GREENTHOS
CAPITAL
PROTECTING LEGACIES

TRUSTS

A GUIDE TO CREATING AND MANAGING YOUR TRUST WITH GREENTHOS CAPITAL



What you will need to get started

Before you meet with Greenthos capital to discuss your trust, you'll need to consider, know about and or bring

- List of assets including cash, real estate, investment portfolios, businesses you intend to place in the Trust
- Intended purpose of the Trust
- Proof of title for real estate
- Copies of National ID
- Proof of address (Utility bill, tenancy agreement etc.)
- Bank statements for any sources of funds
- Full names and contact details of intended Beneficiaries

Trusts are an efficient structure to separate and protect your assets. They come in many types and sizes.

Why Consider Having A Trust

The main purpose for establishing a Trust is to transfer the ownership of your assets to ensure that they are they are protected for your intended beneficiaries

Why work with Greenthos Capital to set up and manage your trust?

- We provide continuity (unlike an individual, we will not die, become ill or be absent when needed. We have in place a Business Continuity Plan to ensure the same;
- We focus on building lasting legacies for our clients through our different service offerings. Through our work, we have extensive experience in handling the administrative, compliance, investing and reporting needs of our clients.
- We provide a holistic approach to clients' affairs dealing with their legal and financial needs.
- We have experience in managing estate planning and trusts for individuals, families and institutions.
- Greenthos Capital staff are professionals with extensive experience in their areas of expertise.
- We are independent, act objectively and impartially when dealing with our clients 'affairs.
- We deal with our clients' affairs promptly and efficiently.
- We offer a full range of associated services, including Will preparation, and more

We have prepared this guide to give you more information about creating a Trust with Greenthos Capital Limited.
It covers:

1. What is a Trust?
2. Why should I establish a Trust?
3. Will a Trust work for me?
4. How do I establish a Trust?
5. What is the role of a trustee?
6. Investing assets in a Trust
7. Who to use as a Trustee
8. Trust management
9. How do I distribute the assets in a Trust? and Other frequently asked questions

It is commonly thought that all 'Trusts' take on the same form. This is not true. Greenthos Capital will structure your Trust Deed to meet your specific needs.



SETTLOR/TRUSTOR

Person or Persons who set up a trust. They “settle” assets into the trust.

TRUST ASSETS

Assets such as cash, investments, real estate or life insurance policies. The trustee is charged with the responsibility of managing the Trust assets in accordance with the terms of the Trust Deed.





BENEFICIARIES

The person(s) that benefit from the trust assets during the life of the Trust.

TRUSTEES

The legal owners of the assets that have been transferred to the Trust.

1. What is a Trust?

A Trust is a legal arrangement where one party (the 'Settlor'), transfers assets to another party (the 'Trustee'), for the benefit of another party (the 'Beneficiary'). There can be more than one person in any of these roles and it is also possible for the same person to be a Settlor, Trustee and Beneficiary. However, you should not be the only Trustee and the only Beneficiary. If you were, there would not be a Trust at all.

The arrangement that holds this relationship together is called the Trust Deed.

The Trust Deed names the Trustees and Beneficiaries as well as setting out the rules as to how the Trust will operate. This document is the '**operating manual**' for the Trustees.

Settlor

The Settlor is the person who wants to establish a Trust for the benefit of others. They are also usually the person who transfers assets in to the Trust. A settlor is also sometimes referred to as a Trustor.

Trustee

The Trustee, becomes the legal owner of the Trust property and administers the Trust for the benefit of the Beneficiaries. A Trustee cannot benefit from the Trust's assets unless named as a Beneficiary. The Trustee may be a natural person, or a corporate body, such as Greenthos Capital Limited.

Beneficiary

The Beneficiary is the person, persons or institution for whom the Trust assets are held and who receives the benefits from the assets.

Assets

Any assets you own as an individual can be transferred to a Trust, and you can transfer more assets later if you wish. Assets that can be transferred to a trust include but are not limited to: cash, real estate, investment portfolios, businesses, life insurance policies, etc. Even though assets are owned by the Trustees, the Beneficiaries are entitled to benefit from them.

