<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Foreword</td>
<td>3</td>
</tr>
<tr>
<td>The Panamanian Foundation</td>
<td>3</td>
</tr>
<tr>
<td>The Advantages of a Panamanian Foundation</td>
<td>5</td>
</tr>
<tr>
<td>Using Panamanian Foundations</td>
<td>6</td>
</tr>
<tr>
<td>Key Elements of a Private Foundation</td>
<td>7</td>
</tr>
<tr>
<td>The Charter</td>
<td>10</td>
</tr>
<tr>
<td>Appendix</td>
<td></td>
</tr>
<tr>
<td>Sample Charter Document</td>
<td>11</td>
</tr>
<tr>
<td>Sample Regulations Document</td>
<td>20</td>
</tr>
<tr>
<td>Who to Contact</td>
<td>32</td>
</tr>
</tbody>
</table>
FOREWORD

The concept of a “Foundation” has been well known in Latin Law countries for several centuries. It is a legal entity separate from its creators, constituted through one sole donation or several donations that form an independent and autonomous estate for a definite purpose. A Foundation is a legal entity that is different from any other entity known in Anglo-Saxon Law, as a Foundation is not the legal personification of any other person or persons but a body corporate that has no owners (shareholders, participants or partners), and which traditionally has charitable or philanthropic aims for the benefit of a generality of persons.

Historically Foundations were born during the Middle Ages, at the end of the Roman Empire under the influence of Christianism. The Church itself was considered a divine foundation and its various organisations needed to be endowed with assets and legal capacity to manage such assets. It is thus that Canon Law of the Middle Ages developed the juridical theory of Foundation, on which religious congregations and convents were built.

After centuries, that legal entity called a “Foundation”, created by the Church on an essentially “Roman-Germanic” basis, continues to exist. Indeed, most of the countries in the world acknowledge and promote the creation of “Public Foundations” which are strictly non-profit organisations created by individuals for the benefit of society, generally subject to rigorous procedures in their creation and control. The so-called “Traditional Foundation” or “Public Interest Foundation” may not engage in private interest activities and may not carry out business transactions even on a non-habitual basis.

The Principality of Liechtenstein took a major step with the enactment of its Law on persons and Companies of 20th January 1926 (Personen und Gesellschaft Recht – P.G.R.) which created “Family Foundations” (for the personal benefit of members of one or more families), “Mixed Foundations” (for the benefit not only of relatives but also of other persons or institutions). The “Family Foundation” also exists as a legal entity in Austria, but it is not used worldwide as this country is not a fiscal haven. There are Luxembourg Foundations, which have features differing from those of Liechtenstein and are also little used on an international level. Additionally, Curacao Foundations were developed in recent years.

THE PANAMANIAN FOUNDATION

The Republic of Panama drew its inspiration from the Liechtenstein Law and adapted that European model to create a more flexible and modern “Private Foundation”, that has evident advantages for international asset planning and is qualified to conduct non-habitual “commercial transactions”.

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An interesting feature of the Panama Law on “Private Foundations” is that, despite its inspiration by Latin Law, it includes certain interesting aspects that are widely used in “Anglo-Saxon Law”, as for example the adoption of a “protector” or “supervisory body”.

A Private Foundation (“Foundation”) is created when one or more natural persons or legal entities (“Founder(s)”) formalise a document known as a “Foundation Charter”, which is registered at the Public Registry of Panama, through which the parties undertake to make a donation (“Foundation Assets”) of not less than the equivalent of US$10,000 (which may be subsequently increased through further donations) to be managed by a “Foundation Council” under the supervision of “protectors”, if appointed, for the benefit of one or more “beneficiaries”.

The obligation to contribute further donations, whether in money or in kind is not subject to a limited period of time and there is no legal requirement of disclosure.

Once registered at the Public Registry in the Republic of Panama, the Foundation Charter creates a legal entity.

A Private Foundation is the combination of a corporation and a trust. In general, a Foundation has similarities with a corporation in as far as it is registered at the Public Registry, the assets of this new legal entity are separate from those of its creators, it is constituted to maintain confidentiality on the ownership of assets and in order to obtain fiscal benefits, and it has similar administrative bodies. It differs from a corporation in that the Foundation has no owners, as it does not issue share certificates nor any other participation title, and a Foundation may be created as a testamentary instrument and may not have profit aims.

Likewise, a Foundation has similarities with a trust: It is a juridical institution that requires specific formalities; some of the Founder’s assets are transferred, contributed or “donated” to the Foundation; a Foundation may be revocable; it may be created inter-vivos or mortis-causa by means of testamentary provisions; it is usually created with the purpose of managing, preserving, administering or investing assets for the benefit of the donor’s close relatives, as well as to obtain confidentiality and fiscal benefits. It differs from a trust in as far as the Foundation is the owner of its assets since it possesses its own legal personality and there is no “trustee” but rather the figure of a “Foundation Council” which combines the functions of the “Board of Directors” (of a corporation) and the functions of a “trustee” (of a trust); a Foundation is registered at the Public Registry and is subject to an annual fee that is identical to that of corporations in Panama (US$400). It is important that these differences be clarified in order to better understand the features of a Panamanian Private Foundation, for which we shall describe this in more detail in Using Panamanian Foundations.

The Panamanian Law No. 25 of 12th June 1995, which governs Private Foundations, defines how Foundations are established and how they operate. The provisions in this law are regulated
through Executive Decree No. 417 of 8th August 1995, which created the Private Foundation Section of the Public Registry and regulated the registration of the constitution, modifications and revocation of such Foundations.

A Private Foundation may, at the client's option, issue Regulations that need not be registered at the Public Registry, and therefore absolute confidentiality is always maintained. These Regulations contain, among other features, the designations of beneficiaries and the manner in which the Foundation Assets are to be distributed.

THE ADVANTAGES OF A PANAMANIAN FOUNDATION

The Panamanian Private Foundation offers the following benefits:

- They are not subject to any form of taxation in the Republic of Panama except for a US$400 Annual Franchise Tax. Consequently, they are exempted from income tax, estate tax, real estate tax, inheritance tax and sales tax.

