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NATIONAL HIGHWAY AUTHORITY



LEGAL BUREAU

**REGULATIONS FOR
MANAGING AND CONDUCTING
LEGAL AFFAIRS OF NHA, 2016**

**AS APPROVED BY THE EXECUTIVE
BOARD IN 264TH MEETING DATED
16.05.2016**

NATIONAL HIGHWAY AUTHORITY

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PREFACE

1. It is pleasure for me to say thanks to the Executive Board of NHA for approving the Regulations for “Managing and Conducting Legal Affairs of NHA” in its 264th meeting. In fact, there was a dire need to frame a formal legal document to ensure smooth, effective and efficient working by the Law Directorate.
2. These Regulations are finalized through close coordination and consultation as well as after series of in-house meetings and presentations by all concerned. It is a result of joint team efforts made by the offices of the Member (Admn), Secretary NHA, Directorate of Law, the Dispute Resolution Cell and the Legal Advisor, NHA Lahore. I congratulate all of the participants who produced a well defined draft of regulations through their hectic efforts.
3. I have full confidence that, by implementation of these Regulations there will be a fruitful improvement in the working and every Law Office and Officer will be very clear as to how timely and better results be achieved.

(Shahid Ashraf Tarar)
Chairman, NHA.

1.1 Preliminary

1. Whereas it is expedient to manage and Conduct the legal affairs of National Highway Authority, through statutory Regulations.
2. Now therefore; in exercise of its powers under section 7 read with section 32 of the NHA Act, the Executive Board of the Authority enacts the following Regulations:-

1.2 Title

These regulations shall be called “Regulations for Managing and Conducting Legal Affairs of NHA, 2016”.

1.3 Commencement and Application

These Regulations shall be effective from 16-05-2016 as approved by the Executive Board in its 264th meeting and shall be applicable to the whole litigation by or against the NHA in any Court or other forum and its all legal affairs.

1.4 Interpretation and Amendments

1. A Standing Committee, consisting of the following shall examine any question qua discrepancy and provide suggestions about interpretation or removal of difficulties in the implementation of any provision of these regulations and amendment(s) in these Regulations:-

i.	Member (Admn)	Chairperson
ii.	Member (Finance)	Member

iii.	Secretary	Member
iv.	Director (Legal)-I	Member/Secretary
v.	General Manager Concerned who questioned /suggested about Regulations	Co-opted Member without having vote/ signatory authority.

2. In case of interpretation, the recommendations of the committee will be approved by the Chairman NHA and be issued/circulated accordingly

3. In case of amendment, the recommendations of the committee will be cleared by the Chairman NHA first and then submitted to the Executive Board for final approval.

1.5 Definitions

1. In these Regulations, unless there is anything repugnant in the subject or context:-

1.	<u>Act</u> means the National Highway Authority Act, 1991 (XI of 1991) as amended in 2001.
2.	<u>Appendix</u> means an appendix to these regulations.
3.	<u>Authority</u> means the National Highway Authority established under the Act., 1991.
4.	<u>Authorized Officer</u> means an officer authorized by the competent authority for the time being to act under the authority delegated to such officer relating to legal affairs of NHA and to appoint counsel, sign & execute Power of Attorney in their

	favour, sign pleadings, comments, affidavits and any application made to any Court, judicial and Quasai judicial forum/tribunal and to produce evidence in such forums for and on behalf of NHA.
5.	<u>Competent Authority</u> Means the Authority itself/or any of its officers including Chairman, Member(s), GMs or any others designated officer for the time being to whom relevant powers have been delegated by the Authority under the NHA Code or by a general or special order in respect of matters relating to legal affairs of NHA.
6.	<u>Court Coordinator</u> means an official of a legal office by the Authority.
7.	<u>Counsel</u> means an advocate/legal practitioner as defined in the Legal Practitioners and Bar Councils Act eligible for conducting cases in the courts, judicial or <i>quasi</i> judicial tribunals with qualification and experience as described in Regulation No.3.3 hereafter and enlisted on NHA Panel.
8.	<u>Departmental Representative (D.R)</u> means an employee of NHA being nominated as D.R by the concerned office in a case /Petition under litigation to produce record and adduce evidence before the legal forum.
9.	<u>Job Description</u> means an official assignment, duty or work given by the supervising officer (Not below BS-17) to an employee of lower formation working under him to do or to perform as per his qualifications, professional knowledge and experience, whether specified, prescribed or not.

10.	<u>Legal Bureau/Law Office</u> means all such offices of the Authority dealing with litigation by or against the NHA, arbitration and other affairs at Headquarters or in Regional Office of other offices of NHA located within Pakistan.
11.	<u>Law Officer</u> means any officer posted in the law office by the Authority with any designation including Director (Legal), DD (Legal), AD (Legal) or any other officer and experts in legal affairs employed or appointed by the Authority.
12.	<u>Legal Advisor/Law Expert</u> means a legal practitioner/Advocates appointed by the Authority in exercise of its Power under section 13 of the NHA Act 1991 read with the Rule 12 (9) of the NHA service Rules 1995.
13.	<u>Legal Forum</u> means any court or judicial tribunal established under the constitution or under the law in Pakistan including all judicial, Quasai judicial tribunals and Wafaqi Mohtasib etc.
14.	<u>Litigation</u> includes any case or proceedings initiated or pending by or against the NHA in any legal forum whatsoever.
15.	<u>Officer/Officer concerned</u> means any officer/office of NHA to whom the case pertains and is required for pursuance of the case and provision of documents replies, comments, witnesses etc.

16.	<u>Progress Sheet</u> means the case status diary as prescribed in clause 11.2 of these regulations to be maintained and updated regularly on each date of hearing of the case by the concerned Law office.
17.	<p><u>Special Attention Indicators</u> means such cases marked with specific indication of the following categories:-</p> <p>(a) Priority: Means the case to be finalized by hand on the same or next working date.</p> <p>(b) Urgent: Means the cases which should be finalized within 03 working days.</p> <p>(c) Immediate: Means the case to be finalized within 07 working days.</p>
18.	<u>Supervising Officer</u> means an officer not below the rank of Assistant Director nominated as officer Incharge of an office in the Authority.

2. All other words which have been defined in the NHA Act 1991 or in the NHA Code or any rules/regulations etc. of NHA shall have the same meaning in these Regulations, for the purpose of handling the legal affairs.

ORGANIZATION

2.1 Organizational Structure

To achieve positive, expeditious and optimum fruitful results and to protect, preserve and secure the rights of NHA through a competent legal team in the Law Office, organizational structure shall be as under:-

2.2 Job Assignments

As a whole the Law Officer/Office shall be responsible to manage, pursue, defend and monitor the progress of the litigation/Court cases by or against the NHA with zeal and devotion to ensure protection of the rights of NHA at all levels and forums. The job assignment in the Law Office in respect of all matters falling in its domain shall be as specified hereunder and also as prescribed by the Chairman/Member/Secretary NHA in addition to such conditions as prescribed in NHA Act or rules / laws and the SOPs framed for the purpose.

1. **Secretary NHA**

i.	Being head of Law offices /Legal Bureau to receive all matters relating to legal affairs of NHA.
ii.	To seek advice of Legal Consultant / Advisor or any counsel about the litigation and to assign the case for further action either to the Director (Legal) or the DRLC by making entry in the relevant office record.
iii.	To ensure proper monitoring and inspection of all litigation/legal affairs of NHA.

iv.	To forward legal communications of all cases already in process to the relevant legal office for appropriate action.
v.	To conduct inspections of law offices and ensure working as per these Regulations and instructions issued from time to time in this respect.

2. **Directorate Legal-I HQ**

i.	To handle all legal cases relevant to NHA HQ offices.
ii.	To render Legal opinion and vetting of documents as and when referred by any Member of NHA.
iii.	To process cases of Panelization or Depanelization of Advocates on the panel of NHA.
iv.	To process the cases of enrollment of Legal Consultant/experts/advisors/firms on short term basis.
v.	To deal with Legal affairs of NHA relating to National Assembly, Senate, Public Account Committee/Audit reports.
vi.	Administrative matters of Legal Directorate/Offices HQ/Regional/ Project offices.
vii.	To conduct and coordinate in periodic meetings relating to legal affairs of NHA, recording of minutes of meeting, issuance of such minutes and followup for implementation in true letter and spirit.

viii.	Any other job as and when assigned by/through Secretary NHA.
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3. **Directorate Legal-II HQ**

i.	To get periodic progress reports of litigations from all legal offices, compile the status and submit to Secretary NHA with appropriate proposals for further submission to the Chairman, NHA through Member (Admn).
ii.	To seek report from the concerned office on the observations of the seniors and put-up with appropriate proposal for further action.
iii.	To suggest remedial measures, if any deficiency is noted on the part of any legal officer/counsel in a litigation/case.
iv.	In pursuance of monitoring/inspection reports of the Secretary NHA or any other senior, Directorate-II will process for further necessary action and pursue the matter accordingly.
v.	To coordinate with all law offices concerned on daily basis about attendance of critical cases in the courts and submit progress to the Secretary NHA with status/details relevant to a particular case. Secretary NHA will pass instructions for improvement/rectification of deficiency, if any
vi.	To monitor over all cases of NHA through

	computerized networking and submit reports/proposals to the Secretary NHA for appropriate directions.
vii.	To work as officer Incharge of the central record room for finally disposed of litigation and ensure maintenance of record as per relevant provisions of rules/regulations/SOPs with safe and secure measures.
viii.	Any other job as and when assigned by/through Secretary NHA.

4 **Disputes Resolution Legal Cell**

i.	To Handle important/critical nature cases as and when referred.
ii.	To deal with Arbitrations of major/mega projects and BOT/PPP contracts as per decision of Chairman, Member or Secretary NHA.
iii.	To deal with Land acquisition cases involving cost of Rs. 500 million or more as and when referred.
iv.	To deal with amicable settlement cases.
v.	To deal with International Litigations/ Cases Abroad.
vi.	Any other job as and when assigned by competent Authority.

5. **Regional/Projects/Field Law Offices/Legal Bureau**

i.	To deal with all legal cases of the regional/project office concerned.
ii.	To ensure timely action on the order/notices/summons of courts within stipulated limitation period.
iii.	To ensure timely approvals of the competent authorities relating to legal affairs/remedies as and when required.
iv.	To assign the cases to panel lawyers with the approval of competent authority.
v.	Timely filing/submission of comments/parawise replies after vetting from the consultant/solicitor and nomination of DR.
vi.	To follow up pursue the litigation and ensure that no case goes unattended.
vii.	To consult/coordinate with NHA lawyers preferably two/three days before the date of hearing for producing witness(es)/ evidence/record and for preparation of arguments etc or any issue relating to litigation.
viii.	To send progress/status/periodic reports to the concerned authorities as provided in these Regulations.
ix.	To brief seniors in legal matters as and when required.

x.	Any other job as and when assigned by/through Secretary NHA/ General Manager Concerned.
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6. Besides the above specified Job Assignments, all legal offices/ officers shall also ensure that:-
- i. Appeals/Review/Revision where ever required should be preferred immediately without wasting the time or waiting for expiry of limitation date.
 - ii. Clear strategy should be devised for expeditious disposal of litigations particularly in handling of similar nature cases, critical, high profile and important/ priority cases.
 - iii. Un-necessary communications/ letters be avoided and actively coordinate with the concerned offices for preparation of comments/replies/ statements.
 - iv. As for as possible efforts should be made for vacation of status quo orders.
 - v. Categorization of all cases i.e. top priory, high profile, very important, critical, high cost effecting and cases resulting ceasing of NHA assets should be clearly marked for proper defense and early disposal.
 - vi. Accurate status sheet of each case shall be maintained on daily basis and controversial points/ issues of each case as framed by the legal forum should be updated and kept in the relevant record for proving the stance and defense of NHA rights.

vii. NHA counsels should be well informed about the view point of NHA for proper pursuance of litigation.

viii. Contempt of court cases should be watched with due diligence to avoid any adverse action.

7. Job assignments laid down in **Annexure-A** will be strictly adhered to by all the law offices/officials. However, the assignment may be amended, varied or added with the approval of Chairman NHA.

2.3 Important Notes

1. Specific Job Description individually for the officer in Legal Office shall be notified with the approval of Member (Admn) through recommendation of the Secretary NHA and proposal of Director (Legal)/ DRCL Incharge Officer at NHA HQ. Whereas, in Regions/Field Offices it will be approved by the Zonal/Project dealing Members, as the case may be, with the consultation of Officer Incharge of respective Law Office. The lower formation staff shall perform job descriptions as and when assigned by the Supervising Officer.