A Trust deed provides Trustees with discretion as to who, how and when the beneficiaries can benefit from the assets placed in the Trust. Even though beneficiaries have the right to be considered to benefit from assets in a trust, they do not have legal title to the assets in the Trust, this legal entitlement instead resting with the Trustees.

2. Why consider Having A Trust?

The main purpose for establishing a Trust is to separate assets from your ownership to ensure they are protected for the intended beneficiaries. Here are the main reasons for establishing a Trust:

- **As part of your overall estate/asset planning, you may need to protect against unwanted claims to your estate.**
- **Relationship property planning which has the same effect as a prenuptial agreement, ensuring that a spouse remains the sole owner of property they may acquire before and during the subsistence of a valid marriage**
- **To keep property or assets in the family for use by future generations. You may have a family property that you wish to be retained to provide for the future generations of your family.**
- **To provide protection from risks associated with business for example bankruptcy.**

A Trust should not be established to violate any law. A Trust established for this purpose can be declared void.



3. Will A Trust Work For Me?

Even though Trusts can be an invaluable tool for asset protection, it is important that you are fully aware of what is involved and how a Trust will impact you and your future enjoyment of your assets. Before settling assets into a Trust, there is need for careful planning.

The success of your Trust will largely depend on how well it has been designed to meet your needs and those of your intended beneficeries.

Some of the things you need to consideration include:

- Once the assets have been settled into the Trust they no longer belong to you personally, but to the Trustees who hold the assets on behalf of the Beneficiaries. You can be named as a primary beneficiary and as such the Trustees can provide a beneficial interest to you;
- There are costs that may be incurred by Trustees when dealing with the formalities relating to Trust affairs including management of Trust assets and distribution of Trust income or capital to Beneficiaries. You may consider this is a small price to pay compared to the benefits and peace of-mind a Trust can bring.

4. How To Establish A Trust

First, you must decide:-

- **Why you need a Trust;**
- **What property will go into the Trust;**
- **Who will benefit from the Trust;**
- **Who the trustees(s) will be;**
- **The terms of the Trust; and,**
- **A name for the Trust.**

Following a thorough analysis of your needs which captures the information above, we will prepare a Trust Deed which is signed by the Trustee(s) and Settlor(s).

The assets to be placed into the Trust are then transferred to the Trust. It is important that the transfer of assets to the Trust be documented to give an accurate record of the transactions. As a step towards total asset protection, it is important that Settlors absolve by way of gift, any debt owed to them by the trustee(s) which is equal to the value of assets they have settled into the Trust.

5. The Role Of A Trustee

The role of a Trustee is to hold and manage the assets according to the Trust Deed for the benefit of the Beneficiaries. The Trustee must, by law, act in the best interests of the beneficiaries.

If the assets are in a Trust but continue to be controlled by you (the Settlor), there is a risk that the Trust will be declared a sham and the assets will still be regarded as possessions of the Settlor. To avoid this risk, it is important to appoint an independent Trustee, such as Greenthos Capital.

6. Trustee Decisions

To perform their duties, a Trustee must act in a completely independent way. They cannot be controlled or influenced by any other party in coming to a decision. All decisions must be made in the best interests of the Beneficiaries. A Trustee cannot benefit from a Trust except as permitted by law or by the Trust Deed. Whenever Trustees make a decision, they must make an honest decision as to what is in the best interests of both the Trust and Beneficiaries, not what is in their own best interests.

Some of the major decisions made by a Trustee relate to investments and the exercise of discretions. Discretions are things that Trustees can do, rather than must do. Though, for the avoidance of any doubt, any discretion must be exercised in accordance with any direction provided under the Trust Deed. For example, a Trust Deed may give the Trustee the ability to distribute any net income between a range of Beneficiaries, and they may do so in such proportions as they see fit without having to distribute the income equally between all Beneficiaries. Discretions must be exercised in good faith. A Trustee must be able to show they have considered all their obligations to all Beneficiaries in reaching any decision.



