



THE SYNERGY PROTECT DISCRETIONARY TRUST FOR USE WITH THE LIFE AND DISABILITY INSURANCE

[For the consideration of legal advisers]

Explanatory Notes

What is a trust?

A trust is a means of splitting the legal and beneficial ownership of an asset. When the asset held in trust is a life insurance policy the benefits payable on the death of the Insured can be paid to the Beneficiaries without having to wait for a grant of probate or letters of administration to the estate of the deceased - as long as at least one Trustee survives. In most cases such payment will be free of inheritance tax (IHT).

The person who declares the trust is called the Settlor and he appoints persons called the Trustees to be the legal owners of the policy. It is usual for the Settlor to be one of the Trustees.

The persons who will benefit from the trust (ie. those with the beneficial ownership) are called the Beneficiaries. The Trustees will administer the policy for the benefit of the Beneficiaries specified in the trust.

The Synergy Protect Flexible Trust – when is it suitable?

If you have opted for life and disability insurance as part of your Synergy Protect Plan then the Synergy Protect Discretionary Trust may be suitable for you. This cover is provided under a policy underwritten by Prudential Assurance Company Ltd and may include life and terminal illness insurance, critical illness insurance and sickness and accident insurance.

In drawing up the Synergy Protect Discretionary Trust, we anticipated that in most cases the Insured would prefer to keep the benefits payable during lifetime, ie. critical illness, terminal illness, accident and sickness benefit for his or her own benefit and that any death benefits payable under the policy should be payable tax free and as quickly as possible for the Beneficiaries other than the Insured. The Synergy Protect Discretionary Trust is designed to ensure that this happens.

The Synergy Protect Flexible Trust – key provisions

The Synergy Protect Discretionary Trust is a form of “split” trust. This means that it provides that the death benefits will be paid to the Trustees for the benefit of the Beneficiaries excluding you, the Insured, whilst all the other benefits payable during your lifetime are held absolutely for your benefit.

The trust of the life insurance benefits

This takes the form of a discretionary trust which means that you, during your lifetime, and the Trustees after your death, have the right to select which Beneficiaries from the list of “Potential Beneficiaries” (which is included in the trust) should benefit. At outset you need to select the “Default Beneficiaries”, who are the Beneficiaries who will benefit at the end of the appointment period, in the unlikely event of no other appointment being made before then. These people will normally be the people you would currently wish to benefit in the event of your death. The Beneficiaries to whom an appointment can be made are called the Potential Beneficiaries and include your immediate family and any other individuals you may wish to add. Further individuals can be named by you later on if appropriate but, so as to maintain inheritance tax effectiveness, you can never benefit from this part of the trust.

The trust of the critical illness, sickness and accident insurance benefits

All these benefits are held for your absolute benefit. Although, in the event of you becoming ill or suffering an accident, the Trustees, as the legal owners of the policy, will have to make the claim, they are obliged to pay over the benefits to you.

What are the IHT consequences of setting up and paying premiums under the policy held in trust?

These notes are not comprehensive, as IHT is complex, and are intended only to give a broad outline of our understanding of the tax position at October 2006.

Premiums paid to the policy will be gifts (transfers) for IHT purposes but are likely to be covered by one of the exemptions (normal expenditure out of income exemption and/or annual exemption). To the extent that the transfers are not covered by exemptions, they will be chargeable lifetime transfers and may cause an immediate IHT liability - see below. Strictly speaking, only the part of the premium paying for the life insurance benefit will be treated as a gift.

If the policy is already in force, the assignment of the policy to the trust will be a chargeable lifetime transfer which, in general, will be based on the market value of the policy at the time. As the Synergy Protect Plan is a term policy, its value is likely to be negligible unless you are in serious ill health. Different rules apply to different types of policy. In determining whether an IHT liability arises on a lifetime transfer, account must be taken of chargeable lifetime transfers you made in the previous 7 years.

