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# CorporateFirst

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## **View a Sample Discretionary Trust**

Welcome to the CorporateFirst Advantage. Below are samples of documents contained in the Discretionary Trust. See how thorough they actually are.

### **Documents contained in the Discretionary Trust are as follows:**

- Cover Sheet and Index for trust fund folder
- Trust Deed (*sample cover page and index shown (for small business) below*)
- Settlor's Letter
- Trustee's Letter (*sample shown below*)
- Letter to Office of State Revenue
- Checklist & FAQs
- Instruction Sheet

### **Additionally, if a Corporate Trustee is accepted:**

- Minutes of Meeting accepting Trusteeship (*sample shown below*)

*Discretionary Trust*  
*Deed of*  
*The ABC Pty Ltd*  
*Discretionary Trust*

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**1. DEFINITIONS AND INTERPRETATION**

- 1.1 Definitions
- 1.2 Interpretation
- 1.3 Governing Law
- 1.4 Appointor

**2. ESTABLISHMENT OF TRUST**

- 2.1 Name of Trust
- 2.2 Declaration of Trust
- 2.3 Purpose of Trust
- 2.4 Additions to Trust Fund
- 2.5 No Reversion of Trust Property

**3. BENEFICIARIES**

- 3.1 Beneficiaries
- 3.2 Additional Beneficiaries
- 3.3 Limitation to 39% for Company, Trust & Charity Beneficiaries
- 3.4 Removal of Beneficiaries

**4. APPOINTMENT AND REMOVAL OF TRUSTEE**

- 4.1 Power of Appointment
- 4.2 Relinquishment of Power of Appointment
- 4.3 Residual Power of Appointment
- 4.4 Trust Fund Vests in New Trustee
- 4.5 Restrictions of Power of Appointment
- 4.6 Manner of Exercise of Power of Appointment
- 4.7 Appointor Under a Legal Disability
- 4.8 Appointment of One or More Trustees
- 4.9 Transfer of Records and Property

**5. PROVISIONS RELATING TO TRUSTEE**

- 5.1 No Distribution to the Settlor or the Trustee
- 5.2 Remuneration
- 5.3 Limitation of Liability
- 5.4 Indemnity
- 5.5 Exercise of Power and Discretions
- 5.6 Professional Advice
- 5.7 Manager
- 5.8 Vacation of Office
- 5.9 Trustee May Resign
- 5.10 Nominee
- 5.11 Deposit of Documents of Title

**6. VARIATION OF TRUST**

- 6.1 Variation of Trust Deed
- 6.2 Restriction on Variation

**7. RE-SETTLEMENT**

- 7.1 Re-settlement
- 7.2 Restriction on Re-settlement

**8. INCOME**

- 8.1 Discretionary Determination
- 8.2 Procedure for Determination
- 8.3 Accumulation
- 8.4 Default
- 8.5 Amounts Set Aside
- 8.6 Losses
- 8.7 Manner of Distribution
- 8.8 Payment to a Beneficiary Under a Legal Disability
- 8.9 Manner of Payment to a Beneficiary
- 8.10 Applied Income not Affected by Amendment of Deed

**9. CAPITAL**

- 9.1 Distribution of Capital Prior to the Vesting Date
- 9.2 Distribution on the Vesting Date
- 9.3 Remaining Capital
- 9.4 Determination of Trustee
- 9.5 Manner of Distribution
- 9.6 Effect of Determination
- 9.7 No Resulting Trust
- 9.8 Tax

**10. CATEGORIES OF INCOME AND CAPITAL**

- 10.1 Categories of Income and Capital
- 10.2 Other Categories
- 10.3 Allocation of Income or Capital of a Category
- 10.4 Allocation of Expenses
- 10.5 Effect of Allocation on Categories of Income
- 10.6 Distributed Income Retains Categorisation

**11. ACCOUNTS/RECORDS**

- 11.1 Preparation of Financial Accounts
- 11.2 Financial Records
- 11.3 Provision of Financial Statements
- 11.4 Trustee May Audit Accounts

**12. SPECIFIC POWERS**

- 12.1 Power to Act as a Director
- 12.2 Power to Act Notwithstanding Personal Interest
- 12.3 Investment of Trust Fund
- 12.4 Section 14C of the Trustee Act 1925 (NSW)

