

# FLEXIBLE TRUST

(for new or existing policies)  
[for the consideration of legal advisers]

THIS DECLARATION OF TRUST (the "Trust") is made the \_\_\_\_\_ day of \_\_\_\_\_

20 \_\_\_\_\_ by \_\_\_\_\_

and \_\_\_\_\_

(hereinafter called the "**Grantee**" which expression where two persons are named above shall include both of them).

## WHEREAS

At the time this Trust is declared

### A. If the certificate is in existence:

The Grantee is the holder of the certificate number \_\_\_\_\_

and dated \_\_\_\_\_ (the "**Certificate**") issued by Lutine Assurance Services Ltd (the "**Company**").

or

### If the certificate is being (or has just been) applied for:

The Grantee wishes to become trustee and has submitted to Lutine Assurance Services Ltd ("the Company") an application dated \_\_\_\_\_. The Grantee will become trustee immediately on the issue of the certificate evidencing the contract ("the Certificate") and hereby directs the Company to incorporate this Declaration of Trust into the Certificate.

### B. The Grantee wishes to declare the trust in respect of all benefits payable under the Certificate.

NOW THIS DEED irrevocably witnesses as follows:-

## 1. DECLARATION

The Grantee declares that with effect from the date of this Trust or the date of the issue of the Certificate if later the Grantee holds the Certificate as Trustee or jointly with another Trustee or other Trustees on the following trusts:

## 2. DEFINITIONS

- (i) "**Trustees**" means the trustee or trustees for the time being acting under the Trust and at the commencement of this trust the Trustee shall be the Grantee
- (ii) "**Appointor**" means the Grantee during his lifetime or if the Grantee shall be two persons both of them jointly during their joint lives and thereafter the survivor of them and subject thereto the Trustees
- (iii) "**Discretionary Beneficiaries**" means the following persons
  - (a) any spouse widow or widower of the Grantee.
  - (b) any children, grandparents and any descendants of the Grantee and/or his spouse but excluding the Grantee
  - (c) any person to whom any person in class (b) above is or has been married at the time any benefit from this trust falls to be paid
  - (d) any person (other than the Grantee) nominated in writing to the Trustees by the Grantee as a Discretionary Beneficiary such power of nomination to be exercisable if the Grantee is two persons by them jointly during their joint lives and thereafter by the survivor of them

(e) any Principal Beneficiary (as defined below)

Provided Always that no person who is a Grantee may be a Discretionary Beneficiary in any capacity whatsoever.

(iv) **“Principal Beneficiary(ies)”** means the person(s) named below

NAME(S)	SHARE(S)

Provided Always that no person who is a Grantee may be a Principal Beneficiary in any capacity whatsoever.

(v) **“Trust Fund”** means the Certificate together with the full benefit thereof all property at any time held by the Trustees upon this Trust whether by way of further settlement accumulation of income capital accretion or otherwise and all property from time to time representing the foregoing.

(vi) **“Trust Period”** means the period of eighty years from the date hereof which period shall be the perpetuity period for the purposes of this trust.

### 3. PRINCIPAL TRUST PROVISIONS

3.1 The Trustees shall hold the Trust Fund and the income thereof on such trusts and subject to such powers and provisions (including protective trusts and discretionary trusts or powers operative or exercisable at the discretion of the Trustees or any other person(s)) in favour of such one or more of the Discretionary Beneficiaries as the Appointor may in his absolute discretion by deed or deeds revocable (whether by the person(s) making the deed or some other person(s)) or irrevocable appoint. Provided always that if the terms of any revocable appointment have not been revoked as at the end of the Trust Period such appointment shall become irrevocable at that time and subject to and in default of any such appointment the Trustees shall hold the Trust Fund and the income thereof in the manner described in paragraph 3.2 below.

3.2 Subject to and in default of any appointment made under paragraph 3.1 above the Trustees shall hold the Trust Fund and the income thereof absolutely for the Principal Beneficiary(ies) and if more than one in the shares specified in paragraph (iv) of Clause 2 and if no shares are specified then in equal shares.

3.3 Section 31 of the Trustee Act 1925 shall not apply and the Trust shall carry the intermediate income and whilst any Principal or Discretionary 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 Fund as the Trustees may in their absolute discretion think fit and the Trustees shall retain the balance of any income to which that beneficiary is entitled on trust for that beneficiary absolutely and until he attains the age of majority the Trustees shall invest the same and the resulting income therefrom in investments hereby or by law authorised and shall hold the same as an accretion to the said balance for the absolute benefit of the said beneficiary. Provided Always that so long as the said beneficiary is a minor the Trustees may pay or apply as aforesaid for the benefit of the said beneficiary any such balance or accretion as if it were income arising in the then current year.

