

Collaboration Agreement

**Between the BOARD OF MANAGEMENT OF THE TORONTO ZOO and the
TORONTO ZOO WILDLIFE CONSERVANCY**

Draft as of January 28, 2022

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COLLABORATION AGREEMENT

THIS COLLABORATION AGREEMENT (the “Agreement”) is effective as of the ____ day of _____, 20__.

BETWEEN:

BOARD OF MANAGEMENT OF THE TORONTO ZOO,
361A Old Finch Avenue, Toronto, Ontario M1B 5K7

(the “**Board of Management**”)

-AND-

TORONTO ZOO WILDLIFE CONSERVANCY,
361A Old Finch Avenue, Toronto, Ontario M1B 5K7

(the “**Wildlife Conservancy**”)

(the Board of Management and the Wildlife Conservancy are each a “**Party**” and collectively the “**Parties**”)

WHEREAS:

- A. The Board of Management is a city board under the provisions of the *City of Toronto Act, 2006* and a registered charity under the *Income Tax Act (Canada)*;
- B. The Board of Management operates, manages, and maintains the Toronto Zoo (the “**Toronto Zoo**”) and has a tripartite relationship with the City of Toronto and the Toronto and Region Conservation Authority (TRCA);
- C. The Toronto Zoo is dedicated to connecting people, animals and conservation science to fight extinction.;
- D. The Wildlife Conservancy is a federal non-share capital corporation and a registered charitable foundation under the Income Tax Act (“ITA”);
- E. The purpose of the Wildlife Conservancy is to support the Board of Management in its operation, management, maintenance and capital needs of the Toronto Zoo by fundraising, investing, and granting funds to the Board of Management;
- F. The purpose of this Agreement is to set forth the terms upon which the Wildlife Conservancy and the Board of Management will work together to support the Toronto Zoo;

NOW THEREFORE, the Parties hereto agree under seal as follows:

ARTICLE I
COLLABORATION

1.01 Scope of Collaboration

- (a) The Board of Management and the Wildlife Conservancy agree to collaborate on the development and promotion of fundraising products and programs to connect people, animals and conservation science to fight extinction.
- (b) The Wildlife Conservancy's role and responsibilities are outlined in its charitable purpose in its Articles of Incorporation: "to receive and maintain a fund or funds and to apply all or part of the principal and income therefrom, from time to time, to the Board of Management, a qualified donee as defined by the Income Tax Act, or its successor, provided that its successor is a qualified donee and is established for similar purposes to the Board of Management."
- (c) The Board of Management agrees to provide administrative support to the Wildlife Conservancy, as set out in this Agreement, and to collaborate with the Wildlife Conservancy by providing the Wildlife Conservancy with the information and operational support in order to increase the Wildlife Conservancy's fundraising success.
- (d) The Board of Management agrees to make reasonable best efforts to support the fundraising efforts of the Wildlife Conservancy and to promote the interests and reputation of the Wildlife Conservancy.
- (e) As explained in section 3.01 of this Agreement, each year, the Board of Management shall provide the Wildlife Conservancy with its anticipated annual and/or long-term fundraising needs and objectives. These needs and objectives shall be set in consultation with the Wildlife Conservancy. The Wildlife Conservancy shall make reasonable best efforts to achieve the fundraising goals.
- (f) The Wildlife Conservancy shall in its fundraising efforts act diligently, honestly, and in the best interests of the Wildlife Conservancy, the Board of Management, and the Toronto Zoo. The Wildlife Conservancy shall, make reasonable best efforts to promote the interests and reputation of the Wildlife Conservancy, the Board of Management, and the Toronto Zoo, and shall commit no act or omission that may harm the interests or reputation of the Board of Management, the Toronto Zoo, or the City of Toronto. The Board of Management shall make reasonable best efforts to support the projects, interests and reputation of the Wildlife Conservancy, and shall commit no act or omission that may harm the Wildlife Conservancy's interests or reputation.
- (g) The funds raised by the Wildlife Conservancy shall be used in the Board of Management's charitable activities, including the operation, management, maintenance and capital needs of the Toronto Zoo.

