

# The VitalityLife Business Trust

For use with a VitalityLife Business Protection Plan

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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 Business Trust wording is suitable for use with either VitalityLife's Business Protection Plan, which may include Disability Cover for Business, or a personal protection Plan with Life Cover only. It is not suitable for use where there is Serious Illness Cover on the Plan.
- The wording may be suitable where business owners intend that on the death or serious illness of one of them the benefits provided under the Plan will pass to the surviving or continuing business owners, for example to facilitate the purchase of the shares in or share of the business belonging to the deceased or ill owner. It is envisaged that each owner will effect a Plan using similar Trust wording.
- This wording may be used only when applying for a new Plan (it cannot be used with an existing Plan) and only if the Plan is applied for by one person.
- For a full explanation of the features and the legal and tax implications of this Trust please refer to the Client Guide to Business Protection.
- 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 wording is to be used unaltered, you should follow the instruction boxes contained within this document.
- Additional Trustees (normally your co-business owners) should be appointed using a separate draft Deed of Appointment which is available from VitalityLife for this purpose. If the Trust is to be governed by Scots law it is absolutely essential that additional Trustees are appointed at outset.

### Disclaimer

VitalityLife cannot accept responsibility that this Trust is suitable for your individual or business 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 December 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.

## NEXT STEPS?

If you decide to make your VitalityLife Business Protection Plan subject to the VitalityLife Business 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 Business Trust form. This Trust form must be dated on or before the date of the Plan application.

Consider appointing at least one additional Trustee to act with you (unless in Scotland where it is essential at outset). See VitalityLife 'Deed of Appointment of Additional Trustees'.

Post the original Trust form 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. Make the Trustees aware of the place of safe-keeping for the original Trust form(s) for ease at point of claim.

Insert here the date this Trust is signed and your full name and address.

## PART A REQUEST AND DECLARATION

This Declaration of Trust is made the \_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_

by

Name \_\_\_\_\_

of

Address \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

(hereinafter called "the Settlor").

### As follows:

The Settlor refers to the application to 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.

## PART B POLICY SUBJECT TO TRUST

Insert here the policy details.

(1) Plan number(s) 9

(2) Life Assured \_\_\_\_\_

## PART C DEFINITIONS

In this Trust, in addition to the terms defined below 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) **"Business"** means

\_\_\_\_\_  
and any successor partnership, limited liability partnership or limited company carrying on the said Business.

(2) **"Default Beneficiaries"** means the one or more individuals named in the area below and if no such individuals are named the partners for the time being in the Business, or members for the time being of the Business or individuals for the time being beneficially owning shares in the Business (as appropriate) but excluding the Settlor or anybody who has acquired shares in the Business as a result of the death of the Settlor.

Name(s) of Default Beneficiaries	Shares (if more than one)
_____	_____ %
_____	_____ %
_____	_____ %

- "Potential Beneficiaries"** means the Settlor and all the other partners in or members of the Business or individuals for the time being beneficially owning shares in the Business as appropriate.
- "Respective Share"** in respect of each Default Beneficiary means that specified in paragraph two and if no such share is specified the percentage share as equates to that person's proportionate entitlement to the partnership capital, interest in the limited liability partnership or percentage of the ordinary shares of the company to which that person is

beneficially entitled, as appropriate, but, in determining such percentage share, the entitlement, interest or percentage of ordinary shares (as appropriate) to which the Settlor is or would be beneficially entitled immediately before his death shall be excluded from consideration.

6. **"Trust Fund"** means the Policy the full benefit thereof any assets at any time added thereto by way of further settlement, capital accretion, accumulation of income or otherwise

and all assets from time to time representing the same.

7. **"Trust Period"** means the period of 125 years from the date of this Declaration where this Trust is subject to the law of England and Wales or the law of Scotland and the period of 80 years from the date of this Declaration where this Trust is subject to the law of Northern Ireland.
8. **"Trustees"** means the Trustee or Trustees for the time being hereof.

## PART D PRINCIPAL TRUST TERMS

1. During the Trust Period the Trustees shall have power by deed or deeds revocable (whether by the person making the deed or some other person) during the Trust Period or irrevocable to appoint the whole or any part or parts of the Trust Fund and the income thereof for any one or more of the Potential 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 Trustees or any other persons) as the Trustees shall in their absolute discretion think fit.