### 4. APPOINTMENT AND REMOVAL OF TRUSTEES

4.1 The power of appointing new or additional Trustees shall be vested in the Grantee or in the survivor of them. The Company shall not be bound by any change or additional appointment of a Trustee or Trustees until notice in writing of such change, addition or appointment has been given to the Company at its Head Office.

4.2 A person may be appointed to be a Trustee notwithstanding that such person is not resident in the United Kingdom and remaining out of the United Kingdom for more than 12 months shall not be a ground for the removal of a Trustee.

4.3 The Grantee shall have power by deed to remove any Trustee and where two persons are the Grantee this power shall be exercisable by them jointly during their joint lifetimes and thereafter by the survivor of them during his lifetime. Provided always that this power shall be exercisable only if there are at least two individuals remaining as Trustees after the removal of which at least one is not the Grantee.

## **5. TRUSTEES' POWERS**

### **5.1 DEALING WITH THE TRUST FUND**

During the Trust Period the Trustees shall have power

- (a) to pay transfer or apply the whole or any part or parts of the Trust Fund to or for the benefit of any Discretionary or Principal Beneficiary
- (b) to lend with or without security to any Discretionary or Principal Beneficiary the whole or any part or parts of his presumptive share in the Trust 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 however that any such loan must be repayable before the end of the Trust Period.

### **5.2 INVESTMENT POWERS**

During the Trust Period the Trustees in the management and administration of the Trust Fund shall, in addition to all the relevant powers conferred on them by law;

- (i) have the widest powers of investing, disposing of and dealing generally with the Trust Fund as are lawfully capable of being conferred on Trustees and
- (ii) without prejudice to the generality of paragraph 5.2(i) above have power to invest or apply any moneys for the time being representing the Trust Fund or any part of it in the purchase of or at interest upon the security of such stocks, funds, shares, securities or other investments whether producing income or not, or property of whatsoever nature and wheresoever situate and including investment in contracts of life assurance and the purchase or improvement of real property anywhere in the world for use as a residence, and whether involving liability or not or upon such personal credit with or without security as the Trustees may in their absolute discretion think fit to the intent that the Trustees shall have the same full and unrestricted powers of investing and varying investments (including the power to sell or otherwise realise investments and reinvest the proceeds) in all respects as if they were absolutely and beneficially entitled thereto.

### **5.3 ADMINISTRATIVE POWERS**

The Trustees shall in addition to the powers vested by law in trustees have the following powers:-

- (i) power to deal with any contract of life assurance and any other assets for the time being held in trust as if they were the absolute beneficial owners thereof including full power to surrender or convert any such contract to a paid up contract of life assurance,
- (ii) power to recover receive or give valid receipts for all monies due or to become due under any contract of life assurance so that the receipt by the Trustees of any monies payable under or deriving from any dealing with any such contract shall be a full and sufficient discharge to the Company who shall not be concerned to see to the application of any such monies,
- (iii) power to retain the Certificate in its present state and to invest in property of whatsoever nature and wheresoever situate and whether producing income or not including investment in contracts of life assurance,
- (iv) power to borrow with or without security,
- (v) power revocably or irrevocably to delegate any power or powers in making any investment permitted under this Trust, managing, realising or otherwise dealing with any property comprised in the Trust Fund to any person or persons 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, and
- (vi) power to accept as a good and sufficient discharge a receipt given by a parent or guardian of any Discretionary or Principal Beneficiary under the age of majority in respect of any capital or income paid or applied to that parent or guardian for the maintenance, education or benefit of that Beneficiary without being liable to see to the application of the same.

**6. TRUSTEES REMUNERATION AND LIABILITY**

- (i) Any Trustee, other than a Grantee, who is a solicitor or accountant or engaged in any profession or business, including any company which is a Trustee, shall be entitled to and be paid all usual and proper professional and other reasonable charges for any business or work done by it, him or his firm or his company in relation to the trusts hereof.
- (ii) In the professed execution and administration of the trusts hereof no Trustee shall be liable for any loss to the Trust Fund arising by reason of any investment (or application of monies) made in good faith by any Trustee hereof or by reason of any other matter or thing except wilful and individual fraud or breach of trust on the part of the Trustee who is sought to be made liable.
- (iii) Any exercise of any discretion or any action by any Trustee will not be invalid on the basis only that the Trustee has a personal interest in the outcome of the exercise of the power or an interest in any of the assets or property which forms the basis of any investment.

**7. PROPER LAW**

This Trust shall be governed by and construed in accordance with the law of England and Wales

IN WITNESS whereof the Grantee executed this deed the day and year stated before and hereby certify that this instrument falls within Category L in the Schedule to the Stamp Duty (Exempt Instruments) Regulations 1987.

