

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
Principal Bench, New Delhi

Original Application No. 612/2022

Subhender

Applicant

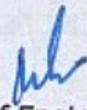
Versus

State of Haryana

Respondent

Index

Sr. No.	Particulars	Page No.
1.	Reply in the matter of Original Application No. 612/2022: Subhender Applicant Versus State of Haryana Respondent, in compliance of Hon'ble National Green Tribunal Order dated 21.03.2024	1-3


Chief Engineer/PTPS
HPGCL, Panipat

Dated: 19.04.2024
Place: Panipat


PANIPAT THERMAL POWER STATION, PANIPAT

(Regd. Office – C-7, Urja Bhawan, Sector-6, Panchkula)

Corporate Identity Number: U45207HR1997SGC033517

 Web: www.hpgcl.org.in

 e-mail: cc.ntps@hpgcl.org.in

No. 1341/CMDP-II

Dated: 19/04/2024

To

 The Registrar
 National Green Tribunal
 New Delhi.

Subject: Reply in the matter of Original Application No. 612/2022: Subhender Applicant Versus State of Haryana Respondent, in compliance of Hon'ble National Green Tribunal Order dated

Ref: Hon'ble NGT order dated 21.03.2024

Panipat Thermal Power Station (HPGCL) has been directed to file additional reply giving details regarding agreement made by the Project Proponent regarding disposal of fly ash. The requisite reply is as under:

Ash generation data and ash disposal data including legacy ash for last four financial years is as under:

Sr. No.	Financial Year	Total Ash Generated (Lakh MT)	Total Ash utilized (Lakh MT)		Total Ash utilized (%)	
			Total Ash Utilization including legacy ash (LMT)	Legacy Ash utilized (LMT)	Total Ash Utilized including legacy ash (%)	Legacy Ash Utilized (%)
1	2020-21	3.23	32.35	29.12	999.30	901.54
2	2021-22	7.55	82.51	74.96	1092.10	992.84
3	2022-23	12.77	64.48	51.71	504.98	404.93
4	2023-24	10.61	34.89	24.28	328.76	228.84

As per MoEF&CC gazette notification dated 31.12.2021, every coal based thermal power plant shall be responsible to utilize 100 percent (fly ash and bottom ash) generated during that year, however, in no case shall utilization fall below 80 percent in any year, and the thermal power plant shall achieve average ash utilization of 100 percent in a three years cycle. As evident from the above table, the legacy ash utilization in last four financial years is ranging from 992 to 228 percent. Further, the legacy ash was 350 L MT as on 01.04.2016 which has been reduced to 108 L MT, as on 31.03.2024, within a time span of 8 years. As per MoEF&CC gazette notification dated 31.12.2021, the legacy ash is to be utilized progressively by the thermal power plants in such a manner that the utilization of legacy ash shall be completed within ten years from the date of publication (31.12.2021) i.e. till 30.12.2031.

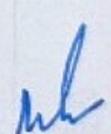
Action Plan for disposal of pond ash stored in the ash dykes:

The details of sales orders signed by PTPS for lifting of the ash are as below:

Sr. No.	Name of the Project	Quantity Allocated (in LMT)	Quantity Lifted till 31.03.2024 (in LMT)	Quantity to be Lifted (in LMT)
1	Shree Cement	160	4.15	155.85
2	Shree Cement	23.5	2.31	21.16
3	Tomer Enterprises	1.50	0.00	1.50
	Total	185	6.46	178.51

Presently, around 2000 MT of pond ash per day is being lifted from the ash dykes by above mentioned projects proponents.

PTPS has recently issued sales order (**Annexure-A**) to M/s Tomer Enterprises, Bhiwani for sale of 1.5 L MT on paid basis (Rs 152 per MT plus GST extra). Further, PTPS is in process of signing a MoU (**Annexure-B**) with NHAI (PIU-Ambala) for supplying 10 Lakh MT of pond ash on paid basis (Rs 136.80 per MT plus GST extra). The period of supply shall be 2 years or till the allocated quantity is lifted, whichever is earlier. From the above data, it is submitted that the entire pond ash stored in the ash dykes will be utilized completely within 3-4 years because the demand of the ash is about 178 Lakh MT against the available quantity of 108 Lakh MT in ash dykes.


