TRUST FUNDING INSTRUCTIONS

THE CRITICAL SECOND STEP

IMPORTANT NOTICE & LEGAL DISCLAIMER

This instructional guide is provided for general informational and educational purposes to assist you in completing the administrative steps required to fund your estate planning documents. The information contained herein reflects standard legal and administrative practices in the State of Arizona. **Four Peaks Planning, Inc. is a Certified Legal Document Preparer (AZCLDP) and cannot provide specific legal or tax advice.** This guide is not a substitute for the advice of an attorney or a certified public accountant. If you have complex financial situations, unique asset structures, or require a legal opinion on a specific strategy, please consult a licensed professional.

Executing your estate planning documents is only the first step. Your living trust is like a safety deposit box—it only protects what you actually place inside it. Failure to fund your trust or update your beneficiaries means your assets will likely face probate, completely defeating the purpose of your plan.

The instructions below are designed to help you smoothly navigate the transfer of your assets. For any asset not listed, the general rule is to contact the managing institution, notify them of your trust, and ask for their specific transfer or beneficiary update forms.

As you move forward through life, remember to buy all future major assets (like a new home) directly in the name of your trust, or explicitly list your trust as the beneficiary on newly opened accounts.

1. Personal Property (Furniture, Clothes, Household Goods)

Your portfolio includes a General Assignment of Personal Property, which automatically transfers your everyday household belongings into your trust. Standard homeowner's insurance policies cover personal property based on use and possession, not matching titles. You do not need to notify your insurance company about this assignment during your lifetime.

<u>Exception:</u> If you have high-value items individually scheduled on an insurance rider/floater (such as fine jewelry, firearms, or art), contact your agent to ensure your trust is properly reflected on those specific endorsements.

<u>Note:</u> We cannot draft deeds for out-of-state properties due to varying local county recorder regulations. Please contact a local title company or real estate professional in that specific state for assistance.

2. Real Property (Real Estate)

In Arizona, there are two primary methods used to link your real estate to your trust. Your portfolio utilizes the method checked below:

☐ Method A: The Arizona Beneficiary Deed

Often preferred for lifetime financing simplicity, this deed transfers your real estate into your living trust only upon your passing (or the passing of the surviving owner)

- **How it Works:** The property stays entirely in your individual names during your lifetime. This preserves your ability to easily refinance, secure a Home Equity Line of Credit (HELOC), or modify your loan because lenders do not have to review trust agreements.
- **Insurance Rule:** Many carriers do not require adding the trust to your homeowners insurance policy while a beneficiary deed is used because the trust has no present ownership interest. Please consult your specific carrier regarding its preferred underwriting and endorsement practices.
- **At Death:** When the beneficiary deed triggers and ownership vests in the trust, your Successor Trustee **should promptly notify** the insurance carrier to update the policy or rewrite it in the trust's name.

☐ Method B: Immediate Transfer Deed

This method involves executing and recording a deed that transfers ownership of the property into your living trust immediately during your lifetime.

- **How it Works:** Depending on your specific title history and requirements, this is typically accomplished using an Arizona Quit Claim Deed, Warranty Deed, or Special Warranty Deed to formally retitle the real estate out of your individual names and into the name of your trust.
- **Insurance Rule:** *Prompt Action Recommended.* You should contact both your Title Insurance company and your Homeowner’s Insurance carrier to instruct them to add your Living Trust as an "Additional Insured" or "Interested Party" on your policies.
- **Mortgage Note:** Under federal law (the Garn-St. Germain Act), transferring your primary, owner-occupied residential home into a revocable living trust will not trigger your mortgage's "due-on-sale" clause.

3. Checking, Savings, and Credit Union Accounts

Banks have strict internal compliance rules that vary wildly. Generally, you have two options for securing bank accounts:

- **Option 1: Complete Retitling.** You update the account ownership directly into the name of your trust. This provides the smoothest transition if you become incapacitated, as your Successor Trustee can step in seamlessly. Warning: Some banks require you to close your current account and open a brand new one to do this, which can disrupt automatic deposits or withdrawals.

- **Option 2: Payable on Death (POD) / Transfer on Death (TOD)**. If your bank makes retitling too difficult or threatens to change your account numbers, leave the account in your individual names and list your Living Trust as the POD/TOD beneficiary. This successfully avoids probate at death, but does not provide immediate incapacity protection.

  Emergency Safeguard: If you use Option 2, provide your bank with the Durable Financial Power of Attorney located in your binder to ensure your designated agent can access funds during a medical emergency. Ask your bank if they require you to sign their proprietary internal Power of Attorney forms as well.

  Pro-Tip: The "Stale" Power of Attorney Trap: If you choose Option 2, your Durable Financial Power of Attorney (FPOA) is the primary tool that allows your designated agent to pay your bills if you become unexpectedly incapacitated. While an Arizona FPOA does not automatically expire under Arizona law, financial institutions are highly risk-averse and frequently reject documents they consider "stale" (often anything executed more than a few years prior). Consider these proactive maintenance steps while you are healthy:

  1. **Sign the Bank's Internal Forms:** Take your estate planning binder into your local branch, show them your FPOA, and ask to sign the bank's proprietary, in-house Power of Attorney forms.
  2. **Keep Your Documents Current:** Plan to refresh and re-execute your estate planning Powers of Attorney every 5 to 6 years so that the execution dates remain contemporary for bank compliance officers.

