

CONFIDENTIALITY AGREEMENT

THIS AGREEMENT is made this 16th day of May, 2016 by and between **AQUACO, LLC**, a Florida Limited Liability Company (hereinafter referred to "**FIRST PARTY**"), and **HARBOR BRANCH OCEANOGRAPHIC INSTITUTE FOUNDATION, INC.** (hereinafter referred to as "**SECOND PARTY**"). This Agreement is based on the following recitals:

A. **FIRST PARTY** and **SECOND PARTY** are engaged in discussions concerning potential business opportunities.

B. In connection with these efforts, it will be necessary for **FIRST PARTY** and **SECOND PARTY** to exchange confidential, competitively sensitive documents and information ("**Confidential Information**") in order to provide **FIRST PARTY** with the information necessary for **FIRST PARTY** to complete its analysis for a proposed transaction (the "**Analysis**").

C. The parties have therefore entered into this Agreement in order to limit the disclosure and use of the Confidential Information.

NOW, THEREFORE, in consideration of the foregoing and of the following promises, the parties hereto agree as follows:

1. Any Confidential Information which either **FIRST PARTY** or **SECOND PARTY** discloses to the other shall not be used by the party receiving the Confidential Information ("**Receiving Party**") for its individual competitive advantage or in its business activities or for any purpose other than to advance the Analysis, shall be kept in strict confidence by Receiving Party, and shall not be disclosed by Receiving Party to any other person other than those employees, auditors, counsel and consultants of Receiving Party who need to review the Confidential Information to advance the Analysis. In furtherance of the foregoing and without limitation, **FIRST PARTY** and **SECOND PARTY** each agree that, as Receiving Party and unless legally compelled to otherwise:

(a) It will use its best efforts to keep the Confidential Information confidential in the same manner as it would treat its own confidential information, and it will not, without the other party's prior written consent, disclose any such information to any other person, firm or entity; and

(b) It will not use any Confidential Information other than in connection with the Analysis; provided, however, that it may reveal such information to those of its employees, auditors, counsel and consultants who need to know the Confidential Information for the purpose of undertaking and reviewing the Analysis, who were informed of the confidential nature of the Confidential Information, and who agree to act in accordance with the terms

of this Agreement. If either FIRST PARTY or SECOND PARTY decides not to proceed with this transaction, Receiving Party will promptly return to the supplying party any Confidential Information submitted to Receiving Party upon request by such supplying party or destroy such information in a manner appropriate to protect its confidential nature.

(c) The Parties agree that the obligations of this paragraph 1 shall survive the expiration or termination of this agreement.

2. Confidential Information shall not include (a) information within the public domain, and (b) information disclosed to the public by someone other than the Receiving Party.

3. This Agreement shall be binding upon and inure to the benefit of the parties hereto and to each party's predecessors, successors, permitted assigns, subsidiaries, affiliates and the employees, agents, officers, directors and trustees of each such entity.

4. The parties agree and acknowledge that each party may enter into similar agreements, negotiations and discussions with others and that this is not an exclusive agreement.

5. Whether or not a transaction contemplated by the Analysis is consummated, each party shall pay their own expenses incident to the Analysis.

6. Under no circumstances shall either party, without the prior written consent of the other, assign any of its rights, powers, duties or obligations under this Agreement to any other person or entity.

7. Except as required by law, neither party shall make any public disclosure concerning the subject matter hereof or the transactions referenced herein or contemplated hereby without the prior written consent of the other party.

8. This Agreement represents the entire agreement between the parties with respect to the subject matter hereof and supersedes any agreements previously entered into relating to the subject matter hereof, whether any such agreement was written or oral.

9. This Agreement cannot be changed, modified or terminated except by a written agreement signed by the authorized representatives of each party on or after the date hereof. Any waiver of any of the provisions of this Agreement must be in writing and signed by a duly authorized representative of the party against whom enforcement of such waiver is sought. One or more waivers of any provisions of this Agreement shall not be construed as a waiver of a subsequent breach of any other provision.

10. The Receiving Party acknowledges and agrees that due to the unique nature of the disclosing party's Confidential Information, there can be no adequate remedy at law for any breach of its obligations hereunder, which breach may result in irreparable harm to the disclosing party, and therefore, that upon any such breach or any threat thereof, the disclosing party shall be entitled to appropriate equitable relief, without the requirement of posting a bond, in addition to whatever remedies it might have at law. In the event that any of the provisions of this Agreement shall be held by a court or other tribunal of competent jurisdiction to be illegal, invalid or unenforceable, such provisions shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect. This Agreement shall be governed by the laws of the State of Florida without regard to the conflicts of law provisions thereof. The prevailing party in any action to enforce this Agreement shall be entitled to costs and attorneys' fees.

11. During the term of this Agreement, neither party will encourage or solicit any employee or consultant of the other party to leave that other party for any reason.

12. This Agreement shall be applicable to all Confidential Information exchanged by the parties and shall remain in effect in perpetuity. Notwithstanding any provision in this Confidentiality Agreement to the contrary, in the event that the transaction contemplated by the Analysis is consummated, certain portions of the Confidential Information exchanged may become the property of the other Party hereto (as provided in the Definitive Documents) and to such extent the owning Party shall no longer be bound by the terms of this Confidentiality Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first written above.

"FIRST PARTY"

"SECOND PARTY"

AQUACO, LLC

HARBOR BRANCH
OCEANOGRAPHIC
INSTITUTE FOUNDATION, INC.

By: 

JOE CARDENAS, PRESIDENT

By: 

KATHA KISSMAN, PRESIDENT & CEO