2. Job assignments given under Clause 8 for Regional/Project/Field Law Office shall also equally be applicable as far as possible to all legal officers of HQ Directorate Legal/DRLC for the purpose of functioning in the cases being dealt by them.

3. Job Assignments given under clause 2.2(5) i.e. Regional/Project/Field legal office shall also equally be applicable to all legal officers of HQ Directorate Legal/DRLC for the purpose of functioning in the cases being dealt by them.

4. Where, in office of Project or the office of other than Regional office, no legal setup is provided, the Regional Legal office in whose jurisdiction cases are pending will deal with such matters by procuring formally notified orders by the Member (Admn) on recommendation of Zonal Member.

5. All the Legal Offices or officers and the staff can be assigned any other job relevant to Legal matters/cases besides the job assignments prescribed above. Denial of official work assigned by the Supervising Officer shall be termed "Misconduct" and liable to disciplinary proceedings.

2.4 Focal Person

1. The Senior most Director of each wing/Region/Project/Office will be the Focal Person for provision of documents, list of witnesses, evidence, comments/replies or any other information/record relevant to the case in litigation of respective wing/office on the demand of a Law office/Advocate/D.R. or a legal forum.

2. The Law offices will refer all cases to the respective Focal Person for accomplishment of needed task/feedback.

3. On receipt of a reference from Legal office/Advocate or a legal forum the Focal Person will contact with respective office of the wing/region/office concerned. The required documents will be provided by the office concerned in legible condition duly attested by an officer not less than BS-17 with date and stamp to the Focal Person within due course of time.

4. The Focal Person will forward required record etc. to the Law office concerned. The legal office will scrutinize the record/information and provide to the relevant forum, if found in

order otherwise, ensure collection of properly required feedback under appropriate instructions from the focal person.

ENROLMENT OF ADVOCATES ON NHA PANEL

3.1 Enrolment of Advocates on NHA Panel

1. While selecting advocates for NHA panel, requirements of the Authority will be kept in mind and lawyers with experience relevant to NHA functions and purposes provided in NHA act shall only be considered.

2. Interested law firms/advocates may apply to concerned General Manager or Director (Legal), NHA-HQ on the annexed prescribed **Form No: 3.1(2)** duly supported by the attested copies of the following documents:-

- i. Educational Degrees/Certificates.
- ii. Bar Council Registration Certificate/License.
- iii. Photograph.
- iv. Copy of C.N.I.C.
- v. Certificate from bar about working experience.

NOTE: The application Form shall be placed on NHA Web site with downloading facility.

3. Such applications will be processed once at the end of calendar year or whenever deemed expedient and necessary to the authority.

4. Relevant law office at HQ and regional will scrutinize all the applications alongwith supportive documents. List of such scrutinized applicants will be put up to Director (Legal) in case of Law office in NHA HQ and through GM (Concerned) in case of application at region/projects for convening the committee as specified in these regulations.

5. A committee comprising of the following for regional/Zonal offices shall interview applicants aspiring to be enrolled as the counsel of Authority:

- | | | |
|-------|----------------------------------|-------------|
| (i) | General Manger (Region/ Project) | Chairman |
| (ii) | Director (Legal) | Member |
| (iii) | Legal Advisor | Member |
| (iv) | Asstt Dir/Dy Director (Legal) | Member/Secy |

6. A committee comprising of the following for NHA HQ offices shall interview applicants aspiring to be enrolled as the counsel of Authority:

- | | | |
|-------|-------------------------------|--------------|
| (i) | GM (EALS)/Legal | Chairman |
| (ii) | Director (Legal) | Member |
| (iii) | Legal Advisor | Member |
| (iv) | Assistant Director/DD (Legal) | Member/Secy. |

7. After having interviewed the applicants at the Head Quarters/Region, the committee shall send the recommendations to the Secretary NHA for the approval of Member (Admn). After approval the concerned law officer will convey to the advocate/Law firms through letter of engagement as annexed in **Form No. 3.1 (7-a)**. The successful firms/advocates may be placed on the approved panel after entering into an agreement for rendition of professional legal services as annexed in **Form No. 3.1(7-b)**.

8. The committee shall consider the following points before recommending an advocates as counsel of Authority.

- (i) Existing number of counsels.
- (ii) Total number of pending cases
- (iii) Expected future litigation

- (iv) Suitable reason for taking new counsel for Authority.
- (v) Experience/qualification of the counsel.

9. For placement of counsel on panel a formal agreement will be signed as per Form No. 3.1(9).

10. The counsels/Advocates already on NHA Panel shall also sign agreements a fresh as per provisions of these Regulations.

11. The Secretary,NHA/GM(Legal) at HQ and Regional/Project GM in the field will sign agreement on behalf of NHA.

3.2 De-penalization of Advocates

A panel advocate/law firm may be depanelized with the approval of the Member (Admn) on the recommendations of the respective Law office through GM (Concerned)/ Secretary NHA (as the case may be) on any of the following grounds:-

1. He is found guilty of breach of professional code of ethics as set forth by the Bar Council Act.
2. He fails to attend the cases(s) of Authority without any valid reason and sufficient cause;
3. Failed to inform the legal office about progress/decision of cases immediately after the decision and fails to apply for copy of judgment/decree within 3 days of the decision.
4. He gives any consenting statement without the approval of Competent Authority.
5. He pursues or conducts any case against the vested

interest of the Authority.

6. He breaches any clause of the agreement for rendition of professional Legal services.

3.3 Categorization of Panel Advocates

1. On placement of an Advocate on NHA Panel he will be shown in the respective category for assignment of cases.
2. Categories of Panel Lawyers shall be as under:-

<u>Category</u>	<u>Educational Qualification</u>	<u>Experience</u>
A	i. Bar-at-Law / Ph.D (Law)	Above 05 to 15 years with eligibility of appearance before the High Court or Supreme Court.
	ii. Foreign Legal Degree Holder /Solicitor-at – law, LLM	Above 15 to 20 years with eligibility of appearance before the High Court or Supreme Court.
	iii. LLB	Above 20 years with eligibility of appearance before the High Court or Supreme Court.

B	i. Bar-at-Law / Ph.D (Law)	Above 03 to 05 years with eligibility of appearance before the High Court or Supreme Court.
	ii. Foreign Legal Degree Holder Solicitor-at – law, LLM	Above 05 to 15 years with eligibility of appearance before the High Court or Supreme Court.
	iii. LLB	Above 15 years with eligibility of appearance before the High Court or Supreme Court.
C	i. Bar-at-Law / Ph.D (Law)	Above 01 to 03 years as practitioner Bar Member.
	ii. Foreign Legal Degree Holder, Solicitor-at – law, LLM	Above 03 to 05 years as Bar Member working.
	iii. LLB	Above 05 years as Bar Member working.

3.4 Professional Fees to Advocates/Law firms

1. Professional fee for Court cases to the NHA Advocate /Law firms shall be paid as per Schedule of fees provided in NHA Code and subject to the conditions approved from time to time by the Executive Board. 50% of the fee shall be paid after filing of the case (suit, petition, appeal or written statement) and the remaining 50% of the fee shall be paid after final decision of the case.

2. The NHA Advocate shall file claim of the remaining 50% fee along with attested copy of the judgment and decree and advice about filing of the appeal etc. in case of decision adverse to NHA or implementation of the judgment and decree with full justification.

3. The fee shall also be decided on case to case basis after due negotiations in special nature and important cases with the consultation of Legal Advisor/Consultants with the approval of NHA through financial concurrence of the Member Finance However, it will not be less than 80% of the schedule fee. Furthermore, in case of 5 or more similar nature cases the negotiated fee will not be less than 50% of the schedule fee.

4. 10% of approved fee shall be payable to Panel Advocate as miscellaneous charges.

5. In case of travelling from one station to the other for NHA case, subject to prior approval of GM/Secretary NHA (as the case may be) the Advocates defending NHA cases shall be eligible for TA/DA as under:-

Category of Counsel	TA/DA Claim eligibility
Category "A"	BS-20

Category “B” BS-19

Category “C” BS-18

6. Fee for legal advice/ opinion and vetting of documents to the lawyers shall be paid through negotiation keeping in view the worth of work. Approving authorities shall be same as prescribed for the approval of fees in these regulations.

7. The Law office/Legal Bureau shall issue sanction memo within three days after seeking approval of competent Authority and forward it to accounts office.

8. The Accounts office after receipt of Sanction Memo shall issue a cheque in the name of concerned counsel within three days and send it at the given address of the counsel alongwith copy of cheque and voucher to Legal Bureau/Law office.

9. The counsel shall acknowledge the receipt of cheque to Legal Bureau for record purposes.

10. Authority to sanction legal professional fee is mentioned against the designation of each officer, is as under:

SANCTIONING POWERS (each case)

a.	Director (Legal)	Upto Rs. 25,000/-
b.	Regional GM/Secretary NHA.	Upto Rs. 50,000/-
c.	Member Admn /Zonal Members	Upto Rs. 1,50,000/-
d.	Chairman NHA.	Upto Rs. 200,0000
e.	Fees beyond Rs. 2 million shall be sanctioned by the Chairman NHA through concurrence of the Member Finance and intimation to the Executive Board through an agenda item by the concerned law office.	

3.5 Major Responsibilities of NHA Counsel

1. Attend all hearings of cases.
2. Convey progress of each hearing to NHA Legal office on same day but not later than the next day.
3. Render timely advice to Legal office, if any action is immediately required from NHA in a case/matter on passing of stay/interim/ final orders by the legal forum.
4. Get attested copies of judgments, orders/decisions or required documents from the legal forum within three days of the passing order and convey within two days of the receipt of copies to NHA Law Office with advise for further course of action.
5. Convey immediately recommendations about appeals or otherwise on the orders/decrees passed by the courts adverse to NHA.
6. Perform all other responsibilities as per TORs/Agreement executed between NHA and the counsel.

3.6 Hiring of Legal Firms /Consultants on retainer ship.

1. In case, it is required in the interest of NHA, a Legal Firm/ Consultants can be hired on monthly retainer-ship fee after fulfillment of necessary codal formalities on the proposal of respective Member.
2. All such cases shall be routed through Secretary NHA for examination and submission to Chairman for approval through Member (Admn) with the concurrence of Member (Finance).
3. Provisions of PPRA Rules shall be applicable wherever required.

4. Hiring of a Legal Firm or Consultants shall be initially for one year, extendable subject to satisfactory performance on yearly basis for total period of five years.

5. The hiring shall be liable to termination on 30 days notice in advance by both parties.

6. Retainer-ship fee and terms & Conditions shall be fixed by the Selection Committee through negotiation.

7. The following committee shall conduct interviews of the firms/advocates to be considered on monthly retainer-ship fee:-

- | | | |
|------|----------------------------|-----------|
| i. | Member (Admn) | Chairman. |
| ii. | Secretary, NHA | Member. |
| iii. | Director (Legal-I) | Member. |
| iv. | Legal Advisor | Member. |
| v. | Proposal moving office GM | Member. |
| vi. | Dy. Director (Legal-Coord) | Secretary |

CATEGORIES AND ASSIGNMENT OF CASES

4.1 Categories of Cases

Categories of cases for assignment to panel lawyers shall be as under:-

<u>S. No.</u>	<u>Nature of Case</u>	<u>Category</u>
1	All cases involving financial implication of Rs 300 million & above or absolutely hitting major policy decision / provisions, affecting major service / organizational structure, causing negative effect on development works of the authority. Important service related matters.	A
2.	All cases involving financial implication of less than Rs. 300 million to Rs 50 million.	B
3.	All other matters not specified above.	C

Note: However, the legal office shall also scrutinize all cases and earmark any case in any category with careful attention in the interest of Authority with the approval of respective Zonal Member or Member (Admn) NHA HQ, as the case may be with the consultation of Legal Advisor.

4.2 Assignment of Cases to Advocates

1. After careful scrutiny of a case, assignment shall be approved with the consultation of Legal consultant duly recommended by Legal

Office by the respective competent authority within the prescribed professional fee parameters.

2. As far as possible, non panel Advocates shall not be engaged in NHA cases. However, if justified by the concerned Member, case may be assigned out of panel with the approval of the Chairman with special fee duly recommended by the Member (Admn) and concurred by the Member (Finance).

3. The case shall be assigned keeping in view the nature of the case and to a Counsel keeping in view his field of practice and his expertise in that field. Effort shall be made to make an equitable distribution of the cases to the counsel on the NHA panel without concentrating large number of cases on the file of any counsel. Pending cases with a panel counsel must not increase more than twenty cases, except in identical cases the number may be increased.

