

Nucleus Onshore Bond Discretionary Discounted Gift Trust Trust deed

Nucleus client relations, PO BOX 26968, Glasgow G2 9DY.

This document is provided strictly for general consideration only. Any action taken or refrained from in connection with the Nucleus Onshore Bond Discretionary Discounted Gift Trust must be preceded by discussion with the settlor's legal and other professional advisers. Accordingly, neither Nucleus nor any associated or affiliated company nor any of their representatives, officials or employees can accept any responsibility for any loss occasioned as a result of the use of the draft Nucleus Onshore Bond Discretionary Discounted Gift Trust in any circumstances whatsoever except as provided by law.

How to complete the Trust

This Discretionary Discounted Gift Trust is provided as a draft. If, after you have sought independent legal advice, this Discretionary Discounted Gift Trust is considered to be appropriate and is to be completed unamended and in the same format then, the following parts of the document need to be completed as follows:

Section 1: Declaration

- The date the deed is made must be inserted.
- The trust deed should be dated for one day before the date of the bond application.
- The name and address of the Settlor must be inserted. Where there are two Settlors, both names and addresses must be inserted.
- The full name(s) and address(es) of the people who will act as Original Trustees with the Settlor(s) must be included.
- The amount of the cash (if a new Bond is to be effected) must be inserted in paragraph 1(a) of Section 1 or the policy number (if an existing Bond is being placed in trust) must be inserted in paragraph 1(b) of Section 1.

Section 2: Definitions

Para (e) 'Discretionary Beneficiaries'

In sub paragraph (ix) the Settlor should insert the name(s) or class of any other beneficiary they wish to include and who is not already covered under categories (i) to (viii). The Settlor should not name himself/herself.

Please note if you name beneficiaries on a discretionary trust, these will need to be recorded on the Trust Registration Service (TRS), even though they have no defined rights to the trust property.

Para (f) 'Default Beneficiaries'

The name(s) of the beneficiary(ies) who will benefit in the unlikely event of no appointment being made by the end of the Trust Period should be inserted. The Default Beneficiaries will be entitled to any capital left in the Trust at the end of the Trust Period which has not by that time been distributed to one or more of the Discretionary Beneficiaries. If there is to be more than one Default Beneficiary, the percentage shares in which they are to benefit should be inserted. Please ensure that the shares add up to 100%. At least one name must always be included in this paragraph.

The Settlor's spouse should not be a Default Beneficiary.

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Section 3A: The Settlor's Fund

- Insert the relevant details in either:

Paragraph (a) if you are opting for specific cash sums (this option applies to both new and existing Bonds),

or

Paragraph (b) if you wish to choose a percentage of the premium paid to an existing Bond or payable to purchase a new Bond (this option applies to both new and existing Bonds).

- In either case indicate the required frequency by making an appropriate deletion.
- If you wish to defer the start date of payments beyond the normal periodic anniversary date selected, you need to indicate when payments will begin by inserting the appropriate figure in the number of months wording below (a) and (b) on page 5. Otherwise delete and initial this wording and payments will begin on the first periodic anniversary selected.

Section 7: Proper Law

The law of England and Wales will apply.

Section 8: Signatures

The Settlor (both Settlers in joint cases) and the additional Trustees, i.e. all the Original Trustees, should sign the document and each signature should be witnessed. It is sufficient for the Settlor to sign once.

HMRC Trust Registration Service

Most trusts now require to register with the HMRC Trust Registration Service. There are some exemptions and professional advice should be taken.

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The Trust deed

Section 1: Declaration

This Trust deed is made the _____ day of _____ in the year _____

Between

of

and

of

(hereinafter called 'the Settlor' which expression shall where two persons are named above include both of them of the first part) and the said

Settlor and

of

and

of

and

of

(hereinafter together called 'the Original Trustees' of the second part)

Whereas:

1 (a) The Settlor has transferred or delivered to the Original Trustees a cash sum (or cheque) for £ _____ or hereby undertakes to make a transfer of the said sum to the Company with the intention that the Original Trustees invest in a Single Premium Life Assurance Bond ('the Bond') issued by the Company

or

(b) The Settlor as the legal and beneficial owner of the Single Premium Life Assurance Bond numbered _____ ('the Bond') issued by the Company hereby declares that from the date hereof the Original Trustees hold the Bond irrevocably on the trusts and subject to the powers and provisions hereof.

