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the Foundation. The Foundation shall advise the Committee any time that the Committee's recommendation for the awarding of scholarship funds is not accepted. The notice of disapproval shall be accompanied by an explanation of the reason(s) for such disapproval.

5. **Failure to Act** - If the Committee fails to advise the Foundation regarding the awarding of scholarships for a particular year, then no scholarship shall be awarded from the Fund for that year. Failure by the Committee to advise the Foundation regarding the awarding of scholarships for three consecutive years may result in the removal of the existing Committee and appointment of a replacement Committee.
6. **Records** - It is the responsibility of the Committee to follow such procedures, keep such records and submit such reports in writing as required by the Foundation. Failure by the Committee to comply with scholarship procedures and submit required reports may result in the removal of the existing Committee and appointment of a replacement Committee.
7. **Distributions** - Distributions shall be made only to public charities as defined in Section 170(b)(1)(A) of the Internal Revenue Code (i.e., churches, schools, hospitals, government entities, and publicly supported 501(c)(3) organizations). The Foundation shall make distributions for scholarships in accordance with its spending policy for scholarship funds in effect from time to time. The Fund shall be defined as either an Endowed or Non-Endowed Scholarship Fund as indicated below. If no selection is made, the Fund shall be considered an Endowed Scholarship Fund. (select by initialing only one method,)

_____ **Endowed Scholarship Fund** - Ordinary distributions from the Fund shall include awarding scholarships annually only if the value of the Fund exceeds \$10,000 and only in amounts not exceeding 5% of the value of the Fund determined as of the preceding December 31. During the first three years after establishment of the Fund, distributions may reach up to 10% of the value of the Fund without further approval. Extraordinary distributions (in excess of 5%) for scholarships may be made at any time in any amount if requested by at least a 2/3 vote of the Committee and approved by the Board of Directors of the Foundation.

_____ **Non-Endowed Scholarship Fund** – A Non-Endowed Scholarship Fund may distribute up to 100% of the value of the Fund. The amount which will be distributed, including administrative fees, renewals, etc. should be contributed to the Foundation no later than December 31 of the year prior to the year in which scholarships are awarded. The scholarship cannot be publicized prior to receipt of funding.

8. **Minimum** – There is no minimum amount necessary to establish an Endowed Scholarship Fund, however, if the value of the Endowed Scholarship Fund fails to reach at least \$10,000 within three years after the establishment of the Fund, or if the value remains below \$10,000 for three consecutive years then the Foundation may transfer the Fund to its General Scholarship Fund or distribute any remaining funds to fulfill the purpose of the fund. If the Donor elects the Non-Endowed Scholarship Fund option above, the amount which will be distributed, including all administrative fees, and any amount of guaranteed renewals for future years should be contributed to the Foundation no later than December 31 of the year prior to the year in which scholarships are awarded. Upon the resignation, incapacity, or

death of the Donor, and after the inclusion of any possible testamentary contributions to the Fund, any Non-Endowed Scholarship Fund with a balance of \$10,000 or greater shall become an Endowed Scholarship Fund.

9. **Ownership and Administration** - This contribution is irrevocable, and the Foundation shall be the sole and exclusive owner of the Fund. The Fund shall be administered in accordance with the Foundation's Articles of Incorporation, Bylaws and Policy for Scholarship Funds, as amended from time to time, copies of which shall be provided to the Donor upon request.
10. **Variance Power** – In accordance with IRS regulations and the Bylaws of the Foundation, the Board of Directors of the Foundation shall have the power to modify any restriction or condition imposed by a donor on the investment or distribution of assets if, in the sole judgment of the Board of Directors, such restriction or condition becomes illegal, unnecessary, uneconomical, impossible to perform, or inconsistent with the charitable needs of the community or area served, and such modification would more effectively serve the charitable purposes of the Foundation taking into consideration the wishes of the donor.
11. **Fees** - The Foundation shall charge the Fund an annual administrative fee, plus any out-of-pocket expenses incurred directly by the Fund.
12. **Publicity** - The Foundation may publicize the Fund and its eligibility criteria and conditions.
13. **Pledges and Benefits** - No scholarship shall be awarded from the Fund to satisfy a written pledge or legal obligation of any donor to the Fund, any member of the Committee, or employee or officer or director of the Foundation. No descendant of any donor to the Fund, member of the Committee, or employee or officer or director of the Foundation shall be eligible for any scholarship awarded from the Fund.
14. **Board Approval** - The establishment of this Fund shall be subject to the approval of the Board of Directors of the Foundation.

Donor:

East Texas Communities Foundation:

Kyle L. Penney, President

Confirmation of Board Approval

Date: _____

Scholarship Form Revised: August 18, 2011

Addendum I

Scholarship Fund Agreement

_____, 2011

Initial Transfer of Assets and Initial Investment

Initial Transfer of Assets

The Donor transfers the following assets to the East Texas Communities Foundation to establish the _____ Scholarship Fund:

Initial Investment

The Donor(s) recommend that the funds be initially invested in the (select one)

- ☐ Cash Fund
- ☐ Money Market Fund
- ☐ Conservative Fund
- ☐ Moderate Fund
- ☐ Moderate Index Fund, or
- ☐ Growth Fund.

If no recommendation is made, assets will be invested in the Moderate Fund.

Investment Recommendations

The Donor recommends that _____ may make recommendations to the Foundation regarding the investment of the Fund. However, such recommendations are advisory only, and the Foundation shall not be bound by such recommendations. Upon the resignation, incapacity or death of the Donor, or if no person or Scholarship Committee has been designated to make investment recommendations by the Donor, the Foundation shall select an investment strategy to fulfill the purpose of the Fund.

Donor:

East Texas Communities Foundation:

Kyle L. Penney, President