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## **MEMORANDUM OF UNDERSTANDING**

### **BETWEEN**

### **THE ANTI-CORRUPTION COMMISSION**

### **AND**

### **THE NATIONAL LAND COMMISSION SECRETARIAT**

**With respect to accessing land information by ACC**

## PREAMBLE

The Anti-Corruption Commission, hereinafter referred to as "ACC", and the National Land Commission Secretariat, hereinafter referred to as "NLCS", hereinafter jointly referred to as "Parties";

*Concerned* about the seriousness of the threats posed by corruption to the stability and security of the State, undermining the institutions and values of democracy, ethics and justice, and jeopardizing the socio-economic prosperity and rules of law;

*Recognizing* the separate responsibilities, functions and duties of the Parties, where the ACC has constitutional mandate to take necessary steps to prevent, educate and investigate all allegations of corrupt practices, whether reported or otherwise, and the NLCS being the independent regulatory authority responsible for the management and administration of land affairs in the country, which in carrying out these functions, is inherently in possession of both historical and contemporaneous records relating to all land registration and cadastral surveys;

*Desiring* to work in co-operation and collaboration in pursuant to section (9) of ACA and section (55) of the Land Act of Bhutan with NLCS, in fostering good governance and determined to create strong partnership which will enhance the sharing of information for successful fight against corruption;

*On the basis* of mutual respect without prejudice to each other's institutional independence, statutory rights and obligations under the respective legislation, having unconditionally recognized the need to establish a guiding framework of collaboration to underpin an effective functional relationship between the Parties;

*Bearing* in mind the sacred duty to act against corruption, the Parties hereby subscribe to this "MEMORANDUM OF UNDERSTANDING", hereinafter referred to as "MOU" and agree as follows:

## PURPOSE OF THE MOU

1. The purpose of this MOU is to:
  - (a) establish and strengthen cooperation between the Parties by setting framework of cooperation, assistance and exchange of information between the Parties in fulfilling their mandates effectively and efficiently; and
  - (b) set forth the policy and procedures for the use of the database information sharing and for providing necessary assistance and supports.

## AREAS OF COOPERATION

2. The Parties within the framework of this MOU shall provide each other with full cooperation within the ambit of their respective Laws and Regulations whether or not the investigation in question involves any employee of the NLCS.
3. The cooperation under this MOU shall extend to providing information and documents held in the files of the NLCS which are relevant and useful to the subject matter under investigation in ascertaining factual information such as current registration and ownership, past transaction details including transfer by way of sale or otherwise, location and positional information, or any such records sufficient to identify and reconstruct complete transaction of any land being inquired into, including but not limited to, Kappa forms, Maps, Thrans, Minutes of the Meeting, Internal Memos, official correspondences including those of other authorities, Court Verdicts, Investigation Reports etc all forming part of the following cadastral surveys:
  - (a) Chain Survey 1960-1980;
  - (b) Detail Survey or Plain Table Survey 1979-1997;
  - (c) New Sathram Compilation(NSC) 1985-2004; and
  - (d) National Cadastral Resurveying Programme (NCRP) of 2008.
4. For the purpose of intelligence gathering, the NLCS shall agree to permit the Liaison Officer of ACC to access the computerized database/database system (e/Sakor and Land Information System) on Thrans and maps subject to undertaking by the ACC that such information shall not be used as evidentiary

material for the criminal proceeding unless it is formalized through post facto consent and approval of the NLCS or through Court Order.

5. The access to computerized database/database system (e/Sakor and Land Information System) on Thrans and maps shall be limited only to viewing and e-printing of the required data or such other information.
6. The ACC shall request the NLCS for any technical expertise to perform any specific activity requiring application of specialized technology, skills and professional knowledge in the field of cadastral surveying and related engineering.
7. The NLCS shall, upon intimation by the ACC in pursuant to section (107) of Anti-Corruption Act, freeze transaction of plots registered against any accused or such other person under investigation until such time the ACC inform the NLCS on revocation of such freeze notice or until the completion of legal proceedings.
8. Once the ACC initiates investigating a case involving land against any person for alleged offence under the Anti-Corruption Act or other relevant law, it shall share the information with the NLCS, who shall exercise due diligence to consult the ACC before formalizing the registration transaction of plots under investigation.
9. The NLCS upon the request made by the ACC shall impart or deliver basic training in a view to equip ACC investigators with technical skill in reading or interpretation of technical data.
10. The assistance shall also include attending to the ACC inquiry or alternatively providing information, when requested, in writing by competent officer of the NLCS on the matter relating to any specialized subject matter, operating system, procedures, practices or work process.
11. The ACC shall in reciprocity, provide necessary assistance and guidance to implement the anti-corruption policies and measures and such other information as it may deem relevant within the purview of the law of land.