4. While processing cases for assignment to a penal counsel, a panel of at least four (04) lawyers from the relevant category and having professional experience in respect of the subject matter, with the number of cases already assigned and number of cases won during last one year will be considered and case assigned to the most suitable from amongst them.

5. For counting cases of panel advocates, separate account/folder shall be maintained in a Register form separately of each advocate in **Form No: 4.2(5)**.

6. After approval, letter of Nomination in **Form No. 4.2(6-a)** alongwith Power of Attorney (Wakalat Nama) in **Form No.4.2(6-b)** shall be sent to the respective Advocate by the DD/AD(Legal) concerned. In case of Advocate-on-Record before the August Supreme Court of Pakistan, Power of Attorney shall be as per **Form No. 4.2(6-c)**.

LEGAL ADVISORS

5.1 Hiring of Legal Advisor

1. Service of professionally expert practicing lawyers may be hired as “Legal Advisor” on contract to ensure proper professional assistance and advice for protection of NHA interest.
2. The minimum eligibility criteria for Legal Advisor shall be as specified for Category-A Penal Counsel in Chapter-3 of these regulations.
3. The Authority may appoint Legal Advisor Under Section 13 of the NHA Act read with Rule 12(9) of the NHA Service Rules, 1995 on such terms and conditions as it may determine from time to time, at the NHA Headquarters and at Regional Offices keeping in view the volume of work
4. Hiring shall be initially for one year extendable on annual basis up to five years subject to satisfactory and result oriented performance.
5. For hiring of Legal Advisor following method will be adopted:-
 - i. Provisions of PPRA Rules will be followed for the purpose as and when applicable.
 - ii. Following committee will interview, select and approve hiring of Legal Advisors.

i.	Chairman, NHA	Chairman
ii.	Member (Admn)	Member
iii.	Secretary, NHA	Member

iv.	Member (Finance)	Member
v.	Director (Legal)	Member/Secretary
vi.	A Senior Panel Advocate of Supreme Court.	Co-opted Member

4. For hiring of “Legal Advisor” a formal contract agreement keeping in view the requirement will be signed and clear TOR etc shall be prescribed by the respective wing of NHA with the consultation of Director (Legal) and prior approval of Chairman NHA.

5. The agreement and TOR as approved by the Chairman, NHA will be given to the committee by the wing concerned for interview, selection and approval.

5.2 Perks and Privileges

1. Minimum monthly starting remuneration shall be Rs 150000/- (negotiable) keeping in view the education, experience and court cases record conducted. However, the Selection/ Appointing Committee may allow remuneration up to Rs.500,000/- per month subject to full justification. Provisions of NHA Code shall also be considered in this respect.

2. Office accommodation equal to BS-20 Officer with three supporting staff members and necessary office accessories.

3. In case of travelling, with the approval, TA/DA equivalent to BS-20 officer will be admissible.

4. Official conveyance as per entitlement of BS-20 officer.

5.3 Terms of Reference of Legal Advisor

Guiding TOR of the Legal Advisor shall be as under:-

1. Receive all communications from legal officer to check contents, jurisdiction, establish sensitivity of the case with earmarking category, for handling of as per demand of the situation.
2. List down immediate actions in assigned cases keeping in view any limiting date and recommend appropriate panel of lawyers from NHA panel list provided and submit recommendations to Secretary NHA/GM concerned through legal office for approval.
3. Prepare questionnaire duly conveyed to the office concerned for preparation of preliminary comments/replies to questions and forwarding complete record on behalf of the Authority.
4. Vet comments/replies, update the same if required and get the finalized reply/pleadings signed from the authorized officers through Legal office concerned.
5. Handover finalized parawise comments/reply/pleading to selected lawyer, 07xdays before or 03xdays before the limitation period whichever is earlier in advance of the submission date to legal forum.
6. Ensure that the pleading be filed within time given by the Courts/Arbitrators.
7. Keeping track of proceedings with the assistance of the concerned legal office on each date of hearing and issue instructions to the counsel and get feedback on email or otherwise of the progress of the cases.
8. To provide guidance and assistance to NHA counsel and law office as required.

9. Advise and render legal opinion in all legal matters to NHA officers as and when required especially to prefer an appeal/review in case decided against NHA or not.

10. Advise / guide the management in legal matters as and when required.

5.4 Termination of the Agreement

1. Either party may in writing terminate the agreements/contract after giving 30 days notice, and the same shall stand terminated forthwith upon expiry of 30 days from the date of such notice.

2. On receipt of such notice, copy of the same shall be forwarded by respective Law Office to account office concerned for record and stoppage of payments from the date of expiry of notice period.

3. Notice once served cannot be withdrawn without approval of the Chairman and subject to reasonable justification.

5.5 Reporting of Legal Advisor

The Legal Advisors at NHA HQ will report to the Member (Admn) and in the field to respective Regional/Project General Managers.

PURSUANCE OF LITIGATIONS

6.1 Litigation By NHA

As and when need arises for initiating litigation by NHA, the office concerned will prepare brief and forward the case with complete documents relevant to the matter to the Legal Office concerned.

6.2 Legal Advice

1. The legal office will submit case to GM concerned /Secretary NHA as the case may be with the assistance of Legal Advisor within three working days and will ensure preparation of:-

- a. A detailed noting/justification whether NHA has a case to file before the court of law or not on the basis of evidence available and legal support.
- b. Petition/application duly supported by the documentary evidence including framing of issues and facts.
- c. Categorize the case status.
- d. Recommendation whether the case be dealt by legal office or referred to Secretary, NHA to forward the same to DRLC.
- e. In case of difference of opinion of Secretary NHA and GM concerned, decision from Member (Admn) will be sought.

6.3 Decision Making Authority

The Member concerned/Admn will make decision within three days keeping in view the recommendations of legal offices:-

- a. Whether case be filed before the court of law or any other way forward be adopted.
- b. Mark category of case keeping in view the point of view of the legal office.
- c. The legal office/DRLC which may deal with the case.
- d. Mark case to Secretary NHA if it is to be dealt by DRLC/Directorate Law HQ, otherwise refer case to the office concerned from where file was received for further steps.
- e. Nominate Departmental Representative.

6.4 Departmental Representative

1. The Member concerned while making decision about the case as per clause 6.3 above, will nominate an appropriate officer from the concerned office, well conversant with the case as Departmental Representative (D.R.) for providing support in a case during proceedings.
2. Departmental representative (D.R.) shall be an officer not less than BS-17 and he shall invariably attend the court along with original record of the case as per instruction of the respective legal office. It is emphasized that presence of departmental rep. with the record is of paramount importance as the court desires at any time to see the original record or ask relevant questions from departmental rep. being custodian of the record.
3. Job Assignment of D.R. shall be as per **Form No: 6.4(3)** annexed.
4. As a result of transfer of the officer working as D.R., arrangements shall be ensured as under:-

- i. In case of transfer on same station the officer working as D.R. shall continue to perform assigned duties of D.R.
- ii. In case of transfer to other station, the officer working as D.R. shall immediately intimate his supervising Member to nominate another officer as D.R. for handing/taking over of record of case. The member will nominate an officer as D.R. who will takeover record and necessary information will be communicated to all concerned by the new D.R. atonce.

6.5 Further Steps

1. On receipt of the case from Member concerned, the Secretary, NHA or the General Manager as the case may be, send the file forthwith to DRLC/Legal office by whom the case will be pursued.
2. The Legal office/DRLC will:-
 - a. Get approval of the competent authority for appointment of counsel including fee payable and D.R.
 - b. Finalize the draft petition through NHA defense lawyer.
 - c. Get signatures of Authorized officers on petition/Wakalat-nama and ensure filing before the Legal Forum correctly by the nominated lawyer.
 - d. Complete/collect list of NHA witnesses for provision to lawyer within a week from the date of filing the case.
 - e. Issue sanction for payment of 50% advance fee to the lawyer.
3. Parawise Comments/ Replies of Petitions etc. after final clearance by the defending Advocate, shall be signed by the Director/DD/AD(Legal) and the D.R. nominated in the case.

4. “Controversial Points” and “Issues framed” shall be given very careful attention for defense of NHA cases before the Legal Forums. Evidence/Record/Proofs etc in this regard shall be collected with utmost care and efforts. NHA Counsel, D.R., and legal offices will ensure for defense of the controversial points and issues framed and also see that the witnesses are fully prepared and NHA supporting evidence is arranged properly.

5. Legal office concerned shall ensure that Parawise comments/reply/report have been prepared with full care and all supporting documents in legible condition duly attested are attached with the case folder for provision to the counsel as per requirements of the legal forum.

6.6 Litigation Against NHA

1. Upon receipt of a notice/summon letter from a Legal Forum to any office/officer of NHA, the same shall immediately be forwarded to the Legal office along with all annexure under the covering note.

2. The copy of plaint/appeal etc. is normally annexed with the notice but in case it is missing, the legal office in the first instance shall obtain the copy along with its annexure from the Legal Forum.

3. The legal office shall carefully examine as to whether a court has passed any interim, stay order, restraining order or issued any directions in the matter. The Legal office without fail shall immediately (not more than two days of receipt) communicate such orders directly to the GM concerned for necessary compliance. The GM concerned shall personally ensure that court directives have been complied with, in letter and spirit or an application/review/appeal etc. (as the case may be) required to be filed. In case of violation or non compliance of the Court’s order, if no application/review/appeal etc. is being filed, the officer concerned will be responsible personally.

4. The Legal office shall forward the copy of plaint/appeal to the GM concerned for provision of parawise comments from concerned section. The GM concerned within a period of seven days after receipt of such communication shall be duty bound to ensure forwarding well prepared and comprehensive parawise comments by the relevant office with duly attested and legible copies of all supporting documents.

5. Legal office, after receipt of parawise comments and supporting documents shall immediately process the case with the consultation of legal consultant and submit to Member concerned through respective GM and in case of project office, submit to GM concerned through PD for:-

- i. Categorization of case.
- ii. Assignment of case either to Legal office or DRLC.
- iii. Nomination of D.R.

6. After decision by the Member concerned/GM, the case file will be sent to Legal office/DRLC.

7. On receipt of case file, the Legal office/DRLC will take steps as provided in clause 6.5 (2) above.

8. In case of non-submission or delay in submission of documents/comments/replies, even after three reminders on the lapse of one week beyond the prescribed time, the case will be referred to Secretary, NHA through GM concerned for disciplinary action against the defaulter.

6.7 Time Limit for Completion of Tasks in Litigations by and against, NHA.

1. Following limitation will be followed for completion of tasks in litigations:-

1.	Approval for nomination of Arbitrator, Advocate and Departmental Representative	05 working days after receipt of case/Notice/Summon
2.	Filing a case after approval of competent authority	07 working days
3.	Collection of record/comments/replies and signatures of authorized officers	15 days from the receipt of court notice/summon or 03 days before the date as given by the courts, whichever is earlier
4.	Filing an appeal against orders adverse to NHA	03 days before the expiry of limitation or within 30 days whichever is earlier
5.	Getting approval of competent authorities after/completion of all formalities	05 working days
6.	At any cost all the formalities must be completed within the time limit as provided by the Law/Rules/Court, otherwise finalization of cases should be ensured by the dealing legal office	Maximum within forty five days without fail

6.8 International Litigations/Cases Abroad.

International Litigations/cases Abroad, as and when need arises, shall be dealt either as per terms and conditions of the relevant contract or with the consultation of Ministry of Communications as well as in the light of policy guidelines of the Federal Government and laws of land on the subject matter.

APPEALS/WITHDRAWAL

7.1 Adverse Orders Passed by the Court Against NHA

1. NHA counsel shall inform legal office concerned on the same day of decision about the orders and convey his formal advice whether appeal be filed or not within three days. The Law office shall ensure collection of certified copies of judgment/decreed sheet/orders through D.R./NHA counsel within seven days.

2. The Law office shall submit case to the respective GM/Secretary NHA with reference to filing or not filing the appeal with appropriate proposal for decision through Legal Advisor. In case, if filing of appeal is not recommended, decision shall be taken from respective authority as per clause **7.3(2)**.

3. Although time is the essence in litigation in general and in appeal it is of utmost importance because the time allowed for appeals is limited and appeals filed after the expiration of limitation period are ordinarily dismissed as barred by time and no appeal lies against refusal of a court to Condone time barred cases. It is therefore, utmost necessary that delay in filing of appeals must be avoided. Failing to file timely appeal the officer responsible shall be liable for disciplinary action.

