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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BABCOCK NATIONAL

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BABCOCK NATIONAL ("Declaration") is made this 28 day of January, 2020, by Lennar Homes, LLC, a Florida limited liability company, hereinafter called the "Declarant," for itself and its successors, grantees, and assigns.

WITNESSETH:

WHEREAS, Declarant owns certain real property located in Charlotte County, Florida. The Declarant intends to create thereon a Community of single-family homes, multi-family structures, and related recreational and other common facilities and amenities to be known as Babcock National; and

WHEREAS, the real property which is intended to be developed as Babcock National (the "Lands") is described in **Exhibit "A"** to this Declaration, as it may be amended from time to time; and

WHEREAS, Declarant desires to promote the general health, safety and welfare of residents, provide for the maintenance of the land comprising Babcock National, and the improvements thereon, and to provide for preservation of the property values and the amenities, and to this end desires to subject the real property to the protective covenants, conditions, restrictions, and other provisions hereinafter set forth; and

WHEREAS, to provide a means for meeting the purposes and intents herein set forth, Babcock National Homeowner's Association, Inc., a Florida not for profit corporation has been incorporated (hereinafter the "**Association**"); and

WHEREAS, Declarant may, in its sole discretion, from time to time, convey, lease or grant a license or other use right to lands within Babcock National by deed, easement, or otherwise to the Association (which must accept the same) or an Independent Special District, or both for the purpose of maintenance, landscaping, drainage, recreation or other purposes for the use and benefit of owners and their families, tenants, guests and invitees.

NOW THEREFORE, the Declarant, and any other person owning an interest in the subject property who at any time consents to or joins in the making of this Declaration, hereby declares that the real property described in Exhibit "A" hereto, is and shall be owned, used, sold, conveyed, encumbered, demised and occupied subject to the provisions of this Declaration, which shall run with the Land and be binding on all parties having any right, title or interest in the real property or any part thereof, their

heirs, successors and assigns, and shall inure to the benefit of each owner thereof. Nothing herein contained, and no violation of these covenants, conditions and restrictions, shall invalidate or impair the lien of any mortgage or deed of trust given in good faith and for value. Further, the express intent of Declarant is that substantive contract rights created hereunder shall not be retroactively affected by legislation enacted subsequent to the recording of this Declaration.

1. **DEFINITIONS.** The following definitions shall apply to the terms used in this Declaration and its recorded exhibits, unless the context clearly requires another meaning.

1.1 **"Architectural Review Committee" or "ARC"** means the Architectural Review Committee as established and empowered in Section 6 of this Declaration.

1.2 **"Assessment"** or **"Assessments"** means a share of the funds required for the payment of the expenses of the Association which from time to time is assessed against the Members, including without limitation annual assessments and special assessments, as authorized by Section 9 of this Declaration.

1.3 **"Babcock National"** is the name of the Community.

1.4 **"Babcock Ranch"** means that mixed-used community located in Charlotte and Lee County, Florida, and a master development of regional impact identified in that Master DRI Development Order approved by the Charlotte County Board of County Commissioners as the Babcock Ranch Community Master Development of Regional Impact.

1.5 **"Board"** means the Board of Directors of Babcock National Homeowner's Association, Inc.

1.6 **"Builder"** shall mean any person or entity that purchases one or more Lots for the purpose of constructing improvements for later sale to consumers in the ordinary course of such person or entity's business, provided that the Declarant shall designate the status of "Builder" and assign the rights of such Builder in a written instrument. The Owner of a Lot shall not, solely by virtue of having purchased a Lot, be deemed a Builder or a successor or assignee of the development rights of a Builder, or of the Declarant for the purposes of this paragraph, unless an instrument of assignment or conveyance expressly so states.

1.7 **"Common Areas"** means any and all real property and improvements within Babcock National owned by, leased to, or dedicated to the Association for the use and benefit of its Members. Common Areas shall include those areas dedicated to the Association on the various recorded subdivision plats.

1.8 **"Community" or "Properties"** means all real property comprising Babcock National, and the improvements thereon.

1.9 **"Community Association"** means the Babcock Ranch Residential Association, Inc., a Florida not for profit corporation, and its successors and assigns. The Community Association is the operational entity responsible for certain obligations and duties prescribed in the Residential Charter and the exhibits attached thereto, as well as any rules and regulations duly promulgated by the Community Association

1.10 **"Community Development Standards and Design Guidelines"** means the standards of conduct, maintenance or other activity generally prevailing throughout the Properties. Such standards may be more specifically determined by Declarant so long as Declarant owns any portion of the Properties. The Community Development Standards and Design Guidelines of the Association are attached as Exhibit "E" as they may be amended from time to time.

1.11 **"County" or "the County"** means Charlotte County, Florida.

1.12 **"Declarant"** means Lennar Homes, LLC, a Florida limited liability company, its successors, grantees or assigns or any other entity to which the Declarant specifically assigns any or all of the development rights it may have under this Declaration to develop part or all of Babcock National.

1.13 **"Family"** means one natural person or two or more natural persons each of whom are related to each other by blood, marriage, or adoption and who customarily reside and live together and otherwise hold themselves out as a single housekeeping unit or not more than two natural persons who are not related to each other by blood or adoption, who customarily reside and live together and otherwise hold themselves out as a single housekeeping unit. The decision as to whether two persons reside and constitute a qualifying family unit shall be a matter for the Board of Directors in their sole and unbridled discretion. Once designated and accepted by the Board as a qualifying family unit, no change in persons so constituting the qualifying family unit may be made except for one time in any calendar year and no more than three times in any constituent partner's lifetime, but in all events such change in partner shall be subject to the Board's approval in its sole and unbridled discretion. Further, the biological or adopted children of only one person shall be entitled to Common Area privileges if they meet all of the following conditions: (a) said child or children are age 21 or less; and (b) such child or children are not married or co-habitating with any third party; and (c) said children do not have custodial children of their own, (i.e., grandchildren of the Member); and (d) said children reside with the Owner on a permanent basis, or in the case of college or graduate students, at such times as the student is not enrolled in a college or university. If a Lot or Living Unit is owned by two or more persons who are not a "family" as described above, or is owned by an entity which is not a natural person, the Owner shall be required to select and designate one (1) family as defined above to utilize the Membership. The Association may restrict the frequency of changes in such designation when there is no change in Ownership of the Lot or Living Unit.

1.14 **"Founder"** means Babcock Property Holdings, LLC, a Delaware limited liability company, its successors, grantees or assigns, the developer of Babcock Ranch pursuant to the Residential Charter.

1.15 **"Golf Club"** means and refers to the Babcock National Golf Club, Inc. a Florida not for profit corporation, which has its principal place of business in Charlotte County, Florida and its successors and assigns.

1.16 **"Golf Club Documents"** means and refers to the Declaration of Covenants, Conditions and Restrictions for Babcock National Golf Club ("Golf Declaration").

1.17 **"Governing Documents"** means this Declaration, and the Articles of Incorporation, Bylaws, Rules and Regulations of the Association. In the event of a conflict in the interpretation of the Governing Documents, they shall be applied in the order of priority listed herein.

1.18 **"Guest"** means any person who is physically present in, or occupies a Living Unit on a temporary basis at the invitation of the Owner or other legally permitted occupant, without the payment of consideration.

1.19 **"Institutional Mortgagee"** means:

(A) a lending institution having a first mortgage lien upon a Lot or Living Unit, or Tract, including any of the following institutions: a Federal or State savings and loan or building and loan association, a bank chartered by a state or federal government, a real estate investment trust, a pension and profit sharing trust, a mortgage company doing

business in the State of Florida, or a life insurance company; or

(B) a governmental, quasi-governmental or private agency that is engaged in the business of holding, guaranteeing or insuring residential mortgage loans (including without limitation the Federal National Mortgage Association), Governmental National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Housing Administration and Veterans Administration and which holds, guarantees or insures a first mortgage upon a Lot or Living Unit; or

(C) the Declarant and any and all investors or lenders, or the successors and assigns of such investors or lenders which have loaned money to Declarant to acquire, develop, or construct improvements upon the Properties and who have a mortgage lien on all or a portion of the Properties securing such loan. An "Institutional Mortgage" is a first mortgage held by an Institutional Mortgagee encumbering a Lot or Living Unit.

1.20 **"ISD"** shall mean and refer to Babcock Ranch Community Independent Special District, a special taxing district created pursuant to Chapter 2007-306, Laws of Florida, as may be further amended, either as a geographic area or as a political subdivision and government of the State of Florida, as the context requires.

1.21 **"ISD Property"** means any and all real property and improvements which the ISD either owns, contracts, operates, administers or has jurisdiction over or any combination of the foregoing or otherwise administers pursuant to its responsibilities under Chapter 189, Florida Statutes, and the documents establishing the ISD. The term "ISD Property" shall include systems, facilities and services that the ISD may acquire, construct, maintain and finance over the years (which constitute projects or infrastructure improvements) which may or may not be owned by the ISD.

1.22 **"Lands"** means the land described in Exhibit "A" to this Declaration, as it may be amended from time to time.

1.23 **"Lease"** when used in connection with a Living Unit, means the grant by the Owner of the Living Unit of a temporary right of use of the Living Unit for valuable consideration.

1.24 **"Living Unit," or "Unit"** means any residential structure, including a single family detached or attached dwelling unit or condominium unit, located within Babcock National and intended for use by one family as their place of residence. If a Living Unit is a free-standing or attached single family home located on a Lot, the use of the term "Living Unit" or "Unit" shall be interpreted as if the term was followed immediately by the words "and the Lot on which it is located."

1.25 **"Lot"** means one or more of the platted portions of land into which parts of Babcock National have been subdivided, upon each of which a single Living Unit has been, or is intended to be, constructed. It is synonymous with the word "parcel" as used in Section 720, Florida Statutes. Unless the context clearly requires a different interpretation, the term "Lot" shall be interpreted as if it were followed by the words "and the Living Unit constructed thereon".

1.26 **"Member"** means a person who is entitled to Membership in the Association, as provided in Section 2 of the Bylaws. Membership is mandatory for the Owners of all Lots or Living Units.

1.27 **"Neighborhood"** means a condominium, a group of single family homes, coach homes, or villas, or any other residential sub-area development within Babcock National designated as such, where all the

Lots and Living Units are part of the Neighborhood Association or where such residential subdivision of a designated area has been designated as a neighborhood by the Declarant.

1.28 "**Neighborhood Association**" means a condominium association, an incorporated owners association as defined in Section 720, Florida Statutes, or any other incorporated mandatory membership property owners association operating a Neighborhood, or operating facilities or property serving two or more Neighborhoods.

1.29 "**Neighborhood Common Areas**" means that real property, including any improvements thereon, which is owned or leased by, or dedicated to, a Neighborhood Association for the common use and enjoyment of its Members. If the Neighborhood is a condominium, the term includes the common elements of the condominium and any real property owned by the condominium association.

1.30 "**Neighborhood Documents**" means any and all covenants, conditions, restrictions, and other provisions imposed by recorded declaration or other instrument, applicable to one or more specific Neighborhoods to the exclusion of all others, including the recorded articles of incorporation and bylaws of the Neighborhood Association, all as amended from time to time.

1.31 "**Occupy**" when used in connection with a Living Unit, means the act of using a Living Unit as one's place of residence for two (2) or more consecutive days. An "**Occupant**" is one who occupies a Living Unit, other than the Owner or his family as defined above.

1.32 "**Owner**" means the record Owner of legal title to any Lot or Living Unit.

1.33 "**Residential Charter**" means that certain Community Charter for Babcock Ranch Residential Properties, as recorded at Instrument #2453865, of the Public Records of Charlotte County, as has been or may be amended from time to time.

1.34 "**Rules and Regulations**" means the administrative regulations governing use of the Common Areas and procedures for operating the Association, as adopted, amended and rescinded from time to time by resolution of the Board of Directors.

