**Memorandum of Understanding**

**For the Secondment of staff**

**Between**

**Name State / Organisation, [represented through …] (‘Releasing Entity’)** [address]

**And**

**The Office of the Prosecutor** (‘OTP’) **of the International Criminal Court** (hereafter referred to as ‘ICC’), Oude Waalsdorperweg 10, 2597 AK The Hague, The Netherlands

Hereinafter collectively referred to as the ‘Parties’

**Article 1 - Purpose**

1. This Memorandum of Understanding (‘MoU’) is entered into between the Releasing Entity and the OTP so as to promote co-operation and provide development opportunities for staff of the Releasing Entity.

2. It enumerates the specific terms and conditions for the secondment of [name of individual], a staff member of the Releasing Entity to the OTP (hereinafter referred to as ‘the Person on Secondment’).

**Article 2 – Selection Process**

1. The selection of the Person on Secondment will follow a competitive process. The OTP willsubmit to the Releasing Entity a specific request for an identified vacancy or numerous vacancies. The OTP will prepare and describe the minimum requirements for candidates and attach to this MoU the applicable Terms of Reference, as Annex I.
2. The Releasing Entity will use the Terms of Reference to identify and propose a number of suitable candidates for secondment.

1. The Releasing Entity will propose candidates for the position(s) to the OTP, who will select the most suitable candidate. The Releasing Entity will proceed to second the selected candidate to the OTP.

**Article 3 - Assignment and duration**

1. Once selected in agreement with the OTP, the Person on Secondment shall be assigned on a temporary basis by the Releasing Entity to the OTP, [Division/Section], as [Position] under the supervision of [name / function of supervisor].
2. The duration of the Secondment shall be for an initial period of [number (#)] months, from start date to end date, and may be extended for additional periods up to a total period of Secondment of twenty-four (24) months, including extensions, subject to the terms and conditions mutually agreed by the Parties. A request for extension should be made at least three (3) months before the end of the Secondment.

**Article 4 - Status**

1. The Person on Secondment is an individual engaged with the OTP to provide his/her services and expertise as specified in the Terms of Reference. The Person on Secondment will serve in a personal capacity and not as a representative of his/her Releasing Entity or of any other authority external to the OTP.
2. He/she shall have the legal status of an ‘expert’ for the purposes of the Headquarters Agreement between the ICC and the host State (‘HQA’) and the Agreement on Privileges and Immunities of the ICC (‘APIC’).
3. To the extent compatible with his/her official duties as an expert for the OTP, he/she remains subject to the laws, regulations and rules that apply to him/her as a staff member of the Releasing Entity.
4. Although the Person on Secondment is not a staff member of the ICC, he/she is required to uphold the standards of conduct described in the ICC Staff Regulations and Rules and, including the Code of Conduct for the OTP, as well as any relevant Administrative Instructions related to expected standards of conduct, bearing upon the performance of his/her obligations under his/her contract with the ICC.
5. He/she shall perform his/her functions under the authority, and in full compliance with the instructions of the Prosecutor and any person acting on the Prosecutor’s behalf; he/she shall sign the OTP Confidentiality Undertaking and Oath of Office prior to the commencement of his/her duties at the ICC.
6. The Person on Secondment shall not disclose to any third party, including the Releasing Entity, confidential information of the ICC which he/she has become aware of during the course of his/her duties for the OTP.
7. The Releasing Entity shall accept and respect the privileges and immunities accorded to the Person on Secondment by the HQA and, where applicable, the APIC as a consequence of his/her status as an expert for the OTP.

**Article 5 - Independence**

1. The Releasing Entity shall honour loyalty to the aims, principles and purposes of the ICC and the OTP undertaken by the Person on Secondment for the duration of his/her Secondment and shall abstain from giving the Person on Secondment any instructions as how to perform his/her duties while on Secondment.

**Article 6 - Conflict of interest**

1. The Person on Secondment shall abstain from any conduct which may, directly or indirectly, be in conflict with the discharge of his/her duties under the Terms of Reference.
2. Before the start of the Secondment, the Releasing Entity shall disclose to the OTP any activities or cases at the international or national level related to the OTP that the Person to be seconded has, in any capacity, been previously involved in, in order for the OTP to assess if there are any perceived or existing conflicts of interest. Based on the information provided and the resulting assessment, the OTP shall decide whether to enter into any contractual relationships with the Person on Secondment.

**Article 7 – Facilitation by the OTP**

1. The OTP will provide an office space and other facilities necessary for the performance of the functions, and the cost of travel and other related expenses incurred by the Person on Secondment when carrying out official business for the OTP, such as on mission. The OTP will facilitate the issuance relevant documentation to the Person on Secondment in order to assist in the recognition of his/her privileges and immunities while travelling.

**Article 8 - Financial arrangements**

1. During the Secondment, the Person on Secondment will continue to receive his/her salary, benefits and allowances from the Releasing Entity, including enabling the Person on Secondment to pay housing costs in or around The Hague.

2. The OTP shall not be liable for any costs or expenses relating to the Secondment other than those that specifically relate to facilitating the performance of the Person on Secondment’s duties as provided for in the MoU.

3. The travel costs between the ICC and the Releasing Entity and all travel costs relating to the rights of the Person on Secondment as an employee of the Releasing Entity shall be paid by the Releasing Entity.

1. Expenses related to missions for the OTP undertaken by the Person on Secondment during the Secondment shall be covered by the ICC in accordance with its Financial Regulations and Rules.

