

# **HSBC Life (UK) Limited Flexible Trust**

For new or existing life policies, life and critical illness policies or investment bonds

# Important notes ✓

Before completing the Flexible Trust, please read the following notes.

1. This documentation has been produced for consideration by you and your legal advisers. The legal and tax effects of the Trust will depend on your individual circumstances and HSBC Life (UK) Limited ("HSBC Life") and its advisers accept no responsibility for ensuring that the Trust meets your requirements or for you failing to take legal or tax advice. It has been prepared based on law and practice as at January 2016. This document is provided without any representation or warranty that it is suitable for use in your circumstances.
2. Ensure that you fully understand the terms of the Trust and how it works: for further information please refer to the Trust Guides. If you are in any doubt about the terms, it is your responsibility to seek legal or tax advice as appropriate.
3. Ensure that you have read and understood all the literature relating to your chosen policy for this Trust before you proceed.
4. A letter of wishes may supplement the Trust to provide guidance to the Trustees.
5. HSBC Life and its advisers cannot accept any responsibility for loss, damage or other claim that may arise from the use of this Trust or the way in which you complete it. We therefore strongly recommend that you consult your own legal or tax adviser before proceeding.

## What is a trust?

A trust is simply a way in which a person gives assets to another person to look after for the benefit of, usually, someone else. It allows the intended beneficiary to benefit from those assets without also giving that person control of them. The asset in this case is a life policy but it could be almost anything.

## Setting up a trust

A trust is usually set up by a written statement of what you are doing. Whatever is written in the document creating the trust, together with the general principles of trust law, governs who will look after the trust assets (in this case the policy), how they will do it and for whose benefit they will hold them.

The person who creates the trust will not usually be a beneficiary of it.

## Explanatory Notes

The Explanatory Notes provided on the right hand side of the document should be read before the trust document is completed.

# The Flexible Trust (Declaration)

This Declaration of Trust is made by the person[s] named below ("the Settlor(s)")

Mr  Mrs  Miss  Ms

Other (please specify)

Surname

All Forenames

House name and/or number

Street or road name

District (if any)

Village, town or city

County

Postcode

## Explanatory Notes

*Please insert full name(s) and address(es) of the Settlor(s). DO NOT USE INITIALS.*

*These should be the owners as shown on the Policy Schedule or the person(s) applying for the new Policy. So if there are joint owners of the policy there will be two Settlers.*

**Put a line through these boxes if there is only one Settlor.**

Mr  Mrs  Miss  Ms

Other (please specify)

Surname

All Forenames

House name and/or number

Street or road name

District (if any)

Village, town or city

County

Postcode

If the Policy is in existence:

The Settlor(s) is (are) the legal and beneficial owner(s) of the Policy(ies) of assurance specified in Schedule C below ("the Original Policy(ies)") which the Settlor(s) wish(es) to hold as Trustee(s) in accordance with the trusts set out below.

OR

If the Policy is being applied for:

The Settlor(s) has(have) submitted a proposal to the Company for a Policy of assurance specified in Schedule C below ("the Original Policy(ies)") and the Settlor hereby requests and directs that the Company shall issue the Policy to the Settlor(s) as Trustee(s) to be held in accordance with the trusts set out below and in the Trustee Powers and Provisions.

**Trust Terms:**

The Trustee or Trustees for the time being ("the Trustees") shall hold the Policy as defined in Trustee Powers and Provisions 1(g) and all monies which may become payable under the terms of the Policy and investments for the time being representing such monies and all monies, rights, opportunities, property and/or assets which may be exercised, become payable or may be received by reason of or in respect of the Policy ("the Trust Fund") and the income thereof upon the following trusts:

**A. Retained Benefits Fund**

The Retained Benefits Fund as defined in Trustee Powers and Provisions 1(i) and the income thereof shall be held 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 benefit is payable).

