

MEMORANDUM OF UNDERSTANDING

DISASTER RELIEF COLLABORATIVE FOR EXOTIC ANIMALS

I. Purpose

The purpose of this Memorandum of Understanding (“**MOU**”) is for institutions housing exotic animals (each, an “**Institution**,” and collectively, the “**Institutions**”) to agree to certain terms regarding a collaboration among the Institutions to provide Disaster Assistance (as hereafter defined) to Affected Institutions (as hereafter defined) in preparation of or in response to Incidents (as hereafter defined) that place exotic animals in crisis. An Affected Institution could benefit from additional resources from Responding Institutions (as hereafter defined) preceding or following an Incident thereby maximizing the welfare of exotic animals in regards to an Incident and minimizing the loss of life and animal suffering that might occur from an Incident through a coordinated, effective and safe response.

II. Definitions

“**Affected Institution**” means the Institution preparing for or responding to an Incident for which Disaster Assistance is required. The plural is “**Affected Institutions**.”

“**Disaster Assistance**” includes assistance that may be required by an Affected Institution in preparation for or in response to an Incident, which may include, but not be limited to, small and large animal strike teams, situational and rapid assessment, staff, assistance and relief (e.g., housing animals, providing emergency veterinary care, etc.), recovery and repair and use of equipment and supplies.

“**Dispute**” means any and all unresolved issues or decisions, questions, claims, controversies or disputes arising out of or relating to this MOU, and the validity, construction, meaning, performance, effect, breach or material breach of this Agreement.

“**Incident**” means a major incident such as a natural or man-made disaster of significant proportion that places animals at risk.

“**Institution**” means an institution housing exotic animals. The plural is “**Institutions**.”

“**Institution Party**” means shareholders, members, partners, directors, trustees, officers, employees, agents, representatives and volunteers of a particular Institution. The plural is “**Institution Parties**.”

“**MOU**” means this Memorandum of Understanding.

“**Notice of Dispute Resolution Process**” means written notice provided by an Institution to another Institution(s) that there is a Dispute and that the Institutions are to

immediately initiate and in good faith seek to complete the dispute resolution process set forth at Section I of this Agreement.

“Responding Institution” means an Institution that provides Disaster Assistance to an Affected Institution. The plural is **“Responding Institutions.”**

“Revocation” means a written instrument wherein an Institution seeks to revoke its agreement to the terms of this MOU.

III. Terms

A. Contact List. To ensure readiness, a contact list for the various Institutions will be maintained and made available to a central command and communications group.

B. Primary Responsibility to Respond to Incidents. Each Affected Institution will have the primary responsibility to respond to Incidents affecting the Affected Institution and Disaster Assistance will only be provided upon the request of or with the consent of the Affected Institution.

C. Disaster Assistance.

(1) In preparation of or in response to an Incident, (1) an Affected Institution may contact other Institutions requesting Disaster Assistance or (2) an Institution may volunteer Disaster Assistance to an Affected Institution.

(2) The Affected Institution will specify the scope and type of Disaster Assistance required and, where practicable, provide the Responding Institution with such information as may be necessary for the Responding Institution to determine the extent to which it is able to fulfill the Disaster Assistance required. In the event it is not practical for the Affected Institution to specify the scope and type of Disaster Assistance Required, the Affected Institution and the Responding Institution will, in consultation, jointly assess and decide upon the scope and type of Disaster Assistance required.

(3) Disaster Assistance will only be deployed at the request of, or with the consent of, the Affected Institution. The Affected Institution will exercise the overall direction, control and supervision of the Disaster Assistance within its Institution.

(4) Should a governmental organization take over the overall direction, control and supervision of Disaster Assistance within an Affected Institution, the Affected Institution and the Responding Institutions will adhere to the direction, control and supervision of such governmental organization.

D. Disaster Assistance Afforded At Responding Institution’s Risk and Cost.

(1) Each Institution acknowledges that the Disaster Assistance contemplated under this MOU involves a high degree of risk or injury to the Responding Institution and any Institution Party. Any Disaster Assistance provided by a Responding Institution will be at the sole risk of the Responding Institution.

(2) **Each Institution hereby waives and releases each other Institution, and the other Institution's Institution Parties, from all damages, losses, injuries, liabilities, claims, demands, and causes of action in each case suffered by the Institution, or by any Institution party, arising out of or in connection with the Institution's provision of Disaster Assistance to an Affected Institution, except if the same is caused by the gross negligence or reckless misconduct of the Affected Institution.**

(3) Any Disaster Assistance provided by a Responding Institution will be at the sole cost of the Responding Institution, unless, however, the Responding Institution obtains the written agreement of the Affected Institution to bear all or certain of the cost of Disaster Assistance afforded to or for the benefit of the Affected Institution.

(4) All compensation and benefits relating to employees of the Responding Institution engaging in efforts to provide Disaster Assistance to an Affected Institution will be the responsibility of the Responding Institution.

(5) Any equipment or property purchased by a Responding Institution to utilize for Disaster Assistance for an Affected Institution will remain the property of the Responding Institution unless the Responding Institution and the Affected Institution otherwise agree in writing regarding the same.

E. Insurance. Each Institution will carry and maintain, at its sole cost and expense, Workers' Compensation and Disability Insurance in an amount not less than the applicable statutory limits and Employer's Liability Insurance.