Chief Engineer/PTPS
HPGCL, Panipat



HARYANA POWER GENERATION CORPORATION LIMITED

Regd. Office – C-7, Urja Bhawan, Sector-6, Panchkula

Corporate Identity Number: U45207HR1997SGC033517

Website: www.hpgcl.org.in

Email: xencmdp2.ptps@hpgcl.org.in

AN ISO 9001, ISO 14001 AND OHSAS 18001
Certified Company

Telephone No. 0180-2566821

Fax No. 0180-2566821

Sales order No. 24/2023/24/CMD RD/1037

Dated: 6/13/24

From

Chief Engineer/PTPS,
PTPS, HPGCL, Panipat.

To

M/s Tomer Enterprises,
First Floor, M.C. Unit No. S-2867,
Kirti Nagar, Bhiwani-127021, Haryana
Email id- tomerenterprises@gmail.com

Memo No. 1235/CMD RD Dated: 6/13/24

Subject: Sale order for lifting of 1.5 L MT pond ash from ash dykes of PTPS (subject to availability of pond ash in the ash dykes of PTPS) for manufacturing purpose.

Ref: Your letter dated 21.11.2023 & 05.03.2024

In continuation to Your letter dated 21.11.2023 & 05.03.2024, this office is pleased to place upon you the sales order for lifting of 1.5 L MT pond ash from ash dykes of PTPS (subject to availability of pond ash in the ash dykes of PTPS) for manufacturing purpose. as per the below terms & conditions :

TERMS AND CONDITIONS:

1. M/s Tomer Enterprises will lift pond ash (1.5 Lakh MT, subject to availability) from ash dykes of PTPS, Panipat @ Rs 152 per MT plus GST as applicable & on "as is where is basis" by engaging its own Heavy Earth Moving Machinery (HEMM) Equipment in Pollution free manner.
2. Transportation of pond ash by trucks/tippers after proper covering of the same by tarpaulin covers so as to minimize the spilling of ash during transportation.
3. Sprinkling of water by deploying water tankers and permanent sprinklers along the entire transportation path etc. so as to suppress ash dust in the ash dykes while loading / transportation of ash in trucks / tippers.
4. The lifting can be suspended /halted by PTPS during high winds. The lifting timings can be restricted as per the directions of District Administration Panipat / Chief Engineer PTPS or any other competent authority.
5. Online cameras shall be installed by M/s Tomer Enterprises at the weigh bridge for round-the- clock monitoring. Tyre washing facility shall be installed by M/s Tomer Enterprises at the weigh bridge facility. Firm will ensure the movement of trucks only through the allocated path
6. No damage shall be caused by M/s Tomer Enterprises to the ash dykes of PTPS. If any damage is done, firm shall be liable to pay the penalty as deemed fit by PTPS authorities.
7. The period of completion of this job/ activity will be 2 years from the date of issuance of this work order and the minimum lifting for a year will be 0.75 L MT excluding the days, when the lifting is totally stopped by the management on environmental/administrative grounds. A penalty of Rs 2 per MT will be levied for the short-lifted quantity at the end of each year after adjusting the days when lifting was not allowed by HPGCL authorities. HPGCL shall have the right to sell the quantity to any other party, if the allocated quantity is not lifted by the firm for any reason.
8. M/s Tomer Enterprises shall execute a contract agreement with HPGCL on a Non Judicial Stamp Paper of appropriate value within 07 days of receipt of sales order.
9. The sale price of pond ash shall be Rs 152 per MT plus GST as applicable. M/s Tomer Enterprises shall be fully responsible for loading/unloading and transportation of ash at its own cost. M/s Tomer Enterprises will deposit Rs 50 Lakhs (refundable) as security amount with PTPS. M/s Tomer Enterprises will also deposit Rs 20 Lakhs in advance and thereafter shall deposit the amount