**Explanatory Notes**

*The Critical Illness/Children's Critical Illness Benefits under the Policy belong absolutely to the Settlor. If the Policy provides death Benefit, Terminal Illness Benefit and also a Critical Illness Benefit, then both the Terminal Illness and Critical Illness Benefits belong absolutely to the Settlor.*

**B. Gifted Benefits Fund**

I The Gifted Benefits Fund as defined in Trustee Powers and Provisions 1(k) shall be held upon trust for the Beneficiaries as defined in Trustee Powers and Provisions 1(b) or any one or more of them to the exclusion of the other or others in such manner in such shares and upon such trusts and with such powers (including protective or discretionary trusts and powers exercisable from time to time at the discretion of the Trustees or any other person) for their benefit as the Appointor as defined in Trustee Powers and Provisions 1(a) may appoint revocably or irrevocably during the Trust Period as defined in Trustee Powers and Provisions 1(m). Provided that any appointment made by the Appointor who is a Settlor shall not be valid unless notified in writing to the Trustees.

*The Trustees hold the Gifted benefits Fund (subject to the Appointor’s power of appointment) for the Named Beneficiaries. If the Policy provides Death Benefit, Terminal Illness Benefit but no Critical Illness Benefit, then the Terminal Illness Benefit will be held as part of the Gifted Benefits Fund.*

*The Appointor(s) has(ve) complete control over the choice of beneficiary.*

II Subject to and in default of any appointment made under Clause B.I. of these Trust Terms above and to the extent that any such appointment shall fail or not extend for any reason the Trustees shall hold the Gifted Benefits Fund and the income thereof absolutely for the Named Beneficiaries in the shares specified in Schedule A and if there is more than one Named Beneficiary and no shares are specified then in equal shares absolutely. If the shares so specified do not total 100% the excess to be shared proportionately between the Named Beneficiaries and similarly reduced proportionately where the allocated percentages exceed 100%.

*If the power of appointment is not exercised during the Trust Period then the named beneficiaries in schedule A will benefit. The Named Beneficiaries will be entitled to any income from the trust.*

**Schedule A – Named Beneficiaries**

**Note: This Schedule MUST be completed.**

**The percentages allocated MUST total 100%**

<b>First Name(s)</b>	<b>Surname</b>	<b>Date of Birth (dd/mm/yyyy)</b>	<b>%</b>

**III The above trusts shall carry any intermediate income.**

**Explanatory Notes**

*Schedule A*

*The initial beneficiaries will be the persons you name in Schedule A. You should not include yourself as a Named Beneficiary. Please insert the full names and dates of birth, of the Named Beneficiaries and the percentages of the Policy proceeds you wish them to receive. If percentages are specified, these MUST add up to 100% in order to protect the IHT efficiency of the Trust. If no percentages are specified, the beneficiaries will share equally. If the shares so specified do not total 100% the excess is to be shared proportionately between the Named Beneficiaries and similarly reduced proportionately where the allocated percentages exceed 100%.*

*The Appointor(s) has (ve) the power to deprive these people of benefit but may only choose from the Potential Beneficiaries.*

## Schedule B – Potential Beneficiaries

1. The Spouse/Civil Partner, Widow/Widower or Surviving Civil Partner of (either of) the Settlor(s) but excluding any Settlor.
2. The Children (including stepchildren, adopted children and other dependent children) and remoter issue (eg, grandchildren) of the Settlor(s).
3. Any person (other than the Settlor(s)) nominated by the Settlor(s) (or the survivor of them) in writing to the Trustees.
4. Any person named in Schedule A.
5. Any person(s) entitled under the will or intestacy of the Settlor(s).

## Explanatory Notes

### Schedule B

Please only complete Section 6 if you wish to name a potential beneficiary that is not mentioned in 1-5 inclusive. For example you may wish to name your partner, parents, siblings, nieces, nephews, godchildren, etc. in the spaces provided, since these people are not automatically included as potential beneficiaries. If you complete section 6 please provide full names and date(s) of birth.

You may wish to name your partner, parents, siblings, nieces, nephews, godchildren, etc. in the spaces provided, since these people are not automatically included as potential beneficiaries.