2 It is intended that this Settlement shall be irrevocable.

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Section 2: Definitions

In this Trust the following expressions shall have the following meanings and unless the context does not permit the singular shall include the plural and vice versa and words denoting any gender shall include all genders.

- a) 'Appointor' means the Settlor while he is alive and of full Capacity and the appointment is not in favour of the Settlor's spouse, and subject thereto the Trustees. Where two persons are the Settlor, the Appointor is both of them jointly while they are both alive and both of full capacity and following the death or loss of Capacity of one, then the remaining Settlor if of full Capacity shall be the Appointor and subject thereto the Trustees.
- b) 'Beneficiaries' means the Default Beneficiaries and the Discretionary Beneficiaries.
- c) 'Capacity' means mental capacity within the provisions of the Mental Capacity Act 2005 or any superseding Act as appropriate.
- d) 'Company' means Nucleus.
- e) 'Discretionary Beneficiaries' means:
- i. any spouse, former spouse, widow or widower of the Settlor provided that if two persons are the Settlor such person is not one of them.
 - ii. the children and remoter issue of the Settlor or either of them whenever born.
 - iii. every spouse, former spouse, widow or widower of any such child or remoter issue.
 - iv. the brothers and sisters of the Settlor (or either of them) and their issue.
 - v. any one or more persons beneficially entitled under the Will (or any codicil thereto) of the Settlor or who would be entitled to an interest in the Settlor's estate if the Settlor had died intestate and where the Settlor is two persons this provision shall operate with like effect on the death of each of those persons.
 - vi. any person (other than the Settlor (or either of them)) nominated in writing to the Trustees by the Settlor as a Discretionary Beneficiary such power of nomination to be exercisable if the Settlor is two persons by them jointly during their joint lives and thereafter by the survivor of them.
 - vii. the Default Beneficiaries (as hereinafter defined).
 - viii. any charity.
 - ix.
- f) 'Default Beneficiaries' means the one or more persons named in the boxes below"
- | Name | % share if more than one |
|------|--------------------------|
|------|--------------------------|
- g) 'Policy' means the rights and benefits conferred by the policies within the Bond (as defined in paragraph 1 of Section 1 hereof) and any subsequent replacement or additional policies effected pursuant to any rights and/or options conferred by the Bond.
- h) 'Trustees' means the Trustee or Trustees as appropriate for the time being of this Trust.
- i) '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.
- j) 'Trust Period' means the period of one hundred and twenty five years from the date of this Trust Deed which period is also the perpetuity period hereof.
- k) 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.
- l) '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.

Please note the settlor should not be able to benefit directly or indirectly, if there is a distribution to the spouse as beneficiary due to issues around gift with reservation of benefit, which could impact the inheritance tax efficiency of the trust.

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Section 3: Principal Trust Terms

The Trustees shall hold the Trust Fund and its income on the trusts of and subject to the powers and provisions set out in this Trust Deed.

A. The Settlor's Fund

The sums directed by this Section 3A to be raised out of the capital of the Trust Fund shall constitute 'the Settlor's Fund' and shall be held on bare trust for the Settlor(s).

During the life of the Settlor (and, where there are joint Settlers, during the life of the surviving Settlor) the Trustees shall raise out of the capital of the Trust Fund.

- a) A sum equal to £ _____ on each yearly/half yearly/quarterly/monthly anniversary of the date of this Trust Deed.
or
- b) A sum equal to _____ % per annum (or the half-yearly/quarterly/monthly equivalent thereof if appropriate) of the initial premium paid or payable in purchasing the Bond on each yearly/half-yearly/quarterly/monthly anniversary of the date of this Trust Deed with the first payment arising _____ months after the date of this Trust Deed and shall pay such sums to the Settlor (or, where there are joint Settlers, throughout the joint lives of both Settlers to them jointly and after the death of the first Settlor to die to the surviving Settlor).

