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*The provisions of trust of the new Civil Code of the Republic of Hungary
Unofficial translation by Hajdu & Menyhei Attorneys at Law*

THE TRUST

Section 5:483 [*Establishing assets managed for the benefit of another person*]

- (1) Natural person or legal person (hereinafter together: the settlor) may create assets managed on behalf and for the benefit of defined person (hereinafter: managed assets).
- (2) The managed assets shall be created in the following cases:
 - a) when unilateral statement (letter of instruction) for the purpose of creating assets and appoint the trustee is given by the settlor,
 - b) when the appointment according to the letter of instruction is accepted by the trustee, and
 - c) when the ownership, rights and claims are transferred by the settlor to the trustee for the purpose to manage the assets on behalf and for the benefit of the settlor or third person (hereinafter: beneficiary).
- (3) For the validity of the letter of instruction it is required to be committed to public document or private document countersigned by attorney (legal counsel)
- (4) The letter of instruction may be stipulated in public will.
- (5) Law, court or other authority order may create trust on behalf and for the benefit of defined person.

Section 5:484 [*Transfer of ownership, rights and claims for the purpose of trust*]

The statement shall serve as legal title of the transfer of the ownership, rights and claims for the purpose of trust, though not subrogate the required conditions of the transfer of the ownership, rights and claims in addition.

Section 5:485 § [*The managed assets and the personal assets of the trustee*]

- (1) The properties of the assets held in a trust, and the transferred rights and claims are isolated from the personal assets of the trustee and other assets managed by the trustee.
- (2) The spouse, common-law spouse and the creditors of the trustee shall not lay any claim against the assets held in trust. The managed assets not belong to the inheritance of the trustee.
- (3) The creditors of the assets held in trust shall not lay any claim against the personal property of the trustee.
- (4) The assets held in trust contains
 - a) all profit of the properties transferred into a trust
 - b) property replaced the purchased property during the trust and
 - c) amount of the insurance, compensation or any other value subrogated the devaluation or destroy of the property held in trust.

Section 5:486 [*Obligatory content of the trust deed*]

- (1) The trust deed shall contain:
 - a) the identity of the beneficiary including the case if the settlor is the beneficiary
 - b) the identity of the trustee

- c) trust properties.
- (2) The beneficiary shall be specified in such a manner to be appropriate to prevailing unequivocal identification of the beneficiary.
- (3) The real estate, registered property or right held in trust shall be specified as uniquely identifiable. Otherwise the assets held in trust may be specified by periphrasis appropriate to unequivocal identification.

Section 5:487 [*The necessary content of the trust deed*]

- (1) The trust deed may content as necessary
 - a) In case of excessive trust the duration of the trust, and installment of the termination right by unilateral notice of the settlor before the end of definite time of period
 - b) in case of contingent trust the conditions
 - c) type of trust, installment or restriction or exclusion of instruction rights of the settlor
 - d) remuneration of the trustee
 - e) method of the appointment of further trustees
 - f) restriction or exclusion of requisition of cooperating trustee
 - g) restriction or exclusion the transferability of rights of the beneficiary
- (2) The settlor may maintain the following rights in the trust deed
 - a) recall trustee
 - b) appoint new trustee
 - c) change the identity of the beneficiary
 - d) amend the specified provisions of the trust deed
 - e) define or amend the duration of the trust
- (3) The settlor may appoint other person in the trust deed to exercise the rights according to the subsection (2).
- (4) In case if the trustee shall perform the tasks related to the trust deed according to the instructions of the settlor, the trust shall be governed by the provisions of the mandate, provided that the appointed trustee accepted the appointment.

Section 5:488 [*Appointment of the trustee*]

- (1) Only person due to the conditions of governmental decree shall be appointed to be trustee. Simultaneously more person may be appointed.
- (2) The mandate of trustee shall begin with the expressed acceptance. The particular acceptance of the mandate of trustee is invalid.
- (3) New trustee may be appointed
 - a) by the entitled person according to the trust deed
 - b) by the beneficiary or upon the request of the trustee by the court
- (4) The trustee shall not be the exclusive beneficiary of the trust.
- (5) The trustee shall not be the settlor.

