

**REPUBLIC OF ZAMBIA**  
**GENERAL AFFIDAVIT**

I, **CAROLINE CHUMA ZULU-SOKONI**, of Plot Number 3113 Yeta Close in Lusaka Province of the Republic of Zambia, **DO HEREBY MAKE OATH** and **SAY** as follows:

1. That my full names and residential address are as stated above.
2. That I am a Zambian National and Public Protector of the Republic of Zambia.
3. That SEANEGO Incorporation requested the Secretary General for the African Ombudsman and Mediators Association (hereinafter referred to as "AOMA"), and Africa Regional President of the International Ombudsman Institute, (hereinafter referred to as "the IOI"), Honorable Florence Kajuju to nominate a member to give a presentation on "the Role of Ombudsman within a Constitutional Democracy and The Powers Conferred to The Ombuds by the Constitution" now shown to me and marked "CCZ1".
4. That the statement as per SEANEGO Incorporation is premised on the request and it is shown to me and marked "CCZ2".
5. That I have served in AOMA as the Southern African Regional Coordinator from 2012 to 2014.
6. That AOMA in its present form was established in 2001 and has a membership of over 40 countries and ombudsman institutions on the African Continent.
7. That in 2014 I was elected to the Office of Treasurer of AOMA until 2019, and from 2019 to date I have served as a member of the Executive Committee of AOMA in an Ex-officio capacity.
8. That in 2009 I was elected to the office of Director of the International Ombudsman Institute and subsequently as IOI Africa President. I held on to both these portfolios

until 2020 when I relinquished the position of IOI Africa President to take up the higher position of Treasurer of the International Ombudsman Institute, a position which I still hold to-date. I serve on the Board of Directors both as Director and Treasurer of the International Ombudsman Institute.

9. That the IOI is an international organization representing ombudsman institutions globally. It has a worldwide membership of over 200 national and sectoral ombudsman institutions.
10. That the Secretariat for the African Ombudsman and Mediators Association is housed at the University of KwaZulu Natal in Durban in partnership with the African Ombudsman Research Centre. The African Ombudsman Research Centre has been mostly supported by the South African Government. The membership of AOMA in general, and African Ombudsmanship in particular, have received enormous support and benefitted greatly from the South African Government's support to the African Ombudsman Research Centre (AORC).
11. That AORC was established in 2011 as a research and training arm of AOMA. AORC is mandated to promote capacity development, knowledge generation and professionalism within African Ombudsman institutions. AORC provides regional training and webinars which benefit the entire African Ombudsman Community.
12. That AORC has also signed a Memorandum of Understanding (hereinafter referred to as "MOU"), with the International Ombudsman Institute through which further cooperation is being carried out in order to build more capacity in African Ombudsman Institutions.
13. That the support from the Office of the Public Protector South Africa as chair of the AORC has provided leadership and guidance and has done much to build up and establish the cooperation of the African Ombuds Offices for over 15 years. South Africa through its support to AORC, has been the main stay and prop upon which African Ombudsman Offices have looked up to for upholding of standards in Ombudsmanship. And I wish to attest to the fact that what happens in South Africa does not remain in South Africa, in terms of Ombudsmanship.

14. That indeed the OR Tambo Declaration on the Minimum Standards for an Effective Ombudsman Institution was birthed and launched in South Africa through the facilitation of AORC in February 2014.
15. That in June 2012 the African Union Commission and AOMA entered into an MOU in Rwanda, in order to strengthened Ombudsman Institutions in Africa. This activity was also facilitated by AORC as the research arm and secretariat of AOMA.
16. That I have served in the office of the Ombudsman of Zambia for 18 years, from the year 2004 when it was still constitutionally an Executive Ombudsman office; until its constitutional transition to a Parliamentary Ombudsman system in 2016. I have continued to serve in the office of the Public Protector to date.
17. That from 1973 to 2016 the ombudsman in Zambia was referred to as the Investigator General and was appointed by the President in consultation with the Judicial Service Commission, subject to ratification by the National Assembly. Removal from office could only be activated on the initiative of the National Assembly. The Investigator General was classified as an Executive Ombudsman because all special reports were submitted to the office of the Republican President. That was the sole enforcement mechanism which existed for the office of the Investigator General.
18. That the office of the Investigator General issued reports which contained recommendations and these reports could not be made a subject of any Court action. There was never a history of any action being commenced against the office of the Investigator General, challenging any one of its reports, except on one occasion. The enabling legislation also did not allow for any report of the Investigator General to be appealed against in any Court of Law because they were recommendation based.
19. That however, after 2016 when the decisions of the office of the ombudsman were made constitutionally binding, a decision of the Public Protector was challenged in the High Court of Zambia. The Public Protector appealed to the Constitutional Court and the decision went against the Public Protector, partially on the basis of a decision made by the South African Supreme Court.

