

**Memorandum of Agreement
Project Healing Waters Fly Fishing
And
Trout Unlimited**

This letter of agreement (the "Agreement") sets forth the terms and conditions on which Project Healing Waters Fly Fishing, Inc., a Maryland nonstock corporation ("PHWFF"), is willing to enter into an agreement with Trout Unlimited and its affiliated individual chapters (the "Partner") (together, PHWFF and the Partner are the "Parties" and each is a "Party") to provide fly fishing and associated activities including education and outings to Participants (as defined below) in accordance with PHWFF's mission statement, effective as of February 27, 2019.

RECITALS

1. The Parties agree that PHWFF's mission statement (the "Mission Statement") is as follows: Project Healing Waters Fly Fishing is dedicated to the physical and emotional rehabilitation of disabled active military service personnel and disabled veterans (the "Participants") through fly fishing and associated activities including education and outings.
2. The Parties agree that it is to their mutual benefit and that of the Participants to cooperate in delivering the best possible fly fishing experiences taking into consideration the physical and emotional condition of the participants.
3. The Partner desires to develop, organize, and conduct a PHWFF Program (the "Program"). The purpose of the Program is to enhance the physical and emotional rehabilitation of the Participants through ongoing instructional activities that include fly tying, rod building, casting, fly fishing outings, and other activities consistent with this purpose.
4. The Parties intend that the Program, will induce:
 - a. The Participants to participate in the Program
 - b. Individuals associated with the Partner to volunteer or donate property or services in connection with the Program (the "Volunteers"), be conducted:
 - i. Under the direction of:
 1. The applicable local Department of Defense (DOD) hospital, U.S. Department of Veterans Affairs (VA) facility, or Military Transition Unit (e.g. Warrior Transition Unit, Wounded Warrior Battalion, etc.) (a Medical Facility"); or

2. Other organizational partners such as the Veterans of Foreign Wars of the U.S., or the American Legion as approved by PHWFF ("Organizational Partners"), and
 - ii. In accordance with all applicable laws, statutes, ordinances, rules, codes, orders, common laws, regulations, handbooks, guidelines, and similar requirements, policies, or procedures of any federal, state, or local government or political subdivision thereof, or any agency or instrumentality of such government or political subdivision, including (without limitation) any of the foregoing set forth by the Veterans Health Administration, Department of Veterans Affairs Voluntary Service, any Medical Facility, or the Internal Revenue Service (the "Applicable Laws and Regulations").
5. The Parties intend that by conducting the Program in cooperation with a Medical Facility or Organizational Partner and in accordance with Applicable Laws and Regulations that the Volunteers will be regarded as within the purview of the Federal Tort Claims Act and any other Applicable Laws and Regulations providing protections to volunteers while operating within the scope of their assigned Program duties.
6. The Partner acknowledges that the Partner's role is to help launch the Program and to help ensure the Program's continued success but not to conduct the operations of the Program, for which PHWFF is solely responsible.
7. The Partner acknowledges that PHWFF issues and maintains documentation (e.g. policy, procedure, forms etc.) at PHWFF's Headquarters governing the Program operations and provides this documentation to the Program Lead (the "PL") administering the Program, and that the Partner, the PL, and Volunteers shall comply with the terms of such documentation, as it may be modified, amended, or supplemented by PHWFF from time to time, in the organization and the execution of the Program.
8. The Parties desire to set forth in this Agreement the terms under which the Partner will conduct the Program.

NOW, THEREFORE, the Parties jointly to resolve and agree to provide the Program in accordance with this Agreement as follows:

AGREEMENT

1. **Purpose.** The Parties are committed to providing services through a Program to Participants that supports the Mission Statement. The Parties agree and recognize that, although fly fishing and fly tying are lifetime recreations that can be very relaxing, the purpose in Program activities is to help the Participants heal, both emotionally and physically.
2. **Program Operations**
 - a. The Partner understands, covenants, and agrees to:
 - i. Provide PHWFF Headquarters recommendations for a PL from the Partner's organization to supervise and to administer the Program. PHWFF Headquarters in conjunction with the Partner will jointly select the PL.
 - ii. Coordinate core Program activities with PHWFF Headquarters and in cooperation with the local Medical Facility or Organizational Partner. Subject to the foregoing, the PL retains discretion regarding the coordination, planning, and execution of the Program.
 - iii. Conduct the Program within the designated geographic area according to PHWFF policies and procedures, which shall be provided to Partner from time to time.
 - iv. Hold regularly scheduled meetings with eligible Participants (as identified in the current PHWFF Program Guide) at least once per month or as otherwise agreed to in writing by the PHWFF Chief Executive Officer ("CEO").
 - v. Ensure the PL possesses, or has access to, requisite fly fishing skills and fly fishing experience to conduct core Program activities.
 - vi. Ensure the PL and any other volunteers do not enter into any contracts, agreements, or other binding covenants either verbally or written on behalf of PHWFF.