1.35 "**SFWMD**" means South Florida Water Management District.

1.36 "**Service Assessment**" means a charge against one or more Lots or Living Units for any service, material or combination thereof which may be provided by the Association for the use and benefit of the Owner(s) on a voluntary basis, such as contracting in bulk for repairs, services, materials or maintenance. The amount paid or incurred by the Association on behalf of the Owners accepting or receiving such material or service shall be a service assessment against the Lots or Living Units so benefited. An Owner is deemed to have agreed to such assessment by the act of subscribing to, requesting, or accepting the material or service.

1.37 "**Structure**" means something built or constructed, or any piece of work artificially built up or composed of parts joined together in some definite manner, the use of which requires a more or less permanent location on the ground, or which is attached to something having a permanent location on the ground. The term shall be construed as if followed by the words "or part thereof." The term includes, without limitation, all Living Units, swimming pools, spas, fences, flagpoles, antennas, basketball backboards, skateboard ramps, swing sets or other play equipment, and storage sheds.

1.38 "**Supplement to the Residential Charter**" means that certain Supplement to the Community

Charter for Babcock Ranch Residential Properties (Village III Golf Parcel) recorded in Official Records Instrument No. 2678152, of the Public Records of Charlotte County, Florida, as may be amended from time to time.

1.39 **"Voting Interests"** means the arrangement established in Section 2 of the Bylaws of the Association by which the Owners of each Lot or Living Unit are entitled to vote in the affairs of the Association, whenever a vote of the Owners is permitted or required as to any Association business.

2. **GENERAL DEVELOPMENT PLAN**. The Community comprises initially approximately 366.05 more or less acres of land. The primary development objective is the construction and development of approximately 283 single family detached dwelling units and 790 multiple family dwelling units along with various recreational amenities. The Community also includes an 18 hole golf course for use by Golf Members in accordance with the Golf Club Documents. Not all Members of the Association will be Golf Members. Members of the Association have no rights to use the golf course, golf practice areas or other related facilities solely by virtue of the fact that they are Members of the Association.

2.1 **Renderings, Plans and Models.** From time to time, Declarant and others may present to the public certain renderings, plans and models showing possible future development of Babcock National. Declarant does not warrant in any way the schemes in these renderings, plans or models or how the future improvements in this Community will actually be developed. Any such renderings, plans or models are primarily schematic, and in no way represent a guaranteed final development plan.

2.2 **Right to Use Common Areas**. The non-exclusive right to use the Common Areas shall be appurtenant to and shall run with each Owner's Membership in the Association, subject to this Declaration, its recorded exhibits, and any leases, licenses, or other agreements entered into with the Golf Club or other entities. The Association has the right to enter into agreements with other entities for the use, maintenance and operation of the Common Areas and ISD Property.

2.3 **Owner and Member Compliance.** The protective covenants, conditions, restrictions and other provisions of this Declaration shall apply not only to the Members, and persons to whom an Owner has delegated his right of use in and to the Common Areas, but also to any other person occupying an Owner's Living Unit under lease from the Owner, or by permission or invitation, expressed or implied, of the Owner or his tenants, licensees, invitees or guests. Failure of an Owner to notify any person of the existence of the easements, covenants, conditions, restrictions, and other provisions of this Declaration shall not in any way act to limit or divest the right of Declarant or the Association of enforcement of these provisions and, in addition, the Owner shall be responsible for any and all violations of these provisions by his tenants, licensees, invitees or guests, and by the guests, licensees and invitees of his tenants at any time.

2.4 **Members' Rights and Easements.**

(A) Every Member of the Association shall have a non-exclusive right and easement for access to and the use and enjoyment of the Common Areas. The right and easement shall be appurtenant to and shall pass with the title to every Lot and Living Unit subject to any limitation set forth in this Declaration, including without limitation:

(1) The right of the Association to determine the annual and special assessments to be paid by the Members;

(2) The right of the Association to dedicate or transfer all or any part of

the Common Areas to any governmental agency, public authority, or utility;

(3) The right of the Association to grant easements over, across or through the Common Area or any part thereof;

(4) The right of the Association to borrow money for the accomplishment of its purposes of improving the Common Areas, and in aid thereof, to mortgage Common Areas;

(5) The right to take such steps as are reasonably necessary to protect Common Areas against foreclosure;

(6)The right to enforce the Articles of Incorporation and Bylaws of the Association; and any rules and regulations governing use and enjoyment of the Common Areas adopted by the Association;

(7) The right of the Association to charge use fees or Membership fees.

(8) The right of the Association to assist the ISD in enforcing its rules and regulations.

(B) Delegation of Rights. Each Owner may temporarily delegate his right of use in and to the Common Areas to his non-resident guests (if the guests are accompanied by the Owner) or to tenants who reside in the Living Unit of the Owner, but only to the extent and subject to conditions, limitations and restrictions as may be provided for in the Governing Documents. Each Owner of a Living Unit shall be financially and legally responsible for the actions of any person to whom the Owner has delegated his right to use the Common Areas.

2.5 **Conveyance and Use**.

(A) Any real property conveyed, leased, or the use of which has been granted by Declarant or any third party to the Association as Common Areas is not and shall not be deemed dedicated for use by the general public but is, and shall be, deemed restricted for the common use and enjoyment of Members of the Association.

(B) The Declarant, may convey property to the Association in either an improved or an unimproved condition, with or without any specific restrictions on its use, and the Association must accept such property. The Association shall not accept the conveyance of real property from any third party, in either an improved or unimproved condition, without the prior written consent of Declarant, so long as Declarant owns any property in the Association.

2.6 **Quiet Enjoyment.** Because of its size, full development of Babcock National will likely span a number of years. Incident to the development process, the quiet enjoyment of the Community may be unavoidably interfered with to some extent by construction operations.

3. **THE ASSOCIATION'S PURPOSES AND POWERS.** The primary purposes of the Association are to operate and maintain the Common Areas, including without limitation, the clubhouse and related

recreation facilities, including certain pools within the Community; to enforce restrictive covenants applicable to the Community; to provide architectural and aesthetic control; and to take such other action as the Association is authorized or required to take with regard to the Community pursuant to the Governing Documents. The Association shall operate, insure, maintain and repair all property and related improvements designated by Declarant as Common Areas, regardless of whether legal title to that property has been formally conveyed to the Association. If required by governmental agencies, the Association shall accept the transfer of all permits, and assume responsibility for maintenance and monitoring of on-site and off-site wetland preserve areas located on the Common Areas.

3.1 **Common Areas.** The Association shall operate, maintain and, if deeded by the Declarant, hold record title to the Common Areas. The Common Areas may include, but shall not be limited to, certain swimming pools that are not part of a Lot, certain roads not owned by the ISD, certain utilities serving Association property or other Common Areas, the clubhouse, meeting rooms, postal facility, tennis courts and tennis pro shop, if any, and related facilities. Portions of the Common Areas may be restricted for the exclusive use and benefit of the Golf Club and the Golf Club's members only, and the Association may enter into leases, licenses, or other agreements with the Golf Club for the use, operation, or maintenance of these areas. The golf course and practice facility are not Common Areas of the Association. The Association may also maintain environmental habitat and preservation areas, surface water drainage and management systems on the Common Areas, if maintenance responsibilities are delegated to it by the ISD. The Board of Directors may promulgate reasonable rules and regulations regarding use of the Common Areas consistent with the Governing Documents. Use of Common Areas shall be available to all Members and their invitees, guests, family Members and tenants, subject to the Rules and to the Governing Documents. The costs of operating, maintaining, repairing, insuring and protecting the Common Areas and the facilities located thereon or connected therewith shall be assessed equally against all Lots and Living Units. The Association shall have, without limitation, the following powers:

(A) To exercise the rights as set forth in the Declaration.

(B) To allow public use of the clubhouse, and other recreational facilities, until control of the Association has been transferred to Owners other than the Declarant. Thereafter, the Board of Directors may determine whether and to what extent public use of the clubhouse and other Association facilities will be allowed.

(C) To lease, assign or otherwise transfer the operating rights to, and any and all profits from any restaurant, snack bar or other facility on the Common Areas to a third party.

(D) To enter into agreements for the maintenance and operation of the Common Areas.

(E) To enter into agreements to cause additional properties and amenities to become Common Areas if such properties are of common benefit to the Community.

(F) To enter into agreements to lease Common Areas to a third party, as determined by the Board of Directors, including, but not limited to, leasing space within the clubhouse or other facility.

3.2 **Manager.** The Association may contract, employ and pay for the services of an entity or person to assist in managing its affairs and carrying out its responsibilities, and may employ other personnel as the Association shall determine to be necessary or desirable.

3.3 **Personal Property.** The Association may acquire and hold tangible and intangible personal property and may dispose of the same by sale or otherwise.

3.4 **Insurance.** The Association at all times shall procure and maintain adequate policies of public liability and other insurance as it deems advisable or necessary and as required elsewhere in this Declaration. The Association additionally shall cause all persons with access to Association funds to be insured or bonded with adequate fidelity insurance or bonds.

3.5 **Express and Implied Powers.** The Association may exercise any rights, powers or privileges given to it expressly by the Governing Documents or by the law in effect at the time this Declaration is recorded, and every other right, power or privilege reasonably inferable therefrom.

3.6 **Acts of the Association.** Unless the approval or affirmative vote of the Members is specifically made necessary by some provision of applicable law or the Governing Documents, all approvals or actions permitted or required to be given or taken by the Association may be given or taken by its Board of Directors, without a vote of the Members. The officers and Directors of the Association have a fiduciary relationship to the Association and its Members. A Member does not have the authority to act for the Association by reason of being a Member.

3.7 **Member Approval of Certain Litigation.** After turnover, and notwithstanding any other provisions of the Association Documents, the Board of Directors shall be required to obtain the prior approval of at least two-thirds (2/3rds) of the voting interests of the Association prior to the payment of, or contracting for the payment of, legal fees to any person engaged by the Association for the purpose of commencing any lawsuit, other than for the following purposes:

(A) collection of assessments;

(B) collection of other charges which Members are obligated to pay;

(C) enforcement of the Governing Documents;

(D) enforcement of the rules and regulations of the Association;

(E) in an emergency, when waiting to obtain the approval of the Member creates substantial risk of irreparable injury to the Association or its Members; or

(F) filing a compulsory counterclaim.

3.8 **Articles of Incorporation**. The Articles of Incorporation of the Association are attached as Exhibit "B".

3.9 **Bylaws**. The Bylaws of the Association shall be the Bylaws attached as Exhibit "C" as they may be amended from time to time.

3.10 **Official Records**. The official records of the Association, as defined by Chapter 720, Florida Statutes, as amended, shall be maintained within the State of Florida and must be open to inspection and available for photocopying as provided for in the Bylaws. The Association may adopt reasonable written rules governing the frequency, time, location, notice, and manner of inspection, and may impose fees to cover the costs of providing copies of the official records, including, without limitation, the costs of copying. The Association shall maintain an adequate number of copies of the Governing

Documents, to ensure their availability to Members and to prospective purchasers.

3.11 **Polling Places**. Accommodations may be made for the future use of building space within the Common Areas for the purposes of accommodating the function of an electoral polling place.

3.12 **Rules and Regulations**. Subject to this Declaration and any other applicable recorded instrument, the Association shall have the right and the power to develop, promulgate and enforce reasonable rules and regulations for the use and enjoyment of the Common Areas. No Common Areas shall be used in violation of any rule or regulation adopted by the Association pursuant to Section 4.1 of the Bylaws.

3.13 **Acquisition of Property**. Subject to Section 2.5 above, the Association has the power to acquire property, both real and personal. The power to acquire personal property shall be exercised by the Board of Directors. The power to acquire Ownership interests in real property shall be exercised by the Board of Directors, but only after approval by at least a majority of the voting interests.

3.14 **Disposition of Property**. Subject to Section 2.5 above, any property owned by the Association, whether real, personal or mixed, may be mortgaged, sold, leased or otherwise encumbered or disposed of by the same authority as would be required to acquire it under Section 3.13 above.

4. **MEMBERSHIP AND VOTING RIGHTS**. Every Owner of record legal title to a Lot or Living Unit within Babcock National shall be a Member of the Association as further defined in Section 4.1 below. The Declarant shall hold Declarant Membership as provided for in Section 4.1(C) below. Membership is appurtenant to, and may not be separated from, Ownership of a Lot or Living Unit. The rights, powers, duties and privileges of Members shall be as set forth in this Declaration, and in the Articles of Incorporation and Bylaws of the Association.

4.1 Classes of Membership. The Association will initially have two (2) classes of voting Membership, and one (1) class of non-voting Membership, as follows:

(A) **Members or Class "A" Members**. Every Owner of a Lot or Living Unit shall be a Member, which Membership has been given as an appurtenance. Members shall be all Owners of Lots or Living Units within Babcock National. The Declarant shall create a Membership for every Lot and Living Unit. Members shall have full rights of use in the Common Areas and facilities. The actual number of Memberships which may be created is in the discretion of the Declarant, subject to the limitations and restrictions set forth in the Governing Documents, the Residential Charter, the Supplement to the Residential Charter and any modification, amendment or supplement thereto. Except for temporary delegations as provided in Section 4.5 below, a Membership shall not be assignable and/or transferable by any method other than the sale or conveyance of record legal title to the Lot or Living Unit to which it is appurtenant. Upon sale or other transfer of Ownership of a Lot or Living Unit to which a Membership is appurtenant, the transferor shall be deemed to have automatically assigned and transferred the Membership with his property. A Member's rights to use the Common Area and other recreation facilities shall be limited as set forth in this Declaration and in the Bylaws. Any attempt to separate the Membership from the interest in real property upon which it is based shall be null and void.

(B) **Interim Members**. The Developer or the Board shall have the right, but not the obligation, to authorize an unlimited number of interim Members who are not Owners or

residents of Babcock National, and who shall have no voting rights. While in good standing, such Members have the right to enjoy the social and recreational facilities appropriate to their Membership class. To remain in good standing, such Members shall be obligated to timely pay all charges and annual dues in the amount established by the Board of Directors. Such Memberships shall be good for not more than one year at a time, and may, upon expiration of any one-year term, be terminated at the discretion of the Board of Directors, with or without cause.

(C) **Declarant Member or Class "B" Member.** The Declarant shall be a voting Member for each Lot or Living Unit it owns. Declarant Membership and voting rights shall cease to exist at the Turnover Meeting described in Section 8.2 of the Bylaws, but all of the Declarant's other rights and privileges as the Declarant, as set forth elsewhere in this Declaration or in the Bylaws, shall continue as long as the Declarant holds any property within the Community for sale in the ordinary course of business. If the Declarant conveys undeveloped property within the Community to a successor developer, the Declarant may assign its Declarant Membership and/or some or all of its voting rights and privileges to the successor developer.

4.1.1 **"Member for the Day - Private Club"** In order to comply with the Florida State Alcoholic Beverages and Tobacco regulations relating to dispensing of alcoholic beverages pursuant to a private club liquor license, the Association may create a daily Membership to facilitate dispensing of alcoholic beverages to daily guests of the Association. The Board shall be empowered to adopt rules and restrictions pertaining to the charges paid to the Association for daily Membership. In all events, any daily guest who has been charged for and paid a greens fee for use of the golf course shall be considered a Member for that day.

4.2 **Voting.** The Association shall have two classes of voting Membership, Class "A," and Class "B,"

(A) **Class "A".** Class "A" Members shall be all Owners except the Class "B" Member, if any. Class "A" Members shall have one equal vote for each Lot or Living Unit in which they hold the interest required for Membership under Section 4.1, except that there shall be only one vote per Lot or Living Unit and no vote shall be exercised for any property which is exempt from assessment under Section 9.9. All Class "A" votes shall be cast as provided in Section 4.2 (C) below.

(B) **Class "B".** The sole Class "B" Member shall be the Declarant. Until the Class "B" Membership expires or is terminated, the Class "B" Member may appoint a majority of the Members of the Board of Directors as specified in the By-Laws. Additional rights of the Class "B" Member, including the right to approve, or withhold approval of, actions proposed under this Declaration, the By-Laws and the Articles, are specified in the relevant sections of this Declaration, the By-Laws and the Articles. The Declarant shall have the number of votes in all matters equal to the total combined votes of the other classes of members, plus 100 votes until the Class "B" Membership expires or is terminated.

The Class "B" Membership shall terminate upon the earlier of:

(i) three months after 90% of the maximum number of residential dwelling units which may be created and developed as part of the Properties under the resolutions of the Charlotte County Board of County

Commissioners, as amended from time to time, have been constructed and conveyed to Class "A" Members. Currently, the maximum number of residential dwelling units is 1,080, however, the maximum number of residential dwelling units may increase if additional property other than the property described on Exhibit "A" is subjected to this Declaration as provided in Section 18.10; or

(ii) when, in its discretion, the Declarant so determines and declares in a written instrument recorded in the Public Records.

Upon termination of the Class "B" Membership, the Declarant, provided Declarant is also an Owner, shall be a Class "A" Member entitled to one Class "A" vote for each Living Unit which it owns.

(C) **Exercise of Voting Rights.** In any situation where a Member is entitled personally to exercise the vote for his or her Living Unit, and there is more than one Owner of such Living Unit, the vote for such Living Unit shall be exercised as the co-owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Living Unit's vote shall be suspended if more than one person attempts to exercise it.

4.3 **Community Association Representative Voting Under Residential Charter.** For Community Association matters requiring a vote of the Community Association's membership, the Residential Charter provides for a representative system of voting. Pursuant to the Residential Charter, Units are grouped into "Delegate Districts" and each Delegate District must elect one "Voting Delegate" who shall have the power and authority to cast all of the votes allocated to Units in that Delegate District on matters requiring a vote of the Community Association's membership. Each Delegate District will also elect an alternate Voting Delegate to cast the Delegate District's votes in the absence of the Voting Delegate. Units within the Community may be assigned to one or more Delegate Districts for the purposes of representative voting on Community Association matters.

4.4 **Association Rights and Easements**. Members in good standing have the non-exclusive right to use the Common Areas subject to:

(A) The right of the Association, by and through its Board of Directors, to adopt the annual budget and to determine the annual assessments to be paid by Members;

(B) The right of the Association, by and through its Board of Directors, to charge any admission, use, or other fees for any Common Areas as the Board may deem appropriate. The fees may be higher for non-Owners than for Owners;

(C) The right of the Association, by and through its Board of Directors, to suspend a Member's right to use Common Areas for the period during which any assessment or charge against the Member's Lot or Living Unit remains unpaid and past due, and for a reasonable period during or after any infraction of the Association's rules and regulations;

(D) The right of the Association, by and through its Board of Directors, to dedicate or transfer all or any part of the Common Areas to any governmental agency, public authority, or utility;

(E) The right of the Association, by and through its Board of Directors, to grant easements over, across or through the Common Areas;

(F) The right of the Association, by and through its Board of Directors, to open the Common Areas for use by non-Members of the Association, or non-Owners.

(G) The right of the Association, by and through its Board of Directors, with the prior assent of a majority of the voting interests, to borrow money for the purpose of improving the Common Areas, and in aid thereof, to mortgage Common Areas;

(H) The right of the Association, by and through its Board of Directors, to take such steps as are reasonably necessary to protect the Common Areas;

(I) The right of the Association, by and through its Board of Directors, to close or restrict access to the Common Areas for limited periods of time to conduct special events, including those intended primarily to benefit the Declarant or its sales efforts;

(J) The right of the Association, by and through its Board of Directors, to regulate parking and traffic on the private roads within Babcock National, including without limitation the use of access gates or speed bumps;

(K) The provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association; and any rules and regulations governing use and enjoyment of the Common Areas adopted by the Association;

(L) The right of the ISD, to exercise and enforce any and all powers authorized by Chapter 189, Florida Statutes; and

(M) The right of the Association to dedicate or transfer Ownership or control of all or any part of the Common Areas to the ISD or any other governmental agency, public authority, or utility.

So long as there is a Declarant Member, any and all rights of Members, and any and all restrictions, limitations, conditions and rules and regulations that a Member shall be subject to, shall not be amended without the consent of the Declarant.

4.5 **Delegation of Use Rights In Common Areas**. Guests accompanied by a Member shall have the right to use the Common Areas, but only to the extent provided in Section 2.4 of the Bylaws, or in the Association's rules and regulations, and subject to the conditions, limitations and restrictions as may be stated therein. A fee may be imposed for such usage delegation, not necessarily limited by or related to the cost of processing the delegation. Each Member shall be financially and legally responsible to the Association for the actions and debts to the Association of any person to whom the Member has delegated his right to use the Common Areas. The Member may not delegate the obligation to pay Association assessments. Upon the lease of a Lot or Living Unit to which a Membership is appurtenant, the lessor may retain the right to use the Membership, in which case the tenant shall have no such rights. If a Member delegates his privileges to a tenant residing in his Living Unit, the Member shall not be entitled to use of the facilities, except as a guest of another Member, during the period of the delegation.

4.6 **Separation of Ownership**. The Ownership of a Lot, and the Ownership of the Living Unit constructed thereon, may not be separated or separately conveyed, nor may any person who does

not own record legal title to at least one Lot or Living Unit, hold Membership in the Association.

4.7 **Credit**. The Association may implement a policy of not accepting cash payments, and may require that each Member and resident guest open an account with a nationally recognized credit card, to which all purchases of goods and services from the clubhouse, pro shop, dining room and other facilities may be charged.

4.8 **Minimum Purchases**. The Association requires each Member to purchase at least a minimum amount of food or beverages from the Association, or be billed for the minimum amount each fiscal year. There shall be no food and beverage minimum until such time that food and beverages are made available in the Community. Once food and beverages are made available in the Community, the initial food and beverage minimum shall be $500.00. However, once food and beverages are made available for purchase at the clubhouse, the food and beverage minimum shall be increased to $750.00.

5. GENERAL COVENANTS AND USE RESTRICTIONS.

5.1 **Residential Use.** Each Living Unit shall be occupied by only one family and its temporary guests at any time, as a residence and for no other purpose. No time-sharing, business or commercial activity shall be conducted in or from any Living Unit. Co-Ownership of units is permitted. However, if the co-Owners are other than husband and wife, the co-Owners shall designate one (1) of the co-Owners as the "primary occupant." The use of the Living Unit by other co-Owners shall be as though the primary occupant were the only actual Owner. Those co-Owner(s) whom have not been designated as the primary occupant shall be treated as guests of the primary occupant. Both the initial approval and the continued approval of a trustee, corporation, or other entity as an Owner, shall be conditioned upon designation of one (1) natural person to be the "primary occupant", and the use of the Living Unit by other persons shall be as though the primary occupant were the only actual Owner. Those co-Owner(s) whom have not been designated as the primary occupant shall be treated as guests of the primary occupant. Any change in the primary occupant shall be treated as a transfer of Ownership by sale or gift. No more than one (1) such change shall be approved in any twelve (12) month period. The intent of this provision is to allow flexibility in estate, financial or tax planning and not to create circumstances in which the Living Unit may be used as short term accommodations for several families or individuals. No person may publicly advertise the address of a Living Unit as the address of any business. The use of a Living Unit as a public lodging establishment shall be deemed a business or commercial use. This Section 5.1 shall not be construed to prohibit any Living Unit occupant from maintaining a personal or professional library, from keeping his personal, business or professional records in his Living Unit, or from handling his personal, business or professional telephone calls, written correspondence, or other communications in and from his Living Unit. Such uses are expressly declared customarily incident to residential use. This Section 5.1 is, however, intended to prohibit commercial or business activity by an Owner which would noticeably change the residential ambiance of the Community, or make it obvious that a business is being conducted, Such as by regular or frequent traffic in and out of the Community by persons making deliveries or pick-ups, or by employees and business associates, or by customers and clients.

