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Briefing Note

Electronic documents and e-signatures in Guernsey

This note provides a brief overview on the position and legal validity of electronic documents and e-signatures in Guernsey.

Electronic transactions law

The use of electronic documents and e-signatures in Guernsey are expressly permitted by the Electronic Transactions (Guernsey) Law, 2000 (the “**Electronic Transactions Law**”) and will not be denied legal effect, validity or enforceability by virtue of being electronically constituted. As a general rule, the majority of Guernsey law governed documents can be signed and executed electronically.

Aside from certain documents, which are subject to specific additional rules, for example powers of attorney, conveyances of real property, wills, declarations of trust, in most cases e-signatures and electronic documents are as valid as wet-ink signatures made on hard copy documents.

Guernsey companies

The Companies (Guernsey) Law, 2008 provides that a document may be executed by a company by signature of a director or secretary or as provided for in the company's memorandum and articles of incorporation and does not prohibit electronic signature. Accordingly, unless expressly prohibited in a company's memorandum and articles of incorporation or by virtue of the specific rules pertaining to the type of document, e-signatures will generally be legal, valid and enforceable.

Electronic signing platforms (such as DocuSign) and witnessing

It is common for agreements, especially in multi-jurisdictional deals, to be executed using electronic signing platforms, such as DocuSign. The use of such platforms are permitted in Guernsey.

Guernsey law governed commercial agreements and the execution of such agreements generally will not need to be witnessed. However where witnessing is required, witnessing can still be effected using electronic signing platforms, provided that the witness and the person e-signing the agreement are physically present at the same place at the time of the e-signing.

For non-Guernsey law governed agreements, it is crucial to obtain legal advice as to whether the laws of such jurisdiction permit the use of e-signatures.

Conclusion

Guernsey has adopted a flexible approach towards electronic documents and e-signatures, however whenever a document is to be executed by electronic means it is essential to verify the legal signing requirements of any particular document and to ensure that there are no issues contained in the constitution of the entity signing.

How can Babbé help you?

We at Babbé are experienced in the use of e-signing platforms and regularly advise clients on the effects of e-signatures and the

Electronic Transactions Law. Feel free to get in touch if we can be of assistance.

This note is intended to provide general information, but for specific legal advice please contact one of our specialist lawyers.

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