



1st RGNUL - L&L PARTNERS ENERGY LAW AGREEMENT DRAFTING COMPETITION, 2020

Organised by:

Centre for Advanced Studies in Energy Laws

Rajiv Gandhi National University of Law, Punjab

In Collaboration with:

L&L Partners Law Offices

ABOUT THE UNIVERSITY

The Rajiv Gandhi National University of Law (RGNUL), Punjab was established as a National Law University by a legislative act of the state of Punjab in 2006 in order to fulfil the need for a centre of excellence in legal education.

Its endeavour is to serve the society through reforms in legal services by way of preparing professionally competent lawyers, inquisitive researchers, able administrators, conscientious judicial officers, and above all, socially responsible citizens, who shall be whole- heartedly and continuously engaged in the process of nation building. In line with its objectives, the University does not only offer various courses but also fosters various centres which aim to promote legal excellence through research.

ABOUT THE CENTRE FOR ADVANCED STUDIES IN ENERGY LAWS

The Centre for Advanced Studies in Energy Laws (CASEL) was established in 2016 with the objective to cater to the need for research in Energy Law, an area of law which is becoming increasingly important and pivotal in the conversations about sustainability and the future. The Centre, since its inception, has evolved constructively with a special focus on organizing various workshops and sensitization Programmes.

Apart from a focus on renewable energy resources, CASEL also aims to undertake research on and critically analyse various energy related legislations in India, annual reports of the Bureau of Energy Efficiency and other such organisations etc. and suggest amendments to the same. In 2016, a Five-Day Training Programme on 'Contract Management 'for the Officers of Punjab State Transmission Corporation Limited was organized by CASEL. In 2017-18, CASEL, along with the Construction and Maintenance Wing of the University took up an initiative to install solar panels for electricity generation around the University campus. The Centre forwarded the inputs on the agreement between the University and Azure power Corporation for said installation and power generation. In September 2018, One day 'Police Sensitization Programme' was organized by CASEL, wherein the students and faculty members visited police stations in the district of Patiala and conducted a programme on various

technical aspects related to electricity laws, environmental and other allied laws. In April 2019, CASEL, in collaboration with National Law School of India University (NLSIU), Bengaluru under the aegis of United Nations Development Programme (UNDP), Ministry of Environment, Forests and Climate Change, Government of India and the Global Environment Facility's Global Access and Benefit sharing Project organized a Two Day Advanced Workshop on Strengthening Human Resources, Legal Frameworks and Institutional Capacities to implement the Nagoya Protocol.

ABOUT L&L PARTNERS LAW OFFICES

L&L Partners [formerly Luthra & Luthra Law Offices] is a leading full service law firm. Since its inception in 1990 which coincides with India's economic liberalization, L&L has assisted numerous multinational corporations to set up their presence in India, and navigate the complex Indian legal system.

Offering kosher solutions to the complex legal issues, the Firm advises on transactions and matters involving Banking & Finance; Capital Markets; Competition & Anti-trust; Corporate Commercial and Acquisitions; Dispute Resolution Arbitration); Anti-Corruption & Compliance; International Trade (WTO) Laws and Policy & Advisory; Project, Infrastructure & Energy; Tax (Direct & Indirect); Real Estate & Construction; Aerospace & Defence (Procurement & Production); Insurance & Re-Insurance; Intellectual Property - Patent & Trademark; Oil & Gas; Health & Pharmaceuticals; Private Equity & Venture Capital Investments.

ABOUT THE COMPETITION

The growth of Energy Sector around the world is unprecedented, more specifically in India. The country with its existing resources and clear goals in place, is making great strides towards its aspiration of transforming the energy sector. With growth of renewables, the energy efficiency in the country is said to break records. From dedicated policies to private participation to the expanded horizons of Power Purchase Agreements between energy providers and users have led to diversification and evolution.

The Power Purchase Agreements (PPAs), at the outset, have significant potential as an energy source. The Agreements are said to enhance power from renewable sources and overcome the paucity faced due to the use of traditional funding sources. Over the

period of time, PPA funding has expanded the solar capacity of various companies by ten times. Hence, the progress of such agreements have proven to be a framework of financial stability.

