

Example Clause

1. I GIVE to my Trustees free of tax¹:
 - 1.1 my beneficial interest in the land and buildings erected thereon at comprising approximately acres and shown outlined red for identification purposes on the attached plan and registered at HM Land Registry under title number.....; [and]
 - 1.2 £.....² [OR SEE WORDS IN BRACKETS AT END OF CLAUSE 1]
ON TRUST to hold it and the property which currently represents it (“the Trust Fund”) on the trusts and with and subject to the powers and provisions set out in this will [AND declare that the cost of the delivery and vesting of the Trust Fund into the names of the trustees of the Charitable Trust and of the upkeep of such assets pending delivery and vesting and of any other costs or expenses incurred whilst establishing the Charitable Trust shall be payable out of the capital and/or income of my Residuary Estate as my Trustees shall decide]
2. WITH the Trust Fund my Trustees shall establish and endow a continuing charitable trust which I should like to be known as (or such other name which is as close as possible thereto as my Trustees by resolution determine)³ (“the Charitable Trust”)
3. The trustees of the Charitable Trust shall pay or apply the net income and any part of the capital of the Trust Fund at their absolute discretion in furtherance of the Objects of the Charitable Trust
4. My Trustees shall determine the objects of the Charitable Trust as they see fit PROVIDED the general purpose of the Charitable Trust (in part if not whole) is to conserve protect and improve the natural environment (“the Objects”)
5. SUBJECT TO my Trustees’ overriding discretion (in the above clause) to determine the Objects of the Charitable Trust such objects of the Charitable Trust may include (but are not limited to):⁴
 - 5.1 promoting the conservation protection improvement and enhancement of the physical and natural environment by promoting biodiversity
 - 5.2 promoting agriculture for the public benefit⁵
 - 5.3 advancing the education of the public in the conservation protection improvement and enhancement of the physical and natural environment
 - 5.4 advancing the education of the public in agricultural practices techniques which provide for production of food without having a detrimental affect on the physical and natural environment

¹ If inheritance tax relief is not available on part or the whole of the value of the assets passing to the trustees then the testator needs to consider if the gift should be free of or subject to inheritance tax.

² The Trustees will require money to pay for associated expenses such as expert reports OR make provision that all expenses come out of the residuary estate but this could unduly delay the administration of the estate.

³ In the event that another charity is using the same or a similar name at the time of the charity’s registration.

⁴ Trustees to have overriding discretions as to defining the objects in the event the Charity Commission are not satisfied (at the date of death) that these objects satisfy their strict criteria.

⁵ It may be wise to include this as an object of the charity in the event that not all the land is considered worthy of conserving and so would otherwise fail to qualify for charitable status.

6. My Trustees shall formulate the terms of the Charitable Trust in such a way as to be acceptable to the Charity Commission [and HM Revenue and Customs]⁶ but subject to that may do so in any way they think fit and in particular (but without prejudice to that generality) may include in it such powers and provisions they see fit for enabling the trustees to
 - 5.1 Appoint and employ persons
 - 5.2 Invest and manage trust property
 - 5.3 Delegate powers of management and investment
 - 5.4 Borrow money and charge any part of the income or capital
 - 5.5 Fund-raise and seek donations
 - 5.6 Acquire and dispose of property
 - 5.7 Accumulate the income in accordance with statutory provision⁷
 - 5.8 The appointment of new and additional trustees and the removal of trustees and the appointment of a custodian trustee
 - 5.9 Make administrative regulations for the administration of the Charitable Trust and the management and conduct of the trustees' business including (but not limited to) reaching and implementation of trustees' decisions
 - 5.10 Make provision for the remuneration of trustees if primarily in the interest of the charity reimbursement of trustee expenses professional charges of any trustee engaged in a profession
 - 5.11 The limitation of trustees' liability as trustees and provision of indemnity insurance
 - 5.12 Insure trust property and effect public liability and employer's liability insurance and such other insurance cover as may be appropriate
 - 5.13 Wind up the Charitable Trust in the event it fails or becomes unworkable and
 - 5.14 Amend restrict or augment from time to time any administrative provisions as they think fit
6. Any or all of my Trustees may be the trustees of the Charitable Trust or they may appoint other trustees to be trustees of the Charitable Trust in their place
7. SUBJECT TO the clause below my Trustees shall take any steps which are necessary to have the Charitable Trust registered as a charity
8. IN THE EVENT that my Trustees fail despite their best endeavours to register the Charitable Trust as a charity within 2 years of my death⁸ then they shall hold the Trust Fund [as part of

⁶ Acceptable to HMRC so that gift aid relief can be claimed on donations from individuals.

⁷ The accumulation period for charities is currently 21 years but that may change between drafting the will and the date of death

⁸ A fall back position might be useful. The testator may wish to include a longer period to give his trustees more time to establish the trust, particularly if he has not taken any steps which may make the application easier (for example through obtaining and implementing suggestions from environmental reports or achieving

my Residuary Estate] [upon trust absolutely for such registered charity or charities as my Trustees feel most nearly fulfils the objects I intended to benefit and if my Trustees shall choose more than one charity then to such charities and in such shares as my Trustees see fit]

9. For the avoidance of doubt I DECLARE that my Trustees may exercise the powers given to them above before the administration of my estate is complete and even before a grant of representation has been obtained⁹
10. My Trustees (being at least 2 in number or a trust corporation) may by deed or deeds (and so as to bind their successors) wholly or partially release or restrict any of the powers given to them by this clause

special status) but 2 years would be sensible from the perspective of read back provisions for inheritance tax purposes and not registering with Trust Registration Service (unless required to do so under other qualifications)

⁹ This power makes it clear that the trustees can exercise their powers and start the process of registering the trust as a charity straight away rather than waiting until the estate has been administered.