Legal Department

DOCUMENT AND GUIDELINES FOR

EMPANELMENT OF ADVOCATES,

ENGAGEMENT OF SENIOR ADVOCATES

& SOLICITORS (INCLUDING LAW FIRMS)
# INDEX

## POLICY ON EMPANELMENT OF ADVOCATES, ENGAGEMENT OF SENIOR ADVOCATES & SOLICITORS (INCLUDING LAW FIRMS)

<table>
<thead>
<tr>
<th>Clause No</th>
<th>Contents</th>
<th>Page No</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>Criteria for empanelment of advocate</td>
<td>1</td>
</tr>
<tr>
<td>II</td>
<td>Procedure for empanelment</td>
<td>2</td>
</tr>
<tr>
<td>III</td>
<td>Other terms &amp; conditions for empanelment</td>
<td>3</td>
</tr>
<tr>
<td>IV</td>
<td>Duties &amp; Responsibilities of advocates</td>
<td>4</td>
</tr>
<tr>
<td>V</td>
<td>Maintenance of Panel</td>
<td>5</td>
</tr>
<tr>
<td>VI</td>
<td>Performance Review/Removal of advocates</td>
<td>6</td>
</tr>
<tr>
<td>VII</td>
<td>Other Misc Aspects</td>
<td>7</td>
</tr>
<tr>
<td>VIII</td>
<td>Engagement of Solicitor Firms/Senior Advocates/ Counsels</td>
<td>8</td>
</tr>
<tr>
<td>Annexure ‘A’</td>
<td>Format of certificate to be obtained from Bar Association</td>
<td>9</td>
</tr>
<tr>
<td>Annexure ‘B’</td>
<td>Format of Bio Data</td>
<td>10</td>
</tr>
<tr>
<td>Annexure ‘C’</td>
<td>Format of letter of confirmation</td>
<td>11-12</td>
</tr>
<tr>
<td>Annexure ‘D’</td>
<td>Format of letter of acknowledgement</td>
<td>13</td>
</tr>
</tbody>
</table>
I. CRITERIA FOR EMPANELMENT OF ADVOCATE

For being included in the panel Lawyers or Legal Firms shall have independent experience and effective practice at Bar preferably of ten years in handling the cases relating to Land matters / Revenue matters/Contractual matters/ Arbitration matters/Service matters/ Company Law matters/Taxation/labour laws company laws, civil suits, writ matters and constitutional laws in the court applying for.

The advocate should have undoubted legal acumen and unblemished integrity. A certificate in this regard issued by the concerned Bar Association shall be provided by the advocate as per the format provided at Annexure ‘A’.

There will be separate panel of advocates practicing at Supreme Court, High Courts, Dist Courts,Industrial Courts, Dist. Consumer Forums & State Consumer Commissions, Civil Courts, Criminal Courts and other Trial Courts/Tribunals.

Advocates having practice of more than 10 years at the bar will be placed in the senior panel and Advocates below 10 years and not less than 7 years of practice will be in the junior panel. Such panel will be reviewed from time to time.

Matters/cases involving upto Rs 1.00 Cr will be entrusted to advocates from junior panel and cases involving outstanding of Rs 1.00 crore & above and also cases involving complicated matters irrespective of the amount involved will be entrusted to advocates from senior panel.

MD shall be the competent authority to accord the relaxation if needed.
II. PROCEDURE FOR EMPANELMENT

Applications from the intending advocates for empanelment will be invited on yearly basis/ Or as required. An advertisement to this effect will be issued in the National Daily Newspapers and where there is specific requirement, it shall be published in the local newspapers. The intending advocates will be required to visit the MTDC website to know the details and also to download the application and the other requisites relating to the empanelment.

The intending advocates shall submit the duly filled in applications to Head office or the concerned Regional Offices along with the self attested copies of the documents as stipulated in the application as per Annexure “B’.

The applications so received shall be scrutinized by the Head office /Regional Office and after scrutiny the applications which are complete in all aspects and in conformity with the requirements shall be forwarded by the concerned Regional Office to Legal Department, H.O along with their recommendation and also after conducting a due diligence exercise at their end in respect of the intending advocate(s).

Upon receiving the duly filled in and complete applications along with due diligence certificate and recommendation of Regional Office, the said applications shall be placed before the committee as indicated in paragraph ‘f’ hereunder for consideration.

While considering the eligibility criteria, preference will be given to the advocates having requisite seniority at the Bar, legal acumen, association with other Govt/ PSUs and impeccable integrity.

After short listing the names of the eligible advocate(s) as indicated hereinaabove, Legal Department, H.O shall place the applications before the Managing Director through a Committee constituting of General Manager, CAO, Sr. Manager(Legal) for their noting.
III. OTHER TERMS AND CONDITIONS FOR EMPANELMENT.

Advocate(s) shall agree to abide by the MTDC terms and conditions as to the professional fees, charges etc.

The concerned advocate(s) shall inform in writing of his empanelment and the terms and conditions of his empanelment as per Annexure ‘C’. The panel will remain valid for three year or till next empanelment process is concluded, whichever is later on continuous basis for the purpose of continuity of the briefs with the empanelled advocate(s).

It is made clear to the advocate(s) that approval in MTDC panel of advocates does not amount to an appointment or right for an appointment and MTDC is free to engage any advocate of its choice and the empanelled advocate cannot claim to be entrusted with MTDC’s work.

The advocate(s) shall undertake not to appear against the MTDC and they do not support the litigation which is detrimental to MTDC’s interest.

It is made clear that under no circumstances they should be used any legend containing MTDC’s name or symbol in letter heads, signboards, name plates etc. such as legal advisor to MTDC or advocate for MTDC etc.

The empanelled advocates shall, upon receiving the letter from the MTDC confirming their empanelment, submit a letter of acceptance (on their letter heads) as per Annexure ‘D’.
IV. DUTIES AND RESPONSIBILITIES OF PANEL ADVOCATES:

i. **Drafting**: to draft Notices, Plaints, petitions, written statement, claims, counter claims, Civil Application, Mis. Application, rejoinders, Affidavit, Agreement, MOU etc., as and when required.

ii. To tender legal opinion as and when required.

iii. To attend different authorities/ Courts personally as required.

iv. While pursuing/defending any litigation on behalf of the MTDC, the panel advocate(s) shall intimate the day to day progress /updates of the matter to the concerned Branch/ Regional Office of the Corporation via email, telephone, etc.

v. Not to seek adjournments without any valid and cogent reasons and without Concurrence of the Corporation.

vi. Not to make any submission before the court without proper instructions from the concerned Branch/ Regional Office/Head Office of the Corporation.

vii. Intimate and Advise the legal Branch/R.O. for engaging Senior Counsel, if required, to protect the interest of the Corporation.

viii. Not to appear either directly or through his juniors/ assistant advocate against the Corporation in any matter.

ix. To timely advice and take necessary action on time on claims and matters entrusted.
V. MAINTENANCE OF PANEL

(a) An up to date record of panel advocates for all Regions centers shall be maintained by H.O Legal Department and will be circulated to all branches/Regional offices of the MTDC. Such list will also be available on MTDC website.

(b) The legal branch of H.O. will be free to choose any advocate from the panel depending upon the nature of the case, vicinity, capacity to complete the work expeditiously etc. in consultation with the Legal department at H.O. The advocate(s) will be informed in writing for such engagement.

(c) The Regional Heads shall ensure that the work is distributed equitably amongst the advocate(s) in panel and that the work is not unduly concentrated in the hands of anyone/ few advocate(s).

(d) The entrustment of cases shall be obtained from amongst the local advocate(s) in that region only. Engagement of advocate(s) from other stations should normally be discouraged to avoid problems in follow up and travel and halting expenses.

(e) Bio Data of advocate(s) shall be kept in the panel file with proper index at Legal Department, H.O.

(f) Record of empanelled advocate(s) will be maintained at H.O/ R.O. It can be maintained in electronic form also. The record will contain name of advocate, address, phone number, date of empanelment etc.

(g) For all high value cases where the recovery or claim is more than Rs 1.00 crore and also where complicated issues are involved, prior discussion/consultation of Legal Department Head Office is to be undertaken before finalizing the name of the Advocate(s) to be entrusted with the brief.
VI. PERFORMANCE REVIEW OF ADVOCATES/REMOVAL OF ADVOCATES (PANEL ADVOCATES) FROM APPROVED PANEL.

Review of performance of each advocate shall be done by the Legal department/Regional Offices on half yearly basis. The Regional Heads shall submit the report on review of performance of advocates with their comments/recommendations to Head Office, Legal Department. The empanelment shall be subject to renewal after every three (3) years by the competent authority of the MTDC.

