**Q1**

**Draft Note: Joint Venture with Air Traffic Communications SARL (ATC)**

**Subject: Proposal for Joint Venture from Air Traffic Communications SARL (ATC)**

**Dear,**

I hope this note finds you in good health. After the meeting with Hamza Freeman and Naila Williams, shareholders and directors of SFA Ltd on ATC's joint venture proposal for Self-flying Aircrafts Inc., I have put together the following facts as well as suggestions.

**(a) What is a 'Joint Venture,' Benefits for SFA, and Key Terms and Conditions:**

In a joint venture (JV) two or more companies combine forces to pursue some particular objective, whether it be the fulfilment of one specific project. A joint venture is not an arrangement for long-term cooperative business. The parties act as separate legal entities, and work together to achieve certain ends. For the good of all, joint ventures are often established to make use of each side's strong point and resources.

**The following are some reasons why SFA might benefit from such a joint venture:**

* *Complementary Expertise:* ATC, meanwhile has the expertise in GPS which is needed to make electrically-powered flying cars a reality. It makes possible for new ideas and a better product.
* *Market Access:* Through the co-operation with ATC, SFA is able to win a share of that European market. This could involve safely guiding their aircraft through, or over the airspace of EU member states. SFA's market area will be greatly expanded by this.
* *Resource Sharing:* Joint ventures enable such resources-forms of finance, R and D capabilities; technological infrastructures--to be shared. This can relieve the burden on both sides and hasten development.

**Key Terms and Conditions for Negotiation:**

* Ownership and Control: Define the structure of ownership and division of control among parties for this joint venture. All this is partly because of the party's percentage share, and how decisions are made.
* Contributions and Responsibilities: Indicate the contributions that each party will contribute to the joint venture, including investment of money and knowledge as well as responsibility for operation.
* Governance Structure: Form a method to make decisions, select principal officers and then determine how often the board is required to meet.

Furthermore, if these terms could be negotiated the groundwork for a successful joint venture would have been laid. Everyone's interests will be evident and there won't be any communication problems between SFA and ATC.

**(b) Legal Structures for Joint Venture Operation:**

The following are a few legal forms which can be used for the establishment and operation of a joint venture between Self-Flying Aircrafts Ltd (SFA) and Air Traffic Communications SARL (ATC). There are advantages and disadvantages for everyone. But it depends on the needs, goals and circumstances of each side as to whether or not something is suitable for it. Here are three common structures:

**• The Partnership method:**

**Advantages:**

Simplicity: Partnerships are rather easy to establish and manage.[[1]](#footnote-1)

Pass-Through Taxation: The individual profit then goes to the partners, so that profits are not taxed twice.

**Disadvantages:**

Unlimited Liability: The debts and obligations of the partnership include joint responsibility for partners.

Limited Capital: Raising large amounts of money might be a problem for partnerships.

**Limited Liability Company (LLC):**

**Advantages:**

Limited Liability: Liability for debts shall be limited to company members (owners).[[2]](#footnote-2)

Flexibility: The LLC structure offers greater flexibility in management organization and profit distribution.

Pass-Through Taxation: Like partnerships, LLC's are pass-through entities.

**Disadvantages:**

Complexity: Organized less intricately than a corporation, an LLC may involve more formalities that are not to be found in a partnership.

Limited Capital Structure: However, in different jurisdictions the type of capital structure an LLC can take may be limited.

**Joint Venture Agreement:**

**Advantages:**

Flexibility: By not incorporating, parties have greater ability to define for themselves the terms of their relationship.

Autonomy: Each party manages its own assets and operations independently.[[3]](#footnote-3)

**Disadvantages:**

Lack of Separate Legal Entity: In a contractual joint venture there is no creation of a separate legal entity, so assets may not be owned in its name and it cannot enter into contracts.

Potential for Disputes: Lack of a proper legal framework makes the understanding and implementation of contractual terms difficult.