6.	First Name(s)	Surname	Date of Birth (dd/mm/yyyy)

## Schedule C – Identification of the Original Policy(ies)

1. Date of proposal (if policy applied for)	
Policy Number (if existing policy)	
Type of Policy	
Life/Lives Assured	
Insurer	HSBC Life (UK) Limited/Midland Life Limited/Marks and Spencer Life Assurance Limited* *Delete as applicable (note if HSBC policy commenced prior to 27/09/99 then Midland Life Limited applies)
2. Date of proposal (if policy applied for)	
Policy Number (if existing policy)	
Type of Policy	
Life/Lives Assured	
Insurer	HSBC Life (UK) Limited/Midland Life Limited/Marks and Spencer Life Assurance Limited* *Delete as applicable (note if HSBC policy commenced prior to 27/09/99 then Midland Life Limited applies)

# Trustees Powers and Provisions

This Trust shall be subject to the law of England and Wales and to the following powers and provisions which shall be in addition to all relevant powers conferred by law:

## Definitions

1. (a) "Appointor" means the Settlor during his or her lifetime and where the Settlor is two persons both of them jointly during their joint lives and thereafter the survivor of them and subject thereto the Trustees, provided that a Settlor shall cease to be Appointor on becoming incapable by reason of mental disorder within the meaning of the Mental Health Act 1983 of exercising his or her functions as the Appointor.
- (b) "Beneficiaries" means the Named Beneficiaries and the Potential Beneficiaries.
- (c) "Potential Beneficiaries" are the persons indicated in Schedule B above.
- (d) "Named Beneficiaries" means the one or more persons named in Schedule A above or such other person or persons as are appointed to be Named Beneficiaries by the Appointor.
- (e) "Civil Partner" a person in a registered civil partnership in accordance with the Civil Partnership Act 2004.
- (f) "Spouse" includes a same sex spouse.
- (g) "The Policy" means (as the case may be):
  - i) the Original Policy(ies); and
  - ii) all other (if any) policies of assurance for the time being held on the trusts of this Trust.
- (h) "The Retained Benefits" means the Critical Illness Benefit, Children's Critical Illness Benefit and, provided there is a Critical Illness Benefit included in the Policy, the Terminal Illness Benefit or such of them as are included in the Policy, all as defined in the Policy.
- (i) "The Retained Benefits Fund" means the Retained Benefits and any property from time to time representing the same.
- (j) "The Gifted Benefits" means any benefits arising under the Policy other than the Retained Benefits.
- (k) "The Gifted Benefits Fund" means the Trust Fund to the exclusion of the Retained Benefits Fund.
- (l) "The Company" means the Insurer(s) identified in Schedule C as the context requires.
- (m) "Trust Period" means the period beginning on the date this deed takes effect and ending on the day before the 125th anniversary of that date.

## Explanatory Notes

*The Settlor can change Beneficiaries during his or her lifetime and after his or her death this power passes to the Trustees.*

*Details of Named and Potential Beneficiaries are included in Schedules A and B earlier on.*

*The Policy is the asset of the Trust and legally owned by the Trustees. If there is any inconsistency between the Policy and the terms of this Trust, the terms and conditions of the Policy shall override.*

*If neither Critical Illness Benefit, Terminal Illness Benefit nor Children's Critical Illness Benefit are included in the Policy there will not be a Retained Benefit Fund and only the Gifted Benefits Fund will apply. If there is no Critical Illness Benefit but there is a Terminal Illness Benefit, the Terminal Illness Benefit will be held on trust for the Beneficiaries as part of the Gifted Benefits.*

*The Trust is capable of lasting for up to 125 years, should this be necessary.*

### **Provisions in relation to the Policy**

2. The Trustees shall have the right to recover, receive and to give valid receipts for all monies due or to become due under the Policy and to surrender the Policy in whole or in part or to exercise any option or elect any privilege contained therein or to borrow on the security of the Policy.
3. No person shall acquire any lien or right to reimbursement in respect of any premium on the Policy paid by such person from his or her own resources.
4. The receipt by the Trustees of any monies payable under the Policy shall be a full and sufficient discharge to the Company who shall not be concerned to see to the application of any such monies.