- The Private Foundation law mandate that members of the Foundation council (who are also known as “Council Member”), Protectors, supervisory bodies or any persons or institutions who on account of their duties become aware of information relating to the activities, transactions or operations of a Private Foundation are required to maintain strict confidentiality, even after its termination. Failure to do so may result in imprisonment of up to six months and a fine of up to US$50,000 not precluding the corresponding civil liability.

- The Law does not require the names of the ultimate Founders, Beneficiaries or Protectors to be revealed.

- There is no requirement to file annual meeting of the Foundation Council, Founders or supervisory bodies.

- The contributions to the Foundation Assets do not need to be deposited as a requirement for the constitution of the Foundation, and there is no maximum period of time for the endowment to be made.

- There is no limitation whatsoever as to perpetuity.

- The Foundation may carry out any kind of civil or commercial transactions, anywhere in the world and in any currency.

- Founders, members of the Foundation Council, Beneficiaries and Protectors may be natural persons or corporations of any nationality domiciled anywhere in the world.

- Founders need not be a Member of the Foundation Council.

- Founders and members of the Foundation Council may be Beneficiaries of the Foundation.
- There are no limitations as to the maximum number of Founders, Council Members or Beneficiaries.

- Founders and Foundation council Members may hold their meetings anywhere in the world and may be represented by proxy.

- Foundation books and accounting books (if any) may be kept anywhere in the world.

- The Foundation Charter may be subscribed by the client or by declaration.

- Foundations from other jurisdictions may change their domicile to Panama and continue as a Panamanian Private Foundation.

- Panama is currently considered a strong and stable democracy.

**USING PANAMANIAN FOUNDATIONS**

_Panamanian Private Foundations are mainly used for the following:_

- To own family businesses and thus avoid inheritance taxes.

- To guarantee payment of money or individual asset distribution to members of one or more families for their subsistence, education, clothing and other living expenses, or as a mechanism by which their children/grandchildren may partake in their parents/grandparents’ earnings. In Europe, private foundations for the aforementioned purposes are known as “Family Foundations”.

- To make scientific, humanitarian, philanthropic, religious or charitable donations or to manage funds reserved for these purposes.

- To protect disadvantaged persons, at a risk.

- For the benefit of family members, other persons or institutions. Multiple purpose private foundations are known in Europe as a “Mixed Foundation”.

- To act as the administrator of employee benefit schemes and employee pension plans.

- As a substitute for a will, thus avoiding complicated inheritance procedures, subsequently explained more fully in detail.

- As a substitute for marriage or pre-nuptial agreements.

- To own shares, interests and stocks of private companies.

- As a vehicle for owning patents and intellectual property and for receiving royalties and other forms of associated income.

- As a vehicle for investing in time deposit accounts, stocks, bonds or other securities.
- As a vehicle for owning real estate or valuable art work.
- To avoid forced heirship rules.
- To avoid political or economic instability.
- For any asset protection purpose.

KEY ELEMENTS OF A PRIVATE FOUNDATION

A Private Foundation consists of one or more “founders” who undertake to contribute or donate an amount not less than US$10,000, managed by a “Foundation Council” and a “Protector” if appointed, (known in law as “supervisory bodies”) and beneficiaries.

1. The Founder

One or more persons, whether natural persons or bodies corporate, may be the Founders. The Law prescribes that the assets may be donated by declaration so to keep the founders name confidential.

Founders have rights and obligations where the Foundation Charter grants the Founder full power, the Founder shall have the right and power to adopt the Foundation Regulations, amend them, freely appoint and remove the Foundation Council, the Protector and the Beneficiaries, act as adviser, protector or beneficiary, revoke the creation of the Foundation or any transfer made to it, receive and demand Statements of Account and redomicile the foundation and/or dissolve it.

After the registration of the Foundation, the Founder shall acquire the obligation of the contributions he has undertaken.

The Foundation’s assets constitute an estate separate from the Founder’s personal/corporate assets.

2. The Foundation Council

A Foundation is managed by a Foundation Council, which is charged with the duty of maintaining the Foundation’s aims and objectives.

If the Foundation council should be a body corporate, the number of members comprising it shall not by less than three.
The Foundation Council has rights and obligations in respect of the Foundation. In general, the Foundation Council is granted full administrative powers (together with the required authorisation from the “Protector”, if appointed, and has the right and power to adopt the Foundation Regulations, to amend same, to appoint and remove its members, to freely appoint and remove the Beneficiaries, to contribute assets of any nature to the Foundation, to dispose of assets, to enter into any acts or contracts in the name and on behalf of the Foundation, to grant special or general powers of attorney, to redomicile the Foundation and to dissolve it.

The Foundation Council has the obligation to act with due diligence and to obtain authorisation from the Protector (if one is appointed) and to render account of its administration to the Founder and to the beneficiaries.

3. The Protector

The Law on Foundations refers to “supervisory bodies” that are made up of natural persons or bodies corporate. Such bodies generally consist of one person referred to as the “Protector”.

In practice, the Protector is usually the client or someone that he/she trusts. The responsibilities of the Protector are specified in the Foundation Charter. Which include, but are not limited to, the supervision of the Foundation Council.

4. The Beneficiaries

The Foundation’s aims and objectives are generally for the benefit of the foundation’s “Beneficiary” or “Beneficiaries”. Such Beneficiaries have the right to receive the earnings or other interest in the Foundation Assets, and to receive the Foundation Assets as set down in the Foundation Charter.

The beneficiaries may be natural persons, bodies corporate institutions or charities.

The beneficiaries are not the Foundation’s owners or creditors.

5. A Foundation’s assets constitute an independent estate

The contributions made to the Foundation and it’s earning may not be attached or be the object of any precautionary action or measure, save for obligations incurred or for damages caused upon achievement of the Foundation’s aims and objectives, or for the beneficiaries legitimate rights.
The Foundation’s assets may not be used to answer for the Founders obligations nor for those of the Beneficiaries, nor for those of any person, whether or not involved with the Foundation.

