

MEMORANDUM ON THE ESTABLISHMENT AND MAINTENANCE OF LIMITED PARTNERSHIPS IN JERSEY, CHANNEL ISLANDS

R&H Fund Services (Jersey) Limited

R&H Fund Services (Jersey) Limited was incorporated in Jersey in 1988 and has a staff of more than thirty-five, many of whom are qualified accountants and have been with the firm for many years. It is owned by the Partners of Rawlinson & Hunter Jersey. Further details can be found on the R&H Fund Services website: www.fundadministrators.com or on the Rawlinson & Hunter website: www.rawlinson-hunter.com.

Government and Legal Structure

The Bailiwick of Jersey is a dependent territory of the English Crown; it has its own elected assembly, The States, and therefore has no direct link with the United Kingdom parliament. Accordingly the Island enjoys complete autonomy in domestic and fiscal matters. The Island is not part of the European Union. The legal system is based on Norman Law and is practised by qualified advocates before the Royal Court.

Limited Partnership Law

The Limited Partnerships (Jersey) Law 1994 makes provision for the establishment of limited partnerships under Jersey Law. A limited partnership has one or more “general” partners (who have unlimited liability, as in a normal partnership) and one or more “limited” partners, whose liability for debts and obligations is limited to the amount of their contribution.

The limited partner is generally a passive investor and is prohibited, subject to certain exceptions set out in the law, from taking part in the management of the limited partnership. Limited partnerships are principally established for investment purposes and are a favoured structure for use in venture capital situations, management buy-outs and real property developments. The general partner, usually a limited liability company, undertakes the role of managing partner whilst the investors are all limited partners. The partnership agreement sets out in full the relationship between the parties.

Consent under the Control of Borrowing (Jersey) Order 1958 (as amended) (“COBO”) must be obtained in order to create an interest in a Jersey limited partnership. This consent must be obtained prior to the execution of the limited partnership agreement. (A detailed partnership agreement is advisable as, in the absence of such an agreement, the partners may find that their rights are not as may have been intended or understood).

The application for COBO consent will require the provision of information on a confidential basis to the Jersey Financial Services Commission (“the Commission”) concerning:

- i) the objectives of the partnership
- ii) the status and reputation of the general partner.

Upon receipt of approval, the limited partnership must be registered. A declaration containing the following information and signed by each general partner must be delivered to the Commission:

- i) the limited partnership’s name
- ii) the registered office address, which must be in Jersey
- iii) the full name and address of each general partner
- iv) the place of incorporation and principal office of any corporate general partner
- v) the term for which the limited partnership is to exist.

There is no requirement to file the partnership agreement or provide the names of the limited partners. The declaration is the only document available for public inspection.

Limited Partnerships

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Regulated by the Jersey Financial Services Commission under the Collective Investment Funds (Jersey) Law 1988) and the Financial Services (Jersey) Law 1998.

Principal Features of a Jersey Limited Partnership

- ◆ The general partner need not be resident in Jersey.
- ◆ A corporate body may be a general or limited partner.
- ◆ Only the name and address of the general partner will be a matter of public record.
- ◆ No annual fees payable to the States of Jersey or annual returns to be made.
- ◆ Unrestricted distribution of profits and returns of partnership contributions subject to solvency test.
- ◆ No minimum capital contributions for the general partner.
- ◆ Accounts need not be audited or filed.

Taxation

The limited partnership is not itself a subject for assessment of income tax. The partners in the limited partnership are assessed in their own names as follows:

- where the limited partnership's income consists wholly of investment income, a non-resident partner will not be liable to income tax (except in the unusual circumstance that the income includes Jersey-source investment income other than bank interest).
- in the case where a trade is carried on wholly outside the Island a non-resident partner's share of the profits of that trade will not be liable to income tax.
- where the trade is partly or wholly carried on in the Island, a non-resident partner will be liable to income tax in respect of their share of the profits arising from the Jersey source.

Uses of Jersey Limited Partnerships

The tax transparency of the limited partnership allows individual partners to take advantage of double tax agreements between their own country and the country of investment and gives them the ability to offset profits and losses from the limited partnership against income arising in the partners own jurisdiction. This added to the flexibility of capital and profit distributions and ease of general administration makes the Jersey Limited Partnership an ideal vehicle for:

- ◆ Venture Capital Schemes
- ◆ Collective Investment Schemes
- ◆ holding assets in another jurisdiction
- ◆ carrying out a trade but having the flexibility to introduce other partners on a limited liability basis
- ◆ raising project finance whilst isolating risk
- ◆ holding property interests
- ◆ structuring joint ventures.

Collective Investment Schemes

Where the limited partnership falls within the definition of a collective investment fund under the Collective Investment Funds (Jersey) Law 1988 the general partner will be required to obtain a permit as a functionary under that law. It will also be required in such cases that the general partner be a Jersey entity such as a Jersey exempt company.

This Memorandum has been prepared for the use of clients and professional contacts of Rawlinson & Hunter, Jersey. It is not intended to be a comprehensive study of the Law or to provide advice. Specific advice concerning individual situations should always be sought.

Scale of Fees

Fees are charged by this firm as follows:

Establishment of Limited Partnership

Disbursements – States of Jersey, Declaration Fee £500

Professional fees:

Fees to be charged according to the time necessary spent by both this firm and by a legal firm in drafting the Partnership Agreement depending upon the complexity of specific circumstances.

Annual Administration

Provision of registered office and maintenance of statutory records of limited partnership: £1,000

Accounting, secretarial and administration services: Fees to be charged according to time necessarily spent on the work involved taking into account the degree of responsibility and skill involved.