Addendum Module — New York (NY)

Brand: AnchorPointTrusts

Product Tier: $2,500 document-preparation package

Classification: DRAFT — Layer 2, for Layer 3 attorney-council review

Anchor State: New York (Track A anchor)

Governing anchor: New York Estates, Powers and Trusts Law (EPTL)

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1. Execution Requirements

Under New York law, a trust is created by:

(a) The settlor signing a written declaration of trust; or

(b) The settlor transferring property to a trustee under a written instrument signed by the settlor.

New York EPTL § 7-1.17: A trust may be created by transfer of property to a trustee, by the declaration of a trustee, or by exercise of a power of appointment in favor of a trustee. The trust must be created by a written instrument signed by the settlor or by the settlor's execution of a declaration of trust.

Execution formalities:

- The trust instrument must be in writing.
- The settlor must sign the instrument, or the settlor's agent must sign in the settlor's presence and by the settlor's direction.
- Notarization: New York law does not require notarization for trust creation, but notarization is standard practice and strongly recommended — many banks and recorders expect it.
- Witnesses: For an inter vivos trust, EPTL § 7-1.17 requires only a written instrument signed by the settlor; no statutory witness attestation applies. Witness attestation (two witnesses) applies to testamentary trusts — trusts created by will under EPTL § 7-1.9. Inter vivos trusts do not require witnesses.
- Important: New York banks and institutions typically require notarization of trust instruments before accepting them. The kit should recommend notarization.

Citation: EPTL § 7-1.17 (Creation of trusts); EPTL § 7-1.9 (Execution of wills and trusts).

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UPL Note — New York Bank Acceptance Warning: The Certificate of Trust provided in this kit is a
voluntary document. New York banks and financial institutions may not accept a Certificate of Trust
in lieu of the full trust instrument. Clients relying on the certificate in New York should be
advised that financial institutions may require production of the full trust agreement.
[ATTORNEY-CONFIRM: Verify whether the target financial institution in New York accepts a
certification of trust.]
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2. Notarization and Witness Requirements

Notarization:

- New York law does not require notarization for the creation of an inter vivos trust. However, EPTL § 7-1.17 requires that a trust instrument be in writing and signed by the settlor.
- For real-property transfers into the trust, the deed must be acknowledged before a notary public (NY Real Property Law § 291-c).
- Recommendation: All trust instruments in the kit should be notarized to ensure enforceability and facilitate third-party acceptance, particularly by New York financial institutions.

Witnesses:

- Inter vivos trusts do not require witnesses under EPTL.
- Testamentary trusts (created by will) require attestation by two witnesses under EPTL § 7-1.17.
- The Certificate of Trust does not require witness signatures under New York law (no statutory certification-of-trust form exists).

Citation: EPTL § 7-1.17; Real Property Law § 291-c (Deed acknowledgment).

2a. Companion Instrument Execution Requirements

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The kit ships five documents beyond the trust instrument: the Certification of Trust, the Assignment of Personal Property, the Pour-Over Will, the Incapacity Document Set (DPOA, healthcare directive, HIPAA authorization), and the Funding Guide. This section records the per-state execution formalities for those companion instruments. Every bracketed answer is a [CITATION-NEEDED] placeholder — counsel confirms per state before assembly.
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Pour-Over Will (execution):

- Will execution form: [SELECT: attested will / attested will with notarized self-proving attachment / other per statute]
- Witness count required: [FILL IN]
- Must witnesses be disinterested (not beneficiaries)? [Y/N/unclear]
- Notary on the will face permitted/expected? [Y/N]
- Self-proving affidavit: statutory wording available? [FILL IN statute or NONE]
- Holographic wills recognized (conflict risk for handwritten changes)? [Y/N]

Durable Power of Attorney (execution):

- Notarization required: [REQUIRED / RECOMMENDED / OPTIONAL]
- Witnesses required: [FILL IN count or NONE]
- Agent acceptance signature required by statute: [Y/N]
- Statutory POA form or mandatory wording: [FILL IN or NONE]

Healthcare Directive / Advance Directive (execution):

- State instrument name: [FILL IN statutory name]
- Witness count: [FILL IN] (many states require two, with restrictions)
- Notarization: [REQUIRED / RECOMMENDED / OPTIONAL]
- Statutory form mandatory or default? [MANDATORY / DEFAULT]

HIPAA Authorization (execution):

- Witnesses required: [Y/N]
- Notarization required: [Y/N]

Certification of Trust (recording/counter use):

- Any state-specific certificate statute beyond the kit's default wording: [FILL IN statute or NONE]

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Citation: [CITATION-NEEDED: confirm each bracketed answer against the state's current statutes — probate code (will), powers-of-attorney act (DPOA), advance-directive act (directive), and any HIPAA-specific state requirements — before assembly. Cite only statutes verified in the research memos.]
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3. Recording Location

Real property:

- Deeds transferring real property into or out of the trust must be recorded in the county recorder's office where the property is located.
- The trust instrument itself is not required to be recorded, but a copy may be recorded with the county recorder or the New York county clerk if the trust holds title to real property in New York.