Section 5:489 [*Succession of the trustee*]

In case of appointment of new trustee the rights and obligations of the managed assets shall be transferred to the new trustee as legal successor.

Section 5:490 § [Rights and obligations of the trustee]

- (1) The trustee shall exercise the transferred rights of the ownership and other rights, and manage and enforce the claims on behalf and for the benefit of the beneficiary according to the trust deed.
- (2) The trustee shall register the properties of the managed assets separately from the personal properties of the trustee and other managed assets.
- (3) Unless otherwise the trust deed prescribes, the trustee shall avoid the conflict of interest related to the managed assets.
- (4) The trustee shall inform the settlor and the beneficiary about the managed assets upon their request.
- (5) The trustee shall be liable for the managed assets' damages caused by breaching the obligations towards the beneficiary according to the provisions of the tort liability. Not even under special and equitable circumstances shall be granted less amount of the compensation than the total amount of the caused damages.
- (6) Unless otherwise the trust deed, the trustee may claim reasonable remuneration and costs against the managed assets.
- (7) In case of more trustees simultaneously the trustees shall be entitled with joint ownership –unless otherwise the trust deed prescribes - , therefore shall be entitled to dispose jointly of the managed assets. For breaching the obligations upon the trust deed their liability shall be joint and several.

Section 5:491 § [Liability for requisition of cooperator]

- (1) Unless otherwise the trust deed prescribes, the trustee is entitled to engage co-operator to perform the tasks of trust. The trustee shall be responsible for the performance of any engaged cooperator as for his own performance.
- (2) In respect of any illegitimate engagement of a co-operator, the trustee shall be liable for all damages that would not otherwise have occurred.

Section 5:492 § [Rights of the beneficiary]

- (1) The beneficiary may take a case to court to rectify the managing of the assets due to the trust deed.
- (2) The beneficiary may request the court to appoint new trustee.
- (3) The transfer of the rights and obligations of the beneficiary may be restricted or excluded by the provisions of the trust deed. The restriction or exclusion of the trust deed is in effect towards third person.

Section 5: 493 § [Claims of third person]

- (1) The third person may enforce claim based on contracts made by the trustee under the management of the assets
 - a) against the managed assets, and

- b) against the personal assets of the trustee, in case if the trustee have failed to inform at the conclusion of contract about the proceeding as trustee.
- (2) The third person may enforce claim based on contracts made by the trustee with breaching the tasks upon the trust deed
 - a) against the personal assets of the trustee, and
 - b) against the managed assets, in case if the trustee reported at the conclusion of contract about the proceeding as trustee, except, if the third person was aware of or should be aware of the breaching the obligations by the trustee.
- (3) Pursuant to the Subsection (1) item b) the trustee is entitled to complete the personal assets from the managed assets for the value of the claim enforced by third person.
- (4) Pursuant to the Subsection (2) item b) the trustee shall complete the managed assets from the personal assets for the value of the claim enforced by third person.

Section 5:494 § [Court supervision of trust]

- (1) Upon the request of the settlor or the beneficiary the court may obligate the trustee to rectify the management of assets according to the trust deed.
- (2) Upon the request of the settlor or the beneficiary the court may amend the trust deed. The amendment of the trust deed shall not offend the interest of the beneficiary without the consent of the beneficiary.

Section 5:495 § [Termination of the trust]

- (1) The trust shall be terminated
 - a) by the end of the specific duration or discharge of conditions due to the trust deed
 - b) by adoption the resolution of trust' termination by the settlor – due to the trust deed –
 - c) by exhaustion of the managed assets, and there is no prospect of transfer new properties
- (2) In case of termination by the end of the specific duration or discharge of conditions, the trustee shall divide the managed assets pursuant to the trust deed and make a statement about the termination towards the beneficiary in writing.