**Recommendation:**

Since the proposed joint venture is of an international character, and since we hope to maintain a balance between protecting liability and maintaining operational flexibility at this stage in time, I would propose incorporating as what are now known simply in America as LC (Limited Liability Company). It has the advantages of limited liability, pass-through taxation and operating flexibility. The result is that the LLC form can create a legal entity separate from its owners, providing an organized and orderly structure for both ownership as well management.

Nevertheless, this is directly a matter to be considered only after legal counselors and financial advisers who speak both English (SFA's jurisdiction) as well French have carefully looked into the two legislations.

A suitably written Joint Venture Agreement defining the terms of their joint venture is an important step for SFA and ATC. The agreements should include details of the role, responsibilities and contributions expected from each party. The agreement is the framework for cooperation. Its main elements are ownership, government and profit sharing & exit strategies. **(c) Legal Documentation for Joint Venture Setup:**

Several legal documents specify the terms, rights and obligations of each party that establish a joint venture. What records have to be kept depends not only on the legal structure chosen, but also on what kind of joint venture you are involved in.

Here are key legal documents that SFA and ATC should consider drafting and preparing:

**Memorandum of Understanding (MOU):**

* MOU is an initial, non-binding memorandum of understanding in which parties express intent to establish a joint venture.
* Objectives of the joint venture, what each party is providing and a description about how negotiations went are all included.
* However, an MOU is not legally binding. It merely sets the framework for further discussions.

**The Joint Venture Agreement (JVA):**

* The JVA is the basic contract governing joint ventures. A binding agreement that sets out the rights and obligations of each party.
* These cover the form of ownership, decision procedures and profit distribution; executive responsibilities; ways to resolve conflicts.
* JVA should also clearly state issues such as intellectual-property, confidentiality and exit.

**Articles of Association (for LLC):**

• If the joint venture is an LLC, then Articles of Association (or Operating Agreement) are required.

• These are the LLC's internal statutes and regulations: rights of members, structure for management operations.

As a result, these documents must be written up by attorneys who specialize in international business. This aims to produce clear, complete agreements that benefit both SFA. This provides an excellent base for the future development of ChungHo. In addition, the situation is constantly changing and laws are always behind. As a consequence, legal reviews have to be carried out from time to time.

**(d) Local Legal Advice and Jurisdiction:**

Take the joint venture formed between Self-Flying Aircrafts Ltd (SFA) and ATC. It may need local legal advice from time to time during its whole life cycle. As the demands for joint ventures and jurisdictions rise or fall, so will our range of legal services.

Here are key areas where SFA may need local legal advice and the relevant jurisdictions:

**Corporate Governance:**

Jurisdictions Involved: England and Wales (SFA), France (ATC).

Advice Needed: Complying with local laws governing corporate governance, including holding board meetings and preparing reports.

**Regulatory Compliance:**

Jurisdictions Involved: England and Wales, France.

Advice Needed: Ongoing counsel regarding local laws and regulations pertaining to the joint venture, as well as aviation law, environmental protection law etc.

**Taxation:**

Jurisdictions Involved: England and Wales, France.

Advice Needed: Tax planning, optimization and compliance with local tax laws to minimize the impact of this on the joint-venture itself as well as its shareholders.

**Employment Law:**

Jurisdictions Involved: England and Wales, France.

Advice Needed: Complying with local labor laws, writing employee contracts and other personnel-related matters; dealing in employment disputes.

In particular, For example, in order to cope with the myriad facets of international industry and science and ensure that everything is carried out properly under local law will require SFA to seek out legal experts from around Eurasia who understand these matters. Because the situation in England and Wales, as well as France is so fluid, regular legal reviews will have to be carried out along with a great deal of updating.

**Q2**

**Draft Note: To Peter Brown From: Generation X Ltd About Our Expansion Plans**

Dear Peter,

Thank you for informing us of Generation X Ltd's expansion plans-it all sounds very exciting. I'm very much looking forward to meeting with you tomorrow afternoon--to discuss the objectives of this company and channels for raising funds. These are some preliminary thoughts and reflections in response to the questions asked.

