

TERM SHEET
FOR
GRANT AWARD AGREEMENT
BETWEEN
TRIUMPH GULF COAST, INC.
AND
FLORIDA STATE UNIVERSITY

This Term Sheet summarizes the basic terms upon which Triumph Gulf Coast, Inc. (“Triumph”) is considering awarding a grant to the Florida State University (“FSU”) under the Triumph Gulf Coast Trust Fund. This Term Sheet is intended for discussion and negotiation purposes only and (a) does not constitute a grant, or an approval of a grant, by Triumph to FSU, and (b) does not create any binding obligations on Triumph or FSU with respect to (i) any grant, (ii) any approval of a grant, or (iii) engaging in any further discussions or negotiations with respect to a grant. Any binding agreement between Triumph and FSU with respect to any grant must be contained in a definitive grant award agreement (the “Agreement”), approved by the Board of Directors of Triumph and FSU and executed by Triumph and FSU. At any time prior to such execution of the Agreement, either Triumph or FSU may terminate negotiations, and upon such termination, neither party shall have any liabilities or obligations to the other.

GRANT AMOUNT: \$7,998,679

PURPOSE: To provide partial funding for the following projects (collectively, the “**Project**”):

1. The purpose of the Apalachicola Bay System Initiative (ABSI) is to develop a science-based plan of action for restoring the health of the Apalachicola Bay ecosystem and the oyster reefs therein and create an overall management plan for the bay that we envision serving as a model for other bays along the Florida Panhandle within the Triumph Gulf Coast Inc. purview.
2. In parallel, ABSI will partner with Franklin County community members as well as government, academic and NGO stakeholders to build lines of communication with the appropriate Federal, State and NGO entities to secure the necessary resources that will ultimately be required for bay restoration.

3. After completion of steps 1 and 2 above, the restoration partners will then implement the restoration plan and monitor its progress using the external resources leveraged using Triumph Gulf Coast funds, the initial FSU cost-share and the FSU long-term commitment (years 6-15) to ABSI.
4. In addition to items 1-3 above, the Project includes the following:
 - a. Formation of the Community Advisory Board (CAB) and development and approval of the broad research plan by the CAB within 18 months of initial funding.
 - b. Completion of assessment of the temporal and spatial changes in oyster communities in Apalachicola Bay within 24 months of initial funding.
 - c. Availability of oyster larvae for experiments on responses to different environmental conditions within 24 months of initial funding.
 - d. Completion and dissemination of a bio-physical model that allows prediction of oyster recruitment and population connectivity with 30 months of initial funding.
 - e. Development of monitoring plan and two full years of data on oyster communities and their environment within 36 months of initial funding.
 - f. Substantial progress towards the ABSI management and restoration plan within 48 months of initial funding.
 - g. Establishment of a restoration partnership working group of private sector, academic, government and NGO entities and development of lines of communication with potential Federal, State and NGO funders of the restoration effort with 24 months of initial funding.
 - h. Completion and dissemination of coupled ecosystem-life history model which can be used to forecast oyster productivity under different environmental scenarios within 60 months of initial funding.

FUNDING:

Implementation of ABSI, based at the Florida State Coastal & Marine Laboratory (FSUCML), will require hiring permanent and short-term personnel; contracting with a broad range of expert consultants; effecting specific enhancements to FSUCML to attain project objectives; constructing a pilot-scale, experimental oyster hatchery and conducting research and outreach operations over the five-year period of the award. Due to the complex nature of the effort, the timing of expenditures and allocation of resources to budget categories will have to be somewhat flexible. As a consequence, as described below with respect to “Re-budgeting,” the Agreement will reflect the need for this flexibility without sacrificing accountability to Triumph Gulf Coast Inc. for use of grant resources and project outcomes. The projected expenditures by category and source of funds are shown below.

