1. Trust Funding Instructions for the
2. {{ trust\_name }}

The following spreadsheet is a generic Trust funding reference chart and is **not specific legal advice** to be used for your specific funding strategy:

|  |  |  |
| --- | --- | --- |
| **Item** | **Owner** | **Beneficiary** |
| Annuities - Non-Qualified | Individual | **Spouse first, then beneficiaries directly; if beneficiaries are minors name Trust as contingent\*** |
| Annuities - Qualified | Individual | **Spouse then Trust\*** |
| Automobiles | Individual | **DMV Survivor Affidavit\*** |
| Disability Insurance | Individual | Trust |
| Health Insurance | Individual | Trust |
| Individual Retirement Plans | Individual | **Spouse then Trust\*** |
| Judgments | Individual | Trust |
| Life Insurance | Individual | Trust |
| Long Term Care Insurance | Individual | Trust |
| Pension Plans | Individual | **Spouse then Trust\*** |
| Qualified Retirement Plans | Individual | **Spouse then Trust\*** |
| Sole Proprietorship | Individual | Trust |
| Aircraft | Trust | NA |
| Bank Accounts | Trust\* | NA |
| Boats | Trust | NA |
| Bonds | Trust | NA |
| Business Interests | Trust\* | NA |
| Cemetery Plots | Trust | NA |
| Certificates of Deposit | Trust | NA |
| Closely Held Corporate Stock | Trust | NA |
| Copyrights - Trademarks - Patents | Trust | NA |
| Employer Securities | Trust | Trust |
| Farm Assets | Trust | NA |
| Investment Accounts - Non-Qual. | Trust | NA |
| Lease Agreements | Trust | NA |
| Licenses | Trust | NA |
| LLC's | Trust/Individual\* | Trust\* |
| Memberships | Trust | Trust |
| Mineral Interests | Trust | NA |
| Partnership Interests | Trust | NA |
| Professional Corporation Stock | Trust/Individual\* | Trust\* |
| Promissory Notes | Trust | NA |
| Real Estate | Trust/LLC\* | NA |
| Receivables | Trust | NA |
| Royalty Interests | Trust | NA |
| Safe Deposit box | Trust | NA |
| Savings Bonds | Trust | NA |
| Stocks | Trust | NA |

\*Please refer to the rest of this document for the specific advice we have given you relating to how to fund each specific asset with your Trust.

We cannot overemphasize the importance of *fully funding* the {{ trust\_name }} dated {{ trust\_date }} (your “Trust”). An unfunded or partially funded Trust does not avoid probate. These instructions will help you fund your Trust.

* You will make *ownership changes* to change the title of most of your assets from your name as an individual to your name as Trustee of your Trust.
* For other assets, such as life insurance and retirement accounts, you will make *beneficiary changes* to properly distribute those assets upon your death. The beneficiary will not necessarily be your Trust -- please see the “Retirement Plans” and “Life Insurance and Annuities” sections of this document.

Generally, to transfer assets to your Trust, you must execute new documents of title, deeds to real property, signature cards for your bank accounts, or change of beneficiary forms for pension plans, individual retirement plans and life insurance.

Your financial advisor, accountant, broker or life insurance agent may need to help you make ownership or beneficiary changes. These instructions are based on your disclosure of assets and will give you general knowledge of how to fund your Trust, but they cannot comprehensively address every type of transfer. Please call us if you must make transfers that are not addressed in these instructions.

We recommend you place copies of all written documents which evidence the interest of your Trust in your accounts, real property, business interests, insurance policy proceeds, or any other property in your Trust portfolio. Your final step in the transfer process should always be to place a document in the “TRUST FUNDING DOCUMENTS” section of your Trust portfolio that proves your Trust is the owner or beneficiary of each asset. *The underlined, italicized sentence ending the transfer instructions for each type of asset tells you what documents to put in your Trust portfolio.*

**Using Your Certificate of Trust**

Your Trust portfolio contains a Certificate of Trust. In your Certificate of Trust, you state in writing (1) that your Trust exists, (2) that you are one of the Trustees, and (3) that you have the authority and power to transact business as a Trustee.

Most institutions have their own forms for you to fill out. If the institution you are dealing with does not have such a form, you should provide them with a copy of your Certificate of Trust form. Your Certificate of Trust provides only the information that the persons you deal with need to see without disclosing confidential details.

Your Tax Identification Number

As long as you are acting as Trustee of your Trust, you do not need to obtain a separate tax identification number for your Trust or to file a separate trust tax return. The Internal Revenue Service prefers that you use your own Social Security number. You should report all of the income generated by Trust assets on your personal IRS Form 1040.