**(a) Ways to Raise Capital for International Expansion:**

* Equity Financing: For capital, Generation X Ltd could float new shares to investors. They can be issued through a private placement, or they may go to the public.
* Debt Financing: The company can borrow money by taking out loans or issue bonds (or other debt instruments) to raise capital. This is borrowed money to be paid back later.
* Venture Capital or Private Equity: Companies involved in innovative technologies tend to go looking for investment from some venture capital firm or private equity investor.
* Strategic Partnerships and Alliances: Funding and resources: Joint ventures or strategic partnerships with other companies and institutions are one way of getting funding, as well.
* Government Grants and Subsidies: According to the nature of its R & D, Generation X Ltd. may stand eligible for government grants or subsidies with respect to their expansion plans.

**(b) Equity Finance vs. Debt Finance:**

**Equity Finance:**

Nature: With equity finance, money is raised by issuing shares of ownership in the company to investors.[[4]](#footnote-4)

Obligations: As equity investors, they are co-owners of the company and can expect a share in future profits.

Repayment: Unlike debt, equity is not paid off in specified installments.

Risk and Reward: Risks and rewards are shared with the business as equity investors. When the company is doing well, they get profit from dividends and capital appreciation; when things go ill for the company there are losses.

Ownership: By issuing equity, new shareholders can acquire some of the company and thus dilute existing owners.

**Debt Finance:**

Nature: With debt finance, you borrow money from lenders such as banks or bondholders and promise to repay the principal amount plus interest.

Obligations: In other words, debt means providing one's borrowed funds in a contractual obligation to pay back according to previously agreed-upon terms.

Repayment: The debt obligation is repaid over a fixed period, with interest charges.

Risk and Reward: Even if the company underperforms, debt holders have a legally binding right to interest payments. Their involvement with the company's profits and losses stops at their agreed upon interest.

Ownership: Unlike equity, debt involves no rights of ownership. The lender receives neither shares nor voting rights.[[5]](#footnote-5)

**Pros and Cons of Raising Equity Instead Of. Debt Finance:**

**Advantages of Equity Finance:**

No Repayment Obligation: Unlike debt, there is no obligation to pay out fixed and regular installments. This provides financial flexibility.

Shared Risk: Because equity investors share in the business's risks, it is not as much of a financial burden during hard times.

Access to Expertise: Strategic investors are not only suppliers of capital, they also provide industry knowledge and connections.

Flexibility: Asset use is flexible, equity financing does not require collateral.

**Disadvantages of Equity Finance:**

Dilution of Ownership: An issuance of equity reduces the interest that shareholders have.

Loss of Control: Almost certainly, new equity investors will try to wrest control from managers and share responsibility.

Dividend Expectations: The distribution of profits as dividends can influence a company's retained earnings.

**Advantages of Debt Finance:**

Fixed Repayment Terms: Because debt has a fixed schedule of repayments, financial planning is easier.

Retained Ownership Control: Unlike equity, the lenders do not gain a stake in ownership or voting rights; control is retained by the company.

Tax Deductible Interest: For instance, interest on debt can be written off for tax purposes. As a result the real cost of borrowing is reduced.[[6]](#footnote-6)

**Disadvantages of Debt Finance:**

Obligation to Repay: However, they need to be repaid on a regular basis--a practice that can hinder cash flow in weak economies.

Interest Payments: In making regular interest payments, you add to the total cost of capital.

Collateral Requirements: In case of default, however, lenders may ask the borrower for collateral.

Choosing Between Equity and Debt:

Financial goals, a company's sense of risk and the stage in life cycle all determine whether equity or debt is preferred. At other times, a compromise that has some equity as well as debt is enough to meet capital needs while still managing risks.

**(c) Offering Shares to the Public:**

The first time Generation X Ltd is considering issuing shares to the public, it would normally be an Initial Public Offering (IPO). An IPO is the biggest ticket in town, and it requires considerable advance planning. You have to make sure you meet all of your regulatory requirements as well as prepare a lot of documents. Here are the key steps and documents involved in the IPO process:

**Engage Advisors:**

To help your company through the public offering process, you should consult with legal, financial and underwriting advisors.