Summary of Total ABSI Costs as Allocated Between Funding Sources (Please Refer to Appended Spreadsheet for Detailed Timeline of Expenditures)		
<u>Cost Category</u>	<u>FSU</u>	<u>Triumph</u>
Science Management Personnel (Scientific Director; Project Manager)		
Years 1 and 2	\$ 250,601	
Years 3, 4 and 5		\$ 404,806
Infrastructure (Renovations to existing buildings and enhancements in research infrastructure)	\$ 700,000	
Research Consultants		\$ 380,000
Research Faculty (includes fringe and start-up)		\$ 1,303,618
Short-Term Research Personnel		\$ 792,691
Permanent Research Support Personnel		\$ 968,297
Experimental Oyster Hatchery		
Programming	\$ 50,000	
Design and permitting		\$ 200,000
Construction		\$ 2,664,524
Research and outreach operations		
Years 1 and 2	\$ 500,721	
Years 3, 4 and 5		\$ 1,034,743
Contingency		\$ 250,000
Total	\$ 1,501,322	\$ 7,998,679

\$250,601 of the **FSU cost-share** shall be allocated in years 1 and 2 to the salaries of the ABSI Scientific Director (0.25 FTE) and Project Manager (1.0 FTE).

\$700,000 of the **FSU cost-share** shall be allocated to renovating FSUCML infrastructure specifically needed for the conduct of ABSI research and outreach operations including; (1) improvements to the capacity and water quality of the sea water system, (2) enhancements to existing research laboratories supporting ABSI functionalities and (3) modifications to space to accommodate net growth of faculty, staff and students at FSUCML. FSU will provide documentation of such expenditures to Triumph at the end of each grant year. It is anticipated that these infrastructural enhancements will be completed 18 months after initial funding.

\$50,000 of the **FSU cost-share** shall be allocated to developing the program for the pilot-scale, experimental oyster hatchery at FSUCML. Program development will involve visits to regional oyster hatcheries and the hiring of a design consultant to assemble the program elements for the hatchery.

\$251,322 (year 1) and **\$249,399** (year 2) of the **FSU cost-share** (for a total of **\$500,721**) shall be allocated to research and outreach operations during years 1 and 2 of the project (excluding salaries for personnel) during years 1 and 2 of the project. This includes acquisition of materials and equipment need to accommodate algal culture and oyster broodstock maintenance. This will allow preliminary research to be started with oyster larvae prior to the completion of the hatchery. Research and outreach activities may require hiring of additional temporary staff beyond those requested below under **short-term staff** at FSUCML.

\$404,806 of the **grant funds** shall be allocated to the salaries of the Scientific Director (0.25 FTE) and Project Manager (1.0 FTE) of ABSI in years 3, 4 and 5. Forty-five (45) days prior to reappointment of staff for the fiscal year, FSU will submit a request to Triumph for salary and fringe benefits. Triumph shall have forty-five (45) days from receipt to review and approve or disapprove of an application for disbursement, and if approved, thirty (30) days to disburse the funds to FSU.

\$380,000 of the **grant funds** shall be allocated to scientific consultants supporting the elements of the on-going research effort. Specific tasks for these consultants include (but are not limited to) development of a bio-physical model for oyster recruitment and population connectivity, analysis of the oyster genetic structure of Apalachicola Bay and adjacent populations and development of a coupled ecosystem life-history model. These costs are reimbursed to FSU on completion of each research contract.

\$1,303,618 of the **grant funds** shall be allocated for the hiring of research faculty at FSUCML (all will be 1.0 FTE). Appointments at FSU extend through each fiscal year (June 30) and are automatically renewed at the beginning of each fiscal year thereafter. FSUCML will provide to Triumph a copy of the initial appointment papers for each new employee, requesting funds in the appointment period for salary and fringe benefits. Triumph shall have forty-five (45) days from receipt to review and approve or disapprove of an application for disbursement, and if approved, thirty (30) days to disburse the funds to FSU. Forty-five days prior to reappointment of staff for the next fiscal year, FSUCML will submit a request to Triumph for salary and fringe benefits. Triumph shall have forty-five (45) days from receipt to review and approve or disapprove of an application for disbursement, and if approved, thirty (30) days to disburse the funds to FSUCML.

