



# Flexible Business Trust

This Trust document is designed for use where a Shareholder or Partner in a business intends to effect an AIG Business Protection Plan on their own life in trust to provide funds on their death or a diagnosed critical illness, terminal illness or total and permanent disability for the other Shareholders/ Partners on the basis that the other Shareholders/Partners will likewise effect Covers in corresponding trusts.

Before completing this form, we recommend you read all the notes included and speak to your legal adviser. They will be able to help you decide whether this type of trust is right for you and your business. AIG Life Limited has provided this form for your convenience but does not give advice on trust matters including correct completion of the trust document.

## Once the Cover is placed in Trust:

- you will be the first Trustee. All benefits payable under the Covers included in this form will be held by the Trust
- you will no longer be a beneficiary for the Covers included in this form
- the trustees can only be changed in accordance with the terms of the trust
- the trustees can retain assets until they think it is the appropriate time for them to be distributed
- it is not possible for you, the Settlor or the Trustees to change the Beneficiaries, unless you or they cease to be a Shareholder/ Partner within the business.

## What is a business trust?

This Trust is a discretionary trust designed to hold AIG Business Protection Covers and/or funds from a claim on the death or diagnosis of a critical illness, terminal illness or total permanent disability of the Settlor for the benefit of other Shareholders/Partners of a business.

## Revert to Settlor provision

It is important to note that the Cover will revert automatically to you if you cease to be a Shareholder/Partner prior to a claim arising under the Cover. If this happens, this Trust will effectively come to an end. A simple assignment should then be made by the Trustees in favour of you. You can then arrange for the Cover to be subject to a new trust e.g. you decide to place the Cover in trust for the benefit of your children to assist with inheritance tax planning.

## Important warning

Schedule 15 of the Finance Act 2004 introduced pre-owned asset tax (POAT) from 6th April 2005. Under this legislation, this Shareholder/ Partnership Trust could be subject to an annual charge to income tax based on (currently) 6.25% of the Cover value.

This document is provided as a specimen for consideration by Shareholders/Partners and their legal advisers. It is designed for use where all the Shareholders/Partners in the Business are parties. Whilst every care has been taken in the preparation of this document, no responsibility can be accepted for the legal and/or taxation consequences of its use. The parties must consider their own personal circumstances in this respect and should take the advice of their own legal adviser as to its suitability and check the articles of association or partnership agreement before using this document.

## Trusts and taxation

HMRC has confirmed that where Covers are effected by the parties who are Co-Shareholders or Partners in trust as part of reciprocal arrangements which can be regarded as commercial; they will not be treated as gifts subject to a reservation of benefit for inheritance tax (IHT) purposes. Similarly, premiums/payments paid to a Cover written under the Business Trust are, provided the arrangements are regarded as commercial, not regarded as gifts for IHT purposes.

Trust Law may be subject to change in the future. AIG Life Limited cannot be held responsible for any information given or any changes in tax provisions or legislation that may affect the Covers within the trusts or the tax treatment of either the Covers or the Trust Provisions or the rules applying to gifts for inheritance tax planning purposes.

## Commerciality of the trust arrangements

To ensure the arrangements are commercial, it is important that the only Beneficiaries under each Trust should be the other Shareholders/Partners participating in the share purchase arrangements.

HM Revenue & Customs has confirmed that the inclusion of the Settlor as a Beneficiary (the Cover automatically reverts to the Settlor should the Settlor cease to be a Shareholder/Partner prior to a claim arising under the Cover) would not constitute a gift with reservation of benefit for IHT purposes, provided the arrangements are treated as commercial.

## Section A: Definitions

The words in this form which begin with a capital letter have particular meanings which are set out in the table below.

<b>Word</b>	<b>Definition</b>
<b>Additional Trustee</b>	The person appointed by the Settlor to be a trustee of the Trust as listed in Section C
<b>Beneficiary</b>	A person who may receive a benefit from this Trust and is listed as such in Section C
<b>Company/Partnership</b>	The business mentioned in Section C or its successors in business
<b>Incapacitated</b>	A person who in the opinion of two medical doctors lacks mental capacity.
<b>Partner</b>	Any person owning capital in the Partnership except the Settlor
<b>Policy</b>	The life assurance contract (or 'cover') that the Settlor is putting into this Trust and which is identified in Section C - The Declaration of Trust
<b>Settlor</b>	The person who sets up the Trust and is identified as the 'Settlor' in Section C - The Declaration of Trust
<b>Shareholder</b>	Any person owning shares in the Company except the Settlor
<b>Trust</b>	The Trust that is set up pursuant to this Flexible Business Trust incorporating this Section A, Section B, Section C and any amendments to these provisions
<b>Trustees</b>	The Settlor and the Additional Trustees or the Trustees for the time being
<b>Trust Fund</b>	The Policy, all the title, benefits, rights and interest of the Policy, all monies received or payable under the Policy and all property and monies added thereto by way of further settlement, accumulation of income or otherwise
<b>Trust Period</b>	The lifetime of the Trust which shall be up to 125 years
<b>Trust Provisions</b>	The provisions set out in Section B

## Section B: The Trust Provisions

We have used headings to help you understand and find particular clauses. These headings do not form part of the Trust Provisions and do not affect their meaning.