If the value of the transfer on a premium payment or on the transfer of an existing policy into trust (after taking account of any available annual exemptions and adding back chargeable transfers in the preceding seven years) is less than the nil rate band, there will be no tax to pay at that time. If it is more than the nil rate band, IHT will be payable on the amount that exceeds the nil rate band at the rate of 20%. It is extremely unlikely that such a situation will ever occur with your Synergy Protect Plan. If you pay IHT and die within 7 years of setting up the trust, your estate may pay additional IHT although taper relief will be available if you survive the transfer by 3 years.

Whether or not any IHT is immediately payable, if your chargeable transfers in the tax year in which this trust is set up are more than £10,000 (including the transfer of this policy into trust or the premiums as appropriate) or if they are more than £40,000 cumulated over the previous ten years, you are required to report the transfer to HM Revenue & Customs (HMRC) Capital Taxes on forms IHT 100, 100a and D34. These are the limits that apply at 1 October 2006 but may be subject to change in the future.

Are there any other IHT implications for the trust?

As the trust is a discretionary trust there could, potentially, also be charges at ten-yearly intervals and other benefits paid out of the trust to the beneficiary.

A ten-yearly (or periodic) charge can arise ten years after the trust was set up and every ten years after that. The amount that is charged to tax is based on the value of the trust fund immediately before the ten-year anniversary. If this amount does not exceed the nil rate band at that time, (taking account of chargeable transfers in the 7 years before you created the trust), there will be no IHT due. For term policies this value will be the market value of the policy at the time which is likely to be negligible unless you are in serious ill health or unless the policy proceeds have already been paid but have not been distributed to the beneficiaries.

There is also an exit (or proportionate) charge which arises when some or all of the trust property leaves the trust. This is measured by the amount of the loss to the trust. Where the exit charge occurs during the first ten years after the trust was set up, if the value of the trust fund plus the total amount of your chargeable transfers in the seven years before you set up the trust (plus any added property), is less than the nil rate band at the time property leave the trust, then there will be no exit charge. In general terms if no IHT was paid when the trust was set up, there will be no exit charges in the first 10 years.

Where the exit charge occurs after the first ten-year anniversary, it is the value of the policy at the ten-year anniversary that is relevant (see above for information regarding the way in which protection policies are likely to be valued). Therefore, with the Synergy Protect Plan, if there was no IHT charge at the last ten-year anniversary and nothing has been added to the trust fund since then (payments to a policy which fall within your annual exemption and/or the normal expenditure out of income exemption are not taken into account for these purposes) there will be no exit charge.

What are the IHT implications of you retaining the lifetime benefits under this trust?

Generally speaking, the gift with reservation of benefit provisions mean that if you make a gift and continue to enjoy a benefit from that gift, the value of the gifted property will remain chargeable for IHT within your taxable estate. However, as the benefits you are entitled to are clearly “carved out” at the outset and because you cannot benefit from the other policy benefits, the gift with reservation of benefit rules do not apply.

Appointment of Additional Trustees

If no additional Trustee is appointed, then on your death there will be no surviving Trustees who can make a claim. To establish who should act as your Trustee, a grant of representation to your estate will be required which means that no immediate payment will be possible. We therefore recommend that at least two additional Trustees are appointed at outset. You should use a separate deed of appointment for this purpose.

Who should consider using this draft and when can it be used?

This draft can only be used by a single individual and can be used at outset or after the policy has been issued.

As an individual's spouse is a possible beneficiary under the trust, in order to preserve the IHT efficiency of the trust, premiums should not be paid from a joint bank account.

When should the Synergy Protect Flexible Trust not be used?

This trust should not be used when the policy may be required as collateral security for mortgage protection purposes. Once the policy is in trust it cannot normally be assigned to a lender.

Can the trust provisions be changed once the trust has been executed?

You cannot normally change the trust provisions without going to court. However, as this trust contains considerable flexibility, especially with regard to who can benefit, it is not anticipated that any changes should be necessary. Any future changes of beneficiaries have to be made by the appointor under the trust and the trustees executing a deed. Professional advice should be sought at the time.