- vii. Employ reasonable efforts with consideration for the safety and well-being of the Participants to ensure that all professional outfitters and professional guides accompanying Participants on fly fishing outings are licensed and insured, in accordance with Applicable Laws and Regulations.
- viii. Ensure that any personal watercraft used on a fly fishing outing and its operators are properly licensed by the appropriate government agency(ies), if and as required by Applicable Laws and Regulations, and insured to cover accidents, injuries to Participants, and damage to Participants' property and equipment.
- ix. Use reasonable efforts to work with the local Medical Facility or Organizational Partner, which will:
 - 1. Designate a primary, and if needed, a secondary Medical Facility or Organizational Partner staff contact to coordinate Program activities.
 - 2. Maintain final decision-making authority with respect to the health and safety of Participants.
 - 3. Provide an appropriate level of healthcare for each Participant where it is necessary.
 - 4. Provide adequate medical personnel for the Program, given the needs of all Participants, as necessary.
 - 5. Make decisions about the ability of a Participant to engage in Program activities and the appropriate level of activity for each Participant.
- x. Decline to allow any Participant to engage in core Program activities if required medical personnel are not available - as determined by the local Medical Facility or Organizational Partner; provided that nothing in this Agreement shall require the Partner or any person to violate any applicable Law or regulation, including (without limitation) the Health Insurance Portability and Accountability Act (HIPAA).
- xi. Abide by the local Medical Facility or Organizational Partner Staff's:

1. Directions with respect to compliance with Applicable Laws and Regulations.
2. Determination that any Participant's physical or emotional state require that trained medical personnel, approved and/or supplied by the Medical Facility or Organizational Partner Staff, must accompany the Participant on any Program activity for the safety of all Participants, Volunteers, and others supporting the activity.
3. **Program Reporting.** Using report formats provided by PHWFF Headquarters, the Partner, on its own behalf and on behalf of the PL, agrees to provide information to PHWFF, or the designated PHWFF representative, as necessary or useful in assisting PHWFF with complying with Applicable Laws and Regulations.
 - a. PHWFF reports and requests (as identified in the current PHWFF Program Guide) must always be made on a timely basis, and on forms and in formats containing such information as deemed acceptable by PHWFF, subject to Applicable Laws and regulations.
 - b. Reports of accidents, injury, or death of Participants and/or Volunteers, incidents involving law enforcement agencies, or unfavorable publicity must be reported immediately to the PHWFF CEO by the most expedient means available.
4. **PHWFF Intellectual Property Rights and Confidentiality**
 - a. This agreement does not constitute a license, assignment, or other instrument granting any rights or interest in, to or under any of PHWFF's Intellectual Property (as defined below), and the Parties hereby covenant, consent, and agree that PHWFF is retaining all right, title, and interest in, to, and under its Intellectual Property.
 - b. As used in this agreement, "Intellectual Property" means all intellectual and industrial property rights and assets, and all rights, interests, and protections associated with, similar to, or required for the exercise of any of the foregoing, however arising, pursuant to the laws of any jurisdiction throughout the world, whether registered or unregistered, including, without limitation:
 - i. Any and all trademarks, service marks, trade names, brand names, logos, trade dress, design rights, and other similar designations, together with the

goodwill connected with the use of and symbolized by, and all registrations, applications, and renewals for any of the foregoing,

