BRITISH VIRGIN ISLANDS VISTA TRUST

In 2003, the British Virgin Islands (BVI) introduced the Virgin Islands Special Trusts Act (VISTA). This Act created a new type of trust, the VISTA Trust, which seeks to overcome some of the obstacles of traditional trusts in the areas of management of underlying companies and succession planning.

In particular, it is designed to meet the growing international need for a satisfactory legal mechanism to facilitate the succession planning of family corporate businesses, without stifling the family investment aspirations.

The flexibility and benefits of discretionary trusts are well known, but the responsibility of the trustees to manage the assets as a prudent man of business', with the need to protect the trust assets, can make trustees risk-averse and restrict the type of investments that might be considered. Many assets that potential settlors wish to place in trust, such as the shares in a family business or more speculative opportunities, may no longer fall under the conventional asset category that trustees are willing to accept.

Section 3 of the VISTA enables the trust to directly hold BVI company shares, which may be retained indefinitely. It also allows for management of the company to be carried out by its directors without any power of intervention being exercised by the trustee. Amendments to the VISTA legislation in May 2013 mean that the required declaration in the Trust deed that the VISTA regime will apply can now be augmented to include provisions for the declaration to be revoked, suspended or triggered by specific events or by a direction given to the trustee by an individual or committee.

At least one of the trustees of a VISTA trust must be a BVI licensed trust corporation or a BVI Private Trust Company. Like all BVI trusts, VISTA Trusts are exempt from local registration requirements and all local taxes, as long as the beneficiaries are not resident in the BVI.

Existing BVI trusts that are not VISTA trusts can be converted into VISTA trusts assuming they satisfy the other conditions e.g. holding BVI company shares, as long as one of the trustees of the trust is a PTC or trust license holder.

It is important to note that in order to benefit from the VISTA Trust, the assets must be held via at least one underlying BVI Company. The trustees will not control and manage the underlying BVI Company and its assets. This responsibility will rest with the directors of the BVI Company, who are often members of the client family or their business management team, and who take full responsibility for the management of the assets without reference to the trustees.

The settlor may wish to place the shares of his family business in trust or other investments that a traditional trustee would view as speculative or high risk. The traditional trustee would naturally look to reduce the risk by diversifying the holdings of the trust, but with a VISTA Trust this would not be the case. Whilst it separates legal and beneficial ownership, the VISTA Trust does allow the settlor far greater influence over the investment of the trust assets without the interference of the trustees. The VISTA may hold investments deemed to be more speculative or high risk by the underlying BVI Company and still afford the family succession planning benefits traditionally associated with trusts.

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ABOUT JTC KENSINGTON

JTC Kensington is the brand name of Kensington Trust Group, a part-owned associate of JTC, offering trust, fiduciary and corporate services and fund administration.

JTC is a publicly listed, global professional services business with deep expertise in fund, corporate and private client services.

Every JTC person is an owner of the business and this fundamental part of our culture aligns us with the best interests of all of our stakeholders.

Our purpose is to maximise potential and our success is built on service excellence, long-term relationships and technology capabilities that drive efficiency and add value.

We value shared ownership

- We operate around the principle that if our people have a stake in the business, they will do a better job for our clients.

We value relationships

- We aim to work with clients who share our belief in the importance of building strong relationships over time.

We invest in our people

- Over 85% of our employees hold a relevant professional qualification or are working towards this through our dedicated JTC Academy.

We embrace technology

- We operate a variety of best-in-class systems to deliver and maintain an impeccable standard of administration and use technology to innovate in both service delivery and efficiency.

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JTC Kensington is the brand name of Kensington Trust Group, a part-owned associate of JTC Group. Kensington Trust Group entities that carry on regulated business are (respectively): regulated by the Labuan Financial Services Authority, the Companies Commission of Malaysia and the Monetary Authority of Singapore.

JTC Group entities that carry on regulated business are (respectively): regulated by the British Virgin Islands Financial Services Commission; the Cayman Islands Monetary Authority; the Guernsey Financial Services Commission; the Jersey Financial Services Commission; the Commission de Surveillance du Secteur Financier and the Ordre des Experts-Comptables (Luxembourg); the Financial Services Commission (Mauritius); De Nederlandsche Bank (Netherlands), the South African Financial Sector Conduct Authority FSCA) as an authorised financial services provider; chartered and regulated to provide trust services by the South Dakota Division of Banking in South Dakota (USA); a member of l'Association Romande des Intermédiaires Financiers (Switzerland)*; licensed by the Isle of Man Financial Services Authority and by the Abu Dhabi Global Market (ADGM); registered with the Dubai Financial Services Authority, the US Securities and Exchange Commission and the Commodity Futures Trading Commission (USA); authorised by the Department of Justice and Equality of the Republic of Ireland to operate as trust or company service provider and authorised and regulated by the Central Bank of Ireland and by the Financial Conduct Authority (UK).

* l'Association Romande des Intermédiaires Financiers (ARIF) is a self-regulatory body approved by the Swiss Financial Market Supervisory Authority (FINMA) for the supervision of financial intermediaries covered by Article 2 para.3 of the Swiss Federal Law on Combating Money Laundering and Financing of Terrorism in the Financial Sector (LBA). ARIF is also recognized by FINMA as a professional organization for the outlawing of rules of conduct relating to the exercise of the profession of independent asset manager within the meaning of the Swiss Federal Act on Collective Investment Schemes (CISA).

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