



MARC Tribunal Secretary Service

A Panel of Tribunal Secretaries is available at the MARC. Any arbitrator involved in an arbitration administered by MARC or in an ad hoc arbitration may avail of this service by sending a written request to the MARC. Upon receiving the request and upon settlement of advance costs, MARC will endeavor to designate a suitable Tribunal Secretary to assist the tribunal as soon as practicable.

A written request shall be sent to the MARC Secretariat at the address, facsimile number or email address below:

MARC Secretariat
MCCI Arbitration and Mediation Center
6, Adolphe de Plevitz Street
Port Louis, Mauritius
Tel. + 230 203 48 30
Fax. + 230 208 00 76
Email: secretariat@marc.mu

The request should, to the extent possible, contain the following information:

1. the identity and contact details of all parties and the arbitral tribunal involved in the arbitration;
2. a copy of the arbitration agreement(s);
3. a summary of the case (including the current stage of the arbitration), and an indication of the amount in dispute;
4. the applicable method of determining the fees and expenses of the arbitral tribunal in case of an ad hoc arbitration; and
5. any terms of appointment of a tribunal secretary that have already been agreed by the parties.

MARC has adopted Guidelines on the Use of a Tribunal Secretary (« the Guidelines »). The Guidelines can be adopted by parties to arbitrations administered by MARC or in other cases, and contain guidance on the appointment, challenge, duties and remuneration of tribunal secretaries.

The MARC Guidelines on Use of Tribunal Secretary can be viewed at page 4 of this document.

The appointment of a MARC Secretariat member as tribunal secretary in an arbitration administered by MARC shall be governed by the MARC Arbitration Rules 2018 and the above-mentioned Guidelines, unless the parties agree otherwise. For MARC administered arbitrations, a MARC Secretariat member shall not act as a tribunal secretary and case manager in the same case.

In ad hoc arbitrations, MARC will charge a rate of Rs 3000 + VAT per hour for its tribunal secretary services. This rate may be reviewed from time to time by the MARC Secretariat.

In MARC administered arbitrations, where the arbitral tribunal's fees are based on the amount in dispute, the fees for the tribunal secretary shall be computed as a percentage of 10% of the fees of one arbitrator, and will be as per the MARC Arbitration Rules 2018 and related practice notes, published on www.marc.mu.

In MARC administered arbitrations, where the arbitral tribunal fees are determined on an hourly rate, the fees of the tribunal secretary will be as per the MARC Arbitration Rules 2018 and related practice notes, published on www.marc.mu.



Fees for the tribunal secretary service must be fully settled upfront by the parties within 10 days of the request.

For both types of arbitration, fees are paid directly to the MARC, which will then pay the tribunal secretary, minus an MCCI administrative charge not exceeding 15% of the fees payable to the Tribunal Secretary + VAT.

Application Information

Eligibility Criteria for joining the MARC Panel of Tribunal Secretaries

Applicants for membership on the MARC Panel of Tribunal Secretaries should meet most of the following requirements:

Education and Training

- a. Law Practitioner with a minimum of 5 years of professional experience, and/or,
- b. Professional with a legal background (LLB or LLM) and with a minimum of 5 years of professional experience, and/or
- c. Sufficient experience or training in arbitration.

Commitment to ADR Process

- a. Willingness to devote time and effort when selected to serve
- b. Willingness to participate in continuing education programs
- c. Willingness to assist the arbitral tribunal efficiently

Personal Letter

Submit a (one-page) letter explaining why you should be admitted to the MARC Panel of Tribunal Secretaries.

Curriculum Vitae

Submit a copy of your current Curriculum Vitae. Please be sure that your experience, if any, in dispute resolution is adequately detailed.

How to apply

Application letters should be sent to the following address:

MARC Secretariat
MCCI Arbitration and Mediation Center
6, Adolphe de Plevitz Street
Port Louis, Mauritius
Tel. + 230 203 48 30
Fax. + 230 208 00 76
Email: akhemraz@mcci.org

Once the MARC Secretariat has received a complete set of the initial required documentation, an acknowledgment of receipt will be sent by email.

Upon the completion of the review, the applicant will be notified of the MARC's decision.

In case an application has been rejected, a query may be sent to the MARC Secretariat, although the latter does not commit itself to explanations since **the confirmation of any application is left at the discretion of the MARC Secretariat.**

The term of appointment on the MARC Panel of Tribunal Secretariats is for a renewable period of 2 years.

Upon being designated to act as Tribunal Secretary for any particular, the MARC Secretariat will ask approved candidates to complete and sign a **TRIBUNAL SECRETARY'S DECLARATION OF ACCEPTANCE AND STATEMENT OF AVAILABILITY, IMPARTIALITY AND INDEPENDENCE.**



MARC GUIDELINES ON THE USE OF A TRIBUNAL SECRETARY (THE “GUIDELINES”)

1 Scope of Application and General Provisions

1.1 These Guidelines can be adopted by parties to arbitrations administered by MARC under the MARC Arbitration Rules. Parties who wish to adopt these Guidelines in other cases may do so after consultation with MARC.