When you die, your Trust becomes irrevocable for tax purposes. It may split into multiple trusts, each of which may be treated as a separate taxable entity for income tax purposes. We will work with your successor Trustee and your accountant to see that your heirs get the full benefit of your estate planning upon your death.

Titling Assets In Your Name As Trustees

Title to all of your currently owned and newly acquired assets should be put in the name of your Trust. We prefer the following format for titling assets in the name of your Trust:

**{{ client.name }} and {{ spouse.name }}, Trustees of the {{ trust\_name }} dated {{ trust\_date }}.**

**Instructions for Transferring Specific Assets**

Cash (Bank/Credit Union) Accounts

You should retitle your personal bank accounts or cash equivalents, including treasury bills, money market accounts and certificates of deposit, into the name of your Trust:

**{{ trust\_name }} dated {{ trust\_date }}.**

Before you retitle your certificates of deposit, consult with a bank officer to make sure that the institution does not consider the change in account name to be an “early withdrawal” that incurs a penalty. Generally, this should not be a problem because your tax identification number for the account will remain the same.

Instruct your financial institution by letter or in person to change the title to your Trust. The tax identification number (your Social Security number) on the account for withholding and reporting purposes will remain the same.

Retitling the account records should have no effect on the name you wish to have printed on your checks. There is no reason to have the name of your Trust on your printed checks. Ask your bank to continue to print your individual name on the checks.

After changing title, your next account statement will confirm the retitling by listing you as Trustee of your Trust.

\*Please note: This re-titling process should be relatively simple and straightforward – and, at most banks, it is. However, some banks make this process challenging and may insist that you actually open new accounts. If your bank makes such demands, you have options:

1) Ask to speak to a supervisor. Sometimes, the only personnel at the bank trained to understand trusts are higher level personnel – some banks even have a dedicated person or team for such matters.

2) You may close your account at the disagreeable bank and move your money to a more agreeable bank.

3) You may do as your disagreeable bank instructs, jumping through whatever hoops may be necessary to re-title your account(s).

4) Although it is generally best to actually re-title your account(s), you may choose to add “pay on death (POD)” or “transfer on death (TOD)” designations to your existing accounts, naming your trust as the POD/TOD beneficiary, according to the formula above under “Titling Assets in Your Name as Trustee”. **Be warned** that this option does **not** allow a successor trustee to control the account in the event of your incapacity.

*Please put a copy of this account statement in the “TRUST FUNDING DOCUMENTS” section of tab of your Trust portfolio.*

Qualified Tuition Plans (529 Plans)

You should change the current owner of your 529 Plan account(s) to be your Trust. Before you change the owner of the 529 Plan account(s), consult with a bank officer to make sure that the institution does not consider the change owner to be withdrawal that incurs a penalty. If the financial institution does not allow the trust to be the owner of the 529 Plan account(s), you should name the Trust (preferable) or your successor Trustee as the successor owner of the 529 Plan account(s).

Personal Effects

Tangible personal property refers to such items as household furnishings, appliances and fixtures, works of art, motor vehicles, pictures, collectibles, personal wearing apparel and jewelry, books, sporting goods, and hobby paraphernalia. Your tangible personal property has been transferred to your Trust by the Assignment of Personal Property we have prepared for you.

Vehicles

Your personal vehicles can be titled in the name of your Trust, but we find that most of our clients prefer to leave their vehicles outside their trust for several reasons. One, should they have a vehicle accident, the fact they have a Trust could cause the other parties to the accident to assume they have deep pockets and encourage a lawsuit. Second, heirs can usually transfer vehicles without formal probate proceedings. If you decide to title your vehicle in the name of your Trust, consult your casualty insurance agent to make certain the transfer will not result in a business rating on your insurance policy which would increase your premiums. If you decide to title your vehicles in the name of your Trust, you will need to contact your insurance provider and name the Trust as an insured under the policy covering the vehicle(s).

{{ vehicle\_funding }}

**{{ trust\_name }} dated {{ trust\_date }}**

Safe Deposit Boxes

Access to a bank safe deposit box is typically gained through a lease arrangement between you and your bank. Depending on the institution, your safe deposit box rental agreement may be transferred into the name of your Trust or the Trustee can enter into a new agreement for the same box on behalf of your Trust. We recommend that you go to your bank to make arrangements for the transfer of your safe deposit boxes into the name of the Trust as follows:

**{{ client.name }} and {{ spouse.name }}, Trustees of {{ trust\_name }} dated {{ trust\_date }}.**

*Please put a copy of each safe deposit box lease in the “TRUST TRANSFER DOCUMENTS” section located in the “FINANCIAL - ASSETS” tab of your Trust portfolio.*

## Life Insurance Policies

You should designate your Trust as the beneficiary of your life insurance policies so the policy proceeds will be governed by the terms of the Trust, unless they are part of a buy-sell agreement related to your business. If you have life insurance policies related to a buy-sell agreement, please let us know, so that we can properly advise you regarding those policies. To properly designate your Trust as the beneficiary, we recommend you contact your insurance agent and financial advisor and advise them you want your Trust as the beneficiary. Your agents will make the change for you or provide you the beneficiary designation form for you to complete.

