1.1. Establish an internal process for the receipt of complaints from Corruption Watch;
    - 5.1.2. Allocate individual/s to be contact persons between the itself and Corruption Watch;

- 5.1.3. Take all reasonable steps within its power and mandate to resolve the complaints;
- 5.1.4. Provide feedback to Corruption Watch on a quarterly basis on the resolution of such complaints, including any disciplinary and other sanctions, and targeted approaches to particular forms of corruption which feedback can be provided at quarterly meetings or via email;
- 5.1.5. Commit to engaging with Corruption Watch on particular trends and data which emerge from reports and the outcome of any investigations done by Corruption Watch;
- 5.1.6. Publicly acknowledge Corruption Watch's role in the resolution of complaints and more broadly as a partner in the fight against corruption in this sector.

### **Commencement and Duration**

6. This agreement commences on the date of signature of this agreement and shall continue in full force and effect until an end date determined by the parties, unless terminated earlier in accordance with the provisions of this MOU.

### **Termination**

7. Either party may terminate this understanding on mutually agreeable terms, on one month's notice to the other party.
8. Either party may also terminate this understanding in the event of serious breach of the provisions of this memorandum of understanding or in the event that either party engages in unethical or corrupt conduct.
9. Nothing in this agreement or the main agreement shall prevent either party from investigating, reporting on or referring corrupt conduct to the relevant authorities

**Variation**

10. This understanding shall only be varied by written agreement between the parties.

**Dispute resolution**

11. Both parties shall endeavour to resolve any disputes arising from the performance of any undertakings in terms of this agreement in good faith and in furtherance of the objectives of this understanding.

**Authorisation**

12. \_\_\_\_\_ is authorised by the Department of Home Affairs to enter into this agreement and warrants that he is duly authorised to do so.

13. \_\_\_\_\_ is authorised by the Department of Home Affairs to enter into this agreement and warrants that he is duly authorised to do so.

Signed on behalf of the Department of Home Affairs on \_\_\_\_\_ 2016 at

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Signed on behalf of Corruption Watch\_\_\_\_\_ 2016 at

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