4. Stocks, Bonds, and Brokerage Accounts

- **Brokerage Accounts:** Contact your financial advisor or custodian. They will provide new account agreements and will require a copy of your Certificate of Trust, usually the tab immediately after the Living Trust.

- **Physical Stock Certificates:** If you hold physical certificates in your own name, you must mail them to the stock's transfer agent along with a letter of request and a loose Stock Power form. Your signature on the Stock Power must be Medallion Guaranteed (a specialized stamp provided by a participating bank or broker, which is distinct from a notary).

- **U.S. Savings Bonds**: These must be reissued through the Bureau of the Fiscal Service (TreasuryDirect.gov) using their trust reissuance forms. This is an administrative change and is not a taxable event.

5. Retirement Accounts (IRAs, 401ks) and Annuities

CRITICAL TAX NOTES:

- **Never Change the Owner:** You must never change the owner of a retirement account to your trust, or you will trigger an immediate taxable distribution and potentially severe income tax consequences. You only update the beneficiaries.

- **The Trust Tax Trap:** Because trusts become irrevocable after you pass, any income retained by the trust is taxed at compressed, unfavorable tax rates. Listing individuals as primary and backup beneficiaries directly is common practice unless you require strict control over how a younger or vulnerable beneficiary receives their inheritance.

- **Retirement Accounts and Beneficiary Designations:** Qualified retirement plans and IRAs should generally remain titled in your individual name during life. Ownership of retirement accounts transfers at death through beneficiary designations rather than through trust funding.

- **If You Are Married:** You may designate your spouse as Primary Beneficiary, because a surviving spouse generally possesses rollover options unavailable to other beneficiaries. Naming the spouse is a choice; this trust does not assume your spouse is, or is not, a beneficiary.

- **Using the Living Trust:** You may designate the Living Trust as the Primary Beneficiary (or, if individuals are named first, as the Contingent Beneficiary) so that any retirement benefits payable to the trust may be administered under the trust's beneficiary-protection, disability-protection, and distribution provisions. Do not designate a separate IRA Trust unless a standalone IRA Trust has actually been prepared as part of your estate plan and specific instructions have been provided regarding its use.

- **Spousal Rights and Consent (Married Clients):** If you are married and wish to name a beneficiary other than your spouse — including the Living Trust or individuals — be aware that (i) employer-sponsored plans subject to federal law (such as 401(k) and many 403(b) plans) generally require your spouse's written, notarized consent before a non-spouse designation is effective, and (ii) because Arizona is a community-property state, your spouse may hold a community-property interest in retirement accounts that can affect IRA designations as well. Whether consent or a spousal waiver is required is fact-specific and should be confirmed with your advisor or attorney before finalizing designations.

- **Beneficiaries with Special Status:** Certain beneficiaries — including a spouse, a minor child of the account owner, a beneficiary who is disabled or chronically ill, or a beneficiary not more than ten years younger than the account owner — may qualify for extended distribution treatment under current federal rules. Whether a particular beneficiary qualifies, and how it interacts with the trust's provisions, is fact-specific and should be confirmed before finalizing designations.

- **Designations Control:** If a beneficiary designation conflicts with the trust provisions, the beneficiary designation form generally controls disposition of the retirement account. Review beneficiary designations whenever estate-planning documents are created or updated, and confirm that each designation has been accepted and recorded by the plan administrator or custodian.

6. Life Insurance Policies

Life insurance proceeds are generally income-tax free to beneficiaries.

- **If Married:** Name your spouse as the Primary Beneficiary and your Living Trust as the Contingent Beneficiary.

  Note on Administrative Delay: While naming a trust as primary beneficiary is legally permissible and may provide certain estate-planning and administrative advantages, it can introduce administrative delays for a surviving spouse. An individual spouse can usually claim life insurance proceeds within days by submitting a death certificate. If the trust is named primary, the insurance company's compliance department must review trust documents, and a formal trust bank account must be established before funds are released—**which can introduce additional administrative review and processing time.**

- **If Single:** Name your Living Trust as the Primary Beneficiary and/or individuals directly.

- **Why use the Trust:** Naming the trust ensures that if an individual beneficiary predeceases you, or is too young to manage money, the trust's robust backup protections and age restrictions control the funds perfectly.

- **Pro-Tip (Avoiding Unnecessary Trust Amendments):** If you wish to leave a specific or fixed amount of money to an individual (e.g., a grandchild, a friend, or a specific charity) without paying to formally amend your trust, you can do it directly on your insurance beneficiary form. You can easily adjust the percentages—for example, changing it to 90% to your Trust and 10% directly to the individual. This achieves your goal instantly, saves you money, and prevents your Successor Trustee from being confused by conflicting or outdated text inside the trust binder.