Provided always that any appointment in favour of the Settlor shall only be made by at least two Trustees of whom the Settlor is not one and provided further that if the terms of any revocable appointment have not been revoked at the end of the said Trust Period such appointment shall become irrevocable at that time.

2. Subject to and in default of any appointment made under paragraph one of Part D above and subject to paragraphs three and four of Part D below, the Trustees shall hold the Trust Fund and the income thereof absolutely for the Default Beneficiaries in their Respective Shares.
3. Should the Business be dissolved otherwise than as a result of the death of the Settlor or if the Settlor should resign or retire from the Business or where the Business is a limited company the Settlor

ceases to hold beneficially any ordinary shares in the Business in both cases otherwise than by reason of the Settlor's death, illness or disability which results in the payment of benefits under the Policy, then the Trust Fund and the income thereof shall be held absolutely for the benefit of the Settlor.

4. Notwithstanding the foregoing no person (other than the Settlor) shall be capable of benefiting under this Trust unless he has settled a contract of life assurance on his life on Trusts similar to those contained herein for the Potential Beneficiaries and remains a Potential Beneficiary.
5. The Trusts hereof shall carry the intermediate income and where this Trust is subject to the law of England and Wales section 31 of the Trustee Act 1925 shall not apply.
6. During the Trust Period:
- (a) the Trustees shall have power to pay transfer or apply the whole or any part or parts of the capital of the Trust Fund to any Potential Beneficiary entitled to such whole or part;
  - (b) the Trustees shall have power to lend with or without security to any Potential 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 that any such loan shall be repayable before the end of the Trust Period.

## PART E. 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 in respect of the Policy (or any life assurance policy forming part of the Trust Fund) including the power to exercise any option or to sell or realise any such policy or to convert the same to any other form of assurance.
2. Power to borrow money on the security of the Policy (or any life assurance policy as aforesaid) in order to pay any overdue or future premium or any other sum necessary for maintaining the policy in force.
3. Power to mortgage, surrender or otherwise deal with the said Policy (or any life assurance policy as aforesaid) in such manner as the Trustees shall in their absolute discretion consider appropriate.
4. Power to invest or apply the Trust Fund in the purchase or 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 Potential Beneficiary who is under a legal disability to such other person on behalf of such Potential Beneficiary as the Trustees shall think fit and the receipt of such person shall be a complete discharge to the Trustees who shall be under no obligation to see to the proper application thereof.

## PART F. 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. If a Trustee other than the Settlor becomes incapable of benefiting under this Trust because he or she has resigned or retired from the Business or where the Business is a limited company he or she has ceased to hold beneficially any ordinary shares in the Business the remaining Trustees will have power by deed to dismiss such a Trustee provided at least two Trustees remain after such dismissal, at least one of whom is not the Settlor.

## PART G. 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 or her firm in connection with the Trust whether in the ordinary course of his profession or business or not.
  - (a) any investment made in good faith by him 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 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.
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

## PART H THE LAW OF THE TRUST

If you normally live in Scotland or Northern Ireland you should initial whichever of these boxes is appropriate. If you normally live in England or Wales you should leave both boxes blank.

This Trust shall be irrevocable and shall be governed by and construed in accordance with the law of England and Wales unless the Settlor has initialled one of the boxes below in which case the proper law of this Trust will be as indicated by the initials.

Initials

Proper Law

**Scotland**

**Northern Ireland**

## PART I SIGNATURES

(i) **In England, Wales and Northern Ireland**

(ii) **In Scotland**

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

IN WITNESS whereof these presents are subscribed as follows:

SIGNED AS A DEED AND DELIVERED by the said Settlor:

At the location stated below on the day and year stated above by the Settlor:

The Settlor should sign here and the signature should be witnessed by an independent individual.

Name of Settlor

Signature of Settlor

If the Settlor is domiciled in Scotland the location must also be stated.

Location (only relevant in Scotland)

In the presence of:

Name and address of Witness

Signature of Witness



## FIND OUT MORE

To find out more about our Business Protection Plan or any other products, please speak to your financial adviser or visit [vitality.co.uk/life](http://vitality.co.uk/life)

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