### **Powers of investment**

5. (a) All monies liable to be invested under the provisions of this trust may be invested by the Trustees in the purchase of such investments whether or not income producing (including policies of life assurance) and whether or not authorised by law for the investment of trust funds which they may in their absolute discretion think fit in all respects as if they were absolute beneficial owners of such investment.  
  
(b) The Trustees may from time to time vary such investments at their absolute discretion and shall be free of any obligation to diversify investments.

### **Power to delegate**

6. The Trustees may delegate in any way and to any extent to any persons or corporations wherever situated or resident the exercise of the powers of investment or management of the property of the Trust Fund.

### **Power to apply income and capital for beneficiaries**

7. Whilst any Beneficiary entitled to income under this Trust is a minor the Trustees shall pay or otherwise apply for or towards his maintenance education or benefit so much of the income from his presumptive share in the Trust as the Trustees may in their absolute discretion think fit and the Trustees shall retain the balance of any income on trust for that Beneficiary absolutely.
8. The Trustees shall have power to pay or apply any part or the whole of the Gifted Benefits Fund for the advancement or benefit of any Beneficiary entitled to such part or whole.

### **Receipt clause**

9. The Trustees shall have power to pay to the parent or guardian of any minor any sum of income payable to that minor or any sum of capital intended to be applied for the advancement or benefit of that minor so that the receipt of such parent or guardian shall be a complete discharge to the Trustees.

### **Power to borrow**

10. The Trustees shall have power to borrow on such terms as they think fit and to charge the Trust Fund as security.

### **Explanatory Notes**

*The Trustees have power to deal with all aspects of the Policy. They may even borrow money using the Policy as security.*

*The Company only needs to seek a discharge for Policy monies from the Trustees.*

*The Trustees have wide investment powers, which may be used if the Policy proceeds are paid or bond encashed but the cash is retained in the Trust.*

*The Trustees may delegate their investment powers to a professional fund manager.*

*If the Beneficiary is a minor then his/her income may be paid out for his benefit or kept accumulated for his absolute benefit until a later date.*

*The Trustees may pay out capital from the Gifted Fund to any Beneficiary.*

*The Trustees may accept the receipt of a parent or guardian for income or capital paid to a child.*

*The Trustees have power to borrow.*



**Power to lend**

11. The Trustees shall have power to lend with or without security to any Beneficiary the whole or part of the Gifted Benefits Fund upon such conditions 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.

**Power to appropriate trust property**

12. The trustees may appropriate any part of the Trust Fund and use it in or towards satisfaction of the interest of any of the Beneficiaries without the need for any consent.

**Trustees' charges**

13. Any Trustee hereof (other than the Settlor(s)) being a person engaged in any profession or business shall be entitled to charge and be paid all the usual professional or other charges for business done by him or her, time spent and acts done by him or her or his or her firm in the execution of or otherwise in relation to the trusts of this Trust and other provisions of this Trust.

Any Corporation being a Trustee may act upon its terms and conditions (if any) prevailing at the date of its appointment and shall be entitled to charge and retain such fees for remuneration in accordance with such Corporation's published scale of fees for the time being in force. In the absence of a published scale of fees such Corporation shall be entitled to charge in accordance with the terms as may from time to time be agreed between such Corporation and the Appointor.

**Exclusion of Settlor(s) from the Gifted Benefits Fund**

14. The Settlor(s) shall have no beneficial interest whatsoever in the Gifted Benefits Fund or its income and no power may be exercised to benefit the Settlor(s) (or either of them) save as provided in Clause A of this Trust.

**Power of appointing new Trustees**

15. The power of appointing new or additional Trustees shall vest jointly in the Settlor(s) (or the survivor of them) and thereafter in the Trustees and shall be exercisable by deed.