\$792,691 of the **grant funds** shall be allocated for the hiring of short-term staff (including graduate students) at FSUCML. Appointments for staff members will be 1.0 FTE while graduate students will be 0.5 FTE appointments with FSU-required tuition and fringe benefits. Appointments at FSU extend through each fiscal year (June 30) and may be renewed at the beginning of each fiscal year thereafter. FSUCML will provide to Triumph a copy of the initial appointment papers for each new employee, requesting funds in the appointment period for salary and fringe benefits. Triumph shall have forty-five (45) days from receipt to review and approve or disapprove of an application for disbursement, and if approved, thirty (30) days to disburse the funds to FSU. Forty-five days prior to appointments of staff for the next fiscal year, FSUCML will submit a request to Triumph for salary and fringe benefits. Triumph shall have forty-five (45) days from receipt to review and approve or disapprove of an application for disbursement, and if approved, thirty (30) days to disburse the funds to FSU.

\$968,297 of the **grant funds** shall be allocated for the hiring of permanent research support personnel at FSUCML. Appointments will be at 1.0 FTE. Appointments at FSU extend through each fiscal year (June 30) and are automatically renewed at the beginning of each fiscal year thereafter. FSUCML will provide to Triumph a copy of the initial appointment papers for each new employee, requesting funds in the appointment period for salary and fringe benefits. Triumph shall have forty-five (45) days from receipt to review and approve or disapprove of an application for disbursement, and if approved, thirty (30) days to disburse the funds to FSU. Forty-five days prior to reappointment of staff for the next fiscal year, FSUCML will submit a request to Triumph for salary and fringe benefits. Triumph shall have forty-five (45) days from receipt to review and approve or disapprove of an application for disbursement, and if approved, thirty (30) days to disburse the funds to FSU.

\$200,000 of the **grant funds** shall be allocated for the design and permitting of the pilot-scale, experimental oyster hatchery at FSUCML, and shall be disbursed from time to time as invoices for completed work are submitted to Triumph. Triumph shall have forty-five (45) days from receipt to review and approve or disapprove of an application for disbursement, and if approved, thirty (30) days to disburse the funds to FSU.

\$2,664,524 of the grant funds shall be allocated for the construction of the pilot-scale, experimental oyster hatchery at FSUCML, and shall be disbursed from time to time as invoices for completed work are submitted to Triumph. Triumph shall have forty-five (45) days from receipt to review

and approve or disapprove of an application for disbursement, and if approved, thirty (30) days to disburse the funds to FSU.

\$350,000 (year 3), **\$350,000** (year 4), and **\$334,743** (year 5) of the grant funds shall be allocated for research and outreach operations. Forty-five (45) days before the beginning of each grant operations year, FSUCML will submit a detailed budget request to Triumph for research and outreach operations. Triumph shall have forty-five (45) days from receipt to review and approve or disapprove of an application for disbursement, and if approved, thirty (30) days to disburse the funds to FSU. FSU will provide a summary of expenditures at the end of each operations year. Research and outreach activities may require the hiring of additional temporary staff beyond those requested above under **short-term temporary staff** at FSUCML.

\$250,000 of the grant funds shall be set aside as a contingency to support responses to unforeseen events, issues or opportunities. FSU will provide a detailed request to Triumph, as necessary for allocation of such funds.

Re-budgeting of funds between broad budget categories. By its very nature, research needs change as data and information are accumulated, thus, it may be necessary to adjust the on-going effort by reallocation of resources among budget categories. For purposes of this paragraph, the budget shall be broadly divided between funds to be used for construction and funds to be used for personnel and research/outreach operations. Requests for such changes, coupled with detailed justifications, will be provided to Triumph for approval. Rebudgeting of funds less than 25% of the total budgeted amount within either the construction or personnel category would not require prior approval of Triumph. No funds budgeted for personnel and research/outreach operations shall re-budgeted for construction, and no funds budgeted for construction shall be re-budgeted for personnel and research/outreach operations.

None of the Triumph grant funds shall be used as a reimbursement of items purchased by FSU prior to the date of the Agreement.

FSU shall be responsible for providing **\$1,501,322** in matching funds for the Project, as specified in the cost allocation table above.