B. The Beneficiaries' Fund

The balance of the Trust Fund ('the Beneficiaries' Fund') shall be held by the Trustees as follows:

- 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)) or irrevocable to appoint the whole or any part or parts of the Beneficiaries' Fund and the income thereof for such one or more of the Discretionary 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 his absolute discretion think fit Provided Always that no such appointment shall infringe the rule against perpetuities or affect the entitlement of any person to any payment made or asset transferred to him. Provided also that where the Appointor is 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 any exercise of the power of appointment conferred by paragraph 1 of this Section 3B:
 - i. The Trustees may accumulate the whole or part of the income of the Beneficiaries' Fund during the Trust Period. Such income shall be added to the Beneficiaries' Fund.
 - ii. The Trustees shall pay or apply the remainder of the income to or for the benefit of such one or more of the Discretionary Beneficiaries as the Trustees in their absolute discretion think fit during the Trust Period.
- 3 Subject to any exercise of the power of appointment conferred by paragraph 1 of this Section 3B, during the Trust Period:
 - i. The Trustees shall have power to pay, transfer or apply the whole or any part or parts of the capital of the Beneficiaries' Fund as they in their absolute discretion think fit 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 Beneficiaries' 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 Always that any such loan must be repayable before the end of the Trust Period.
- 4 Subject to the preceding trusts and to any exercise of the powers conferred above the Trustees shall at the end of the Trust Period hold the Beneficiaries' Fund upon trust for such of the Default Beneficiaries as are living at the end of the Trust Period and if more than one in the shares shown in clause e. of Section 2 and if no shares are shown in equal shares.
- 5 Subject as above and to any or every exercise of the Trustees' powers the Beneficiaries' Fund and its income so far as not otherwise disposed of shall be held in trust for the Default Beneficiaries in equal shares absolutely.

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Section 4: Administrative powers of the Trustees

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:

- a) Power to retain the Trust Fund in its present state.
- b) 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 assurance as the Trustees may in their absolute discretion think fit.
- c) With regard to the Policy and any other policy of assurance or capital redemption policy:
 - i. to pay premiums on any such policy 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;
 - ii. 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 alter the terms of any such policy in any manner by agreement with the insurers and to do any of the foregoing notwithstanding that the sum assured may thereby be reduced or increased;
 - iii. to convert any such policy into a fully paid up policy free from payment of future premiums;
 - iv. to surrender wholly or partially any such policy;
 - v. 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;
 - vi. 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 insurance company making the payment who shall not be concerned to see to the application of any such moneys.
- d) 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 purpose for which capital moneys forming part of the Trust Fund may be used.
- e) Power to pay or transfer any capital or income to be paid, transferred to, or applied for the maintenance, education or benefit of a Beneficiary who is under the age of legal capacity or otherwise 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.
- f) 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.
- g) Power at any time or times by deed or deeds to confer on themselves any administrative power not conferred on them by this Deed or the general law which the Trustees may consider necessary or expedient.

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Section 5: Appointment, Dismissal, Retirement and Remuneration of Trustees

