

The VitalityLife Discretionary Trust

This can be used with a VitalityLife Plan, VitalityLife Essentials Plan or a Mortgage Plus Plan ("the Plan")
This should not be used for plans with LifestyleCare Cover

At VitalityLife we try to avoid complex language and unnecessary jargon wherever possible. However, because this is a legal document and trust laws are complex the words in this form are more technical than other VitalityLife documents. We've included margin notes to help with completion but if you have any questions let us know and we'll answer them as simply as possible.

IMPORTANT NOTES

- This Discretionary Trust is for use with your Plan. It allows you to keep for yourself the benefits under the Plan that are payable during your lifetime (such as Serious Illness Cover, Serious Illness Cover for Mortgages or Income Protection Cover) and to give away other benefits, such as Life Cover or Mortgage Life Cover, that are paid on death.
- You must indicate in the Trust whether you want to keep the sum paid on diagnosis of a terminal illness for yourself or give it away. Once made, this choice cannot be changed. As this choice may have important tax consequences, you should discuss your requirements with your adviser. Where the Plan is a joint life first death plan it is assumed that both of you would wish to be paid the benefit on diagnosis of a terminal illness and so in this circumstance, this benefit cannot be gifted to others.
- Where the Plan is a joint life second death Plan, death benefits (including Terminal Illness benefits) are only paid on the second death or the second event. This means that if one life assured has already died or suffered a terminal illness, benefits will be paid when the second life assured dies or suffers terminal illness. In cases where the second event is terminal illness it is probably the case that both of you would not want the survivor to receive terminal illness benefits. This benefit can therefore be gifted by completing the appropriate box in the trust. Benefits based on a life assured's health e.g. Serious Illness Cover or Serious Illness Cover for Mortgages benefit, will be paid on the first event to happen in the normal way.
- **With a VitalityLife Plan or a VitalityLife Essentials Plan**, to ensure that there are no adverse inheritance tax implications, if the Plan provides Serious Illness Cover, you need to ensure that the Plan includes, from outset, either Protected Life Cover or Minimum Protected Account at a level of 100%. Failure to do so does not affect the validity of the trust but may have adverse IHT consequences. You should discuss your requirements with your adviser.
- **With a Mortgage Plus Plan**, Protected Life Cover and Minimum Protected Account are not available. If you have selected Serious Illness Cover for Mortgages this does not affect the validity of the trust but may have adverse IHT consequences. You should discuss your requirements with your adviser.
- This Trust may be used either when you are applying for a new Plan or with an existing Plan.
- This Trust may be used whether the Plan is owned/applied for by one person or two people jointly (with death benefits payable on either the first death or second death).
- This Trust can be used with Plans that are on a whole of life basis or those that expire after a fixed term, where available.
- With a joint life plan that pays death benefits on the first death, you can choose for the survivor to benefit after the first death provided they survive the death by 30 days. If they do not, the benefit will be held by the Trustees for the other beneficiaries. This option is not available on joint life second death Plans because benefits are not payable until the second event.

Disclaimer

VitalityLife cannot accept responsibility that this Trust is suitable for your individual requirements. If you or your adviser are unsure about its suitability, we strongly advise that you seek specialist legal or tax advice.

The notes in this Trust form are based on VitalityLife's understanding of the law and HM Revenue & Customs practice as at November 2014. We have made every effort to ensure they are accurate but accept no responsibility for our interpretation of the law, or future changes in the law.

- For a full explanation of the features and the legal and tax implications of this Trust please refer to the VitalityLife Discretionary Trust – Client Guide. The VitalityLife Discretionary Trust – Adviser Guide, gives more in-depth coverage of the technical issues.
- This Trust is provided in draft form. We recommend that you seek legal or tax advice before using the Trust as, once created, it cannot be revoked or altered.
- If after seeking legal advice, the draft trust is to be used unaltered, you should

follow the completion instructions in the margin of the document.

