

No. OL/Estt/Adv./2017
Official Liquidator
Attached with Delhi High Court

New Delhi, the ___ June, 2017

Scheme containing terms and conditions for the engagement of Senior Standing Counsel, Standing Counsel, Addl. Standing Counsel, Drafting Counsel, for the Official Liquidator attached with Delhi High Court in respect of Civil Litigation and such Criminal cases as may be entrusted to them in the Supreme Court of India, Delhi High Court, Other High Courts, Subordinate Courts and other Foras effective from 1st day of June 2017.

I. SCOPE OF THE SCHEME

- (1) The Scheme will be applicable in respect of all civil and criminal litigations on behalf of the Official Liquidator as may be entrusted to the counsel in the Supreme Court of India, Delhi High Court, other High Courts, Subordinate Courts, Tribunals and other Foras.
- (2) Incharge of litigation cases - The Official Liquidator, Dy. Official Liquidator and Assistant Official Liquidator will be in charge of the entire litigation work on behalf of the Official Liquidator before the Supreme Court of India, Delhi High Court, other High Courts & Subordinate Courts and other Foras except such of the work for which separate arrangements have been made.
- (3) Allocation of the cases to the Counsel - Allocation of cases to the Counsel shall be made by the Official Liquidator or any other officer authorized by him.

II. DEFINITIONS

- 1) For the purpose of this Scheme, unless the context otherwise requires, the expressions:-
 - a) 'Counsel means and includes the Senior Standing Counsel, Standing Counsel, Additional Standing Counsel, Advocate on Record, Drafting Counsel;
 - b) 'Official Liquidator' means an officer appointed U/s 448 of the Companies Act, 1956 by the Central Government and attached to the Delhi High Court.
 - c) 'Law Officer' means and includes the Attorney General of India, the Solicitor General of India & the Additional Solicitor General of India.

III. PANEL FOR COUNSEL

- a) Panel of Senior Standing Counsel - There will be one retainer Senior Standing Counsel for arguing assigned cases on behalf of the Official Liquidator before the Supreme Court of India, Delhi High Court, other High Courts, Subordinate Courts & Tribunals. The Official Liquidator may, in matters involving high status, engage, with the prior permission of the Hon'ble High Court, another counsel, on a case to case basis.
- b) Panel of Standing Counsel - There will be a panel of Standing Counsels for arguing assigned cases on behalf of the Official Liquidator before the Supreme Court of India, Delhi High Court, other High Courts, Subordinate Courts & Tribunals. The strength of the Counsels empanelled may be determined by the Official Liquidator with the approval of the Hon'ble High Court.
- c) Panel of Additional Standing Counsel - There will be a panel consisting of Addl. Standing Counsels to conduct the litigation

cases on behalf of the Official Liquidator attached with Delhi High Court before Supreme Court of India, Delhi High Court, other High Courts, Subordinate Courts, and Tribunals & Foras. The strength of the Counsel on record empanelled may be determined by the Official Liquidator with the approval of the Company Court of Delhi High Court from time to time.

- d) Drafting Counsel - There will be a panel consisting of Drafting & Additional Drafting Counsel to draft the pleadings, petition, reply etc. on behalf of the Official Liquidator attached with Delhi High Court before Supreme Court of India, Delhi High Court, other High Courts, Subordinate Courts, Tribunals and other Foras. The strength of the counsel empanelled may be determined by the Official Liquidator with the approval of the Company Court of Delhi High Court from time to time.

IV. ELIGIBILITY FOR COUNSEL CONDUCTING CASES BEFORE THE SUPREME COURT OF INDIA, DELHI HIGH COURT, AND OTHER FORAS

1. The advocate should be registered with the Bar Council of Delhi and should be in active practice in Delhi for the period, as noted below against the position :
 - (i) Senior Standing Counsel : Not less than 15 years
 - (ii) Standing Counsel : Not less than 10 years
 - (iii) Addl. Standing Counsel : Not less than 07 years
 - (iv) Drafting Counsels : Not less than 05 years
2. The applicants would be required to furnish recommendations of two Practising Advocates having at least 10 years practice.
3. The applicants would be required to furnish details of their income for the last three years.

4. The applicants should furnish the areas in which they have been practicing and the Courts they are attending to.
5. Preference shall be given to Advocates who are having experience of practice on Corporate Laws

V. TERM OF ENGAGEMENT/EMPANELMENT

1. Initial engagement/empanelment - The term of engagement/empanelment shall be for a period of two years or until further orders whichever is earlier. No counsel shall be eligible for empanelment on the panel of Counsels for Official Liquidator beyond three terms.
2. Termination of engagement/empanelment - The empanelment of any counsel would be terminable by either side at any time without assigning any reason.

VI. SELECTION OF ADVOCATES FOR THE PANEL

1. A circular/notice shall be uploaded on the websites of the office of the Official Liquidator and the Ministry of Corporate Affairs and pasted on Notice Board of Delhi High Court, Bar Association of Hon'ble Court of Delhi giving detailed information with regard to eligibility/retainer fee, inviting applications from the eligible Advocates.
2. The applications of Advocates for appointment will be scrutinized by a Committee comprising of Two senior Advocates nominated by the Hon'ble High Court and Official Liquidator. The Committee shall shortlist the candidates and recommend candidates for calling the interview not more than 06 times of vacancies. An interview shall be held by a Committee constituted by the Hon'ble High Court and the recommendations of the Committee shall be placed before the

Hon'ble Company Judge for approval and empanelment of Counsels by the Official Liquidator.

