

Submit completed membership application to:

Member Services
Species360
7900 International Drive, Suite 1040
Minneapolis, MN 55425 USA
Fax: +1.952.853.1280
support@species360.org

Species360 Use Only (check if applicable):

- Exhibit 1 _____
- Exhibit 2 _____

Please tell us about your organization.
(Fields required)

Institution Name (full legal name)		
Institution Website URL		
Postal Address: Street: City: State/Province: Country:		
Institution Telephone	Fax	Institution E-mail
Director/Chief Executive Officer (who will sign pg. 2)	Phone	E-mail
Annual attendance	Total Annual Expenses	
Total individual animals (e.g. mammals, birds, reptiles, etc.)		
When do you plan to start entering animal data in ZIMS?		
CONFIDENTIAL INFORMATION		
Membership Dues Species360 Board of Trustees reserves the right to adjust (either increase or decrease) an Institution's membership dues upon notification of material change in annual attendance, annual expense budget, or factual change in organizational structure. Institution shall provide all information required to determine the appropriate membership dues to Species360 upon request.		
Membership Agreement only covers the specific physical location identified above. Each physical location, even if part of the same institution, must enter a separate Membership Agreement with Species360. A "physical location" means any facility or structure that has its own ticketing point and/or main entrance. . This will ensure establishment and maintenance of distinct and accurate animal location and activity records.		

Please choose one



For Profit



Non-profit

Please list your existing zoo or aquarium association memberships
(e.g. WAZA, EAZA, ALPZA, ZAA, AZA, SEAZA, PAAZA, etc.)

Please choose one category that best describes your institution:

- Zoo
 Aquarium
 Zoo and Aquarium
 Research Center
 Breeding Center
 University/college
 Other _____

Is your facility open to the public for regular hours?
 Yes
 No

Please provide key contact information:

NAME	TITLE	EMAIL	PHONE	SKYPE
	Director			
	Primary Contact for Species360			
	IT Administrator			
	Billing/Finance			
	Veterinarian			
	Other			

Please have your Executive Director or Chief Executive Office read and sign below:

Declaration and Authorization In consideration of having the application for membership reviewed by Species360, as well as the obligations, covenants and agreements set forth herein and other valuable consideration the sufficiency of which is hereby acknowledged, I, _____ (print name), the facility's Director/Chief Executive Officer agree to the following:

1. I pledge, on behalf of myself and on behalf of the institution named above, to ensure that the institution that I represent will provide, in a timely manner, honest, accurate and complete information as required by Species360.
2. I agree, on behalf of the institution named above, to pay all fees associated with Species360 membership when due.
3. I understand and agree on behalf of the institution named above that Species360 data access policies are determined at the discretion of the Species360 Board of Trustees.
4. I understand and agree on behalf of the institution named above that the institution must share current data about its collection in Species360-accepted formats in accordance with the terms of this Agreement, and that data must be current to three (3) months to remain in good standing.
5. I have the authority and power to sign this agreement on behalf of my institution, and hereby agree to abide by the current Species360 Membership Terms and Conditions (available at www.species360.org).

By submitting this document, the Institution is making an offer to enter into an agreement with Species360 on the terms in this Agreement and the attached Terms and Conditions (collectively, the "Agreement"). This offer does not become a binding Agreement unless and until accepted by Species360. Species360 may accept an offer by notifying the institution that the application has been accepted or by activating the membership, and/or by permitting the institution to use the Service. Completing and submitting an application does not guarantee that the application for membership will be accepted.

Signature: _____ Date: _____
(electronic signature is acceptable)

Printed Name: _____ Job Title: _____

SPECIES360 MEMBERSHIP CRITERIA

The Species360 Board of Trustees may consider the following in evaluating your membership in Species360, as well as other items deemed relevant in Species360's business judgement. All items listed below are required. All members must have objectives that are not in conflict with the mission of Species360.

- 1. Zoo and Aquarium Institution Member (voting):**
 - a. May / may not be open to the public at regular hours
 - b. Register live animals or groups of wild species on Species360 (not solely domestics)
 - c. Maintain data current to the Board requirement (90 days)
 - d. Sign the Species360 Institution Membership Agreement
 - e. Pay annual dues and other fees current for the year
 - f. Record and share data on the live animal collection
 - g. Must not be an organization whose core business or mission is the buying or selling of animals

- 2. Non-Zoo or Aquarium Institution Member with a live animal collection (non-voting):**
 - a. Must meet all of the criteria in #1, above.

- 3. Other Institution Member without an animal collection (non-voting):**
 - a. Sign the Institution Membership Agreement
 - b. Pay annual dues and other fees current for the year

Species360 is a private nonprofit membership organization. The Species360 Board of Trustees makes the final decisions about membership. Note that deliberate misrepresentation or inappropriate use of animal information is grounds for immediate termination of Species360 membership, in addition to other grounds listed in the Membership Agreement.

Appendix I MEMBERSHIP TERMS AND CONDITIONS

These terms and conditions herein, along with the Membership Agreement above (collectively, the “Agreement”), along with applicable law, govern the relationship between Species360 and the institution identified above (the “Institution”):

(I) This Agreement along with applicable law governs the relationship between Institution and Species360, as well as relations between other entities entering into similar agreements with Species360. Such institutions may be referred to as “Members” and the rights and obligations of Members may also be referred to as “Membership”;

(II) Subject to the terms of this Agreement, Species360 grants Institution a limited license to the Species360 software and computer programs provided on a Software-as-a-Service (or “SaaS”) basis, including the Species360 Zoological Information Management System referred to as ZIMS and other software programs such as the Species360 Animal Records Keeping System referred to as ARKS, the Medical Animal Records Keeping System referred to as MedARKS, and the Single Population Animal Records Keeping System referred to as SPARKS, including any documentation associated, third party software included therewith, and all updates, upgrades, modifications, bug fixes, and corrections thereto (collectively, the “Species360 SaaS Platform”);

(III) the discounts on specified products and services and other benefits offered to Institutions by third parties as part of the Membership (“Benefits”); and

(IV) professional services provided to Institution by or on behalf of Species360 as part of the Membership Fee (“Member Services”) and “premium” professional services provided to the Institution by or on behalf of Species360 at a cost in addition to the Membership fee (“Premium Services,” and together with the Member Services, the “Professional Services”);

(V) the provision of the Membership, Species360 SaaS Platform, Professional Services and/or Benefits to Institution which Institution may access or receive through any various mediums or devices now known or hereinafter developed (the “Services”).

SPECIES360 MAY ONLY UPDATE THESE TERMS THROUGH A WRITTEN AGREEMENT OR AMENDMENT HERETO SIGNED BY BOTH PARTIES.

1. Membership.

- 1.1. The Membership period is beginning on the first day of the month following the receipt of the first annual Membership fee and automatically renews for a twelve-month period annually thereafter. Adjustments to the initial membership period are possible under mutual agreement. Once the first annual Membership fee has been received and

accepted by Species360, Institution will become a provisional member of Species360. Permanent membership in Species360 is subject to approval by the Species360 Board of Trustees (“Board”), and subject to Institution’s ongoing compliance with the terms and conditions herein. Once membership is established, Institution agrees to maintain its Membership in “good standing” as defined by the Board. The Board shall have final authority to determine whether any particular institution is or remains a Member in good standing.

- 1.2. At a minimum, to maintain good standing, Institution must:
 - 1.2.1. Maintain and share data on the existence of all animals managed at the facility (excepting only feedstock and research animals, which may not comprise the entire animal collection) current to not more than 90 days pursuant to this Agreement;
 - 1.2.2. Maintain payment of annual Species360 Membership fees and other fees for any Species360 products and services current to the year, and
 - 1.2.3. Fulfill any additional, reasonable requirements adopted by the Board in its reasonable discretion.

2. Species360 SaaS Platform and Services. Content

- 2.1. Species360 provides Institution a license to access to the functionalities of the Species360 SaaS Platform and Services pursuant to the terms of the license described in Section 7.1. Species360 will make updates, upgrades, modifications, bug fixes, and security enhancements to the Species360 SaaS Platform and Services. In order to comply with law or in response to legal claims or technological threats, or if Species360 determines in its reasonable business judgement that there is a substantial reason or need, after consultation with Species360’s legal counsel, Species360 reserves the right at any time and from time to time to modify or discontinue, temporarily or permanently, the Species360 SaaS Platform and/or Services (or any part thereof) with or without notice. Institution agrees that Species360 shall not be liable to it or to any third party for any modification, suspension or discontinuance of any Species360 SaaS Platform and/or Services pursuant to this Section 2.1.
- 2.2. Institution Owns Institution’s Content. Institution acknowledges and agrees that any and all information, documents, files, data, text, software, music, sounds, images, photographs, graphics, video, messages, tags, or other materials

accessed, uploaded, posted, emailed, transmitted or otherwise made available via the Species360 SaaS Platform and/or Services, whether publicly posted or privately transmitted (collectively, the "Content") is the responsibility of the Institution from whom such Content originated and Species360 has no rights to such Content except as expressly set out herein.