#### **Execution of Areas of Cooperation**

12. Under general circumstances, the ACC shall put forth the request to obtain such information or records, documents or such other relevant articles in writing addressed to the Liaison Officer of the NLCS which shall be at least signed by the Liaison Officer of the ACC.

13. The request shall be executed either by the Liaison Officer or any other officer authorized with power of attorney by the Liaison Officer.
14. The ACC shall make a request in writing only once for each case unless the scope of the investigation has significantly changed during the course of the investigation. The approval accorded at the first instances for one specific case shall be deemed as applicable throughout the investigation of that particular case.
15. Notwithstanding the clause (9) and (10) above, where the investigation is against any employee of the NLCS, the ACC shall to maintain the confidentiality of the investigation, seek consent from the Secretary, NLCS for the information or it may unilaterally assert the power to conduct inspection of documents onsite in pursuant to section (94) (b) of the Anti-Corruption Act.
16. The request for information under this MOU shall not affect the general right of the ACC investigators to visit the office premise of the NLCS and consult or inquire any person other than Liaison Officer, if necessary, for the purpose of inspecting, tracking and identifying documents.
17. The NLCS shall have the right to demand ACC Identity Card or the office order duly signed by the Chairperson of the ACC from any ACC investigator for the verification of identity as well as to establish the authority to investigate.

#### **LIAISON OFFICIALS**

18. For the purpose of convenience and greater operational efficiency, the Parties will identify and nominate a Liaison Officer, who will act as a pivotal person bridging the cooperation between the Parties to this MOU.
19. The Parties shall notify in official writing on the appointment of such Liaison Officer and any subsequent reappointment or substitution, if any.
20. The Liaison Officers shall have the overall administrative responsibility for the effective implementation of this MOU and shall work in close coordination without prejudice to the independent function of the Parties.
21. The Liaison Officers of the Parties shall be governed by the Terms of Reference under annexure I.

## **LIAISON MEETING**

22. The Parties may meet as and when required to facilitate, among others:
- (a) The access to land information data base system;
  - (b) Resolution of coordination difficulties;
  - (c) Review of effectiveness of operational arrangement; and
  - (d) Address any other issue the Parties deem necessary.

## **UNDERTAKING**

23. The Parties undertake to disseminate this MOU throughout their respective organizations so that all relevant staff members are aware of the principles it establishes and the intention of the MOU to achieve its purpose.

## **CONFIDENTIALITY AND SECURITY OF INFORMATION**

24. Subject to the provisions of this MOU, the Anti-Corruption Act, the Land Act of Bhutan, and any other applicable act of Parliament, the information shared between the Parties or obtained from the database system, under the terms of this MOU shall be treated as confidential, and shall be protected from further disclosure.
25. Any information and/or data obtained from the database system or shared between the Parties shall be used only for the specific purpose for which it is provided, and shall not be passed on to any third party without the written consent of the Party from whom it originated.
26. Where there is any leakage of information without the prior consent of the other Party to a third party, the official concerned shall be held accountable under the relevant laws of the land.

## **AMENDMENT**

27. This MOU may be amended at any time with the consent of the Parties. Such amendments may be effected by an exchange of letters between the Chairperson of the ACC and the Secretary of the NLCS.

## EFFECTIVE DATE AND TERMINATION

28. This MOU shall come into effect on the 1<sup>st</sup> day of the 7<sup>th</sup> month of the year 2014.
29. Either Party may terminate this MOU upon one month written notice to the other Party. Such notice shall be given by either the Chairperson of ACC or the Secretary of NLCS.


## NATURE OF THE MOU

30. This MOU is an administrative understanding between the Parties. It is not intended to be legally binding or enforceable before the courts, nor is it designed to alter the pre-existing obligations, responsibilities, duties, or entitlements of either Party as may be defined by statute, regulation, or otherwise.