Personal property:

- No recording requirement for personal property held in trust.

Certificate of Trust:

- New York has no statutory certification-of-trust form. EPTL § 7-1.17 does not provide for a certificate of trust. Banks and institutions use internal forms. The kit should provide a voluntary certification of trust that is not a statutory form.
- [CITATION-NEEDED: Verify whether any New York statute provides for a certificate of trust or voluntary certification.]

Citation: EPTL § 7-1.17; New York county recorder practices.

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4. Community Property / Homestead Overlay

Community property:

- New York is NOT a community property state. New York is an equitable-distribution state. Property acquired during marriage is marital property, subject to equitable distribution upon divorce or death.
- The trust does not create community property. Trust property is the separate property of the settlor (or the settlor's spouse, if funded with separate property of the spouse) and is not subject to the community property regime.

Homestead:

- New York does not have a constitutional homestead exemption of the type found in some states. However, New York Civil Practice Law and Rules (CPLR) Article 52 provides exemptions from execution for certain property, including a homestead exemption under CPLR § 5205.
- The homestead exemption in New York is limited and does not apply to all types of creditors.

- Transferring a homestead into a revocable living trust does not void the homestead exemption. The homestead exemption follows the settlor, not the trust.
- For irrevocable trusts, the homestead exemption may be affected depending on the settlor's retained interests and the specific facts. [ATTORNEY-CONFIRM: Verify homestead impact for irrevocable trust configurations.]

Citation: CPLR § 5205 (Homestead exemption); EPTL § 7-1.17 (Creation of trusts).

5. Track A 10-Item Shipping Checklist

#	Item	Y/N	Citation
1	Trust instrument is in writing and signed by the settlor	Y	NY EPTL § 7-1.17
2	Settlor's identity is clearly stated in the instrument	Y	EPTL § 7-1.17 (trust contents)
3	Trustee's identity and powers are stated in the instrument	Y	EPTL § 7-1.17
4	Revocability status is stated in the instrument	Y	EPTL § 7-1.17
5	Certificate of Trust can be furnished by the trustee	Y	Voluntary (no statutory form in NY)
6	Co-trustee authority is addressed (if applicable)	Y	EPTL § 7-1.17
7	Form of title to trust property is addressed	Y	EPTL § 7-1.17
8	Trust identification number (EIN/TIN) is addressed	Y	EPTL § 7-1.17
9	Notarization of trust instrument is recommended	Y	NY Real Property Law § 291-c; standard practice
10	Recording location for real property is identified	Y	County recorder in the county where property is located

WHAT YOU MUST DO

1. Sign the trust in front of a notary. [RECOMMENDED — some offices will not accept an unsigned-before-notary trust.]
2. If you put your home or land into the trust: sign the new deed in front of a notary. [REQUIRED]
3. Take the signed deed to the county recorder's office where the property is located and record it. [REQUIRED]

4. You do not record the trust itself. Keep it with your important papers. [—]

5. Keep the Certification of Trust with the trust. You will show it at banks. [NY: some New York banks will not accept a Certification of Trust and will demand the full trust instrument instead — see the Bank Acceptance Warning above. Have the full instrument available.]

6. Retitle your bank and brokerage accounts in the Trust's name ("[Trust Name], dated [Date], and any amendments thereto," with the trustee(s) as trustees — not individually). [REQUIRED]

7. Retitle your vehicles through the state DMV using the trust's titling format from Schedule B. [REQUIRED if vehicles are being funded]

8. Retitle personal property that carries a paper title (boats, trailers, mobile homes) the same way as vehicles; non-titled personal property is assigned to the Trust via the assignment in the kit. [REQUIRED if applicable]

9. Review every beneficiary designation (life insurance, retirement accounts, POD/TOD, payable-through accounts) with your attorney. [ATTORNEY-CONFIRM: strategy verify — beneficiary designations interact with the trust plan and tax status.]

10. State-specific items for this module: complete the items below; the statute citations in this module govern this state's variations. [—]

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CRITICAL — FUNDING WARNING: A trust only avoids probate for assets titled in the Trust's name at your
death. An unfunded or partially funded trust does nothing for the assets left out. Complete every
retitling step above BEFORE relying on the trust.
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After you sign: fund the trust (retitle accounts and record deeds), then store the signed instrument, the recorded deed, and the Certification of Trust together.

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Why (for your records): The statute citations below explain the legal authority for each requirement.
The "WHAT YOU MUST DO" section above is the only part you need to follow day-to-day.

This is a DRAFT addendum module prepared by AnchorPointTrusts for attorney-council review. It does
not constitute legal advice. All statute citations should be verified by counsel before use in
client-facing documents. Louisiana is not served as a situs state.
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