5.2 **Occupancy of Living Unit when Owner is not in Residence.** An Owner may occasionally allow family, friends or business associates in reasonable numbers to temporarily occupy his Living Unit in his absence. Except as otherwise provided in Section 5.3 below, this provision is not intended to allow any Owner to use his Living Unit as short-term transient accommodations for several individuals or families. The Owner must register all guests with the Association in advance, giving such information about the guests and the period of their stay as the Board may reasonably require. The Owner is responsible for the conduct of his guests. When the Owner is not in residence, no more

than six (6) overnight occupants (including the Owner and his family) are allowed at any time.

5.3 **Leasing.** The Board of Directors has the right but not the obligation to approve leases for Living Units. If the Board chooses to exercise its right to approve leases, it shall adopt, by Board resolution, the procedure and criteria for approval of all leases, which shall apply to all leases subsequent to the adoption of the resolution. However, in all cases, the requirements of this Section 5.3 shall apply to any lease for a Living Unit in Babcock National. The minimum allowable lease period shall be thirty (30) consecutive days. No Living Unit may be rented or leased more than twelve (12) times per year. No lease may begin sooner than thirty (30) days after the first day of occupancy under the last previous lease. All leases are subject to the following restrictions and conditions:

(A) The lease must be written, and a fully executed copy must be provided to the Association not less than fifteen (15) days before the beginning of the lease term, together with such other information about the tenants as the Board may reasonably require.

(B) No lease may be for a period of less than thirty (30) consecutive days.

(C) No subleasing or assignment of lease rights is allowed.

(D) No one but the lessee and the lessee's spouse, if any, and their unmarried children, who live with their parents, may occupy the Living Unit during a lease.

All of the provisions of the Governing Documents and the Rules and Regulations of the Association shall be applicable to and enforceable against any person occupying a Living Unit as a lessee or guest, to the same extent as against an owner, and a covenant on the part of each occupant to abide by the rules and regulations of the Association and the provisions of the Governing Documents, designating the Association as the owner's agent, with the authority to terminate any lease and evict the tenant in the event of violations by the tenant of such covenant, shall be deemed to be included in every lease whether oral or written, and whether specifically expressed in such lease or not. Any lease entered into without notice, or otherwise in violation of the above provisions shall, at the option of the Board, be treated as a nullity, and the Board shall have the power to evict the lessee by summary proceedings without securing consent to such eviction from the owner.

THE DECLARANT MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE FINANCIAL FEASIBILITY OF RENTING LIVING UNITS OR THE INCOME TO BE DERIVED THEREFROM. ANY OWNER WHO DESIRES OR INTENDS TO RENT A LIVING UNIT MUST INDEPENDENTLY DETERMINE AND ASSUME RESPONSIBILITY FOR THE FEASIBILITY OF RENTING, AND SHOULD CONSULT HIS OR HER OWN ADVISOR WITH RESPECT TO THE TAX CONSEQUENCES AND ECONOMIC ADVANTAGE OF OWNERSHIP.

5.4 **Nuisance.** No Member shall use or permit a Living Unit to be used in any manner which would be unreasonably disturbing, detrimental or a nuisance to the occupant of another Living Unit or which would not be consistent with the maintenance of the highest standards for the first class residential development, nor permit the premises to be used in a disorderly or unlawful way. The use of each Living Unit Common Area and the Neighborhood Common Areas shall be consistent with existing laws and the Governing Documents, and residents shall at all times conduct themselves in a peaceful and orderly manner. No unlawful, disorderly or offensive activity shall be carried on upon any Lot or in any Living Unit, nor shall any Owner permit or condone any activity that is, or may reasonably become, a source of annoyance or

nuisance to other residents.

5.5 **Temporary Structures.** Temporary structures, including trucks, trailers, motor homes, recreational vehicles, tents or shacks shall not be used on any Lot at any time as a residence, either temporary or permanent.

5.6 **Signs**. In order to maintain an attractive community, no sign, banner, advertisement or poster (including "open house", "for sale" or "for rent" signs) shall be exhibited, displayed, inscribed, painted, or affixed, in, on or upon any part of the Properties without prior approval of the ARC, which approval may be withheld for any reason. However notwithstanding the above signs in strict conformance with the signage set forth on attached Exhibit "D" shall be permitted. This provision includes signs inside of Living Unit windows or the windows of motor vehicles. This Section 5.6 shall not apply to signs used by Declarant or its agents to market Living Units owned by Declarant.

5.7 **Appearance; Refuse Disposal**. Each Owner shall keep his Lot and Living Unit free of trash and debris and shall reasonably maintain his Living Unit. Personal property of residents shall not be left on the lawns or landscaped areas outside the Living Units. Trash, garbage or other waste must be kept in appropriate trash containers stored in the garage of a Living Unit, and all trash containers shall be taken to the curbside no earlier than the evening before a scheduled pickup and shall be returned to their area of storage by 8:00 p.m. on the day of service. Porches, and lanais shall be used only for the purposes intended, and shall not be used for hanging or drying clothing, for cleaning of rugs or other household items, or for storage of bicycles or other personal property.

5.8 **Maintenance**. The Declarant shall care for unimproved Lots within the Properties at its expense, remove and destroy tall grass, undergrowth, weeds and rubbish therefrom, and do any other things and perform any labor necessary to keep the Lot in reasonable order. The Association shall have the right to repair any structure or improvement on any Lot which, in the opinion of the Board, constitutes a safety hazard or nuisance, or is unsightly, or is in a state of disrepair, provided that the Lot Owner is given no less than five (5) days' notice of the Association's intent to do so, which reasonably specifies the proposed action. The Association shall charge the expense of same against the Owner of the Lot, which charge shall be a lien on the Lot which may be foreclosed and shall include the Association's attorney fees and other costs in connection with the lien and foreclosure.

5.9 **Awnings and Windows**. Awnings, storm shutters, solar film, and other window coverings shall be subject to the prior approval and control of the ARC.

5.10 **Fences**. No fence, wall, hedge or other physical and visual barrier shall be erected in the Neighborhood Common Areas, except as originally installed by Declarant, or as approved by the ARC.

5.11 **Driveways and Parking Areas**. Driveways and parking areas must be paved with concrete, paver blocks, or another hard surface approved by the Declarant. Maintenance and repair of all driveways, parking and other paved parking facilities shall not be the responsibility of the Association. Driveways must be kept clean and free from excessive oil, rust or other unsightly stains. Where a sidewalk abuts a Lot, the Lot Owner shall be responsible for keeping the portion of the sidewalk abutting their Lot in a clean and sanitary condition.

5.12 **Water Supply; Wells; Water Rights.** Each Living Unit may be equipped with dual water lines, one of which shall be designated to utilize non-potable water. All irrigation systems must be connected to the non-potable water line and all outside spigots must be connected to the potable water line. Each Owner shall be required to connect the water lines on his Lot to the lines of the utility provider(s) providing

service to Babcock National. No Owner may install or operate a private well for any reason, including operation of a water source heat pump.

5.13 **Landscaping.** The Association has the right, but not the obligation, to assume the responsibility to maintain the exterior landscaped portions of the Lots and Living Units within Babcock National, which includes lawn, shrubs, trees, and other landscaping, except for any areas enclosed by fencing or other screening or otherwise not readily accessible from outside the Lots or Living Units. The Association's costs associated with the maintenance described in this Section shall be a Common Expense of the Association and shall to be allocated among all Lots or Living Units pursuant to Section 9.1 of the Declaration; provided, if appropriate, costs may be assessed as a Specific Assessment in, accordance with Section 9.5 of the Declaration. Notwithstanding the foregoing, upon request by a Neighborhood Association, the Association can delegate is rights, duties, and obligations under this Section to a Neighborhood Association so long as the Neighborhood Association complies with the provision of this Section. Regardless of whether the Association or a Neighborhood Association, as the case may be, assumes the maintenance responsibility for the exterior portions of Lots and Living Units, Owners shall be solely responsible for replacing, at the Owner's sole cost and expense, any and all landscaping contained on a Lot (including, but not limited to, shrubs, trees, plants, and sod) if such landscaping either dies or requires replacement for any reason (including, but not limited to, weather damage, insect or disease). The Association shall have a perpetual non-exclusive easement over all of Babcock National, including the Living Units (but not inside any structure within a Living Unit), for the purpose of performing its maintenance responsibilities under this Section. Such easement may be exercised, without prior notice, by the Association, its officers, directors, employees, agents, and contractors, and entry upon any Living Unit for such purpose shall not be deemed a trespass. No landscaping shall be added, augmented, replaced, cut down, destroyed or removed without the prior written approval of the ARC. No artificial grass, plants or other artificial vegetation shall be placed or maintained upon any Lot outside of the Living Unit and the Living Unit's privacy walls, unless approved by the ARC.

5.14 **Pets**. The Owner of each Living Unit may keep not more than three (3) pets of a normal domesticated household type (cats or dogs only) in the Living Unit. Reasonable numbers of birds in cages and fish in aquaria are also permitted, subject to reasonable regulation by the Association. Animals must be hand carried or leashed at all times while outside of the Living Unit. The Owner is responsible for cleaning up after his pet. The ability to keep pets is a privilege, not a right, and the Board of Directors is empowered to order and enforce the removal of any pet which becomes a source of unreasonable annoyances to other residents of the Properties. No reptiles, amphibians, poultry, swine or livestock may be kept on the Properties. The Board of Directors may restrict the locations where pets may be walked. Notwithstanding the foregoing, pit bull and pit bull mix dogs or other recognized aggressive breeds of dogs shall be prohibited regardless of size or weight. A pit bull or pit bull mix dog is defined as any dog that, in the sole and exclusive discretion of the Board, has the appearance and characteristics of being predominately and commonly referred to as a "pit bull" regardless of the opinion of any veterinary doctor. Pets may not be brought or kept within the Properties for any commercial purposes, including boarding, grooming or breeding.

5.15 **Parking and Storage of Vehicles**. Except for service vehicles temporarily present on the property, Owners and occupants of Living Units may not park, store or keep on the Properties, any commercial truck or other commercial vehicle, or any boat, trailer, semi-trailer, recreation vehicle, motorcycle, house trailer, mobile home, motor home, bus, tractor, or any other such vehicle, unless it is enclosed within a garage. No person may park, store or keep any motor vehicle on grassed or landscaped areas, or any places outside of paved driveways, garages, or other designated parking areas. In no manner shall a vehicle block or impede, in whole or in part, a sidewalk. Vehicles which are in wrecked, junked, partially

dismantled, inoperative or abandoned condition, whether attended or not, and those not bearing current license plates, are not permitted on the Properties. Because guest parking may be limited in some areas, each Owner is specifically cautioned that he and the other occupants of his Living Unit may be limited or restricted as to the number of motor vehicles they may keep on the Properties. The repair of motor vehicles, except emergency repairs, is not permitted on the Properties. For purposes of this paragraph "kept" shall mean present for either a period of twelve (12) consecutive hours or overnight (11:00 p.m. through 6:00 a.m.), whichever is less. No house trailer, mobile home, motor home and the like may be kept more than two (2) times in any month. Any vehicle parked in violation of this Section is subject to being towed away at the Owner's expense without further warning.

5.16 **Antennas, Radio Equipment and Flagpoles**. No outside television, radio, or other electronic towers, aerials, antennae, satellite dishes or device of any type for the reception or transmission of radio or television broadcasts or other means of communication shall hereafter be erected, constructed, placed or permitted to remain on any Lot or upon any improvements thereon, unless expressly approved in writing by the ARC, except that this prohibition shall not apply to those antennae specifically covered by 47 C.F.R. Part 1, Subpart S, Section 1.4000, as amended, promulgated under the Federal Telecommunications Act of 1996, as amended from time to time. The Association shall be empowered to adopt rules governing the types of antennae, restrictions relating to safety, location and maintenance of antennae. The Association may adopt and enforce reasonable rules limiting installation of permissible dishes or antennae to side or rear yard locations, not visible from the street or neighboring properties, and integrated with the residence and surrounding landscape, to the extent that reception of an acceptable signal would not be unlawfully impaired by such rules. Antennae shall be installed in compliance with all federal, state and local laws and regulations, including zoning, land-use and building regulations. A flagpole, for display of the American Flag only, may be permitted if its design and location are first approved by the ARC. An approved flagpole shall not be used to mount an antenna. It is the intent of this Section to protect residents from unreasonable interference with television reception, electronic devices, and the operation of home appliances which is sometimes caused by ham radios, CB base stations or other high-powered broadcasting equipment. This Section 5.16 shall not apply to the Declarant or its agents to market Living Units owned by Declarant.

6. ARCHITECTURAL AND AESTHETIC CONTROL.

6.1 **General**. Except for the initial construction of Living Units, Neighborhood Common Area facilities, Common Area facilities, and related improvements by the Declarant, no building, structure or other improvement shall be erected or altered, nor shall any grading, excavation, landscaping, change of exterior color, or other work which in any way materially alters the exterior appearance of any structure, Lot, Living Unit, or Neighborhood Common Area be performed without the prior written approval of the ARC. In obtaining said written approval, an Owner, Builder or any other person applying shall comply with all applicable requirements and procedures.

6.2 **Architectural Review Committee**. The architectural and aesthetic review and control functions of the Association shall be administered and performed by the ARC. The ARC shall consist of not less than three (3) individuals, who need not be Members of the Association. The term of office, composition, compensation (if any), qualifications and meeting procedures of the ARC shall be as provided in Section 6 of the Bylaws. Notwithstanding the foregoing, prior to Association turnover, the Declarant shall have the sole right to appoint one individual who may or may not be a Member of the Association, who shall have the full and unilateral power to act on behalf of the ARC body and no meeting or notice to Members of any meeting is required.

6.3 **Guidelines.** The Declarant has prepared the initial Community Development Standards and Design

Guidelines, which may contain general provisions applicable to all of the Properties as well as specific provisions which may vary from Neighborhood to Neighborhood. The Community Development Standards and Design Guidelines are intended to provide guidance to Owners and Builders regarding matters of particular concern to the ARC in considering applications hereunder. The Community Development Standards and Design Guidelines are not the exclusive basis for decisions of the ARC and compliance with the Community Development Standards and Design does not guarantee approval of any application.

The Declarant shall have authority to amend the Community Development Standards and Design Guidelines as long as it owns any portion of the Properties or has a right to expand or reduce the Properties pursuant to Section 18.10, notwithstanding a delegation of reviewing authority to the ARC. Upon termination or delegation of the Declarant's right to amend the Community Development Standards and Design Guidelines, the ARC shall have the authority to amend the Community Development Standards and Design Guidelines with the consent of the Board. Notwithstanding the foregoing, the Community Development Standards and Design Guidelines shall be subject to the prior approval of the Founder and may not be amended without the prior approval of the Founder during the "Development and Sale Period" as defined in the Residential Charter, and the Community Association thereafter.

Any amendments to the Community Development Standards and Design Guidelines shall be prospective only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. There shall be no limitation on the scope of amendments to the Community Development Standards and Design Guidelines, provided such amendments may remove requirements previously imposed or otherwise make the Community Development Standards and Design Guidelines less restrictive.

6.4 **Powers**. The ARC shall have the power, subject to and limited by the guidelines of the approved regulatory permits of local ordinances for Babcock National.

(A) Require submission to the ARC of complete plans and specifications for any building, structure, or other improvement proposed to be erected or altered, or any proposed grading, excavation, tree or other landscape material removal or installation, change of exterior color or other work which materially alters the exterior appearance of any structure, Lot, Living Unit or Neighborhood Common Area. The ARC may also require submission of samples of building materials or colors proposed for use on any Lot or Living Unit, and may require such additional information as may reasonably be necessary for the ARC to fully evaluate the proposed work;

(B) Approve or disapprove the erection or alteration of any building, structure or other improvement; or any grading, excavation, landscaping, change of exterior color, or other work which in any way materially alters the exterior appearance of any structure, Lot, Living Unit or Neighborhood Common Area. All decisions of the ARC shall be forwarded in writing to the Board. Any person aggrieved by a decision of the ARC shall have the right to make a written appeal to the Board within thirty (30) days after notification of the decision. The determination by the Board, upon prompt review of any such decision, shall, in all events, be final, and shall not be unreasonably delayed;

(C) Adopt procedures and a schedule of reasonable fees for processing requests for ARC review. Fees, if any, shall be payable to the Association, in cash or check, at the time the request is submitted to the ARC; or

(D) Adopt procedures for inspecting approved changes during and after construction, to ensure conformity with approved plans.

6.5 **Enforcement.** Any decisions of the ARC shall be enforced by the Neighborhood Association involved, if applicable, as well as by the Association.

6.6 **Declarant's Rights**. Until 100% of the property described on Exhibit "A" has been developed and conveyed to Owners, the Declarant shall have the exclusive right to exercise design review under this Section. The rights reserved to Declarant under this Section shall continue so long as Declarant owns any portion of the Properties or any real property adjacent to the Properties, unless earlier terminated in a written instrument executed by Declarant and recorded in the Public Records. Upon such time as Declarant no longer owns any portion of the Properties or any real property adjacent to the Properties, the Association shall automatically inure to the powers and rights of Declarant under this Article 6. The Declarant may, in its sole discretion, designate one or more Persons from time to time to act on its behalf in reviewing applications hereunder. Each Owner and Builder, by accepting a deed or other instrument conveying any interest in any portion of the Properties, acknowledges that, as the developer of the Properties and as an Owner of portions of the Properties as well as other real estate within the vicinity of the Properties, Declarant has a substantial interest in ensuring that the improvements within the Properties preserve its reputation and do not impair the Declarant's ability to market its property. Therefore, each Owner and Builder covenants and agrees that no activity within the scope of this Section ("Work") shall be commenced on such Owner's Living Unit unless and until the Declarant or its designee has given its prior written approval for such Work, which approval may be granted or withheld in the Declarant's or its designee's sole and absolute discretion. In reviewing and acting upon any request for approval Declarant and its designee shall owe no duty to any other person.

6.7 **No Waiver of Future Approvals**. Each Owner acknowledges that the persons reviewing applications under this Section will change from time to time and that opinions on aesthetic matters, as well as interpretation and application of the Community Development Standards and Design Guidelines, may vary accordingly. In addition, each Owner acknowledges that it may not always be possible to identify objectionable features of proposed Work until the Work is completed, in which case it may be unreasonable to require changes to the improvements involved, but the ARC may refuse to approve similar proposals in the future. Approval of applications or Plans for any Work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar applications, Plans, or other matters subsequently or additionally submitted for approval.

6.8 **Variances**. The ARC may authorize variances from compliance with any of its guidelines and procedures when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations require. Such variances may only be granted, however, when unique circumstances dictate and no variance shall (a) be effective unless in writing; (b) be contrary to this Declaration; (c) estop the ARC from denying a variance in other circumstances; or (d) shall be effective unless approved by Declarant, provided Declarant is also an Owner at the time such variance is contemplated. For purposes of this Section, the inability to obtain approval of any governmental agency, the issuance of any permit, or the terms of any financing shall not be considered a hardship warranting a variance.

6.9 **Limitation of Liability.** The standards and procedures established by this Section 6 are intended as a mechanism for maintaining and enhancing the overall aesthetics of the Properties, but shall not create any duty to any person. Review and approval of any application pursuant to this Section 6 is made on

the basis of aesthetic considerations only and the ARC shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements, nor for ensuring that all dwellings are of comparable quality, value or size or of similar design nor for ensuring that the dwelling units are marketable. Neither the Declarant, the Association, the Board, any committee, nor Member of any of the foregoing shall be held liable for soil conditions, drainage or other general site work, nor for any defects in plans revised or approved hereunder, nor for any injury, damages, nor loss arising out of the manner or quality of approved construction on or modifications to any Unit. In all matters, the ARC and all persons comprising the ARC shall be defended and indemnified by the Association.

7. **EASEMENTS**. In addition to any easements created elsewhere herein or that otherwise exist on the Properties, easements are hereby provided for:

7.1 **Utilities, Services and Support**. Each Lot, Living Unit, Common Area (except Conservation Areas) and Neighborhood Common Area is and are hereby subjected to easements for public services, communications and telecommunications, and utilities purposes including, but not limited to, fire, police protection, and emergency services, garbage and trash removal, potable and non-potable water, sewage, telephone, electric and gas service, lake maintenance, and cable television. The utilities and governmental agencies having jurisdiction, and their employees and agents, shall have the right of access to any Lot, Living Unit, the Common Area and Neighborhood Common Area in furtherance of such easements. The easement areas on any Lot, whether or not shown on any plat, shall at all times be properly maintained by the Owner, whether or not the utility or service company property maintains the easement area.

(A) There is hereby reserved, for the purpose of installing, operating and maintaining governmental, public or private utility facilities, and for other purposes incidental to the development of the Community, those easements described herein and those shown upon the recorded plat of the Community, and there are also reserved such easements and rights-of-way for any other purposes as Declarant in its sole discretion may in the future grant.

(B) Declarant hereby reserves the right, and the power, during a period of ten (10) years from the date of recording this Declaration, to declare, grant and record additional easements for drainage facilities, sanitary sewer lines, potable and irrigation water lines, storm sewers, gas and electric lines, telephone and other telecommunication lines, cable television lines, and such other service facilities as Declarant may deem necessary or desirable, along the various utility service routes, through, in, over and under all Lots, Common Areas, and Neighborhood Common Areas. The purpose, duration and scope of any such easement shall be set forth in an instrument of public record. Said easements and the rights granted shall not be inconsistent with the then existing improvements on the applicable portions of the Lot, Common Area or Neighborhood Common Area, or materially change the rights of the Owners. If any agreement is entered into by the Association for the exclusive provision of System services or other services to the Community, as described in either Section 7.2, 7.3 or both below, it shall be the affirmative obligation of the Association to grant all appropriate and reasonably necessary easements for the furnishing of those services; and upon the expiration or termination of such agreement, to provide subsequent or alternate easements so as to insure the continuous accessibility and availability to the Community, of those services.

7.2 **Cable TV and Telecommunications System**. The Declarant hereby reserves for itself and its successors, assignees and licensees, the right, without obligation, to construct or install over, through,

under, across and upon any portion of the Community for the use and benefit of the Owner and that committed or authorized guests, invitees, tenants and family Members, one (1) or more cable and/or telecommunications receiving and distribution systems and electronic surveillance systems, emergency, medical and surveillance monitoring, or alarm systems (all or any part of which shall be referred herein collectively as the "System"), the exact description, location and nature of which may have not yet been fixed or determined. Declarant shall have and hereby reserves to itself and its designees, successors, assignees and licensees, a perpetual and exclusive right, privilege, easement and right-of-way for the installation, construction and maintenance of the System (the scope, extent, size and location of which over, across, upon and through the Community shall be determined solely by Declarant, its successors, designees and assigns) together with a perpetual and exclusive right and privilege of:

(A) Unlimited ingress and egress thereto for installing, constructing, inspecting, maintaining, altering, moving, improving and replacing the facilities and equipment constituting the System including, without limitation, any towers, antennas, conduits, wires, cables, lines, panels, boxes, housings, connections, insulators and amplifiers necessary or desirable to receive and distribute services of the System including, without limitation, television and radio signals, electronic banking, surveillance, fire, police and emergency medical protection.