The report on review of performance of advocates as received from the Regional Heads, shall be send to legal branch and the same will be placed before the Managing Director and if it is found that the performance of any advocate is not satisfactory or not upto the mark, his name shall be removed from the panel upon obtaining approval of the MD. Before removing the name of the advocate from the panel, due intimation shall be given to such advocate along with reasons thereof in writing.

If it is found that any advocate on panel represents interests which are adverse to the MTDC and is guilty of professional misconduct, the Regional Head shall send his recommendations to the Legal Department H.O. for removal of such advocate from the panel and upon concurrence by H.O, such Regional Head shall take steps to withdraw all cases/matters forthwith preferably before issuance of the letter of removal and consequential follow up action should be taken to protect MTDC’s interest.

If it is found that any advocate acts contrary to any of the terms of empanelment, does not follow his duties and responsibilities, his empanelment shall be cancelled.

If there are any adverse reports or advices received from Regional Offices/ H.O or any other department about the conduct of any advocate on panel, the Legal branch shall initiate action for his de-panelment on the basis of recommendations of the Regional Heads or any department at H.O. All the matters entrusted to such advocate (s) will be immediately withdrawn and further action, as decided may be taken.
VII. OTHER MISCELLNEOUS ASPECTS.

Advocates shall intimate / inform the outcome/ developments in every cases to the concerned Branch and / or Regional Offices immediately on the date of hearing and give consolidated position in writing at least once in a month. The advocates shall also intimate important developments in writing.

In a particular matter or in group accounts, Legal Scrutiny Report (LSR) if already given to one branch, the advocate should declare/ disclose the fact to another Branch, if such branch entrusts a similar job relating to the same property to the said advocate.

In some cases, it is observed that advocates, who act expeditiously in the matter of filing suits do not show any interest in execution proceedings. Such advocates shall not be retained in the panel, unless there are other compelling circumstances to do so. In the event advocates do not agree to accept the fee schedule of the Corporation, they may not be empanelled or retained in the panel unless there are compelling reasons to do so. Higher fees may be considered with prior approval of MD.

In matters where there is no prescribed fee by the MTDC, the Regions are advised to settle the fees from “Start to Finish Basis” in consultation with the Legal department at H.O. and obtain the concurrence of the same from the advocates to avoid any disagreement / complication /dispute in future. In such cases approval of H.O. will be required.

In case of situations warranting change of Advocates/ Counsels due to elevation to the judiciary, change in occupation, change of place of work, transfer of cases to different courts/ tribunals or death or any other situation, it shall be ensured by the concerned Branch/ RO to attend such cases forthwith. The brief and documents entrusted to such advocates /counsels be taken back and the matter be appropriately dealt with by engaging other suitable empanelled advocates.
VIII. ENGAGEMENT OF SOLICITOR FIRMS/SENIOR ADVOCATE/COUNSELS

In particular cases, where the services of an advocate of proven ability/ Senior Counsel in a specialized branch of law or a lawyer working for a reputed firm of Solicitors is required and his name is not in the Corporations panel, then on the specific recommendations of the Regional Offices/branches, the Legal Department may consider the same and place it before MD for necessary orders as a special case to protect the interest of the MTDC.

The amount of fee payable to such Senior Counsel/ Senior Advocate towards professional fee shall as per discretion of the MD.

So far as engagement of Junior Advocate or Associate Advocate by the MTDC’s approved Advocate for his convenience or assistance (except where court rules make it compulsory to the Senior Advocate to have a Junior Advocate) it should be made clear to the Advocate that it should not be construed as an implied consent and no separate fee is payable to such Junior Advocate or Associate Advocate. Moreover he will be responsible for all the acts and actions of such Junior or associate whether engaged with or without consent of the MTDC and he should ensure that the MTDC work is properly accomplished and not to put the MTDC interest into jeopardy in any manner. The MD MTDC will have authority to grant relaxation to this condition.
ANNEXURE ‘A’

FORMAT OF CERTIFICATE TO BE OBTAINED FROM THE CONCERNED BAR ASSOCIATION.

This is to certify that Sri/Smt/Ms ............................................ S/o, W/o, D/o .................. having residence at .............................................................. chamber/office at .............................................................. is a bonafide member of this Bar Association since ............... and is practicing since ............... in ............... Court on Civil/Criminal/Labour/Laws/Property/Laws/Banking/Laws etc (Whichever is applicable).