Important note

Creating a trust is an important matter and has lasting legal and tax consequences. These notes are for your general information only and cannot cover every situation. If you are in any doubt about the purpose or effect of this trust, or any actions after it has been created, you should consult your usual adviser or other professional advisers such as your solicitor or accountant. The trust, once created, is irrevocable and the policy and its benefits must be held according to the terms of the trust. The trustees will be in control of the operation of the trust which means that they may need to set up a trustee bank account. Any options available under the policy and any further policies that are issued as a result of the exercise of any options will also be held subject to the trust.

Taxation law is subject to change. Such changes cannot be foreseen. The trust and these statements are based on our understanding of current law and HMRC practice (October 2006). Although every care has been taken in the preparation of these notes and the trust, neither Synergy Financial Products Ltd nor any of its officials, employees or agents can accept responsibility for the operation of the trust. Before proceeding with this trust you are recommended to refer the trust to your own legal advisers to ensure it meets your needs.

TRUST DECLARATION

PART 1 - DECLARATION

INSERT the date the Trust is declared and your name and address

THIS DECLARATION OF TRUST is made on the..... day of..... in the year.....

by.....

of.....

.....
(hereinafter called "the Settlor")

AS FOLLOWS:

A. WHERE POLICY APPLIED FOR

The Settlor hereby requests and directs that the Policy (as hereinafter defined) be issued by the Company (as hereinafter defined) in such manner as to constitute the Settlor as the Trustee (as hereinafter defined) thereof to hold the same irrevocably on being issued on the trusts and subject to the powers and provisions hereof.

OR

B. WHERE POLICY IN FORCE

The Settlor as the legal and beneficial owner of the Policy (as hereinafter defined) hereby declares that from the date hereof the Settlor holds the Policy as the Trustee (as hereinafter defined) thereof irrevocably on the trusts and subject to the powers and provisions hereof.

PART 2 - POLICY(IES) SUBJECT TO TRUST

Insert here the application/policy details as required. Policy details can be found on your Certificate of Insurance

Date of application (if **A** above applies)

or

Plan number(s) (if **B** above applies)

Policy Type:

Synergy Protect
The Life and Disability Insurance

Company:

Prudential Assurance Company Limited
Governors House,
Laurence Pountney Hill,
London
EC4R 0HH

PART 3 - DEFINITIONS

In this Part all the terms frequently used in the Trust are defined to avoid repetition

In this Trust the following expressions shall have the following meanings:

- (i) **“Appointor”** means the Settlor during his lifetime and subject thereto the Trustees
- (ii) **“Beneficiaries”** means the Default Beneficiaries and the Potential Beneficiaries
- (iii) **“Default Beneficiaries”** means the one or more persons named in the boxes below or such other person or persons as are appointed to be Default Beneficiaries by the Appointor exercising his power under paragraph 1 of Part 4B below.

INSERT here the name(s) of the person(s) you currently wish to benefit from the death benefits and, if more than one, the percentage shares in which they are to benefit. At least one person must be specified here.
Please ensure that percentage shares add up to 100%.

DEFAULT BENEFICIARY(IES)

PERCENTAGE SHARE (%)

<input type="text"/>	→	<input type="text"/>
<input type="text"/>	→	<input type="text"/>
<input type="text"/>	→	<input type="text"/>
<input type="text"/>	→	<input type="text"/>

- (iv) **“Potential Beneficiaries”** means:
 - (a) any spouse, former spouse, widow or widower of the Settlor
 - (b) the children and remoter issue of the Settlor whenever born
 - (c) every spouse, former spouse, widow or widower of any such child or remoter issue
 - (d) if the Settlor died testate any one or more persons beneficially entitled under the Will (or any codicil or codicils thereto) of the Settlor and if the Settlor died intestate any person who is entitled to an interest in the estate of the Settlor
 - (e) any person (other than the Settlor) nominated in writing to the Trustees by the Settlor as a Potential Beneficiary
 - (f) the Default Beneficiaries (as hereinafter defined)
 - (g) any charity