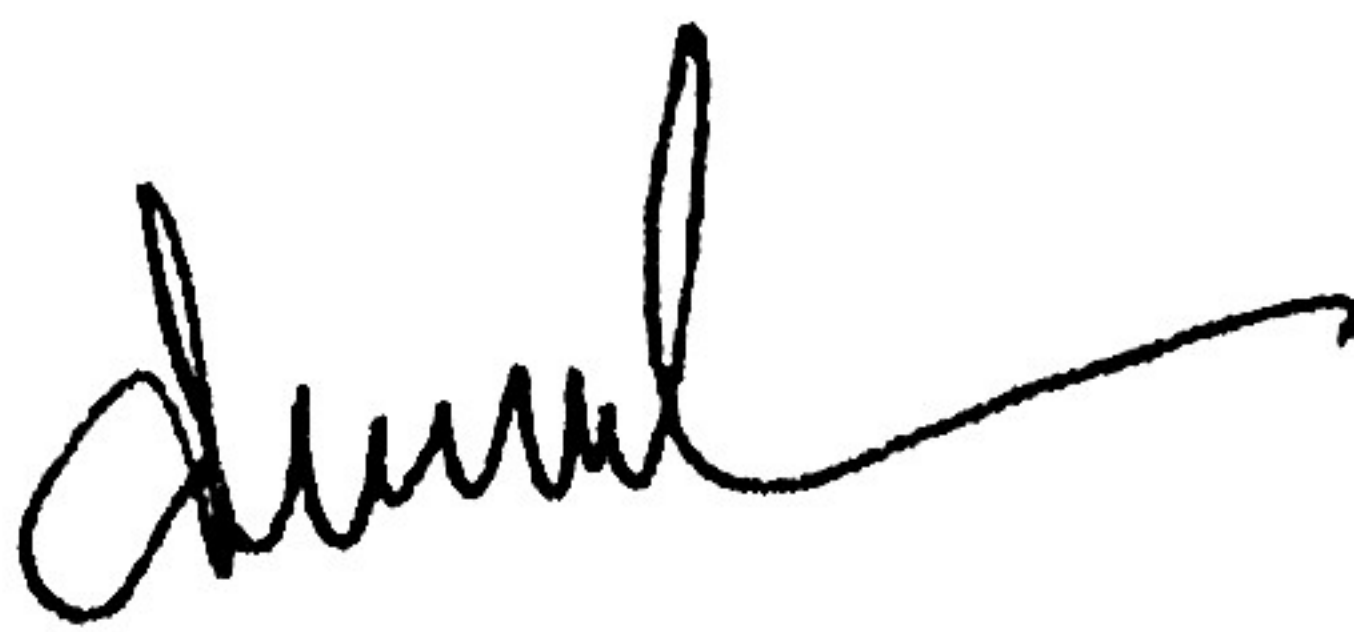
IN WITNESS THEREOF, this MOU was signed in duplicate, each copy being equally authentic.

FOR THE ACC

FOR THE NLCS



Dasho Neten Zangmo  
[The Chairperson]



Dasho Pema Chewang  
[The Secretary]

DATE: 01/07/2014

DATE: 01<sup>st</sup> July, 2014

## ANNEXURE I

### TERMS OF REFERENCE

1. The Liaison Official of the ACC:

- (a) shall be the focal point for all matters related to information sharing between the Parties;
- (b) shall, withstanding clause (10) of the MOU make the request in writing for information only once for the each case, and the subsequent request, where necessary, may be made verbally;
- (c) shall, before the execution of the request, show the letter of request and formal office order or power of attorney and the identity card to his or her counterpart.
- (d) may, where necessary, explain what type of information or records, documents books or such other articles the ACC intent to examine or take copy of;
- (e) shall record the detail of document received in the standard form of the ACC signed by the Parties and issue a copy to the NLCS;
- (f) shall return, upon completion of investigation or prosecution or such other legal proceedings, all acquired documents from the NLCS and such return shall be properly recorded with date and time on the original receipt of documents previously issued at the time of taking over such documents. This original receipt shall be returned to the ACC;
- (g) shall be accountable for any loss of the original documents, records, books or such other articles received from the NLCS; and
- (h) shall maintain confidentiality of any information obtained from the NLCS including access credential to land information database system.