SIGNED AND DELIVERED AS A DEED  
BY THE GRANTEE

\_\_\_\_\_

IN THE PRESENCE OF:

SIGNATURE OF GRANTEE:

\_\_\_\_\_

SIGNATURE OF WITNESS:

NAME AND ADDRESS  
OF WITNESS:

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

SIGNED AND DELIVERED AS A DEED  
BY THE GRANTEE

\_\_\_\_\_

IN THE PRESENCE OF:

SIGNATURE OF GRANTEE:

\_\_\_\_\_

SIGNATURE OF WITNESS:

NAME AND ADDRESS  
OF WITNESS:

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

This document is provided on the strict understanding that it is presented as a draft to be considered by the Grantee and his/her legal advisors. While great care has been taken in the preparation of this draft so that it may achieve the desired objectives, its legal and tax effect will depend on the circumstances of each particular case. Accordingly, neither Lutine Assurance Services Ltd nor any of its representatives can accept any responsibility for any loss occasioned as a result of its use in any circumstances whatsoever.

## Deed of Appointment of Additional Trustee(s)

**THIS DEED OF APPOINTMENT** is made the \_\_\_\_\_ day of \_\_\_\_\_  
20\_\_\_\_ **BETWEEN** \_\_\_\_\_  
of \_\_\_\_\_  
and \_\_\_\_\_  
of \_\_\_\_\_  
(hereinafter called "**the Grantee**" which expression if there is more than one Grantee shall apply to both of them) of the first part and \_\_\_\_\_  
of \_\_\_\_\_  
and \_\_\_\_\_  
of \_\_\_\_\_  
(hereafter called the Additional Trustees") of the second part

### WHEREAS

1. This Deed is supplemental to the Declaration of Trust made by the Grantee and dated \_\_\_\_\_ ("the Trust") which created a trust of Certificate(s) number \_\_\_\_\_ issued by Lutine Assurance Services Ltd (hereinafter called "the Certificate").
2. The power of appointing new or additional trustee(s) under the Trust is vested in the Grantee.
3. The Grantee wishes to appoint the Additional Trustee(s) to be Trustee(s) of the Trust and to act jointly with the Grantee as Trustees in the execution and administration thereof.
4. The Additional Trustee(s) will accept his/their appointment as Trustee(s).
5. It is intended that the Certificate is transferred to the Grantee and the Additional Trustee(s).

### NOW THIS DEED WITNESSES as follows:

- (i) The Grantee in exercise of his power of appointment conferred by the Trust and in pursuance of every other power so enabling him/them (if any) HEREBY APPOINT(S) the Additional Trustee(s) as Trustee(s) to act jointly with the Grantee as Trustees of the Trust.
- (ii) The Grantee hereby assigns the Certificate to himself and the Additional Trustee(s) jointly so that the Certificate shall henceforth be held by the Grantee and the Additional Trustee(s) as Trustees of the Trust.
- (iii) The Grantee and the Additional Trustee(s) hereby agree to notify Lutine Assurance Services Ltd of this appointment and of any changes of Trustees under the Trust.
- (iv) The parties hereto hereby certify that this instrument falls within Category A in the Schedule to the Stamp Duty (Exempt Instruments) Regulations 1987.

**IN WITNESS WHEREOF** the parties hereto have hereunto set their hands to this Deed the day and year first above written

**SIGNED AND DELIVERED AS**

**A DEED** by the said \_\_\_\_\_  
(The Grantee) (Grantee's signature)

Witness \_\_\_\_\_  
(Print Name) (Witness' signature)

Address of Witness \_\_\_\_\_  
\_\_\_\_\_

**SIGNED AND DELIVERED AS**

**A DEED** by the said \_\_\_\_\_  
(Second Grantee if appropriate) (Grantee's signature)

Witness \_\_\_\_\_  
(Print Name) (Witness' signature)

Address of Witness \_\_\_\_\_  
\_\_\_\_\_

**SIGNED AND DELIVERED AS**

**A DEED** by the said \_\_\_\_\_  
(Additional Trustee) (Additional Trustee's signature)

Witness \_\_\_\_\_  
(Print Name) (Witness' signature)

Address of Witness \_\_\_\_\_  
\_\_\_\_\_

**SIGNED AND DELIVERED AS**

**A DEED** by the said \_\_\_\_\_  
(Additional Trustee) (Additional Trustee's signature)

Witness \_\_\_\_\_  
(Print Name) (Witness' signature)

Address of Witness \_\_\_\_\_  
\_\_\_\_\_

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