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JERSEY FOUNDATIONS

The Jersey Foundation has separate legal personality and is therefore able to hold assets, contract with third parties and can sue and be sued in its own name and capacity. There are no shareholders.

Incorporation of a Foundation requires a charter and regulations. The Charter is a public document that sets out the name and objects of the Foundation. The Regulations are private and set out how the assets are to be administered and how the Foundation's objects are to be achieved.

The Foundation's assets are managed by the Foundation's Council. The Council can have one or more Council Members (individuals or a body corporate) and must include a Qualified Member.

A Qualified Member will need to be registered under the Financial Services (Jersey) Law 1998 to carry out trust company business that permits the provision by the person of the services mentioned in articles 2(4)(a) and (d) of that Law. The Jersey Foundation must also have a Guardian. The Guardian has a monitoring function to ensure the Council carries out its functions. The Qualified Member or the Founder (but no other Council member) may act as the Guardian of the Foundation.

A Foundation is not required to provide any person (including a beneficiary) with any information about the Foundation except as specifically provided under the Foundations Law, the Charter or the Regulations.

The Foundations (Jersey) Law 2009 came into force on 17 July 2009.

Common uses

The Jersey Foundation may be used for charitable and non-charitable purposes. Some possible uses for the Jersey Foundation are outlined below:

- Private Wealth management;
- Succession; or
- Charitable purposes.

Corporate status

A Foundation is capable of exercising all functions of an incorporated body except:

- Acquire, hold or dispose of immovable property in Jersey; or
- Engage in commercial trading that is not incidental to the attainment of its objects.

Incorporation

The registrar must enter in the register:

- The name of the Foundation; and
- The name and business address in Jersey of the Qualified Member of the Foundation.

Entry in the register is proof of incorporation & compliance with all matters precedent or incidental to the incorporation of the Foundation

The registrar may refuse to incorporate a Foundation if its objects are unlawful or if the name is undesirable, misleading or does not end with the word Foundation or that word in a foreign language

Mergers, continuance and winding-up

Regulations under the Foundations (Jersey) Law 2009 allow Jersey Foundations to merge with various Jersey and non-Jersey entities, foreign Foundations to be continued in Jersey and Jersey Foundations to be continued in other jurisdictions as well as the winding up of Jersey Foundations.

Powers of the Royal Court

The Royal Court has the power to:

- Order a person to comply with an obligation under the Foundations Law or under the Charter or Regulations of a Foundation;
- Order the amendment of the Charter or Regulations;
- Give directions in respect of Foundations;
- Protect interests of certain persons under a Foundation;
- Dismiss or appoint the Qualified Member of a Foundation; and
- Take action on behalf of others in respect of a Foundation.

Confidentiality

Everything regarding a Foundation is confidential except the Charter.

Jersey Law prevails

Article 32 of the Foundations Law deals with the matters of comity and forced heirship rights akin to Article 9 of the Jersey Trust Law.

This information is intended to provide a brief guide on the subject of Jersey companies. It is not to be regarded as giving legal or financial advice that may be acted or relied upon. For further information in relation to the above or in relation to any specific circumstances please contact:

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