

CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement (“**Agreement**”) is effective _____, 20[●] (“**Effective Date**”) between:

HWCG LLC, a limited liability company organized and existing under the laws of the State of Texas (“**HWCG**”) and a wholly-owned subsidiary of HWCG Holdings LLC (“**HWCG Holdings**”), which is in turn owned by its participating member companies (“**Members**”);

and

[●], a [●] organized and existing under the laws of the State of [●] (“[●]”).

HWCG and [●] may also be referred to herein individually as “**Party**” or collectively as “**Parties**,” dependent upon the context within which those terms are used. Furthermore, the Party from time to time receiving Confidential Information (as defined in Section 1.1) shall be referred to as “**Receiving Party**” and the Party from time to time disclosing Confidential Information shall be referred to as “**Disclosing Party**.”

RECITALS

WHEREAS, the Parties are exploring the possibility of [●] acquiring a membership interest in HWCG Holdings;

WHEREAS, pursuant to the Second Amended and Restated Company Agreement (the “**SAR-CA**”) of HWCG Holdings, [●] must disclose to HWCG certain information relating to its finances, insurance, organization, and operating history in order for the Steering Committee of HWCG Holdings to assess the potential admission of [●] as a Member;

WHEREAS, in connection with the possible acquisition by [●] of a membership interest in HWCG Holdings, HWCG may also disclose certain information to [●]; and

WHEREAS, the Parties desire that any Confidential Information (as defined in Section 1.1) disclosed in connection with the possible acquisition by [●] of a membership interest in HWCG Holdings be protected.

NOW, THEREFORE, for and in consideration of the premises and the agreements herein contained, the sufficiency of which is hereby acknowledged, the Parties do hereby agree as follows:

ARTICLE 1 DISCLOSURE OF CONFIDENTIAL INFORMATION

1.1 In connection with the possible acquisition by [●] of an ownership and participating interest as a Member in HWCG Holdings, a Disclosing Party, in accordance with the terms and conditions of this Agreement, may disclose to the Receiving Party certain information

relating to Disclosing Party and its business, including notes, summaries, operating history, and operating plans/procedures as well as technical, commercial, contractual, organizational, insurance, and financial information (all such information so provided, collectively, “**Confidential Information**”). Evaluation Material (as defined in Section 8.1) shall also be treated as Confidential Information.

- 1.2 The disclosure of Confidential Information by Disclosing Party to Receiving Party is nonexclusive, and Disclosing Party may disclose its Confidential Information to third parties at any time in its own discretion.
- 1.3 Notwithstanding anything else to the contrary herein or within the SAR-CA of HWCG Holdings, a Disclosing Party shall be under no obligation to provide any specific information, whether included in the definition of Confidential Information or otherwise, to Receiving Party, and Disclosing Party retains all rights to decide what information, including Confidential Information, is provided to Receiving Party and any conditions or qualifications associated therewith. *Provided, however*, the disclosure by [●] to HWCG of certain information relating to its finances, insurance, organization, and operating history is required by the SAR-CA for the Steering Committee of HWCG Holdings to assess the potential admission of [●] as a Member.

ARTICLE 2 UNDERTAKING NOT TO DISCLOSE

In consideration of the disclosures referred to in Article 1 (Disclosure of Confidential Information) and except as otherwise provided in this Agreement, Receiving Party shall not disclose to anyone nor use for any purpose, other than described in Article 1 (Disclosure of Confidential Information), Disclosing Party’s Confidential Information without the prior written consent of Disclosing Party.

ARTICLE 3 CERTAIN INFORMATION NOT CONFIDENTIAL

Confidential Information shall not include information that Receiving Party can demonstrate:

- 3.1 was already lawfully known to Receiving Party as of the Effective Date;
- 3.2 is or becomes generally available to the public other than through the act or omission of Receiving Party or of any other person to whom Confidential Information is further disclosed by Receiving Party, unless public disclosure was made pursuant to Section 4.1;
- 3.3 is acquired independently from a third party credibly representing that it has the right to freely disseminate such information to Receiving Party at the time such information is first acquired by Receiving Party; or
- 3.4 has been developed by Receiving Party independently of the Confidential Information received from Disclosing Party.