- 2.3. This means that Institution, and not Species360, is entirely responsible for all Content that its end users upload, post, email, transmit or otherwise make available via the Species360 SaaS Platform and Services. With respect to Institution's Content, Institution agrees that it is the sole and exclusive owner of it and/or has the right to share, provide access of it to, and permit use of it by Species360, other institutions, and third parties, in accordance with this Agreement and the Content sharing, access, and use policies established by the Board (such policies are available at www.Species360.org and in ZIMS (the "Terms and Conditions"). Institution acknowledges that the Board may change such Terms and Conditions Policies from time to time and that Institution agrees with and will comply with such revised Terms and Conditions.
- 2.4. Species360 does not control the Content posted via the Species360 SaaS Platform and Services, and, as such, does not guarantee the accuracy, integrity or quality of such Content. Institution agrees that it must evaluate, and bear all risks associated with, the use of any Content, including any reliance on the accuracy, completeness, or usefulness of such Content. Species360 does not endorse or make any representations about any Institution, its end users, or any Content, or any results that may be obtained from using any Content. In this regard, Institution acknowledges that it may not rely on any Content created by Species360 or submitted to Species360. If Institution decides to access or use any Content, it does so entirely at its own risk. Further, Institution understands that by using the Species360 SaaS Platform and Services it may be exposed to Content that is inaccurate, offensive or objectionable. Under no circumstances will Species360 be liable in any way for any Content, including, but not limited to, any errors or omissions in any Content, or any loss or damage of any kind incurred as a result of the use of any Content accessed, posted, emailed, transmitted or otherwise made available via the Species360 SaaS Platform and Services.
- 2.5. Institution acknowledges that Species360 may or may not pre-screen Content, but that Species360 and its designees shall have the right (but not the obligation) in their sole discretion to pre-screen, refuse, or remove any Content. Without limiting the foregoing, Species360 and its designees shall have the right to remove any Content that violates

this Agreement or is otherwise reasonably objectionable based on the standards set out in this Agreement. Prior to the removal of any Content of Institution, Species360 shall use reasonable efforts to notify Institution, in order for Institution to remove, replace or correct the affected Content. In addition, unless Content violates the terms of this Agreement or is otherwise reasonably objectionable based on the standards set out in this Agreement, Species360 shall not modify Institution's Content without prior written notice.

- 2.6. Institution acknowledges that Species360 shall use reasonable efforts to post, delete, email, transmit or otherwise make available or remove the Content, but does not guarantee that the Content will be accurately, completely, or correctly posted, deleted, emailed, transmitted or otherwise made available or removed, whether publicly or privately. Institution agrees that Species360 has no responsibility or liability for the deletion or failure to store any Content maintained or transmitted by the Service. Accordingly, if Institution decides to post, email, transmit, or otherwise make available any Content, Institution does so entirely at its own risk.
- 2.7. Institution understands that through its use of the Species360 SaaS Platform and Services it consents to the collection and use of Institution's account information and that of its end users. Species360 is the sole and exclusive owner of such information and any other information or data provided to or collected by or generated by or with, the Species360 servers hosting the Species360 SaaS Platform or making available the Services, including, traffic, traffic patterns and page impressions, as well as all aggregate information and taxonomic data collected from all members including Institution (collectively, "Server Information") and all Server Information shall be deemed Species360's Confidential Information.
- 2.8. Institution acknowledges, consents and agrees that Species360 may access, preserve and disclose Server Information or the Content if required to do so by law or in a good faith belief that such access, preservation, or disclosure is reasonably necessary to: (a) comply with legal process; (b) enforce this Agreement; (c) respond to claims that any Content violates the rights of third parties; (d) respond to Institution's requests for customer service; or (e) protect the rights, property or personal safety of Species360, institutions, end users, and/or the public (including any animal(s) tracked via the Species360 SaaS Platform or Services).
- 2.9. Institution understands that the technical processing and transmission of the Service, including its account information and Content, may involve (a) transmissions over various networks, including the transfer of this information

to the United States and/or other countries for storage, processing and use by Species360 and its affiliates; and (b) changes to conform and adapt to technical requirements of connecting networks or devices. Accordingly, Institution agrees to permit Species360 as well as entities engaged by Species360 (for example hosting service or telecom provider) to make such transmissions and changes.

3. Proper Use and Conduct.

3.1. Institution agrees to:

- 3.1.1. Comply with Species360's documentation and any other written, established standards of Membership, including appropriate conduct and proper use of the Benefits, Species360 SaaS Platform and Services, as well as, the Species360 privacy policy and Content Use Policies;
- 3.1.2. Not use the Species360 SaaS Platform and/or Services to impersonate, defame, or harass any other person or entity;
- 3.1.3. Not share its password to use the Species360 SaaS Platform and Benefits or access the Services with any third party;
- 3.1.4. Not engage in any behavior, action or conduct that is or may be fraudulent, deceptive, illegal, harmful, threatening, abusive, tortuous, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, unbusiness-like or racially, ethnically or otherwise objectionable;
- 3.1.5. Not remove any proprietary trademark or copyright markings incorporated in, marked on or affixed to the Benefits, Species360 SaaS Platform, Services and/or Content, or bypass or disable any protections that may be put in place against unlicensed use of the Benefits, Species360 SaaS Platform, Services, and/or Content, or attempt to use or access any feature or functionality to which you have not been explicitly granted access, or log-in using a username or account belonging to someone else;
- 3.1.6. Not upload, post, email, transmit or otherwise make available any unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other form of solicitation;
- 3.1.7. Not upload, post, email, transmit or otherwise make available any Content that infringes any patent, trademark, trade secret, copyright, or other proprietary right ("Rights") of any party, or that Institution does not otherwise have a right to make available (as permitted herein) under any law or under contractual or fiduciary relationships;
- 3.1.8. Not intentionally or unintentionally violate any applicable local, state, national or

international law, including, but not limited to, export or import control restrictions;

- 3.1.9. Not upload, post, email, transmit or otherwise make available any Content, or otherwise provide material support or resources (or to conceal or disguise the nature, location, source, or ownership of material support or resources) to any person(s) or organization(s) designated by the United States government as a foreign terrorist pursuant to section 219 of the Immigration and Nationality Act;

- 3.1.10. Not upload, post, email, transmit or otherwise make available a time bomb, worm, virus, lock, drop-dead device, or other similar component of software or electronically stored information that is intended in any manner to (a) damage, destroy, alter, or adversely affect the operation of software, hardware or a service in connection with which the Species360 SaaS Platform or Services are used, or (b) reveal, damage, or alter any Content, or any other software, hardware or data of other person or entity; and/or

- 3.1.11. Knowingly upload, post, email, transmit or otherwise make available any incorrect or misleading Content.

- 3.1.12. Not intercept any Content not intended for Institution or its end users.

- 3.2. Institution acknowledges that Species360 may establish general practices and limits concerning Membership conduct, use of the Content, and/or use of the Benefits, Species360 SaaS Platform and/or Services, including, without limitation, the Content or Services (or part thereof) to which Institution (or its end users) are permitted access, the maximum number of days that Content will be retained by the Species360 SaaS Platform or made available via the Services, the maximum number of uploads, posts or transmissions that may be sent from or received by an Institution (or its end users) via the Services, the maximum size of any Content, individually or collectively, that may be sent from or received by an Institution (or its end users) via the Services, the maximum storage space that will be allotted on Species360's servers on Institution's behalf, and the maximum number of times (and the maximum duration for which) Institution (or its end users) may access the Services in a given period of time. Institution acknowledges that Species360 reserves the right to log off any end user of Institution that is inactive for an extended period of time. Institution further acknowledges that Species360 reserves the right to modify these general practices and limits from time to time.
- 3.3. Institution acknowledges and agrees that Species360 shall not be responsible for any

problems, performance issues, and/or damages resulting, in whole or in part, from Institution's failure to comply with this Section. Species360 retains the right to immediately suspend and/or terminate Membership or access to the Species360 SaaS Platform or Services by any Institution (or its end user) at Species360's sole discretion. Such terminated Member's sole remedy for Species360's decision to immediately suspend and/or terminate Membership or access shall be a pro-rata refund of unused Membership fees.

4. **Travel, Equipment, & Expenses.** Species360 shall not be responsible for any travel, accommodations, computer equipment, telecommunications, operating software, or other expenses required for Membership, to receive the Benefits, to use the Species360 SaaS Platform or to access the Services.
5. **Marks.** Species360, International Species Information System™, ZIMS™, ARKS™, MedARKS™, and SPARKS™ names and logos are trademarks of Species360. Other product, service and company names mentioned as part of the Membership, Benefits or via the Species360 SaaS Platform or Services may be trademarks and/or service marks of their respective owners. Species360 does not grant any rights to use any such marks and hereby reserves all rights related thereto. Any goodwill associated with such rights shall automatically vest in Species360 or the applicable third party. Institution permits Species360 to list it as a member and hereby grants Species360 the right to use its name and trademarks in connection with the marketing and promotion of Species360, Membership, Species360 SaaS Platform, and/or Services upon reasonable consultation of Institution for such use, at the request of Institution. Species360 agrees to use such marks consistent with Institution's published guidelines with respect to such use and commercially reasonable practices to uphold standards of quality and value.

6. Fees and Payment Terms.

- 6.1. Prior to the start of the Membership and each renewal thereof, Species360 shall invoice Institution the applicable Membership fees. Species360 shall provide invoices to Institution for the Membership fee via email. Customer shall pay all invoiced amounts to Species360 within thirty (30) days from the date of its receipt of such invoice unless otherwise stated on the invoice. Membership does not start until the initial payment has been received by Species360. Fees exclude all sales, use, value added, or similar federal, state, local or foreign tax related to the Agreement, the Membership, Benefits, Species360 SaaS Platform, and/or Services. Institution shall be responsible for, and agrees to pay, for all such taxes, financial transaction, and wire transfer fees, whether set forth on an invoice or otherwise.

- 6.2. Institution acknowledges and agrees that for the timely payment of its obligations hereunder either no purchase order is required or it shall issue a purchase order or such similar document to Species360 within five (5) business days following the start of the Membership or any renewal thereof, provided that Institution hereby acknowledges that only the terms and conditions of the Agreement are binding on the Parties and govern their relationship, and provided that, as between Species360 and Institution, any terms or conditions in such purchase order or other document are void and of no force and effect.
- 6.3. In addition to any other rights of Species360 hereunder, Species360 may charge Institution interest on the outstanding balance of any overdue fees at a rate equal to one and one-half percent (1.5%) per month or the highest rate permitted by applicable law, whichever is lower. Institution shall reimburse Species360 for all reasonable costs and expenses incurred (including reasonable attorneys' fees) in collecting any overdue amounts.

7. Ownership and License.

- 7.1. **License to Species360 SaaS Platform and Services.** Institution acknowledges and agrees that Species360 and its licensors own all right, title, and interest to the Species360 SaaS Platform and Services, including all Rights therein. Subject to the terms and conditions of the Agreement and further subject to any license agreements to third party software, Species360 hereby grants to Institution, and Institution hereby accepts, a personal, non-exclusive, non-transferable, non-sub licensable, revocable right and license for Institution (and its end users) to access the functionalities of the Species360 SaaS Platform and access the Services (in accordance with Species360's documentation and any other established standards of proper use) solely for Institution's benefit as part of Species360 Membership, and not for resale or sublicense to third parties. The above license shall extend to Institution's employees and authorized agents, as well as, its affiliates and partners and their employees and authorized agents, who are designated as end users, provided that Institution maintains full responsibility and liability for the acts and omissions of such affiliates, partners, employees and agents, including, without limitation, their breach of any obligations, representations, warranties and/or covenants set forth herein.
- 7.2. **Institution Owns Institution Content.** Species360 acknowledges and agrees that Institution and its licensors (if any) own all right, title and interest in and to the Content provided by the Institution. Institution grants to Species360, its affiliates, subcontractors, and agents a worldwide, non-exclusive sub licensable (through multiple tiers),

non-transferable right and license to use, distribute, reproduce, copy, modify, make available, publicly perform, publicly display, translate, adapt, and create derivative works of Institution's Content (including that of its end users) consistent with the current Terms and Conditions Policies solely for use in connection with the Species360 SaaS Platform and Services. Institution acknowledges and agrees that, although Institution retains ownership at all times of the Institution's Content, once Institution's Content is input into Species360 SaaS Platform database, such information will permanently remain in the database as part of the aggregate data set.

- 7.3. Institution grants to other Members and their respective end users a worldwide, non-exclusive, perpetual, sub licensable (through multiple tiers), transferable right and license to use, distribute, reproduce, copy, modify, make available, publicly perform, publicly display, translate, adapt, and create derivative works of Institution's Content consistent with the then current Terms and Conditions Policies (available at www.species360.org).
8. **Restrictions.** Any rights not expressly granted by Species360 are reserved by Species360, and all implied licenses are disclaimed. Institution (and its end users) shall not exceed the scope of the licenses granted. Except as otherwise expressly set forth in the Agreement, Institution shall not modify, create derivative works of, sublicense, market, copy, co-brand, private label, publish, publicly display, grant third parties the right to use, frame or link to the Benefits, Content, Species360 SaaS Platform and/or Services, and shall not use the Species360 SaaS Platform or Services in any manner to provide service bureau or time-sharing services to third parties or for the benefit of third parties. Institution shall not reverse engineer, decompile, translate, adapt or disassemble, or in any way attempt to reconstruct or discover any source code of the Species360 SaaS Platform or Services by any means whatsoever. Institution shall not bypass or disable any protections put in place by Species360 against unlicensed use of the Species360 SaaS Platform and/or Services. Institution shall not cause or permit any third party to do any of the foregoing. Institution agrees to notify Species360 immediately of any unauthorized use of the Species360 SaaS Platform or Services it is aware of.
9. **Confidential Information.** (a) Institution acknowledges that the Species360 SaaS Platform, Services, and Server Information is confidential and/or proprietary information of Species360 or its licensors, and Institution hereby agrees to maintain its confidentiality using at least as great a degree of care as it uses to maintain the confidentiality of its own most confidential information, but in no event less than reasonable care, and that Institution will not use or disclose any confidential or proprietary information to any third party

at any time except as expressly authorized under the Agreement. Institution agrees to reasonably communicate the terms and conditions of the Agreement to those persons employed or engaged by Institution who come into contact with the Species360 SaaS Platform and Services, and to ensure their compliance with such terms and conditions.

(b) Species360 acknowledges that Institution's Content, to the extent it is not publicly available (for example on the Institution's own public-facing website), is confidential and/or proprietary information of the Institution, and, subject to the permitted uses of Content under this Agreement, Species360 agrees to maintain its confidentiality using at least as great a degree of care as it uses to maintain the confidentiality of its own most confidential information, but in no event less than reasonable care, and that Species360 will not use or disclose any confidential or proprietary information to any third party at any time except: pursuant to a court order or legal demand; to third parties on a confidential basis as reasonably necessary to perform the Services and provide the Species360 SaaS Platform as expressly authorized under the Agreement. Species360 agrees to reasonably communicate the terms and conditions of the Agreement to those persons employed or engaged by Species360 who come into contact with Institution's confidential information, and to ensure their compliance with such terms and conditions. Species360 may, however, disclose to third parties, information and data once it has been aggregated and/or anonymized and is not directly linked with any specific Institution.

(c) **Security.** Species360 shall in good faith maintain physical, electronic, and administrative security measures intended to protect the confidentiality, security and integrity of the Species360 SaaS Platform and any and all information and content stored therein including Institution's confidential and/or proprietary information.

10. **Restricted Rights.** If Institution is directly or indirectly acquiring the Species360 SaaS Platform on behalf of the U.S. Government, the Species360 SaaS Platform is classified as "Commercial Computer Product" and "Commercial Computer Documentation" developed at private expense, contains confidential information and trade secrets of Species360 and its licensors, and is subject to "Restricted Rights" as that term is defined in the U.S. Federal Acquisition Regulations. Manufacturer is: Species360, 7900 International Drive, Suite 1040, Bloomington MN 55425 USA.
11. **Inspection.** Upon reasonable prior notice from Species360, Institution shall provide to Species360 and its reasonably designated representatives access to (i) any facility or part of a facility in which the Species360 SaaS Platform is being used or the Services are accessed, (ii) any personnel using the Benefits, Species360 SaaS Platform or Services, and/or (iii) any Content, as well as, all data or records relating to the Species360 SaaS Platform, Services, or the Agreement for the purpose of verifying compliance with the

Agreement. Species360 shall provide reasonable prior written notice to Institution prior to any requested inspection; such inspection shall occur during normal business hours of Institution and not cause undue burden to Institution; and such inspection shall be subject to Institution's security and access procedures and policies.

12. **Disclaimer.** THE MEMBERSHIP, BENEFITS, SPECIES360 SAAS PLATFORM AND ALL CONTENT AND SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS AND SPECIES360 DISCLAIMS ALL WARRANTIES AND CONDITIONS, EXPRESS, IMPLIED AND STATUTORY, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF ACCURACY, FITNESS FOR A PARTICULAR PURPOSE, INTERFERENCE, MERCHANTABILITY, NON- INFRINGEMENT AND SYSTEM INTEGRATION. SPECIES360 DOES NOT WARRANT THAT THE OPERATION OF THE SPECIES360 SAAS PLATFORM AND SERVICES SHALL BE UNINTERRUPTED OR ERROR-FREE OR THAT ALL ERRORS SHALL OR CAN BE CORRECTED. SPECIES360 MAKES NO COMMITMENT TO UPDATE OR MAKE ANY CHANGES TO THE MEMBERSHIP, BENEFITS, SPECIES360 SAAS PLATFORM AND/OR SERVICES, PROVIDED THAT IF SPECIES360 ELECTS TO, IT MAY DO SO AT ANY TIME WITHOUT NOTICE. IF THE EXCLUSIONS SET FORTH IN THIS SECTION ARE DETERMINED BY A COURT OF COMPETENT JURISDICTION TO BE UNENFORCEABLE, THEN ALL IMPLIED WARRANTIES AND CONDITIONS SHALL BE LIMITED IN DURATION FOR A PERIOD OF THIRTY (30) DAYS AFTER THE DATE OF THIS AGREEMENT, AND NO IMPLIED WARRANTIES OR CONDITIONS SHALL APPLY AFTER THAT PERIOD.
13. **Indemnification.** Institution agrees to defend, indemnify and hold harmless Species360, its affiliates, and their respective licensors, directors, officers, employees, and agents from and against any and all losses, liabilities, damages and claims, and all related costs and expenses (including reasonable legal fees and disbursements and costs of investigation, litigation, settlement, judgment, interest and penalties) incurred or asserted by any third party due to or arising out of (i) the Content it (or its end users) upload, post, email, transmit or otherwise make available through the Species360 SaaS Platform or Services, (ii) its actions or inactions as part of its Membership, (iii) its use of the Benefits, Species360 SaaS Platform and/or Services, (iv) its connection to the Species360 SaaS Platform or Services, and/or (v) its violation of any Rights of another, or its violation of this Agreement, including, without limitation, its breach of any obligation, covenant, representation, or warranty, its negligence or intentional misconduct, and that of its employees and agents.
14. **Limitation of Liability.** SPECIES360, ITS AFFILIATES, AND LICENSORS, ALONG WITH ALL OF THEIR EMPLOYEES, OFFICERS, DIRECTORS