Triumph will honor requests for disbursement; provided, however, that Triumph may elect by notice in writing not to make a disbursement payment if, among other things:

- a. There is missing or incomplete documentation;

- b. The request for disbursement seeks disbursement for items other than items for which the grant was approved;
- c. The amount requested for disbursement under a request for disbursement, together with all amounts previously disbursed under the grant, would exceed the \$7,998,678 maximum amount of the grant;
- d. FSU made a misrepresentation or omission of a material nature in the grant application, or any supplement or amendment to the grant application, or with respect to any document or data furnished to Triumph;
- e. There is any pending litigation with respect to the performance by FSU of any of its duties or obligations which may jeopardize or adversely affect the Project, the Agreement, or the disbursement of the grant;
- f. FSU has taken any action pertaining to the Project which requires the approval of Triumph, and FSU failed to obtain such approval;
- g. There has been a violation of the prohibited interests (conflicts of interests) provisions the Agreement;
- h. FSU is in violation, default, or breach of or under any provision of the Agreement;
- i. FSU is in breach of any representation or warranty contained in the Agreement;
- j. Any federal, state or local agency providing financial assistance to the Project (including FSU) has revoked, suspended, or terminated that financial assistance to the Project, including, but not limited to, the \$1,501,322 matching funds stated in the Grant Application;
- k. The matching funds are not being used for the intended purposes and in the amount and at the times as set forth in a schedule of expenses approved by Triumph unless prior approval for such a change is obtained;
- l. FSU has abandoned or, before completion, discontinued the Project, or for any reason the commencement, prosecution, or timely completion of the Project by FSU will be rendered improbable, infeasible, impossible, or illegal;
- m. All or any portion of the requested disbursement includes costs that are not shown or contemplated under the budget for the Project; or
- n. One or more of the contracts for Construction previously approved or deemed approved by Triumph have been modified, amended, or terminated without the actual or deemed prior consent or approval of Triumph; provided, however, that any change order under \$25,000 shall not be subject to approval under the Agreement.

ELIGIBLE COSTS/
DOCUMENT-
ATION:

FSU shall seek disbursement only for costs of the Project as shown or contemplated under the budget attached to the Agreement. All amounts paid by the Board with respect to the Project shall be supported by properly

executed invoices, contracts, vouchers, and payroll records evidencing in proper detail the nature and propriety of the charges and use of the matching funds. Any check or order drawn by FSU with respect to any item which is or will be chargeable against the Project account (as defined below) will be drawn only in accordance with a properly signed voucher then on file in the office of FSU stating in proper detail the purpose for which such check or order is drawn. All checks, invoices, contracts, vouchers, orders, payroll records, or other accounting documents pertaining in whole or in part to the Project shall be clearly identified, readily accessible, and, to the extent feasible, kept separate and apart from all other such documents. In addition, FSU shall submit to Triumph copies of all third party contracts with respect to the Project that in any manner requiring the disbursement or reimbursement of Triumph funds.

**MAINTENANCE
OF RECORDS:**

FSU shall establish separate accounts to be maintained within its existing accounting system or establish independent accounts (the "Project account"). Records of costs incurred shall be maintained in the Project account and made available upon request to Triumph at all times during the period of the Agreement and for eight (8) years after final grant payment is made. Copies of these documents and records shall be furnished to Triumph upon request. Records of costs incurred include FSU's general accounting records and the Project records, together with supporting documents and records, of FSU staff and all consultants and sub-consultants performing work on the Project and all other records of FSU and consultants considered necessary by Triumph for a proper audit of costs. If any litigation, claim, or audit is started before the expiration of the eight (8) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

AUDITS:

The grant shall be subject to audits and/or monitoring by Triumph and FSU. FSU shall submit semi-annual reports to Triumph reporting on the progress of the Project. In addition, FSU shall submit an annual report to Triumph in or about August of each year reporting on the progress of the Project. Copies of the FSU's audited financial statements will be provided when they are available and upon request.