4. Each Law office shall keep schedule of period of limitation for filing of cases, applications, appeal/revisions, references etc. as attached at **Annexure-B** which will be strictly followed. The completed case file shall be handed over to the appointed panel advocate well before the expiry of the period of limitation prescribed by law.

5. The day, from which such period is to be reckoned in case of appeals, or application for review or revision, the day on which the

judgment is pronounced and the time requisite for obtaining a copy of the judgment/decreed applied for is to be excluded.

7.2 Moving case for approval of the Competent Authority to File Appeal

1. On receipt of advice of NHA Advocate for filing appeal against adverse orders, the Law office will move a note with the consultation of Legal Advisor and will give full picture of the case for getting consent of respective Member/GM and nomination of D.R:-
2. After receipt of consent, case shall be submitted to the following competent authorities for approval either to file appeal or not:

S. No.	Forum/Court before which an appeal shall be filed	Approving Authority
1	President/Prime Minister Supreme Court of Pakistan	Chairman
2	Governor/Chief Minister/High Court or equivalent	Member concerned
3	District/Lower Courts or equivalent	General Manager concerned/Secretary NHA as the case may be.

7.3 Withdrawal of Cases

1. Whenever NHA concerned Wing wants to withdraw a case in the interest of Authority shall move the noting to the relevant Law office. After examination of the case in consultation with the Legal Advisor and seeking formal advice of NHA dealing counsel with the respective

case with full justification and reasoning, the Law office shall submit case to the Secretary, NHA. The Secretary, NHA shall send matter to the Director (Legal). The Director (Legal) scrutinize cases carefully and come up with his recommendations for further decision of the case.

2. Competent Authorities for approval of withdrawal of cases shall be as under:-

i.	Cases pending in the Supreme Court/Ombudsman.	Chairman.
ii.	Cases pending in the High Courts/Equivalent forums.	Member Admn.
iii.	Cases pending at the forums other than above.	Secretary NHA, HQ/ Zonal Member Concerned

3. For withdrawal of cases, the most important factors to be considered shall be:-

- i. It will not cause any financial burden on the shoulders of NHA.
- ii. It will not affect any right of NHA.
- iii. It will not be against the terms and conditions of any agreement / policy.
- iv. It will be favorable to the revenue, purposes & functions of the Authority.
- v. The withdrawal is not against the provisions of rules/regulations procedures.

4. After approval for withdrawal of litigation, Dy. Director (Legal) NHA HQ will convey approval to respective Law office for filing application before legal forum for withdrawal of the case.

5. The respective Law office shall convey permission/orders of the legal forum about withdrawal of case to Secretary, NHA for maintaining record in Legal Bureau, NHA HQ.

6. The decision of the Court on such application shall be intimated to the Secretary NHA for maintaining record in the Legal Office NHA HQ.

7.4 Remedy Against Adverse Orders.

Remedial measures against adverse judgments, available under order-41, Rule-5 of the Civil Procedure Code for filing appeal, C.M., C.A., application for getting stay/ suspension of orders from the respective honorable courts shall also be considered within the prescribed limitations with the consultation of Legal Advisor and concerned counsel.

MONITORING AND INSPECTIONS

8.1 Supervision, Progress and Inspection

1. The Secretary, NHA will be the monitoring and inspecting officer of the activities of legal offices in respect of their assignments.
2. All progress reports/information will be communicated through email i.e. secretary@nha.gov.pk on the prescribed formats and schedules to the Secretary NHA by Law offices/DRLC.
3. Non provision of report/information in due course of time by office concerned will be viewed seriously and liable to departmental proceedings.
4. The Secretary, NHA can call any officer/record of a case for scrutiny/clarifications as and when need arises.
5. The Secretary, NHA may visit/inspect legal offices to ensure proper maintenance of record and appropriate follow-up of litigations.

8.2 Progress of Hearings by the Courts

1. The Departmental Representative (DR) where nominated will convey progress of each hearing to the Law office concerned on same day. Otherwise, NHA Counsel shall submit the said report to law office.
2. The Law office shall brought the status to the notice of GM concerned/Secretary, NHA HQ and point out deficiencies for remedial measures, if any/required within 03 days.

3. Appropriate steps will be taken by the GM/Secretary, NHA if any, on the report of D.R with the consultation/advise of the Legal Consultant.

4. The Law Office shall maintain a Case Diary for each date of hearing and on each date of hearing the progress shall be noted on the prescribed Performa of status sheet.

5. The cases in which stay orders have been issued against the NHA shall be maintained in a separate register and its monitoring shall be made on each date of hearing till the stay order is vacated. Likewise, the cases initiated by the NHA in which stay is required against the impugned judgement and decree, it shall also be updated till the application for the grant of stay is decided. The record of which shall also be maintained in a separate register.

8.3 Appearance of NHA Advocate/Witnesses/Record/

Evidence

1. The Departmental Representative will remain in close touch with the counsel concerned at least three days before the date of hearing. He will consult with all concerned including Law office, NHA advocate and ensure timely preparation of record, evidence and witnesses.

2. The Law office concerned will ensure through DR/NHA. Counsel about appearance of witnesses, evidence and record on the date of hearings.

3. Relevant officer/official well conversant with the case or any other person nominated as witness of NHA shall appear as witness before the court. It is emphasized that relevant witnesses must go through the record thoroughly, consult Law offices and the Counsel for guidance and must appear before the court with full preparation to protect NHA's interest. In case, does not appear before the court on fixed date shall be liable to disciplinary action.

4. The concerned GMs or officers in-charge under whom the witness is performing duties shall personally ensure that:-

a. Officer appearing as witness must go through the record of the case thoroughly.

b. The witnesses must discuss the salient features of case with the GM/Officer in-charge, the Advocate and afresh memory for evidence. GM/Officer In-charge and counsel must ensure that the quality of evidence is up to the required standard which completely protect NHA's interest.

8.4 Ex-parte Decisions Against NHA

1. Major reason of exparte orders is mostly due to the non-attendance in the courts. The Law office concerned will remain careful and in liaison with all the concerned to ensure that no hearing of a case should go un-attended.

2. Absence of NHA counsel from the court on the date of hearing shall be viewed seriously and action will be taken under clause 3.6 (b) of these regulations as well as under Bar Council Rules.

3. As a result of exparte decision against NHA, the Law office/D.R shall ensure restoration of the case and the defending Counsel of NHA shall immediately take necessary steps to get the case restored.

4. Non attendance of courts by concerned officers/officials shall be taken seriously and disciplinary proceedings shall be initiated accordingly.

8.5 Consent Statements

1. No officer, witness or Counsel of NHA will give consenting statement before any legal forum or Arbitrator without formal and prior approval of respective Member in writing.

2. If any consent statement is required, the matter will be discussed with Member (Finance) in case of financial implication, Member (Admn) for administrative/service cases, Member (Engg) for relevant issue.

3. However, in the cases of falling in category "A", the consent statement will be given in the court with prior approval of Chairman NHA.

4. In Category-A cases, the Chairman NHA will be informed about the case position by the GM concerned/Secretary NHA well before the hearing of case for appropriate course of action.

AUTHORIZED OFFICERS

9.1 Signing/Attestation of Documents

1. Following will be the “Authorized Officers” to sign Wakalatnamas, memos of petitions, written statements, affidavits, pleadings/produce evidence/witnesses in litigations on behalf of the Chairman and the National Highway Authority:-

a.	For cases being dealt at NHA HQ	Director (Legal) and in his absence Senior DD (Legal)
b.	For cases in Regional offices/projects	Concerned Director/Project Director

2. Documents will be signed after completion of approval process as provided in these Regulations.

9.2 Consultation, Coordination, Briefing of Cases

The Authorized Officer(s) may scrutinize documents with the consultation and coordination of NHA Counsel. If needed, the authorized officer may seek briefing from the Law office / counsel for signing the documents.

9.3 Emergency/Urgency

In cases of emergency/urgency where competent authority is not approachable, the authorized officers shall apply their mind, get guidance from the respective Legal Consultant or NHA Lawyer and sign the documents. Ex-post facto approval shall be taken on availability of the competent authority.

REVIEW/PERIODIC REPORTS

10.1 Monthly Review/Progress Meetings

1. Monthly review/progress meetings in respect of litigations shall be conducted by the Zonal Members for their jurisdiction and Secretary, NHA for HQ matters in the first week of each month.
2. Minutes/status of above meetings shall be conveyed to the Member (Admn) for presentation to Chairman.
3. Orders/instructions passed by the Chairman in this regard shall be got implemented/follow up and be given by the Secretary, NHA.

10.2 Quarterly Review/Progress Meetings

1. The Member (Admn) shall hold quarterly review/progress meetings at NHA HQ in the second week of March, June, September and December.
2. All Law offices will make presentations and steps will be taken for improvement/betterment of working in the legal setup.
3. The status of meetings will be submitted to the Chairman and Secretary, NHA will do the needful for implementation/follow-up of the orders/instructions of the Chairman.

**10.3 Six Monthly Meetings for Review of Performance of
NHA Panel Advocates**

1. Six monthly meeting for review of performance of NHA Panel Advocates will be held at NHA HQ by the Secretary NHA.

2. All Law offices will attend and present the status in this regard.
3. The presentations shall include complete picture of cases with category, nature, financial impact, status, final decisions and ratio of cases lost or won.
4. Categorization of Counsel shall also be discussed and decided in the meeting if need be so.
5. Status report shall be compiled and submitted to the Chairman through Member (Admn). Follow-up and implementation of the orders/instructions of Chairman in this respect shall be made by the office of Secretary, NHA.

MAINTENANCE OF RECORD

11.1 Registers

1. All Legal offices shall maintain following registers and keep updated all the time:-
 - a. Register of Panel Lawyers (Annexed Form No: 11.1(1-a)
 - b. Register of litigations filed by NHA (Annexed Form No: 11.1(1-b)
 - c. Register of litigations filed against NHA (Annexed Form No 11.1(1-c)
2. For all record maintenance purpose “Regulations for Record Management” as per Admn Manual of NHA shall be strictly followed.

11.2 Legal Forums Diary Register

Each legal office shall maintain Diary Registers separately for the cases/Notices etc. for each legal forum as under:-

- i. August Supreme Court Cases.
- ii. Honorable High Courts (Separately for each High Court).
- iii. Federal Service Tribunal.
- iv. Special Courts.
- v. Ombudsman.
- vi. NAB/FIA/Police or such other Agency (One Diary).
- vii. All other forums (if any case comes under proceedings).

The case status diary shall contain the following details:-

- (i) Title of case
- (ii) Court/Forum
- (iii) Name of NHA counsel
- (iv) Stage of the case
- (v) Dates of hearing and status of each hearing.

11.3 Record on Computer

1. All Assistant Directors/Deputy Director (Legal) shall ensure maintenance of record/ information relating to litigations on computer as per approved software deployed in this regard from time to time.

11.4 Office Files Record Maintenance

1. Office File will be maintained separately for each litigation/case.
2. An office file shall contain following three portions in one folder for each case:-
 - i. Court Proceedings Portion.
 - ii. Correspondence Portion.
 - iii. Office Noting Portion.
2. Each case file will carry its own and separate number.

11.5 Central Record Room

1. A Central record room of all NHA disposed of litigations throughout and overall Pakistan shall be maintained at NHA HQ by Director (Legal-I).
2. A full time and dedicated staff including one Office Superintendent, one Office Assistant, one UDC and two Record

Keepers, shall be deployed in central record room of Law offices at NHA-HQ.

3. Proper registers for incoming and outgoing record entries shall be maintained in the central record room.

4. No record shall be kept in record room without entry in relevant register.

5. No file/record shall be moved out of record room without proper requisition and approval of Director (Legal-I).

6. Safety and security as well as proper cleaning and lock and key arrangements shall be ensured by the Director (Legal-I).

7. The record room shall be inspected once a week by the Director (Legal-I) and once a month by the Secretary NHA to ensure maintenance of record room in good condition. Necessary inspection note shall be entered in the Inspection Register to be maintained in the Record Room.

