

**FACULTY OF LAW,
UNIVERSITY OF DELHI
COURSE: LB-602, ALTERNATIVE DISPUTE RESOLUTION
INTERNAL ASSESSMENT TEST**

INSTRUCTIONS

- 1. Maximum Marks: 50**
- 2. Number of Questions: 01**
- 3. Kindly advise the parties by framing a suitable and valid arbitration clause in regard the following problem:**

ASSIGNMENT PROBLEM

Ryan Christopher Evans, is a national of Indiana and is an industrialist with a huge experience of over thirty years in chartering, ship breaking, and ship brokerage businesses (*Chartering is an activity within the shipping industry whereby a shipowner hires out the use of their vessel to a charterer*), *inter alia*. In the year 2000, Ryan moved to Singapore where twelve years later, he acquired citizenship and found his own shipping company 'Fastestships Corporation'. Since then the company has prospered manifold and Ryan has been able to grow his fleet to become one of the world's leading businessmen in the shipping industry.

Major part of his shipping business involves providing his ships/ commercial vessels for transportation and delivery of cargo from one point to another. In this regard, his business covers the transportation of cargo across major ports in South China Sea, Indian Ocean, Mediterranean Sea and eastern ports of Atlantic Ocean.

The demand for shipping services shall continue to grow in times to come and amidst the challenge of Climate Change facing humanity like never before, Ryan wishes to make a mark for himself and take the world shipping industry to a new high by adopting clean fuel technologies and renewable energy solutions for the transportation purposes.

Tuffy Cavill Corporation is a Spanish company which was found in 1975 and is a family owned entity since its birth. Its business activities include providing logistics infrastructure at ports, construction of different parts of ships, and transportation of preserved plant protein, herbs and vitamins from biodiversity rich countries of South-East Asia, South Asia and Africa to European countries, *inter alia*.

In 2018, both the companies, Fastestships Corporation and Tuffy Cavill, collaborated and set up a shipping research institute in Singapore with an objective to conduct research on finding out advanced biofuels with requisite standards of potential to transform renewable energy choices for the shipping sector.

They wish to take their business relationship further and wish to enter into an agreement where Evans would provide his ships and other commercial vessels to Tuffy for transportation and delivery of its cargo including preserved natural plant products to different corners of Asia, Europe and Africa.

After a series of negotiations, both the companies have been able to finalize the crucial terms and conditions of the Contract (*Charter Party*) which includes the terms with respect to the ports of departure and arrival, number of vessels to be employed, the load to be shipped per delivery, the schedule of departure and arrival, the transportation charges, the liability to pay for damage, if any, incurred by the trade on account of fault of the shipowner and vice versa. Under the said contract, both the companies agree to invest 18% of their profit arising out of the said deal towards capacity building and enhancement of infrastructure of the shipping research institute which was previously, set up at Singaporeaa.

Both the parties to the agreement are quite aware of the efficacy of the adjudicatory mode of ADR i.e. arbitration in speedy resolution of international commercial disputes. Therefore, they wish to insert an arbitration clause in their agreement to resolve any dispute which may arise out of the said contract between them. Arbitration is recognized mode of ADR in Singaporeaa as well as Spainn and both these countries are party to the United Nations **Convention** on the Recognition and Enforcement of Foreign Arbitral Awards, 1958.

The parties sincerely appreciate the importance of a well drafted and detailed arbitration clause and are aware of the kinds of issues that crop up due to inadequate drafting of arbitration clauses which lingers resolution of disputes for years and years. Therefore, they wish to hire your services, who is a well-known advocate in the field of International Commercial Arbitration Law for drafting of a valid arbitration clause. The parties wish to opt for ad-hoc mode of arbitration for resolution of disputes arising out of the said contract. The language of the said contract is English. In addition to this, the parties have not ascertained a single location for carrying out the arbitral proceedings, instead they wish to carry out such physical hearings and meetings in Jakartaa, Hoo Chinn Minhh, and Bangokk.

Also, both the parties wish to keep the disputes arising out of the clause on requisite percentage of profits to be invested in the shipping research institute which was previously established by them out of the purview of arbitrability.

Advise the parties by framing a suitable and valid arbitration clause. The said arbitration clause shall be incorporated in the main agreement. You have agreed to supply the same to the parties by November 28, 2020, 11pm.