- We strongly recommend that you appoint additional trustees to act with you from the outset. A separate deed of appointment is available from VitalityLife for this purpose. If you are domiciled in Scotland it is absolutely essential that at least one additional trustee is appointed when the Trust is established.
- You should not use this Trust in a business protection arrangement.

KEY TRUST PROVISIONS

1. The Retained Fund is comprised of the benefits under the Plan that you want to keep for yourself. They will be held on a bare trust for you.
2. The Gifted Fund is comprised of the benefits of the Plan that you give away and that will be held by the Trustees on discretionary trust for the Beneficiaries.

The Appointor chooses which of the Beneficiaries referred to in the Trust should receive any payments from the Gifted Fund. The Appointor is you, during your lifetime, and then the Trustees.

Please sign this page as confirmation that you have read and understood these notes.

Signed

NEXT STEPS?

If you decide to make your Plan subject to the VitalityLife Discretionary Trust, it is important that you follow the process below to make sure all documents are correctly completed and submitted:

You/your adviser completes the Discretionary Trust form. This Trust form must be dated on or after the date of the Plan application.

Consider appointing at outset at least one additional trustee to act with you and providing the Trustees with a Letter of Wishes to guide them. See VitalityLife 'Deed of Appointment of Additional Trustees' and 'Letter of Wishes'.

Post the original Trust form (along with the Plan application if placing in Trust from outset) and the 'Deed of Appointment of Additional Trustees' (if appointed at outset) to VitalityLife, Sheffield, S95 1BW.

We will return to you the original Trust form(s) by special delivery once processed.

We will confirm to you by letter when our Trust records have been successfully updated.

You should then:

1. Provide all additional Trustees with copies of the Trust form(s).
2. Provide the first additional Trustee with the original Letter of Wishes (if produced) and copies to any other Trustees.
3. Make the Trustees aware of the place of safe-keeping for the original Trust form for ease at point of claim.

Insert here the date this Trust is signed and your name and address. Where there are two applicants for the Plan or two Planholders (in the case of existing Plans) both names and addresses need to be inserted.

PART A REQUEST AND DECLARATION

This Declaration of Trust is made the ____ day of _____ in the year _____

by

Name _____

of

Address _____

AND

by

Name _____

of

Address _____

(called "the Settlor". Where two persons are named above, they will both be the Settlor)

As follows:

(I) Where a new Plan is applied in for

The Settlor refers to the application for the Plan described in Part B below and now requests and directs that the Plan be issued in such manner as to constitute the Settlor as the Trustee (as defined below) to hold the Plan on the trusts and subject to the powers and provisions of this Trust.

The Settlor as the legal and beneficial

or (II) Where a Plan is already in existence

owner of the Plan described in Part B below now declares that from the date of this Declaration the Settlor holds the Plan as the Trustee (as defined below) on trusts and subject to the powers and provisions of this Trust.

This Trust can be used with a new or existing Plan.

Insert the name(s) under the Plan.

PART B PLAN SUBJECT TO TRUST

(1) Plan Number _____

(2) Life (Lives) Assured _____

If the Plan is a joint life first death Plan and if you wish the surviving Settlor to benefit from death benefits if they survive for 30 days from the first death, both of you must initial this Box. This option is not available for single life Plans or joint life second death Plans.

(3) For joint life first death Plans

Reversion to surviving Settlor _____

You must initial not initial both fields.

(4) Entitlement to benefits on diagnosis of Terminal Illness

If you wish to keep the payment made on diagnosis of Terminal Illness for yourself, you (both of you) must initial field (a). You both must choose this option if you have a joint life Plan that pays death benefits on the first death and you have elected for the "Reversion to surviving Settlor" option in paragraph (3) above.

(a) Retained Fund _____

If you wish to give the payment made on diagnosis of Terminal Illness to your Beneficiaries, you (both of you) must initial field (b). Do not initial this field if you have initialled field (3) above.