ARTICLE 4
PERMITTED DISCLOSURE BY RECEIVING PARTY

Receiving Party may disclose Confidential Information without the prior written consent of Disclosing Party:

- 4.1** To the extent the Confidential Information must be disclosed under applicable law, including by stock exchange regulations or by a governmental order, decree, regulation, or rule, provided that Receiving Party shall make all reasonable efforts, if permitted under the applicable law, to give prompt written notice to Disclosing Party prior to such disclosure and shall cooperate at Disclosing Party's expense with all reasonable requests of Disclosing Party in legally contesting the legal requirement for such disclosure. In the event that a press release is deemed necessary by Receiving Party (whether by virtue of stock exchange regulations, other legal requirements, or otherwise), Receiving Party shall so notify Disclosing Party in writing as far in advance as possible of Receiving Party's perceived need for such press release issuance, including with such notice a draft of its proposed press release. Disclosing Party and Receiving Party shall endeavor in good faith to agree on the wording of the press release, governed by strictly construed legal requirements; provided, however, that nothing contained herein shall be construed to place Receiving Party in violation of existing law.
- 4.2** To the following persons to the extent that Receiving Party needs them to evaluate the Confidential Information:
- 4.2.1** employees, officers, directors, members, and managers of Receiving Party;
- 4.2.2** employees, officers, and directors of an Affiliated Company, which Affiliated Company is under obligation of confidentiality to Receiving Party on the same terms and conditions as included in this Agreement ("**Affiliated Company**" means any company or legal entity that Controls, or is Controlled by, or that is Controlled by an entity that Controls, Receiving Party, and "**Control**" and its variants mean the direct or indirect ownership of more than fifty percent (50%) of the voting rights in a company or other legal entity); or
- 4.2.3** any consultant or agent retained by Receiving Party or its Affiliated Company, but prior to making any disclosures to persons under this Section 4.2.3, Receiving Party shall obtain an undertaking of confidentiality substantially in the same form and content as this Agreement from each such person, although, in the case of outside legal counsel, Receiving Party shall only be required to procure that such legal counsel is bound by an obligation of confidentiality at least as stringent as the provisions of this Agreement.

Receiving Party shall ensure that all entities and persons to be provided Confidential Information as contemplated by this Agreement are provided a copy of this Agreement and acknowledge that they are and will be bound by the terms and conditions hereof. Receiving Party shall be fully liable for and responsible to Disclosing Party for any act or omission of such entities and persons

described in this Section 4.2 that constitute a breach or threatened breach of this Agreement as if the act or omission had been directly performed or committed by Receiving Party.

**ARTICLE 5
NOTICES**

All notices authorized or required between the Parties by any of the provisions of this Agreement shall be in written English, properly addressed to the other Party as shown below, and delivered: in person, by courier, by properly pre-paid certified United States mail with Return Receipt, or by any electronic means of transmitting written communications that provides written confirmation of receipt of complete transmission. A notice given under any provision of this Agreement shall be deemed properly delivered only when received by the Party to whom the notice is directed. *Oral notifications, facsimile transmissions, and e-mails shall only be deemed received when receipt of same is confirmed to the sending Party in writing by the Party receiving such communication, which confirmation includes reply facsimile transmissions, e-mails, and written confirmation of such oral communication.*

HWCG LLC

Address: 1885 St. James Place
Suite 910
Houston, Texas 77056
Attention: Craig Castille
Telephone: (713) 341-5000
E-mail: craigc@hwcg.org

[●]
Address: [●]
[●]
[●]
Attention: [●]
Telephone: [●]
E-mail: [●]

**ARTICLE 6
DAMAGES**

The liability of each Party to the other for breach of this Agreement shall be limited to direct damages only. Such direct damages shall be the sole and exclusive remedy, and all other remedies or damages at law or in equity are waived except such equitable relief as may be granted under Article 11 (Governing Law and Dispute Resolution). In no event shall a Party be liable to the other for any other damages, including loss of profits or indirect, consequential, special, speculative, exemplary, or punitive damages, regardless of negligence or fault.

ARTICLE 7
RETURN OF CONFIDENTIAL INFORMATION

- 7.1 Receiving Party shall acquire no proprietary interest in or right to the Confidential Information disclosed to it hereunder by Disclosing Party.
- 7.2 Disclosing Party may demand the return of the Confidential Information at any time upon giving written notice to Receiving Party. Within thirty (30) days of receipt of such notice, Receiving Party shall return to Disclosing Party all of the original Confidential Information and shall destroy or cause to be destroyed all copies (including electronic or digital) in its possession and in the possession of persons to whom it was disclosed, certifying in writing to Disclosing Party that such destruction has occurred.
- 7.3 The provisions of Section 7.2 do not apply to the following:
- 7.3.1 Confidential Information that is retained in the computer backup system of Receiving Party or a person to whom it was disclosed under Section 4.2 if the Confidential Information will be destroyed in accordance with the regular ongoing records retention process of Receiving Party or such person to whom it was disclosed pursuant to Section 4.2 and if the Confidential Information is not used prior to its destruction; and
- 7.3.2 Confidential Information that must be retained under applicable law, including by stock exchange regulations or by governmental order, decree, regulation, or rule.