- equivalent to the sale value of pond ash quantity lifted by it in the previous month, by 7th day of following month. M/s Tomer Enterprises can lift the pond ash equivalent to the value of Rs 20 Lakhs during a month and further lifting during the month shall be allowed only on receipt of extra advance payment of pond ash.
10. The authorized representative of M/s Tomer Enterprises shall inform to PTPS, the number of trucks received at their manufacturing site on daily basis. This is only to ensure that the trucks dispatched from Ash Dyke of PTPS have reached the manufacturing site of M/s Tomer Enterprises.
 11. Payment towards sale of pond ash shall be based on the weighment (in MT) of pond ash done at ash dykes of PTPS. M/s Tomer Enterprises shall install weigh bridge facility at the ash dykes of PTPS, Panipat and also facilitate the required infrastructure necessary for sale of pond ash from the ash dykes of PTPS, Panipat. The valid calibration certificate from OEM and license from Weights & Measures Department, Haryana will be supplied by the M/s Tomer Enterprises. PTPS has right to direct the M/s Tomer Enterprises for re-calibration, whenever needed.
 12. After removal of pond ash from a particular area in stages, the area would be leveled.
 13. M/s Tomer Enterprises will take all necessary measures so that there is no pollution during the excavation, transportation and disposal of ash.
 14. For the safeguard of man & machinery inside the Dyke area, M/s Tomer Enterprises may depute security at its own cost and arrangement.
 15. M/s Tomer Enterprises will abide by all environmental laws, labour laws or any other law which is applicable for the execution of the job.
 16. HPGCL shall allow movement of labour, machinery, materials, vehicles engaged by M/s Tomer Enterprises for lifting of pond ash subject to security restrictions as imposed by HPGCL, from time to time for the safety and security of power plant in particular and HPGCL, in general.
 17. All statutory regulations pertaining to labour laws and labour welfare activities shall be followed by you.
 18. M/s Tomer Enterprises will ensure that lifting of pond ash is done in proper co-ordination with HPGCL and shall neither hamper the normal power plant operation of Thermal Power Stations, nor cause any operational problem.
 19. M/s Tomer Enterprises will be liable for all or any damage to HPGCL's property or injury to HPGCL employees or third party caused by negligence on the part of M/s Tomer Enterprises or its employees or its carriers.
 20. M/s Tomer Enterprises will indemnify HPGCL regarding any damage to the labour, person, plant and machinery/ equipment etc and it shall be your sole responsibility.
 21. M/s Tomer Enterprises will indemnify HPGCL regarding any damage under public property damage act caused by negligence on the part of M/s Tomer Enterprises or its employees or its carriers. Further, M/s Tomer Enterprises will not do overloading of its trucks/dumpers etc.
 22. If any action in the court is brought by third party against the HPGCL or an officer/official of the HPGCL for the failure or neglect on your part to perform any act, matters, covenants or things under the allocation, or for damage or injury caused by the alleged omission or negligence on your part, your agents, representatives or your Sub-contractors, workmen, suppliers, in such cases you will indemnify and keep the HPGCL and /or its representative harmless from all losses damages, claims, expenses or decrees arising out of such action.
 23. M/s Tomer Enterprises will take all measures as per norms of HSPCB/CPCB/ MoEF& CC/NGT to avoid pollution to the satisfaction of HPGCL. M/s Tomer Enterprises will be responsible for keeping the ash dyke area clean by sprinkling water on dyke area, covering the truck with tarpaulin before moving out of the area, washing of tyres of the trucks before coming out of the dyke. M/s Tomer Enterprises may use ash water from inside the dyke area free of cost; however M/s Tomer Enterprises will make its own arrangement for pumping/sprinkling etc. Similarly, while transporting, no spillage of pond ash would be permitted to avoid air pollution. If the process adopted by the firm is found deficient, HPGCL has the right to cancel the allocation.

