AUTHORIZATION AND ANIMAL SERVICES AGREEMENT

(ELEPHANT TRANSPORT CONTRACT)

This Authorization and Animal Services Agreement ("Agreement"), for reference purposes dated February 26, 2015, is entered into by and between STEPHEN FRITZ ENTERPRISES, INC., (hereinafter "Contractor"), and WOODLAND PARK ZOO (hereinafter "Client").

nt he
h

the transport. All funds to be wire transferred with instructions to follow.

- 4.1 <u>Alternative Transportation Plan.</u> In the event Client elects to transport only one of the elephants described herein on the scheduled transport date, the other elephant shall be transported by Contractor approximately 10 to 12 days thereafter. In that event, all other terms and conditions of this Authorization and Animal Services Agreement shall remain in effect except that there will be an additional charge for the second elephant separate transport of SEVENTY-FOUR THOUSAND DOLLARS (\$74,000.00), payable in full upon receipt of invoice from Contractor immediately prior to the commencement of the second transport. In the event of a second transport as provided herein, the final payment as provided in Paragraph 4(c) above may be held by Client pending completion of the successful transport of both elephants to Oklahoma.
- 5. <u>Legal Relationship.</u> It is agreed that Contractor is an independent contractor for all purposes, and not an agent or employee of Client, in performing the services under this Agreement.
- 6. Standard of Care; Release of Liability. Contractor will make every effort to transport the animal in a safe and careful manner and in conformity with the applicable provisions of the USDA Animal Welfare Act and Animal Welfare Regulations [USC Sections 2131-2159, 9 CFR Section 2.1 et seq]. However, Contractor assumes no responsibility for injuries, sickness, death or other disability which may occur to the animal while being transported, except for injuries or damages resulting from the negligence or willful misconduct of Contractor. Client, in consideration of the agreement of Contractor to transport the animal, and unless due to Contractor's negligence or willful misconduct, hereby irrevocably and completely releases and indemnifies Contractor and its employees, agents, attorneys and drivers from any and all liability, claims, suits, demands and judgments of any and every kind resulting from, or in any way connected with, the transportation of the animal and any harm, injury, sickness or death which may befall the animal while being transported by Contractor. Further, Client hereby irrevocably and completely releases and indemnifies Contractor and its employees, agents, attorneys and drivers from any and all liability, claims, suits, demands, and judgments of any and every kind resulting from, or in any way connected with, the injury or death of any handler or other person or persons employed by or assigned by Client to take part in the elephant transport, which injury or death results from, or is proximately caused by, any of the animals described herein, whether occurring during the crate training exercises or during the actual transport of the animals by Contractor.

Safety a Priority. At all times during the transport, the safety and well-being of the animal and the transport team is to be the number one concern, notwithstanding any outside influence or attempted interference, including, but not limited to, media, videographers, outside observers, unnecessary delays, etc.

- 7. **Delays.** Force Mateur. Client acknowledges that delays which affect the dates given for transport may result from unforeseeable circumstances beyond Contractor's control, including tire, flood, weather, road and traffic conditions, acts of God, and the like (collectively Force Majeur). Client hereby waives any claims of breach of contract or damages against Contractor in the case of Force Majeur. Further, Contractor makes no guarantee or promise as to the length of time necessary to complete the transport described herein. Contractor hereby waives any and all claims for breach of contract or damages against Client for delays that arise due to no fault of Client, including delays caused by legal action related to the transport. Client agrees to pay the \$200 per day standby charge set forth in section 4(c) for a delay of 30 days or less.
- 8. <u>Arbitration of Disputes</u>. Except as other provided in this Agreement, authorized representatives of the parties shall make a good faith effort to resolve any dispute concerning the interpretation or implementation of this Agreement which is not otherwise disposed of by agreement between the parties. The disputing party shall provide notice of the dispute in writing to the other parties. If the communications between the parties results in a mutually acceptable decision, then the parties shall reduce the decision to a writing which shall be signed by the parties and which shall be final and conclusive. In the event the parties are unable to resolve the dispute, then the dispute shall be resolved by private binding arbitration. In any such arbitration proceeding the prevailing party shall be awarded its reasonable attorney's fees and arbitration costs incurred in the proceeding.
- 9. <u>Notices</u>. Any notices required to be given under this Agreement by either party to the other may be effected by personaldelivery in writing, by facsimile transmission, by E-mail, or by certified mail, prepaid with return receipt requested, addressed to the party at the address indicated on the signature page hereof, or any change of address subsequently communicated to the other party.

- 10. <u>Severable Provisions</u>. The provisions of this Agreement are severable, and if any one or more provisions may be determined to be judicially unenforceable, in whole or in part, the remaining provisions shall nevertheless be binding and enforceable.
- 11. Waiver. Either party's failure to enforce any provision or provisions of this Agreement shall not in any way be construed as a waiver of any such provision or provisions, or prevent that party thereafter from enforcing each and every other provision of this Agreement.
- 12. Entire Agreement. This agreement constitutes the entire contract and agreement between the parties and there are no verbal understandings or other agreements of any nature with respect to the subject matter hereof except those contained in this agreement. Any amendment or modification of this Agreement must be in writing and signed by each of the parties to be effective.
- 13. Governing Law. The parties hereto agree that it is their intention and covenant that this Agreement and performance under it shall be construed in accordance with and under the laws of the State of California.
- 14. Execution. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute but one and the same instrument. Execution and delivery of this Agreement by delivery of a facsimile copy bearing the facsimile signature of a party shall constitute a valid and binding execution and delivery of this Agreement by such party. Such facsimile copies shall constitute enforceable original documents.
- 15. Confidentiality. The terms, conditions and contents of this Agreement, and any and all oral or written communications, information and materials furnished, acquired, derived or produced pursuant to this Agreement shall be deemed to be of a confidential and proprietary nature. Accordingly, except as otherwise required by law, neither party shall disclose, or comment on, such confidential and proprietary information or materials to anyone without prior written permission from the other party.

Client has read the foregoing, agrees to the terms thereof, and hereby authorizes Contractor to transport the elephant described herein on the terms and conditions set forth.

26 Fel 2015 Date

WOODLAND PARK ZOO 5500 Phinney Avenue North Seattle, WA 98103

Printed Name: Deborah Jensen

Title: President & CEO

STEPHEN FRITZ ENTERPRISES, INC.

101 S. Hayden Ranch Road

Kingman, AZ 86409 Telephone (760 937-6033

Facsimile (928) 692-6763

Printed Names Stanhan Erifz

Title: President

Page 3