- ii. Internet domain names, whether or not trademarks, registered by any authorized private registrar or governmental authority, web addresses, websites, and related content, accounts with Twitter, Facebook, and other social media companies and the content found thereon and related thereto,
 - iii. Works of authorship, expressions, designs and design registrations, whether or not copyrightable, including copyrights, author, performer, moral and neighboring rights, and all registrations, applications for registration and renewals of such copyrights,
 - iv. Inventions, discoveries, trade secrets, business and technical information and know-how, databases, data collections and other confidential and proprietary information and all rights therein,
 - v. Patents, patent applications and other patent rights and,
 - vi. All rights to any actions of any nature available to or being pursued by PHWFF to the extent related to the foregoing.
- c. From time to time PHWFF Headquarters will create and designate certain non-public, confidential, or proprietary material and/or information. PHWFF Headquarters may share this material and/or information in with the PHWFF Program, including, without limitation, information concerning PHWFF's business, operations, services, donor information, and other confidential and proprietary information ("Confidential Information").
- d. The Partner and its directors, officers, employees, agents, members, advisors and other affiliates (Partner's "Representatives") shall protect and safeguard the confidentiality of such Confidential Information, but in no event with less than a commercially reasonable degree of care, and shall use the Confidential Information solely for purposes of the Program.
- e. The Partner shall not, and shall instruct its Representatives to not, disclose any of the Confidential Information to any person without PHWFF's prior written consent.
- f. Without limitation to the foregoing, the partner shall not make any public announcements in respect of this Agreement and shall not use or reference

PHWFF's name, logo, or other Intellectual Property or Confidential Information without the prior written consent of PHWFF's CEO.

- g. Without limitation of the foregoing, the Partner acknowledges, covenants, consents, and agrees that it has no right, title or interest in, to or under PHWFF's Intellectual Property or Confidential Information and, as such, may not use PHWFF's name or other Intellectual Property or Confidential Information (including, without limitation, for purposes of establishing an organization with the same or similar name).

5. Program Fundraising

- a. The Partner and the PL must review PHWFF's current fundraising policy(ies) and procedure(s) and submit all documentation required thereby to PHWFF CEO prior to a fundraising event.
- b. The Partner and the PL will ensure all fundraising efforts for the benefit of the Program comply with PHWFF policies and procedures.
- c. The Partner and/or the PL may raise funds for the Program and/or to support other PHWFF organizational efforts after obtaining written approval from PHWFF Headquarters.
- d. The Partner and/or the PL may receive funds donated for the benefit of the Program, provided these donations are sent to PHWFF Headquarters. These donations are allocated to the Program's annual budget according to PHWFF policies and procedures.
- e. The PL must submit all grant applications for the benefit of the Program to PHWFF CEO for approval prior to submission to the grantor.
- f. The Partner may not submit grant applications on behalf of PHWFF or for the benefit of the Program.
- g. The Partner and/or the PL shall submit to PHWFF Headquarters the following:
 - i. All such funds accepted within 30 days of receipt of the funds
 - ii. In-kind donation form for all in-kind donations received for the benefit of the Program within 30 days of receipt of the in-kind donation

- iii. Fundraising reports in accordance with PHWFF policy
- h. Absent prior written consent of PHWFF's CEO, the Partner and/or PL shall not, for PHWFF fundraising purposes or in connection with the Program, contact or solicit nationally recognized manufacturers, nationally recognized foundations, importers, and suppliers of fly fishing equipment or fly tying materials and equipment.
- i. PHWFF provides all revenue and equipment to support the Program and its activities. There is no expectation that the Partner will expend general funds on the Program or any of its activities. If the Partner chooses to expend general funds on Program activities, either by sending funds to PHWFF or by expenditures by the Partner to support Program activities through third parties, the expenditures are donations to PHWFF. These donations may include revenue, and /or goods and services as defined by laws governing nonprofit donations.

6. **Program Mutual Releases**

- a. PHWFF. PHWFF shall indemnify, defend and hold harmless the Partner, its officers, employees, and agents from and against any and all liability, loss, expense, including reasonable attorney's fees, or claims for injury or damages arising out of the performance of the Agreement, but only in proportion to and to the extent such liability, loss, expense, attorney's fees, or claims for injury or damages is caused by or results from the negligent or intentional acts or omissions of PHWFF, its officers, agents or employees, and only to the extent of and limited by any policy of insurance covering PHWFF.
- b. Partner. The Partner shall indemnify, defend and hold harmless PHWFF, its officers, employees, and agents from and against any and all liability, loss, expense, including reasonable attorney's fees, or claims for injury or damages arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, or expense, attorney's fees, or claims for injury or damages is caused by or results from the negligent or intentional acts or omissions of the Partner, its officers, agents or employees, and only to the extent of and limited by any policy of insurance covering the Partner.
- c. The following mutual releases are required as outlined below:
 - i. PHWFF Volunteer. The Partner will ensure the PL executes for all PHWFF Volunteers: the PHWFF Hold Harmless Agreement; the PHWFF

Media Release; the PHWFF Code of Conduct; and the PHWFF Code of Ethics Agreement or other such agreements as may be added by PHWFF governing the conduct of the PHWFF Volunteer's participation.

- ii. PHWFF Participant. The Partner will ensure the PL executes for all PHWFF Participants: the PHWFF Hold Harmless Agreement; the PHWFF Media Release; and the PHWFF Code of Conduct Agreement or other such agreements as may be added by PHWFF governing the conduct of the PHWFF Participant's activity.

- 7. **Program Liability Insurance.** The Partner shall cause its employees, agents, and representatives to act in compliance with all Applicable Laws and Regulations at all times in organizing and executing the Program.

PHWFF and all partnering Trout Unlimited Chapters will retain liability insurance as follows:

- a. The Partner shall have in place customary general liability insurance with policy limits of at least one million dollars (\$1,000,000).
 - b. PHWFF provides customary general liability insurance that applies to all official PHWFF activities with a policy limit of at least one million dollars (\$1,000,000).
 - c. The Partner acknowledges that PHWFF has no obligation to provide insurance coverage for the Partner or any of its operations, Programs, directors, members, employees, volunteers, or agents for non-PHWFF activities.
 - d. The Partner shall use its best efforts to ensure that any other fly fishing organizations that participate in the Program carry customary general liability insurance with policy limits of at least one million dollars (\$1,000,000).
- 8. **Amendments.** This Agreement may only be amended by a signed written agreement executed by both Parties hereto, and any waiver of any provision of this Agreement shall be effective only if in a signed written agreement executed by the Party against whom the waiver is to be effective. The Parties hereby waive any rights to amend this provision of the Agreement orally.
- 9. **Non-Disparagement**
 - a. From the term of this Agreement and for a period of two years thereafter, Partner shall not and shall cause its agents, representatives and affiliates (collectively, the

“Covered Persons” and each, individually, a “Covered Person”) not to, whether in writing (electronically or otherwise) or orally, malign, denigrate, or disparage PHWFF, or any of its predecessors or successors, or any of its current or former directors, officers, employees, stockholders, partners, managers, members, agents, or representatives and affiliates, with respect to any of its past or present activities, or otherwise publish, whether in writing (electronically or otherwise) or orally, statements that malign, denigrate, or disparage any of the aforementioned parties. Notwithstanding anything to the contrary contained herein, nothing in this Agreement shall prohibit any person from reporting possible violations of federal or state law or regulation to, or otherwise cooperating with, or providing information requested by, any governmental agency or entity, including, but not limited to, the Department of Justice, the Securities and Exchange Commission, the U.S. Equal Employment Opportunity Commission, the United States Congress, and any agency Inspector General, or making other disclosures that are protected under the whistleblower provisions of federal or state law or regulation. No person needs the prior authorization of any party hereunder to make any such reports or disclosures and no person is required to notify any party hereunder that such reports or disclosures have been made.

- b. From the term of this Agreement and for a period of two years thereafter, PHWFF shall not and shall cause its agents, representatives and affiliates (collectively, the “Covered Persons” and each, individually, a “Covered Person”) not to, whether in writing (electronically or otherwise) or orally, malign, denigrate, or disparage Partner, or any of its predecessors or successors, or any of its current or former directors, officers, employees, stockholders, partners, managers, members, agents, or representatives and affiliates, with respect to any of its past or present activities, or otherwise publish, whether in writing (electronically or otherwise) or orally, statements that malign, denigrate, or disparage any of the aforementioned parties. Notwithstanding anything to the contrary contained herein, nothing in this Agreement shall prohibit any person from reporting possible violations of federal or state law or regulation to, or otherwise cooperating with, or providing information requested by, any governmental agency or entity, including, but not limited to, the Department of Justice, the Securities and Exchange Commission, the U.S. Equal Employment Opportunity Commission, the United States Congress, and any agency Inspector General, or making other disclosures that are protected under the whistleblower provisions of federal or state law or regulation. No person needs the prior authorization of any party hereunder to make any such reports or disclosures and no person is required to notify any party hereunder that such reports or disclosures have been made.

10. **Public Announcements.** Partner shall not issue a press release or other public announcement concerning this Agreement, including the subject matter hereof, or PHWFF without the prior written consent of PHWFF, which consent may be withheld in PHWFF's sole discretion.

11. **Termination of Agreement**

- a. Written notification must be given to PHWFF upon dissolution of the chapter, club or other organization. This agreement will terminate automatically upon dissolution of the Partner as an active chapter, club, or other organization.
- b. Either Party may terminate this Agreement as follows:
 - i. Upon no fewer than 30 days' written notice provided by either Party to terminate the Program, which notice shall include the reason for requesting the Program's termination.
 - ii. If after 30 days following such notice, the Parties have not agreed to a resolution to keep the Program operational, the Program will be terminated.
- c. In connection with such termination, or if the Partner otherwise ceases activities relating to the Program, the Partner will send all equipment, materials, and funds raised, collected, or otherwise procured for Program purposes to PHWFF Headquarters.
- d. Upon termination of this Agreement in accordance with the terms of this Section, all obligations of the Parties under this Agreement shall terminate, except that the obligations of the Parties in Sections 4,5,6,8, 9 and 10 shall survive; provided, however, that nothing herein shall relieve a Party of liability for any breach of this Agreement prior to termination.

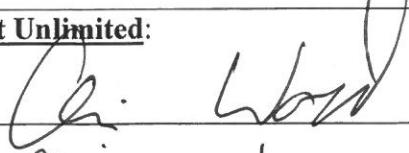
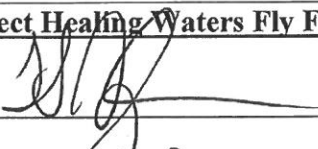
12. **Miscellaneous**

- a. This Agreement, and any documents or agreements explicitly referred to herein, constitute the entire agreement between the Parties hereto with respect to the subject matter hereof.
- b. This Agreement may be executed and delivered (including by PDF or other means of electronic signature) in any number of counterparts, each of which will be

deemed an original, but all of which together will constitute one and the same instrument.

- c. Any term or provision of the Agreement that is invalid or unenforceable in any situation in any jurisdiction will not affect the validity or enforceability of the remaining terms and provisions hereof in any other situation or in any other jurisdiction. In the event that any provision hereof is judicially determined to be invalid or unenforceable under any Applicable Law or Regulation, the Parties hereto intend that such provision be construed by modifying or limiting the applicable provision so as to be valid and enforceable to the maximum extent possible under Applicable Law or Regulation and to otherwise give effect to the intent of the Parties as expressed herein.
- d. Neither Party may assign or transfer this Agreement or any of its rights hereunder, or delegate any of its responsibilities hereunder, by operation of law or otherwise, without the prior written consent of the other Party. The benefits of, and the obligations and liabilities assumed herein, shall inure to the benefit of, and be binding upon, any successors and permitted assigns.
- e. Except as provided in Section 6, this Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns, and nothing herein (express or implied) is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.
- f. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Maryland, without giving any effect to any choice or conflict of law provision or rule thereof of any other jurisdiction.
- g. The Parties are independent of one another, and nothing in this Agreement creates or is intended to create any agency, joint venture, partnership or other form of joint enterprise, employment, or fiduciary relationship among the Parties. No Party has any express or implied right or authority to assume or create any obligations on behalf of or in the name of any other Party hereto, or to bind any other Party hereto to any contract or undertaking.
- h. The recitals of this Agreement are incorporated herein and shall constitute an integral part of this Agreement.

The Parties have caused this Memorandum of Agreement to be executed as of the date of the last signature below:

<u>Trout Unlimited:</u>	<u>Project Healing Waters Fly Fishing, Inc.:</u>
By: 	By: 
Name: <u>Chris Wood</u>	Name: <u>Todd S. Desgrosseilliers</u>
Title: <u>President & CEO</u>	Title: <u>President & CEO</u>
Date: <u>2/27/19</u>	Date: <u>2-27-2019</u>
Address: <u>1777 N. Kent St.</u>	Address: <u>101 Charles Street</u>
<u>Sve. 100 Arlington, VA 22209</u>	<u>Suite 104, La Plata, MD 20646</u>
Phone Number: <u>571 274 0601</u>	Phone Number: <u>(540) 207-9157</u>
E-Mail: <u>Chris.Wood@tm.org</u>	E-Mail: <u>todd@projecthealingwaters.org</u>
Program Name/Location: _____	