24. The lifting may be stopped during the windy season or at any time not found suitable for surroundings. If the process adopted by the firm is found deficient, HPGCL has the right to cancel the allocation. Any other arrangement like repair of paths etc. if required shall be done by M/s Tomer Enterprises at its own cost. Stone boulders etc. will be made available free of cost by HPGCL available in plant premises for construction /repair of the approach road to Ash dykes of PTPS, Panipat
25. M/s Tomer Enterprises will make its own arrangements at its own cost for illumination/lights etc.
26. All present and future statutory levies, taxes and duties etc. in respect of lifting of pond ash shall be borne by M/s Tomer Enterprises.
27. During and after lifting of ash from the ash pond, all the property rights of Ash Dykes of PTPS, Panipat shall rest with HPGCL.
28. The allotment of pond ash to M/s Tomer Enterprises is in compliance of MoEF&CC notification dated 31.12.2021 and in view of MoP guidelines dated 22.02.2022. The role of PTPS shall be limited to sale of pond ash in compliance of MoEF&CC Gazette Notification dated 31.12.2021.
29. The firm will also comply with the statutory provisions with respect to GST rules and submit its GST registration certificate. Compliance certificate should be also submitted by firm on monthly/quarterly basis as per return filling norms.

30. ARBITRATION

All matters, questions, disputes, differences and / or claims arising out of and / or concerning, and /or in connection with, and /or in consequence of, and /or relating to the contract whether or not obligations of either of both the Supplier and the Corporation under that contract be subsisting at the time of such dispute and whether or not the contract has been terminated or purported to be terminated or completed, shall be referred to the sole arbitration of MD, HPGCL or an officer appointed by the MD, HPGCL as his nominee. The award of the Arbitrator shall be final and binding on both the parties.

31. SET OFF

Any sum of money due and payable to the supplier under the contract (including security-deposit returnable to the supplier) may be appropriated by the HPGCL and set-off against any claim of the Corporation for the payment of a sum of money arising out of under that or any other contract entered into by the supplier with the HPGCL.

A
6/3/24

Executive Engineer/CMDP-II,
For Chief Engineer/PTPS,
PTPS, HPGCL, Panipat.

MoU FOR SUPPLY OF POND ASH TO ROAD PROJECT

MEMORANDUM OF UNDERSTANDING FOR SUPPLY OF POND ASH FROM PANIPAT THERMAL POWER STATION TO ROAD PROJECT OF NHAI NAMEDLY “*Construction of 6-lane Greenfield Karnal Ring Road starting from NH-44 near Village Shamgarh (Design km 0+000) and terminating at Karnal-Munak Road (MDR-115) near Village Samalakha (Design km 34+500) under Bharatmala Pariyojana in the State of Haryana on Hybrid Annuity Mode*”.

The Memorandum of Understanding (MoU in short) is made on ----- day of ----- (name of month) ----- (year) by and between HPGCL, a Govt. of Haryana undertaking incorporated under the Companies Act, 1956 with its Registered Office at C-7, Urja Bhawan, Sector-6, Panchkula, Haryana (which expression shall unless repugnant to the context or meaning thereof includes its successors and assigns) on first part.

And

National Highway Authority of India (NHAI) having its registered office at (*full address of registered office*) referred as NHAI PIU-Ambala (short name) (which expression shall unless repugnant to the context or meaning thereof includes its successors and assigns) on second part.

WHEREAS HPGCL has amongst other, a Thermal Power Station at Assan Kalan, Panipat Haryana namely –Panipat Thermal Power Station, Panipat known as PTPS, Panipat.

AND WHEREAS in the operation of said PTPS ash is generated and PTPS intends to supply the pond ash on paid-basis for use in construction of road embankment at “*Construction of 6-lane Greenfield Karnal Ring Road starting from NH-44 near Village Shamgarh (Design km 0+000) and terminating at Karnal-Munak Road (MDR-115) near Village Samalakha (Design*

km 34+500) under Bharatmala Pariyojana in the State of Haryana on Hybrid Annuity Mode” for its utilization in compliance of MoP guidelines dated 22.02.2022 and MoEF& CC Gazette Notification dated 31.12.2021.