8. On full and final decision of a case, the concerned Law Office will retain photocopies of following documents in that office and forward full/complete file/record in original by marking page numbering and index of all correspondence and noting portions to the Director (Legal-I) NHA HQ through TCS/OCS/Urgent Mail/Registered Post for keeping in central record room:-

- i. Petitions/appeals (all)
- ii. Parawise comments on all petitions/appeals
- iii. Wakalat Namas
- iv. Appointment letters of D.Rs
- v. Fees sanction memos
- vi. Orders of the courts/arbitrators

vii. Agreements

9. On receipt of record in central record room, the officer incharge of record room shall:-

- i. Enter the record in the relevant register as per Form No: 11.4(9-i).
- ii. All Racks/Almirahs in record room shall be numbered.
- iii. Record will be kept by making bundles. Each bundle will carry separate number.
- iv. Record register/Almirahs/Racks for each Legal office will be maintained separately.
- v. In case a file is moved from record room on a requisition, necessary entry with led pencil will be made in the register in "Remarks Column" of respective file and requisition will be kept in relevant bundle in place of file moved. Requisition request will be as per Annexed Form No 11.4(9-v).
- vi. Computerization of record shall be made in record room appropriately so that tracing of record could be made easy to approach.

10. All Legal offices shall keep the copies of record in good condition under lock and key with utmost care.

11.6 Archiving Necessary Documents

1. Necessary arrangements shall be made in the central record room for archiving necessary documents.
2. Following documents shall be archived and kept in soft form in the central record room in computer, CDs, USBs or any such other more secure material/source:-

- i. All petitions/appeals/suits.
- ii. Parawise comments of all petitions/appeals/suits.
- iii. Wakalat Namas
- iv. Appointments letters of D.Rs
- v. Fees sanction memos
- vi. Orders of the courts/arbitrators
- vii. Agreements

11.7 Disposal of Record

1. The documents mentioned in clause 11.3(2) above shall on one side be archived (soft copies) and on another side; hard copies shall also be kept in safe and secure condition till fifteen (15) years after full and final decision of the case.
2. Remaining record shall be disposed off as per provisions of “Regulations for Record Management” provided in Admn Manual of NHA.

CONTRACTUAL MATTERS

12.1 SOPs approved by the Board in its 107th meeting

dated 04-11-2002 for decisions of “The Engineer” Settlement of Claims/Disputes and Arbitration shall be followed with reference to:

- i. Response to decisions of “The Engineer”.
- ii. Amicable Settlement of claims and Disputes
- iii. Arbitrations

As circulated vide General Manager (C&S) NHA HQ letter No: 2(142)/Dir(Cont)NHA/02/836 dated 23-12-2002 **(Attached as Annexure-C).**

OTHER MATTERS

13.1 Matters Not Provided in the Regulations

In all other matters not provided in these Regulations in respect of litigations, the Chairman, NHA shall decide about the course of action/way forward in the particular case with the consultation and joint recommendations of the Director (Legal) & the relevant Legal Advisor through Member concerned/ Secretary, NHA.

13.2 PERs of Law Officers

1. Following arrangements shall be followed for initiating/ countersigning of PERs of Law Officers:-

BS	Initiating Officer	Countersigning Officer	Second Countersigning Officer (in case of Difference in Assessment by the Initiating and Countersigning Officer)
BS – 19	GM concerned/ Secretary, NHA as the case may be.	Zonal Member Concerned in the field Member (Admn) HQ.	Chairman, NHA.
BS – 18	Director (Legal) at HQ/ GM concerned	Secretary NHA HQ/ Zonal Member	Member (Admn)

	Region/Field		
BS - 17	Dy. Director (Legal) HQ/ GM concerned in the Region/ Field.	Director (Legal) HQ/ GM concerned in the Region/ Field.	Member (Admn)
BS - 16	Assistant Director (Legal) concerned	Dy. Director (Legal) Region/ Field and Dy. Director (Legal) HQ.	Director (Legal)

13.3 Standing Legal Advisory Committee

1. There will be a Standing Legal Advisory Committee (SLAC) to provide legal assistance to the Authority in major issues/matters as and when desired by the Chairman.
2. (a) Constitution of the committee will be as under:-

i.	Secretary, NHA	Convener.
ii.	GM (Admn), NHA	Member.
iii.	GM (Finance), NHA	Member.
iv.	GM (P&CA) NHA	Member.
v.	GM (EALS) NHA	Member.
vi.	Director (Legal-I)	Member.
vii.	Legal Consultant/Advisor	Member.

viii	A Senior Panel Advocate having professional expertise in respect of issue under examination	Member
ix.	A BS-19 officer of the Wing from which issue is raised.	Member.
x.	Dy. Director (Legal Coord)	Secretary.

(b) For quorum of committee, availability of convener and five members will be necessary.

3. Major issues/matters for the purpose of this committee means:-

- a. An issue/matter on which decision will affect the organizational structure or strength or cadres of service.
- b. An issue/matter on which decision will hit the organizational policy and procedures.
- c. An issue/matter which will cause serious affect on the purposes and functions of the authority.
- d. An issue/matter which calling for a decision where no clear law, rules, regulations or SOPs/Policy guidelines are available.
- e. An issue/matter which is nature for referring to outside agencies for legal action.
- f. Any such other issue/matter as deemed appropriate by the authority.

4. Each and every officer /office will provide required assistance/information/record to the committee to discharge its duties diligently.

5. The committee shall submit its report/recommendations to the respective Member for further action.

13.4 Clarification of Jurisdiction in respect of Legal

Offices.

In case of issues regarding jurisdiction of Legal offices for dealing with litigations, the matter will be finalized through Secretary, NHA with the approval of the Member (Admn).

13.5 Conclusion

1. In case, a General Manager (Legal) is appointed for supervision of Legal Offices, the Secretary, NHA will continue as monitoring and inspecting officer for the purpose of Chapter-9 and Convener Standing Legal Advisory Committee.

2. We may be more diligent than above, but, must be justified with acceptable reasons duly supported by the principles of equity.

He who seeks equity must come with clean hands

Regulations Legal 2016



ANNEXURE-A

Clause – 2.2(6)

**Assignments of Officers / Officials in Legal Bureau
Subject to the Provisions of these Regulations**

**Assignments of Deputy Director (Legal) in Legal
Bureau**

Annexure-A
Clause – 2.2(6)

**Assignments of Officers / Officials in Legal
Bureau**

Subject to the Provisions of these Regulations

**Assignments of Deputy Director (Legal) in Legal
Bureau**

1. To examine the case and nominate three advocates out of NHA's panel for approval of competent authority to file or defend/conduct it in a court of law.
2. To examine the observations and recommendation of AD (Legal) on the departmental comments and record/documents and finalize the comments & record/documents to be provided/sent to NHA counsel.
3. To finalize the Complaint/Petition/Written Statement/reply prepared by NHA counsel and submitted by AD (Legal).
4. To examine the status of court cases submitted by AD (Legal) and to issue instructions for proper pursuance of cases.
5. To finalize the reply of miscellaneous applications.
6. To examine the adverse orders like stay orders/Status-Quo and final decision in the case and recommend appropriate course of action.
7. To examine the adverse orders/decisions and nominate an advocate to prefer appeal.

8. To ensure that the final decision and decree in the case is implemented in letter and spirit.
9. To instruct in writing to AD (Legal) to close the file as the decree is satisfied.
10. To issue Sanction Memos in absence of AD (Legal) or if he fails to issue the same timely.
11. To examine the issues framed by the court of law and communicate them to Head of section for preparation of oral evidence and documentary evidence by the concerned witness.
12. To discuss with NHA counsel evidence of opponent party and provide legal assistance to witness/concerned section of NHA to adduce proper evidence along-with relevant record/documents.
13. Another assignment given by high ups.

Assistant Director (Legal)

1. To analyze the case / notice / summons received in his office and process the case for approval of counsel on case to case basis.
2. To communicate the approval to the counsel for defending / pursuing the NHA court case(s).
3. To seek written comments & material facts relevant documents from the Head of the Section.
4. To issue reminder for seeking comments & relevant documents from the Head of the Section.

5. To critically examine the comments and all relevant documents and submit to DD (Legal) with his observations and recommendations.
6. To send comments / material facts and relevant documents with covering letter to the concerned NHA counsel.
7. To examine the plaint / petition / written statement / reply and submit to DD (Legal) with his observations & recommendations.
8. To send the duly signed & stamped plaint / petition / written statement / reply to concerned NHA counsel for filing in the concerned court of law.
9. To get the status of each case on each date of hearing from the concerned NHA counsel and submit consolidated status to DD (Legal) with his observations and recommendations.
10. To keep the record of each court case along-with status of each date of hearing.
11. To examine the miscellaneous application filed in plaint / petition and submit his observations and recommendations to DD (Legal).
12. To get written comments / material facts & relevant documents from the Head of Section / concerned Officer, if required, and ensure reply in the court through NHA counsel.
13. To get the copy of adverse orders like stay orders / status quo and final decision in the case through NHA counsel and submit to DD (Legal) with his recommendations.
14. To coordinate with concerned officer and NHA counsel to get the stay orders / status quo vacated.
15. To get approval of counsel for preferring appeal against the final stay orders / status quo / adverse decision in the case passed against NHA.

16. To communicate the approval to the counsel for preferring appeal against the stay orders / status quo or adverse decision in the case and ensure preferring of appeal.
17. To keep record of stay orders / status quo & appeal filed and submit progress / status of each date hearing to DD (Legal).
18. To ensure that copy of stay orders / status quo and final decision in the case has been provided by NHA counsel available in the office.
19. To submit copy of final decision & decree of the case to DD (legal) along-with his recommendations / further course of action to implement the decision of the court of law.
20. To send the copy of final decision of the court of law along-with legal opinion to the concerned quarters to implement the decision of the court.
21. To close the court case file by giving proper order and numbering to documents.
22. To maintain a register of court cases files i.e. opened and closed files.
23. To issue Sanction Memos for payment to NHA counsels.
24. To intimate to Head of the Section / concerned officers about date of hearing for adducing evidence on behalf of NHA.
25. To submit report to DD (Legal) about the status of suit / petition / written statement / reply filed and evidence adduced on behalf of NHA.

Assignment of Steno Typist / Computer Operator in Legal

Bureau

1. To take dictation and type the day to day letters to be issued to NHA officers and Counsels regarding Court cases.
2. To type office note for approval of competent authority.
3. To type Sanction Memos for payment of fee to NHA counsels.
4. To prepare presentations on monthly basis or as and when required by the High ups in the Region as well as in NHA-H.Q.
5. To prepare KPIs on each month on the format given by NHA-H.Q.
6. To update the computerized court cases record on day to day basis.
7. To prepare the tour program and schedule of the officer for different meetings with NHA counsels as well as High ups.
8. To check the High Court website for daily hearing of cases and put up to DD(Legal) and also update the computerized status of the cases.
9. To prepare lists of cases fixed for hearing on daily bases and put up to DD (Legal) on daily and weekly basis.
10. To download e-mails and forward e-mail relating to Court Cases from or to NHA counsels and Officers/High-ups.
11. To prepare monthly, quarterly, land annual reports relating to court Cases for NHA HQ.
12. To manage and prepare the update status of court cases on daily bases.
13. Any other assignment given by DD (Legal) or High ups.

Assignments of Office Assistant/Superintendent in Legal

Bureau

1. To attend the calls of NHA counsels relating of NHA court case.
2. To call NHA counsels for obtaining status of court cases and request to attend new cases.
3. To prepare the lists of court cases fixed for hearing as per detail received from NHA counsels.
4. To visit the chambers of NHA counsels:
 - i. To collect the copies of important court orders.
 - ii. To provide the comments and record in court cases.
 - iii. To provide the final replies/written statements to NHA Counsels.
5. To prepare brief of each case in coordination with Deputy Director (Legal), NHA-Karachi.
6. To initiate court case file for approval of competent authority for defending, preferring appeal, instituting case in the Court of Law.
7. To put up report regarding any case.
8. To collect and prepare the update status of each case on daily and monthly basis.
9. To visit the different offices of NHA to obtain comments and record etc for court cases.
10. To maintain a register/record of all new initiated cases and decided cases.
11. To maintain the record of NHA Counsels.
12. Any other assignment given by DD (Legal) or High ups.

Assignments of UDC/LDC in Legal Bureau

1. To diary and dispatch the daily correspondence including following.
 - i. Dispatch of office note for approval of competent authority.
 - ii. Dispatch of nomination letters for NHA counsels in the court cases.
 - iii. Dispatch of Vakalatnamas to NHA counsels.
 - iv. Dispatch of comments for drafting replies/written statements in court cases.
 - v. Dispatch record of court cases to NHA counsels.
 - vi. Diary of letters from NHA counsels regarding bills, decisions of court cases, status of court cases etc.
 - vii. Dispatch of response of letters to NHA counsels and NHA H.Q as well as regional Offices
2. Opening of new files for court cases and other relating matters.
3. To keep record of day to day correspondence in the relevant files.
4. To put the files to Deputy Director (Legal), NHA-Karachi to take necessary action on day to day basis.
5. To keep the files in the Almirahs/cabinets/proper place.
6. To trace the movement of files or missing files.
7. To mark page Numbers to all documents in the files.
8. To keep the files of decided cases on proper place/record room.
9. Any other assignment given by DD (Legal) or High ups.

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ANNEXURE-B

Clause – 7.1 (4)

**Schedule of Limitations for
Appeals**

Annexure-B**Clause – 7.1 (4)****Schedule of Limitations for Appeals**

S. NO	Description of appeal or application	Period of Limitation
1	From a decree or order of a High Court in the exercise of its original jurisdiction (ICA).	20 days
2	Under the Code of Civil procedure to the court of a District judge.	30 days
3	Appeal against the decree (RFA).	60 days
4	Under the Code of Civil Procedure to a high court (Appeal against the order FAO).	90 days
5	Application to set aside or to get an award remitted for reconsideration	30 days from the date of service of notice of filing of the award
6	For a review of judgment by a High Court	20 days
7	162-A for revision under section 115 CPC	90 days
8	Application by a defendant to set aside a decree passed ex-parte	30 days from the date when he has knowledge of the decree
9	Application for filing of award in court of an award.	90 days from the date of service of notice of making of award
10	For petition for special leave to appeal to the Supreme Court (CPLA)	30 days where leave to appeal is refused by the High Court; otherwise 60 days
11	For civil appeal to the Supreme Court where certificate of fitness is granted by a High Court (CA)	30 days from the date of grant of certificate
12	Filing of CPLA in service matters	60 days from the receipt of the judgments

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ANNEXURE-C

Clause – 12.1

**Agenda item No. 6 of 107th Meeting of
NHA Executive Board held on 04-02-2002**

SOPs Arbitration, Dispute/Claims Settlement

and

“The Engineer” Decisions.

EXTRACTS

CONFIRMED MINUTES OF THE

SOPs Approved in 107TH Executive Board Meeting
(Settlement of contractual Matters)

HELD ON 04-02-2002 AT LAHORE

9. Agenda Item No 6

Approval of Standard Operating Procedures (SOPs) for:

- i. Responding The Engineer's Decisions**
- ii. Settlement of Claims and Disputes**
- iii. Arbitration Cases**

9.1. Secretary NHA presented details of the proposal. Chairman NHA interposed that it had been noticed for quite some time that response of NHA officials/engineers in various contractual matter/disputes with the Consultants/Contractors was generally not up to the mark and legally and technically untenable. Besides other shortcomings, absence of set procedures resulted in conversion of claims into disputes and, in some cases, the claims were even more than actual value of the contract. He added that the proposed SOPs identify various procedures/steps and define the sequence of handling various issues/disputes in clear terms. The aim is to ensure that NHAs stance is always comprehensive, follows a set procedure and not defeated in legal forums.

9.2. Chairman NHA conveyed that a "Dispute Resolution Cell" shall soon be a component of the NHAs permanent establishment and a proposal to this effect is part of the NHAs revised structure presently in finalization stage and already cleared, in principle, by the Secretary/Minister Communications. He added that in order to streamline the system and to ensure that loose ends were not left for

exploitation by the Contractors, NHA had already redrafted the contract documents and also terms of references for executing contracts to the negotiating table. Through this strategy attempts are made to safeguard NHAs interest.

9.3. Chairman NHA also talked about the fact that tangible progress on ground could not be achieved without an ideal working relationship and identification of well-defined parameters of responsibility between the Contractor and the Employer. The proposed SOPs would definitely help in dispute resolution and thus timely completion of projects.

9.4. Member (Finance) expressed the opinion that defining of set procedures is normally feasible for a few ideal cases only. Further, the flexible option of amicable settlement of cases should remain available, notwithstanding, the appointment of Arbitrator and commencement of arbitration or formal legal proceedings although prescribing a sequence of such process is a highly desirable proposition.

9.5. Member Operations explained that resolution of disputes is an ongoing process. Universally, Contractors were considered to be clever and better organized. The NHA Contractors normally employ good specialists, whereas, NHA did not possess an equally capable parallel apparatus. The resident Engineers/Project Directors were neither provided with adequate support staff nor the meager complement available at their disposal is appropriately trained. NHAs head office Member Operations considered claims lodged by the Contractors without proper documentation and this attracts wrong or delayed response leading to litigation where NHA is generally not able to successfully defend its standpoint.

9.6. Member Operations further remarked that when a case is in arbitration, NHA felt more confident as the legal proceedings could be stretched for years. Meanwhile, the Contractor could be blacklisted,

deprived of further business and, through such pressure tactics, brought to the negotiating table. Through this strategy attempts are made to safeguard NHAs interest to the maximum possible extent.

9.7. The Board Members appreciated the proposed SOPs. There was a consensus that Dispute Resolution Boards or Cells were a normal requirement in major organizations. NHA should also evolve necessary wherewithal to this effect and the proposed SOPs were a good beginning. After the SOPs were approved and introduced, the weak areas or shortcomings, if any, could be identified and removed to strengthen the contents.

Decisions

9.8. The NHAs Executive Board approved the SOPs attached with these minutes as **Annexes-II to IV (Part-I, Part-II and Part-III)**

STANDING OPERATING PROCEDURE (SOP)

FOR

RESPONDING THE ENGINEER'S DECISIONS

UNDER CLAUSE 67 OF COC

CONTRACTOR'S INITIATED DISPUTES

1. The copy of the Contractor's request for Engineer's decision under Clause 67 of COC shall be referred to Member (Operations) immediately when received in the concerned project office/Chairman's office.
2. Member (Operations) may choose to resolve the dispute with the approval of the Chairman or refer the case to C&S Section, in which case C&S section shall write to the Engineers immediately that the Employer is examining the case and shall communicate Employer's point of view on dispute under consideration within a period of four weeks.
3. C&S Section shall examine the case and shall solicit comments of the concerned Project Director (PD)/General Manager (GM) who shall be bound to reply within one week of receipt of request for comments along with documentary evidence.
4. C&S Section shall draft letter to the Engineers bearing signatures of concerned PD in the light of provisions of contract containing NHA's position which shall be issued after the approval of Member (Planning) and concurrence of Member (Operations).
5. The Engineer's decision under Clause 67 of COC when received in the concerned or Chairman NHA office shall be referred to C&S Section immediately through Member (Operations).

6. C&S Section shall examine the Engineers' decision and submit the Working Paper to the Stage-I Committee, which shall finalize recommendations for the Stage-II Committee. Refer Table-I for composition of the committee.
7. The Stage-II committee shall submit the case to the Chairman NHA for decision along with its comments as to the admission of the Engineer's decision or otherwise.
8. C&S Section shall submit Notice for Intention to commence Arbitration under Clause 67 of COC to the Chairman NHA through Member (Planning) for his signatures in case Chairman decides for challenge the decision.
9. The Notice for Intention to commence arbitration shall be issued by C&S Section after signatures of Chairman NHA.
10. The said notice shall be circulated to the concerned PD, GM, Director (Accounts) and Director (Legal) by the C&S Section.

EMPLOYER'S INITIATED DISPUTES

1. The PD may decide to refer through GM (Operations) to C&S Section for opinion on any issue in case he differs with the Engineer.
2. In such case C&S Section shall render its opinion with respect to the contractual position which shall then be referred to Legal Bureau for legal advice.
3. The case shall then be submitted to GM (Operations) who shall submit the case to Member (Operations) for decision along with his comments.
4. The office of GM (Operations) shall then communicate the decision of Member (Operations) to PD for requesting Engineers' decision under Clause 67 of otherwise.
5. Steps 5 to 10 stated herein above shall thereafter be followed in case Engineer's opinion is confronted.

STANDING OPERATING PROCEDURE (SOP)

SETTLEMENTS

National Highway Authority (NHA), as a matter of policy has undertaken to settle long outstanding claims of the contractors in the mode of amicable, post arbitration award, and out of court settlements. Two stage committees have been approved by the Chairman NHA for the purpose. Composition of the committees is in Table-I. it is now intended to formulate appropriate SOP to ensure transparency in the procedure with the objective to achieve best possible results for NHA on best effort basis.

Settlements of the claims of services, suppliers and contractors can vary in nature, depending upon various stages reached such as amicable settlement (settlement prior to arbitration as per notice served on the parties with regard to issues indicated) or (if the parties agree can be transformed into final settlement of disputes with respect to entire project), post arbitration settlement to similar effect as for amicable settlement except that the settlement agreement shall be submitted to the arbitrator and followed up until the rule of court is made. Out of court settlement, which will also have a similar arrangement except that the settlement agreement shall be submitted to the court. All the forms of settlement agreements shall be "Settlement Agreements" with a variation only "Final Settlement Agreement" which shall require discharge from the contractor.

Following steps shall be taken as standard operating procedure (SOP) for reaching settlement:-

STEP-1

Claims shall be received in the Operation Wing of NHA along with the Engineer's decision/point of view and with the review of the Supervisory Consultant and Project Director or concerned official of NHA from the office of the concerned GM. The concerned GM must endorse his recommendations on the principle and quantification of the claim as submitted by the concerned PD. The claim and its allied correspondence shall be reviewed by the operations wing and if all essentials are in order, the case may be referred to contracts section.

STEP-2

The contracts section shall review the claims in the light of contract administration reports, which contains details of claims being submitted and actions in hand. The contract section will review in depth the principles and the quantification of the claims and prepare working paper for the review of first stage committee.

STEP-3

The first stage committee shall meet and deliberate on the claim/claims and submit its recommendations to the second stage committee.

STEP-4

The second stage committee shall review the whole case and submit its recommendations to the Chairman NHA. The Chairman NHA may like to approve the recommendations or may desire to get the whole case reviewed by any forum of his choice.

STEP-5

Once approved by the Chairman, the payment shall be made as per prevailing procedure as amended from time to time.

➤ As for the claims in backlog, where the projects have been completed claims are in various stages such as prior post arbitration, courts etc, the working paper shall be prepared by contracts section through a sub-committee of the first stage committee comprising of the following:-

1.	Representative of Contract section	To be nominated by GM (C&S)
2.	Representative of accounts wing	To be nominated by GM (Finance)
3.	Representative of operation wing	To be nominated by GM (Ops & Coord)

The sub-committee nominations shall be on case to case basis. The sub-committee shall do re-appraisal of the claims including that of the principle of the claim as well as the quantification and after obtaining approval of the Chairman of first stage committee may enter into preliminary negotiation with the party as well. No single person shall conduct any negotiation with any party unless authorized by Member (Operations) or the Chairman NHA in writing.

The working paper of the sub-committee shall contain the following as minimum requirement:-

Settlement of Claims

Project: _____

Stage of Settlement:

No. of issues:

Part-I

- Employer
- Contractor
- Supervisory consultant
- Engineer
- Dates of commencement & Completion

Part-II

History of the claim (Background)

(Discussion on claim being under the provisions of contract and jist of correspondence with regard to the claims by the Contractor, the Engineer and the Project Director)

Engineer's Decision

(Reproduce the decision of the Engineer (if any or his views for or against consideration)

Employer's Correspondence on the issues

(Jist of the noting and letters by the Employer/NHA. Views given by various NHA personnel at various times)

Results of Amicable settlement

(Results of amicable settlement meeting (If any) prior to proceeding for arbitration as per the notice given by the party)

Part-III

Details of Claims (Documents to be attached)

- Contractor's Claim
- Engineer's Appraisal and quantification of the claims
(irrespective of his agreeing or disagreeing of the claim) NHA
(C&S) appraisal

Negotiation results

In such cases where a contractor has requested for last and final settlement of claims and disputes pertaining to the cases in pre-current-post arbitration stages involving more than one contract and more than one dispute, the procedure of settlement shall only commence upon reference of case(s) to Stage-I Committee by the Chairman NHA or Member (Operations). Such cases shall be appraised by Contracts Section and then presented to the Stage-I Committee for Settlement of Disputes through the working paper(s) and/or detailed presentation(s) including both the Statement of Claims submitted by the Contractor before the Arbitrator and the Replies to those submitted by NHA for examination and review on the format stated herein below.