The Competition on the basis of the information seeks to engage with the community of law students in India to promote the art of modern legal drafting, in the less talked areas of Energy Law. This aims at providing opportunities to the students to initiate research about legal certainties and further the skills of drafting.

In a collaborative effort, the Competition will be judged by a panel comprising of members of the judiciary, legal experts from **L&L Partners Law Offices**, experts from **Hindustan Petroleum Corporation Limited**, **Indian Space Research Organisation (ISRO)**, and academicians from the **Rajiv Gandhi National University of Law (RGNUL), Punjab**, the **National Law School of India University (NLSIU), Bengaluru** and the **Himachal Pradesh National Law University (HPNLU), Shimla**.

ELIGIBILITY

The Competition is open to all undergraduate law students enrolled in any recognised educational institution within or outside India.

SUBMISSION GUIDELINES

1. Participants may register individually or in a team of two (2).
2. The agreement shall be drafted on the basis of the Problem Statement.
3. The agreement shall be drafted in English language only.
4. The agreement shall not exceed more than five (5) A4-sized typewritten pages, excluding the cover page and the signature page. Five (5) marks shall be deducted as penalty for each page exceeding the page limit.
5. The document containing the agreement shall not reveal the identity of the participants, in any manner whatsoever.
6. Soliciting assistance from industry professionals with or without consideration is strictly prohibited.

7. Formatting: Font style – Times New Roman, font size – 12, line spacing – 1.5, justified alignment, paragraph spacing - 0 pt. before and after, 1 inch margin on all sides.
8. Participants are encouraged to use modern agreement drafting techniques that focus on the use of plain English.
9. Submissions shall be made in .doc or .docx format only.
10. Submissions shall be made by sending an email to casel@rgnul.ac.in with the subject “Submission for Agreement Drafting Competition: [Team Code]”.
11. Clarifications on the Problem Statement shall be sent to casel@rgnul.ac.in with the subject “Clarifications on the Problem Statement: [Team Code]”.

MARKING CRITERIA

PARAMETER	MAXIMUM MARKS
Comprehensive understanding of the Problem Statement, responsiveness to client’s needs and interests, and identification of issues	30
Understanding of applicable law	20
Creativity	20
Plain language and cogent usage of words	10
Structure and coherence between clauses of the agreement	10
Formatting	10
TOTAL	100

REGISTRATION

- Participants shall register themselves for the Competition by submitting the following form: <https://forms.gle/FxWeJefLQJuucRvg7>.
- Registration Fee: **Rs. 400/- (Individual Participation); Rs. 800/- (Team Participation)**
- Payment shall be made by accessing the following link: <https://www.rgnulrp.org/lisa/eventPortal/loginFrom.jsp>.
- A Team Code shall be assigned to each individual participant / participant team, as the case may be, after the successful completion of registration.

CASH PRIZE

- Winner: Rs. 10000/-
- Runners up: Rs. 7000/-
- Second Runners up: Rs. 5000/-

IMPORTANT DATES

- Release of Problem Statement: **July 20, 2020**
- Last date for registration: **August 5, 2020**
- Last date for seeking clarifications on the Problem Statement: **August 12, 2020**
- Release of clarifications: **August 17, 2020**
- Submission deadline: **September 5, 2020**
- Declaration of Results: **October 15, 2020**



PATRON-IN-CHIEF

Prof. (Dr.) Paramjit Singh Jaswal
(Vice-Chancellor, RGNUL)

PATRON

Prof. (Dr.) Naresh Kumar Vats
(Registrar, RGNUL)

FACULTY COORDINATORS

Dr. Shiva Satish Sharda
(Assistant Professor of Law, RGNUL)
Dr. Gurmanpreet Kaur
(Assistant Professor of Law, RGNUL)

STUDENT COORDINATORS

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ORGANISING COMMITTEE

Anamika Dudvaani	Sukhman Sandhu	Vaibhavi Bhalerao
Saksham Shrivastava	Tanveer Kaur	Tarun Singh

PROBLEM STATEMENT

**DETAILS OF THE TRANSACTION BETWEEN RIVENDELL SOLAR LTD.
AND THORIN & COMPANY PVT. LTD.**

(Confidential instructions on behalf of Thorin & Company only)