20. That the power to issue a report supported by a recommendation or recommendations protects the office of the ombudsman from acts of retribution from the Executive, the Judiciary or any other body having a vested interest in the office. This is the model in a classical ombudsman system, that an ombudsman should only issue reports which are supported by recommendations in order to ensure complete independence from interference during the report making stage of the investigation.
21. That during the investigation stage the ombudsman has the powers of a Judge. This concept of the ombudsman performing his or her functions in the office of a Judge, is borrowed from the inquisitorial system where the Judge carries out the investigation and hears a case as well; as opposed to the accusatorial system where the Judge is not involved in the investigations, but just receives evidence as an independent arbiter and delivers a binding Judgement afterwards. In a classical system, the independence of an ombudsman is protected during the report writing stage, through the issuance of recommendations, which can only be enforced by Parliament or the Courts of Law.
22. That the model which best protects the independence and integrity of the ombudsman system is the report writing system which is based on the issuance of recommendations and not binding decisions. Binding decisions attract costly litigation for the office of the ombudsman as well as unwanted attention from persons who may want to influence the decisions of the ombudsman. The Ombudsman institution, often applies alternative dispute resolution mechanisms in its work and therefore, proceeding by way of recommendations enables the ombudsman to be able to review his report in order to resolve the matter. It is when the matter cannot be resolved that the report is submitted to Parliament for enforcement purposes. However, when the report is binding the ombudsman cannot review his reports as the binding decision contained therein now becomes amenable to review by the Courts of Law.
23. That by allowing the reports of the ombudsman to be binding, the decisions contained in the report become amenable to the Courts of Law. The office of the ombudsman now becomes answerable to another arm of Government which is the Judiciary, through the review of its reports by that arm of Government. The ombudsman in a classical system is only answerable to the legislature. In order to preserve this delicate balance,

the office of the ombudsman was originally envisaged to be an institution which issues only recommendations.

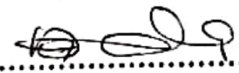
24. That I swear to the above facts believing the same to be true and correct to the best of my knowledge.

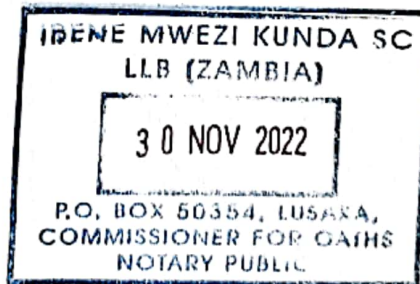
SWORN by the said )

CAROLINE CHUMA ZULU – SOKONI )

At Lusaka the 30<sup>TH</sup> day of NOVEMBER 2022 )

  
DEPONENT

BEFORE ME:  .....  
COMMISSIONER FOR OATHS/NOTARY PUBLIC



REPUBLIC OF ZAMBIA  
CERTIFICATE OF EXHIBITS

These are the exhibits referred to in the Affidavit of CAROLINE CHUMA ZULU -  
SOKONI marked "CCZ1" and "CCZ2" respectively.

Dated the 30<sup>TH</sup> day of NOVEMBER 2022.

BEFORE ME: .....  
COMMISSIONER FOR OATHS/NOTARY PUBLIC