**TERMINATION
OR SUSPENSION
OF PROJECT:**

If FSU abandons or, before completion, discontinues the Project; or for any other reason, the commencement, prosecution, or timely completion of the Project by FSU is rendered improbable, infeasible, impossible, or illegal, Triumph will, by written notice to the Board, suspend any or all of its

obligations under the Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected, or Triumph may terminate any or all of its obligations under the Agreement. Upon receipt of any final termination or suspension notice, FSU shall upon demand by Triumph remit to Triumph all grant funds previously received.

**COMPLIANCE
WITH LAWS:**

FSU shall comply with all applicable laws regarding public records, third party contracts, labor laws, civil rights laws, and environmental laws.

INSURANCE:

Triumph hereby acknowledges and agrees that FSU is a state agency and/or public entity of the State of Florida and is thereby covered for comprehensive general and professional liability by its State Risk Management and/or self-insurance programs pursuant to Florida law and subject to the limitations set forth in Section 768.28, Florida Statutes (\$200,000/\$300,000) and that said coverage shall be deemed sufficient and acceptable in meeting all FSU's obligations with regard to general and professional liability insurance requirements as required by this Agreement.

CLAWBACK:

All grant funds disbursed by Triumph to FSU shall be subject to being repaid ("clawed back") in the event (i) FSU made any materially false certification or representation to Triumph in connection with its application for the grant, under the Agreement, and/or in connection with any request for disbursement, and/or (ii) FSU breached, violated, or is in any way in default under any of its obligations under the Agreement, and/or (iii) FSU fails to achieve all of the following performance metrics:

1. Performance Metric #1: The addition of two (2) net new FTE faculty positions with primary research specializations supporting the broader objectives of the ABSI project by the end of the Spring 2021.
2. Performance Metric #2: Submission of \$6 million in competitively awarded research grant proposals focused on the broader objectives of ABSI within 5 years of the first disbursement of grant funds.
3. Performance Metric #3: Providing substantive collaborative assistance in entrepreneurial outreach and support to at least 45 different businesses in the impacted counties that are dependent on oysters, other fisheries and the health of Apalachicola Bay of at least 30 contact hours per entity. FSU shall ensure that appropriate credentialing is available for participants in these collaborative assistance activities.

Triumph shall have the discretion to waive, reduce, extend, or defer any amounts due under the claw back provisions if (i) it determines in its sole and absolute discretion that, based on quantitative evidence, the metrics were not achieved due to negative economic conditions beyond FSU's control, (ii) it determines in its sole and absolute discretion that FSU made a good faith effort to achieve full

performance metrics and its failure to fully achieve the metrics does not substantially frustrate the general purpose of the grant, or (iii) it determines in its sole and absolute discretion that, based on quantitative evidence, the effects of a named hurricane or tropical storm, or specific acts of terrorism, adversely affected FSU's ability to achieve the metrics. If Triumph ceases to operate before the end of the job maintenance period, the rights to claw back enforcement are assignable by Triumph to any other person or entity.

OTHER TERMS

AND

CONDITIONS: The Agreement shall contain such other terms and conditions as required by Triumph and its counsel.

By signing below, the parties are indicating a willingness to proceed with the preparation of a draft grant award Agreement containing substantially the terms set forth herein. However, as indicated above, this Term Sheet is merely intended for discussion and negotiation purposes only and (a) does not constitute a grant, or an approval of a grant, by Triumph to FSU, and (b) does not create any binding obligations on Triumph or FSU with respect to (i) any grant, (ii) any approval of a grant, or (iii) engaging in any further discussions or negotiations with respect to a grant. Any binding agreement between Triumph and FSU with respect to any grant must be contained in a definitive grant award Agreement, approved by the Board of Directors of Triumph and Florida State University and executed by Triumph and FSU. At any time prior to such execution of the Agreement either Triumph or FSU may terminate negotiations, and upon such termination neither party shall have any liabilities or obligations to the other.

Dated: January , 2019

TRIUMPH:

Triumph Gulf Coast, Inc.

By: _____

Name: _____

Title: _____

FSU:

Florida State University

By: _____

Name: _____

Title: Vice President for Research