(B) Transmitting the facilities and equipment of which, shall be owned and exclusively controlled by Declarant, its successors and assigns or its designees.

(C) Each Lot and Living Unit is subject to a permanent casement in favor of adjoining or adjacent Lots and Living Units for lateral and adjacent support.

(D) Each Lot and Living Unit is subject to a permanent casement in favor of the Association to remove and/or destroy invasive exotic vegetation species.

7.3 **Contracts With Service Providers.** Declarant, or the Association, or both, shall have the right to enter into Contracts for the exclusive provision of the System, as Declarant and the Association shall deem, in their sole respective discretion, to be in the best interest of the Community. Either the Declarant or the Association may receive valuable consideration for the grant of the exclusive right to provide System services. As used herein, the term "contractual designee" means the service provider with which Declarant or the Association contracts for the furnishing of System services. Should Declarant enter into a contract or contracts pursuant to this Section 7.3, the Association shall, to the extent the Declarant assigns its rights and obligations under such contract or contracts, accepts such assignment, and is bound by all the terms and provisions of the contract or contracts. Any such contract for cable television or other similar services shall provide, and if it does not, shall be deemed to provide, that during any period of occupancy of a living unit by a hearing impaired or legally blind unit Owner who does not occupy the Living Unit with a non-hearing impaired or sighted person, said Owner may refuse or discontinue the service without incurring disconnect fees, penalties, or subsequent service charges, and as to such living units, the Owners shall not be required to pay any charge related to such service.

7.4 **Collection of "System" Assessments by Association.** Every Lot or Living Unit to which the service System is available for contractual designee(s) shall be subject to a System service assessment, payable per lot or living unit for System services, including, without limitation, cable television services. The Association shall bill the appropriate System service assessment to each Lot or Living Unit along with other assessments for common expenses, which may be due and payable at the same time, and shall collect same and remit payment to the contractual designee(s) providing the System services.

7.5 **Easements for Playing Golf**. Non-specific, non-exclusive easements are hereby created for the

benefit of the Golf Club and users of the golf course over all Lots, Living Units, Neighborhood Common Areas, and Common Areas adjacent to the golf course, to permit every act necessary, incidental, or appropriate to the playing of golf. These acts include, without limitation, the recovery by golfers of errant golf balls, the flight of golf balls over and across such Lots, Living Units or Common Areas, the landing of errant golf balls upon the Lots, Living Units or Common Areas, the use of necessary and usual golf carts and maintenance equipment upon the golf course (and this golf course easement over as herein set out), the usual and common noises and other disturbances created by maintenance of the course and the playing of the game of golf, including occasional tournaments, together with all other common and usual occurrences normally associated with the existence and operation of a golf course.

7.6 **Waiver and Disclaimer Regarding Golf Course**. Each Owner of a Lot or Living Unit, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is hereby deemed to acknowledge and accept the following inherent risks associated with living near or adjacent to the golf course:

(1) maintenance on the golf course may begin early in the morning and extend late into the evening, ordinarily occurring from sunrise to sunset;

(2) during certain periods of the year, the golf course will be heavily fertilized;

(3) the maintenance of the golf course may require the use of chemicals and pesticides;

(4) the golf course may be watered with reclaimed water; and

(5) golf balls are not susceptible of being easily controlled and accordingly may enter Owner's airspace, strike Owner, Owner's guests, yard, walls, roof, windows, landscaping and personal property causing personal injury and property damage.

The Declarant, the Association and its Members (in their capacity as Members), the developer and any successor in title to the golf course, and any agents, servants, employees, directors, officers, affiliates, representatives, receivers, subsidiaries, predecessors, successors and assigns of any such party ("Released Parties"), shall not in any way be responsible for any claims, damages, losses, demands, liabilities, obligations, actions or causes of action whatsoever, including, without limitation, actions based on (a) any invasion of the Lot Owner's use or enjoyment of the Lot, (b) improper design of the golf course, (c) the level of skill of any golfer (regardless of whether such golfer has the permission of the management to use the golf course), or (d) trespass by any golfer on the Lot, that may result from property damage or personal injury from golf balls (regardless of number) hit on a Lot or Living Unit or adjacent roadways, or from the exercise by any golfer of the easements granted herein.

Furthermore, each Owner of a Lot or Living Unit hereby assumes the risk inherent in owning property adjacent to or nearby a golf course, including, without limitation, the risk of personal injury and property damage from errant golf balls, and hereby indemnifies and agrees to hold the Released Parties harmless from any and all loss arising from claims by such Owner, or persons using or visiting such Owner's Lot or Living Unit, for any personal injury or property damage.

7.7 **Construction and Maintenance**. Declarant (including its designees and contractors) shall have the right to enter any part of the Community and take any action reasonably necessary or convenient for the purpose of completing the construction or sales thereof, and for maintenance purposes and the completion of warranty work, provided such activity does not prevent or unreasonably interfere with the use or enjoyment of the Living Units or Lots by Owners.

7.8 **Additional Easements**. In addition to any other easements granted herein or elsewhere, the following easements shall be reserved, granted and/or dedicated as the circumstances dictate:

(A) An easement for drainage and stormwater management in the favor of the Association, Golf Club and Declarant over all Tracts designated, now or in the future, on any recorded subdivision plats as "Lake Tracts", "L-Tracts", "EFW", "WFW", "Drainage Easements", "Surface Water Management", or any other tract designation for drainage or stormwater management.

(B) An easement in favor of Declarant and the Golf Club for construction, operation and maintenance of golf cart paths and golf course irrigation over all tracts identified as "Lake Tracts", "L-Tracts", "Common Area Tracts", "Right-of-Way Tracts" and "Buffer Tracts" so long as such use does not interfere with the purposes set forth for such tracts on the recorded subdivision plats.

(C) An easement in favor of the ISD and Golf Club over Common Areas for the operation, maintenance, repair and replacement of irrigation lines and pumps reasonably necessary to serve the golf course and property owned by the ISD, so long as such activities do not interfere with use of the Common Areas.

(D) An easement in favor of the ISD over the golf course for drainage, irrigation and access to such drainage and irrigation facilities, so long as such use does not interfere with the use of the golf course for its intended purposes.

Prior to the exercising of the easements set forth above, the party exercising its easement rights shall notify the owner of the property burdened by the easement and reasonably coordinate its use of the easement.

8. **COMMON AREAS; CONVEYANCE, USE AND MAINTENANCE**.

8.1 **Designation**. Except for the Conservation Areas, and the Stormwater Management System, Declarant shall have the right, and the power, in their sole discretion, to determine which parts of the Property shall be Common Areas, and to convey, lease or grant a license or other right to use real property within the Common Areas or to any Neighborhood Association as Common Areas.

(A) Any such conveyance, lease or grant of license or use right may be exclusive or non-exclusive, so that persons or entities other than the Association may or may not have a right, power, duty, or privilege with respect to all or any part of any real property so conveyed, leased, licensed or the use of which has been granted: The Association must accept from Declarant any such conveyance, lease, grant of license or grant of use right. The Association shall not accept, from any person other than Declarant, a conveyance, lease, grant or license or grant of use right except upon the prior written approval of the Declarant.

(B) Prior to the conveyance of Common Areas by Declarant to the Association, the Association shall have the right to charge reasonable fees, rents, or other charges for the use of the property; however, rents, fees and other charges required to be paid to Declarant under leases, grants, licenses or contracts creating use rights to third parties shall continue to be paid.

8.2 **Conveyance and Use**. Declarant will initially hold the legal title to the Common Areas. Not

later than ninety (90) days after the date when the Members first appoint a majority of the Board of Directors, the Declarant shall convey the Common Areas to the Association by quit claim deed, and the Association shall accept such conveyance, subject to taxes for the year of conveyance (if any) and to mortgages, restrictions, limitation, conditions, reservation and easements of record. The Declarant may, however, convey title at any earlier time the Declarant chooses. Commencing with the date this Declaration is recorded in the Public Records of the County, the Association shall be responsible for the maintenance and administration of all areas and facilities designated by the Declarant as Common Areas. Declarant shall have the right from time to time to enter upon the Common Areas during periods of construction upon adjacent property and for the purpose of construction of any facilities on the Common Areas that Declarant or elects to build.

(A) Any real property conveyed, leased, or the use of which has been granted by Declarant, or any third party to the Association as Common Areas, is not and shall not be deemed dedicated for use by the general public but is, and shall be, deemed restricted for the common use and enjoyment of Members and their guests, tenants and invitees.

(B) Declarant may convey property to the Association in either an improved or an unimproved condition, with or without any specific restrictions on its use, and the Association must accept such property, including any governmental permits pertaining to said property. The Association shall not accept conveyance of real property from any third party, in either an improved or unimproved condition, without the prior written consent of Declarant, so long as Declarant owns any property in Babcock National.

THE ASSOCIATION AND THE NON-DECLARANT MEMBERS ARE OBLIGATED TO ACCEPT THE COMMON AREAS, AND ANY RELATED PERMITS REQUIRED BY GOVERNMENTAL AGENCIES, AND FACILITIES, IN THEIR "AS IS" CONDITION, WITHOUT RECOURSE WHEN CONVEYED OR TRANSFERRED BY THE DECLARANT. THE DECLARANT MAKES NO REPRESENTATIONS, AND TO THE FULLEST EXTENT PERMITTED BY LAW THE DECLARANT DISCLAIMS ALL WARRANTIES EXPRESS OR IMPLIED, IN LAW OR IN FACT, WITH. RESPECT THERETO, INCLUDING WITHOUT LIMITATION, REPRESENTATIONS OR WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, AND REPRESENTATIONS OR WARRANTIES REGARDING THE CONSTRUCTION, DESIGN, ADEQUACY OF SIZE OR CAPACITY IN RELATION TO THE UTILIZATION, DATE OF COMPLETION OR THE FUTURE ECONOMIC PERFORMANCE OR OPERATIONS OF, OR THE MATERIALS, FURNITURE OR EQUIPMENT WHICH WILL BE USED IN THE COMMON AREAS AND FACILITIES. AT THE TIME OF CONVEYANCE, DECLARANT SHALL TRANSFER OR ASSIGN TO THE ASSOCIATION, WITHOUT RECOURSE, ALL EXISTING WARRANTIES IT RECEIVED FROM MANUFACTURERS AND SUPPLIERS RELATING TO ANY OF THE FACILITIES WHICH ARE ASSIGNABLE.

8.3 **Maintenance and Alteration.** The Association is responsible for the maintenance, repair, replacement, insurance, protection and control of all Common Areas in accordance with all applicable laws, and shall keep the same in good, safe, clean, attractive and sanitary condition, and in good working order at all times. After control of the Association has been turned over to the Members, there shall be no material alterations of or substantial additions to the Common Areas costing more than $100,000, in the aggregate during any fiscal year unless first approved by a majority of the voting interests of the Members of the Association. However, if work that is reasonably necessary to meet the Association's obligations under the first sentence of this Section 8.3 also constitutes a material alteration or substantial addition, no prior Membership approval is required. The Owners have the right to enforce, by appropriate legal means,

the Association's duty to operate, maintain, repair, replace and insure the Common Areas, including without limitation all improvements placed thereon.

8.4 **Partition, Subdivision and Encumbrance**. Except as hereinafter provided, after legal title to the Common Areas, or any portion thereof, becomes vested in the Association, the Common Areas shall not be abandoned, partitioned, subdivided, alienated, released, transferred, hypothecated, or otherwise encumbered, without first obtaining the approval of not less than a majority of the voting interests. The foregoing shall not be construed to limit the authority of the Declarant or the Association through its Board of Directors to grant such easements over, across and through the Common Areas, as may be necessary for the effective and efficient operation of the facilities or for the general benefit of the Members. Nothing herein shall be construed to prohibit judicial partition of any Lot or Living Unit owned in co-tenancy.

