

MEMORANDUM OF AGREEMENT
BETWEEN
SPACE AND NAVAL WARFARE SYSTEMS CENTER PACIFIC
AND
SEAWORLD PARKS & ENTERTAINMENT, LLC

Subj: TEMPORARY LOAN OF BOTTLENOSE DOLPHINS (*TURSIOPS TRUNCATUS*)

1.0 INTRODUCTION:

The Space and Naval Warfare Systems Center Pacific (hereinafter referred to as "SSC Pacific"), is designated by Secretary of the Navy Instruction (hereinafter referred to as "SECNAVINST") 3900.41F as the lead laboratory for all Navy sponsored programs that involve the acquisition, transport, care and maintenance of marine mammals. Pursuant to this responsibility the Commanding Officer of SSC Pacific has a direct interest in the preservation and propagation of marine mammals and, in particular, an interest in pursuing a breeding program to support the Navy's need for marine mammals. SeaWorld Parks & Entertainment, LLC (hereinafter referred to as "SeaWorld") maintains a collection of marine mammals at its public display facilities throughout North America, including SeaWorld San Diego. SeaWorld has a mutual interest in the conservation, research and propagation of marine mammals and is therefore interested in engaging in a breeding program with SSC Pacific.

The parties, SSC Pacific and SeaWorld, hereby agree as follows: SSC Pacific agrees to loan to SeaWorld two (2) *Tursiops truncatus* (bottlenose dolphins), as further described below.

2.0 SCOPE:

- 2.1 This Memorandum of Agreement involves the temporary loan of bottlenose dolphins (*Tursiops truncatus*) from SSC Pacific to SeaWorld.
- 2.2 SSC Pacific agrees to loan to SeaWorld two (2) bottlenose dolphins (hereinafter referred to as "the Navy dolphins") identified as:

Tg732F Kolohe
Tt751F Cascade

- 2.3 SSC Pacific shall retain all rights and interests in these dolphins.

3.0 APPLICABLE DOCUMENTS:

- 3.1 Marine Mammal Protection Act (MMPA)
- 3.2 Animal Welfare Act
- 3.3 APHIS Inspection Reports
- 3.4 SECNAVINST 3900.41F

4.0 TECHNICAL REQUIREMENTS:

OBLIGATIONS OF SSC Pacific:

- 4.1 SSC Pacific will temporarily loan two (2) bottlenose dolphins (*Tursiops truncatus*) identified in paragraph 2.2, above, to SeaWorld.
- 4.2 SSC Pacific will remain responsible for the term of this agreement for filing all applicable documentation and compliance for the Navy dolphins as required by NOAA Fisheries (formerly the National Marine Fisheries Service).
- 4.3 SSC Pacific will be responsible for the Navy dolphins during the transport from SeaWorld San Diego to SSC Pacific at the conclusion or during the performance of this agreement. The SSC Pacific point of contact for transportation matters is Dr. Mark Xitco, SSC Pacific, Code 715, 53560 Hull Street, San Diego, CA 92152, (619) 553-0887, FAX (619) 553-2678.
- 4.4 SSC Pacific will have the opportunity to periodically send a representative to SeaWorld San Diego to inspect the Navy dolphins in order to insure that they are being maintained and cared for in accordance with all applicable laws and regulations.
- 4.5 SSC Pacific will have the right of ownership to the first, third, fifth, and so forth, of offspring of the Navy dolphins loaned under this agreement.

5.0 TECHNICAL REQUIREMENTS:

OBLIGATIONS OF SEAWORLD AND SEAWORLD SAN DIEGO:

- 5.1 SeaWorld San Diego shall be responsible for the care, custody and maintenance of the Navy dolphins loaned by SSC Pacific during the period of this agreement. SeaWorld and SeaWorld San Diego shall indemnify and hold-harmless the Department of the Navy, its active duty personnel, civilian employees, agents, contractors, and vendors for all liability arising under this agreement, to include but not limited to: death and/or injury to all persons resulting from the care, custody, and control of the Navy dolphins and any of

their offspring; property losses/damages resulting from the care, custody, and control of the Navy dolphins and their offspring.

