

**_____ DESIGNATED FUND
OF
EAST TEXAS COMMUNITIES FOUNDATION**

1. **Agreement** - This agreement is made on this date of _____ between _____ (the “Donor”) and East Texas Communities Foundation, a Texas nonprofit corporation (the “Foundation”).
2. **Fund Name** - The Donor hereby contributes the assets listed in Addendum I to the Foundation to establish a Designated Fund to be known as the _____ Designated Fund (the “Fund”).
3. **Purpose** – The purpose of this gift is to support the charitable work of (select one):
____ more than one specific Nonprofit organization, (the Nonprofits), identified in Addendum II;
____ a charitable project described as _____;
____ a field of interest _____ (describe common characteristics or geographical region) charitable work or emphasis of gift).
4. **Distributions** - Distributions from the Fund shall be made from: (select one) _____ income, or _____ both income and principal. Distributions may only be made to Nonprofit(s), which meets the requirements of a public charity as defined by 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 currently defines income as 5 % of the value of the Fund determined as of the preceding December 31. The Foundation may redefine income from time to time as part of an overall Foundation spending policy. If the Donor does not specify an annual distribution method, the Foundation will distribute income annually.
5. **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 Donor Designated Funds, as amended from time to time, copies of which shall be provided to the Donor upon request.
6. **Variance Power** - In accordance with IRS regulations and the Bylaws of the Foundation, the board of directors 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.
7. **Recommendations** – (select one)
____ The Donor, or any person properly designated by the Donor in Addendum II, or
____ A Grants Recommendation Committee (the “Committee”),
shall make recommendations to the Foundation regarding distributions to fulfill the purpose of the Fund. Recommendations should be in writing and signed by the Donor or a majority of the members of the Committee. If the Committee option is selected for the Fund, the Committee shall be composed of at least three persons all of whom shall be appointed by the Foundation, and the initial recommendation of Committee members are listed in Addendum II. The Donor, or any person properly designated by the Donor, or the Committee may make recommendations to the

Foundation regarding the investment of the Fund. Recommendations regarding distributions or investment of the Fund are advisory only, and the Foundation shall not be bound by such recommendations.

8. **Succession** - Upon the Foundation's receipt of notice of the resignation, incapacity, or death of the Donor or any Committee member, the Foundation will follow the Succession Plan described in Addendum II.

9. **Remainder**

a. **Successor Advisor Termination** - In the event there is no properly designated Advisor or Successor Advisor to the Fund, the Foundation will follow the Succession Plan described in Addendum II.

b. **Nonprofit Termination** - If any Nonprofit identified in this agreement ceases to exist with no successor, or if any Nonprofit ceases to qualify as a public charity as defined in Section 170(b)(1)(A) of the Internal Revenue Code, and such condition is not cured within 30 days following written notice delivered by the Foundation to the Nonprofit at its last known address, then the Fund shall follow the Nonprofit Termination Plan described in Addendum II.

c. **Foundation Termination** - If the Foundation ceases to exist with no successor, or if the Foundation ceases to qualify as a public charity as defined in Section 170(b)(1)(A) of the Internal Revenue Code, and such condition is not cured within 30 days, then the assets of the Fund shall be transferred to another public charity capable of fulfilling the purpose of the Fund.

10. **Pledges and Benefits** - No distribution from the Fund shall be made to satisfy a written pledge or legal obligation of the Donor(s), the Committee, or any other person, and neither the Donor(s), the Committee, nor any other person may receive any benefit or privilege (such as gifts or tickets to events) in return for a distribution from the Fund.

11. **Fees** – The Foundation shall charge the Fund an annual administrative fee, plus any out-of-pocket expenses incurred by the Fund.

Donor:

East Texas Communities Foundation

Kyle L. Penney, President

Date _____

Date _____

Board Approval: _____ Date: _____

Note: A Designated Fund requires board approval to confirm that the Designated Fund objectives can be accomplished and to confirm that the combination of elections in the agreement do not inadvertently create a fund which meets the definition of a donor-advised fund or other fund type.

SAMPLE

ADDENDUM I

DESIGNATED FUND AGREEMENT

_____, 20____

**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 _____ Designated Fund:

Initial Investment

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

- | | |
|--|--|
| <input type="checkbox"/> Cash Fund | <input type="checkbox"/> Money Market Fund |
| <input type="checkbox"/> Conservative Fund | <input type="checkbox"/> Conservative Index Fund |
| <input type="checkbox"/> Moderate Fund | <input type="checkbox"/> Moderate Index Fund |
| <input type="checkbox"/> Growth Fund | <input type="checkbox"/> Growth Index Fund |

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

Donor:

East Texas Communities Foundation:

Kyle L. Penney, President

ADDENDUM II

DONOR DESIGNATED FUND AGREEMENT

_____, 20__

____ Designation of Nonprofits and Distributions

1. Charity Name, City, State - % or \$ amount of income or principal
2. Charity Name, City, State - % or \$ amount of income or principal
3. Charity Name, City, State - % or \$ amount of income or principal
4. Charity Name, City, State - % or \$ amount of income or principal

Nonprofit Termination

If an organization ceases to exist or if it ceases to qualify for distributions from the Foundation, as described in Section 9.b. of this agreement, the Foundation should:

- ____ Substitute an organization with a mission similar to the former organization,
- ____ Reallocate the distribution to qualifying organizations named above, in such proportions as the percentages of the organizations receiving distributions bear to each other, or
- ____ In the event that no qualifying organizations exist, terminate the Fund and distribute any remaining assets to the Unrestricted Charitable Fund at the Foundation.

____ Recommendation of Grant Recommendation Committee Members

The following individuals are recommended to serve as the initial Grant Recommendation Committee for the Fund:

- 1.
- 2.
- 3.

Members of the initial Committee may make recommendations to fill vacancies on the Committee, but such recommendations shall be advisory only, and the Foundation shall not be bound by such recommendations. In the event there are unfilled vacancies on the Committee, the Foundation may appoint Committee members.

____ Designation of Fund Advisor and Successor Fund Advisor

The Donor hereby designates (and revokes any prior designation) _____ to serve as Advisor to the Fund. The Advisor shall have the authority to recommend investment of the Fund and to recommend grants from the Fund. The Donor may make recommendations to name and change the Advisor to the Fund.

After the resignation, incapacity, or death of the Donor, if there is no properly designated Advisor to the Fund, the Donor appoints _____ to serve as Successor Advisor to the Fund, if he/she is living and willing to serve. The Successor Advisor shall have all the authority of the Donor Advisor, including the authority to recommend investment of the Fund, to recommend grants from the Fund and to name and change Successor Advisors to the Fund. In the event there is no properly designated Advisor or Successor Advisor to the Fund, any remaining balance shall be distributed to the Unrestricted Charitable Fund at the Foundation.

DONOR:

_____ Date: _____

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