8.5 **Association's Rights and Powers**. No Common Areas shall be used in violation of any rule or regulation or other requirement of the Association established pursuant to the provisions of this Declaration or the Bylaws.

8.6 **Expansion or Modification of Common Areas**. Additions or modifications to the Common Area as may be made if not inconsistent with the applicable governmental permits and regulation and any amendments thereto. The Declarant shall not be obligated, however, to make any additions or modifications. The Declarant further reserves the right to change the configuration or legal description of the Common Areas due to changes in development plans.

9. **ASSESSMENTS**.

9.1 **Budgeting and Allocating Common Expenses**. The Association is hereby authorized to levy Base Assessments against all Lots and Living Units subject to assessment under Section 9.6 to fund the Common Expenses. The Board, in its discretion, may establish the rate of assessment equally against all Lots or Living Units within Babcock National, or the Board may establish different rates based on the type of Lots or Living Unit within a Neighborhood (e.g. single family detached, coach home, condominium unit, commercial unit, etc.), provided that such rate shall be equal for all Neighborhoods of similar product type. In determining the Base Assessment rate per Lot or Living Unit, the Board may consider any assessment income expected to be generated from any additional Lots or Living Units reasonably anticipated to become subject to assessment during the fiscal year. If any proposed budget is disapproved or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined. The Board may revise the budget and adjust the Base Assessment from time to time during the year, subject to the notice requirements set forth in this Declaration, the Bylaws or pursuant to Florida law.

9.2 **Budgeting and Allocating Neighborhood Expenses**. At least 60 days before the beginning of each fiscal year, the Board shall prepare a separate budget covering the estimated Neighborhood expenses, if any, for each Neighborhood on whose behalf Neighborhood expenses are expected to be incurred during the coming year as authorized by this Declaration or any Supplemental Declaration applicable to such Neighborhood. The budget of Neighborhood expenses shall also include any costs for additional services or a higher level of services which the Association and the Neighborhood have agreed upon additional services not otherwise provided for. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses.

The Association is hereby authorized to levy Neighborhood Assessments equally against all Lots or

Living Units in the Neighborhood which are subject to assessment under Section 9.6 to fund Neighborhood expenses incurred by the Association to perform an activity or function which should have, pursuant to the Governing Documents or the governing documents of the Neighborhood Association, been performed by the Neighborhood Association. If the proposed budget for any Neighborhood is disapproved or if the Board fails for any reason to determine the budget for any year, then until such time as a budget is determined, the budget in effect for the immediately preceding year shall continue for the current year. The Board may revise the budget for any Neighborhood and the amount of any Neighborhood Assessment from time to time during the year, subject to the notice requirements set forth in this Declaration, the Bylaws or pursuant to Florida law.

9.3 **Budgeting for Reserves**. The Board may, but shall not be obligated to, periodically prepare a reserve budget for the Common Areas. In the event that the Board elects to fund voluntary, non-statutory reserves under this Section 9.3, the reserve budget shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. Funding for any such reserves shall be funded primarily through the capitalization assessments specified in Section 9.10; provided, however, the Board may, but shall not be obligated to, include a capital assessment in the Common Expense budget adopted pursuant to Section 9.1 to fund reserves. No such reserves shall be established without the consent of the Declarant, and if the Declarant consents, Declarant shall have no obligation to contribute to such reserves. Furthermore, the Declarant shall have no obligation to fund any deficit in reserves under any deficit funding obligations it may have with respect to operating expenses and assessments elsewhere herein.

9.4 **Special Assessments**. In addition to other authorized assessments, the Association may levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment may be levied against the entire Membership, if such Special Assessment is for Common Expenses, or against the Lots or Living Units within any Neighborhood if such Special Assessment is for Neighborhood Expenses. For such time as the Declarant Membership remains in existence, all Special Assessments shall require the affirmative vote or written consent of the Declarant Member. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved.

9.5 **Specific Assessments**. The Association shall have the power to levy Specific Assessments against a particular Lot or Living Unit as follows:

(A) to cover the costs, including overhead and administrative costs, of providing services to Lots or Living Units upon request of an Owner pursuant to any menu of special services which may be offered by the Association. Specific Assessments for special services may be levied in advance of the provision of the requested service; and

(B) to cover costs incurred in bringing the Living Unit into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Owner or occupants of the Living Unit, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the Owner prior written notice and an opportunity for a hearing, in accordance with the By-Laws, before levying any Specific Assessment under this subsection (B).

The Association may also levy a Specific Assessment against the Lots or Living Units within any Neighborhood to reimburse the Association for costs incurred in bringing the Neighborhood into compliance with the provisions of the Governing Documents, provided the

Board gives prior written notice to the Owners representing the Neighborhood before levying any such assessment.

9.6 **Authority to Assess Owners; Time of Payment.** The Declarant hereby establishes and the Association is hereby authorized to levy assessments as provided for in this Section and elsewhere in the Governing Documents. The obligation to pay Base Assessments, Special Assessments, and Neighborhood Assessments shall commence as to each Lot or Living Unit on the day of the first conveyance of the Lot or Living Unit to an Owner other than the Declarant, except that no Lot or Living Unit shall be subject to assessment until a certificate of occupancy or like authorization has been issued by the County as to the Living Unit located on the Lot. The first annual Base Assessment and Neighborhood Assessment, if any, levied on each Lot or Living Unit shall be prorated to the actual date of closing according to the number of days remaining in the fiscal year at the time assessments commence on the Lot or Living Unit.

Assessments shall be paid in such manner and on such dates as the Board may establish, The Board may require advance payment of assessments, including but not limited to Base Assessments, Special Assessments, and Capital Assessments as provided in Section 9.10 of this Declaration, at closing of the transfer of title to a Lot or Living Unit and impose special requirements for Owners with a history of delinquent payment. If the Board so elects, assessments may be paid in two or more installments. Unless the Board otherwise provides, assessments shall be due and payable in advance on the first day of each fiscal year. If any Owner is delinquent in paying any assessments or other charges levied on his Lot or Living Unit, the Board may require the outstanding balance on all assessments to be paid in full immediately.

The Association may, but shall not be obligated to, provide the Association's budgets and notices of assessment for the Base Assessments, Special Assessments, and any Neighborhood Assessments of all Owners within a Neighborhood to its governing Neighborhood Association, if applicable. If so directed by the Association, the Neighborhood Association shall be responsible for billing, collecting, and remitting all amounts due from all Owners in such Neighborhood to the Association in accordance with such procedures as may be established by the Board. Notwithstanding the Association's delegation of billing and collection to the Neighborhood Association, in the event of delinquency, the Association shall reserve all rights and powers of collection as set forth in this Section.

9.7 **Obligation for Assessments.**

9.7.1 **Personal Obligation.** Each Owner, by accepting a deed or entering into a recorded contract of sale for any portion of the Properties, is deemed to covenant and agree to pay all assessments authorized in the Governing Documents. All assessments, together with interest computed from its due date at maximum rate allowed by Florida law (currently 18%) per annum, late fees subject to the limitations of Florida law, costs, fees, and reasonable attorneys' fees, shall be the personal obligation of each Owner and a lien upon each Lot and Living Unit until paid in full. Upon a transfer of title to a Lot or Living Unit, the grantee shall be jointly and severally liable for any assessments and other charges due at the time of conveyance.

Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay Base Assessments and Neighborhood Assessments, if any, on the same basis as during the last year for which an assessment was made, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

No Owner may exempt himself from liability for assessments by non-use of Common Area, abandonment of his Lot or Living Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

The Association shall, upon request, furnish to any Owner liable for any type of assessment a certificate in writing signed by an Association officer setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment which may be relied upon by any person other than the Owner of the Lot or Living Unit requesting such certificate. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

9.7.2 **Declarant's Option to Fund Budget Deficits**. During the Declarant Membership, Declarant may satisfy its obligation for assessments on Lots and Living Units which it owns and are subject to assessment or for which it is contractually obligated to fund a Builder's assessment obligation either by: (a) paying such assessments in the same manner as any other Owner; or (b) not paying such assessments in the same manner as any other Owner and in lieu thereof, paying the difference between (i) the amount of assessments levied on all other Lots and Living Units subject to assessment and all other income of the Association and (ii) the amount of actual expenditures by the Association (excluding any amounts in the budget of Common Expenses for capital and contingency reserves) during the fiscal year, provided nothing contained herein shall obligate the Declarant to pay an amount greater than 100% of the Base Assessment, Special Assessments and Neighborhood Assessments levied on the Lot or Living Unit for which the Declarant is responsible. Any further or additional deficiency shall be funded through a Special Assessment levied against Class A Members. Unless the Declarant otherwise notifies the Board in writing at least 60 days before the beginning of each fiscal year, the Declarant shall be deemed to have elected to continue paying on the same basis as during the immediately preceding fiscal year. Regardless of the Declarant's election, the Declarant's obligation hereunder may be satisfied in the form of cash or by "in kind" contributions of services or materials, or by a combination of these. Any surplus may either be paid to Declarant after the conclusion of the fiscal year or carried forward to the next fiscal year at the sole option of Declarant. There is no limit to the number of years for which a surplus may be accumulated. Any surplus remaining at turnover of the Association shall be paid to Declarant. In conjunction with turnover of the Association, an audit will be conducted to determine the cumulative "due to" or "due from" Declarant for the period Declarant has elected to fund budget deficits. After termination of the Declarant Membership, the Declarant shall pay assessments on its unsold Lots and Living Units in the same manner as any other Owner. Notwithstanding any provision of this Declaration to the contrary, Declarant shall not be assessed and shall have no obligation for any assessments for any land not platted as individual lots owned or created as condominium units by Declarant that may be included within the Properties. Notwithstanding any provision of this Declaration to the contrary, Declarant shall not be assessed and shall have no obligation for any assessments for platted lots that the Declarant owns and will be conveying to other Builders within Babcock National.

9.8. **Lien for Assessments**. The Association shall have a lien against each Lot and Living Unit to secure payment of delinquent assessments, as well as interest, late fees (subject to the limitations of Florida law), and costs of collection (including attorneys' fees). Such lien shall be superior to all other liens, except (a) the liens of all taxes, bonds, assessments, and other levies which by law would be superior, and (b) the lien or charge of any first Mortgage of record (meaning any recorded

Mortgage with first priority over other Mortgages) made in good faith and for value and recorded prior to the date the Association perfects its lien. Such lien, when delinquent, may be enforced by suit, judgment, and foreclosure in the same manner as mortgages on real property are foreclosed under Florida law.

The Association may bid for the Lot or Living Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Lot or Living Unit. While a Lot or Living Unit is owned by the Association following foreclosure: (a) no right to vote shall be exercised on its behalf, (b) no assessment shall be levied on it; and (c) each other Lot and Living Unit shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Lot or Living Unit had it not been acquired by the Association. The Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same.

The record Owner of legal title of each Lot or Living Unit, regardless of how title was acquired, is liable for all assessments or installments thereon coming due while the Owner. Multiple Owners are jointly and severally liable. The liability for assessments may not be avoided or abated by waiver of the use or enjoyment of any Common Area, by abandonment of the Lot or Living Unit for which the assessments are made, or by interruption in the availability of the Lot, Living Unit or Common Area for any reason whatsoever. Except as provided in the following paragraph, whenever title to a Lot or Living Unit is transferred for any reason, the transferee is jointly and severally liable with the transferor for all unpaid assessments against the transferor, without prejudice to any right the transferee may have to recover from the transferor any amounts paid by the transferee.

A first mortgagee that acquires title to a Lot or Living Unit through mortgage foreclosure, or acceptance of a deed in lieu of foreclosure in which the Association has been named as a defendant in the initial complaint, shall be liable for assessments levied against such Lot or Living Unit in the same manner as provided in the preceding paragraph unless the mortgagee is entitled to limited liability for delinquent assessments as provided in Chapter 720, Fla. Stat., as such may be amended by time to time. The foregoing sentence pertaining to entitlement to limited liability shall not be construed to negate the authority of a court to order a mortgagee to pay a surcharge pursuant to 11 USC Section 506(c), or grant other relief that may be found to be applicable under federal or state law.