IMPORTANT

A Trust is a legal arrangement and it is essential that your Trust is set up correctly. Please make sure you understand what you are getting into.

7. Investment Of Trust Assets

Trust assets must be managed prudently. A trustee is required by law to exercise the same care, diligence and skill when investing Trust assets that a prudent person would exercise in managing the affairs of others.

8. Who To Use As A Trustee

Both corporate and private Trustees have their own unique advantages. Appointing a corporate Trustee like Greenthos Capital will offer you:

PERMANENCE

We have a distinct advantage over individual trustees as we are able to administer the Trust for as long as it exists. The choice of individuals as trustees can create difficulties, for example if they are away when documentation needs to be signed, if they become incapacitated or die. Remember, a Trust can potentially be around for decades or in the case of Charitable Trusts, in perpetuity.

IMPARTIALITY

Greenthos Capital will deal fairly with all Beneficiaries. By appointing an individual (like a friend or family member) as a co-trustee or Special Trust Adviser, you can also ensure advice can be provided to the trustee before they make any decision.

SKILLED ADMINISTRATION

Greenthos Capital has professionally qualified staff to provide the range of skills needed for all aspects of Trust administration, including:

- Investment review, advice and management;
- Preparation of annual accounts and tax returns; and,
- Compliance with all aspects of Trust law.

FLEXIBILITY

Greenthos Capital can create a Trust for you with the range of discretionary powers appropriate for your Trust, giving it the flexibility to adapt to changing circumstances. It is possible, for instance, for the Trust Deed to permit transfer of the Trust assets (or partial transfer of the assets) to another Trust in the future, if circumstances require.

ESTATE PLANNING

Greenthos Capital can help you with your estate planning requirements and advise you how best to ensure the smooth transfer of your assets to the appropriate Beneficiaries. It is important that your instructions regarding the treatment of assets in your Will do not conflict with the objectives of your Trust.

EXPERIENCE

We are specialists in all aspects of Trust creation and management.





9. Your Trust Management Options With Greenthos Capital

When it comes to creating your Trust it's not a case of one size fits all. Whether you choose to appoint a corporate Trustee, private Trustee(s), or take up the appointment of Trustee yourself, we can offer you a range of options for consideration. This means you can choose the level of involvement which best suits you, ensuring that your Trust meets all legal obligations and that the Trust will meet your objectives.

1 FLEXIBLE SERVICE

This service is specifically designed for clients who wish to appoint only private individuals as Trustees. Under this, we can provide all the set-up arrangements and documentation necessary to get your Trust going and then you can select, on a 'pick 'n mix' basis, which ongoing administration and management services you want Greenthos Capital to help you with.

We offer private trustees a range of support, including managing and recording trustee meetings, trustee investment advice and management, taxation and accounting requirements.



2 FULL TRUSTEE SERVICES

Here, Greenthos Capital is appointed Trustee and takes on the full administrative and management responsibilities as a professional Trustee. We provide a comprehensive Trustee service as the appointed Trustee or co-Trustee for you.

As your professional Trustee, with full fiduciary responsibility, we will prudently manage and administer all aspects of your Trust.



Our Trust Management Offering:

- Strategy, investment & financial advisory
- Record keeping
- Meeting coordination
- Investment management
- Income distribution
- Dedicated Relationship Manager

By appointing Greenthos Capital, you can be assured we will apply the highest professional standard in preserving the Trust assets and carrying out the terms of the Trust. When you meet with one of our experts they can talk through the various options to allow you to select the level of service most appropriate for your situation.

Frequently Asked Questions



1. AS SETTLOR, WHAT CONTROL DO I HAVE?

There is a difference between owning assets personally and the assets being owned by Trustees for the Beneficiaries. To secure the benefits of your Trust, for example, asset protection, it cannot be set up or managed in such a way as to be seen as merely an extension of you.