Each insurance company will have its own preferred format for designating your Trust as the beneficiary. Here is a typical format:

**Primary Beneficiary:** **{{ trust\_name }} dated {{ trust\_date }}.**

Your insurance company should send you a letter confirming the change of beneficiaries in your insurance policy or annuity records. *Please put a copy of this confirmation letter in the “LIFE INSURANCE” section of your Trust portfolio.[[1]](#footnote-1)*

Stocks and Bonds Not Held in Investment Accounts

If you possess original stock or bond certificates, there are two ways to transfer the certificates to your Trust:

* Open a brokerage or investment account in the name of your Trust and deposit your original certificates in the account. (You may later have your broker deliver the certificates to you made out in the name of the Trust if you wish.) Your future account statements, which will be titled in the name of your Trust, will prove your ownership of the transferred stock or bonds. *Please be sure to put a copy of an account statement proving ownership by the Trust into the “TRUST TRANSFER DOCUMENTS” section located in the “FINANCIAL - ASSETS” tab of your Trust portfolio.*
* Work directly with the transfer agent for the stock or bond and direct the agent to reissue your stock with your Trust named as the new owner. *Please be sure to put a copy of both the front and back of the new bond or stock certificate in the “TRUST TRANSFER DOCUMENTS” section located in the “FINANCIAL - ASSETS” tab of your Trust portfolio.*

Non-Qualified (Non-Retirement) Investment Accounts

If you hold publicly traded stocks and bonds that are already in brokerage or investment accounts, contact your brokers or custodians and direct them to change the title of the accounts to the name of your Trust. The procedure for doing so is exactly the same as the procedure for retitling cash accounts set forth above. You may have to complete new account applications and present a copy of your Certificate of Trust in order to change the title. Title to the accounts should be in the Trust name.

After changing title, your next account statement will confirm the retitling by listing your Trust as the owner of the account. *Please put a copy of this account statement in the “TRUST TRANSFER DOCUMENTS” section located in the “FINANCIAL - ASSETS” tab of your Trust portfolio.*

Non-Qualified Annuities

We recommend, for tax reasons, that your trust should not be the owner or the beneficiary of your non-qualified annuity. The owner and beneficiaries of your non-qualified annuity should be natural persons.

You should always have an up-to-date General Durable Power of Attorney. This will allow your agent to act on your behalf with the custodian of your non-qualified annuity.

If you have concerns about a beneficiary receiving non-qualified annuity funds outright on your death due to the beneficiary being a minor, personal problems, creditor issues, etc., you may name the trust as a beneficiary. However, the adverse tax consequences of doing so could be significant. Adverse tax consequences could include, but are not necessarily limited to, a higher tax rate and loss of the opportunity for a beneficiary to “stretch” the non-qualified annuity over their lifetime.

In the situation where a beneficiary is a minor at the time of your death, the trust may be named as beneficiary to avoid a conservatorship proceeding. However, due to potential adverse tax consequences, a conservatorship proceeding is typically preferred.

Your signature below acknowledges that you desire and agree that only natural persons will be the owner and beneficiary(ies) of your non-qualified annuity.

Your annuity company should send you a letter confirming the change of beneficiaries pertaining to each annuity. Please put a copy of this confirmation letter in the “TRUST FUNDING” section of your Trust portfolio.

## Qualified Retirement Plans and Annuities *(including IRAs, Roth IRAs, 401K, 403b, etc.)*

You should never transfer the ownership of a qualified retirement or pension plan or individual retirement account to your Trust. Instead, planning is done through your beneficiary designations. Based on our discussions, you have indicated that you wish to name your spouse as primary beneficiary and each beneficiary’s Trust as a contingent beneficiary as follows:

{%p macro summarize(person) %}

**{{ person.inheritance\_percentage }}** – {{ person.name }} Trust created under the {{ trust\_name }} dated {{ trust\_date }}

(For convenience, {{ person.name }}’s separate trust may be referred to as “The {{ person.name }} Trust”)