LAST AND FINAL SETTLEMENT OF CLAIMS

PROJECT:

- STAGE OF SETTLEMENT:
- NO. OF ISSUES:

PART-I

- EMPLOYER
- CONTRACTOR
- SUPERVISORY CONSULTANT
- ENGINEER
- DATES OF Commencement & COMPLETION

PART-II (Presentations/Discussions)

- STATEMENT OF CLAIMS
- ENGINEER'S DECISION
- EMPLOYER'S CORRESPONDENCE ON THE ISSUES
- RESULTS OF PREVIOUS Amicable SETTLEMENT

PART-III

NEGOTIATION RESULTS

Note: Presentations shall be kept on record by Contracts Section

TABLE-I

STAGE-I COMMITTEE FOR AMICABLE SETTLEMENT

1.	General Manager (C&S)	Chairman
2.	General Manager (Ops & Coord)	Member
3.	General Manager (Fin/Audit)	Member
4.	Regional General Manager or his Rep.	Member
5.	Director (Legal)	Member
6.	Director (C&S)	Member
7.	DD/AD (C&S)	Secretary

STAGE-II COMMITTEE FOR AMICABLE SETTLEMENT

1.	Member (Finance)	Chairman
2.	Member (Planning)	Member
3.	Member (Operations)	Member
4.	General Manager (C&S)	Member/Secretary

Note:

1. The committee shall assemble in the first week of every month to discuss all such issues unless earlier required by the Chairman of the Committee.
2. The Chairman of the Committee(s) may co-opt any other member(s) and/or form a sub-committee depending upon the nature of claims(s).

**STANDARD OPERATING PROCEDURE (SOP)
FOR**

ARBITRATION CASES

NOTICE FOR INTENTION TO COMMENCE ARBITRATION

1. Once the "Notice for Intention to commence Arbitration" is received from the Contractor by the employer, the same shall be forwarded to Legal Bureau. Director (Legal) shall ensure its immediate circulation to Member Operations, General Manager (C&S), General Manager (concerned), Project Director and Accounts Section of NHA.

AMICABLE SETTLEMENT

2. Notice for Amicable Settlement shall be referred to Chairman of first stage committee, when received in the concerned office/section of NHA. The Chairman first stage committee shall refer the case to the sub-committee for appraisal. The sub-committee shall review the case and prepare working paper in line with the requirement stated above (format). The working Paper shall be submitted to the first stage committee for Amicable Settlement described in Table-I for discussion which shall submit its recommendations to Chairman NHA, through second stage committee, with respect to the course of action to be adopted in the meeting for amicable settlement. Refer SOP for settlements for details.
3. If the attempt of amicable settlement fails, then the case shall be referred to the Director (Legal).

APPOINTMENT OF LEGAL COUNSEL

4. Director (Legal) shall then proceed for appointment of Legal Counsel with written consent of General Manager (Contracts) in consultation with the proposed Legal Counsel indicating his willingness and professional fee.
5. Director (Legal) shall submit case seeking approval of Chairman NHA through Member (Operations).
6. After obtaining approval of Chairman NHA. Director (Legal) shall execute agreement with the Counsel ensuring all legal formalities are completed.
7. All the correspondence in this connection shall thereafter be referred to Director (Legal).

APPOINTMENT OF ARBITRATOR

8. Director (Legal) in consultation with General Manager (Contracts) and Legal Counsel shall submit proposal suggesting three names of Arbitrators with their willingness and acceptance of fee to the Member (Planning) who shall solicit approval of the Chairman NHA for proceeding further in the matter.
9. The proposed names of arbitrators from NHA side duly approved by the Chairman NHA shall be communicated to the Contractor by the Director (Legal).
10. The appointment of Arbitrator shall be confirmed if the Contractor concurs to anyone of the proposed arbitrators, and if the contractor does not concur, then appointment of Arbitrator shall be governed by Section-8 of Pakistan Arbitration Act of 1940, wherein the NHA Legal Counsel appointed for the Arbitration Case shall draft the case and argue the same before the Court without any additional cost. Director (Legal) shall

ensure that the agreement with Legal Counsel contains this provision.

ARBITRATION PROCEEDINGS

11. Statement of Claims submitted by the Contractor when received by the Legal Counsel during the Arbitration proceedings shall be referred to C&S Section for furnishing their comments in consultation with the respective project authorities/Engineers in the light of provisions of Contract within four weeks.
12. The comments of Contracts Section shall be submitted to Legal Counsel through Director (Legal) for drafting replies. The Legal Counsel shall be authorized to call any NHA official with the approval of competent authority for his assistance.
13. Director (Legal) would ensure that replies drafted by the Counsels are submitted to the Chairman NHA through Member (Planning) duly vetted by General Manager (Contracts) before submission to the Arbitrator.
14. Member(s) of NHA nominated team may attend the arbitration proceedings and inform Member (Planning) and Director (Legal) about the performance to NHA Counsel.

ARBITRATION AWARD

15. The Arbitration Award shall be submitted by the Legal Counsel to the Director (Legal) along with his recommendations to the admission or otherwise.
16. Director (Legal) shall submit the Award to the committees detailed in Table-I for examination and onward submission with its recommendations to the Chairman NHA for decision.

CHALLENGING THE ARBITRATION AWARD

17. If NHA decides to challenge the Award, the same Legal Counsel or any other Counsel approved by the competent authority shall be engaged, however in case of rejection of previous Counsel, by recording in writing the reasons for his rejection. The Legal Counsel shall file the objection to the Award in the Court of Law within the due time as provided in Arbitration Act.

18. The decision of Civil Court shall be analyzed by NHA and the course of action to be adopted, the same way as detailed in 15 16 & 17 above.

Regulations Legal 2016



FORMS

Photograph Passport Size

General Manager/Director (Legal)
 NATIONAL HIGHWAY AUTHORITY
 Application for placing of Advocate on NHA Panel.

1.	Name
2.	Father's Name
3.	Date of Birth
4.	CNIC No. (Attested copy be attached)
5.	Educational Qualifications with year of passing (Graduation and above) and institute (country Name in case of foreign qualified). (attested copies be attached) i. _____ ii. _____ iii. _____ iv. _____
6.	Bar working/Registration with date/place (attach photocopy of existing Valid License and Bar Certificate of working) i. _____ ii. _____ iii. _____ iv. _____
7.	Number of Reported Cases. i. Lower Courts _____ ii. High Courts/equivalent _____ iii. Supreme Court _____
8.	Full/Complete Address
9.	Telephone Numbers Office _____ Cell No. _____ Fax _____ Email. _____
10.	Place for dealing with cases _____

(Signature)
 Date: _____

NATIONAL HIGHWAY AUTHORITY

(LEGAL BUREAU)

Letter of Engagement

Mr./Ms./Mrs/M/s _____

Subject:- ENROLLMENT ON THE PANEL OF NHA'S ADVOCATE

Reference: Your application dated _____.

You are hereby offered enrollment on the panel of Advocates of NHA to represent the Authority before the Civil Courts, High Court, or any other such legal forum/tribunal/Arbitrator etc. on the following terms and conditions:-

- i. The professional fee will be paid to you on case to case basis as per schedule approved by the NHA Executive Board. The existing approved schedule of fees in NHA for Advocates is as under:-

- Supreme Court - Rs. 100,000/-
- High Court & equivalent - Rs. 50,000/-
- Lower Courts - Rs. 15,000/-

10% of the fee shall also be payable as court expenses.

- ii. 50% Fee will be paid in advance, whereas remaining 50% will be paid on the disposal of the case subject to furnishing a certified copy of the final judgment along with opinion regarding further course of action particularly when the decision of a case is against NHA.
- iii. No extra fee shall be permissible for filing/defending miscellaneous applications during the pendency or after disposal of cases in the same court and you will give opinion as and when required by NHA in the cases entrusted to you. Moreover, no extra fee will also be payable to defend the case restored after dismissal on account of non prosecution/ un-attendance or withdrawn with permission to file afresh.
- iv. You will inform NHA at least three days before the date of hearing in the case and will ensure preparation of witnesses/evidence in your chamber.
- v. Your engagement in the case will be liable to termination at any time without assigning any reason.
- vi. You will immediately apply for certified copies of the judgments and the other relevant record on decision of the case and convey to NHA with advice/legal opinion for further course of action within 07 days for further action within limitation period.
- vii. You will not compromise the matter entrusted to you or allow a consent order to be made unless so authorized by the NHA in writing.

- viii. You will be responsible to prepare the evidence/ witnesses and attend the courts and defend NHA.
- ix. MUST ensure that, the case is not decided ex-parte against NHA.
- x. You will convey the progress of assigned cases on each and every date of hearing via email or letter to the case assigning office as well as the Secretary NHA on e-mail address i.e. secretary@nha.gov.pk. and Director (Legal) on e-mail directorlegal@nha.gov.pk
- xi. In case of ex-parte decision due to your absence from court, NHA reserve the right to take-up the case with Bar Council for appropriate action and remaining 50% fee will also not be paid to you.
- xii. You will not act as defense counsel of the parties proceeding against NHA.

2. Please convey your acceptance to undersigned within ten days, on the receipt of this letter through an Agreement (attached format) on Rs. 100/- (Rupees one hundred only) stamp paper, failing which it shall be presumed that you have declined to accept this offer.

---sd---
Director (Legal)
etc. etc.

NATIONAL HIGHWAY AUTHORITY

Agreement for placing on NHA Panel

THIS AGREEMENT FOR RENDITION OF PROFESSIONAL LEGAL SERVICES (hereinafter referred to as “**this Agreement**”) is made at _____ (*name of city*), on this _____ day of _____, 2016

by and between

National Highway Authority, a statutory body corporate established pursuant the National Highway Authority Act, 1991, having its head office at #27, Mauve Area, G-9/1, Islamabad (hereinafter referred as “**NHA**” which expression wherever the context so permits shall mean and include its successors-in-interest and permitted assignees) of the ONE PART;

and

Mr. /Ms/Mrs/M/s _____ having chamber at (Full address) practicing the profession of law as a legal practitioner, firm/company (hereinafter referred as “**the Chamber**”) of the OTHER PART;

Both NHA and the Chamber may be collectively referred to hereinafter as “the Parties” and either of them individually as “Party”.

WHEREAS NHA is the principal public body in Pakistan responsible for the planning, development, construction, operation and maintenance of National Highways in Pakistan and in the exercise of its statutory functions requires from time to time the services of a legal practitioner or set of legal practitioners to represent it in any civil suit, writ petition, arbitration, appeal or any other case before any Court/Tribunal, etc. before which it is involved as a party (hereinafter referred to as “NHA’s cases”);

AND WHEREAS the Chamber consists of a number of advocates licensed to practice the profession of law under the Legal Practitioners and Bar Councils Act, 1973 and has been placed on the aforementioned panel of advocates/legal firms approved and devised by NHA;

AND WHEREAS the Chamber desires to be engaged by NHA to provide legal services as its counsel in NHA's cases.

NOW THEREFORE, for good and valuable consideration the adequacy whereof is hereby confirmed and the mutual benefits to be derived therefrom, the representations and warranties, covenants, conditions and promises contained herein below and intending to be legally bound, the Parties hereby agree as follows:

APPOINTMENT:

1. NHA hereby place the Chamber on its panel to act as its counsel purely on an *ad hoc* case-to-case arrangement basis as and when a case is assigned to the chamber.
2. NHA shall engage the Chamber on any particular case only if it deems appropriate in its sole absolute discretion and the Chamber shall be deemed to have been engaged for such case once Wakalat Nama has been signed.
3. Nothing in this Agreement shall be deemed to require NHA to engage the Chamber in any particular case or at all and NHA shall retain its absolute prerogative and discretion to assign its cases to any of the Chambers on its panel or any other lawyer/firm even out of panel as deemed fit.
4. NHA shall sign and effect an individual *Vakalatnama*/Power of Attorney in favor of the Chamber for every case that is assigned to it and the Chamber shall deal with the case to its final disposal strictly in accordance with the authority vested in it by virtue of the said *Vakalatnama*/ Power of Attorney.

RESPONSIBILITIES OF THE CHAMBER:

5. In every case that NHA individually engages the Chamber, the Chamber shall provide legal services including, but not limited to, acting, appearing, defending and pleading in any matter or case before any Court/Tribunal in which the same be tried or heard in the first instance or in appeal or review or revision or execution or in any

other stage of its progress until its final decision and pursuant thereto present pleadings, cross objections or petitions for execution, reviews, revisions, withdrawals, compromise or petitions or affidavits or other documents as shall be deemed necessary or advisable for the prosecution/defense of the said case in all its stages and to do all other acts and things which may be necessary to be done for the progress and the course of the prosecution/defense of the said matter or case.

