

- Urgent orders are e-mailed that day. Otherwise, documents will be sent to you by e-mail within 48 hours of receipt of the order.
- Price includes telephone support & all supporting documents.
- Liability for the taxation or asset protection issues is not accepted unless we have been asked to and given you a written advice.
- For fees on general commercial work, please telephone us to discuss your needs.

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## Order Form for Single Family Discretionary Trust (Human Trustee)

1 Trustee's (parents) full name and address

Name

Address

2 Name of trust

3 Date documents will be signed

4 Place of meeting

5 Full name and address of settlor

Name

Address

6 If the trustee is a sole trustee:

(a) Is another party together with the trustee to be an appointor?    Yes        No

If Yes, name of the other appoint

(b) Full name of spouse

If 6(B) n/a do you want a provision in the deed for a future spouse to be a beneficiary?    Yes        No

7 Full names of trustees children

8 Names of other family entities to be listed as potential beneficiaries

9 Have you considered section 109XA of the ITAA 1936?    Yes        No

10 Will the trust conduct a business?    Yes        No

11 Is it likely there will be a foreign national as potential beneficiary of the trust?    Yes        No

12 Would you like to register the trust deed at the Dept. of Land & Property Information?    Yes        No

**Unless you advise otherwise, the standard trust deed structure as set out in the attached notes will be used.**

13 **Please note that we normally send documents by e-mail in PDF format.**

Please select the box if you prefer to receive the documents via post and we will mail them to you.

Name of Firm

Contact at Firm

Email Address (to send documents)

Address

Telephone

Fax

14 The details entered above are correct?    Yes        No

15 By submitting this form you agree to pay fees within 14 days of normal trading terms.    Yes        No

### Single Family Discretionary Trust (Human Trustees)

#### IMPORTANT NOTES

1. This trust is only suitable if the appointor (together with the trustees) is to have total control of the trust, other than possibly for replacement of the trustee. It is generally suitable for single families but never for more.
2. The settlor must be independent of the trustees and the appointor. The settlor must pay \$10 to create the trust from his or her own funds. The payment must not be refunded in cash or in kind. The settlor must not be a beneficiary or someone that you may want to be a beneficiary. We recommend that the settlor not be the accountant or professional adviser for the trust.
3. The appointor is normally the trustee and if there are more than 2, each of them acting jointly. The appointor has the power by their Will to nominate capital beneficiaries and the vesting date. The appointor should consider including the Will powers in the appointor's Will.
4. The appointor is also the party with the power to replace the trustee. The present law provides that an appointor's powers cannot be exercised by the appointor's trustee in bankruptcy to replace the trustee and vest the trust's assets in favour of a bankrupt beneficiary's estate. If bankruptcy of an appointor becomes an issue, if enough notice is given it can possibly be managed by changing the trust deed before bankruptcy happens.
5. Each appointor will have the power to nominate someone in their place.
6. The trustees are usually husband and wife. If the trust carries on a business, you need to consider the trustee's potential personal liability for trust debts. We normally suggest a company act as trustee of the trust, particularly where the trust carries on a business, but this too can have its limitations.
7. The trustees are potential beneficiaries (first group beneficiaries) as are the second and third group beneficiaries and the discretionary beneficiaries. In addition, they are all default beneficiaries in that order.
8. The first group beneficiaries are those entitled to income and capital if the trustee does not decide otherwise, normally a husband and wife for whom the trust has been set up.
9. The second group beneficiaries are those entitled to income and capital if the trustee does not decide otherwise and if both the first group beneficiaries have died. Normally they are the first group beneficiaries' (first trustees') children.
10. The third group beneficiaries are those entitled to income and capital if the trustee does not decide otherwise and if the first and second group beneficiaries have died. They are the grand children and further issue of the first group beneficiaries.
11. The discretionary beneficiaries are additional beneficiaries who are entitled to income and capital if the trustee decides but not otherwise, and they are:
  - (a) spouses (including defactos) of the first and second group beneficiaries
  - (b) any persons or companies (whether beneficially or as trustees) as the appointor may appoint by written or oral notice to the trustees (providing it does not cause a resettlement)
  - (c) any religious institution or charity
  - (d) any trust of which a beneficiary is a beneficiary
  - (e) any proprietary company in which a beneficiary is a shareholder
  - (f) any deceased estate of which a beneficiary is a beneficiary