- (h) If the Wildlife Conservancy wishes to develop a fundraising product or program in support of a particular charitable activity of the Toronto Zoo, this product or program shall be developed in collaboration with, and with the approval of, the Board of Management.
- (i) The Chief Executive Officer of the Board of Management and the Executive Director of the Wildlife Conservancy shall discuss each Party's representation on committees of the other Party, for the purpose of fostering collaboration between the Parties with respect to the assisting with the Wildlife Conservancy's fundraising products and programs. The Board of Management and the Board of Directors of the Wildlife Conservancy shall make the final determination as to the composition of their respective committees.
- (j) Wildlife Conservancy employees and/or Directors of the Wildlife Conservancy shall be invited to participate in Toronto Zoo strategic planning sessions at the discretion of the Board of Management's Chief Executive Officer.
- (k) Notwithstanding this collaboration, both the Wildlife Conservancy and the Board of Management acknowledge that they are separate and distinct legal entities with independent Boards of Directors that will remain ultimately responsible for the management and governance of their respective entities.

ARTICLE II

DETAILS OF COLLABORATION

2.01 Administrative Support

To assist the Wildlife Conservancy, the Board of Management shall provide the following services to the Wildlife Conservancy, on an ongoing basis, or as agreed to by the parties:

- (i) office space for Wildlife Conservancy staff and Board/Members' meetings;
- (ii) payroll and benefit processing;
- (iii) accounting services;
- (iv) internal mail and Toronto Zoo courier service when available;
- (v) building security;
- (vi) custodial services;
- (vii) personnel services;
- (viii) computer systems support and network support;
- (ix) access to vendor names and addresses to support Wildlife Conservancy activities;
- (x) subject to confidentiality and privacy requirements and considerations, information about existing and prospective members, donors, and

sponsors who support the Toronto Zoo, and information about grants and other funding received by the Board of Management;

- (xi) marketing, public relations and graphics services at cost as agreed to by the Parties; and
- (xii) such other supports for Wildlife Conservancy activities as are agreed to by the Parties.
- (xiii) The costs associated with each of these services, if any, may be charged back to the Wildlife Conservancy at the discretion of the Board of Management of the Toronto Zoo.

2.02 Donor and Volunteer Recognition and Loyalty Programs

The Wildlife Conservancy shall be entitled to operate its own donor and volunteer recognition programs for donors and volunteers of the Wildlife Conservancy. Each Party shall be entitled to have its own recognition and loyalty programs. Any Toronto Zoo access or other Toronto Zoo site benefits of such a program shall be subject to the approval of the Toronto Zoo's Board of Management.

2.03 Recognition

The Board of Management will endorse the Wildlife Conservancy's lead role in donor management, including campaign management, prospect clearance, cultivation, solicitation, and recognition.

2.04 Employees

- (a) Each Party agrees that either of them may, from time to time, with mutual notice and consent, have employees of the other Party visit or work upon its premises, subject to internal security policies and procedures of each Party.
- (b) In such cases, each Party agrees that such employees will remain employees of their usual employer who will remain responsible for those employees, for paying their salary, wages and other benefits, as well as for making such deductions and remittances from salary, wages and any other kind of compensation as required at law.
- (c) Subject to the other Party's duties as the occupier of premises, each party will be responsible for the health and safety of its employees.
- (d) Each Party agrees to ensure that their respective representatives (employees, students, and/or volunteers) keep confidential, private, and not disclose, publish in any form the confidential information of the other Party. Both Parties acknowledge and agree to protect any personal information necessarily and properly disclosed by one to the other in accordance with applicable laws.

ARTICLE III
PLANNING AND REPORTING

3.01 Fundraising Goals

Commencing within ninety (90) days of signing this Agreement and by October 31 in each subsequent year thereafter, the Board of Management shall provide the Wildlife Conservancy with a document that outlines the Toronto Zoo's annual and/or long-term fundraising needs. These fundraising amounts shall be set in consultation with the Wildlife Conservancy and with regard to the Board of Management's projection for the next budget year with a five (5) year outlook.

3.02 Fundraising Plan

By December 31 each year, the Wildlife Conservancy shall provide the Board of Management with an annual written fundraising plan containing a description of the proposed fundraising activities for the upcoming year that further the goals in section 3.01 of this Agreement; and

If there is need for a change to the fundraising plan, the Wildlife Conservancy will consult with the Board of Management to determine what changes may be made.

3.03 Progress Reports

- (a) The Wildlife Conservancy shall provide the Board of Management with two (2) written progress reports per year detailing the Wildlife Conservancy's fundraising activities and containing its financial results. The Wildlife Conservancy may, upon the request of the Chief Executive Officer, provide oral progress reports to the Chief Executive Officer or the Board of Management.
 - (i) The first written report provided to the Board of Management shall relate to the first six (6) months of the Wildlife Conservancy's fiscal year. The report shall be provided within two (2) months after the end of that period.
 - (ii) The second written report provided to the Board of Management shall relate to the last six (6) months of the Wildlife Conservancy's fiscal year. The report shall be provided within two (2) months after the end of the fiscal year.
 - (iii) From time to time the Wildlife Conservancy may provide the Board of Management with additional progress reports and/or data.
 - (iv) Other reports as requested by the Board of Management.
- (b) The Wildlife Conservancy's financial records shall be available to the Board of Management at any time by virtue of the Board of Management providing accounting services to the Wildlife Conservancy. Should the Parties agree to change this aspect of the agreement, the Wildlife Conservancy shall provide its

financial results to the Board of Management with its progress reports. The written progress reports shall consist of at least a balance sheets and statements of revenue, expenses, cash flow position, and changes in fund balances, together with notes thereto.

- (c) If the Wildlife Conservancy is not able to meet its fundraising goals, the progress reports shall provide the reasons why, and shall propose amendments to the fundraising plan as needed.
- (d) If any changes are made to the budget provided to the Board of Management, the progress reports shall provide the reasons why.
- (e) The Board of Management will not provide Wildlife Conservancy financial or fundraising data to a third party without first receiving written approval from the Wildlife Conservancy.

3.04 Investment of Funds

The Wildlife Conservancy shall manage and invest any funds raised by the Wildlife Conservancy or deposited by the Board of Management with the Wildlife Conservancy in a manner that complies with the requirements of the *Trustee Act* of Ontario concerning the prudent investor standard and any investment policy of the Wildlife Conservancy, which must also comply with the terms of the *Trustee Act*.

3.05 Transfers between Wildlife Conservancy and Board of Management

Restricted funds held by the Wildlife Conservancy shall be made available to the Board of Management within 15 days of the written request, and shall only be used for the purposes specified by the donor and/or funding agency.

Donations and bequests made out in the name of the Toronto Zoo or the former Toronto Zoo Foundation, whether received directly by the Toronto Zoo or by the Toronto Foundation (formerly the Toronto Community Foundation), which is the recipient of all bequests to the former Toronto Zoo Foundation, shall be transferred to the Wildlife Conservancy.

ARTICLE IV TRADEMARKS AND COPYRIGHTS

4.01 Trademarks and Copyrights

- (a) Any communications, products or marketing material developed for this purpose must comply with each Party's policies and guidelines on the use of their official trade-marks and symbols.
- (b) The Parties agree that any recognition in respect of cooperation or activities under this agreement will not constitute or imply endorsement of each other's products or services.

ARTICLE V
POLICIES

5.01 Policies

At the request of the Board of Management, the Wildlife Conservancy agrees to adopt and abide by and implement applicable Board of Management policies, as may be amended from time to time, other policies related to the access and use of the Toronto Zoo site, and any additional policies that the Board of Management may put in place or change from time to time and request that the Wildlife Conservancy adopt:

- (a) Code of Ethics;
- (b) Occupational Health and Safety Policy;
- (c) Human Rights and Harassment in the Workplace Policy
- (d) COVID-19 Vaccination Policy; and
- (e) Media Relations Policy.

ARTICLE VI
CONFIDENTIALITY

6.01 Definition of Confidentiality Requirements

In this section, confidential information means any information or data, in whatever format, exchanged between the Board of Management and the Wildlife Conservancy including, without limitation, the names and any information relating to any participant in their respective charitable activities and any other information about either party's activities. Confidential information excludes any information in the possession or control of one Party that it expressly declares in writing to be non-confidential, or that is in the public domain through no fault of the disclosing Party.

6.02 Confidentiality Requirements

- (a) The Board of Management and the Wildlife Conservancy agree to keep all the terms and conditions in this Agreement private and confidential and limited to the two Parties to this Agreement, except in the ordinary course of disclosures to their respective lawyers, accountants, and other professional advisors, as may be necessary or desirable to further their charitable purposes, interests, and charitable activities, except for anything that could be required to be not kept confidential in relation to the pursuant to the Municipal Freedom of Information and Protection of Privacy Act. This obligation shall survive the termination of this Agreement. Confidentiality requirements are subject to the terms of applicable Privacy Legislation, including the Municipal Freedom of Information and Protection of Privacy Act, and the Freedom of Information and Protection of Privacy Act.
- (b) The Board of Management and the Wildlife Conservancy agree that they shall:

- (i) use confidential information only for the purpose of carrying out of the activities contemplated in this Agreement;
- (ii) not disclose any of confidential information to any third party, or to any of their respective employees or agents except those who need to know the confidential information to enable the carrying out of the activities contemplated in this Agreement, unless the other Party has agreed to the disclosure in writing;
- (iii) require their respective employees and agents to abide by the provisions of this Agreement;
- (iv) return to each other or destroy all property, documentation, or confidential information in their possession or under their control when they no longer require it for the purposes of this Agreement, or at the request of either Party, or upon the termination of this Agreement.

ARTICLE VII
PERSONAL INFORMATION AND PRIVACY

7.01 Protection of Personal Information and Consents to Use of Personal Information

The Wildlife Conservancy recognizes that any information concerning officers, directors, employees, customers, and other individuals about whom the organization holds information may be subject to the requirements of the *Personal Information Protection and Electronic Documents Act*, *Canada's Anti-Spam Legislation* and other laws governing privacy and electronic messages (the "**Privacy Legislation**"). Both Parties hereby consent to the collection, use, and disclosure of the information about the other as may be required for the following purposes, in order to facilitate the purposes of this Agreement and facilitate and promote the ongoing operations of both organizations:

- (a) as required by law;
- (b) as required to obtain contracts;
- (c) in connection with obtaining insurance;
- (d) in connection with any outsourcing of information by the Board of Management or the Wildlife Conservancy to third party suppliers of information processing services, including, without limitation, payroll, health benefits, insurance, and pension plan benefits to the extent necessary to provide such services;
- (e) for the internal operational purposes of both Parties and to facilitate communications between the parties; and
- (f) for any purpose required or permitted under applicable law.

7.02 Privacy and Personal Information

- (a) Both Parties acknowledge that, through this collaboration, each will become aware of personal information as such term is defined in applicable Privacy

Legislation, which is collected, used, or disclosed by the Party or transferred to the Party for processing purposes.

- (b) Both Parties hereby agree and covenant that neither organization will, disclose, or make available such personal information to any other person or entity except in accordance with the provisions of applicable Privacy Legislation, including the Municipal Freedom of Information and Protection of Privacy Act, and the Freedom of Information and Protection of Privacy Act.
- (c) Both Parties agree that the personal information of others provided to it by the other Party shall only be used for such purposes as are specified herein and as permitted by applicable Privacy Legislation and that neither organization shall sell, trade, barter, disclose, or transfer such personal information to any other party, except with the prior written consent of the other Party, and subject to the terms of applicable Privacy Legislation, including the Municipal Freedom of Information and Protection of Privacy Act, and the Freedom of Information and Protection of Privacy Act.

ARTICLE VIII

CONFLICT RESOLUTION

8.01 Conflict Resolution

In the event that a dispute arises between the Parties, every effort will be made to resolve the dispute effectively, amicably, and as quickly as possible. Disputes will be resolved as follows:

- (a) Any dispute or controversy between the parties arising out of or related to this Agreement shall first be referred to the Chief Executive Officer of the Board of Management and a senior staff person or a Director of the Wildlife Conservancy, who shall, acting in good faith, seek to resolve the dispute or conflict in an amicable and constructive manner.
- (b) If the persons referred to in section 8.01(a) cannot resolve the dispute or controversy within thirty (30) days of reference to them, the matter shall next be referred to the Chair and Chief Executive Officer of the Board of Management and the Chair and Executive Director of the Wildlife Conservancy, collectively, for resolution. In connection with the foregoing, the Chair of each of the Board of Management and the Wildlife Conservancy shall, acting in good faith, seek to resolve the dispute or controversy in an amicable and constructive manner.
- (c) If the persons referred to in section .01(b) cannot resolve the dispute or controversy within ten (10) days of reference to them, either Party may at any time thereafter request that a mediator be retained to assist the Parties in resolving the dispute. In the event a request for mediation is made, the Parties shall, each acting reasonably, devote a period of up to thirty (30) days to both reaching an agreement on an independent, knowledgeable mediator and participating in the mediation and negotiations related thereto.