6. The Chamber undertakes to attend any case or matter entrusted to it by NHA diligently and with the due skill and care expected of a high professional standard.
7. The Chamber shall update NHA on a fortnightly basis of the progress in respect of all the cases or matters in which the Chamber has been engaged to represent NHA and act as its counsel, as aforesaid. Such regular updates shall include: (i) the details of the particular case or matter, including the full title of the matter, the nature of the proceedings and the Court/Tribunal before which it is pending, (ii) the previous and next dates of hearing, (iii) the proceedings of the previous date of hearing and (iv) the proceedings fixed by the Court for the next date of hearing.
8. For cases in which actual dates of hearing are not given by the Court/Tribunal but rather intimated to the Chamber by the office of the Court/Tribunal, the Chamber shall in the first instance inform NHA by *facsimile* message of the date of hearing intimated by the office of the Court/Tribunal the same day, as well as including the said case and the next date of hearing in its fortnightly report to NHA, if any. However, in such cases or matters in which actual dates of hearing are fixed by the Legal Forum, the Chamber will intimate relevant legal office of NHA at least three days before the fixed date through formally written letter for required action.
9. The Chamber shall not make any statement in a Court/Tribunal on behalf of NHA which may compromise or prejudice NHA's legal position or otherwise deviates from the guidelines given by NHA for

the pursuit of the said case without the prior approval in writing from a competent and authorized officer of NHA.

10. The Chamber, except on its personal grounds, shall not seek any adjournment nor consent to a request for adjournment from the opposing counsel in respect of any date of hearing.
11. All the orders passed and judgments announced by a Court/Tribunal for a case in which the Chamber has been engaged shall be provided free of cost by the Chamber, as and when reasonably required by NHA.
12. The Chamber shall immediately intimate to NHA's Assistant Director (Legal) concerned in respect of an adverse order/judgment passed by a Court against NHA. Furthermore, the Chamber shall as soon as possible provide to the said Assistant Director (Legal) the certified copy of the order/judgment in a case and the other relevant record, along with its legal opinion regarding further course of action, particularly when the decision is adverse to NHA.

COMPENSATION/FEES:

13. NHA shall pay to the Chamber a set amount of legal fees for each case or matter in which the Chamber has been engaged and which shall be settled between the Parties for the particular case or matter, and set out in the Letter of Engagement.
14. The Chamber shall raise an invoice upon a payment becoming due under this Agreement. This invoice shall include the national tax number of the Chamber or of the Advocate in whose name the payment is to be made, and NHA shall deduct all applicable taxes there from.
15. The Chamber shall bear any and all costs and expenses it incurs in relation to any case or matter in which it is engaged, including but not limited to any miscellaneous expenses such as procuring copies, certified or otherwise, of orders/judgments, photocopying etc. However, any court fees required to be submitted and paid by the

Chamber shall be reimbursed by NHA to the Chamber within thirty (30) days of receipt of an invoice of the Chamber by NHA.

16. The Parties agree and acknowledge that the legal fees settled between them, and set out in the Letter of Engagement, represent the only and total consideration payable to the Chamber under this Agreement, and that the same constitutes sufficient and adequate consideration in lieu of performance of all its obligations under this Agreement.

MISCELLANEOUS:

17. During the currency of this Agreement or until the disposal of all cases conducted by the Chamber on NHA's behalf, whichever is later, the Chamber shall not conduct/pursue any case against the National Highway Authority, in any capacity whatsoever.

18. The Chamber will be bound to render a synopsis, summary or legal opinion in respect of any matter concerning or arising out of any case or matter in which it has been engaged as and when reasonably required by NHA, free of cost.

19. Notwithstanding the foregoing, NHA may at any time withdraw any case or matter in which the Chamber had been engaged and engage any other chamber/counsel without payment of any balance fee whatsoever to the Chamber.

20. In the event that the Chamber is found to have committed any professional or other misconduct in relation to any case in which it has been engaged, NHA reserves the right to file a complaint with the concerned Bar Council.

21. The chamber will also provide information about the cases being dealt by it at any time as and when desired by NHA.

TERM & TERMINATION:

22. This Agreement shall be valid for a period of three years whereafter it may be renewed on such terms and conditions as agreed by both Parties.

23. Notwithstanding the foregoing, NHA may without assigning any reason and at its sole and absolute discretion terminate this Agreement at any time by serving on the Chamber seven days' (07) prior written notice.

IN WITNESS WHEREOF the Parties aforementioned have signed this Agreement on the date and at the place first above written.

for
**National Highway Authority
Chamber]**

NAME:
DESIGNATION:
NIC No.:

WITNESSES:

1. _____

Name:
NIC No.:
Address:

for
[insert full name of the

NAME:
DESIGNATION:
NIC No.:

2. _____

Name:
NIC No.:
Address:

NATIONAL HIGHWAY AUTHORITY

Register showing Status of cases Assigned to NHA Advocates

Name of office _____ Name of Advocate _____

Name of Court _____.

(Note:- At least one page be left for each court where case (s) assigned and on filling of a page the account be carry forwarded to next available page by making necessary indication on the current page)

<u>Sl. No.</u>	<u>Title of Case</u>	<u>Date of Assignment</u>	<u>Professional Fee</u>	<u>Approving Authority</u>	<u>Disposal of case with date</u>

NATIONAL HIGHWAY AUTHORITY

(Legal Bureau Islamabad HQ)

No.....

Dated

To

Subject:- **(Title of case will be inserted)**

Dear Sir,

You have been nominated counsel to defend NHA case before _____ wherein subject litigation is pending for adjudication subject to terms and conditions mentioned in the attached "Power of Attorney" and previously accepted by you under the agreement for placing on the panel of NHA. The progress made on each date of hearing in the subject suit may be intimated to this office preferable on the same day. In case of any adverse order, this office shall be informed and certified copies of order be applied and forwarded to this office alongwith your expert legal opinion well within limitation period to proceed further accordingly.

2. Professional fee in this case will be Rs. _____ to be paid 50% in advance and remaining 50% after final decision and provision of orders passed by the legal forum.

3. 10% of fee shall be paid as miscellaneous expenses.

--Sd--

DD/AD (Legal)

Encl:

1. Duly Signed Power of Attorney (in original)
2. Copy of notice served by the legal forum.
3. Copy of plaint.

Copy to:-

GM _____
Director (Legal) NHA HQ.

POWER OF ATTORNEY

(WAKALAT NAMA)

In Court of _____

In Re:	Plaintiff (s)
	Applicant (s)
	Petitioner (s)
	Appellant (s)
	Complainant (s)
VERSUS	
	Defendant (s)
	Respondent (s)
	Accused

KNOW ALL to whom theses present shall come that I/We [officer(s)/official(s) of National Highway Authority, Ministry of Communication and Government of Pakistan] appoint

To be the advocate for the _____ in the above-mentioned case, to do all the following acts, deeds and things or any of them, that is to say:-

1. To act, appear and plead in the above-mentioned case in Court or any other Court in which the same may be tried or heard in the first instance or in appeal or review or revision or execution or in any other state of its final decision.

2. To present pleadings, Appeals, cross-objections or petitioners for execution review, revision or other petitions or affidavits or other documents as shall be deemed necessary or advisable for the prosecution/defense of the said case at all its stages.

3. The Advocate(s)/Counsel(s) shall not give any consenting/compromising statement before the court without approval in writing from the competent Authority through NHA Legal office.

4. The client shall at any time withdraw the case from the Counsel and engage other Counsel without payment of balance fee what so ever.

5. All the above Powers given under this Power of Attorney shall be subject to the terms and conditions mentioned in NHA Code and SOP and the agreement executed between NHA and the chamber for placement on panel which I/We have studied and understood properly.

IN WITNESS WHEREOF I/We hereunto set my/our hand(s) to these presents the content of which have been explained to and understood by me/us this the _____ day of _____ 2016.

1. _____
(Signature & Seal)

2. _____
(Signature & Seal)

3. _____
(Signature & Seal)

Accepted with above terms

Advocate on the panel of NHA

“POWER-OF-ATTORNEY” TO Advocate-on-Record

IN THE SUPREME COURT OF PAKISTAN

(APPELLANT JURISDICTION)

(ORIGINAL JURISDICTION)

Case No. _____ of /20----

_____ Appellant/Plaintiff/Petitioner

VERSUS

_____ Respondent/Defendant

I/we _____ do hereby appoint and constitute _____ Advocate-On-Record, Supreme Court of Pakistan, the Advocate-On-Record for the aforesaid appellant, or plaintiff or respondent or defendant to commence and prosecute or to appear and defend this action, petition or appeal on my/our behalf and all proceedings that may be taken in respect of any application connected with the same including proceedings in taxation and applications for review, to draw and deposit money, to file and take back documents, to accept the processes of Court, to appoint instruct Counsel, to represent that aforesaid petitioner, appellant or plaintiff or respondent or defendant agrees to ratify all acts done by the aforesaid Advocate-On-Record in pursuance of this Authority.

In witness whereof I/we do hereto set my/our hand(s) this the _____ day of _____ 2016.

Accepted

Advocate-On-Record

Signature (S)

Supreme Court of Pakistan

ISLAMABAD

NATIONAL HIGHWAY AUTHORITY

OFFICE OF THE _____

Assignments of Departmental Representative (D.R.)

- i. Coordination with all concerned in respect of the relevant case.
- ii. Ensure collection/production of witnesses/evidence/record before the concerned Legal Forum well in time through NHA counsel.
- iii. Report progress of each hearing to the respective Legal Office under intimation to Member/GM/PD concerned and Secretary, NHA, HQ as well.
- iv. Report about the performance/behavior of NHA advocate/arbitrator during case proceedings to the officers mentioned above.
- v. Report about attendance/interest/behavior of officers/staff/witnesses of NHA with references to the case, to the above offices.
- vi. Provide necessary assistance to the Advocate/Arbitrator/Court as the case may be.
- vii. Remain in close touch with the Focal Person of office concerned for getting information/record as and when need arises.
- viii. Any other job as per need on the instructions of Legal Office, counsel or the Court/Arbitrator.

NATIONAL HIGHWAY AUTHORITY

CATEGORY-WISE REGISTER OF NHA PANEL LAWYERS

Name of Legal Office _____ **Category** _____

<u>Sl. No.</u>	<u>Name</u>	<u>Date of Birth</u>	<u>CNIC No.</u>	<u>Educational Qualifications</u>	<u>Bar Registration Details With Dates</u>	<u>Date of Panelization in NHA</u>	<u>Remarks</u>

NATIONAL HIGHWAY AUTHORITY

CATEGORY-WISE REGISTER OF CASES FILED BY NHA

Name of Legal Office _____

Category _____

<u>Sl. No.</u>	<u>Case Title</u>	<u>Brief Pray for Decision/ Financial Impact</u>	<u>Date of Filing Case and the Court Name</u>	<u>Name of Advocate with Fee Agreed</u>	<u>Status of Case</u>	<u>Remarks</u>

NATIONAL HIGHWAY AUTHORITY

CATEGORY-WISE REGISTER OF CASES FILED AGAINST NHA

Name of Legal Office _____

Category _____

<u>Sl. No.</u>	<u>Case Title</u>	<u>Brief Pray of the Party for Decision and Financial Impact</u>	<u>Date of Filing Case and the Court Name</u>	<u>Name of Advocate Engaged by NHA with Agreed Fee</u>	<u>Status of Case</u>	<u>Remarks</u>

NATIONAL HIGHWAY AUTHORITY

Register No: _____

Period: _____

REGISTER OF RECORD RECEIVED IN CENTRAL RECORD ROOM

LEGAL OFFICES, NHA HQ.

Legal Office Whose Record is entered _____

<u>Entry No.</u> <u>Date</u>	<u>File No. and</u> <u>Subject</u>	<u>Office from Where</u> <u>File is Received</u>	<u>Volume of</u> <u>File</u>	<u>Portions of</u> <u>each Volume</u>	<u>Pages of Each</u> <u>Volume / Portion</u>	<u>Rack / Almirah No.</u> <u>Of Record Room</u> <u>Where File Placed</u>	<u>Bundle</u> <u>Number</u>	<u>Remarks</u>

NATIONAL HIGHWAY AUTHORITY

Register No: _____

Period: _____

REQUISITION OF RECORD

FROM

CENTRAL RECORD ROOM (LEGAL)

1.	Name and Designation of requesting officer (Not below BS-19)	
2.	File No.	
3.	Subject	
4.	Purpose for Requisition of Record	
5.	Date of Requisition	
6.	Date of Return of File to record Room	

Signature

Requisition Approved / Not Approved.

Director (Legal-I) HQ

Date: _____