Foundation heirs shall have no right to revoke the creation of or the transfers made to the Foundation.

6. A Foundation is protected against the Founder's creditors

If a Founder's judgement creditor attacks the assets of the Foundation the law prescribes a three year law of limitation.

7. A Private Foundation is created as a Body Corporate

Panama grants corporate existence to a Foundation. Consequently, a Foundation may acquire and own property of all kinds, incur obligations and be a party in judicial proceedings.

8. A Private Foundation may not have profit making objectives

A Foundation may not by law engage directly in business but may carry out business activities in a non habitual manner. Thus, a Foundation may derive earnings from the sale of real property, it may have cash deposits, it may lend money and it may invest in shares of private companies, public companies, bonds etc., but it may not trade.

9. Foundations may be revocable

The Founder may revoke the creation of a Foundation or the transfer made to a Foundation in any of the following circumstances:

- Where the Foundation has been created to enter into effect after the Founder's death;
- Where the Foundation Charter has not been registered at the Public Registry;
- Where the Foundation Charter is revocable; and

Where there is just cause for the revocation of donations in accordance with relevant provisions of the Civil Code of the Republic of Panama.

10. A Foundation is exempt from all taxes

Provided that the contributions received by a Foundation and the income from such contributions originate outside that fiscal territory of the Republic of Panama, a Foundation shall pay no taxes, save for a US$400 Annual Franchise Tax.
11. Foundations may be redomiciled to and from Panama

If the Foundation Charter does not forbid it, the Foundation’s governing body may continue the existence of such foundation, created under the laws of another jurisdiction of Panama. For this, it is only required that a “Certificate of Continuation” containing the following information be registered:

- The name of the Foundation and the date of constitution.
- The registration or filing of data from the country of origin.
- An express declaration of the Foundation Council’s wish to continue such Foundation in Panama.
- The new Foundation Charter or a transcription of the original Charter.
- A minute of the Foundation Council granting power to transfer/redomicile to Panama.

THE CHARTER

The Foundation Charter shall contain:

the name of the Foundation’s Initial Assets; the appointment and addresses of the Foundation Council members; the Foundation’s domicile; how Beneficiaries are to be designated; the rules for amending the Foundation Charter; the Foundation’s duration; the assignment of the assets and how the Foundation is to be dissolved and liquidated; and any other lawful clause as the client may deem appropriate.

The Foundation Regulations contain:

the make up of the Foundation Assets, the powers of the Foundation Council; the form of administration; the Beneficiaries of the Foundation; the benefits corresponding to each Beneficiary; the rules on the distribution of benefits; the rules on the rendering of accounts; the class of the Beneficiaries and how they may be varied, substituted, removed or added; the rules of remunerations; the appointment of the Protector and his powers; how the Foundation Assets may be liquidated; and other areas requiring regulations.
APPENDIX

A) Sample Charter Document

Irrevocable Foundation Charter
(Founder(s) hold(s) no powers)

FOUNDATION CHARTER OF THE PRIVATE FOUNDATION NAMED

The undersigned, ________________________________________, with domicile at ___________________________, acting as Founder(s) in accordance with the provisions of Law 25 of 12th June 1995 of the Republic of Panama, hereby establish(es) a Private Foundation, a juridical person governed by the laws of the Republic of Panama, having the following characteristics:

FIRST: NAME

The name of the FOUNDATION is ____________________________

SECOND: INITIAL PATRIMONY

The initial endowment of the Foundation shall be TEN THOUSAND DOLLARS (US$10,000.00), legal currency of the United States of America. Sums of money or other assets may be added to the Foundation’s assets from time to time by the Founder(s), the Foundation Council or third parties. Transfers of assets to the Foundation’s assets may be effected by way of a public or private document. The Foundation’s assets are exclusively reserved for the purposes mentioned in the present Foundation Charter, and the Foundation Council may therefore not dispose of such assets in any manner differing from or contrary to that established in the present Foundation Charter or the Regulations thereof.

The Foundation shall be irrevocable for its Founder(s).
THIRD: THE FOUNDATION COUNCIL

a) The Foundation Council is the governing body of the Foundation.

b) The Foundation Council may consist of natural and/or juridical persons.

c) The Foundation Council’s tenure of office is not limited to a set period of time, and members of the Foundation Council shall hold office until they are replaced through election by the remaining members of the Council, or by the Protector, if any.

d) The members of the Foundation Council shall initially be appointed by the Founder(s). In the event of resignation, incapacity or the demise of any member of the Foundation Council, whether a title holder or an alternate, a simple majority of the remaining members may elect a substitute. If there are no further members in the Foundation Council, or if the remaining members are incapable of acting, the right to appoint new Council members shall vest in the Protector, if any. Should the latter be absolutely lacking, such right shall vest in the Principal Beneficiary(ies) reflected in the Regulations or the Foundation’s Resident Agent.

e) The Foundation Council is responsible for the management, administration and representation of the Foundation, and may bind same without restrictions and with power of disposition, vis-à-vis third parties, including national or foreign judicial or governmental authorities. In the exercise of its administrative powers, the Foundation Council may invest in securities, open bank accounts, borrow and grant loans, receive and make payments, keep accounting records, keep the custody of assets, establish and control subsidiary companies, engage agents, seek consultancy and advisory services and, not being limited to the generality of the foregoing, it may carry out all such acts as may be necessary for the administration of the Foundation in accordance with the provisions of this Foundation Charter and the Regulations.

f) The Foundation Council may delegate its authority to issue the Regulations as well as the administration and representation of the Foundation for specific or general acts, to one or several of its members or to a third party, providing, when so doing, for the right to sign and bind the Foundation.

g) The Foundation Council shall meet at the Foundation’s domicile or at such other place as may be designated by the Foundation Council.

h) If the Foundation Council is made up of several persons, whether natural or juridical, its resolutions shall be valid if all the members are present, whether personally or by proxy; and all resolutions approved in a meeting where there is a quorum, all absent members having waived
the notice of meeting, shall be valid. The Foundation Council’s resolutions shall be approved by a simple majority of the members of the Foundation Council and shall be recorded in minutes that shall be signed by any of the members of the Foundation Council.