1.2 MARC may interpret the terms as well as the scope of application of these Guidelines as it considers appropriate.

1.4 Where a secretary is appointed by an arbitral tribunal under these Guidelines, the tribunal and secretary undertake to comply with the provisions set out below, subject to paragraph 1.5.

1.5 In the event of any discrepancy or inconsistency between these Guidelines and any contrary provisions of the parties’ arbitration agreement or mandatory provisions of the applicable law, those provisions shall prevail.

2 Appointment and Removal of a Secretary

2.1 An arbitral tribunal may, after consulting with the parties, appoint or remove a secretary at any stage of the arbitration. The arbitral tribunal shall select an appropriate candidate at its own discretion taking into account the circumstances of the case.

2.2 Prior to his or her appointment, a proposed secretary shall (a) sign a declaration confirming his or her availability to assist the arbitral tribunal, and his or her impartiality and independence (the “**Declaration**”); and (b) disclose any circumstances likely to give rise to justifiable doubts as to his or her impartiality or independence. A blank form of the Declaration is provided at page 8 of this document.

2.3 Before appointing a secretary, an arbitral tribunal shall inform the parties of its proposal to do so. For this purpose, the arbitral tribunal shall disclose the identity of the proposed secretary and send to the parties the following documents for their comments, unless the parties agree otherwise:

(a) the proposed secretary’s curriculum vitae;

(b) the Declaration; and

(c) a copy of these Guidelines.

2.4 After receiving and considering the parties’ comments pursuant to paragraph 2.3, the arbitral tribunal may appoint the proposed secretary.

2.5 A member of the MARC Secretariat may be appointed as a tribunal secretary subject to confirmation regarding his or her availability, impartiality and independence in accordance with paragraph 2.2. Such Secretariat member shall not act as a case manager in the same arbitration.



2.6 The appointment of a tribunal secretary becomes effective at the time the notice of the appointment is received by all parties to the arbitration (excluding any additional parties added to the arbitration subsequently). The appointment of a tribunal secretary from the MARC Secretariat or from the MARC Panel of Tribunal Secretaries requires confirmation by MARC. The appointment of any other tribunal secretary does not require such confirmation.

2.7 Once a tribunal secretary is appointed, a party who intends to raise an objection with respect to the secretary's impartiality or independence, shall send a notice of its objection within 15 days after the appointment of the secretary has been notified to the objecting party, or within 15 days after that party becomes aware or ought reasonably to have become aware of the circumstances giving rise to justifiable doubts as to the tribunal secretary's impartiality or independence.

2.8 The objection shall be notified to the arbitral tribunal, the tribunal secretary, MARC, and all other parties. The notification shall be in writing and shall state the reasons for the objection.

2.9 The arbitral tribunal shall, after consulting with all the parties, promptly decide the objection. The arbitral tribunal is not required to give reasons to its decision. If the objection is sustained, the secretary shall be released from appointment. Pending the determination of the objection, the arbitral tribunal may continue the arbitration. The tribunal secretary shall not undertake any work pending the determination of the objection.

2.10 A tribunal secretary shall be subject to the same standards of impartiality and independence as the arbitral tribunal. Should any circumstances arise in the course of the arbitration which give rise to justifiable doubts as to the tribunal secretary's impartiality or independence, the secretary shall promptly disclose such circumstances to the parties and the arbitral tribunal. If a party raises an objection on the basis of the disclosure, the procedure set out in paragraphs 2.7-2.9 shall apply.

3 Duties

3.1 A tribunal secretary shall act upon the arbitral tribunal's instructions and under its strict supervision. A tribunal secretary shall not exceed the scope of the tasks assigned to him or her. The arbitral tribunal shall, at all times, be responsible for the secretary's conduct in connection with the arbitration.

3.2 The arbitral tribunal shall not delegate any decision-making functions to a tribunal secretary, or rely on a tribunal secretary to perform any essential duties of the tribunal.

3.3 Unless the arbitral tribunal directs otherwise, a tribunal secretary may perform organisational and administrative tasks including, but not limited to, the following:

- (a) transmitting documents and communications on behalf of the arbitral tribunal;
- (b) organising and maintaining the arbitral tribunal's files and locating documents;

- (c) organising hearings and meetings;
- (d) attending hearings and meetings; taking notes or minutes or keeping time;
- (e) proofreading and checking citations, dates and cross-references in procedural orders, directions, and awards, as well as correcting typographical, grammatical or calculation errors;
- (f) preparing, collecting and transmitting the arbitral tribunal's invoices; and
- (g) handling all other organisational and administrative matters which do not fall into the scope of responsibilities of MARC.