VI. HEADQUARTERS OF THE COUNSEL

Headquarters at Delhi/New Delhi - The counsel shall locate his headquarter during the period of engagement/empanelment as such, at Delhi/New Delhi.

VII. DUTIES

The Counsel shall :

- i) Appear in Supreme Court of India, Delhi High Court, other High Courts, District & Subordinate Courts, Tribunals, Commission of inquiry, Committees constituted by the Hon'ble Court, before the Arbitrators, umpires, other Foras in the cases marked to him by the Official Liquidator or any other officer authorized by him at the Headquarter/other headquarter.
- ii) Advise the Official Liquidator, in writing, in cases assigned to him which are decided against the company in liquidation on the admissibility of filing an appeal against such decision, subject to the approval of the Hon'ble Company Court;
- iii) Render all assistance to the Law Officers, Senior Standing Counsel or Senior Designated Advocates, if required to do so, who may be engaged in a particular case before the Supreme Court of India, High Court (s), Tribunals, Commissions of inquiry, before the Arbitrators/umpires etc.;
- iv) Keep the Official Liquidator informed, in writing, about all the important developments in the case from time to time, particularly with regard to drafting, filing of papers, dates of hearing of the case, supplying copies of judgment etc.;

- v) Furnish to the Official Liquidator, periodical statements and reports/returns, which may be called for by the Official Liquidator/Hon'ble Comp-any Judge/Ministry of Corporate Affairs, Ministry of Law & Justice, from time to time;
- vii) Perform such other duties of legal nature which may be assigned to him by the Official Liquidator from time to time.

VIII. RETAINER FEE PAYABLE TO THE COUNSEL

1) The Counsel retained/ empanelled by the Official Liquidator shall be paid a Fixed monthly retainer fee. The number of positions for each category and fixed retainer fee would be as under :

S.No.		No of position	Retainer ship p.m.
1.	Senior Standing Counsel	01	Rs 1,10,000/-
2.	Standing Counsel	06	Rs 80,000/-
3.	Additional Standing Counsel	04	Rs 65,000/-
4	Drafting Counsel	06	Rs.60,000/-

The Official Liquidator shall ensure that as far as possible the Senior Standing Counsel and the Standing Counsel are assisted by an Additional Standing Counsel.

The continuation of a counsel on the panel of the Official Liquidator will be subject to their achieving acceptable level of performance.

2) In respect of the following, fees may be fixed by the Court on case to case basis :-

- (i) Settling pleadings/drafts other than regular pleadings drafts;
- (ii) Miscellaneous applications;

- (iii) Conference;
- (iv) Appointment on any committee or any specific assignment
by the court.

- 3) In case involving a difficult/important question of law or for other special circumstances, the Official Liquidator, may with the permission of the company court, engage the services of designated senior advocate.
- 4) The fee to the counsel will be paid on presentation of a stamped receipt.

IX. OUT OF HEADQUARTERS

(i) If the Counsel is required to go out of Headquarters in connection with the Official Liquidator litigation, e.g. appearance in Courts outside the Headquarters, he will be entitled to a daily fee to be decided by the Official Liquidator with the approval of the Hon'ble Company Court on the basis of per day appearance for the days of his absence from the Headquarters including the days of departure from, but for the intervening holidays and arrival back at the Headquarters, no fee will be paid for the departure if he leave the Headquarters after Court hours or for the day of arrival if he arrives at the Headquarters before the Court. In addition to the daily fee, the Counsel will also be entitled to appropriate class by Air or train, road mileage for the journey from his Headquarters to the Airport/Railway Station and vice-versa and from the Airport /Railway Station to the place of stay out of Headquarters and vice-versa at the rates admissible to Group A Officer of the Central Govt. He will also be paid actual conveyance charges for performing local journeys while outside Headquarters. He will also be entitled to reasonable actual expenses for stay in Hotel subject to maximum of Rs...

XIV RIGHT TO PRIVATE PRACTICE AND RESTRICTION

1. The counsel will have a right to private practice which should not, however, interfere with the efficient discharge of his duties, as a Counsel for the Official Liquidator.
2. Counsel shall not advise any party in or accept any case against the Official Liquidator in which he has appeared or is likely to be called upon to appear for or advice or which is likely to affect or lead to litigation against the Official Liquidator.
3. If the Counsel happens to be a part of firm or associated with a Lawyer or Solicitor, it will be incumbent on the firm not to take up any case of the Official Liquidator or any case in Delhi High Court or any case arising in other courts out of these cases e.g. appeal and revisions in the High Courts or the Supreme Court.

XV. GENERAL CONDITIONS

1. For engagement of counsel, senior counsel, special counsel, permission would be sought from the Court for the appointment as well as the quantum of fee payable.
2. Every case to be conducted before arbitrator or any other forum, appropriate application shall be filed/defended after seeking permission of the Company Court.
3. The Counsels shall be required to visit the Office of the Official Liquidator periodically on working days for the purpose of taking instructions, settling drafts, giving advice and opinions whoso-ever sought. The Official Liquidator may also request the Counsels to visit the office on need basis.

X. In the event of any doubt or difference regarding the decision by the Hon'ble Company Court shall be final and binding. Hon'ble Company Court may relax any of the provisions contained in the Scheme.