AND WHEREAS NHAI, PIU- Ambala had approached PTPS for use of pond ash in construction of road embankment of the NHAI road project as per design/ specification approved by the Government agency or their consultant or as per the guidelines or specifications issued by the Indian Road Congress (IRC) as contained in IRC specification no. SP: 58 of 2001 as amended from time to time.

AND WHEREAS PTPS has agreed to allow the utilization of pond ash in said road construction projects as per the stipulation of said gazette notification and compliance of the same.

AND WHEREAS PTPS has agreed to permit for excavation and loading of pond ash from identified Ash Pond located in the Ash dyke area of PTPS to transport ash to road construction site as per the requirement given by the construction agencies of NHAI, PIU- Ambala to take up the road project work in line with specification/ drawings with following terms & conditions:

- i) Transportation of pond ash by trucks/tippers after proper covering of the same by tarpaulin covers so as to minimize the spilling of ash during transportation.
- ii) Sprinkling of water by deploying water tankers and permanent sprinklers along the entire transportation path etc. so as to suppress ash dust in the ash dykes while loading / transportation of ash in trucks / tippers.
- iii) The lifting can be suspended /halted by PTPS during high winds. The lifting timings can be restricted as per the directions of District Administration Panipat / Chief Engineer PTPS or any other competent authority.
- iv) Online cameras shall be installed by NHAI PIU-Ambala at the weigh bridge for round-the- clock monitoring.
- v) Tyre washing facility shall be installed by NHAI PIU-Ambala at the weigh bridge facility.
- vi) No damage shall be caused by construction agencies of NHAI, PIU-Ambala to the ash dykes of PTPS.

NOW THIS MEMORANDUM OF UNDERSTANDING WITNESS AS FOLLOWS:

That in consideration of mutual agreement and with intent to achieve above objective of PTPS and NHAI PIU-Ambala mutually agreed as under: -

1. PTPS shall allow excavation, loading and transportation of pond ash in the covered Trucks, Dumpers as per the approved guidelines of CPCB/HSPCB to the construction site of road project “Construction of 6-lane Greenfield Karnal Ring Road starting from NH-44 near Village Shamgarh (Design km 0+000) and terminating at Karnal-Munak Road (MDR-115) near Village Samalakha (Design km 34+500) under Bharatmala Pariyojana in the State of Haryana on Hybrid Annuity Mode” to authorized concessionaire of NHAI in compliance of MoP guidelines dated 22.02.2022 and MoEF&CC Gazette Notification dated 31.12.2021.
2. PTPS shall issue pond ash on “as is where is basis and paid-basis” to authorized concessionaire of NHAI for road construction projects for a quantity of 10 Lac Cum, subject to availability of pond ash in the ash dykes of PTPS.

3. The Project implementation Unit, NHAI, PIU-Ambala shall inform to PTPS for their (i) total requirement of pond ash for the project (compacted volume which shall be with more than 95% MDD without any multiplication factor) (ii) schedule of construction plan along with location and (iii) monthly requirement of compacted quantity of pond ash at that site so that necessary arrangements will be made by PTPS at ash pond for issue of ash.

4. Method of Measurement of Ash Quantity & Terms of Payment

a) Method of Measurement of Ash Quantity

Payment towards sale of pond ash shall be based on the weightment (in MT) of pond ash done at ash dykes of PTPS. NHAI PIU-Ambala shall install weigh bridge facility at the ash dykes of PTPS, Panipat and also facilitate the required infrastructure necessary for sale of pond ash from the ash dykes of PTPS, Panipat. The valid calibration certificate from OEM and license from Weights & Measures Department, Haryana will be supplied by the NHAI PIU-Ambala. PTPS has right to direct the NHAI PIU-Ambala for re-calibration, whenever needed.

