

**RESTATED BYLAWS**  
**OF**  
**HARBOR BRANCH OCEANOGRAPHIC INSTITUTE FOUNDATION, INC.**

**Adopted as of November 13, 2014,**  
**Effective as of November 13, 2014**

ARTICLE I

**Name and Offices**

Section 1.1 Name. The name of this corporation is Harbor Branch Oceanographic Institute Foundation, Inc. formerly known as Harbor Branch Oceanographic Institution, Inc. and Harbor Branch Institution, Inc. (hereinafter referred to as the “Corporation”).

Section 1.2 Offices. The registered office of the Corporation shall be at such location in the State of Florida as may be appointed by the Board of Directors. The Corporation also may have offices at such other places as the Board of Directors from time to time may determine or the purposes of the Corporation may require.

ARTICLE II

**Directors**

Section 2.1 Number and Qualifications. The number of Directors shall not be less than five (5) nor more twenty-five (25), exclusive of *ex officio*, designated, appointed, and non-voting Directors. All Directors, other than those either serving *ex officio* (appointed by the Chair of the Board of Trustees of Florida Atlantic University and the President of Florida

Atlantic University or his or her designees), shall have a term of three (3) years and/or until a successor Director is appointed or elected in accordance with the Articles of Incorporation and these Bylaws. A Director may succeed him/herself. The Corporation shall elect Directors on a staggered term basis for continuity.

Section 2.2 Removal. Directors, other than those serving *ex officio*, designated or appointed, may be removed from office at any time, with or without cause, by a vote of a majority of the votes which at any time are authorized to be cast by all of the Directors. Directors serving *ex officio* or by appointment from Florida Atlantic University may be removed from office at any time in accordance with the policies and regulations of Florida Atlantic University. In addition to the voting Directors, the Directors may, in their sole discretion, elect any number of non-voting Directors.

Section 2.3 General Powers of Directors. The Board of Directors shall have the duty of oversight of the management of the Corporation and the establishment of policy for the Corporation and, subject to the restrictions imposed by law, by the Amended and Restated Articles of Incorporation, or by these Bylaws, may exercise all the powers of the Corporation.

Section 2.4 Annual Meeting and Election of Directors. There shall be an Annual Meeting for the election of Directors and officers for the conduct of any other such business as may be included on the Agenda. Such meeting shall be held at a place within - the State of Florida to be determined by the Chairperson of the Board of Directors in the Fall of each year and shall be called by the Chairperson of the Board of Directors, President, or Secretary of

the Board of Directors. The Directors shall be provided with at least fifteen (15) days' notice in writing, delivered personally or by mail, telephone, or E-mail before each Annual Meeting. The Chairperson of the Board shall preside over the meeting. Directors shall be elected by a majority vote of those Directors authorized to vote. Any Director(s) elected at the Annual Meeting shall begin his/her term on the 1<sup>st</sup> of January of the following year and said terms shall expire on the 31<sup>st</sup> day of December.

The Annual Meeting of the Directors shall be held in accordance with the requirements of Florida Statute Section 286.011. The minutes of such meeting shall be promptly recorded, and such records shall be open to public inspection to the extent required by law.

Section 2.5 Voting. Directors shall vote at meetings, in person and not by proxy. Each Director, other than non-voting Directors, shall be entitled to one vote. Unless otherwise provided by these bylaws, a majority of the voting members of the Board of Directors in office at the time of any meeting of the Directors shall constitute a quorum for the transaction of business at such meeting, and, except as otherwise provided by statute or by the Amended and Restated Articles of Incorporation or by these Bylaws, the act of a majority of the Directors present at any meeting at which a quorum is present shall be the act of the Board of Directors. In the absence of a quorum, a majority of the Directors present may adjourn any meeting from time to time until a quorum is present.

Section 2.6 Regular Meetings. In addition to the Annual Meeting, there shall be at least two regular meetings of the Board of Directors within a calendar year for the transaction of business. Such meetings shall be called by the Chairperson of the Board, the President, or the

Secretary of the Board of Directors and may be held any time and at any place within or outside the State of Florida. The Directors shall be provided with at least fifteen (15) days' notice, in writing, delivered personally or by mail, telephone, or E-mail before each regular meeting. Notice of the meetings need not be given to any Director who signs a waiver of notice, whether before or after the meeting. Regular Meetings of the Directors shall be held in accordance with the requirements of Florida Statute Section 286.011. The minutes of such meeting shall be promptly recorded, and such records shall be open to public inspection to the extent required by law.

Section 2.7 Special Meetings. Special Meetings of the Board of Directors for any purpose may be called by the Chairperson of the Board, the President or the Secretary of the Board of Directors with at least five (5) days' notice in writing, delivered personally or by mail, telephone, or E-Mail stating the place and time of the meeting. All agenda items of the meeting must be cleared by the Chairperson of the Board prior to the meeting. Notice of the meetings need not be given to any Director who signs a waiver of notice, whether before or after the meeting.

Special Meetings of the Directors shall be held in accordance with the requirements of Florida Statute Section 286.011. The minutes of such meeting shall be promptly recorded, and such records shall be open to public inspection to the extent required by law.

Section 2.8 Electronic Participation in Meetings. Any or all Directors may participate in a meeting of the Directors by, or conduct a meeting through the use of, any means of communication by which all Directors participating may hear each other simultaneously

during the meeting. A Director participating in a meeting by this means shall be deemed to be present in person at the meeting.

Section 2.9 Resignation. Any Director may resign at any time. Such resignation may be in writing, and shall take effect upon the receipt thereof by the Chairperson of the Board, the President, or Secretary of the Board of Directors. The acceptance of a resignation shall not be necessary to make it effective.

Section 2.10. Filling of Vacancies. If a Director dies, resigns or is removed, the Chairperson of the Board may appoint any qualified person to fill such vacancy for the duration of the vacating Director's term, except in the case of those Directors serving *ex officio*, designated or appointed. In the case of those directors serving *ex officio*, designated, or appointed, the seats may or may not be filled for the duration of the vacating Director's term at the discretion of the individual or the entity that has the power of designation or appointment.

Section 2.11 Committees. Committee Chairs and Members shall be confirmed at each Annual Meeting and serve for a term of one year commencing on the 1<sup>st</sup> day of January of the following year. In addition to such other standing committees as the Board of Directors may from time to time authorize or elect, there shall be the following standing committees:

a. Governance Committee. The Chair of the Governance shall be the Secretary of the Board of Directors by virtue of his/her office. The Governance Committee shall consist of not less than three nor more than seven persons who shall be selected by the Chairperson of the Board in consultation with the Chair of the Governance Committee and

elected by the Directors at the Annual Meeting. The Governance Committee shall be responsible for ongoing review and recommendations to enhance the quality of the Board of Directors. The work of the committee principally revolves around five major areas: help create board roles and responsibilities; pay attention to board composition; encourage board development; assess board effectiveness; and, prepare for board leadership. Members of the Governance Committee shall hold office for a period of one year and until their successors are appointed.

b. Finance/Investment Committee. The Chair of the Finance/Investment Committee shall be the Treasurer of the Board of Directors by virtue of his/her office. The Finance/Investment Committee shall consist of not less than three nor more than seven persons who shall be selected by the Chairperson in consultation with the Chair of the Finance Committee and elected by the Directors at its Annual Meeting. Members of the Finance/Investment Committee will hold office for a period of one year and until their successors are appointed.

The Finance/Investment Committee is responsible for assisting the Board in ensuring that the organization is in good fiscal health. The work of the committee revolves around six major areas: oversight of the investment portfolio and compliance with the adopted Investment Policy; ensuring that accurate and complete financial records are maintained; ensuring that accurate, timely, and meaningful financial statements are prepared and presented to the Board; overseeing budget preparation and financial planning; safeguarding the organization's assets; helping the full Board understand the organization's financial affairs; and, with the Audit Committee, ensuring compliance with federal, state, and other requirements related to the organization's finances.

At each regular meeting of the Board of Directors, the Chair of the Finance/Investment Committee shall report on the activities of the Committee since the last regular meeting of the Board and on the future plans of the Committee.

c. Audit Committee. The Chair of the Audit Committee shall be appointed by the Chairperson of the Board of Directors. The Audit Committee shall consist of not less than three nor more than seven persons who shall be selected by the Chairperson in consultation with the Chair of the Audit Committee and elected by the Directors at the Annual Meeting. At least one member of the Audit Committee shall be one of the Board Members designated to the Board by the Chair of the Board of Trustees of Florida Atlantic University or the President of Florida Atlantic University. Members of the Audit Committee will hold office for a period of one year and until their successors are appointed.

The Audit Committee assists the Board of Directors in its oversight responsibility relating to the accounting and financial reporting (including Form 990 tax filing) of the Corporation, including the integrity of the Corporation's financial statements; the existence of the Corporation's financial policies and controls; compliance with legal and regulatory requirements; and the external auditor's qualifications, independence, and performance. The Audit Committee shall be responsible for assuring the Corporation's books are annually audited by an external Certified Public Accountant in accordance with rules and regulations adopted by the Auditor General pursuant to Florida Statutes Section 11.42(7) and by the Florida Atlantic University Board of Trustees. The Audit Committee shall recommend appointment (or reappointment) of the independent auditor; oversee the RFP process and review the scope and approach of the audit proposed by the independent auditor; review the performance of the

independent auditor; review the independent auditor's fee arrangements; and conduct a post-audit review of the financial statements and audit findings, including any significant suggestions for improvements provided to management by the independent auditor. Annual audits shall be approved by the Board of Directors upon recommendation of the Audit Committee and annual audit reports shall be submitted within five (5) months after the end of the Corporation's fiscal year to the Board of Directors, to the Board of Trustees of Florida Atlantic University, to the Auditor General, and the Board of Governors of the State University System, for review.

The Audit Committee shall also perform other oversight functions as requested by the Board of Directors.

d. Nominating Committee. The Chair of the Nominating Committee shall be appointed by the Chairperson of the Board of Directors. The Nominating Committee shall consist of not less than three nor more than seven persons who shall be selected by the Chairperson in consultation with the Chair of the Nominating Committee and elected by the Directors at the Annual Meeting. Members of the Nominating Committee shall hold office for a period of one year and until their successors are appointed. The Nominating Committee shall annually recommend candidates from among the elected Directors for the offices of Chairman of the Board of Directors, Vice Chairman of the Board of Directors, Secretary of the Board of Directors, and Treasurer of the Board of Directors. The Nominating Committee shall also, using a strategic process as defined by the Governance Committee, vet and annually recommend candidates for the Board membership.

e. Ad Hoc Committees and Task Forces. The Chair shall have the authority to appoint an Ad Hoc Committee or Task Force as may be needed.

f. Miscellaneous. Meetings of any committee shall be called by the Chairperson, President or Secretary of the Board of Directors, from time to time, at the direction and upon the request of the Chairperson of the committee or any two members of such committee. Notice of such meetings shall in each instance be given to each member of the committee at his/her last known business address, at least five (5) days before the meeting, in writing, delivered personally or by mail, telephone, or E-Mail.

Notice of any meeting need not be given to any member of a committee who signs a waiver of notice before or after the meeting. The attendance of any member of a committee at a meeting without protesting at the commencement of the meeting the lack of notice of the meeting shall constitute a waiver of notice of that member.

The Chairperson of the Board may fill any vacancy in any committee (in consultation with the Chair of that Committee) other than a vacancy in a seat held by a committee member serving *ex officio* or designated, to serve until the next Annual Meeting

The designations of any committee and the delegation thereto of any authority shall not operate to relieve the Board, or any member thereof, of any responsibility imposed by law. Committees vet and make recommendations for approval by the Board of Directors and have no independent authority to act on behalf of the Corporation unless so delegated in writing by the Board of Directors.

Section 2.12 Compliance with Laws. All meetings and special meetings of the Board of Directors and all committees of the Board of Directors shall be held in accordance with the requirements of the Florida Open Meetings Act (Florida Statutes, Section 286.011), to the extent that any such meetings are subject to the Florida Open Meetings Act under law. The minutes of such meeting shall be promptly recorded and such records shall be open to public inspection to the extent required by law.

### ARTICLE III

#### Officers

Section 3.1 Election and Removal of Officers. The Directors shall elect all officers of the Corporation at the Annual Meeting. Any officer may be removed at any time by a majority vote of the Board of Directors, with or without cause, and in its absolute and uncontrolled discretion.

Section 3.2 Officers. The Officers of the Corporation shall be a Chairperson of the Board of Directors, a Vice Chairperson of the Board of Directors, a President, a Treasurer of the Board of Directors, a Secretary of the Board of Directors, and such other officers as the Board of Directors shall deem necessary, who shall have such authority and perform such duties as prescribed by these Bylaws, or by Resolutions of the Board of Directors

Section 3.3 Multiple Offices. One person may hold more than one office.

Section 3.4 Chairperson of the Board of Directors. The Chairperson of the Board of Directors shall, when present, preside at all meetings of the Board of Directors. The Chairperson may call meetings of the Board of Directors and of any Committee of the Board whenever the Chairperson deems it necessary. The Chairperson may appoint special committees of the Board of Directors and prescribe the scope of their duties and authority. The Chairperson shall have such other powers and duties as may from time to time be prescribed by these Bylaws or by Resolution of the Directors. In the absence or incapacity of the Chairperson of the Board of Directors, the Vice Chairperson of the Board of Directors shall serve as acting Chairperson of the Board. This interim position shall last until such time as the Chairperson resumes his/her duties and positions or his/her successor is elected at a meeting of the Directors.

Section 3.5 Vice Chairperson of the Board of Directors. The Vice Chairperson of the Board of Directors shall be vested with all the powers and shall perform all the duties of the Chairperson in the absence of or disability of the Chairperson unless or until the Board of Directors shall otherwise determine. The Vice Chairperson shall have such other powers and perform such other duties as shall be prescribed by the Directors.

Section 3.6 President. The President is the Chief Executive Officer of the Corporation and shall, when the Board is not in session, be responsible for managing the affairs of the Corporation and compliance with the Bylaws and Resolutions and directions of the Directors, subject only to the control and direction of the Board. The President shall be selected and approved by the Board, with the prior consultation of the President of Florida Atlantic University.

In the absence or incapacity of the President, the Chairperson of the Board shall appoint an acting President to serve until a successor President is elected at a meeting of the Directors.

Section 3.7 Secretary of the Board of Directors. The Secretary of the Board of Directors shall give or cause to be given, notice of all meetings of the Directors, and all other notices, as required by law or by these Bylaws. The Secretary shall record the proceedings of the Board of Directors in a book to be kept for that purpose, and in accordance with Florida Statutes, Section 286.011, and shall maintain the records of the Corporation. As stated in Florida Statutes, Section 1004.28, Corporation records are confidential and exempt from examination under the Florida Public Records Act, Florida Statutes, Section 119.07. The Secretary shall perform such other duties as may be assigned to the Secretary by the Board of Directors or the Chairman of the Board. The Secretary shall have the custody of the seal of the Corporation and shall affix the same to all instruments requiring it when authorized by the Board of Directors or the Chairman of the Board, and shall attest the same.

Section 3.8 Treasurer of the Board of Directors. The Treasurer of the Board of Directors shall have oversight of all funds, securities, evidences of indebtedness and other valuable documents of the Corporation. The President in consultation with the Treasurer and under the direction of the Finance/Investment Committee will ensure the compliance of receiving and give or cause to be given receipts for monies paid in on account of the Corporation; shall pay out of the funds on hand all just debts of the Corporation of whatever nature upon maturity of the same; enter or cause to be entered in books of the Corporation to be kept for that purpose full and

accurate accounts of all monies received and paid out on account of the Corporation; render regular reports and statements of the Corporation's cash accounts; keep or cause to be kept such other books as will show a true record of the expenses, losses, gains, assets and liabilities of the Corporation; and perform all of the other duties of a financial nature incident to the offices. The President and Treasurer shall ensure compliance with policies through an integrated plan to monitor operations, report performance against approved operating plans and standards, and communicate the results of operations to the Finance/Investment Committee and the Audit Committee, provided that the communication of such results to the Finance/Investment Committee and the Audit Committee shall be at the same time. The President and Treasurer will also be responsible for compliance with all governmental reporting and supervise all matters relating to taxes, and provide protection for the assets of the Corporation.

#### ARTICLE IV

##### **Contracts, Checks, Drafts, etc.**

Section 4.1 Contracts, etc. The Board of Directors may authorize any officer or officers or agent or agents of the Corporation to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation and such authority may be general or confined to specific instances. When the Board of Directors are not in session, the Chairperson of the Board may authorize any officer or officers or agent or agents of the Corporation to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation and such authority may be general or confined to specific instances subject to Board adopted policies.

Section 4.2 Checks, Drafts, etc. All checks, drafts or other orders for the payment of money issued in the name of the Corporation shall be signed by such person or persons and in such manner as shall, from time to time, be determined by the Board of Directors subject to Board adopted policies.

## **ARTICLE V**

### **Dissolution**

Upon the dissolution of the Corporation in the manner provided by law, the Board of Directors shall, after all the debts of the Corporation have been fully satisfied, distribute all the remaining assets of the Corporation in accordance with the provisions of Article IX of the Amended and Restated Articles of Incorporation of the Corporation.

## **ARTICLE VI**

### **Amendments**

These Bylaws, or any of them, may be altered, amended or repealed, or new Bylaws may be made at any meeting of the Board of Directors, by a vote of the majority of the votes which at any time are authorized to be cast by all of the members of the Board of Directors; provided, however, that no amendment, alteration or repeal of any of these Bylaws nor any amendment of the Amended and Restated Articles of Incorporation of the Corporation in the manner provided by law, shall alter the purpose of the Corporation to operate exclusively to receive, hold, invest and administer property and to make expenditures to or for the benefit of Florida Atlantic University, a state university in Florida, and Harbor Branch Oceanographic Institute at Florida Atlantic University, so far as is or may be permitted by the laws of the State of Florida in Section

501(c)(3) of the Internal Revenue Code of 1986, as amended, and as more fully set forth in the Amended and Restated Articles of Incorporation of the Corporation.

## ARTICLE VII

### **Miscellaneous Provisions**

Section 7.1 Fiscal Year. The fiscal year of the Corporation shall be July 1 through June 30.

Section 7.2 Seal. The seal of the Corporation shall be circular, with the name of the Corporation around the border and the year and state of incorporation in the center.

Section 7.3 Principal Office. The principal office of the Corporation shall be in St. Lucie County, Florida, but the Directors may also from time to time designate other offices of the Corporation within or without the State of Florida.

Section 7.4 Change of Registered Office or Registered Agent. When the registered office is changed, or when the registered agent is changed, or dies, resigns or becomes disqualified, the corporation shall, by resolution of the Board of Directors, forthwith fix the address of the new registered office or designate the successor registered agent or both, as the case may be.

Section 7.5 Corporation Employees. The Corporation may employ staff as required, but such employees shall not be considered to be employees of the State of Florida by

virtue of their employment by the Corporation. Subject to the approval of the Chairperson of the Board of Directors and the President of Florida Atlantic University, University employees performing duties for the Corporation may receive additional compensation from the Corporation.

## ARTICLE VIII

### **Indemnification**

Section 8.1 Right to Indemnification. Each person (including here and hereinafter, the heirs, executors, administrators, or estate of such person) (1) who is or was a Director, Member, or officer of the Corporation, (2) who is or was an agent or employee of the Corporation and as to whom the Corporation has agreed to grant such indemnity hereunder, or (3) who is or was serving at the request of the Corporation as its representative in the position of a director, officer, trustee, or partner of another corporation, partnership, joint venture, trust or other enterprise, shall be indemnified by the Corporation as of right to the fullest extent permitted or authorized by current or future legislation or by current or future judicial or administrative decision (but, in the case of any future legislation or decision, only to the extent that it permits the Corporation to provide broader indemnification rights than permitted prior to the legislation or decision), against all judgments, fines, liabilities, settlements, losses, damages, costs and expenses, including attorneys' fees, asserted against him or her or incurred by him or her in his or her capacity as such director, officer, trustee, partner, agent, employee or representative, or arising out of his or her status as such director, officer, trustee, partner, agent, employee or representative. The foregoing right of indemnification shall not be exclusive of other rights to which those seeking indemnification may be entitled. The Corporation may maintain insurance, at its expense, to protect itself and any such person against any such fine,

liability, cost or expense, including attorney's fees, whether or not the Corporation would have the legal power to directly indemnify him against such liability. Any determination with respect to indemnification under this Article shall be made by the Board of Directors.

Section 8.2 Advances. Costs, charges and expenses (including attorneys' fees) incurred by a person referred to in Section 8.1 in defending a civil or criminal suit, action or proceeding may be paid (and, in the case of Members, Directors or Officers of the Corporation, shall be paid) by the Corporation in advance of the final disposition thereof upon receipt of an undertaking to repay all amounts advanced if it is ultimately determined that the person is not entitled to be indemnified by the Corporation as authorized by this Article, and upon satisfaction of other conditions established from time to time by the Board of Directors or required by current or future legislation (but, with respect to future legislation, only to the extent that it provides conditions less burdensome than those previously provided).

Section 8.3 Savings Clause. If this Article or any portion of it is invalidated on any ground by a court of competent jurisdiction, the Corporation nevertheless indemnifies each Member, Director or Officer of the Corporation to the fullest extent permitted by all portions of this Article that has not been invalidated and to the fullest extent permitted by law.

Section 8.4 Effective Date. The provisions of this Article shall be applicable to claims, actions, suits or proceedings made or commenced after the adoption hereof, whether arising from acts or omissions to act occurring before or after the adoption hereof.

Adopted by the Members and Directors of the Corporation as of November 13, 2014.

By: \_\_\_\_\_  
Name:  
Title: Secretary