i) The resolutions of the Foundation Council may also be approved by means of a circular letter, but in such cases the signature of the majority of the members shall be required on the respective minutes.

j) If the Foundation Council is made up of a juridical person, its decisions may be set down in minutes which shall be signed by the President or Secretary of said juridical person, as sole member of the Foundation Council.

k) The Foundation Council shall be made up by:

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FOURTH: DOMICILE

The Foundation’s domicile is (ADDRESS IN PANAMA). The Foundation’s domicile may by means of a resolution of the Foundation Council be at any time transferred to another place, either in Panama or abroad. All legal relationships arising from the constitution and existence of the Foundation shall be subject to the law in force in the Foundation’s place of domicile. The Foundation’s competent courts shall be the courts of its domicile. In the event the Foundation’s domicile is transferred, the Foundation shall remain subject to the provisions of the Private Foundations Law of the Republic of Panama insofar as compelling provisions at the Foundation’s new domicile do not demand otherwise.

FIFTH: RESIDENT AGENT

The Foundation’s Resident Agent is the law firm of (NAME OF FIRM), with offices at (ADDRESS OF LAW FIRM).
FIFTH AIMS

The Foundation’s aim is to defray the costs for the education, upbringing, training and assistance, as well as the general maintenance or other similar aims of one or more members of one or several families as established in the Regulations. In addition to the members of one or several families, the Foundation may benefit other natural or juridical persons or institutions of any nature and make all necessary provisions for the orderly succession to its assets. To achieve its objectives, the Foundation shall preserve, manage and invest its assets in an appropriate manner. The Foundation may not be profit oriented; however, it may carry on commercial activities in a non habitual manner or exercise the rights deriving from the titles representing the capital of business companies that are held as part of the Foundation’s assets, provided the economic result or proceeds of these activities are used exclusively towards this Foundation’s objectives. It may also engage in any other lawful activity allowed to this kind of institutions as the Foundation Council may determine.

SIXTH: BENEFICIARIES

(A) The Founder(s), upon creation of the Foundation, or the Foundation Council, subsequently thereto, may create a private document known as the “Regulations” whereby they designate and set down all that relates to the Beneficiaries. The Foundation Council shall assign the Foundation’s assets, in full or in part, to one of the Beneficiaries or to several of them, in accordance with the provisions of the Regulations.

(B) The distributions to one or several of the Beneficiaries so designated as well as the dates and amounts of such distributions shall be subject to the provisions of the Regulations.

(C) It is expressly stipulated that the Beneficiaries are neither the owners nor creditors of the Foundation, and thus may not validly claim vis-à-vis the Foundation any rights other than those envisaged in the Foundation Charter, the Regulations and/or the resolutions passed by the Foundation Council.

SEVENTH: AMENDMENTS TO THE FOUNDATION CHARTER

The Foundation Council is authorized to amend this Foundation Charter. The Foundation Council may amend, remove or declare any one or more provisions of the present Foundation Charter to be inapplicable, change or remove any or all of the Beneficiaries, name or add new Beneficiaries, increase, decrease or in any other way alter the benefits of all or any of the Beneficiaries, add new
assets to the Foundation’s assets, or in any other way amend the Foundation Charter, subject to countersignature by the Protector, if any.

EIGHTH: DURATION

This Foundation shall have a perpetual duration and may only be dissolved by a decision of the Foundation Council, subject to countersignature by the Protector, if any, without prejudice to the provisions of the Fifteenth Clause of the present Foundation Charter.

NINTH: DISTRIBUTION OF THE BENEFITS

The Foundation Council may distribute this Foundation’s capital or interest in accordance with the Foundation’s Regulations, which Regulations may be amended at any time by the Foundation Council, subject to countersignature by the Protector, if any.

ELEVENTH: ANNUAL ACCOUNT

The Foundation Council shall render account of its administration with such periodicity as the Protector, if any, and the Beneficiary(ies) may require. If no objections to the report rendered are raised within a term of (90) days as from the day on which it is received, same shall be considered to have been approved. Once such term has elapsed or the report has been approved, the members of the Foundation Council shall be exempt from any liability for their administration, but such approval shall not also exempt them vis-à-vis the Beneficiaries or third parties having an interest in the Foundation with regard to any damages caused by gross negligence or fraud in the administration of the Foundation.

TWELFTH: REMOVAL OF THE FOUNDATION COUNCIL

The members of the Foundation Council may be removed by the Protector, if any. Likewise, the Protector may designate or add new members to the Foundation Council, without prejudice to the provisions of the Third Clause of this Foundation Charter.
THIRTEENTH: OBLIGATIONS AND DUTIES OF THE FOUNDATION COUNCIL

The Foundation Council shall have the following obligations and duties:

a. To manage the assets of the Foundation in accordance with the present Foundation Charter and its Regulations.

b. To carry out such acts, contracts or business as may be expedient or necessary to fulfill the Foundation's objectives and to include in such contracts, agreements and other instruments or obligations, all such clauses and conditions as may be necessary or expedient, being consistent with the Foundation's aims and not contrary to law, morality, good mores or public order.

c. To inform the Foundation's Beneficiaries or the Protector, if any, of the Foundation Assets as provided for by the Foundation Charter or the Regulations.

d. To hand over to the Beneficiaries of the Foundation the assets or benefits settled in their favor in the Foundation Charter or the Regulations.

e. To fully comply with all requirements and countersignatures required by the supervisory entity, if any.

f. To carry out all such acts or contracts as the Foundation may be permitted to carry out by Law No.25 of 12th June 1995 and other applicable legal or regulatory provisions.