b) Terms of Payment

- i. The payment against sale of pond ash shall be released by NHAI, PIU-Ambala on monthly basis against invoice-cum-delivery challan issued by PTPS during the month.
 - ii. The authorized representative of NHAI, PIU- Ambala shall inform to PTPS, the number of trucks received at construction site (chainage – wise) on daily basis. This is only to ensure that the trucks dispatched from Ash Dyke of PTPS have reached the construction site of NHAI. For this purpose, Project Director, NHAI, PIU- Ambala will coordinate this activity and take care of day-to-day issues and share with PTPS.
 - iii. The sale price of pond ash shall be Rs 136.80 per MT plus GST as applicable. NHAI PIU-Ambala shall be fully responsible for loading/unloading of ash at its own cost. NHAI PIU-Ambala will deposit Rs 50 Lakhs (refundable) as security amount with PTPS. NHAI PIU-Ambala will also deposit Rs 1.00 Crore in advance and thereafter shall deposit the amount equivalent to the sale value of pond ash quantity lifted by it in the previous month, by 7th day of the following month. NHAI PIU-Ambala can lift the pond ash equivalent to the value of Rs 1 Crore during a month and further lifting during the month shall be allowed only on receipt of extra advance payment of pond ash.
5. The role of PTPS shall be limited to sale of pond ash in compliance of MoP guidelines dated 22.02.2022 and MoEF&CC Gazette Notification dated 31.12.2021.
 6. The excavation loading, transportation in an environment friendly manner to the construction site, spreading, compaction etc. shall be the responsibility of authorized agency or contractor of NHAI.
 7. NHAI, PIU- Ambala will ensure that no undue benefit is passed on to the contractor due to sale of pond ash by PTPS. With regards to the contract awarded by NHAI, the concessionaire of NHAI will transport the fly ash from PTPS with their own resources. PTPS will submit the bill / invoice for payment of sale of pond ash based on the quantity of pond ash lifted by authorized concessionaire of NHAI, PIU- Ambala as per rate agreed at point no. (4.b.iii) NHAI, PIU- Ambala will pay the cost of pond ash to PTPS by 7th day of the following month.

8. In order to ensure compliance of environment / safety norms while excavation loading, transportation, unloading and placing of ash, suitable provisions will be made in the contract of concessionaire by NHAI for making him solely responsible for compliance". Any penalty imposed by HSPCB/CPCB/Hon'ble NGT etc. for non-compliance of statutory norms during transportation of pond ash shall be borne by NHAI.
9. PTPS shall not be responsible for any violation of quality/construction norms set by NHAI for embankment construction by their Road Concessionaire (M/s HGIEL) due to use of pond ash. NHAI, PIU-Ambala shall ensure that Govt. rules & regulation, local bye-laws, environment norms/ stipulations etc. for construction of road project are adhered to.
10. Pond ash lifted by NHAI PIU-Ambala from the ash dykes of PTPS has to be utilized for the purpose of road embankment construction by the contractor of NHAI for its project namely "*Construction of 6-lane Greenfield Karnal Ring Road starting from NH-44 near Village Shamgarh (Design km 0+000) and terminating at Karnal-Munak Road (MDR-115) near Village Samalakha (Design km 34+500) under Bharatmala Pariyojana in the State of Haryana on Hybrid Annuity Mode* In case of violation of this clause, supply shall be terminated with immediate effect.
11. PTPS shall not be responsible for any defects in the quality, construction/ failure of road project, if any, due to use of ash and not liable to pay any compensation whatever reason may be.
12. PTPS shall not be responsible for any accident or injury to person engaged or otherwise on account of process of construction of road embankment due to use of ash. NHAI shall keep the HPGCL harmless. In case any loss / damage / cost etc. is caused to the HPGCL, the NHAI will indemnify the same.
13. PTPS shall not be responsible for ash dumped on construction site and not utilized by the concessionaire on default and NHAI shall take all precautions to prevent loss or damages or to minimize loss damages or to minimize loss or damage to the extent possible and shall be liable to make good any loss or damages incurred due to negligence on their part or work under MoU.
14. **Dispute Resolution:** In case of any dispute or difference between the PTPS and NHAI, Ambala hereto, the Head of the NHAI and the PTPS HQ shall at the first instance try to resolve the dispute amicably, which shall henceforth be binding upon both the parties.
15. **Arbitration:** In the event the dispute or difference or claim, as the case may be, is not resolved, under ibid clause 15, within thirty (30) days of reference of such dispute / difference, as the case may be, the same shall be referred to sole Arbitrator to be appointed by MD/HPGCL. The arbitration under the Arbitration and Conciliation Act, 1996 as amended from time to time shall apply to decide the dispute.
16. **Place of Arbitration:** The place of arbitration shall be at the HQ of HPGCL. But by agreement of the Parties, the arbitration hearing, if required, can be held elsewhere from time to time.