**Article 9 - Social security**

1. The Person on Secondment will remain affiliated to the Releasing Entity’s pension scheme and social security system.
2. The Releasing Entity or, if and when applicable, the Person on Secondment shall remain responsible, during the Secondment, for the social security coverage for the Person on Secondment and his/her family members with regard to the risks relating to illness, accidents (including work-related), invalidity and death.
3. The Person on Secondment who is authorised to travel at the expense of the ICC, or required under his/her contract to perform services in an office of the ICC shall, in the event of illness, injury or death attributable to the performance of official duties on behalf of the ICC, be entitled to compensation equivalent to that provided under the United Nations’ Appendix D to the Staff Rules (ST/SGB/Staff Rules/Appendix D/Rev.1 and Amend.1; see annex I, art. 5).

**Article 10 - Performance**

1. Performance objectives shall be agreed between the Person on Secondment and his or her supervisor in the OTP and shall be set out in a Performance Assessment, evaluating the work of the Person on Secondment in accordance with the ICC Staff Regulations and Rules and applicable Administrative Instructions. Any potential difficulty regarding the performance of the Person on Secondment which is not resolved between him or her and the OTP will be discussed between the Parties.

**Article 11 - Working hours**

1. Hours of work for the Person on Secondment shall be those in place at the ICC for full-time employment, in accordance with the ICC Staff Regulations and Rules and applicable Administrative Instructions.

**Article 12 - Public holidays and leave**

1. During the Secondment, the Person on Secondment shall observe exclusively the public holidays applicable at the ICC.
2. Entitlements of the Person on Secondment to annual leave and other leave shall be exclusively those provided in accordance with the ICC Staff Regulations and Rules and applicable Administrative Instructions. The Person on Secondment shall consult with the OTP before taking leave, and ensure that the proposed dates are compatible with the operational needs of the OTP.

**Article 13 - Training**

1. The Person on Secondment may have access to training opportunities offered by the ICC or OTP.

**Article 14 - Intellectual property rights**

1. The Releasing Entity and the OTP shall retain ownership of their intellectual property rights.
2. Any intellectual property rights arising from the work done by the Person on Secondment during the course of his/her duties for the OTP will be held by the OTP.

**Article 15 – Conflict resolution**

1. Any dispute, controversy or claim between the Parties arising out of the contract, or the breach, termination or invalidity thereof, unless settled amicably, shall be referred by either of the Parties to arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining. The decisions of the arbitral tribunal shall be based on general principles of international law.
2. The arbitral tribunal shall have no authority to award punitive damages. In addition, the arbitral tribunal shall have no authority to award interest in excess of the London Inter-Bank Offered Rate then obtaining, and any such interest shall be simple interest only. The Parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such dispute, controversy or claim.

**Article 16 - Hiring embargo**

1. The Person on Secondment may not apply for any vacancies in the OTP which are published within 6 months following the end of the secondment.

**Article 16 - Expiry and termination**

1. The Person on Secondment may no longer continue to assist the OTP within the framework of the Secondment once its term has expired.
2. The OTP, the Releasing Entity or the Person on Secondment may terminate the Secondment without indemnity by giving three months’ notice in writing to each other.
3. After having carefully read the above provisions and Annex 1 to this MoU, the Parties or their authorised representatives hereby confirm their agreement by entering the dates and their signatures below:

|  |  |  |
| --- | --- | --- |
| **For the Office of the Prosecutor of the International Criminal Court** |  | **For the Releasing Entity** |
| Signature |  | Signature |
| Name: |  | Name: |
| Title: Prosecutor |  | Title: |
| Date: |  | Date: |

Annex 1 – Terms of Reference/Job Description

Annex 2 - Core Competencies

Annex 3 - The Consultancy Contract signed between the OTP and the Person on Secondment

Annex 4 - Terms of Reference of Consultant Contracts

Annex 5 - The Agreement on Privileges and Immunities of the ICC

Annex 6 - Headquarters Agreement between the ICC and the host State

**Annex 1 - Terms of Reference for the Person on Secondment to the ICC**

**ICC Core Competencies**

*Dedication to the mission and values*

* Acts consistently in accordance with the mission and values of the Organisation;
* Maintains confidentiality, acts with integrity and shows respect for diversity;
* Shows commitment to the organisation;
* Presents a positive image of the organisation during external discussions.

*Professionalism*

* Applies professional and technical expertise;
* Keeps abreast of organisational issues;
* Produces workable solutions to a range of problems.

*Teamwork*

* Listens, consults and communicates proactively;
* Handles disagreements with tact and diplomacy;
* Recognises and rewards the contribution of others.

*Learning and developing*

* Identifies development strategies needed to achieve work and career goals and makes use of developmental or training opportunities;
* Learns from successes and failures;
* Seeks feedback and gives feedback to others to increase organisational effectiveness;
* Seeks opportunities for improvement of work;
* Has an open mind and contributes to innovation.

*Handling uncertain situations*

* Adapts to changing circumstances;
* Deals with ambiguity, making positive use of the opportunities it presents;
* Plans activities and projects well in advance and takes account of possible changing circumstances;
* Manages time effectively.

*Interaction*

* Expresses opinions, information and key points of an argument clearly;
* Handles contacts with diplomacy and tact;
* Communicates in a transparent and open way with internal and external contacts while complying with confidentiality requirements.

*Realising objectives*

* Accepts and tackles demanding goals with enthusiasm;
* Keeps to agreements with others;
* Focuses on client needs;
* Takes responsibility for actions, projects and people;
* Monitors and maintains quality and productivity.

**General Information**

The Person on Secondment will be subject to a Personnel Security Clearance (PSC) process in accordance with the ICC policy. The PSC process will include but is not limited to, verification of the information provided in the personal history form and a criminal record check. The Person on Secondment should be in a positon to submit an electronic copy of his/her passport and all diplomas listed on his/her profile when requested.