These are the persons to whom benefits can be appointed

- (v) **“Gifted Benefits”** means any benefits arising under the Policy other than the Retained Benefits and any property representing the Gifted Benefits
- (vi) **“Percentage Share”** means the percentage share shown in paragraph (iii) above in respect of the one or more Default Beneficiaries
- (vii) **“Policy”** means the one or more contracts of life assurance the date of application for which or the plan number(s) of which (as appropriate) are specified in Part 2 of this Declaration of Trust
- (viii) **“Retained Benefits”** means the Terminal Illness Insurance, Critical Illness Insurance, Children’s Critical Illness Insurance and Sickness and Accident Insurance as defined in the Policy and includes any property representing the said Benefits
- (ix) In this Trust **“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
- (x) **“Spouse”** includes any civil partner registered under the Civil Partnership Act 2004 and widow(er) includes any surviving civil partner so registered. Any references to marriage include registered civil partnership
- (xi) **“the Trustees”** means the Trustee or Trustees for the time being hereof
- (xii) **“the 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 and includes where the context so admits any part or parts thereof
- (xiii) **“the Trust Period”** means the period of eighty years from the date of this Declaration of Trust which period shall be the perpetuity period hereof
- (xiv) **“The Accumulation Period”** means the period of twenty one years from the date of this Declaration of Trust.

PART 4 - PRINCIPAL TRUST TERMS

A. RETAINED BENEFITS

Any benefits payable on your illness or disability are held for your benefit.

The Retained Benefits and the income thereof shall be held upon trust for the absolute and indefeasible benefit of the Settlor.

B. GIFTED BENEFITS

The Trustees will hold all other benefits for the Beneficiaries chosen from the Potential Beneficiaries.

The Settlor during his lifetime, and after his or her death the Trustees, have the power to appoint as a Beneficiary any person from the list of Potential Beneficiaries.

1. During the Trust Period the Appointor shall have power by deed or deeds revocable (whether by the person(s) making the deed or some other person(s)) during the Trust Period or irrevocable to appoint the whole or any part or parts of the Gifted Benefits and the income thereof for such 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 Appointor or any other persons) as the Appointor shall in their absolute discretion think fit and without prejudice to the generality of the foregoing this power shall include the power to appoint any one or more of the Potential Beneficiaries to be new or additional Default Beneficiaries in place or in addition to those named by the Settlor in paragraph (iii) of Part 3 above with such adjustment of the shares of the Default Beneficiaries as the Appointor shall direct. 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 Appointor are the Trustees 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 Section B of Part 4 :

If the Trustees do not appoint benefits elsewhere, the benefits will be held for the Default Beneficiaries at the end of the Trust Period and, if more than one, in the shares specified by you. If you haven't specified shares and there is more than one Beneficiary the Beneficiaries will benefit equally.

- (i) The Trustees may accumulate the whole or part of the income of the Gifted Benefits during the Accumulation Period. Such income shall be added to the Gifted Benefits.
- (ii) The Trustees shall pay or apply the remainder of the income to or for the benefit of such of the Potential Beneficiaries as the Trustees think fit during the Trust Period.

3. To the extent that any part of the Gifted Benefits shall not have been appointed by the Trustees during the Trust Period, the Gifted Benefits 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.

The Trustees have power to advance or lend all or part of the Trust Property which originated from the death benefits to any Beneficiary who has an interest under the Trust.

- (i) the Trustees shall have power to pay transfer or apply the whole or any part or parts of the Gifted Benefits to or for the benefit of any Beneficiary entitled to such whole or part.
- (ii) the Trustees shall have power to lend with or without security to any Beneficiary the whole or any part of the Gifted Benefits 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 any such loan must be repayable before the end of the Trust Period.

PART 5 - ADMINISTRATIVE POWER

The Trustees have very wide powers of investment and powers to manage and deal with trust property.