17. **Validity:** This MoU shall come into force for all purpose and intent from the date of its signing and shall remain valid and operative for 24 months from the date of signing of MoU or period by which the agreed quantity of 10 Lac Cubic Meter is lifted, whichever is earlier. The supply of pond ash is subject to availability of pond and subject to ash dyke stability & safety etc. strictly in-line with the directions issued by MoP letter dated 22.02.2022.
18. **Governing Law and Jurisdiction:** This MoU shall be governed by Indian laws and the Courts of Panipat shall have exclusive jurisdiction in all matters under these presents.
19. **Severability:** In the event that any clause or provision of this MoU or any part thereof shall be declared invalid, void, or unenforceable by any court having jurisdiction, such invalidity shall not affect the validity or enforceability of the remaining portions of this MoU unless the result would be manifestly inequitable or unconscionable.
20. **Amendments & Scope of modification:** The MoU terms can be reviewed / amended on mutual agreement in writing between PTPS and NHAI, PIU-Ambala wherever required owing to new conditions.
21. **Force Majeure:** (Force Majeure is hereby defined as any cause which is beyond the control of PTPS and NHAI, PIU-Ambala as the case may be which they could not foresee or with a reasonable amount of diligence could not foresee and which substantially affect the performance of agreement such as (a). Natural Phenomena including but not limited to floods, draughts, earthquakes and epidemics and (b), Acts of any government, domestic or foreign including but not limited to war declared or undeclared, priorities, quarantines and embargoes. (Notwithstanding anything contained herein, the obligation on PTPS and NHAI under this agreement shall remain suspended during Force Majeure and neither of the parties shall be entitled to claim any compensation from each other for any loss or damage caused by such suspension, whether total or partial during the force majeure events. It shall be obligatory on the part of the parties to communicate in writing to each other of the happening of force majeure events and its cessation within 10 (ten) days of its happening or on date of cessation as the case may be. All the parties shall mutually discuss and decide the future course of action on the happening of force majeure events if it continues for more than 30 days).
22. NHAI, PIU-Ambala will ensure that lifting of pond ash is done in proper co-ordination with HPGCL and shall neither hamper the normal power plant operation of Thermal Power Stations, nor cause any operational problem.
23. NHAI, PIU-Ambala will be liable for all or any damage to HPGCL's property or injury to HPGCL employees or third party caused by negligence on the part of NHAI, PIU-Ambala or its concessionaire.
24. NHAI, PIU-Ambala will indemnify HPGCL regarding any damage to the labour, person, plant and machinery/ equipment etc and it shall be its sole responsibility.
25. NHAI, PIU-Ambala will indemnify HPGCL regarding any damage under public property damage act caused by negligence on the part of NHAI, PIU-Ambala or its concessionaire. Further, NHAI, PIU-Ambala or its concessionaire will not do overloading of its trucks/dumpers etc
26. **Notices:** Any notice that may be required under this agreement shall be given in writing by any of the party either by personal delivery against acknowledgement or Registered Ads, Mail or Facsimile and shall be deemed to have been duly served upon receipt thereon. The addresses for the notices or correspondence shall be as under:-

NHAI, PIU- Ambala

The Project Director, National Highways Authority of India, PIU- Ambala/Bhiwani,
(*Full registered address*)

PTPS

Chief Engineer, Panipat Thermal Power Station, HPGCL, Assan Kalan, Panipat,
Haryana- 132105.

In witness whereof the parties through their authorized representative put their
respective signatures on the Memorandum of Understanding on the day, month
and year first above written.

(Authorized Signatory of PTPS)

(Authorized Signatory of PIU-NHAI Ambala)

Witness

1 -----

2 -----

1 -----

2 -----