AND AGENTS, SHALL NOT BE LIABLE TO INSTITUTION OR ANY ENTITY THAT HAS RIGHTS THROUGH INSTITUTION FOR DIRECT, SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES (INCLUDING LOST PROFITS OR LOST DATA) OR FOR ANY LOSSES (EVEN IF ADVISED OF THE POSSIBILITY THEREOF) ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT OR THE SUBJECT MATTER HEREOF, INCLUDING WITHOUT LIMITATION (i) THE USE OR THE INABILITY TO USE THE SPECIES360 SAAS PLATFORM, SERVICES, AND/OR CONTENT; (ii) UNAUTHORIZED ACCESS TO OR ALTERATION OF ANY TRANSMISSIONS OR CONTENT; (iii) CONDUCT OF ANY THIRD PARTY VIA THE MEMBERSHIP, SPECIES360 SAAS PLATFORM OR SERVICES; OR (iv) ANY OTHER MATTER RELATING TO THE MEMBERSHIP, BENEFITS, SPECIES360 SAAS PLATFORM, SERVICES, OR CONTENT. IF A JURISDICTION DOES NOT PERMIT THE ONE OR MORE OF THE ABOVE EXCLUSIONS OF DAMAGES, THEN SPECIES360'S, ITS AFFILIATES', AND ITS LICENSORS' TOTAL CUMULATIVE LIABILITY FOR ANY AND ALL CLAIMS UNDER ANY THEORY OF LAW ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT SHALL NOT EXCEED (IN THE AGGREGATE) THE AMOUNT PAID BY INSTITUTION FOR THE MEMBERSHIP IN THE YEAR IN WHICH THE CLAIM AROSE, OR TEN THOUSAND DOLLARS (\$10,000), WHICHEVER IS LOWER.

15. Term and Termination.

- 15.1. The term of Membership will renew automatically effective the first day following the conclusion of the existing Membership term unless Institution elects to cancel its Membership in accordance with this Agreement.
- 15.2. This Agreement is effective until it is terminated. Institution may terminate this Agreement and its Membership at any time upon written notice to Species360 and by discontinuing access and/or use of the Species360 SaaS Platform and Services. Species360 may immediately terminate the Agreement upon notice to Institution and by discontinuing Institution (and its end users) access to the Species360 SaaS Platform and/or Services.
- 15.3. Upon termination of the Agreement, all rights and licenses granted to Institution hereunder immediately shall cease to exist, and Institution shall immediately destroy all Confidential Information of Species360. Species360 shall not be obligated and Institution has no right to receive a refund of fees paid to Species360 for the remaining period of Membership. All sections which by their nature are intended to survive expiration or termination of this Agreement shall survive. Notwithstanding anything herein to the contrary, Institution shall retain its license to use any Content accessed (downloaded, copied or printed prior to termination) pursuant to the Species360 SaaS Platform in perpetuity, however

for the sake of clarity this right does not create any ongoing or post-termination right to access the Species360 SaaS Platform and Services.

15.4. At Institution's written request upon termination of the Agreement, Species360 shall provide a copy of Institution's Content to Institution in a format reasonably requested by Institution, provided that such requested format is a commercially available format supported by Species360. Notwithstanding anything herein to the contrary, upon termination of Institution's Membership, Species360 shall retain its license to Institution Content in perpetuity. For clarity, although Institution grants Species360 the perpetual license described above, Institution at all times remains the owner of Institution's Content. Member's data will only be used by Species360 at an aggregated/anonymous level. Data shared by Institution will continue to be shared with, and available to, other institutions at the same level of detail that exists at time of Member termination

