

By-Pass Trust

Dated

The Date of Declaration.

Parties

- 1) the Settlor
- 2) the Non-Professional Trustee(s) and the Professional Trustee (such parties together referred to as 'the Trustees').

Introduction

This form and the notes in relation to its use are for guidance only and are based on current understanding of United Kingdom law and HM Revenue & Customs practice. No responsibility is taken by Astute Trustee Services Ltd, for the interpretation of the law (including tax legislation), future changes in the law or revenue practice. Tax liabilities and the ability of the Settlor in law to set up a trust are dependant on individual circumstances and no assurance can be given that the use of this form is suitable for your circumstances. We strongly recommend that you seek separate legal and taxation advice prior to signature and during the life of the Trust.

The Settlor is the beneficial owner of (that is the assured or proposer under) the Policy and wishes to declare Trusts on which the Policy is held, and to appoint him/herself to be a Trustee, and the "Non-Professional Trustee(s) and the Professional Trustee" (such parties together referred to as "the Trustees") to be additional Trustees of the policy.

Operative Clauses

1 Definitions

The terms defined in the Schedule annexed to this deed (the 'Schedule') shall, when used in this deed or in the Schedule, have the meanings set out in the Schedule.

2 Declaration of Trust

The Settlor hereby declares that:

- a) all benefits arising from the Policy, except Death Benefits, shall be held by the Trustees on Trust for the Settlor absolutely, or in the case of an annuity payable to the widow or widower, or surviving civil partner of the Settlor (as the case may be), or other Dependant, in Trust for the absolute benefit of that widow, widower or other Dependant, and
- b) Death Benefits shall be held by the Trustees as the Trust Fund and on the Trusts outlined.

3 Power of Appointment

The Trustees shall hold the capital and income of the trust Fund upon trust for the benefit of such of the Discretionary Beneficiaries, at such ages or times in such shares upon such trusts (including discretionary or protective trusts) as the Trustees shall in their discretion appoint, **PROVIDED ALWAYS** that the said power shall not be exercised so as to invalidate any prior payment or application of the capital or income of the Trust Fund.

4 Default Trusts

Subject to and in default of any appointment under clause 3, the Trustees shall hold the capital and income of the Trust Fund upon the following trusts:

- a) Upon trust to pay or apply the whole or such part as the Trustees think fit of the capital for, or towards the advancement, maintenance, education or benefit of any Discretionary Beneficiary on such terms as the Trustees think fit
- b) The Trustees may (but only during the period of 21 years from the date of death of the Settlor unless section 13 of the Perpetuities and Accumulations Act 2009 applies to the Trust Fund), accumulate the income of the Trust Fund which has not been applied for the benefit of any of the Discretionary Beneficiaries by investing it in investments authorised by this deed or by law and shall treat such accumulations as an accretion and augmentation to the Trust Fund, and
- c) Subject to (b) above, the Trustees shall pay or apply the income of the Trust Fund to or for the benefit of such of the Discretionary Beneficiaries in such shares and in such manner as the Trustees shall think fit.

5 Exercise of Trustee Powers

The Trustees shall consider exercising their powers under clauses 3 and 4 above with a view to distributing the Trust Fund if the Trustees in their absolute discretion decide that it is appropriate and before the end of each successive ten year period from the date when the Settlor took out the Policy falling after the Review Date.

6 Additional Trustee Powers

The Trustees may:

a) appropriate all or any part of the Trust Fund as the Trustees think fit in or towards the satisfaction of any interest of a Discretionary Beneficiary and for such purpose place such value on any property as they see fit, and

b) lend with or without security to any Discretionary Beneficiary the whole or any part of the Trust Fund upon such conditions as to interest (if any) and repayment and generally upon such terms as the Trustees in their absolute discretion think fit.

PROVIDED ALWAYS that these powers may only be exercised in conformity with the beneficial trusts.

PROVIDED that where an option, power or privilege in relation to the Trust Fund is (or was immediately prior to this Trust being effected) vested in the Settlor as proposer or policyholder or in any Dependant as such (or in regard to any future option, power or privilege granted would be so vested in the absence of this Trust) such option, power or privilege shall be, or continue to be exercisable, or not, by such person and without the consent of, or reference to, the Trustees.

7 Administrative provisions

a) The Trustees may make any kind of investment that they could make if they were absolutely entitled to the Trust Fund **PROVIDED ALWAYS** that the Settlor during his life shall retain the power to make investment decisions under any self-investment provisions of the Policy

b) The Trustees may acquire land or chattels for occupation or use by a Discretionary Beneficiary

c) The Trustees may delegate to any person, all or any of their functions on such terms as to remuneration and other matters as they think fit

d) The Trustees may appoint (on such terms and conditions including remuneration as they see fit) a person to act as their nominee in relation to such of the assets of the Trust as they may determine

e) Where income or capital of the Trust Fund is to be paid, or transferred to a minor, the receipt of that minor's parent or guardian shall be a sufficient discharge for the Trustees

f) If in the administration of the Trust Fund any transaction is in the opinion of the Trustees expedient but the same cannot be effected by reason of the absence of any sufficient power for that purpose conferred by deed or by law (or by any earlier exercise of the present power), then the Trustees may by deed confer upon themselves either generally or for the purpose of any particular transaction or transactions the necessary power, and from the execution of such a deed the Trustees shall have such power as if it had been conferred by this deed.

8 Appointment of Trustees

a) The Settlor hereby appoints him/herself as Trustee, and the Non-Professional Trustee(s) and the Professional Trustee as additional Trustees to act with the Settlor in the trusts of this deed

b) There shall at all times be at least two Trustees, unless a trust corporation is a Trustee

c) The power of appointing a new Trustee or Trustees shall vest with the Settlor while alive and thereafter with the continuing Trustees

d) The Settlor (or any widow or widower or surviving civil partner of the Settlor if the Settlor is dead) may remove one or more of the Trustees in the manner specified in (e) below provided that at all times there remain at least two Trustees or a trust corporation

e) A Trustee shall be removed when the Settlor (or the widow or widower or surviving civil partner of the Settlor as the case may be) sends notice of the removal in writing to the Trustee at his/her last known address. The sending of the notice by recorded delivery post will be deemed due service of the removal notice. The removed Trustee shall co-operate (without expense to him or her) in executing any documents or consents required in order to terminate effectively his/her Trusteeship and to vest the Trust Fund in the continuing Trustees

f) Any person may act as a Trustee even though personally interested in the Trust or any transactions entered into or decisions taken in relation to it

g) A Professional Trustee may charge for work done by him or his firm in the execution of the trusts of this deed

h) The Trustees may act by majority provided that at least one of the Trustees in the majority is not interested in the decision save as Trustee.

9 Liability of Trustees

No Trustee shall be liable for the consequences of any act or omission unless it is proved to have been made, given, done or omitted in the personal conscious bad faith of the person sought to be made liable or, in the case of the Professional Trustee, negligently.

10 Ultimate Default Trust

From and after the end of the Trust Period the Trustees shall hold the capital and income of the Trust Fund for the Ultimate Default Beneficiary absolutely.

11 Governing Laws

The Trust shall be governed by the Law of England and Wales unless the address of the Settlor as appears in the Schedule is in Scotland in which case the Trust shall be governed by the Law of Scotland.

'Trust' means the trust established by this deed.

'Trustees' means the Settlor, the Professional Trustee, and the Non-Professional Trustee(s) together, and such expression shall include their successors as Trustees.

'Trust Fund' means the death benefits payable under the Policy, and such expression shall include income and investment growth on the initial sum. If there is more than one Policy, there shall be one Trust Fund in respect of each Policy. Any other property passed to the Trustees shall also constitute a separate Trust Fund.

'Trust Period' means in respect of each Trust Fund the period ending:

- (a) 21 years from the date of the death of the Settlor, or
- (b) 21 years from the date of death of the last survivor of all the lineal descendants of His Late Majesty King George the Fifth who shall be living at the Date of Declaration, whichever date is the later and this shall be the perpetuity period applicable to the Trust,

Unless section 5(1) of the Perpetuities and Accumulations Act 2009 applies, in which case it means the period therein specified.

'Ultimate Default Beneficiary' means (insert name and address of living person)

Name

Address

Insert the name of the person whom you wish to benefit in the event that trust capital remains undistributed at the end of the trust period.

2 IN WITNESS whereof this document is executed and signed as a deed on the Date of Declaration To complete

Signed and delivered as a deed by the Settlor

Full Name

Signature

In the Presence of

Name of Witness

Signature of Witness

Address of Witness

Signed and delivered as a deed by the Professional Trustee

Full Name

Signature

In the Presence of

Name of Witness

Signature of Witness

Address of Witness

