
NONPROFIT FUND
OF
EAST TEXAS COMMUNITIES FOUNDATION

1. **Agreement** - This agreement is made on this date of _____ between _____ (“Donor”) and East Texas Communities Foundation (“Foundation”).
2. **Fund Name** - The Donor hereby contributes the assets listed in Addendum I to the Foundation to establish a nonprofit fund for the sole benefit of _____ (“Nonprofit”) to be known as the _____ Fund (“Fund”).
3. **Purpose** – The purpose of this gift is to support the charitable work of the Nonprofit (a public charity as defined in Section 170(b)(1)(A) of the Internal Revenue Code).
4. **Distributions** - Distributions from the Fund shall be made only to the Nonprofit, or its successor. 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 Fund shall be defined as either a Non-Endowed Fund, Permanent Endowment or Sustaining Endowment as indicated below. If no selection is made, the Fund shall be considered a Permanent Endowment. (select only one method,)

_____ **Non-Endowed Fund** – Distributions from the Fund shall be made from both income and principal.

_____ **Permanent Endowment** – Ordinary distributions to the Nonprofit shall be made from the Fund each calendar year in the amount requested by the Advisor up to a cumulative limit as determined by the spending policy of the Foundation for such funds. The current spending policy is 5 % of the value of the Fund determined as of the preceding December 31, but this policy may be adjusted by the Foundation from time to time. Any portion of the amount available for distribution which is not distributed to the Nonprofit in one year may be distributed in a subsequent year. No additional distributions shall be made from the fund.

_____ **Sustaining Endowment** - Ordinary distributions to the Nonprofit shall be made from the Fund each calendar year in the amount requested by the Advisor up to a cumulative limit as determined by the spending policy of the Foundation for such funds. The current spending policy is 5 % of the value of the Fund determined as of the preceding December 31, but this policy may be adjusted by the Foundation from time to time. Any portion of the amount available for distribution which is not distributed to the Nonprofit in one year may be distributed in a subsequent year. In addition to ordinary distributions, extraordinary distributions to the Nonprofit may be made from the Fund at any time in any amount if requested by the Advisor, if the Fund was established by an entity other than the Nonprofit, or by a 2/3 vote of the total number of directors or trustees of the Nonprofit and

approved by a majority vote of the Board of Directors of the Foundation, if the fund was established by the Nonprofit.

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 Nonprofit Funds, as amended from time to time, copies of which shall be provided to the Nonprofit, Donor and/or Advisor upon request.
6. **Variance Power** - In accordance with IRS regulations and the policies and 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.
7. **Recommendations** - The Donor or any other person designated by the Donor in Addendum II shall be the Advisor to the Foundation to make recommendations regarding the investment and distributions of the Fund. However, such recommendations are advisory only, and the Foundation shall not be bound by such recommendations.
8. **Fees** - The Foundation shall charge the Fund an annual administrative fee, plus any out-of-pocket expenses incurred directly by the Fund.
9. **Remainder**
 - a. **Nonprofit Termination** - If the Nonprofit ceases to exist with no successor, or if the 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 terminate and its assets shall become unrestricted assets of the Foundation.
 - b. **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 the Nonprofit to be distributed as provided in Section 4 of this agreement.

Donor:

East Texas Communities Foundation:

Kyle L. Penney, President

Board approved: August 18, 2011

ADDENDUM I

NONPROFIT FUND AGREEMENT

Dated _____

**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
_____ Nonprofit 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

NONPROFIT FUND AGREEMENT

Dated _____

Designation of Advisor

The Donor designates, and hereby revokes any prior designation,

_____ the Nonprofit, or

_____ (an individual)

to serve as Advisor to the Foundation to make recommendations regarding the investment and distributions of the Fund. However, such recommendations are advisory only, and the Foundation shall not be bound by such recommendations.

The Advisor _____ may or _____ may not make changes to the Designation of Advisor in Addendum II.

Donor:

Date:
