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Description of document: Agreement between the Smithsonian Institution (SI) National Zoological Park and the China Wildlife Conservation Association (CWCA) concerning the giant pandas, 2011

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Source of document: The Smithsonian Institution  
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# Smithsonian Institution

Office of General Counsel

VIA ELECTRONIC MAIL

September 23, 2013

RE: Your Request for Smithsonian Records (request number 40651)

This responds to your request dated September 8, 2013, and received in this Office on September 9, 2013, for a copy of the agreement between the Smithsonian Institution National Zoological Park and the China Wildlife Conservation Association concerning the giant pandas. The Smithsonian responds to requests for records in accordance with Smithsonian Directive 807 - Requests for Smithsonian Institution Information (SD 807) and applies a presumption of disclosure when processing such requests. The policy is posted on our website at [www.si.edu/about/FOIA](http://www.si.edu/about/FOIA).

Enclosed is the current agreement, which totals 12 pages. Please note that the document is appropriate for release without redaction and is provided in its entirety.

This concludes the Smithsonian's response to your request. Thank you for your interest in the Smithsonian.

Best Wishes,

A handwritten signature in black ink, appearing to read "Jessica Sanet".

Jessica Sanet  
Assistant General Counsel

Enclosure

You have the right to appeal a partial or full denial of your request. Your appeal must be in writing, addressed to the Smithsonian Institution Office of General Counsel at the address below, and made within sixty days from the date of this response letter. Your letter must explain your reason(s) for the appeal. The Smithsonian Under Secretary for Finance and Administration will decide your appeal and will respond to you in writing, specifying the reason(s) for granting or denying the appeal.



**Extension Agreement on Cooperative Research and  
Breeding of the Giant Panda**

**Between**

**The China Wildlife Conservation Association and  
The Smithsonian Institution National Zoological Park**

**20 , Jan. 2011**

**EXTENSION AGREEMENT ON COOPERATIVE RESEARCH  
AND BREEDING OF THE GIANT PANDA**

Whereas,

China Wildlife Conservation Association (hereinafter "the Chinese Party") and the Smithsonian Institution's National Zoological Park (hereinafter "the American Party") signed the Giant Panda Cooperative Research and Breeding Agreement (hereinafter "the Original Agreement") on June 17, 2000, which was implemented since December 6, 2000,

The cooperative program has achieved excellent scientific research results and positive response from the public, and

The Original Agreement expired on December 6, 2010, but remains executed till finalization of an extension agreement;

With a friendly negotiation, both the Chinese Party and the American Party agreed to continue the cooperative program, and have reached the terms and conditions as follows, dated on January 20, 2011.

**Article I: Duration of Cooperation**

The Chinese Party agrees that the pair of giant pandas Tian Tian (male, studbook number 458) and Mei Xiang (female, studbook number 473) shall to be continuously retained at the Smithsonian's National Zoological Park for an extended period of five (5) years, i.e. from December 6, 2010 to December 6, 2015.

During the term of this Agreement, a two-year (2011 and 2012) cooperative study in breeding the pair of giant panda will be conducted between Wolong China Conservation and Research Center for the Giant Panda and the American Party. If the study concludes that either of the individuals unsuitable for breeding research, both Parties shall discuss whether replacement of the panda(s) is necessary through friendly consultation.



## **Article II: Ownership**

Ownership of the pandas Tian Tian and Mei Xiang, and any offspring born during the term of this Agreement belong to the Chinese Party. Any offspring of Tian Tian and Mei Xiang shall return to China younger than four (4) years old, or upon termination of this Agreement.

## **Article III: Conservation Support**

During the term of this Agreement, the American Party shall transfer to the Chinese Party a total of Five Hundred Thousand United States Dollars (US\$500,000) per year for the conservation of giant pandas in China. The agreed payment shall be made in June of each year to the bank account designated by the Chinese Party.

Both parties agree that, of the agreement conservation fund (US\$500,000) provided by the American Party, seventy percent (70%) shall be used for the conservation of the giant panda in China, twenty percent (20%) to Wolong China Conservation and Research Center for the Giant Panda for its scientific research work, and ten percent (10%) to the Chinese Party as part of its project management fees and expenses.

The Chinese Party shall distribute projects based on relevant regulations in China and for the sake of giant panda conservation, and distribute no less than fifty one percent (51%) of the agreed fund (excluding the 10% project management fees and expenses) towards in-situ conservation according to the "Types of Programs for In-Situ Conservation" as attachment in Appendix 2.1. The Chinese Party shall provide the American Party notification regarding the progress and its activities in January of each year, using the "Brief Table for Program Information" as provided in Appendix 2.2. The Chinese Party also agrees to provide project assessment report using the "Notification Form for Results of Program Implementation" as provided in Appendix 2.3, either upon completion of a project or on an annual basis when a and multi-year project is undertaken.

## **Article IV: Cooperative Program**

An implementation agreement on "Cooperative Research Projects" shall be negotiated and signed by Wolong China Conservation and Research Center for the Giant Panda and the American Party with equal participation, which should be integrated into this Agreement. Any arrangement concerning research contents, methods and implementation arrangements shall be subject to approval by competent authorities in compliance with relevant regulations. Any result derived from the "Cooperative Research Projects" shall be shared by the Chinese Party and the American Party, and no publication or utilization shall be allowed without prior consultation between and agreement by the two Parties.

Without prior written approval from the Chinese Party, the American Party shall not conduct any activity beyond the term of this Agreement related to the above mentioned giant pandas or their offspring, nor shall the American Party collect samples such as genetic materials of the giant panda for scientific research or transfer any samples to a third party. The American Party may conduct routine health examination or other necessary activity for emergency anesthesia without approval by the Chinese Party, however, it shall keep record of such activity and preserve any samples collected during the process, and return such record and sample to the Chinese Party upon expiration or termination of this Agreement.

#### **Article V: Giant Panda Transportation Insurance**

The American Party agrees to purchase life insurance for the said giant panda(s) (including any giant panda cub over 180-days old) in transportation back to China. The insurance amount shall be one million US Dollars (US\$1,000,000) per panda, and the Chinese Party shall be the sole beneficiary of the said insurance. The American Party shall sign the insurance agreement prior to the transportation of the giant panda(s) to China, and shall provide the Chinese Party a copy of the insurance policy before shipment starts.

#### **Article VI: Giant Panda Mortality and Compensation Thereof**

The American Party shall ensure the safety of the giant pandas during their stay in the US. In the event that any panda (including a newborn cub) dies in the US, the American Party shall immediately notify the Chinese Party via telephone and email. The Chinese Party shall respond



to the notification within twelve (12) hours and make a proposal for carcass processing to the American Party, and proceed by sending specialists to the US as early as possible. It is understood that all biological materials from the deceased panda are property of the Chinese Party. Thus, such biological materials from the deceased panda shall be returned to the Chinese Party or delivered to a designated party under the Chinese Party's instruction. Any result obtained from the necropsy shall belong to both Parties, and neither party shall publish or announce the result unilaterally. The American Party agrees to take the responsibility for proper preservation of the giant panda carcass, and to bear any expenses for preservation of the carcass and its transportation to China.

Where it is concluded the death of a giant panda is caused by misconduct by the American Party, the American Party agrees to compensate the Chinese Party Eight Hundred Thousand US Dollars (US\$800,000) per panda of 18 months or older.

If any one of the giant pandas (not including their offspring) dies during the term of this Agreement, both Parties shall friendly negotiate whether to replace the dead one with another panda and whether to maintain the existing giant panda.

#### **Article VII: Daily Management and Safeguard of the Giant Panda**

In the event that the American Party plans to undertake risky procedures such as anesthesia (for physical examination, treatment, semen collection, artificial insemination, and pregnancy diagnosis), giving birth, and nursing, the American Party shall inform the Chinese Party sixty (60) days in advance. Once agreed, the Chinese Party may send one to two (1-2) specialists, upon invitation of the American Party, to the U.S. in order to jointly work out implementation plans and execute such procedure subject to the terms and conditions as provided in Appendix 1. If an urgent treatment for disease or injury is necessary, the American Party shall immediately notify the Chinese Party by telephone and email. In the event that the Chinese Party's designated contact person fails to respond to the notification, the American Party may take responsive action toward the medical emergency (including using anesthesia as necessary). In the event that a giant panda is seriously sick or severely injured, the American Party shall invite the Chinese specialist(s) to participate in the treatment.