It is further certified that Sri/Smt/Ms .............................................................. is efficient and having good knowledge in the field of his/her practice and is conducting cases independently.

Sri/Smt/Ms .............................. is hard working and has good moral character and no adverse report against him/her has come to my knowledge. I wish him/her the very best in all their future endeavour.

Sd/-

President/Secretary

............... Bar Association.

Place:

Date:
Annexure B

BIO DATA of Advocate

Name of Advocate

Name of Father/Husband

Date of Birth

Educational Qualifications
(Photo copy of Provisional Degree / LL. B certificate to be enclosed)

Name of Bar Council, Month/Year of Enrollment & Enrollment Number
( enclose photo copy of Bar Council enrolment certificate & ID)

Residential Address with Phone No.

Office Address with Phone No.

Period & place of practice.

Court of practice.

In which office trained as Junior / apprentice

Name of Senior.

List of PSU/ Clients empanelled with.

Any other relevant information

Signature of Advocate

Note: Photo copy of the documents to be self attested with date.
Annexure C

To,
Sri/Smt........................, Advocate
Address :

Reg: Empanelment of your name in the MTDC Panel

With reference to your request / letter dated __________ for empanelment, we are pleased to inform that your name is included in the Corporation's panel on the following terms and conditions:

You shall accept professional fee as may be prescribed by the MTDC.

You will not claim / not be entitled to any fee for any opinion purpose, in connection with the suits entrusted to you.

You will not claim / not entitled to any TA, DA or any type of reimbursement for visiting courts.

You will not use any logo containing the MTDC name or symbol in your letter-heads, sign boards, name plates, etc as panel lawyer of MTDC, etc.

You have clearly understood that inclusion of your name in the approved panel does not amount to any appointment or right for an appointment to be made by the MTDC and the MTDC is free to appoint any advocate of its choice and no right exists for any empanelled advocate to claim that he/she alone should be entrusted with the MTDC's work.

You have been included in the panel of approved lawyer without any retainee fee.

So long as you are in MTDC's approved panel, it is normally expected that you shall not appear in any of the cases against MTDC and when there is conflict of interest, you have to seek prior concurrence of the MTDC in writing.
You must bestow your sincere efforts for expeditious disposal of the cases entrusted to you and should report the progress to the branch / RO on regular basis in writing and all important developments immediately after the date of hearing.

While pursuing / defending any litigation on behalf of the Corporation the panel advocate should -
Intimate the day to day progress of the matter to the concerned branch / office of the Corporation.

Not seek adjournments without any valid and cogent reasons.

Not make any submission before the Court without proper instructions from the concerned officer of MTDC.

May advice the concerned branch / office for engaging Senior Advocate counsel if required to protect the interest of the MTDC.

Not appear either directly or on behalf of his juniors / assistant advocates against the MTDC.

You would abide by such other reasonable terms and conditions that the MTDC may stipulate from time to time.

The aforesaid empanelment is initially for one year and likely to continue subject to your satisfactory performance. The MTDC has the discretion to delete your name from the panel at any time without assigning any reasons. Once your name is removed you have to give your No objection forthwith so that the cases can be assigned to other advocate also relevant files and documents in the matters should be forthwith handed over to the Corporation.

Please acknowledge receipt and convey acceptance of the terms and conditions.

Yours faithfully,
To
Sr. Manager (Legal)
MTDC
Mumbai

Dear Sir,

I have received your Letter No. __________ dated _______ regarding empanelment as advocate for your Corporation and I hereby accept all the terms and conditions stipulated therein, and expressly agree to abide by such other reasonable terms and conditions as may be stipulated from time to time.

I will devote sufficient time for MTDC's cases and also take special interest for expedite hearing of the cases.

I agree to submit progress reports of all pending cases with suit no. thereof along with the up-to-date developments of all cases on regular basis.

I also agree that I will inform status of hearing and next steps to be taken in a case immediately after hearing date of the case.

I clearly understand that my empanelment may be cancelled/terminated at any time if it is found that due to my inability or actions, the MTDC's interest is exposed to risk and I further understand and aware that my name may be referred to the Bar Council of India and/or the MTDC may take action against me as it deems appropriate.

I agree to abide with all the terms and conditions as contained in your letter No. ....... Dated

........................

Yours faithfully,

ADVOCATE

Bar Council Enrolment No.