- 5.2 SeaWorld San Diego shall assign a person to be in charge of the Navy dolphins and all actions associated with this agreement. This person will be identified to SSC Pacific prior to signing this agreement.
- 5.3 SeaWorld San Diego shall care for and maintain the Navy dolphins in accordance with all applicable laws and regulations.
- 5.4 SeaWorld San Diego will bear all costs associated with the care and maintenance of the Navy dolphins while in their possession. SSC Pacific will not be responsible for any of these costs.
- 5.5 SeaWorld San Diego will use its best efforts to breed the Navy dolphins.
- 5.6 SeaWorld San Diego shall not engage in any research program with the Navy dolphins without receipt of written approval from SSC Pacific Senior Scientist for Animal Care. Any research must be in accordance with applicable laws and requirements.
- 5.7 SeaWorld San Diego shall not transfer the Navy dolphins or any of their offspring to which SSC Pacific has rights to under this agreement to another facility without the prior written approval of the SSC Pacific Senior Scientist for Animal Care.
- 5.8 SeaWorld San Diego shall notify the SSC Pacific Senior Scientist for Animal Care within four (4) hours from their knowledge of the mortality of the Navy dolphins or any of their offspring to which SSC Pacific has rights. SeaWorld San Diego agrees to have a necropsy conducted by a veterinarian and to collect such tissues, fluids, and parts required by the SSC Pacific Senior Scientist for Animal Care. The veterinarian's necropsy report together with preserved tissues, fluids, and parts will be submitted to the SSC Pacific Senior Scientist for Animal Care.
- 5.9 SeaWorld San Diego shall notify the SSC Pacific Senior Scientist for Animal Care within eight (8) hours from their knowledge of births, serious illness, or serious injury of the Navy dolphins or any of their offspring.
- 5.10 SeaWorld San Diego shall provide quarterly reports by mail or fax on the status of the Navy dolphins and any of their offspring to which SSC Pacific has rights to under this agreement to the SSC Pacific Senior Scientist for Animal Care.
- 5.11 SeaWorld San Diego shall provide copies of all current Animal and Plant Health Inspection Service (APHIS) reports to the SSC Pacific Senior Scientist

for Animal Care within one (1) month of receipt from APHIS for the term of this agreement.

- 5.12 SeaWorld San Diego shall obtain oral or written permission from the SSC Pacific Senior Scientist for Animal Care before subjecting the Navy dolphins or any of their offspring to which SSC Pacific has rights to under this agreement to any high-risk veterinary or husbandry procedures. This provision is waived in the event of an emergency as determined by a SeaWorld San Diego veterinarian. Details of such procedures shall be provided in writing to the SSC Pacific Senior Scientist for Animal Care within ten (10) days.
- 5.13 SeaWorld San Diego shall provide a copy of all pertinent records (e.g. medical feeding, and training) to the SSC Pacific Senior Scientist for Animal Care at the end of this agreement.
- 5.14 SeaWorld will have the right of ownership to the second, fourth, sixth, and so forth, offspring of the Navy dolphins loaned under this agreement.

6.0 SPECIAL ITEMS:

- 6.1 SSC Pacific and SeaWorld shall bear their own costs associated with the performance of this agreement.
- 6.2 Compatibility Clause: Should it be mutually determined by both parties (within a one year period from loan start) that any of the loaned dolphins are not compatible with resident dolphins at SeaWorld San Diego, in the best interest of those dolphins, SSC Pacific will provide transportation and accompanying equipment and personnel to transport the affected dolphin(s) back to SSC Pacific. In such case, SSC Pacific may choose to provide a replacement dolphin on a "follow-on" loan agreement at that time but is not obligated to do so. All subsequent actions are subject to the availability of funds for the purposes outlined.

7.0 GOVERNMENT FURNISHED PROPERTY:

- 7.1 Two (2), bottlenose dolphins (*Tursiops truncatus*) (See paragraph 2.2).

8.0 SPECIAL PROVISIONS:

- 8.1 This agreement is effective for one (1) year from the effective date. It may be extended for a maximum of four (4) one-year periods with the mutual assent of SSC Pacific and SeaWorld.
- 8.2 SeaWorld shall obtain and provide adequate insurance and keep accurate records to insure for the above hold-harmless provision (paragraph 5.8).

SeaWorld shall maintain documents for examination by an SSC Pacific Contracting Officer, if requested.

- 8.3 Public release statements involving the Navy dolphins or relating to SSC Pacific in any manner shall be reviewed and approved prior to release by Mr. Jim Fallin, Public Affairs Officer, SSC Pacific, San Diego, (619) 553-2729, FAX (619) 553-2726.
- 8.4 SSC Pacific or SeaWorld may unilaterally terminate this agreement by giving the other party ninety (90) days written notice prior to the effective date of the proposed termination.
- 8.5 All modifications or changes to the agreement shall be in writing and signed by both parties.
- 8.6 Disputes arising under this agreement will be addressed to the Commanding Officer of SSC Pacific and the Chief Zoological Officer of SeaWorld for resolution.

9.0 APPROVAL:

Signature Joseph J. Beel
Captain J. J. BEEL, U.S. Navy
Commanding Officer, Space and Naval
Warfare Systems Center Pacific

Date 7 JAN 2011

In accordance with paragraph 5.2 of this agreement, Mr. Michael Scarpuzzi, Vice President Zoological Operations, SeaWorld San Diego, is identified as the SeaWorld San Diego person in charge for this loan of the Navy dolphins.

Signature _____
Mr. Brad Andrews
Chief Zoological Officer
SeaWorld Parks & Entertainment, LLC

Date _____