**Power to remove a Trustee**

16. The Settlor during his or her lifetime will have power by deed to remove any Trustee (and where two persons are the Settlor this power shall be exercised by them jointly during their lives and thereafter by the Survivor) provided at least two Trustees remain after such dismissal at least one of whom is not a Settlor. Provided also that this power shall cease to apply on the Settlor becoming incapable by reason of mental disorder within the meaning of the Mental Health Act 1983 of exercising his or her functions.

**Trustees' exoneration**

17. In the execution and administration of this Trust no Trustee shall be liable for any loss to the Trust Fund arising by reason of any investment made in good faith by any Trustee or by reason of any other matter or thing except wilful fraud or wrongdoing committed by the Trustee who is sought to be made liable.

**Explanatory Notes**

*The Trustees have power to lend money held by them to the Beneficiaries.*

*The Trustees do not need to realise cash to make payments. They may instead apply assets from the Trust Fund.*

*Any professional Trustee can charge for work transacted in relation to the trust.*

*The Settlor(s) cannot receive any benefit from the trust except for the Critical Illness Benefit and, where applicable, the Children's Critical Illness Benefit.*

*The Settlor(s) has (have) the right to appoint new Trustees.*

*The Settlor(s) also has/have the right to dismiss a Trustee as long as two Trustees remain.*

*Trustees have no personal liability for breach of trust unless they act in bad faith.*

### **Alteration of Trustee Powers and Provisions**

18. The Trustees may at any time or times during the Trust Period by Deed vary the Trustee Powers and Provisions contained in this Trust or any of them to such extent and in such manner in all respects as they think fit PROVIDED that:

- (a) the Deed shall set out the precise terms of the variation (which may be by way of deletion or addition to or substitution for any of the Trustee Powers and Provisions contained in this Trust) and the date from which the variation is to operate (not being a date earlier than the date of the Deed) so that from the stated date this Trust shall have effect as varied; and
- (b) no such variations shall be made so as to affect Provision 14 (excluding Settlor(s) from benefit). The Trustees shall not be required to seek any consents but a copy of the deed shall be supplied to the Company.

### **Trustee beneficiary: exercise of powers**

19. A Trustee who is or may be a Beneficiary may exercise the power of appointment or any other power under the trust for his or her benefit provided at the time of exercise there is an additional Trustee who is not benefiting directly or indirectly as a result of such exercise.

### **Paragraph headings and Explanatory Notes**

20. Paragraph headings and Explanatory Notes are for reference only and do not affect the meaning of the provisions.

### **Explanatory Notes**

*The Trustees have the ability to alter their powers and provisions if circumstances require.*

*Any Trustee who is also a Beneficiary may only make an appointment for his/her own benefit if there is also a Trustee who will not benefit from that appointment.*

Signed as a Deed (but not delivered until dated) by the Settlor (1)

Date of signature

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Signature of witness

Name of witness

Witness address

Witness occupation

**Note** – Each settlor must have their signature witnessed by someone who is not a settlor or a beneficiary. If there are two settlors the same person can witness signatures for both settlors.

Signed as a Deed (but not delivered until dated) by the Settlor (2)

Date of signature

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Signature of witness

Name of witness

Witness address

Witness occupation

**I/we have read the trust powers, provisions and notes in this document.**

## Trust Completion Checklist

1. Have all names been completed in full?  
(Remember that you should not use initials)
2. Has the address been completed in full?
3. Have the named beneficiaries been added?
4. Do all the percentages add up to 100?
5. Have all the signatures been obtained?
6. Have any amendments been clearly initialled?

**Note:** Please ensure that you return all pages of the document. The original will be returned to you for safe keeping once we have recorded the trust. The original trust document will be needed in the event of a claim.

Please return this deed direct to Customer Services Centre, HSBC Life (UK) Limited, PO Box 1053, St Albans, AL1 9QG

**After recording the details the original deed will be returned to you and should be kept by the Trustees with the rest of the Policy documentation.**

Registered in England (No. 88695)

Registered Office: 8 Canada Square, London E14 5HQ.

HSBC Life (UK) Limited is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority.

**hsbc.co.uk**

**Issued by HSBC Life (UK) Limited**

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