FOURTEENTH: PROTECTOR - PROFESSIONAL ADVISOR - AUDITORS

The Founder(s), upon creation of the Foundation, or the Foundation Council, subsequently thereto, may appoint, in the Regulations, a supervisory entity which may be comprised of natural or juridical persons and which may be called the Protector, Professional Advisor, Auditor or any similar name, and which may have any of the following powers:

a) To ensure compliance with the aims of the Foundation on the part of the Foundation Council and to safeguard the rights and interests of the Beneficiaries;

b) To demand a rendering of account by the Foundation Council;

c) To modify the aims or objectives of the Foundation where their attainment becomes impossible or burdensome;
d) To appoint new members for the Foundation Council to replace the existing members in the event of a temporary or definite absence; and to increase or reduce the number of members of the Foundation Council;

e) To endorse actions taken by the Foundation Council pursuant to the Foundation Charter or its Regulations;

f) To safeguard the Foundation’s assets and to ensure that such assets are used for the objectives or purposes stated in the Foundation Charter; and

g) To exclude Beneficiaries from the Foundation and to add other Beneficiaries in accordance with the provisions of the Foundation Charter or its Regulations.

FIFTEENTH: DISSOLUTION AND LIQUIDATION

(A) The Foundation Council has the authority to dissolve the Foundation and to appoint one or more liquidators if it deems it necessary, subject to countersignature by the Protector, if any. If there are no members of the Foundation Council, or if same are incapacitated, the Foundation may be dissolved by the Protector, if any. Should the latter be absolutely lacking, such right shall vest in the Foundation’s Resident Agent or in the Principal Beneficiary(ies) reflected in the Regulations.

(B) In the event the Foundation is dissolved, and after payment of all its debts or obligations, the liquidation shall proceed in accordance with the provisions established in the Regulations with regard to Beneficiaries. Should there be no beneficiaries, the Foundation Council shall decide the ultimate use to be made of the Foundation’s assets. The Foundation Council’s resolution to dissolve the Foundation shall be duly registered at the Public Registry of the Republic of Panama.

The Foundation may also be dissolved for the following reasons, upon request by the interested party:

a) Achievement of the aims for which it was created or because their fulfillment becomes impossible.

b) Its insolvency, cessation of payments, or upon adjudication of bankruptcy.

c) Loss or total extinction of the Foundation’s assets.
SIXTEENTH: REGULATIONS

The Founder(s) or the Foundation Council shall, upon creation of the Foundation, have the authority to issue the Foundation’s Regulations. Subsequently, only the Foundation Council may amend the Foundation’s Regulations, or issue same if they were not determined upon creation of the Foundation, subject to countersignature by the Protector, if any. Such Regulations shall include:

1. The assets making up the Foundation Assets.

2. The Foundation Council’s powers in accordance with the provisions of the Thirteenth Clause of the present Foundation Charter.

3. The manner in which the Foundation’s assets shall be managed.

4. The Beneficiaries of the Foundation.

5. The benefits corresponding to the Beneficiaries.

6. The rules on distribution of the benefits of the Foundation.


8. How the Beneficiaries may be substituted, removed or added.


10. The appointment of the Protector or of any supervisory entities, as well as their powers, in accordance with the provisions of the Fourteenth Clause of this Foundation Charter.

11. The manner in which the Foundation’s assets shall be liquidated in the event the Foundation is dissolved.

12. Any lawful articles not contrary to the Law or the Foundation Charter.

SEVENTEENTH: NOTICES

Notices to meetings of the Foundation Council shall be made by personal delivery thereof or by mail, or by publication in a daily having a circulation throughout the Republic of Panama.
EIGHTEENTH: CHANGE OF JURISDICTION

Where the Foundation Council or the Protector, if any, should deem it necessary, they may at their entire and absolute discretion transfer the Foundation to the jurisdiction of another country.

NINETEENTH: SEAL

The Foundation may, if the Foundation Council should deem it expedient, adopt its own foundation seal.

The present document has been executed by the Founder(s) in the City of

_____________________________ on the _____ day of the month of

_________________________ two thousand and _________ (20__) .

_________________________  __________________________
Founder    Founder

Countersigned by the Resident Agent: _______________________________
APPENDIX

B) Sample Regulations Document

Regulations of an Irrevocable Foundation
(Founder(s) hold(s) no powers)

REGULATIONS OF THE PRIVATE FOUNDATION NAMED

The Founder(s) or the Foundation Council has(have), on the basis of the Private Foundation Charter of the Private Foundation named _____________________________, protocolized by means of Public Deed Number _________ of the ________ day of ________________ 200____ of the Office of the _________ Notary Public and registered at the Private Foundations Section of the Public Registry of Panama at Microjacket F.I.P___________, Reel ________ and Frame ________, as from _________________ 200___, adopted the present Regulations in accordance with the following articles:

FIRST: FOUNDATION ASSETS

The Foundation’s Initial Assets consist of TEN THOUSAND DOLLARS (US$10,000.00), plus all such funds and/or securities, movable or immovable goods, shares, bonds, bank deposits and any negotiable documents that are validly transferred to the Foundation by the Founder(s), the Foundation Council or third parties. At the time the present Regulations are issued, the Foundation Assets consist of:

A. Funds deposited at the _____________________________ Bank.

B. Share Certificate No._______ for ________________ shares of a nominal value of US$_______ each, of the company _____________________________, organized under the laws of _________________.

C. ______________________________.
SECOND: REVOCABILITY

The Founder(s), or whoever their legitimate principals or settlers may be, is(are) obliged to validly transfer sums of money or other goods for not less than US$10,000. The constitution of the Foundation as well as the transfers made to same shall be irrevocable for the Founder(s), who shall hold no decisory powers in the Foundation.

THIRD: LIABILITY

The Foundation Council undertakes to dispose of the Foundation Assets in accordance with the provisions and conditions of the Foundation Charter and the present Regulations, with the diligence of a good paterfamilias. For his(her) part, the Foundation’s Principal Beneficiary(ies) and the Protector shall jointly and severally hold the Foundation Council harmless from any damages it may suffer as a consequence of the exercise of the functions established in the Foundation Charter and in the Regulations, and undertakes to indemnify the Foundation Council for any expenses it may incur, including legal costs and fees, authorizing it in advance to reimburse itself for such costs out of the Foundation Assets.

FOURTH: POWERS OF THE FOUNDATION COUNCIL

The Foundation Council shall take such measures as it may in its sole judgment deem expedient for the custody of the Foundation Assets and for the investment of same, and is empowered to mainly invest in time deposits and/or certificates of deposit negotiated in capital markets, the purchase of bonds or shares and, finally, any other kind of investment that, in the opinion of the Foundation Council, implies an acceptable risk, acting always with the judgment of a good paterfamilias and following such instructions as may given to it by the Protector, if any.

The Foundation Council shall have the following powers and duties, without prejudice to the generality of the foregoing:

A. To manage the Foundation Assets in accordance with the present Foundation Charter and the Regulations.

B. To enter into such acts, contracts or juridical business as may prove to be expedient or necessary in order to comply with the Foundation’s objects and to include in such contracts, agreements and other instruments or obligations, all such clauses and conditions as may be necessary or expedient, being consistent with the Foundation’s aims and not contrary to the law, morality, good mores or public order.
C. To inform the Foundation’s Beneficiary(ies) and the Protector, if any, regarding its assets as provided for by the Foundation Charter or the Regulations.

D. To hand over to the Principal, Substitute or Final Beneficiary(ies) of the Foundation, the assets and income arising from the Foundation Assets that have been settled in his(their) favor in the Foundation Charter or its Regulations.

E. To carry out all such acts or contracts as the Foundation may be permitted to carry out as per Law No.25 of 12th June 1995, Executive Decree No.417 of 8th August 1995 and other applicable legal or regulatory provisions, as well as in accordance with the Foundation Charter.

The Foundation Council shall in the exercise of these obligations and duties have the following powers, without prejudice to the generality of the foregoing:

1. **Investment in Securities:** To preserve, acquire, invest, sell or dispose of securities and other movable or immovable property or property of any nature, whether tangible or intangible, including life insurance policies.

2. **Cash Deposits:** To place money in time deposits for any terms and in any currency, with banking or financial institutions or brokerage firms, in any country in the world.

3. **To Borrow and to Grant Loans:** To borrow and to grant loans, with or without surety and with or without interest, under any terms and from or to any person, including any Principal, Substitute or Final Beneficiary, or any company whose shares are held as part of the Foundation Assets, and to constitute guarantee and pledge the Foundation Assets to guarantee the performance of obligations incurred by the Foundation, or obligations incurred by any of the Beneficiaries.

4. **Payments to Minors and Incapacitated Persons:** To apply the capital or interest in favor of any Beneficiary as may be established in the present Regulations. Payments to any person who is a minor or who has any impairment may be made to any of that person’s parents, legal representatives or guardians, and the Foundation Council shall not be responsible for overseeing the way the money is used unless it is expressly set forth in the Regulations.

5. **Income and Disbursements:** To decide whether any income or disbursement constitutes capital or interest, to capitalize and dispose of same in favor of the Beneficiary(ies) as established in the present Regulations.

6. **Custody of Assets:** To preserve the Foundation Assets or deposit same in any institution, with no liability for any losses which may result therefrom, as provided for in these Regulations.
7. **Payment of Taxes:** To pay, with funds from the Foundation Assets, any taxes, if any, assessments and other expenses, even where same are not in favor of any Beneficiary.

8. **Using Companies:** To establish, acquire, operate, represent the Foundation in shareholders assemblies, or control one or more companies in any country and provide or engage the required managerial services, and to transfer assets from the Foundation Assets to such companies.

9. **Engaging Agents:** To engage managers, advisers (including investment advisers) and agents under the usual terms and conditions, charging same against the Foundation Assets, even where same are not affiliated with the Foundation Council.

10. **Legal Advice:** To seek financial and legal advice with regard to the Foundation, charging same against its Assets, but not being obliged to act in accordance with any opinion or advice received.

11. **Operations with Related Persons:** The Foundation Council may do any juridical acts in favor of the Foundation or of any Beneficiary, for which it may engage any company affiliated with the Foundation or the Principal, Substitute or Final Beneficiary or any member of the Foundation Council, provided such acts comply with the aims of the Foundation.

**FIFTH: BENEFICIARIES**

**A. PRINCIPAL BENEFICIARY(IES)**

The Founder(s) declare(s) that the following person(s) is(are) designated as the Principal Beneficiary(s) of the Foundation by means of the present Regulations:

Mr./Mrs./Minor ______________________________, born on _______________________, with
domicile at ______________________________________________
or/Corporation named ________________________________________________________,
organized in accordance with the laws of ______________________________,
Registered under ________________________________ as from __________________________.
The absolute lack of a Principal Beneficiary shall accrue to the other Principal Beneficiaries.

For the designation of other Beneficiaries, the Foundation Council shall, subject to countersignature by the Protector, if any, abide by the following rules:

B. SUBSTITUTE BENEFICIARY(IES)

In the event the Principal Beneficiary(ies) should pass away or lose legal capacity, his (their) rights regarding the Foundation Assets existing on that date shall pass to the Substitute Beneficiary(ies), namely:

Mr./Mrs./Minor ______________________________, born on _______________________,

with domicile at ________________________________________________________.

or/Corporation named ________________________________________________________,

organized in accordance with the laws of ______________________________,

Registered under _______________________________________
as from ________________________________.

C. FINAL BENEFICIARY(IES)

In the event the Substitute Beneficiary(ies) should pass away or lose legal capacity, the funds of the Foundation Assets shall pass to the Final Beneficiary(ies) in equal proportions, namely:

Mr./Mrs./Minor ______________________________, born on _______________________,

with domicile at ________________________________________________________.

or/Corporation named

________________________________________________________

organized in accordance with the laws of ______________________________,

Registered under _______________________________________
as from ________________________________.
Lacking designated Final Beneficiary(ies), the Substitute Beneficiary(ies) shall be deemed to be the Final Beneficiary(ies).

SIXTH: DISTRIBUTION OF THE BENEFITS AND DISBURSEMENTS

Once the Private Foundation, which is irrevocable for the undersigned, enters into effect, the Foundation Council shall dispose of the Foundation Assets in the following manner:

A. DISTRIBUTION OF INTEREST AND PROFITS. The Foundation Council shall pay the Principal Beneficiary(ies), during his(their) lifetime, all interest, dividends and any other benefit arising from the funds of the Foundation Assets. The Principal Beneficiary(ies) may request that all or part of the benefits accrue to the capital of the Foundation Assets.