ARTICLE 8
EVALUATION MATERIAL

- 8.1 Information generated by Receiving Party or by a person described in Section 4.2 that is derived in whole or in part from Confidential Information is “**Evaluation Material.**” Evaluation Material includes models, analyses, interpretations, presentations for management, technical evaluations, and economic evaluations.
- 8.2 During the term of this Agreement, Receiving Party shall not disclose Evaluation Material to anyone other than the persons described under Article 4 (Permitted Disclosure by Receiving Party) without the prior written consent of Disclosing Party.

ARTICLE 9
TERM

This Agreement shall terminate upon the earlier to occur of:

- 9.1 the return by Receiving Party of Confidential Information and its written certification of destruction of all copies of Confidential Information per Section 7.2; or

9.2 otherwise on the fifth anniversary of the Effective Date of this Agreement, provided that Receiving Party shall upon such fifth anniversary, automatically and without notice therefor from Disclosing Party, return all Confidential Information and certify in writing the destruction of all copies of Confidential Information per Section 7.2;

provided, however, that this Agreement shall remain in effect as necessary to allow legal claims to be brought and maintained for breaches of this Agreement occurring prior to such termination date.

ARTICLE 10 REPRESENTATIONS AND WARRANTIES

Disclosing Party represents and warrants that it has the right and authority to disclose the Confidential Information to Receiving Party. Disclosing Party, however, makes no representations or warranties, express or implied, as to the quality, accuracy, and completeness of the Confidential Information, and Receiving Party expressly acknowledges the inherent risk of error in the development of operating procedures for the containment of subsea wells. Disclosing Party, its Affiliated Companies, and all their officers, directors, and employees shall have no liability whatsoever regarding the use of or reliance upon the Confidential Information by Receiving Party.

ARTICLE 11 GOVERNING LAW AND DISPUTE RESOLUTION

11.1 This Agreement shall be governed by and interpreted in accordance with the laws of the State of Texas, excluding any choice of law rules which would refer the matter to the laws of another jurisdiction.

11.2 Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled in the United States federal courts or state courts of the State of Texas located in Harris County, Texas.

ARTICLE 12 GENERAL PROVISIONS

12.1 No Waiver

No waiver by either Party of any one or more breaches of this Agreement by the other Party shall operate or be construed as a waiver of any future default or defaults by the same Party. Neither Party shall be deemed to have waived, released, or modified any of its rights under this Agreement unless such Party has expressly stated, in writing, that it does waive, release, or modify such rights.

12.2 Modification

This Agreement may not be modified except by written consent of the Parties.

12.3 Interpretation

12.3.1 Headings

The topical headings used in this Agreement are for convenience only and shall not be construed as having any substantive significance or as indicating that all of the provisions of this Agreement relating to any topic are to be found in any particular article or provision.

12.3.2. Singular and Plural

When appropriate to the context, reference to the singular includes a reference to the plural and vice versa.

12.3.3. Article or Section

Unless otherwise provided, reference to any article or section means an article or section of this Agreement.

12.3.4. Include

The words “include” and “including” have an inclusive meaning, are used in an illustrative sense and not a limiting sense, and are not intended to limit the generality of the description preceding or following such term.

12.4 Counterpart Execution

This Agreement may be executed in counterparts and each counterpart shall be deemed an original Agreement for all purposes; provided that neither Party shall be bound to this Agreement until both Parties have executed a counterpart.

12.5 Entirety

This Agreement comprises the full and complete agreement of the Parties regarding the disclosure of the Confidential Information and supersedes and cancels all prior communications, understandings, and agreements between the Parties relating to the Confidential Information, whether written or oral, expressed or implied.

12.6 No Third-Party Beneficiaries

The interpretation of this Agreement shall exclude any rights under legislative provisions conferring rights under a contract to persons not a party to that contract.

**ARTICLE 13
ASSIGNMENT OF THIS AGREEMENT**

Either Party may assign this Agreement to an Affiliated Company; provided, however, such assigning Party shall remain liable for the strict compliance by such Affiliated Company of all terms, conditions, and obligations created by this Agreement. In addition, either Party may assign this Agreement to a person or entity that is not an Affiliated Company only with the prior written approval of the other Party. Any attempted assignment by such assigning Party to a person or entity that is not an Affiliated Company without the prior written approval of the other Party shall be void. Without limiting the prior provisions of this Article 13 (Assignment of this Agreement), this Agreement shall bind and inure to the benefit of the Parties and their respective successors and permitted assigns.

(signature pages follow)

IN WITNESS WHEREOF, the Parties have executed and delivered this Agreement effective on the date first written above.

HWCG LLC

Signature: _____
Name: Craig Castille
Title: Managing Director

[•]

Signature: _____
Name: _____
Title: _____