- 1 The Appointor shall have power to appoint by deed new or additional Trustees.
- 2 The Settlor while he is alive and of full Capacity, or if two persons are the Settlor both of them jointly while they are both alive and of full Capacity or if only one of them is alive and of full Capacity that one acting alone shall have power to dismiss by deed any Trustee and the said power shall be exercisable notwithstanding that as a result of its exercise the sole Trustee is a corporation which is not a Trust Corporation for the purpose of section 37 of the Trustee Act 1925 where relevant or a single individual but not so as to result in the Settlor or the Settlor's Spouse for the time being becoming the sole Trustee(s) and for the avoidance of doubt a dismissal under this provision may take place even if the Trustee being dismissed is one of the joint Settlers who has lost Capacity provided that the Settlor's loss of Capacity has been confirmed by a written report from a registered medical practitioner.
- 3 Where the Settlor (or both of them) has died or lost Capacity a majority of the Trustees will have power by deed to dismiss a Trustee who has lost Capacity provided that:
 - (i) at least two Trustees remain after such dismissal, and
 - (ii) the loss of Capacity has been confirmed by a written report from the General Practitioner of the Trustee being dismissed or from a registered medical practitioner appointed by the other Trustees, and for the avoidance of doubt a dismissal under this provision may take effect even if the Trustee being dismissed is the Settlor or a Beneficiary under the Trust
- 4 Where the Appointor are the Trustees and there are only two individuals acting as Trustees and one of them has lost Capacity, the power to dismiss under paragraph 3 of this Section 5 and the power to appoint Trustees under paragraph 1 of this Section 5 will vest in the other Trustee provided a new Trustee is appointed simultaneously with the dismissal of the incapable Trustee.
- 5 Any Trustee may retire at any time provided he gives 30 days written notice to the Appointor provided always that no retirement of any Trustee shall take effect so as to result in the Settlor or the Settlor's Spouse for the time being becoming the sole Trustee(s).
- 6 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.
- 7 Every corporate Trustee shall be entitled to remuneration upon such terms as may be agreed by the Appointor at the time of its appointment and in the absence of such agreement every corporate Trustee shall be entitled to remuneration in accordance with its normal scale of charges (if applicable) at the time of its appointment provided always that the Settlor and the Spouse for the time being of the Settlor shall not in any capacity or in any way be entitled to remuneration as a Trustee.
- 8 Any Trustee other than the Settlor and any Spouse for the time being of the Settlor:
 - a) who, not being a body corporate, 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.

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Section 6: Further Trust provisions

- 1 The duty of care set out in Section 1 Trustee Act 2000 shall apply to all the functions of the Trustees.
- 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 (i) any investment made in good faith by him or any other Trustee or (ii) any mistake or omission made in good faith by him or any other Trustee except in the case of negligence by a paid Trustee or (iii) 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 (iv) any other matter or thing 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.
- 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 (including this power) whether or not of a fiduciary nature and whether dispositive or administrative and so as to bind their successors.
- 4 Notwithstanding any of the foregoing provisions the Settlor (or where two persons are the Settlor both of them) shall not be capable of taking any direct or indirect benefit from the Beneficiaries' Fund of any kind by virtue or in consequence of this Trust Deed and in particular but without prejudice to the generality of this paragraph:
 - a) the Beneficiaries' Fund and its income shall be held and enjoyed to the entire exclusion of the Settlor and to the entire exclusion of any direct or indirect benefit to any Settlor by contract or otherwise;
 - b) no part of the capital or income of the Beneficiaries' Fund shall be paid to or held by the Settlor (except in a fiduciary or parental capacity) or lent to or applied for the direct or indirect benefit of the Settlor; and
 - c) no power or discretion conferred on the Trustees shall be capable of being exercised or operating in any manner in respect of the Beneficiaries' Fund so as to confer any benefit whether directly or indirectly on the Settlor in any manner or circumstances whatsoever.

Section 7: Proper Law

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 the courts and construed according to the law of England and Wales.

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Section 8: Signatures

In witness whereof the parties hereto executed this deed the day and year stated above.

Signed as a deed and delivered by:

Name of Settlor

Name of Settlor

Signature of Settlor (must be a 'wet' signature)

Signature of Settlor (must be a 'wet' signature)

In the presence of:

Name and address of Witness

In the presence of:

Name and address of Witness

Signature of witness (must be a 'wet' signature)

Signature of witness (must be a 'wet' signature)

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Name of Original Trustee

Name of Original Trustee

Signature of Original Trustee (must be a 'wet' signature)

Signature of Original Trustee (must be a 'wet' signature)

In the presence of:

In the presence of:

Name and address of Witness

Name and address of Witness

Signature of witness (must be a 'wet' signature)

Signature of witness (must be a 'wet' signature)

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Name of Original Trustee

Signature of Original Trustee (must be a 'wet' signature)

In the presence of:

Name and address of Witness

Signature of witness (must be a 'wet' signature)