In the event the Principal Beneficiary(ies) should pass away or lose legal capacity, his(their) benefits shall be distributed to(among) the Substitute Beneficiary(ies). The Substitute Beneficiary(ies) may request that all or part of the benefits accrue to the capital of the Foundation Assets.

The Foundation Council shall use such distribution mechanism as it may deem expedient.

B. EMERGENCY EXPENSES. In addition, emergency expenses payable to the Principal Beneficiary(ies) or to the Substitute or Final Beneficiary(ies) replacing them in their absolute absence shall also be paid. It shall be to the Foundation Council's discretion to define which are emergency expenses. In general, emergency expenses shall include such sums as may be considered necessary for the maintenance, care (medical expenses and others) and education of the Principal, Substitute or Final Beneficiary(ies), as well as such sums as may be required for the annual maintenance of the juridical persons who are Beneficiaries, consisting of taxes, rates and administrative and juridical services.

The disbursement of emergency expenses may be made at the discretion of the Foundation Council or as requested by the Principal Beneficiary(ies), or by his(their) curator (in the event of temporary or permanent incapacity), parent(s), legal representative(s) or guardian(s); or by the (Substitute)(Final) Beneficiary(ies), or by his(their) parent(s), legal representative(s) or guardian(s); or by the Protector, if any.

C. GENERAL PRINCIPLES OF THE BENEFITS. The Foundation's benefits shall be subject to the following rules:

(1) The Beneficiaries of each class shall receive their benefits in equal proportions.

(2) No certificates or documents on the right to benefit from the Foundation shall be issued.
(3) Neither the benefits nor the capital or any distribution of the Assets or of the proceeds of the Foundation’s income may be the object of any kind of precautionary measure, attachment or garnishment, unless same is in regard to the Foundation’s debts.

(4) Any transfer of the right to receive benefits from the Foundation, whether present or future, shall be null and void. Any Beneficiary who attempts to transfer his benefits shall lose them.

(5) Neither may the right to the Foundation’s benefits (capital and interest) be given as surety of any kind, whether pledge, mortgage or of whatever other nature.

SEVENTH: RENDERING OF ACCOUNTS

In addition, and without prejudice to the obligation to render annual accounts as established in the Eleventh Clause of the Foundation Charter, once the present Regulations enter into effect, the Foundation Council shall advise the Principal Beneficiary(ies), or whoever replaces them in their absolute absence (the Substitute or Final Beneficiary(ies)) every time a Beneficiary or the Protector, if any, requests it, regarding the financial status of the Foundation Assets, specifying the total funds and assets, kinds of investment, interest or profits earned and collected, donations or contributions received and disbursed.

So long as the Beneficiary(ies) have not attained legal age, the parent(s), legal representative(s) or guardian(s) shall be informed.

EIGHTH: ABSOLUTE LACK OF THE PRINCIPAL AND SUBSTITUTE BENEFICIARY(IES)

If, on the date of the death or loss of legal capacity of the Principal Beneficiary(ies) the Substitute Beneficiary(ies) no longer exist(s) or do(does) not have legal capacity, the Foundation Council shall be governed by the following additional rules:

A. DISTRIBUTION TO(AMONG) THE FINAL BENEFICIARY(IES). The Foundation Assets existing at such date shall be immediately divided, in equal proportions, among the Final Beneficiaries, but the Foundation Assets shall not be distributed.

B. RIGHT TO ACCRUE. In the event that, on such date one of the Final Beneficiaries has passed away without leaving any heirs, the whole of the Foundation Assets shall pass to the survivor(s) (among them), accruing to his(her) assets.
C. BENEFITS. In the case of subsection A of the present Article, once the division has been made, the Foundation Council shall pay the Final Beneficiary(ies) (or his(her) parents, legal representatives or guardians, until he (they) attain(s) legal age), all the interest, dividends and any other benefit arising from the funds and assets of the Final Beneficiary(ies) in the Foundation Assets, as well as emergency expenses.

The parents, legal representatives or guardians of the Final Beneficiary(ies) shall identify themselves as such.

The Final Beneficiary(ies) may ask for the whole or part of the benefits to accrue to the capital of the Foundation Assets.

D. ABSOLUTE LACK OF BENEFICIARIES. Should there be none of the Beneficiaries mentioned in the preceding Articles, upon verification, the benefits or interest arising from the existing Foundation Assets shall be permanently assigned to the following charitable institutions, namely:

\[
\begin{align*}
\text{__} \% & \text{ to } \text{_____________________________} \\
\text{__} \% & \text{ to } \text{_____________________________} \\
\text{__} \% & \text{ to } \text{_____________________________} \\
\end{align*}
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In the event any or all of these institutions should not exist, the Foundation Council shall designate other institutions having the same or similar objectives. These institutions shall not have the right to information on the source of the donations.

NINTH: DISTRIBUTION OF THE CAPITAL OF THE FOUNDATION’S ASSETS

TO THE FINAL BENEFICIARY(IES)

At the time (each of) the Final Beneficiary(ies) attains the age of twenty-five (25), the Foundation Council shall turn over fifty percent (50%) of (his respective share of) the capital of the Foundation Assets existing on that date to him. As soon as he(they) attain(s) the age of thirty (30), the remaining balance (50%) of his(her) share of the capital of the Foundation Assets shall be turned over to him(them).

The distribution of the capital of the Foundation Assets shall be subject to the following rules:

A. In the event the (any of the) Final Beneficiary(ies) should pass away before attaining the age of thirty (30), his(her) rights shall pass to his (their) legitimate heirs. Should he(they) not
have heirs, his(her) share of the capital of the Foundation’s Assets shall accrue to the other Final Beneficiaries. Subsequently, the Foundation Council shall turn over to the surviving Final Beneficiary(ies), upon his(her) attaining the age of twenty-five (25), his(her) respective share of the capital of the Foundation Assets existing at such date. As soon as he(they) attain(s) the age of thirty (30), the final balance of the capital of the Foundation Assets existing at that date shall be turned over to him(them).