References to people involved in setting up and running the Trust in the singular can mean one or more persons. So, for example, 'Settlor' can mean one Settlor or the Settlers. If the reference is in the plural, it can also mean one person. Also 'He' can mean 'She'.

Wherever the Trust refers to an English legal term for any action or remedy, judicial proceeding or legal document, legal status, court official or any legal concept and the Trust is subject to the jurisdiction of a country that is not England, then if the context requires, that English legal term shall be construed to be the relevant legal term that most closely approximates it in the relevant legal system.

### 1 Declaration of Trust

The Settlor appoints the Additional Trustees to act with him as Trustees of this Trust. The Settlor hereby assigns to the Trustees the Policy and hereby declares that the Trust Fund shall be held upon the trust and subject to the powers and provisions declared and contained in this Trust. The Trust will operate in accordance with the Policy in place at any given time.

### 2 The Trust Fund

The Trustee shall hold the Trust Fund upon trust for the Beneficiaries as set out in Section C in such shares and on such terms as they shall in their absolute discretion appoint. If the Settlor ceases to be a Shareholder in the Company or a Partner in the Partnership (whichever is the case) prior to a claim arising under the Policy the Trustees shall hold the Trust Fund upon trust for the Settlor absolutely. Appointments may be revocable or irrevocable and shall be by deed. The Trustees may at any time, by deed, extinguish or restrict any future exercise of the power of appointment.

### 3 Number of Trustees and power to appoint new Trustees

- (a) There must be at least two Trustees appointed at any given time one of which must be a person who is not the Settlor.
- (b) The Settlor shall be vested with the power to appoint new Trustees (such appointment must be made by deed) during his/her life or so long as the Settlor is able to execute this power (In that the Settlor is not incapacitated).
- (c) The Settlor hereby appoints the Additional Trustees to act with the Settlor and in line with the powers conferred upon them in this Trust. The Additional Trustees shall acknowledge their position and responsibilities bestowed on them by this Trust or any subsequent revisions of the Trust.
- (d) After the death of the Settlor the Additional Trustees shall have all of the powers of the Settlor whilst living and with capacity.

### 4 Power to remove Trustees and retirement of Trustees

- (a) Provided he is not Incapacitated, the Settlor shall for so long as he/she is able to execute this power, have the power to remove any Trustee without giving reasons for doing so and without the need for other Trustees to agree or otherwise, provided there are at least two Trustees remaining after the removal has been completed.
- (b) A Trustee can be removed by the other Trustees where the Trustee who is being discharged of their duty is Incapacitated or cannot be found provided that in the case of the latter:
  - None of the other Trustees have been in contact with the Trustee being discharged within the preceding twelve month period;
  - The other Trustees (one or more) have made reasonable efforts to make contact with the Trustee to be discharged; and
  - The discharge is made by deed executed by all of the continuing Trustees being at least two in number including at least one who is not the Settlor and a declaration is made in such deed that all reasonable efforts were made to contact the Trustee who cannot be found and that the continuing Trustees have written to the missing Trustee's last known address without success and that they have attempted to contact the missing Trustee through all other addresses given to them during their investigation.
- (c) A Trustee may retire provided that following the Trustee's retirement, there are at least two continuing Trustees. A Trustee's retirement shall take effect from the date of the notice of retirement sent in writing to the continuing Trustees.

## 5 Power to invest

Where monies are held by the Trustees for a period of time until distribution of the proceeds is possible, the Trustees shall have the power to invest such monies in an investment that will not be classified as a wasting asset and shall be easily accessible to enable prompt distribution when appropriate. Any income accrued in relation to the Trust shall be paid or added to the Trust Fund for the benefit of the Beneficiaries.

## 6 Power to delegate

The Trustees may, by acting jointly, delegate any power conferred on them by this Trust to any person who provides professional services in relation to the delegated power and such person shall exercise the delegated power on such terms as they think fit. The restrictions on delegation in sections 12 to 15 of the Trustee Act 2000 shall not apply.

- (a) Subject to paragraph (b) below, the Trustees may lend all or any part or parts of the Trust Fund upon such terms as they may in their absolute discretion consider appropriate, and on either a secured or an unsecured basis, to any Beneficiary. Any such loan must be expressed to be repayable within the Trust Period.
- (b) The power referred to in paragraph (a) above shall only be exercisable where the Trustees comprise either a trust corporation or at least two individuals of which at least one is neither the Settlor nor the Potential Beneficiary to whom a loan is proposed to be made.

