

Scenario

1. **Kurtzman Corporation, a Delaware Corporation** is an advertisement company in United States with clients from all around the world. Mr. Stephen Kurtzman is the sole owner of the Kurtzman Corporation.
2. Stephen Kurtzman is a renowned financial advisor and investor.
3. Investus LLC (“**Investus**”), a limited liability company, is a wholly owned subsidiary of **Kurtzman Corporation**.
4. You are an attorney at a Gurgaon based corporate law firm with an international client base. **Investus** has approached your law firm for a brief advice on a transaction and further to draft an agreement for the same.

Background

1. Shivam Sidhu and Dhavan Mohan are Indian entrepreneurs who have taken an initiative to establish a private limited company named, **Pungetri Pvt Ltd (“Pungetri”)** under the Indian Companies Act, 2013. The company has introduced a new social media platform which aims to integrate the humorous elements of the internet with Internet Messaging Services. Shivam and Dhavan, each own 50% of the company’s share capital.
2. **Pungetri** had approached Mr. Stephen Kurtzman for an investment to expand worldwide.
3. Upon going through the business plan, he is ready to invest in **Pungetri**. The conditions he put forth is that the investment would be done through **Investus** and that monthly a maximum of four (4) advertisements from Kurtzman Corporation would be published by **Pungetri** on their website, free of charge.
4. **Mr. Stephen Kurtzman** has agreed to invest a total of Rs.1.2 Crore in **Pungetri** for a 26% control over the company. For this, the company would issue new shares, thereby diluting the shares of Shivam and Dhavan, giving them a collective shareholding of 74%.
5. **Investus** would reserve the right to sell the shares at any time it deems fit after a period of 3 years. But, the right of first offer and right of first refusal for this 26% share capital would be given to Shivam and Dhavan.

Investus LLC, Delaware

Client's Requirements

1. Mr. Stephen wants to make it clear in the agreement that no other investment should be accepted in **Pungetri** until the termination of this agreement.
2. As one of the conditions of this agreement, **Pungetri** is required to register all of its Intellectual Property in the name the company.
3. Termination by **Pungetri** at any time before three (3) years of initial term could only be done if Mr. Stephen gets the full amount and 3% stake in **Pungetri** as termination fee.
4. Since the company deals with online memes and puns which could be personal sometimes, Mr. Stephen would like a focused indemnification clause in the agreement.
5. Mr. Stephen proposes that this agreement be governed by laws of Delaware, United States and wants to make it clear as to whether a foreign award is enforceable in India, if yes, he would like to have a foreign seated Arbitration.
6. Mr. Stephen would ask you to be very specific and attentive about the confidentiality of this investment.
7. Mr. Stephens would ask for for a brief legal opinion as to the transaction and the FDI compliance.

In case of any clarifications please feel free to contact: -

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