7. Vehicles, ATVs, and Trailers (Land Assets via MVD)

You may generally choose to keep standard family vehicles, trailers, and off-highway land vehicles (ATVs, UTVs, dirt bikes) in your personal names during your lifetime. At death, Arizona law provides three distinct paths to handle these land assets without triggering probate court. **Options 1 and 2 operate completely independently of the rest of your estate's value, allowing for an immediate transfer of ownership.**

- **Option 1: Complete Retitling (The Trust Approach).** You take your titles and a copy of your Certificate of Trust to the MVD (or an authorized third party) and retitle the assets directly into the name of your trust. ***Insurance Note:*** *If you formally retitle a vehicle or trailer into the trust's name, you should promptly notify your insurance carrier to add the trust to your policy.*

- **Option 2: MVD Beneficiary Designation (The TOD Approach).**
  If you prefer to keep the assets in your individual names to make future sales or trade-ins easier, you can file a free ADOT Beneficiary Designation (Form 96-0561). This acts like a "Transfer on Death" (TOD) designation for your car, ATV, or trailer. You can name your Living Trust as the beneficiary. It requires no notarization, has no vehicle value caps, and keeps your insurance policy exactly as-is during your lifetime. ***Note:*** *This form only applies to assets owned by a single individual.*

- **Option 3: The Non-Probate Affidavit (The Baseline Approach).** If an asset is left in a decedent's name alone at death, a successor can bypass probate using MVD Form 32-6901, **provided the gross value of all the decedent's personal property (including all vehicles, trailers, bank accounts, and belongings), less liens and encumbrances, does not exceed $200,000.**

Will putting my vehicle in my trust expose my trust assets to a lawsuit if I get into a car accident? A common question is whether keeping a vehicle outside of a revocable living trust changes personal liability exposure following a motor vehicle accident.

How Revocable Trusts Generally View Liability

- **Purpose of a Revocable Trust:** A revocable living trust is generally designed for probate avoidance and incapacity management, not lawsuit or creditor protection during the trustmaker’s lifetime. Because the trustmaker typically retains full control over the trust assets as Trustee, assets held in a revocable trust are generally not separated from the trustmaker for personal liability purposes during lifetime.

- **Determining Exposure:** If an individual causes a motor vehicle accident, liability exposure generally depends on the underlying facts, insurance coverage, and applicable Arizona law—not solely on whether the vehicle is titled individually or in the name of a revocable trust.

Arizona’s Vehicle Liability Environment

- **The Family Purpose Doctrine:** Arizona recognizes legal concepts such as the “Family Purpose Doctrine,” under which a person who furnishes and maintains a vehicle for family use may, in some circumstances, be held financially responsible for accidents caused by a family member using the vehicle.

- **Risk-Management Planning:** Because revocable living trusts are not generally intended to function as liability shields, many financial and insurance professionals may consider adequate automobile liability coverage and umbrella insurance policies important components of broader risk-management planning.

Administrative Considerations

- **Balancing Your Options:** Some individuals prioritize simplified incapacity management by titling vehicles directly into their trust, while others prefer to keep vehicles in their personal names and utilize Arizona beneficiary designation options available through the MVD.

- **Making a Decision:** Deciding whether to retitle vehicles into a trust or utilize a non-probate transfer method is largely an administrative and estate-planning decision. If you have concerns regarding lawsuit exposure, asset protection strategies, or complex liability risks, you should consult a licensed Arizona attorney or qualified insurance professional.

8. Boats and Watercraft (Water Assets via AZGFD)

Motorized boats and watercraft (including Jet Skis and Wave Runners) are governed by the Arizona Game and Fish Department (AZGFD), not the MVD. Unlike land vehicles, Arizona Game and Fish does not offer a "Transfer on Death" (TOD) beneficiary form for watercraft. If your boat or watercraft is left in your individual name at death, it must go through a probate process unless your entire personal property estate qualifies for an affidavit.

To secure your watercraft, you have two options:

- **Option 1: Complete Retitling to the Trust.** You submit a Watercraft Registration Application to AZGFD to formally change the owner of record to your Living Trust. You will need to provide your Certificate of Trust.

  Insurance Note: *If you formally retitle a boat or Jet Ski into the trust's name, you should promptly notify your marine/watercraft insurance carrier to add the trust as an "Additional Insured" or "Interested Party" on the policy.*

- **Option 2: Rely on the $200,000 Personal Property Affidavit**. If the watercraft is left in your individual name, your heirs can use a Game and Fish Non-Probate Affidavit to transfer the title after your passing. **However, this is only applicable if the gross value of all your unlinked personal property (boat, trailers, vehicles, and personal bank accounts combined), less liens and encumbrances, is under $200,000.**

The "Weekend Bundle" Warning

A trailer does not automatically follow the ownership of the boat or ATV it hauls. If you own a truck, a trailer, and a boat, you own three separate assets governed by two different state agencies. If you only put your truck in the trust, your trailer and boat could still trigger probate. Ensure you complete the funding or beneficiary steps for every single registered item in your driveway.

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SUCCESSOR TRUSTEE NOTES: