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These forms are for use by licensed Texas attorneys only. They are offered as is, without warranty of any kind. Use these forms at your own risk. The footnotes in the form offer guidance to the drafter and should be removed from the document before it is signed.

Disclaimer Form 1.1.1
Decedent's estate with personal representative – mailed—full disclaimer

Disclaimer

_____, 20___ [date of mailing]

Certified Mail, Return Receipt Requested¹

No. _____

To: _____ [name of personal representative]
_____ [address]

This disclaimer is delivered to you in your capacity as personal representative of the estate² of _____ [name of decedent], referred to in this disclaimer as the “Decedent.”

I, _____ [name of disclaimant], disclaim any and all right, title and interest in and to any property which I otherwise might be entitled to receive from Decedent's estate by will or intestacy. This is a full disclaimer of all of my right, title and interest in any property or interest in property created by will or intestacy.

[Add if appropriate. I do not disclaim my interest in _____ [describe interest in non-probate assets not being disclaimed – trust property, beneficiary designation property, survivorship property, etc.].³

[signature of disclaimant]⁴

¹ If the disclaimer is mailed by certified mail, return receipt requested, at an address believed in good faith to be likely to result in receipt, delivery is considered to have occurred on the date of mailing regardless of receipt. Tex. Prop. Code Sec. 240.101(b). Care should be taken to retain proof of mailing.

² If a personal representative of the decedent's estate is then serving, the disclaimer must be delivered to the personal representative. Tex. Prop. Code Sec. 240.102.

³ If non-probate assets also are being disclaimed, the disclaimer should be perfected by delivering the disclaimer to the appropriate person under Sections 240.103 – 240.110. Mentioning the disclaimer of these assets in the disclaimer delivered to the personal representative is unlikely to be sufficient to make the disclaimer effective. On the other hand, if the disclaimant is disclaiming property from the probate estate but accepting certain non-probate property, it probably is a good idea to mention this here to avoid confusion.

⁴ The disclaimant's signature does not need to be notarized, see Tex. Prop. Code Sec. 240.009, unless it is to be recorded. If it is convenient to have the disclaimant's signature notarized, there is no reason not to do so.

Disclaimer Form 1.1.2
Decedent's estate with personal representative – mailed—specific asset

Disclaimer

_____, 20____ [date of mailing]

Certified Mail, Return Receipt Requested¹

No. _____

To: _____ [name of personal representative]
_____ [address]

This disclaimer is delivered to you in your capacity as personal representative of the estate² of
_____ [name of decedent], referred to in this disclaimer as the
“Decedent.”

I, _____ [name of disclaimant], disclaim any and all right, title and
interest in and to the following property or interest in property which I otherwise might be
entitled to receive from Decedent's estate by will or intestacy:

_____ [describe specific asset or interest
being disclaimed]

I am not disclaiming any other property or interest in property I might otherwise receive by will
or intestacy from Decedent's estate.

[signature of disclaimant]³

¹ If the disclaimer is mailed by certified mail, return receipt requested, at an address believed in good faith to be likely to result in receipt, delivery is considered to have occurred on the date of mailing regardless of receipt. Tex. Prop. Code Sec. 240.101(b). Care should be taken to retain proof of mailing.

² If a personal representative of the decedent's estate is then serving, the disclaimer must be delivered to the personal representative. Tex. Prop. Code Sec. 240.102.

³ The disclaimant's signature does not need to be notarized, see Tex. Prop. Code Sec. 240.009, unless it is to be recorded. If it is convenient to have the disclaimant's signature notarized, there is no reason not to do so.

Disclaimer Form 1.1.3

Decedent's estate with personal representative – mailed—pecuniary formula

Disclaimer

_____, 20____ [date of mailing]

Certified Mail, Return Receipt Requested¹

No. _____

To: _____ [name of personal representative]
_____ [address]

This disclaimer is delivered to you in your capacity as personal representative of the estate² of _____ [name of decedent], referred to in this disclaimer as the “Decedent.”

I, _____ [name of disclaimant], disclaim a pecuniary amount³ of property or interest in property which I otherwise might be entitled to receive from Decedent's estate by will or intestacy, determined as follows:

_____ [include the formula provision
defining the pecuniary amount being disclaimed]

I am not disclaiming any other property or interest in property I might otherwise receive by will or intestacy from Decedent's estate.

[signature of disclaimant]⁴

¹ If the disclaimer is mailed by certified mail, return receipt requested, at an address believed in good faith to be likely to result in receipt, delivery is considered to have occurred on the date of mailing regardless of receipt. Tex. Prop. Code Sec. 240.101(b). Care should be taken to retain proof of mailing.

² If a personal representative of the decedent's estate is then serving, the disclaimer must be delivered to the personal representative. Tex. Prop. Code Sec. 240.102.

³ A partial disclaimer may be expressed as a fraction, percentage, monetary amount, term of years, limitation of a power, or any other interest or estate in the property. Tex. Prop. Code Sec. 240.009(b).

⁴ The disclaimant's signature does not need to be notarized, see Tex. Prop. Code Sec. 240.009, unless it is to be recorded. If it is convenient to have the disclaimant's signature notarized, there is no reason not to do so.

Disclaimer Form 1.2.1
Decedent's estate with personal representative – hand-delivered—full disclaimer

Disclaimer

To: _____ *[name of personal representative]*
_____ *[address]*

This disclaimer is delivered to you in your capacity as personal representative of the estate¹ of _____ *[name of decedent]*, referred to in this disclaimer as the “Decedent.”

I, _____ *[name of disclaimant]*, disclaim any and all right, title and interest in and to any property which I otherwise might be entitled to receive from Decedent's estate by will or intestacy. This is a full disclaimer of all of my right, title and interest in any property or interest in property created by will or intestacy.

[Add if appropriate. I do not disclaim my interest in _____ [describe interest in non-probate assets not being disclaimed – trust property, beneficiary designation property, survivorship property, etc.].²

*[signature of disclaimant]*³

Receipt acknowledged on _____, 20__⁴

[signature of personal representative]
_____ *[name of personal representative]*,
Personal Representative of the
Estate of _____ *[name of decedent]*

¹ If a personal representative of the decedent's estate is then serving, the disclaimer must be delivered to the personal representative. Tex. Prop. Code Sec. 240.102.

² If non-probate assets also are being disclaimed, the disclaimer should be perfected by delivering the disclaimer to the appropriate person under Sections 240.103 – 240.110. Mentioning the disclaimer of these assets in the disclaimer delivered to the personal representative is unlikely to be sufficient to make the disclaimer effective. On the other hand, if the disclaimant is disclaiming property from the probate estate but accepting certain non-probate property, it probably is a good idea to mention this here to avoid confusion.

³ The disclaimant's signature does not need to be notarized, *see* Tex. Prop. Code Sec. 240.009, unless it is to be recorded. If it is convenient to have the disclaimant's signature notarized, there is no reason not to do so.

⁴ A disclaimer may be delivered by personal delivery, first-class mail, facsimile, email or any other method likely to result in the disclaimer's receipt. Tex. Prop. Code Sec. 240.101(a). If the certified mail safe harbor is not used (*see* Section 240.102(b)), then having the personal representative acknowledge receipt of the disclaimer is a way to assure compliance with the delivery requirement.

Disclaimer Form 1.2.2
Decedent's estate with personal representative – hand-delivered— specific asset

Disclaimer

To: _____ *[name of personal representative]*
_____ *[address]*

This disclaimer is delivered to you in your capacity as personal representative of the estate¹ of _____ *[name of decedent]*, referred to in this disclaimer as the “Decedent.”

I, _____ *[name of disclaimant]*, disclaim any and all right, title and interest in and to the following property or interest in property which I otherwise might be entitled to receive from Decedent's estate by will or intestacy:

_____ *[describe specific asset or interest being disclaimed]*

I am not disclaiming any other property or interest in property I might otherwise receive by will or intestacy from Decedent's estate.

*[signature of disclaimant]*²

Receipt acknowledged on _____, 20__³

[signature of personal representative]
_____ *[name of personal representative]*,
Personal Representative of the
Estate of _____ *[name of decedent]*

¹ If a personal representative of the decedent's estate is then serving, the disclaimer must be delivered to the personal representative. Tex. Prop. Code Sec. 240.102.

² The disclaimant's signature does not need to be notarized, *see* Tex. Prop. Code Sec. 240.009, unless it is to be recorded. If it is convenient to have the disclaimant's signature notarized, there is no reason not to do so.

³ A disclaimer may be delivered by personal delivery, first-class mail, facsimile, email or any other method likely to result in the disclaimer's receipt. Tex. Prop. Code Sec. 240.101(a). If the certified mail safe harbor is not used (*see* Section 240.102(b)), then having the personal representative acknowledge receipt of the disclaimer is a way to assure compliance with the delivery requirement.

Disclaimer Form 1.2.3

Decedent's estate with personal representative – hand-delivered— pecuniary formula

Disclaimer

To: _____ [name of personal representative]
_____ [address]

This disclaimer is delivered to you in your capacity as personal representative of the estate¹ of _____ [name of decedent], referred to in this disclaimer as the “Decedent.”

I, _____ [name of disclaimant], disclaim a pecuniary amount² of property or interest in property which I otherwise might be entitled to receive from Decedent's estate by will or intestacy, determined as follows:

_____ [include the formula provision
defining the pecuniary amount being disclaimed]

I am not disclaiming any other property or interest in property I might otherwise receive by will or intestacy from Decedent's estate.

[signature of disclaimant]³

Receipt acknowledged on _____, 20__⁴

[signature of personal representative]
_____ [name of personal representative],
Personal Representative of the
Estate of _____ [name of decedent]

¹ If a personal representative of the decedent's estate is then serving, the disclaimer must be delivered to the personal representative. Tex. Prop. Code Sec. 240.102.

² A partial disclaimer may be expressed as a fraction, percentage, monetary amount, term of years, limitation of a power, or any other interest or estate in the property. Tex. Prop. Code Sec. 240.009(b).

³ The disclaimant's signature does not need to be notarized, see Tex. Prop. Code Sec. 240.009, unless it is to be recorded. If it is convenient to have the disclaimant's signature notarized, there is no reason not to do so.

⁴ A disclaimer may be delivered by personal delivery, first-class mail, facsimile, email or any other method likely to result in the disclaimer's receipt. Tex. Prop. Code Sec. 240.101(a). If the certified mail safe harbor is not used (see Section 240.102(b)), then having the personal representative acknowledge receipt of the disclaimer is a way to assure compliance with the delivery requirement.

Disclaimer Form 2.1
Decedent's estate with no personal representative – full disclaimer

Disclaimer

*Choose one of these three options:*¹

[Option 1 -- Will probated as muniment of title:] _____ *[name of decedent]*, referred to in this disclaimer as the “Decedent,” died on or about _____, _____ *[date of death]*, and the Decedent’s will was admitted to probate as a muniment of title in Cause No. _____ in the _____ *[name of court]* of _____ County, Texas. No personal representative is now serving with respect to the Decedent’s estate.

[Option 2 – Estate proceeding but no current personal representative:] _____ *[name of decedent]*, referred to in this disclaimer as the “Decedent,” died on or about _____, _____ *[date of death]*. The Decedent’s estate was the subject of a proceeding in Cause No. _____ in the _____ *[name of court]* of _____ County, Texas. No personal representative is now serving with respect to the Decedent’s estate.

[Option 3 – No estate proceeding:] _____ *[name of decedent]*, referred to in this disclaimer as the “Decedent,” died on or about _____, _____ *[date of death]*. No personal representative is now serving with respect to the Decedent’s estate.

*Choose one of these two options:*²

[Option 1 -- Domiciled in county:] The Decedent was domiciled in _____ County, Texas, on the date of the Decedent’s death.

[Option 2 – Owned real property in county:] The Decedent owned real property in _____ County, Texas.

I, _____ *[name of disclaimant]*, disclaim any and all right, title and interest in and to any property which I otherwise might be entitled to receive from Decedent’s estate by will or intestacy. This is a full disclaimer of all of my right, title and interest in any property or interest in property created by will or intestacy.

¹ If no personal representative is then serving, the disclaimer must be filed in the official public records of any county in which the decedent was domiciled on the date of death or owned real property. Tex. Prop. Code Sec. 240.102(2). The three most likely ways in which a personal representative would not be serving are (1) the will was probated as a muniment of title, (2) there was an estate proceeding but no personal representative is now serving, or (3) there was no estate proceeding. Although the statute does not require the disclaimer to include information about the estate proceeding, if there was an estate proceeding it is prudent to include information about it.

² If there is no personal representative, the disclaimer may be filed in *any* county in which the decedent was domiciled on the date of death or owned real property. Tex. Prop. Code Sec. 240.102(2). It is not necessary to file in both places. Also, filing a disclaimer in a county where the decedent owned real property makes the disclaimer effective with respect to personal property wherever located and with respect to real property not located in that county.

*[Add if appropriate. I do not disclaim my interest in _____ [describe interest in non-probate assets not being disclaimed – trust property, beneficiary designation property, survivorship property, etc.].*³

Dated _____, 2015.

[signature of disclaimant]

Acknowledgment⁴

The State of Texas
County of _____

This instrument was acknowledged before me on _____, 20____, by
_____ *[name of disclaimant]*.

Notary Public, State of Texas *[Seal]*

After recording, return to:

[name and address]

³ If non-probate assets also are being disclaimed, the disclaimer should be perfected by delivering the disclaimer to the appropriate person under Sections 240.103 – 240.110. Mentioning the disclaimer of these assets in the disclaimer filed in the official public records is unlikely to be sufficient to make the disclaimer effective. On the other hand, if the disclaimant is disclaiming property from the probate estate but accepting certain non-probate property, it probably is a good idea to mention this here to avoid confusion.

⁴ An instrument concerning real or personal property may be recorded if it has been acknowledged, sworn to with a proper jurat, or proved according to law. Tex. Prop. Code Section 12.001(a).

Disclaimer Form 2.2
Decedent's estate with no personal representative – specific asset

Disclaimer

*Choose one of these three options:*¹

[Option 1 -- Will probated as muniment of title:] _____ *[name of decedent]*, referred to in this disclaimer as the “Decedent,” died on or about _____, _____ *[date of death]*, and the Decedent’s will was admitted to probate as a muniment of title in Cause No. _____ in the _____ *[name of court]* of _____ County, Texas. No personal representative is now serving with respect to the Decedent’s estate.

[Option 2 – Estate proceeding but no current personal representative:] _____ *[name of decedent]*, referred to in this disclaimer as the “Decedent,” died on or about _____, _____ *[date of death]*. The Decedent’s estate was the subject of a proceeding in Cause No. _____ in the _____ *[name of court]* of _____ County, Texas. No personal representative is now serving with respect to the Decedent’s estate.

[Option 3 – No estate proceeding:] _____ *[name of decedent]*, referred to in this disclaimer as the “Decedent,” died on or about _____, _____ *[date of death]*. No personal representative is now serving with respect to the Decedent’s estate.

*Choose one of these two options:*²

[Option 1 -- Domiciled in county:] The Decedent was domiciled in _____ County, Texas, on the date of the Decedent’s death.

[Option 2 – Owned real property in county:] The Decedent owned real property in _____ County, Texas.

I, _____ *[name of disclaimant]*, disclaim any and all right, title and interest in and to the following property or interest in property which I otherwise might be entitled to receive from Decedent’s estate by will or intestacy:

¹ If no personal representative is then serving, the disclaimer must be filed in the official public records of any county in which the decedent was domiciled on the date of death or owned real property. Tex. Prop. Code Sec. 240.102(2). The three most likely ways in which a personal representative would not be serving are (1) the will was probated as a muniment of title, (2) there was an estate proceeding but no personal representative is now serving, or (3) there was no estate proceeding. Although the statute does not require the disclaimer to include information about the estate proceeding, if there was an estate proceeding it is prudent to include information about it.

² If there is no personal representative, the disclaimer may be filed in *any* county in which the decedent was domiciled on the date of death or owned real property. Tex. Prop. Code Sec. 240.102(2). It is not necessary to file in both places. Also, filing a disclaimer in a county where the decedent owned real property makes the disclaimer effective with respect to personal property wherever located and with respect to real property not located in that county.

_____ *[describe specific asset or interest
being disclaimed]*³

I am not disclaiming any other property or interest in property I might otherwise receive by will or intestacy from Decedent's estate.

Dated _____, 2015.

[signature of disclaimant]

Acknowledgment⁴

The State of Texas
County of _____

This instrument was acknowledged before me on _____, 20____, by
_____ *[name of disclaimant]*.

Notary Public, State of Texas *[Seal]*

After recording, return to:

[name and address]

³ Even if the asset being disclaimed is not located in a county where the decedent was domiciled or owned real property, the only way to meet the delivery and filing requirements for an asset passing by will or intestacy when there is no personal representative then serving is to file in one of those counties.

⁴ An instrument concerning real or personal property may be recorded if it has been acknowledged, sworn to with a proper jurat, or proved according to law. Tex. Prop. Code Section 12.001(a).

Disclaimer Form 3.1

Trustee's notice of intent to disclaim

[Trustee's letterhead]

_____, 20__ [date of notice]¹

Certified Mail, Return Receipt Requested²
No. _____

To: _____ [name of beneficiary]³
_____ [address]

Re: Trustee's notice of intent to disclaim

Dear _____ [name of beneficiary]:

I am the trustee of the _____ [name of trust], referred to in this notice as the "Trust." You are a current beneficiary or presumptive remainder beneficiary of the Trust. This notice is being given to you in accordance with Section 240.0081 of the Texas Property Code.

1. In my capacity as trustee of the Trust, I intend to disclaim all right, title and interest in and to the following described property (referred to in this notice as the "Property"):⁴

¹ The notice must be given not later than the 30th day before the date the disclaimer is made. Tex. Prop. Code Sec. 240.0081(f)(5). The statute does not specify if the 30 days is measured from the date of the notice or the date of receipt.

² The notice may be sent by personal delivery, first-class mail, facsimile, e-mail, or any other method likely to result in the notice's receipt. Tex. Prop. Code Sec. 240.0081(f)(6). Unlike the delivery requirements for disclaimers (see Tex. Prop. Code Sec. 240.101(b)), there is no safe harbor for certified mail. Therefore, the safest practice would be to collect the acknowledgments of receipt of certified mail and use the latest of these as the beginning of the 30-day period.

³ The trustee must give notice to current beneficiaries and presumptive remainder beneficiaries. These terms are defined in Tex. Prop. Code Sec. 240.002. In addition, notice must be given to the attorney general if a charity is a beneficiary or potential beneficiary. Tex. Prop. Code Sec. 240.0081(c). If the beneficiary is has a court-appointed guardian or conservator, the notice must be given to the guardian or conservator. If a minor beneficiary has no court appointed guardian or conservator, the notice must be given to a parent of the minor. Tex. Prop. Code Sec. 240.0081(d). The notice does not have to be given to a beneficiary who waives notice (see Form 3.2), who is not known to the trustee, who is known to the trustee but cannot be located after reasonable diligence, or who is a descendant of a beneficiary to whom the trustee has given notice if they have similar interests and no apparent conflict of interest. Tex. Prop. Code Sec. 240.0081(e).

⁴ Tex. Prop. Code Section 240.0081(f)(1)(A) and 240.0081(f)(2).

[describe property or interest to be disclaimed]

2. If I make the disclaimer, the Property will not become trust property and will not be available to distribute to you from the Trust.⁵
3. You have the right to object to the disclaimer.⁶
4. You may petition a court to approve, modify, or deny the disclaimer.⁷
5. The earliest date I intend to make the disclaimer is _____, 20__ *[date of intended disclaimer]*.⁸
6. My name and mailing address is:⁹

_____ *[name of trustee]*
_____ *[mailing address of trustee]*

Optional: I intend to make this disclaimer because _____ *[state reasons for disclaimer]*.

Optional: If you have questions, need additional information or wish to discuss this matter, please contact me.

_____ *[signature of trustee]*
_____ *[name of trustee]*, Trustee of the
_____ *[name of trust]*

⁵ Tex. Prop. Code Section 240.0081(f)(1)(B).

⁶ Tex. Prop. Code Section 240.0081(f)(1)(C).

⁷ Tex. Prop. Code Section 240.0081(f)(1)(D).

⁸ Tex. Prop. Code Section 240.0081(f)(3). The earliest date stated in the notice should not be earlier than 30 days after the date of the notice. As a practical matter, the earliest date for the disclaimer will be the date stated here or 30 days after the last notice is given, whichever is later.

⁹ Tex. Prop. Code Section 240.0081(f)(4).

Disclaimer Form 3.2
Waiver of trustee's notice of intent to disclaim

Waiver of Notice

I, _____ *[name of beneficiary]*, hereby waive the requirement of notice under Section 240.0081 of the Texas Property Code of the intention of _____ *[name of trustee]*, trustee of the _____ *[name of trust]*, to disclaim the following described property which otherwise may pass into the trust:

[describe property or interest to be disclaimed]

[Optional: Include acknowledgments of receipt of material information, understanding the effect of the disclaimer, etc.].¹

[Use extreme caution about including a release.].²

[signature of beneficiary]
[name of beneficiary]

Acknowledgment³

The State of Texas
County of _____

This instrument was acknowledged before me on _____, 20____, by
_____ *[name of beneficiary]*.

Notary Public, State of Texas *[Seal]*

¹ Section 240.0081 of the Property Code does not require the beneficiary waiving notice to acknowledge receipt of material information or understanding the effect of the disclaimer, but the trustee may wish to have these acknowledgments for the trustee's protection.

² Caution: While some trustees may wish to include a release, the release may be deemed to be consideration received by the trustee for making the disclaimer, which could make the disclaimer ineffective for tax purposes. In order for the release to be effective, the beneficiary must be acting on full information in order for the release to be effective. Tex. Prop. Code Sec. 114.005.

³ Section 240.0081 of the Property Code does not require the waiver to be notarized, but the trustee may wish to require an acknowledgment for his or her protection.