(b) Gifted Fund _____

In cases of joint life second death Plans it is likely that you would wish to gift terminal illness benefits payable where terminal illness is the second event to occur. If this is the case please initial paragraph (b)

PART C DEFINITIONS

In this Trust, in addition to the terms defined above, the following expressions shall have the following meanings and, unless the context does not permit the singular shall include the plural and the masculine shall include the feminine and vice versa.

(1) "**Appointor**" means the Settlor during his or her lifetime (and where two persons are the Settlor both of them during their joint lifetime and then the survivor) and the Trustees following the Settlor's (or the second Settlor's) death.

(2) "**Beneficiaries**" means:

(a) any Spouse, Widow or Widower of the Settlor (provided they are not also the Settlor).

(b) the Children and Remoter Issue of the Settlor whenever born.

(c) any Spouse, former Spouse, Widow or Widower of any such Child or Remoter Issue.

(d) any brother or sister of the Settlor and their issue.

(e) any person other than the Settlor (either Settlor for joint Plans) who shall upon the death of the Settlor (either Settlor for joint Plans) become beneficially entitled to the whole or any part of the estate of the deceased Settlor) whether by virtue of any will or codicil or under the rules of intestacy or by virtue of survivorship or otherwise.

You should include in (g) the name of anybody else you would wish to be a Beneficiary under the Trust. This should not be you.

Insert here the name(s) of the person(s) you wish to benefit at the end of the 125 year Trust Period if no appointment has been made by the Trustees. This is optional. If more than one person is named state the percentage shares in which they are to benefit. The shares must add up to 100%.

(f) any person (other than the Settlor(s) that have been nominated to the Trustees in writing by the Settlor(s) as a Beneficiary. For joint Plans, this nomination must be made by both Settlers jointly during their joint lives and afterwards by the survivor.

(3) **"Child", "Children" and "Issue"** includes any illegitimate step adopted or legitimated (whether adopted or legitimated before or after the date hereof) child, children or issue.

Name(s) of Default Beneficiaries

and if none are named in the boxes above then the child or children of the Settlor(s) alive at the end of the Trust Period and if more than one in equal shares and if none alive the estate of the last one to die. Provided that if the Settlor (either of them) has no children and no Default Beneficiary is named above then the Default Beneficiary will be the individual or charity who is entitled to the largest part (or the whole) of the estate of the Settlor (or the surviving Settlor) under the Settlor's will or, if there is no valid will, under intestacy, and if there are more than one individuals or charities entitled equally then for such individuals or charities as appropriate.

(5) **"Gifted Fund"** means the Trust Fund to the exclusion of the Retained Fund.

(6) **"Life Assured"** means the person(s) identified as such in Part B(2) above.

(7) **"Plan"** means the VitalityLife contract of life assurance the number of which or the date of application for which (as appropriate) is specified in Part B(1) above.

(8) **"Retained Fund"** means any rights to any of the following benefits that are provided under the Plan, namely:

- Serious Illness Cover (including any benefits which become payable at the same time as the Serious Illness Cover),
- Serious Illness Cover for Children,
- Mortgage Incapacity Cover,
- Serious Illness Cover for Mortgages,
- Disability Cover,
- Income Protection Cover,
- Family Income Cover (where the benefits become payable on the diagnosis of a serious illness; otherwise the benefits will form part of the Gifted Fund),

(g) _____

(h) the Default Beneficiaries (as defined in paragraph (4) below)

(4) **"Default Beneficiaries"** means the one or more persons named in the boxes below

Share (if more than one)

 %

 %

 %

- all benefits arising under the healthy living part of the Plan,
- if paragraph (a) in Part B(4) above has been initialled any payments made on diagnosis of Terminal Illness as defined in the definitions section of the Plan Provisions,
- all other benefits which are payable under the Plan during the lifetime of the Life Assured or either of them by reason of the Life Assured suffering an illness or condition as specified in the Plan,
- any property from time to time representing the same and for the avoidance of doubt if neither paragraph (a) nor (b) in part B (4) has been initialled, the Terminal Illness Benefit will not be a part of the Retained Fund except where the Settlers have indicated by initialling the box in Part B (3) that the Reversion to the Surviving Settlor provision shall apply in which case the Terminal Illness Benefit will be a part of the Retained Fund.