The Trustees shall in the management and administration of the Trust Fund have the widest possible powers (which they may exercise or omit to exercise from time to time at their absolute discretion) of managing and dealing with the Trust Fund in all respects, as if the Trustees were the absolute beneficial owners thereof and without prejudice to the generality of the foregoing, the Trustees shall have the following powers:

- (i) Power to retain the Trust Fund in its present state;
- (ii) Power to sell or otherwise liquidate and deal with any asset whatsoever comprised in the Trust Fund and to invest in any property of whatsoever nature and wheresoever situate and whether producing income or not, including investment in any policies of insurance as the Trustees may in their absolute discretion think fit.

The Trustees have wide powers of dealing with policies of life insurance.

- (iii) With regard to the Policy and any other policy of insurance.
 - (a) to exercise any of the elections powers options and privileges conferred by any such policy and to alter the amount of any periodic premiums payable thereunder or the period during which such premiums are payable and to do any of the foregoing notwithstanding that the sum insured may thereby be reduced or increased;
 - (b) to convert any such policy into a fully paid up policy free from payment of future premiums;
 - (c) to surrender wholly or partially any such policy.

The Trustees must not use the Trust Fund to pay premiums under the Policy as this could be construed as a benefit to the Settlor and could upset the IHT freedom of the death benefits.

- (d) to pay premiums on any policy effected by the Trustees after the death of the Settlor and to borrow from any person (including any of themselves) the moneys required for any such premium upon such terms as to repayment interest and otherwise as they may think fit;
- (e) to appoint in writing such person or persons as the Trustees think fit to act as agent of the Trustees for the purpose of receiving moneys from any person and to apply the said moneys as premiums under any such policy already in force or under any such policy which is about to come into force and to become comprised in the Trust Fund;
- (f) to recover receive or give valid receipts for all moneys due or to become due under any such policy so that the receipt by the Trustees of any moneys payable under or deriving from any dealing with any such policy shall be a full and sufficient discharge to the Company who shall not be concerned to see to the application of any such moneys.

The Trustees have power to borrow if necessary.

- (iv) Power to borrow money on such terms as to interest repayment and otherwise as they may think fit and whether upon the security of the whole or any part or parts of the Trust Fund or upon personal security only and to use such money in purchasing or subscribing for investments or property to be held as part of the Trust Fund or otherwise for any purchase for which capital moneys forming part of the Trust Fund may be used.

Trust funds can be used for the benefit of minor Beneficiaries and if funds are so used they would usually be paid to the minors' parents or guardians to use for their benefit.

- (v) 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 such person shall be a complete discharge to the Trustees who shall be under no obligation to see to the proper application thereof.

The Trustees have power to delegate their powers eg. to nominees to hold or make investments.

- (vi) Power revocably or irrevocably to delegate any power or powers in making managing realising or otherwise dealing with any property comprised in the Trust Fund to any person or persons (including nominees) upon such terms as to remuneration or otherwise as the Trustees may think fit and no Trustee shall be responsible for the default of any such agent if the Trustee in question employed or incurred expense in employing him in good faith.

The Trustees have power to amend the administrative provisions of this Trust.

- (vii) Power at any time or times by deed or deeds to revoke or vary the administrative provisions of this Trust contained in this Part 5 or to add any further administrative provisions that the Trustees may consider expedient for the purpose of this Trust.

PART 6 - APPOINTMENT, REMOVAL, RETIREMENT AND REMUNERATION OF TRUSTEES

The Settlor has power to appoint new Trustees and after his or her death this power passes to the Trustees. The Settlor also has power to dismiss any Trustee.

1. The Settlor shall have power

A. TO APPOINT BY DEED NEW OR ADDITIONAL TRUSTEES

and

B. TO DISMISS BY DEED ANY TRUSTEE

during his lifetime and thereafter the power of appointing new or additional Trustees by deed shall vest in the Trustees and the said powers shall be exercisable notwithstanding that as a result of their exercise the sole Trustee is a corporation which is not a Trust Corporation for the purpose of section 37 of the Trustee Act 1925 or a single individual but not so as to result in the Settlor or his spouse for the time being becoming the sole Trustee.