The Liaison Official of the NLCS:

- (a) shall be the focal point for all matters related to information sharing between two agencies;
- (b) shall demand to produce the letter of request, office order or the power of attorney and the identity card to ensure the information in the request is shared to the ACC Liaison Officer;
- (c) shall internally coordinate with their respective divisions and service units that are in possession or control of the information, records, documents, books or such other articles relevant to the case in question, so desired in the request made by the Liaison Officer or his or her deputy with attorney, of the ACC;
- (d) shall be responsible to assemble and compile all required information, documents, records, books or such other articles relevant to the case in question, from respective division and service units to ensure the timeliness of information and, where necessary, provide a working space in NLCS for examination of document;
- (e) shall mark each page of the documents " ATTESTED AS TRUE COPY" duly sealed and signed and secure the original copy of such information, records, documents, books or such other articles relevant to the case in question, as it may be demanded for the production in future legal proceedings if so required;
- (f) shall ensure the details of the documents are recorded in the form and manner specified by the Liaison Officer of the ACC and properly handover by returning the receipt of document. Such documents shall be subsequently returned to the concerned person or division or service unit from where the document has been taken into control for the purpose of this MOU;
- (g) shall not misuse the information provided in the letter of the request or such other forms of request or disclose the identity of the alleged person or a person against whom the ACC had sought information to any individual in any circumstances unless otherwise lawfully required; and

- (h) shall, as far as practicable, take all necessary confidentiality measures at his disposition in the process of handling requests under this MoU not to divulge to any third party, whether inadvertently or otherwise, the nature and content of information being requested that may potentially prejudice the proceeding of the ACC investigation.

**FOR THE ACC**

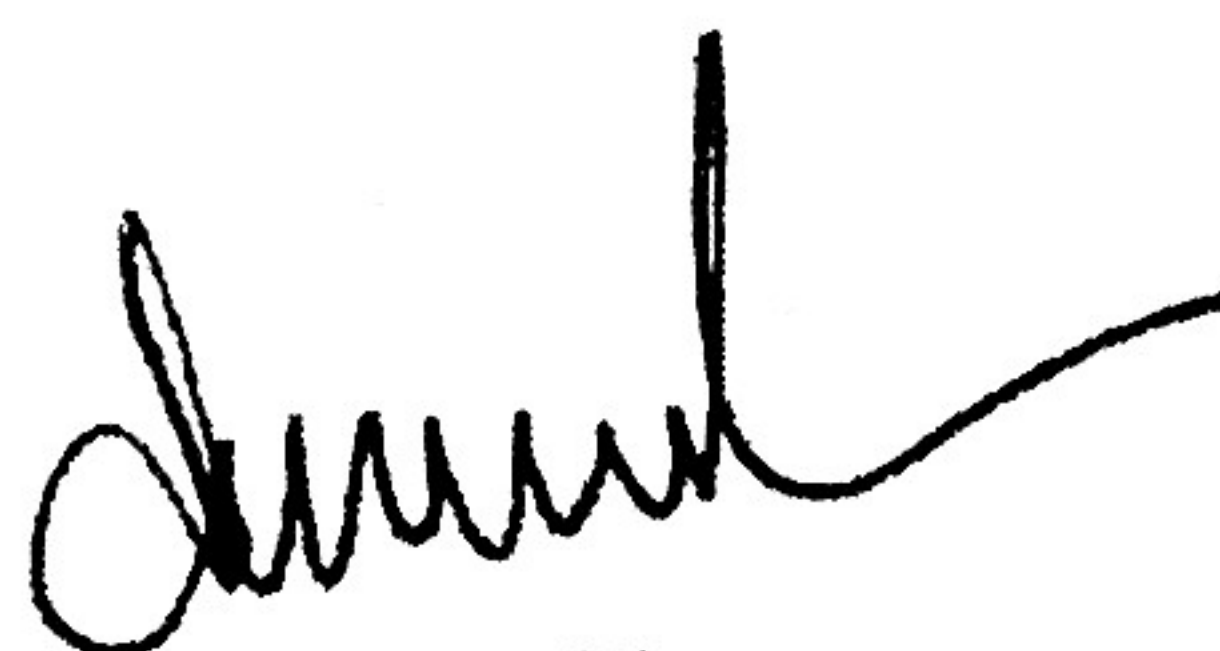


Dasho Neten Zangmo

[The Chairperson]

DATE: 01/07/2014

**FOR THE NLCS**



Dasho Pema Chewang

[The Secretary]

DATE: 01<sup>st</sup> July, 2014