F. Post Disaster Assistance Follow Up. Following an Incident where Disaster Assistance was rendered, the Affected Institution and the Responding Institution(s) are encouraged to confer for an after action analysis, including but not limited to, the successes, challenges and areas for improvement.

G. Effect of this MOU. Nothing in this MOU will be intended to obligate an Institution to provide Disaster Assistance to another Institution. The provision of Disaster Assistance by an Institution will be within the sole discretion of the respective Institution.

H. Confidentiality. Each Institution agrees to keep, and ensure that any Institution Party keeps, confidential all information and materials that are provided to the foregoing in connection with their respective Disaster Assistance and that is not available to the general public, including, without limitation, financial information, and information and materials regarding another Institution and its operations, campaigns, strategic and tactical plans. Each Institution will ensure that it and its Institution Parties, do not use, disclose or make public any

private information or photos pertaining to the Disaster Assistance afforded without the prior written approval of the applicable Institution.

I. Dispute Resolution Process. Before an Institution may institute a lawsuit against another Institution(s) regarding this MOU, the Institution will comply with the dispute resolution process set forth at this Section I.

(1) **Negotiation.** If at any time there is an unresolved Dispute between Institutions, an Institution will submit a Notice of Dispute Resolution to the other Institution(s), and within ten (10) business days following receipt of the Notice of Dispute Resolution Process, the Institutions will engage in good faith face-to-face negotiations in an attempt to resolve the Dispute with the appropriate officials from each Institution with the authority to resolve such dispute in attendance. If, after a four (4) week period during which the Institutions have engaged in such negotiations, the Institutions have not negotiated a resolution, the Institutions will choose a mutually agreeable neutral third party who will mediate the Dispute pursuant to Section I(1) of this Agreement.

(2) **Mediation.** The Institutions will agree upon a mutually satisfactory mediator. The Institutions will participate in the mediation in good faith in accordance with the recommendations of the mediator and will follow the procedures for mediation as suggested by the mediator. Mediation will be non-binding and confidential to the extent permitted by law. The Institutions will share the expenses of mediation equally.

J. Venue and Governing Law. With respect to any action, claim or suit in connection with this MOU, this MOU will be governed by and interpreted in accordance with the laws of the state of in which the Affected Institution is located the subject of the action, claim or suit. Any action, claim or suit initiated in connection with this Agreement will be prosecuted exclusively within the state or federal courts located in the county in which the Affected Institution is located the subject of the action, claim or suit.

K. Relationship of Institutions. It is expressly understood and agreed that the Institutions are not partners, agents, or joint venturers in any business enterprise. Moreover, in the performance of this MOU, the Institutions do not have any authority to bind another Institution.

L. Severability. If any clause or provision of this MOU is illegal, invalid or unenforceable under applicable present or future laws, then it is the intention of the Institutions that the remainder of this MOU will not be affected but will remain in full force and effect; provided, however, that if such modification would cause this MOU to fail in its essential purpose or purposes, it will be deemed terminated by mutual agreement of all the Institutions.

M. Counterparts; Delivery of Signature. This MOU may be executed in multiple counterparts, each of which will be deemed an original for all purposes and all of which, when taken together, will constitute a single counterpart instrument, and executed signature pages to any counterpart instrument may be detached and affixed to a single counterpart, which single

counterpart with multiple executed signature pages affixed thereto will constitute the original counterpart instrument; all of these counterpart pages will be read as though one and they will have the same force and effect as if all of the parties had executed a single signature page, and execution copies of this MOU may be delivered by facsimile or portable document format (PDF) signature as if it were an original signature.

N. Amendment of MOU. This MOU may only be amended in writing. For an amendment to apply to an Institution, the Institution must execute the amendment in writing. If an issue arises between multiple Institutions regarding the MOU, as amended, the applicable terms for the Institutions will be the MOU and any latest amendment(s) signed by **all** the respective Institutions. Thus, between two Institutions, if a First Amendment to the MOU has been executed by only one Institution, the applicable terms for the Institutions will be the MOU, and the First Amendment will not apply between the Institutions. Notwithstanding the foregoing, the MOU of an Institution will automatically terminate upon the lapse of six (6) months past the introduction of an amendment to the MOU if the Institution has not executed the applicable amendment to the MOU.

O. Term; Revocation. The term of this MOU are perpetual. An Institution may revoke its agreement to the terms of the MOU at any time by furnishing a written instrument indicating the same (such written instrument, a “**Revocation**”), and providing such Revocation to Mike Fouraker, Director, the Fort Worth Zoological Association, at 1989 Colonial Parkway, Fort Worth, Texas 76110 or mfouraker@fortworthzoo.org.

P. Custodian of MOU Documents. The Fort Worth Zoological Association will serve as the custodian of the executed MOUs, executed amendments of the MOU and any Revocations.

**SIGNATURE PAGE TO
MEMORANDUM OF UNDERSTANDING
DISASTER RELIEF COLLABORATIVE FOR EXOTIC ANIMALS**

By execution below, the Institution agrees to the terms of this MOU.

Upon completion of the Memorandum of Understanding (MOU), you will receive onboarding materials from ZDR3, which confirms that the MOU is active and you are officially part of the ZDR3 network.

Name of Institution: _____

Date: _____

Signature: _____

Printed Name: _____

Title: _____

Email: _____

Phone Number: _____