Trustees can retire.

2. Any Trustee may retire at any time provided he gives 30 days written notice to the person who for the time being has the power to appoint new Trustees Provided Always that no retirement of any Trustee shall take effect so as to result in the Settlor or his spouse for the time being becoming the sole Trustee.
3. Any corporate body which is empowered to act as a Trustee may at any time be appointed as a Trustee and may act by its proper officers in the discharge of its duties as such Trustee and in the exercise of the powers and discretions conferred hereby or by law.

Trustees can make reasonable charges for their work.

4. Every Trustee shall be entitled to remuneration upon such terms as may be agreed by the person who for the time being has power to appoint new Trustees and in the absence of such agreement every Trustee shall be entitled to remuneration in accordance with its normal scale of charges (if applicable) at that time Provided Always that the Settlor and the spouse for the time being of the Settlor shall not be entitled to remuneration as a Trustee in any way.

Any Trustee other than the Settlor or the Settlor's spouse can carry out work on behalf of the Trust and charge for it.

5. Any Trustee other than the Settlor and any spouse of his for the time being
 - (a) who is engaged in any profession business or trade may be employed by the Trustees and any Trustee so engaged and employed may charge and be paid all reasonable professional business or trade costs and charges for business transactions and time expended and acts done by him (or any partner or employee of his) in connection with this Trust including acts which a Trustee not being engaged in any profession business or trade could have done personally and whether or not in the usual scope of his profession business or trade
 - (b) may exercise or concur in exercising all powers and discretions given to him by this Trust or by law notwithstanding that he has a direct or other personal interest in the mode or result of any such exercise but any of the Trustees may nevertheless abstain from acting except as a merely formal party in any matter in which he may be so directly or personally interested and may allow his co-Trustees to act alone in relation thereto.

PART 7 - GENERAL TRUST PROVISIONS

Trustees will only be liable for loss occasioned through wilful fraud or wrongdoing.

1. This Trust shall be irrevocable.
2. No Trustee (who is an individual) shall be liable for any loss to the Trust Fund arising by reason either of any investment or any mistake or omission made in good faith by him or any other Trustee or for the negligence or fraud of any delegate or agent employed in good faith by him or any other Trustee although the delegation or employment of such agent was not strictly necessary or expedient or by reason of any other matter or thing except wilful and individual fraud on the part of the Trustee whom it is sought to make liable.
3. The Trustees shall have power by deed or deeds revocable (whether by the person making such deed or some other person) during the Trust Period or irrevocable wholly or partially to release or restrict the future exercise of any power hereby conferred on them as if the same were not conferred on them in a fiduciary capacity and so as to bind their successors.

This Trust is governed by the laws of England and Wales.

4. The proper law of this Trust shall be that of England and Wales and all rights under this Trust and its construction and effect shall be subject to the jurisdiction of and construed according to the laws of England and Wales.
5. Notwithstanding any of the foregoing provisions hereof none of the trusts powers or provisions hereof shall operate or be exercised so as to allow any part of the Gifted Benefits or the income thereof to be paid transferred or applied to or for the benefit of the Settlor.

PART 8 - ATTESTATION

IN WITNESS whereof the Settlor has hereunto set his hand to this deed the day and year first before written

The Settlor should sign here. The signature should be witnessed.

SIGNED AS A DEED AND DELIVERED by the said

the Settlor

Settlor's signature

Witness

Witness' signature

Witness' Address

This document is provided on the strict understanding that it is presented as a draft to be considered by the Settlor and his/her legal advisers. Ultimately its legal and tax effects will depend on the circumstances of each particular case. Accordingly, neither Synergy Financial Products Ltd nor any of its representatives, officials or employees can accept any responsibility for any loss occasioned as a result of its use in any circumstances whatsoever.