(9) **"Spouse" and "Widow/Widower"** includes any civil partner or surviving civil partner registered under the Civil Partnership Act 2004.

(10) **"Trust Fund"** means the Plan, the full benefit thereof, any assets at any time added to this Trust by way of further settlement, capital accretion, accumulation of income or otherwise and all assets from time to time representing the same.

(11) **"Trust Period"** means the period of 125 years from the date of this Trust deed.

(12) **"Trustees"** means the trustee or trustees for the time being of this Trust.

PART D PRINCIPAL TRUST TERMS – THE RETAINED FUND

The Trustees shall hold the Retained Fund and its income upon trust for the absolute and indefeasible benefit of the Settlor or, if the Settlor is two persons, for the benefit of that Settlor in respect of whose illness

or disability the relevant benefit under the Plan is payable, provided that any benefit in respect of Serious Illness Cover for Children (as defined in the Plan) shall be held for both Settlers jointly.

PART E PRINCIPAL TRUST TERMS – THE GIFTED FUND

1. During the Trust Period the Appointor shall have power by deed(s) revocable (whether by the person(s) making the deed or some other person(s)) or irrevocable to appoint the whole or any part(s) of the Gifted Fund and its income for any one or more of the Beneficiaries in such one or more shares and for such interests and subject to such trusts powers and provisions (including protective trusts, discretionary trusts or powers operative or exercisable at the discretion of the Appointor or any other persons) as the Appointor shall in their absolute discretion think fit.

Provided always that no such appointment shall infringe the rule against perpetuities (where this is relevant) or affect the entitlement of any person to any payment made or asset transferred to him.

Provided also that where the Trustees are the Appointer, no appointment shall be made in favour of a Beneficiary who is one of the Trustees unless there is at least one other Trustee who does not benefit directly or indirectly from the appointment.

2. Subject to paragraph 1 of this Part E:
 - (a) The Trustees may accumulate the whole or part of the income of the Gifted Fund during the Trust Period by adding such income to the Gifted Fund.
 - (b) The Trustees shall pay or apply the remainder of the income of the Gifted Fund to or for the benefit of such of the Beneficiaries as the Trustees think fit during the Trust Period.
3. To the extent that any part of the Gifted Fund and its income shall not have been appointed or otherwise disposed of by the Trustees during the Trust

Period, the Gifted Fund shall be held for the absolute benefit of the Default Beneficiaries, and if more than one in the shares specified and if no shares are specified in equal shares.

4. During the Trust Period
 - a) the Trustees shall have power to pay transfer or apply the whole or any part(s) of the capital of the Gifted Fund for or towards the advancement or maintenance, education or benefit of any Beneficiary entitled to such whole or part.
 - (b) the Trustees shall have power to lend with or without security to any Beneficiary the whole or any part of the Gifted Fund upon such conditions as to interest (if any), repayment and generally upon such terms as the Trustees in their absolute discretion think fit Provided Always that any such loan must be repayable before the end of the Trust Period.
5. Notwithstanding the provisions of Paragraphs 1, 2, 3 and 4 of this Part E, where two persons are the Settlor and the box in Part B(3) is initialled by both of them then if the Life Cover becomes payable under the Plan the Gifted Fund shall be held for the absolute benefit of the surviving (or the other) Settlor if he or she survives the first to die for a period of 30 days.
6. None of the Trusts powers or provisions shall operate or be exercised to allow any part of the Gifted Fund or its income to be paid, transferred or applied, to or for the benefit of the Settlor(s) except where both Settlers have initialled the box in Part B(3) in which case the Settlers' rights under this Trust are limited to those specified in paragraph 5 of this Part E above.