3.4 Unless the parties agree or the arbitral tribunal directs otherwise, a tribunal secretary may provide the following assistance to the arbitral tribunal, provided that the arbitral tribunal ensures that the secretary does not perform any decision-making function or otherwise influence the arbitral tribunal's decisions in any manner:

- (a) conducting legal or similar research; collecting case law or published commentaries on legal issues defined by the arbitral tribunal; checking on legal authorities cited by the parties to ensure that they are the latest authorities on the subject matter of the parties' submissions;
- (b) researching discrete questions relating to factual evidence and witness testimony;
- (c) preparing summaries from case law and publications as well as producing memoranda summarising the parties' respective submissions and evidence;
- (d) locating and assembling relevant factual materials from the records as instructed by the arbitral tribunal;
- (e) attending the arbitral tribunal's deliberations and taking notes; and
- (f) preparing drafts of non-substantive letters for the arbitral tribunal and non-substantive parts of the tribunal's orders, decisions and awards (such as procedural histories and chronologies of events).

3.5 A tribunal secretary shall not have any *ex parte* communication with any party unless the arbitral tribunal directs otherwise.

3.6 A request by the arbitral tribunal to a tribunal secretary to prepare notes, memoranda or drafts shall in no circumstances release the arbitral tribunal from its duty personally to review the relevant files and materials, and to draft any substantive parts of its orders, decisions and awards.

3.7 A tribunal secretary is under an obligation to maintain the confidentiality of the arbitration and any decisions made by the arbitral tribunal unless the parties agree otherwise.

3.8 A tribunal secretary shall not be liable for any act or omission in connection with the arbitration, save where such act was done or omitted to be done dishonestly. A tribunal secretary shall not be under any



obligation to make statements to any person about any matter concerning the arbitration, nor shall a party seek to make the secretary a party or witness in any legal or other proceedings arising out of the arbitration.

4 Remuneration

4.1 In ad hoc arbitrations, MARC will charge a rate of Rs 3000 + VAT per hour for its tribunal secretary services. This rate may be reviewed from time to time by the MARC Secretariat.

4.2 In MARC administered arbitrations, where the arbitral tribunal's fees are determined based on the amount in dispute, the fees for the tribunal secretary shall be computed as a percentage of 10% of the fees of one arbitrator, and will be as per the MARC Arbitration Rules 2018 and related practice notes, published on www.marc.mu.

4.3 In MARC administered arbitrations, where the arbitral tribunal fees are determined on an hourly rate, the fees of the tribunal secretary will be as per the MARC Arbitration Rules 2018 and related practice notes, published on www.marc.mu.

4.4 The parties are jointly and severally liable for the fees and expenses of a tribunal secretary. MARC will invoice each party accordingly and collect payments upfront. The Tribunal Secretary will not be bound to provide the services sought if the related advance costs have not been paid by the parties. Payments will then be made directly by MARC to the Tribunal Secretary at the agreed fee, minus an administrative fee payable to the MCCI and not exceeding 15% of the amount paid.

4.5 Payments to a tribunal secretary shall generally be made at the same time payments are made to the arbitral tribunal. Such payments shall generally be made by MARC from funds deposited by the parties at the instruction of the MARC Secretariat or the arbitral tribunal.

4.6 Payments to a tribunal secretary shall be made in MUR unless the arbitral tribunal directs otherwise.

4.7 The parties are jointly and severally liable for the fees and expenses of a tribunal secretary.



Case Reference: _____

**TRIBUNAL SECRETARY’S DECLARATION OF ACCEPTANCE
AND STATEMENT OF AVAILABILITY, IMPARTIALITY AND INDEPENDENCE**

(Please check the relevant box or boxes)

I, the undersigned,

Last Name: _____ First Name: _____

NON-ACCEPTANCE:

I hereby declare that **I decline** to serve as tribunal secretary in the subject case. (If you wish to state the reasons for checking this box, please do so using a separate sheet.)

ACCEPTANCE:

I hereby declare that **I accept** to serve as tribunal secretary under the MCCI Arbitration and Mediation Center’s Guidelines on the Use of a Tribunal Secretary (the **Guidelines**) in the above-referenced case. In so declaring, I confirm that I have familiarised myself with the requirements of the Guidelines and that I am available to serve as a tribunal secretary. I undertake to comply with all provisions of the Guidelines. In particular, I confirm that my schedule is such that I will be able to devote sufficient time to deal with the above-referenced case in the ordinary course of its development and to assist the arbitral tribunal to conduct the arbitral proceedings in a timely and cost-effective manner.

IMPARTIALITY AND INDEPENDENCE

(If you accept to serve as tribunal secretary, please also check one of the following boxes. The choice of which box to check will be determined based on whether any past or present relationship, direct or indirect, with any of the parties or their counsel, whether financial, professional or of another kind and whether the nature of any such relationship is such that disclosure is called for pursuant to the criteria set out below. Any doubt should be resolved in favour of disclosure. For guidance, you may wish to consult the IBA Guidelines on Conflict of Interest.)

I am impartial and independent with respect to each of the parties and intend to remain so; to the best of my knowledge, there are no facts or circumstances, past or present, which need be disclosed because they are likely to give rise to justifiable doubts as to my impartiality or independence.

OR

I am impartial and independent with respect to each of the parties and intend to remain so; **however**, in consideration of paragraph 2.2(b) of the Guidelines, I call your attention to the following facts and circumstances which I hereafter disclose because they might be of such a nature as to give rise to justifiable doubts as to my impartiality or independence. (Please use a separate sheet.)

Signature: _____ Date: _____