**13. GENERAL POWERS**

- 13.1 Generally Deal with Trust Fund
- 13.2 Trustee's Power to Deal with Itself
- 13.3 Real Property
- 13.4 Personal Property
- 13.5 Intellectual Property Rights
- 13.6 Franchises
- 13.7 Agency and Licenses
- 13.8 Partnerships and Joint Ventures
- 13.9 Service Entity
- 13.10 Corporate Securities
- 13.11 Unit Trust Interests
- 13.12 Promotion of Companies
- 13.13 Advertise
- 13.14 Subdivision of Property
- 13.15 Development of Property
- 13.16 To Permit Beneficiary to use Trust Property
- 13.17 Maintain Property
- 13.18 To Lease From
- 13.19 To Lease Out and Let
- 13.20 Power to Lend
- 13.21 Power to Borrow and Provide Security
- 13.22 Commercial Bills
- 13.23 Credit
- 13.24 Bank and Other Financial Accounts
- 13.25 Management Expenses
- 13.26 Pay General Expenses
- 13.27 Guarantees and Indemnities
- 13.28 Employment, Contracting and Remuneration
- 13.29 Engage Experts
- 13.30 Superannuation and Bonuses
- 13.31 Insurance Policies and Annuities
- 13.32 Futures Contracts and Options

- 13.33 Legal Proceedings
- 13.34 Choses-in-Action
- 13.35 Make Gifts and Donations
- 13.36 Receive Gifts
- 13.37 To Mix Funds
- 13.38 Determination Between Capital and Income
- 13.39 Power to Set Aside
- 13.40 Power to Appoint Attorney
- 13.41 Power to Appropriate Trust Fund in Specie
- 13.42 Release of Powers
- 13.43 Incidental Powers

**14. WINDING UP OF TRUST**

- 14.1 Vesting Date
- 14.2 Procedure on Termination
- 14.3 Distribution in Specie
- 14.4 Final Accounts

**15. LOANS TO THE TRUSTEE/BENEFICIARY**

- 15.1 Approval of Loan to Beneficiary and Trustee
- 15.2 Terms of Loan
- 15.3 Interest Rate

**16. PROTECTION OF LENDERS**

**17. POWERS AND DISCRETIONS CAN BE ORAL AND  
RETROSPECTIVE**

**18. SEVERANCE**

**19. DISPUTE RESOLUTION**

**20. SCHEDULE**

## Sample 2: Trustee's Letter



07 August 2003

William Allan Jones and  
Paul Richard Brown  
ABC Pty Ltd  
27 High Street  
Toowong Qld 4066  
Australia

Peter Nicholas Smith  
102 Mary Street  
Brisbane Qld 4000

Dear Peter Nicholas Smith

**Re: Establishment of Discretionary Trust**

We refer to your previous letter and thank you for acting as Settlor of the Jones Family Trust.

We now advise that we have accepted the Trusteeship of the above trust fund and have signed the Trust Deed.

Yours faithfully

William Allan Jones and Paul Richard Brown  
Trustee

**Sample 3: Minutes of Meeting Accepting Trusteeship**

**ACCEPTANCE OF TRUSTEESHIP**

**MINUTES OF MEETING OF  
THE DIRECTORS OF ABC PTY LTD  
ACN: 123 456 78**

**AS TRUSTEE FOR THE ABC PTY LTD DISCRETIONARY TRUST**

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Held at: 27 High Street, Toowong Qld 4066  
At: 9:00 am  
On: 07 August 2003

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**Present:** William Allan Smith and Paul Richard Brown

**Quorum:** I was noted that a quorum was present at the meeting.

**Notice of Meeting:** It was noted that all directors have received notice of this meeting and that all directors consent to the meeting being held and waive the requirement for any specified period of the notice of the meeting. It was resolved unanimously that the meeting is validly constituted regardless of any failure to give notice as required under the Company's Constitution of the *Corporations Act*.

**Chairperson:** It was resolved that the following person be elected to act as Chairman of the meeting: William Allan Smith

**Business:** The Chairperson tabled a letter, from Peter Nicholas Smith (the Settlor) and a Trust Deed (in triplicate) establishing The ABC Pty Ltd Discretionary Trust ('the Trust'). The Trust Deed had been previously executed by the Settlor.

It was resolved that the Company:

- (a) accepts the trusteeship of the Trust;
- (b) accepts from the Settlor, pursuant to the terms of the Trust Deed, the Settlement Sum of \$10.00 to establish the Trust Fund, such sum to be held under the terms of the Trust Deed; and
- (c) execute the Trust Deed in accordance with its contribution.

**Bank account:** It was further resolved that the Trustee establish a bank account for the Trust Fund and deposit the Settlement Sum into that account.

**Closure:** There being no further business the meeting was declared closed at 10:00 am.

Signed as a true and correct record on this Thursday 07 day of 2003.

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(Chairperson)