- (d) If the Parties are unable to agree on a mediator, the Parties agree to accept the mediator appointed by an independent mediation association or company. The Parties agree to participate in the mediation and negotiations related thereto.
- (e) In the event that a mediator is unable to assist the Parties in resolving a dispute between them, the Chief Executive Officer of the Board of Management and the Executive Director of the Wildlife Conservancy may recommend, and the Parties may agree, that the dispute be addressed in binding arbitration.

ARTICLE IX

GENERAL PROVISIONS

9.01 Term

This Agreement shall commence on March 1, 2022 and terminate on February 28, 2032, unless terminated earlier in accordance with the provisions hereof.

9.02 Amendment

This Agreement will be reviewed by the parties by the fifth year in the term, and may be amended by mutual agreement of the Parties in writing.

9.03 Termination

The Parties acknowledge that they are committed to collaborating and that they wish to enter into this Agreement for the long-term, which is in the best interest of the Toronto Zoo. A decision by a Party to terminate the Agreement shall not be taken lightly and without first attempting to resolve the dispute pursuant to section 8.01 of this Agreement.

9.04 Warranty

The Wildlife Conservancy warrants that all fundraising activities of the Wildlife Conservancy shall be in compliance with all applicable laws, including, but not limited to, the Income Tax Act and Money Laundering Act.

9.05 Dissolution or Winding-up of the Wildlife Conservancy

- (a) In accordance with the Wildlife Conservancy's governing documents, on dissolution or winding-up of the Wildlife Conservancy, all of the Wildlife Conservancy's remaining assets after payment of its liabilities shall be distributed to the Board of Management, provided that the Board of Management remains a qualified donee as defined in the *Income Tax Act* (Canada), or its successor, provided that its successor is a qualified donee and is established for similar purposes to the Board of Management. In the event that the Board of Management, or its successor, are no longer in existence, all of the Corporation's

remaining assets after payment of its liabilities shall be distributed to one or more qualified donees.

- (b) On dissolution or winding-up, the Wildlife Conservancy shall transfer its assets to the Board of Management without any restrictions.

9.06 Notice

All notices, requests, demands, or other communications (collectively called “**Notices**”) by the terms hereof required or permitted to be given by one Party to any other Party shall be given in writing by personal delivery or by registered mail, postage prepaid, by facsimile transmission, or e-mail as follow:

In the case of the Board of Management:

Board of Management of the Toronto Zoo
361A Old Finch Avenue
Toronto, ON M1B 5K7 Canada
Attention: Chief Executive Officer

In the case of the Wildlife Conservancy:

Toronto Zoo Wildlife Conservancy
361A Old Finch Avenue
Toronto, ON M1B 5K7 Canada
Attention: Executive Director

or at such subsequent address, facsimile number, or email address given by to the other Party hereto in writing from time to time.

9.07 Assignment

Except as otherwise provided to the contrary, neither Party may assign its rights hereunder except with the prior written consent of the other Party.

9.08 Entire Agreement

This Agreement constitutes the entire Agreement between the Parties with respect to all of the matters herein and supersedes all prior agreements between the Parties.

9.09 Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall be deemed to be one and the same instrument.

IN WITNESS WHEREOF the Parties have executed this Agreement effective on the date first written above.

**BOARD OF MANAGEMENT OF THE
TORONTO ZOO**
361A Old Finch Ave., Toronto, ON M1B 5K7

Per: _____

Name:

Title:

Per: _____

Name:

Title:

I/We have the authority to bind the Board of Management.

TORONTO ZOO WILDLIFE CONSERVANCY
361A Old Finch Ave., Toronto, ON M1B 5K7

Per: _____

Name:

Title:

Per: _____

Name:

Title:

I/We have the authority to bind the Wildlife Conservancy.