Addendum Module — Texas (TX)

Brand: AnchorPointTrusts

Product Tier: $2,500 document-preparation package

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

Anchor State: Texas (Track A anchor)

Governing anchor: Texas Property Code (Title 4 — Trusts)

Section 1. Execution Requirements

Under Texas 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.

Texas Property Code § 112.001: A trust is 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: Texas law does not require notarization for the creation of a trust (§ 112.001). However, notarization of the trust instrument is standard practice and strongly recommended to facilitate real-property transfers and third-party acceptance. Texas Property Code § 5.021 requires an acknowledged deed for real-property transfers.
- Witnesses: Texas law does not require witnesses for trust creation. Witnesses are not required for the trust instrument itself.
- The kit assumes written instruments only. Oral trusts are not recommended and are outside the scope of the kit.

Citation: Texas Property Code § 112.001 (Creation of trust); § 5.021 (Deed acknowledgment).

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UPL Note — Texas Exclusion Warning: This template is designed for personal/family trusts under the
Texas Trust Code (Prop. Code Ch. 111-113). Texas business trusts are explicitly excluded from the
Texas Trust Code under § 111.003(3). If the trust is a business trust, a different statutory
framework applies and this template is not appropriate. [ATTORNEY-CONFIRM: Verify the trust is a
personal/family trust before using this template.]
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2. Notarization and Witness Requirements

Notarization:

- Texas law does not require notarization for the creation of a trust (§ 112.001). However, the Certificate of Trust may be notarized as a matter of standard practice.

- For real-property transfers into the trust, the deed must be authenticated (notarized) under Texas Property Code §§ 5.021.
- Recommendation: All trust instruments in the kit should be notarized to ensure enforceability and facilitate recording.

Witnesses:

- Texas law does not require witnesses for trust creation.
- The Certificate of Trust does not require witness signatures.

Citation: Texas Property Code § 112.001; § 5.021 (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 records office (county clerk/recorder) in the county where the property is located.
- The trust instrument itself is not required to be recorded, but a copy may be recorded with the county clerk if the trust holds title to real property in Texas.
- Texas has a constructive-notice recording statute: an unrecorded deed is void as to subsequent purchasers for value without notice.

Personal property:

- No recording requirement for personal property held in trust.

Certificate of Trust:

- Texas does not have a statutory certification-of-trust form separate from the trust instrument. The Certificate of Trust under the kit is a voluntary document based on the UTC model.
- [CITATION-NEEDED: Verify whether Texas has a specific statutory certification-of-trust provision.]

Citation: Texas Property Code § 112.001; Texas Deceptive Trade Practices-Consumer Protection Act (for recording practices); county clerk recording statutes.

4. Community Property / Homestead Overlay

Community property:

- Texas IS a community property state. Property acquired during marriage by either spouse is community property (with narrow exceptions).
- The trust does not automatically change the community-property characterization of property. Trust property funded with community property may be characterized as community property, and the trust agreement alone does not alter that characterization.
- Critical: Transferring community property into an irrevocable trust may have community-property and tax consequences. The settlor's community-property interest in the trust must be analyzed on a case-by-case basis. [ATTORNEY-CONFIRM: Verify CP characterization for trust-funded community property in TX.]
- The kit does not provide a CP disposition clause. The attorney should consider whether the trust instrument needs a CP allocation provision.

Citation: Texas Family Code § 3.001 et seq. (Community property); Texas Property Code § 112.001.

Homestead:

- Texas recognizes a homestead exemption under the Texas Constitution Art. XVI, § 50 and Texas Property Code § 41.001 et seq. The homestead exemption protects the settlor's primary residence from forced sale by certain 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 in TX.]
- Texas homestead law is complex and fact-intensive. Attorney review is required for any trust that holds a Texas homestead.

Citation: Texas Constitution Art. XVI, § 50; Texas Property Code § 41.001 (Homestead exemption).

5. Track A 10-Item Shipping Checklist

#	Item	Y/N	Citation
1	Trust instrument is in writing and signed by the settlor	Y	TX Prop. Code § 112.001
2	Settlor's identity is clearly stated in the instrument	Y	TX Prop. Code § 112.001
3	Trustee's identity and powers are stated in the instrument	Y	TX Prop. Code § 112.001
4	Revocability status is stated in the instrument	Y	TX Prop. Code § 112.001
5	Certificate of Trust can be furnished by the trustee	Y	TX Prop. Code § 112.001 (voluntary)
6	Co-trustee authority is addressed (if applicable)	Y	TX Prop. Code § 112.001
7	Form of title to trust property is addressed	Y	TX Prop. Code § 112.001
8	Trust identification number (EIN/TIN) is addressed	Y	TX Prop. Code § 112.001
9	Notarization of trust instrument is recommended	Y	TX Prop. Code §§ 5.021 (deed acknowledgment); standard practice
10	Recording location for real property is identified	Y	County clerk/records 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. [—]
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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