We will work with you to prepare a Trust Deed that will give you enough powers to make sure your Trust can be managed so that both your reasons for establishing the Trust and your future wishes are properly secured. These powers may include the ability to:

- Add and remove Beneficiaries;
- Specify who are to be the final Beneficiaries and to change this during your lifetime or in your Will;
- Appoint and remove Trustees; and,
- Say who will be able to appoint and remove Trustees after your death, if you think this is necessary.

2. WHAT ASSETS SHOULD I PUT IN MY TRUST?

Generally, assets that you want to protect from potential claims, or keep for your children and grandchildren, are best suited for a Trust. Trusts are designed to provide long-term benefits rather than a short-term solution to an immediate problem. Assets that you intend to retain over the longer-term and you anticipate will grow in value are ideally suited to being placed in a Trust.

3. CAN A TRUST PROTECT MY CHILDREN'S INHERITANCE?

Trusts are an excellent structure to protect your children's inheritance. If any of your children have their own Trust, it may be a good idea for your Trust to pass your children's inheritance to their Trust.

4. WHAT HAPPENS IF I WANT TO SELL MY ASSETS?

If you transfer your assets to the Trust, you need to remember that it shall be an asset of the Trust. It will therefore be the Trustees of the Trust to sell the property and purchase a replacement - this is an area where a lot of Trusts fail because the settlors forget to treat the Trust as a legal entity separate from the Settlor.
Before any assets are bought or sold, it is important that you check with a professional about the right way to proceed. Our experts can work with you and your lawyers to ensure efficient handling of the process.

5. HOW DO I TRANSFER ASSETS TO A TRUST?

Dependent on your personal circumstances, Greenthos Capital will advise on the most appropriate method of transferring your assets to the Trust. It is crucial you understand the choices available to you and the implications of those choices, both in the short term but also in the later stages of your life. A decision to divest yourself of assets may not prove to be a sound plan in the long run. Before transferring assets to a Trust you should talk to your Greenthos Capital adviser about the implications of doing this.

6. WHAT WILL A TRUST COST?

Once you have decided to go ahead with a Trust, we will prepare a personalised Trust plan for you. This will outline what has been discussed with you, what we will do to implement the plan and an estimate of the costs involved. On acceptance of the plan, we will ask you to sign a terms of engagement after which we will be able to prepare all the documents required to enable you to create your Trust.

A Trust also has ongoing administration costs as it is a separate legal entity. When setting up a Trust you must be happy with the costs that proper Trust administration will demand on an annual basis. Your Greenthos Capital adviser will be able to discuss these with you and what they are likely to be in your situation.

7. DOES A TRUST NEED TO BE REGISTERED?

The Law only requires registration of specific Trusts, most commonly charitable Trusts. Trusts that do not fall under the Trustees Incorporation Act need not be registered. However, all income generated by the Trust must pay the requisite taxes to the Revenue Authority.

8. CAN A TRUST BE CHALLENGED?

Yes. A Trust can be challenged. However, there are things you can do to ensure that any challenge is unlikely to be successful.

- Have a professional and independent Trustee;
- Ensure Trustees' decisions are recorded by way of written resolution;
- Where there is more than one Trustee, all of the Trustees must be involved in all of the decisions and actions by the Trust;
- Ensure the Trustees meet at least once a year to review the Beneficiaries' requirements, the Trust's assets and investments; and,
- Maintain proper annual accounts and (if required) file tax returns.

Greenthos Capital can assist you with all of this.

IMPORTANT NOTE

Greenthos Capital Limited does not accept any liability for loss arising as a consequence of anyone acting in reliance on these notes alone without individual advice. Equally, liability will not be accepted where individual or specific advice was given but all relevant details were not supplied to Greenthos Capital Limited.

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About Greenthos Capital

Greenthos Capital is a wealth management firm that helps Ugandans plan, protect and grow their wealth across generations.
Our singular focus is on preserving and protecting the long-term interests of our clients. We are trustees of the present and the future, helping our clients achieve their vision for their legacy.

Our Services Include:

- Estate Planning
- Trustee Services
- Wealth Advisory
- Philanthropy & Impact

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