Securities laws and regulations will be very important guidance for legal counsel.

**Conduct Due Diligence:**

The first is to perform thorough due diligence on the company by reading its financial statements, operations and legal status.

Any problems which might impair the offering must be recognized and eliminated.

**Prepare Prospectus:**

Prepare a lengthy Prospectus. This document gives potential investors all the information they need about the company and its finances, together with business model; risk factors for shareholders in this IPO.

The Prospectus is an important legal provision which must be approved by the regulatory body of securities.

**Financial Statements:**

Prepare financial statements properly according to regulatory standards. These financial statements must give a fair and accurate idea of the company's state.

**Board and Shareholder Resolutions:**

Gain board of directors and shareholders 'authorization to carry out IPO.

For example, a resolution may be passed authorizing the issue of new shares or approving a prospectus and appointing underwriters.

**Underwriting Agreement:**

Have an underwriting agreement drawn up and signed with the investment banks or underwriters involved in that particular offering. Under the terms of this agreement are specified how many shares must be issued, at what price. It also defines roles for underwriters.

The various firsts involved in the IPO process--dealing with multiple complications, keeping everything open and accurate, making as wide-range a public communication as possible--require closer teamwork between us and Generation X Ltd 's legal counsel.

**(d) Key Members of an International Corporate Finance Team:**

Investment Bankers: Help design and carry out financing deals.

Financial Advisors: Give strategic financial advice and analysis.

Legal Advisors: Maintain legal compliance; prepare necessary documents.

Accountants and Auditors: Financial reporting and transparency.

Underwriters: To promote the trading of securities in the capital market.

In concert, these key people deal with the complexities of international commercial finance. They cover legal, financial and regulatory issues.

I'll be thinking not only about our talk tomorrow, but also doing some advance preparation for a deeper discussion.

Kind regards,

Muhammad Ali

**Q3**

Draft Letter:

[Date]

Wajid Mirza and Patricia Williams

Shareholders and Managing Directors

Multi-Sport Transport Ltd (MST)

Dear Wajid and Patricia,

I hope this letter finds you in good health. Thank you for your inquiry about the insolvency questions concerning Multi-Sport Transport Ltd (MST). Kudos for your zeal in seeking expert help, wearisome though this may otherwise have been for you, given the size of the tender to provide services to the French government.

**(a) Procedures for Financial Difficulties or Insolvency in England and Wales:**

These are the procedures in England and Wales for companies which are experiencing financial difficulties or insolvency. The primary ones include:

Company Voluntary Arrangement (CVA): An agreement between a company and its creditors to restructure the debts so the latter could still continue doing business.

Administration: That is, perhaps appointing an administrator to manage the company with a view towards getting better results for creditors than liquidation.

Liquidation: The process of the winding up and distribution of assets to creditors by an insolvent company.

Receivership: Involves the appointment of a receiver over assets for secured creditors.[[7]](#footnote-7)

**(b) Criteria for Corporate Insolvency:**

Corporate insolvency can be established based on two main tests:

Cash Flow Test:

The Cash Flow Test is a test of whether or not the company can pay its short term debts. If a company is unable to settle its debts when they come due, it is cash flow insolvent. The test then asks whether the company can produce enough cash flow to cover current liabilities--trade payables, loan repayments and operating expenses. Late payment of these debts would threaten the liquidity (cash) position, or even insolvnecy for this company.

Balance Sheet Test:

Assets vs. Assets and liabilities The Balance Sheet Test is one way of evaluating a company's financial position. If the company's liabilities are greater than its assets, it is balance sheet insolvent. In such circumstances, the firm may be unable to meet its long-term obligations--on loans and contractual commitments. The Bi-annual Balance Sheet Test gives a more long term view of the company's solvency. Financial distress This situation threatens its going-concern status (ability to continue in business).