PART F ADMINISTRATIVE POWERS OF THE TRUSTEES

In addition to any powers conferred upon them by law the Trustees shall have the following powers:

1. All the powers of an absolute owner of the Plan (or any life assurance policy forming part of the Trust Fund) including the power to exercise any option or to sell or realise the Plan or any such policy or to convert the same to any other form of assurance Provided that if the Settlor(s) is alive then the right to exercise any options under the Plan which can reduce or increase the level of benefits payable under the Plan will vest in the Settlor or either or both of them as appropriate. For the avoidance of doubt it is confirmed that any additional cover arising as a result of the Settlor exercising their rights under the Plan will form part of the Trust Fund.
2. Power to borrow money on the security of the Plan (or any life assurance policy) in order to pay any overdue or future premium or any other sum necessary for maintaining the Plan or policy in force.
3. Power to mortgage, surrender or otherwise deal with the said Plan
4. Power to invest or apply the Trust Fund for acquisition of either income or non-income producing assets including other life assurance policies or such stocks, funds, shares, securities or other investments or property, of whatever nature and wherever situated, and whether involving liabilities or not, with or without security as the Trustees in their absolute discretion shall think fit with the intention that the Trustees shall have the same powers as absolute owners who are beneficially entitled.
5. Power to pay or transfer any capital or income to be paid, transferred to, or applied for the benefit of a Beneficiary who is under a legal disability, to any parent or guardian of that Beneficiary or to such other person on behalf of such Beneficiary, as the Trustees shall think fit and the receipt of that person shall be a complete discharge to the Trustees who shall be under no obligation to see to the proper application of the funds.

PART G APPOINTMENT AND DISMISSAL OF TRUSTEES

1. The power to appoint new or additional trustees by deed will vest in the Appointor and where necessary the Trustees will grant any necessary documentation to complete such appointment.
 2. The Settlor during his or her lifetime will have power by deed to dismiss any
- Trustee (and where two persons are the Settlor this power shall be exercised by them jointly during their life and thereafter by the survivor) provided at least two Trustees remain after such dismissal at least one of whom is not the Settlor.

PART H REMUNERATION AND LIABILITY OF TRUSTEES

1. Any Trustee (other than the Settlor or a Spouse of the Settlor) who is a solicitor or other person engaged in any profession or business shall be entitled to charge and to be paid all usual professional or other charges for business done by him or her or his firm in connection with the Trust whether in the ordinary course of his or her profession or business or not.
2. No Trustee who is an individual shall be liable for any loss to the Trust Fund or the income arising from it by reason either of (a) any investment made in good faith by him or her or any other Trustee; or (b) any mistake or omission made in good faith by him or her or any other Trustee except in the case of negligence by a paid Trustee; or (c) the negligence or fraud of any delegate or agent employed in good faith by him or her any other Trustee although the delegation to or employment of such agent was not strictly necessary or expedient; or (d) any other matter except individual fraud on the part of the Trustee whom it is sought to make liable or, in the case of a paid Trustee, negligence.

PART I THE LAW OF THE TRUST

This trust shall be irrevocable and shall be governed by and construed in accordance with the law of England.

PART J SIGNATURES

IN WITNESS whereof the Settlor executed this deed the day and year stated above.

SIGNED AS A DEED AND DELIVERED by the said Settlor:

The Settlor (or in cases of joint Settlers, the first Settlor) must sign here. His/her signature must be witnessed.

Name of Settlor

In the presence of:

Signature of Settlor

A witness must be over 18 and an independent person.

Name and address of Witness

Signature of Witness

The second Settlor (where a joint Plan) must sign here. His/her signature must be witnessed.

Name of second Settlor

In the presence of:

Signature of second Settlor

Name and address of Witness

Signature of Witness

NOTES

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