Background

1. 'Rivendell Solar Ltd.' is a subsidiary of a Delhi based company 'Rivendell Pvt. Ltd.' and is Asia's leading distributed energy company, providing low-carbon energy solutions to industrial and commercial customers. Rivendell Solar provides clean energy to its clients by setting up both on-site solar projects (rooftop and ground-mounted) and off-site solar farms. As on date, Rivendell Solar owns and manages a portfolio of 10000+ MWp of operational and under construction distributed solar assets across India with its projects spread over more than 300 locations.
2. Thorin & Company Pvt. Ltd. ("T&C") is a well-known product development company specialising in food ingredients, serving global and regional food worldwide. Recently, T&C has established a Meat Processing Unit at Fazalpur Village in Sonipat (Haryana). T&C wants to electrify this new processing unit with solar power, and hence contacted Rivendell Solar Ltd. in this regard.
3. Series of meetings took place between both the companies along with several telephonic exchanges with respect to the solar electricity supply for the new processing unit of T&C.
4. You are an associate at a New Delhi-based law firm and T&C is your firm's client. T&C has approached your partner for advice on a proposed transaction and requires you to draft an agreement for the same.

The Deal:

1. T&C requires a roof-top solar farm with a capacity of 320KWp at Fazalpur Meat processing plant.
2. Rivendell Solar will install roof-top mounted Monocrystalline Solar Panels for T&C within six (6) months from the date of entering into the contract.
3. The duration of the Power Purchase Agreement is twenty (20) years, and can be cancelled at the instance of any party by giving a six (6) months' notice.

4. During the validity of the contract, T&C will lease out the required roof-top to Rivendell Solar.
5. Cost of electricity is ₹6/- (INR Six Only) per kilowatt Hour, and is subject to annual revision.
6. The cost of transportation will be borne by T&C, and Rivendell will not be liable for any damages that happen during the time of transportation. However, if T&C chooses that Rivendell should also undertake the transportation operation, Rivendell may agree on the in-lieu of additional cost.
7. As the meat processing unit is completely dependent upon electricity, T&C wants that Rivendell furnishes a guarantee for uninterrupted electricity supply.

Client's Instruction:

While your client has agreed to the abovementioned deal, it has concerns regarding a few issues. The major concerns have been listed below:

1. Your client wants to make it clear that it will never be liable for any of the damages to the solar apparatus installed in its premises.
2. Rivendell undertakes to provide a substitute supplier company's name in the agreement in case it fails to discharge its obligations under the agreement. However, your client wants you to diligently incorporate this clause in the agreement because Rivendell may name any of its group companies as the substitute. This can adversely affect your client's position in case the failure is due to persistent losses and consequent insolvency proceedings against Rivendell, as the assets of all group companies of the supplier may be attached for the purposes of corporate insolvency resolution.
3. Your client wants you to incorporate a wide force majeure clause in the draft that includes COVID-19-like situations in its ambit.
4. Your client wants you to draft the damages clause in a manner that also considers the Goods and Services Tax (GST) applicability on the payment of such damages.
5. Your client also wants to ensure that dispute resolution is always subject to an arbitration proceeding.

Partner's Suggestions:

1. Find appropriate precedents for the aforementioned arrangement, possibly looking at Solar Power Purchase Agreements. Your partner has advised you to use phrases such as “PPA” and “SPPA” to research for appropriate precedents.
2. Since the power plant is being constructed specially for the project at hand, a termination clause assumes relevance in the agreement, since the constructed plant and ancillary assets would be disposed of at the time of termination of the agreement. The partner suggests you to incorporate a clause for disposing of/transferring the assets in the power plant after the completion of the agreement period.
3. Incorporate a Corporate Social Responsibility clause in the contract by which some part of the supply of solar power will be utilised for rural electrification and the cost for that portion of supply will be shared by both the parties.
4. Draft the ‘quantum of damages clause’ in such a manner that it calculates the amount on the basis of time period of delay in supplying a consignment and lump sum yearly damages on the basis of the number of times the supplier provides delayed supply in a year.
5. The position in GST law is disputed because payment of damages may be considered as a consideration for providing service of “tolerance of breach” where the party against whom the breach has been committed is the service provider and the party in breach is the recipient of service. Tolerating an act or omission is a taxable supply of service under GST law.