B. In the event the Final Beneficiary(ies) should pass away or lose his (their) legal capacity before complying with all that is stipulated in the present Article and should he (they) leave any descendants or assigns, the capital of the Foundation Assets shall be passed, in equal proportions, to the legitimate heirs or successors (or their legal representatives), that have been legally designated by competent authorities.

C. The Final Beneficiary(ies) may choose to waive the distribution and to have the Foundation remain effective.

D. The distribution of the whole of the capital of the Foundation Assets shall be grounds for the dissolution of the Foundation.

TENTH: REMUNERATIONS

Once the Foundation enters into effect, the Foundation Council may receive, for its management work, regular payments corresponding to a percentage of the net value of the Foundation Assets, or set regular payments agreed to from time to time, as well as additional payments for specific works requested. These payments are separate from the Resident Agent’s fees mentioned in the Fifth Clause of the Foundation Charter and the Thirteenth Article of the present Regulations, as well as from the fees for the preparation and registration of the Foundation Charter and for drawing up the present Regulations.

The Foundation Council is expressly authorized to pay the expenses and/or fees established in the preceding paragraph of this Article against the funds of the Foundation Assets.

ELEVENTH: RESIGNATION OF THE FOUNDATION COUNCIL

The Foundation Council may resign from its office, giving at least a sixty (60) day prior notice, without need to give any explanation in this regard. The Foundation Council’s replacement shall be made as provided for in the Foundation Charter.
TWELFTH: PROTECTOR

________________________________, with domicile at ________________________, is hereby appointed the Protector. His functions shall be detailed in the Fourteenth Clause of the Foundation Charter.

The Protector shall act in the interest of the Foundation’s Beneficiaries and with the diligence of a good paterfamilias.

THIRTEENTH : RESIDENT AGENT

The Foundation’s Resident Agent is the law firm of (NAME OF FIRM).

The Foundation Council is expressly authorized to designate any other law firm as the resident agent if, in its sole judgment, this should be necessary.

FOURTEENTH: THE FOUNDATION’S DOMICILE

The location of the Foundation’s domicile is (ADDRESS)

FIFTEENTH: AMENDMENTS TO THE REGULATIONS

Only the Foundation Council may amend the present Regulations and, consequently, it may delete or add Beneficiaries, subject to authorization from and countersignature by the Protector, if any, as provided for in the Sixteenth Clause of the Foundation Charter.

If a Protector has been designated and same should pass away or no longer have legal capacity, the present Regulations may not be amended save as set forth at the end of the present article.

Should the Protector express his wish to change the articles of the Regulations or dissolve the Foundation, same must be made known to the Foundation Council in writing.

Upon an absolute lack of the Protector and if the Principal and Substitute Beneficiary(ies) should not be alive or exist, the Final Beneficiary(ies) may express his (their) wish to the Foundation Council to change the articles of the Regulations in order to maintain the Foundation in effect indefinitely. Such wish must be made known to the Foundation Council in writing.
SIXTEENTH : DISSOLUTION AND LIQUIDATION

The Foundation has, in principle, a perpetual duration. However, same may be terminated as per the following paragraphs.

The Foundation’s aims are those specified in the Sixth Clause of the Foundation Charter, as is the disposal of the Foundation Assets in accordance with the instructions, terms and conditions of the present Regulations and in accordance with such instructions as may be given by the Protector, if any, by which it is understood that the Foundation shall be terminated once the Foundation Council has fully complied with the aims of the Foundation and once the Final Beneficiary(ies) has(have) received the capital of the Foundation Assets, save if he (they) should express his (their) wish to have the Foundation remain in effect.

The Protector, if any, may request the dissolution of the Foundation before achievement of its aims, expressing same in writing, in which case the Foundation Assets shall be returned to the Founder(s) or his(their) legitimate principals or settlors.

Upon dissolution of the Foundation, the Foundation Council may take charge of the liquidation or may appoint one or more liquidators with the purpose of settling its business, collecting its credits, paying its debts and dividing or distributing the capital and the interest of the Foundation Assets to (among) the Beneficiary(ies).

For the termination of the Foundation, performance of the provisions in the Fifteenth Clause of the Foundation Charter shall be required.

SEVENTEENTH: LEGAL SUBMISSION

Juridical relations deriving from the application of the present Regulations are subject to the Law in force in the Republic of Panama, specifically, Law No.25 of 12th June 1995 and Executive Decree No. 417 of 8th August 1995, as well as the provisions of the Foundation Charter.

The present Regulations are subscribed in the city of ______________________________

on the _______ day of the month of ________________________________ nineteen hundred and ninety _____________(200_____).
THE PANAMANIAN FOUNDATION

Founder

or/Foundation Council (represented by ___________________________

Countersigned by the Resident Agent: ___________________________
WHO TO CONTACT

The OCRA Worldwide Group has a presence spanning every continent in the world with offices in 20 locations. We are open 24/7 around the world, speak many languages and are in tune with the world’s many cultures, but above all else ‘our business’ is about people and we have people to serve you!

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JONATHAN DIXON

Jonathan Dixon joined the Group in 1995 and is a Managing Director of OCRA (London) Limited. Jonathan specialises in the structuring of UK and offshore entities for international trade and investment, and maintains close relationships with selected banks and our intermediary network. Whilst clients benefit from the strong links within our global network of offices, from our central location in London, Jonathan is available to personally meet with them.

Tel: +44 (0) 20 7317 0600
Fax: +44 (0) 20 7317 0610
E-mail: jdixon@ocra.com
STEPHEN PORTER

Stephen Porter is Group Director, a Director of OCRA (Isle of Man) Limited and a Client Service Team Leader in the Isle of Man. He joined the Group in 1989. He specialises in working with European and international entrepreneurs and professional firms in the Isle of Man.

Tel: + 44 (1624) 811008
Fax: + 44 (1624) 811088
Mobile: + 44 (7624) 481234
E-mail: porter@ocra.com
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