These tests are decisive for a company's financial health, and they represent the beginning of insolvency proceedings. They also provide guiding information for stakeholders-creditors, shareholders--on the nature of any eventual restructure.

**(c) Parties Affected and Priority in Insolvency Proceedings:**

If the company is stretched to its limits from a financial point of view, many other parties are also likely to be affected besides MST. Also affected are MST's employees, creditors and suppliers as well as its own shareholders.

**Employees:**

Affected Areas: Job security, layoffs and salary payment concerns.

Legal Protections: With respect to insolvency matters, certain overdue payments owed employees have a preferential status (such as salaries and holiday pay).

**Creditors:**

Suppliers and Service Providers: Unsettled bills and threats to the product flow.

Financial Institutions: Outstanding loans and interest payments.

Trade Creditors: Unsettled trade payables and loss of future business: problems.

**Suppliers:**

Unpaid Invoices: If MST fails to pay suppliers, then their relationship and the chain of supply would be crippled. This state of affairs could financially squeeze suppliers.

**Shareholders:**

Equity Value: Financial difficulties may cause the enterprise to lose value, so that shareholders have less equity than before.

Dividends: If the company does not make a profit, shareholders may get no dividends.

**Priority in Insolvency Proceedings:**

In bankruptcy proceedings, assets and liabilities are divided up according to a pre-established order of priority. The payment hierarchy typically involves:

**Secured Creditors:**

Definition: Creditors with security interests in specific assets.

Priority: The proceeds from the sale of their collateral are used to repay secured creditors first.

**Preferential Creditors:**

Definition: Creditors with statutory preferential claims.

Priority: This includes employee claims for unpaid wages and some other debts. The needs of secured creditors are met, followed by the unsecured.

**Unsecured Creditors:**

Definition: Creditors without specific security interests.

Priority: Fourth to be paid are the unsecured creditors. Among themselves the claims of creditors are equal.

**Shareholders:**

Definition: Owners of the company's equity.

Priority: The shareholders are last in line. After the creditors have been paid off, what funds remain go to them.

Particulars of insolvency proceedings are governed by applicable laws and regulations. For this reason, using legal counsel for help in avoiding traps and staying on the right side of insolvency law is imperative.

**(d) Cross-Border Insolvency Considerations:**

If Multi-Sport Transport Ltd (MST) were to win the tender with the French government, several aspects of cross-border insolvency could arise, given the international nature of the contract:

**Recognition of Foreign Insolvency Proceedings:**

Since MST is an English firm, it may have problems obtaining recognition of its insolvency proceedings from the French court. In other cases, entire sets of insolvency proceedings in one jurisdiction have to be recognized and enforced by the English courts.

**Treatment of Creditors and Stakeholders:**

How creditors and stakeholders are treated differs greatly across jurisdiction. Different rules, different priorities result in differences in outcomes too. However, I think that MST's biggest headache was going to be dual legal systems. If the case is being tried in two separate legal agencies, their handling of creditors' rights and interests could be vastly different from each other.

**UNCITRAL Model Law on Cross-Border Insolvency:**

The UNCITRAL Model Law on Cross-Border Insolvency is a structure for dealing with cross-border insolvencies. Therefore, MST may have to reconsider the appropriateness of this model law and its effect on cross-border cooperation between insolvency regimes in England and France.

**Contractual and Regulatory Compliance:**

On both sides the need to be in compliance with contractual obligations and regulatory requirements looms paramount. The MST has to guarantee that its arrangements for insolvency will not be in conflict with the contractual terms between it and France ’ s government or any French laws.

**Asset Realization and Distribution:**

The transnational merging of assets will become more complex, so that arrangements can only be such as require the exchange and cooperation across borders between insolvency administrators or legal representatives. Only then will be able to ensure a smooth and just process that makes all creditors feel safe, give them the confidence everything is being done right overseas as well.

MST may need to consult with the experts in international insolvency law for advice on how to clear these obstacles. Local compliances An adviser on studies can help smooth communications between jurisdictions, and reduce potential cross-border conflicts.

Best regards,

Jane

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