## 7 Power to charge

- (a) A Trustee but not the Settlor engaged in a profession or business shall be entitled to charge and be paid all professional and other charges connected with their duty to act as Trustee and distribute the benefits. This charge shall be no greater than the Trustee's normal professional charges and may include expenses incurred through administration, professional opinion or peripheral expenses. Where a Trustee is not in a profession or business they shall be entitled to charge reasonable costs incurred in carrying out their Trustee duties.
- (b) A Trustee but not the Settlor shall be entitled to receive commission payments for professional and other services connected with their duty to act as Trustee and distribute the benefits. This charge shall be no greater than the Trustee's normal professional charges and may include expenses incurred through administration, professional opinion or peripheral expenses. Where a Trustee is not in a profession or business they shall be entitled to receive reasonable commission payments in carrying out their Trustee duties.
- (c) A corporate body acting as Trustee shall be entitled to charge fees in accordance with their normal professional charges for Trustee work. Such terms may be reviewed and agreed with the Settlor from time to time.

## 8 Liability for breach of trust

The liability of a Trustee for breaches of the Trust shall be limited to breaches arising from the Trustee's own fraud, wilful misconduct or gross negligence except in the case of a Trustee acting in a professional capacity. The Trustees shall not be liable for the default of a person acting under a delegated power pursuant to clause 6 of these Trust Provisions.

## 9 Administrative provisions

All Trustees must approve any distribution made under the terms of this Trust to the Beneficiaries. The Trustees shall obtain a discharge in writing in relation to monies paid to any Beneficiary. The Trustees shall pay the benefits after deducting any reasonable charges outlined in clause 7 of these Trust Provisions.

## 10 Power to vary administrative provisions

The Trustees may amend or add to the administrative provisions of this Trust provided such amendment or addition is by deed.

## 11 Trust Period

The lifetime of the Trust shall be up to 125 years.

## 12 Law

This Trust shall be governed by and construed in accordance with the laws of England and Wales and the Courts of England and Wales shall have non-exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with it.

## Section C: The Declaration of Trust

This declaration of trust is made on the

day for	month	year
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Full name of Settlor	
Cover reference	P
Cover type	
Name of the business	

### Details of the Beneficiaries entitled to the Trust Fund

C1. Such of the Shareholders/Partners (other than the Settlor) of the business (or that business's successors in business) who shall be living at the date of claim under the Cover.

C2. The Settlor, but only if the Settlor ceases to be a Shareholder/Partner in the business prior to a claim arising under the Cover.

#### Please note

Independent Witness - please ensure that all signatures are witnessed by someone who is not the Settlor, Trustee or a Beneficiary of the Trust. The witness must be present when each person signs the document. The same person can act as witness for all signatures, or a different person can witness the signatures.

Signed as a deed by the Trustees:-

1st Trustee / Settlor	Signature of Trustee / Settlor	Full name	
	Address		
	Postcode	Date	

I the above named Trustee acknowledge and accept the appointment as Trustee

Independent Witness	Signature of Witness	Full name of Witness	
	Address		
	Postcode	Date	

2nd Trustee	Signature of Trustee	Full name	
	Address		
		Postcode	Date

I the above named Trustee acknowledge and accept the appointment as Trustee

Independent Witness	Signature of Witness	Full name of Witness	
	Address		
		Postcode	Date

3rd Trustee	Signature of Trustee	Full name	
	Address		
		Postcode	Date

I the above named Trustee acknowledge and accept the appointment as Trustee

Independent Witness	Signature of Witness	Full name of Witness	
	Address		
		Postcode	Date

4th Trustee	Signature of Trustee	Full name	
	Address		
		Postcode	Date

I, the above named Trustee, acknowledge and accept the appointment as Trustee

Independent Witness	Signature of Witness	Full name of Witness	
	Address		
		Postcode	Date

## Execution of Trust

THE SETTLOR SHOULD ENSURE HE/SHE HAS CAREFULLY READ THIS BUSINESS TRUST DECLARATION FORM AND HAS TAKEN LEGAL ADVICE ON THE SUITABILITY AND TERMS OF THIS TRUST

In Witness whereof the parties hereto have executed this Trust document the day and year first before written  
Signed and Delivered by the said-

Settlor	Signature of the Settlor	Full name
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Independent Witness	Signature of Witness	Full name of Witness	
	Address		
		Postcode	Date

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AIG Life Limited. Telephone 0345 600 6820. Registered in England and Wales. Number 6367921. Registered address: The AIG Building, 58 Fenchurch Street, London EC3M 4AB.

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