16. **Third Party Claims of Rights Infringement.**

Species360 respects the Rights of others, and we ask Institution (and its end users) to do the same. Species360 may, in appropriate circumstances and at its discretion, in addition to any other remedies to which Species360 may be entitled, disable and/or terminate access of Institution (or its end users) who may be repeat infringers. If Institution believes that its work has been used in a way that constitutes copyright infringement, or its Rights have been otherwise violated, please provide Species360'S Agent for Notice of Claims the following information:

- 16.1. An electronic or physical signature of the person authorized to act on behalf of the owner of the copyright or other intellectual property interest;
- 16.2. A description of the copyrighted work or other intellectual property that Institution claims has been infringed;
- 16.3. A description of where the Content that Institution claims is infringing is located on the Species360 SaaS Platform or Service;
- 16.4. Institution's address, telephone number, and email address;
- 16.5. A statement by an officer of Institution that it has a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law;
- 16.6. A statement by an officer of Institution, made under penalty of perjury that the above information in Institution's Notice is true and accurate, and that Institution is the copyright or intellectual property owner or authorized to act on the copyright or intellectual property owner's behalf.

Species360's Agent for Notice of Claims of copyright or other intellectual property infringement can be reached as follows:

By Mail:

Member Services Species360
7900 International Drive Suite 1040
Minneapolis, MN 55425

By email:
support@species360.org

- 17. **Equitable Relief.** Institution acknowledges and agrees that if it breaches the provisions of this Agreement, damages to Species360 would be difficult if not impossible to ascertain. As a result of the immediate and irreparable damage and loss that may be caused to Species360 for which it would have no adequate remedy, in addition to and without limiting any other remedy or right it may have, Species360 shall be entitled to seek an injunction or other equitable relief in any court of competent jurisdiction (without the need of posting a bond) enjoining any such breach. Except as otherwise provided, all rights and remedies contained in the Agreement or provided by law shall be cumulative and no one of them shall be exclusive of any other.
- 18. **Assignment.** Institution may not assign or transfer the Agreement (or any right herein) without the prior written consent of Species360. Species360 reserves the right to assign the Agreement. The Agreement shall bind and inure to the benefit of the parties and their successors and permitted assigns.
- 19. **Law and Venue.** The Agreement shall be governed by the laws of the State of Minnesota, without regard to its choice of law rules or the United Nations Convention on Contracts for the International Sale of Goods. Institution hereby consents to the personal jurisdiction and venue of competent state or federal courts residing in the State of Minnesota. The prevailing party, if any, shall be entitled to reimbursement of such party's cost and expenses, including reasonable attorney's fees. Institution agrees that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to Membership, the Benefits, Species360 SaaS Platform and/or Services, or this Agreement must be filed within one (1) year after such claim or cause of action arose or be forever barred.
- 20. **Integration.** The Agreement (including the Membership Agreement, a Services Agreement (if any), a Support / Maintenance Agreement (if any) and any addendums or exhibits signed by both parties) constitutes the entire understanding of the Parties with respect to the subject matter hereof. Any and all previous agreements and understandings between the parties regarding the subject matter hereof, whether written or oral, are superseded by the Agreement, except as amended pursuant hereto. Institution agrees that any terms or conditions in a document issued unilaterally by Institution to Species360 regarding Membership, Benefits, Species360 SaaS Platform and/or Services are void and of no force and effect. The headings in the Agreement are solely for convenience and in the event of an ambiguity or question of intent or interpretation arises, the Agreement shall be construed as drafted in

English without regard to any translations, and as if drafted jointly by the parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of the Agreement.

21. **Waiver; Amendments.** No failure of either party to exercise any power or right granted hereunder or to insist upon strict compliance with any obligation hereunder shall constitute a waiver of the rights of such party to demand full and exact compliance with the terms of the Agreement. The Agreement shall not be amended or modified, or any term or condition waived, except by written instrument that has been duly executed by the signature of an authorized representative of each party. Institution is hereby put on notice that any individual purporting to amend or modify this Agreement on behalf of Species360 by conduct manifesting assent or who is not at or above the vice-president level is not authorized to do so.
22. **Judicial Modifications.** THE PARTIES INTEND THAT THE AGREEMENT IS VALID AND SHALL BE ENFORCED AS WRITTEN. In the event any provision

of the Agreement that for any reason is held to be invalid, illegal or unenforceable in any respect, it shall be enforced, modified, or replaced by another equivalent provision to the extent necessary to render it valid, legal and enforceable under the circumstances and to the extent consistent with applicable law, while reflecting as closely as possible the original intent of the Parties as expressed or implied therein. If, however, such enforcement, modification or replacement is not permissible under applicable law, then it shall be severed from the Agreement. The invalidity, illegality or unenforceability of the provision, or the enforcement, modification, replacement or severance thereof (as the case may be), shall not affect the validity, legality or enforceability of the other provisions of the Agreement, which shall remain in full force and effect.