The American Party shall inform the Chinese Party in writing the general report on rearing, management and health of the giant panda on a monthly basis. Additionally, a written summary covering twelve (12) months shall be provided to the Chinese Party by the American Party at the end of each year.

In addition to daily monitoring and monthly status report on the giant panda, the American Party shall conduct at least one comprehensive physical examination on the giant panda per year, and provide the examination report to the Chinese Party.

The American Party shall have safety management, patrol and monitoring, and emergency reaction plans in place. In addition, written record concerning safety of the giant panda shall be maintained by attendant(s) of the American Party.

Both Parties shall facilitate information exchange, strengthen cooperation and coordination in the premise of providing healthy and safe living environment for the giant pandas. If disagreement arises between the two Parties, the Chinese Party shall respect the American Party's opinions in exchange of information. However, any implementation which may cause danger to the life of the giant panda(s) shall not be made without agreement between the Chinese Party and the American Party.

#### **Article VIII: Transportation**

In the event of the completion or termination of this Agreement, the American Party shall cease exhibiting the pandas. The American Party agrees to return all giant pandas and relevant preserved genetic/derivative materials to the Chinese Party upon completion of this Agreement, or within ninety (90) days upon the termination of this Agreement subject to both parties having obtained all relevant permits. The American Party shall bear all such transportation expenses.

#### **Article IX: Obligations**

The American Party's Obligations are to:



- Take all reasonable and legitimate measures to obtain all consents, approvals and permits that are required for the transfer of the pandas or that are required for the consummation of the transactions contemplated in this Agreement.
- Be solely responsible for all business related costs and expenses associated with the transportation and the insurance for the pandas between China and the US as well as within the US.
- Be solely responsible for the relevant expenses of the Chinese specialists invited by the American Party to the US according to Article 1.3 and 1.4 of the Appendix of this Agreement.
- Use the giant pandas only for those purposes contemplated by the cooperative program stated in the Agreement and not primarily for commercial purpose as defined by the Convention on International Trade in Endangered Species (CITES) and the US Endangered Species Act (ESA). Any use of the pandas for cloning will not be allowed during this term of Agreement.
- Ensure the safety of the giant pandas in the USA.
- Designate two "named contact persons" for communication with the Chinese Party via telephone and/or email on a regular basis on issues related to management and safety of the animals and on emergency matters (the Chinese Party may contact the American Party at any time).

Chinese Party's Obligations are to:

- Provide the American Party with all necessary background information on the giant pandas as may be requested by the American Party.
- Take all reasonable and legitimate measures to obtain all consents, approvals and permits that are required for the transfer of the giant pandas or that are required for the consummation of the transactions contemplated in this Agreement.
- Designate two "named contact persons" for communication with the American Party via telephone and/or email on a regular basis on issues related to management and safety of the animals and on emergency matters (the American Party may contact the Chinese Party at any time).

**Article X: Termination of Agreement**

If one party seriously violates the performance of this Agreement, the other party shall have the right to terminate this Agreement.

The Chinese Party has the right to terminate this Agreement if the American Party fails to pay relevant conservation funds during the agreed payment term.

Each party shall serve a written, thirty-day (30-day) notice to the other party prior to any termination of this Agreement. Upon any termination of this Agreement, and until the return of the pandas and relevant derivative materials to China, the American Party agrees to continue making payment to the Chinese Party on a pro-rata basis (day-to-day basis).

Upon any termination of this Agreement, the Chinese Party shall, according to pro-rata basis, refund to the American Party the excess conservation funds paid to the Chinese Party prior to the return of the Giant Pandas to China.

#### **Article XI: General Provisions**

No amendment, waiver or consent with respect to any provision of this Agreement shall in any event be effective, unless the same shall be in writing and signed by both parties, and then such amendment, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

Matters not covered by this Agreement shall be resolved by friendly consultation of both parties.

Any dispute occurred during the course of execution of this Agreement is to be resolved by friendly consultation of both parties. If friendly consultation is unable to settle the dispute, then arbitration will proceed by an arbitration agency acceptable by both parties. Both parties shall accept and execute the arbitration judgment.

This Agreement, written in both Chinese and English languages, both versions shall have the equal legal effect. If conflict exists in the two versions, the Chinese version overrides English version and shall be used as the basis for clarification.

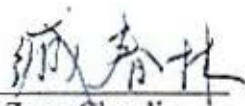
This Agreement and the documents referred to in the Agreement contain the entire understanding among the parties with respect to the transactions completed. The contents of this Agreement shall become effective after the granting of necessary approvals by the relevant authorities of the

Chinese and US governments. This Agreement supersedes all other agreements, understandings and undertakings among the parties on this subject matter upon execution by the parties.

Chinese Party Representative:

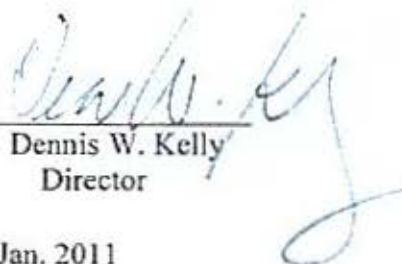
American Party Representative:

Signature:



Zang Chunlin  
Secretary General

Signature:



Dennis W. Kelly  
Director

Date: 20, Jan. 2011

Date: 20, Jan. 2011

China Wildlife Conservation Association

Smithsonian National Zoological Park

Address: 18 Hepingli East St.,  
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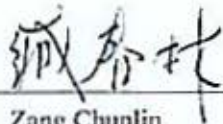
**Appendix 1:**

According to the terms of the Agreement for Cooperative Research and Breeding for the Giant Panda signed between the China Wildlife Conservation Association (the Chinese Party) and the Smithsonian National Zoological Park (the American Party), to reflect the desire to support the conservation of the giant panda in China; both parties reached the following supplemental agreement through friendly consultation:

1. Other than the conservation fund stipulated in the "Extension Agreement Regarding the Cooperative Research and Breeding of the Giant Panda" signed between the Chinese and American parties; the American Party agrees to provide an additional donation of US\$50,000 annually to the Chinese Party (total US\$250,000 in five years). This amount will be paid in June of each year to the bank account designated by the Chinese Party upon the extension agreement becomes effective.
2. The additional donations provided by the American Party shall be used directly by the Chinese Party for panda conservation purposes in China.
3. During the implementation of risky procedures such as anesthesia (for physical examination, treatment, semen collection, artificial insemination, and pregnancy diagnosis), birthing and nursing, etc., the American Party shall invite 1-2 Chinese specialists to the US. The American Party shall be responsible for the Chinese specialists' international and national transportation, accommodation, and a per diem of US\$100 (including meals) per day for each of the specialist during their stay in the US. The duration of stay of the Chinese specialists shall be discussed and confirmed between both parties based on the circumstance.
4. In the event of any panda(s) is seriously sick or severely injured, or found dead during the term of this Agreement, the American Party shall invite 2-3 Chinese specialists to participate in the treatment or identify cause of death of the animal in the US. The American Party shall be responsible for the Chinese specialists' international and national transportation, accommodation, and a per diem of US\$100 (including meals) per day for each of the specialist during their stay in the US. The duration of stay of the Chinese specialists shall be discussed and confirmed between both parties based on the circumstance.
5. This supplemental agreement reached by both parties serve as an appendix to the "Extension Agreement Regarding the Cooperative Research and Breeding of the Giant Panda," and possesses equal effect.

**China Wildlife Conservation Association**

Representative:

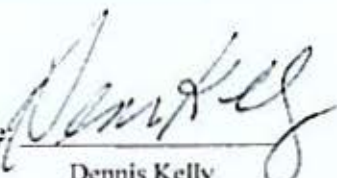
  
Zang Chunlin

Secretary General

Date: 20, Jan.2011

**Smithsonian National Zoological Park**

Representative:

  
Dennis Kelly  
Director

Date: 20, Jan. 2011

## Appendix 2

### 2.1 Types of Programs for In Situ Conservation

- | <u>Code</u>  | <u>Activity Type</u>  |
|--------------|---|
| <b>1.0.0</b> | <b><u>Infrastructure for conservation</u></b>   |
| <b>1.2.0</b> | <b><u>Construction of basic protection stations and nature reserve administrative offices</u></b>   |
| 1.2.1        | Construction and renovation of protection station and nature reserve administrative office  |
| 1.2.2        | Associated necessities only for protection stations and nature reserve administrative office (e.g. water and power supply)  |
| 1.2.3        | Construction of facilities necessary for field research   |
| 1.2.4        | Construction of facilities for public education and outreach  |
| 1.2.5        | Maintenance of above mentioned items  |
| <b>1.3.0</b> | <b><u>Field gear for the nature reserve</u></b>   |
| 1.3.1        | Boundary signs and boundary boards (including for gate plaques, etc.)   |
| 1.3.2        | Permanent informational boards and tablets, etc. (for outreach purposes)  |
| 1.3.3        | Patrol posts and observation stations   |
| 1.3.4        | Patrol roads, culverts, bridges, etc. within the reserve  |
| 1.3.5        | Field gear and equipment  |
| 1.3.6        | Meteorological monitoring equipment   |
| 1.3.7        | Maintenance of above mentioned items  |
| <b>1.4.0</b> | <b><u>Furnishing and equipment for use by reserve management staff</u></b>  |
| 1.4.1        | Office furniture and equipment (computer hardware and software, photocopiers, printers, etc.) for reserve and field officers, both inside and outside reserves    |
| 1.4.2        | Vehicles (cars and motorcycles) (used solely for law enforcement and reserve activities)  |
| 1.4.3        | Communication equipment and supplies for reserve and field offices, both inside and outside reserves  |
| <b>1.5.0</b> | <b><u>Habitat restoration and reformation</u></b> (for field gear, equipment and materials related to habitat restoration, such as shovels, axes, seedling, etc.) |
| <b>1.6.0</b> | <b><u>Facilities necessary for giant panda conservation outside of nature reserves</u></b>  |
| <b>2.0.0</b> | <b><u>Conservation management</u></b>   |
| <b>2.1.0</b> | <b><u>Field surveys</u></b>   |
| 2.1.1        | Baseline surveys  |
| 2.1.2        | Related research  |
| 2.1.3        | National Surveys  |
| <b>2.2.0</b> | <b><u>Training and exchanges</u></b>  |
| 2.2.1        | Staff training  |
| 2.2.2        | Exchanges for nature reserve staff  |
| <b>2.3.0</b> | <b><u>Compiling plans and reports</u></b>   |
| 2.3.1        | Master planning (including for national, provincial and reserve level)  |



- 2.3.2 Feasibility research reports
- 2.3.3 Development of management plans
- 2.4.0 **Conservation education**
- 2.4.1 Production of information material for public outreach
- 2.4.2 Conservation education activities
- 2.5.0 **Data information systems**
- 2.5.1 Developing and applying GIS
- 2.5.2 Other data collection and archiving
- 2.5.3 Monitoring and data processing
- 2.6.0 **Patrolling and monitoring**
- 3.0.0 **Scientific research**
- 3.1.0 **Field research**
- 3.1.1 Habitat and food
- 3.1.2 Biological and ecological studies of giant pandas
- 3.1.3 Research on captive giant pandas training and reintroduction

## 2.2 Brief Table for Program Information

Project Title	Project Type	Site of Implementation	Total Spending (US\$)
Construction of protection station	1.2.0	_____ Nature Reserve	*****

## 2.3 Notification Form for Results of Program Implementation

Project #	Project Title	Project Type	Brief description (1-2 sentences)	Site of Implementation	Total Spending (US\$)	Project Status
e.g.: WH001	Construction of protection station	1.2.0	Building of protection station damaged by the earthquake	_____ Nature Reserve	****	Completed <i>Month, Year</i>