{%p endmacro %}

**For {{ client.name }}’s Qualified Account(s):**

**Primary Beneficiary: 100% -** {{ spouse.name }}

**Contingent Beneficiary:**

{%p for person in beneficiaries %}

{{p summarize(person) }}

{%p endfor %}

**For {{ spouse.name }}’s Qualified Account(s):**

**Primary Beneficiary:** **100%** - {{ client.name }}

**Contingent Beneficiary:**

{%p for person in beneficiaries %}

{{p summarize(person) }}

{%p endfor %}

Your retirement plan administrator should send you a letter confirming the change of beneficiaries in your retirement plan records. Please put a *copy of this confirmation letter in the “TRUST TRANSFER DOCUMENTS” section located in the “FINANCIAL - ASSETS” tab of your Trust portfolio.[[2]](#footnote-2)*

**Note:** For all financial accounts that continue to be titled in you individual name(s), you should contact the custodian institution where each account is located and get that institution’s pre-approval of your General Durable Power of Attorney or, if necessary, complete that institution’s internal power of attorney documentation to allow the agents named in your General Durable Power of Attorney to be able to control each account on your behalf in the event of your incapacity. Taking these steps will help ensure that the Agents under your General Power of Attorney will be able to act on your behalf, in the event of your mental incapacity.

Business Interests

Business interests should generally be owned by your trust. Unless reflected otherwise in our engagement letter, it is your responsibility to transfer existing or future business interests to your trust. You should contact your corporate counsel or ask us to assist you in transferring your business interests to your Trust. Your corporate counsel will coordinate your ownership of closely-held stock, partnership and limited liability company interests with your Trust. Your corporate counsel can provide you with the proper counsel and documentation to complete this process.

Once the transfer is made, you should reflect the change in ownership in corporate, partnership and LLC records. This may include a stock ledger and bylaws, partnership agreement and LLC operating agreement. For corporations, you will also need to disclose the trust as the shareholder on your next annual report. Amendment of LLC Articles of Organization or Certificate of Formation and amendment of a partnership Certificate of Partnership reflecting the trust as an owner may also be required, depending on your state. *Please put a copy of the documentation for your ownership of business interests in the “TRUST FUNDING DOCUMENTS” section of your Trust portfolio.*

Real Property

Transferring your real property to your Trust will require attention to ownership and tax issues based on the nature of the current title to the property. Ultimately, the transfer will require preparing, executing, and recording new deeds for each property. This should be done through an attorney. At your request, we will assist you with this.

We have prepared a deed transferring title to your {{ state\_name(address.state) }} residence into your Trust.

**You will need to contact your insurance provider(s) and name the Trust as an additional insured under the policy(ies) covering the property(ies) owned by your Trust**. *Please put a copy of the deed in the “TRUST FUNDING DOCUMENTS” section of your Trust portfolio.*

**Refinance**

If you are refinancing your home and have instructed us not to record your transfer deed, you must contact us when your refinance is complete. We will not record your deed until you instruct us to do so. Failure to contact us once your refinance is complete could result in probate.

**Creditor Protection**

As we discussed, your Trust does not create creditor or lawsuit protection for you during your lifetime. If you wish to explore affirmative steps you can take to create lawsuit and creditor protection, we can assist you in evaluating appropriate asset protection planning measures by separate written engagement.

**Reviewing Your Estate Plan**

You should review your estate plan with an attorney every three to five years because all estate plans require on-going maintenance. In particular, a change in your family, an increase in your net worth, or a change in the tax law could significantly impact the effectiveness of your plan.

**Funding Acknowledgement**

We acknowledge that we have been advised by counsel of the importance of funding our Trust, and we understand that funding our Trust is our responsibility. We also understand that neither our attorneys nor {{ firm }} is responsible for funding our Trust. In addition, we acknowledge that we have reviewed the funding instructions and we understand the instructions have been provided to assist us with the funding of our Trust.

Accepted and Agreed.

Dated \_\_\_\_\_\_\_\_\_\_ \_\_\_, 20\_\_\_.

|  |  |
| --- | --- |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| {{ client.name }} | {{ spouse.name }} |

1. In case your insurance company fails to send you a confirmation letter, please put a copy of the change of beneficiary designation you sent to the insurance company in the “TRUST TRANSFER DOCUMENTS” section located in the “FINANCIAL - ASSETS” tab of your Trust portfolio. When you do receive the confirmation letter, you can then substitute it for the change of beneficiary designation. [↑](#footnote-ref-1)
2. In case your retirement plan administrator fails to send you a confirmation letter, please put a copy of the change of beneficiary designation you sent to the plan administrator in the “TRUST TRANSFER DOCUMENTS” section located in the “FINANCIAL - ASSETS” tab of your revocable Trust portfolio. When you do receive the confirmation letter, you can then substitute it for the change of beneficiary designation. [↑](#footnote-ref-2)