Basic Principles of Partnership Law in Malaysia

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PROTECTION OF THE THIRD PARTIES AND PARTNERSHIP AGREEMENT

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INTRODUCTION

Under the partnership law, it is a trite law that partners have unlimited liability to contribute towards the firm’s debts. Creditors and third parties dealing with the firm are provided with certain rights and any attempt of partners to avoid unlimited liability by contract is unlikely to succeed.

Similar to the general basis of liability in a partnership, the third party’s rights against the firm also lie in the principle of agency. Provided that the transaction, which was entered with the third party, was committed within the ‘authority’ of the partners as agent, the firm will be liable for the transaction as the principal.¹

The third parties’ knowledge is also important in justifying their rights against the firm. If the third parties have notice of any restrictions of the partner’s authority² or does not know or believe that the partner has the authority or does not know or believe that the person is a partner, then the firm will not be liable for the transaction, which was entered by the respective partner.³

¹ Partnership Act 1961; s.7.
² Partnership Act 1961; s.38(1).
³ Partnership Act 1961; s.7.