9.9. **Exempt Property**. The following property shall be exempt from payment of Base Assessments, Neighborhood Assessments, and Special Assessments:

(A) All Common Areas;

(B) Any property conveyed, sold or dedicated to and accepted by any governmental authority or public utility. Such property shall also be exempt from payment of ISD Levies;

(C) Neighborhood Common Area;

(D) The Golf Club Common Areas; and

(E) ISD Properties.

In addition, the Declarant and/or the Association shall have the right but not the obligation, to grant exemptions to certain Persons qualifying for tax exempt status under Section 501(c) of the Internal Revenue Code so long as such Persons own property subject to this Declaration for purposes listed in Section 501(c).

9.10. **Capitalization of Association**. Upon acquisition of record title to a Lot or Living Unit by the first Owner thereof other than a Declarant and upon each subsequent transfer or conveyance of any type whatsoever, a contribution shall be made by or on behalf of the purchaser to the Association in an amount established by resolution of the Board of Directors. Said funds may be used for any purpose whatsoever in the discretion of the Board, including but not limited to, using said funds to fund or pay any operating deficit or any operating expense regardless whether or not the Association is controlled by the Declarant at the time the funds are used to pay, cover, or defray any expense of the Association. This amount shall be in addition to, not in lieu of, the annual Base Assessment and shall not be considered an advance payment of such assessment. This amount shall be paid to the Association by separate check upon the closing or other settlement of the transfer or conveyance of the Lot or Living Unit. Any unpaid capitalization assessment shall constitute a lien in favor of the Association against the Lot or Living Unit as provided in this Section.

Notwithstanding the foregoing, a capitalization assessment shall not be levied in the following instances:

(A) Conveyance of a Lot or Living Unit by an Owner to a trust, partnership, corporation, or other entity so long as such entity is and remains wholly-owned by the Owner or by such Owner and the Owner's spouse and/or children; provided, however, if the immediately preceding conveyance of the Lot or Living Unit was exempted from payment of the capitalization assessment pursuant to this subsection, then this subsection shall not apply and the Lot or Living Unit shall be subject to the capitalization assessment;

(B) Conveyance of a Lot or Living Unit by an Owner or such Owner's estate to the Owner's spouse and/or children; provided, however, if the immediately preceding conveyance of the Lot or Living Unit was exempted from payment of the capitalization assessment pursuant to this subsection, then this subsection shall not apply and the Unit shall be subject to the capitalization assessment; and

(C) Conveyance of an undivided interest in a Lot or Living Unit by the Owner thereof to any then existing co-Owner(s) of such Lot or Living Unit.

9.11 **Initial Capital Assessments.** The first purchaser of each Lot or Living Unit at the time of closing of the conveyance from the Declarant to the purchaser shall pay to the Declarant an initial capital assessment. The funds derived from capital assessments shall be used at the discretion of the Declarant for any purpose, including but not limited to, future and existing capital improvements, operating expenses, support costs and start-up costs. The Declarant may waive this requirement for some Lots and Living Units, if the first purchaser is a Builder, and the Builder becomes unconditionally obligated to collect and pay the capital assessments upon the subsequent sale of each Lot and Living Unit to an end purchaser. Unless subsequently adjusted by the Declarant, the amount of the initial capital assessment shall be initially set as $1,500.00.

9.12 **Resale Capital Assessments .** In addition to the Initial Capital Assessments, the Association may levy a Resale Capital Assessment upon the transferee in any conveyance of a Lot or Living Unit by a

Member. The amount of the Resale Capital Assessment and the manner of payment shall be as determined by resolution of the Board from time to time; provided, however, all Lots or Living Units similarly situated shall be assessed at a uniform rate. Unless subsequently adjusted by the Board, the amount of the Resale Capital Assessment shall be initially set as $1,500.00. The due date shall be the date of the closing of the conveyance. Payment of the Resale Capital Assessment shall be the legal obligation of the transferee. For purposes of this Section, the term "conveyance" shall mean the transfer of record legal title to a Lot or Living Unit by deed or other authorized means of conveyance, with or without valuable consideration, and shall also refer to a transfer of possession and beneficial Ownership by means of an agreement for deed. It does not refer to a transfer of title resulting from foreclosure of a lien, or the death of the transferee, nor to a transfer of title to a Director or the transferor's spouse without changing occupancy, solely for estate planning or tax reasons. Resale capital assessments shall be considered an assessment and can be collected as such in accordance with the provisions of this Section 9.

9.13 **Exempt Transfers**. Notwithstanding the above, no resale capital assessment shall be levied upon transfer of title to a Living Unit:

(A) by the Declarant to the initial Owner;

(B) by an Owner to a trust, partnership, corporation, or other entity so long as such entity is and remains wholly-owned by the Owner or by such Owner and the Owner's spouse and/or children; provided, however, if the immediately preceding transfer of the Living Unit was exempted from payment of the transfer fee pursuant to this subsection, then this subsection shall not apply and the Living Unit shall be subject to the transfer fee;

(C) by an Owner or such Owner's estate to the Owner's spouse and/or children; provided, however, if the immediately preceding conveyance of the Living Unit was exempted from payment of the transfer fee pursuant to this subsection, then this subsection shall not apply and the Living Unit shall be subject to the transfer fee; and

(D) of an undivided interest in a Living Unit by the Owner thereof to any then existing co-Owner(s) of such Living Unit; or

(E) to an institutional lender pursuant to a Mortgage or upon foreclosure of a Mortgage.

9.14 **Collection of Assessments**. If the Owner of any Lot fails to pay any charge or assessment, or installment thereof, within ten (10) days after the due date, the Association shall have any or all of the following remedies, to the extent permitted by law, which remedies are cumulative and are not in lieu of, but are in addition to, all other remedies available to the Association:

(A) To charge interest on the unpaid amount, from the date payment is due until paid, at the highest rate allowed by law, as well as to impose a late payment fee of the greater of $25.00 or five percent (5%) of the delinquent amount. This fee shall not be considered a "fine" as provided for in Section 10.3 below, and the procedural requirements for levying fines shall not apply to the imposition of late payment fees.

(B) To accelerate the due date for any and all remaining unpaid installments of the annual assessments against the Owner's Lot for the fiscal year.

(C) To file an action in equity to foreclose its lien. Unless otherwise required by law, the lien may be foreclosed by an action in the name of the Association in the same manner as provided in Section 720.3085 of the Florida Statutes, as it may be amended from time to time.

(D) To bring an action at law for a money judgment against the Owner, without waiving any lien foreclosure rights. The Association may refuse to accept any tendered payment that bears a restrictive endorsement, and such will be the equivalent of no payment. Payment by check is not deemed received until the check has cleared.

9.15 **Declarant Advances.** Declarant may, in its sole and unbridled discretion, advance and loan monies or other property in lieu of monies to the Association for any purpose including providing working capital. Such advances shall be considered a loan by the Declarant to the Association and may be evidenced by a promissory note executed by the Association in favor of the Declarant. The Association, by and through its officers, directors and agents are hereby empowered to, and shall have the authority to, execute such promissory notes in favor of, and on behalf of, the Association and obligate the Association to repay all funds, monies or property so advanced. Even if the advances are not evidenced by promissory notes, the amounts so advanced shall be considered loans which may be due upon demand before or after turnover.

9.16 **Assessments under Residential Charter.** The Property is subject to the Residential Charter and each Lot is subject to the terms and provisions of the Residential Charter. Each Owner, by virtue of taking title to a Lot, shall become a member of the Community Association and agrees to pay all assessments levied from time to time by the Community Association. Each Owner of a Lot shall be obligated to pay the assessments at the times and in the manner provided for in the Residential Charter to the Community Association.

10. COVENANT AND RULE ENFORCEMENT.

10.1 **Enforcement Action**. Judicial enforcement of these covenants and restrictions shall be by a proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

10.2 **Self-Help Remedies**. Violation of any conditions or restrictions or breach of any covenant herein contained or in any of the Governing Documents shall also give the Declarant, its successors and assigns, and/or the Association and its authorized agent or representative, in addition to all other remedies, the right to enter upon the land where such violation or breach exists and summarily abate and remove, at the expense of the Owner of the land, any construction or other violation that may be or exist thereon. The Declarant, its successors and assigns and/or the Association and its authorized agents shall not thereby become liable in any manner for trespass, abatement or removal.

10.3 **Suspension of Common Area Use Rights; Fines**. The Association may suspend, for a reasonable period of time, the rights of a Member or a Member's tenants, guests, or invitees, or both, to use common areas and facilities, and may levy reasonable fines, not to exceed $1,000 per violation, per day, up to $10,000 for a continuing violation, against any Member or any tenant, guest, or invitee.

(A) A fine or suspension may not be imposed without notice of at least fourteen (14) days

to the person sought to be fined or suspended and an opportunity for a hearing before a committee of at least three (3) Members appointed by the Board who are not officers, Directors, or employees of the Association, or the spouse, parent, child, brother, or sister of an officer, Director, or employee. If the committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed.

(B) The requirements of this subsection do not apply to the imposition of suspensions or fines upon any Member because of the failure of the Member to pay assessments or other monetary obligations when due.

(C) Suspension of Common Area use rights shall not impair the right of an Owner or tenant of a Lot or Living Unit to have vehicular and pedestrian ingress to and egress from the Lot, including, but not limited to, the right to park.

(D) Collection of Fines. A fine shall be treated as a special charge due to the Association ten (10) days after written notice from the Association to the Owner of the imposition of the fine. If not paid by the due date, the fine shall accrue interest at the highest rate allowed by law, and may be the subject of a late payment fee. A fine of One Thousand Dollars ($1,000.00) or more may become a lien against the Lot or Living Unit.

(E) Application. All monies received from fines shall become part of the common surplus.

(F) Nonexclusive Remedy. Fines shall not be construed to be an exclusive remedy, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled; however, any fine paid by the offending Owner shall be deducted from or offset against any damages that the Association may otherwise be entitled to recover at law from such Owner.

10.4 **Enforcement of Covenants by Community Association.** If the Association fails to enforce any provisions of the Declaration or to perform any of its duties and responsibilities thereunder, then the Community Association shall have the right and all necessary easements to perform any of the responsibilities of the Association, if the Association fails to do so within fourteen (14) days after written receipt from the Community Association of the need for such action. If the Association has failed to correct or perform its duties and responsibilities following receipt of such notice, then the Community Association shall have the right to enforce the Declaration and the Community Development Standards and Design Guidelines by all means available to the Association under the Declaration. The Community Association shall have the right to recover any reasonable costs incurred in exercising its rights under this Section 10.4 from the Association and the right to exercise the Association's assessment power and lien rights under the Declaration to recover from each of the Association's Members its share of any such costs, if the Association fails to reimburse the Community Association within thirty (30) days after receipt of an invoice for same.

11. NEIGHBORHOOD ASSOCIATIONS.

11.1 **Enforcement of Covenants by Declarant.** As long as there is a Declarant Member, if any

Neighborhood Association fails to enforce any provisions of its Neighborhood Covenants, or to perform any of its duties and responsibilities thereunder, Declarant may, in its sole discretion, enforce such Neighborhood Covenants, and perform such duties and responsibilities, including any and all maintenance provisions, and shall be entitled to recover the costs and expenses (including attorney's fees) of such enforcement or maintenance pursuant to the provisions of this Declaration.

11.2 **Entry Rights.** Each Neighborhood Association and each Owner shall permit Declarant, or any authorized agent or employee of Declarant, to enter upon a Neighborhood Common Area or the Owner's Lot at reasonable times, to carry out the provisions of this Declaration, and the entry shall not constitute a trespass. This provision shall not be construed as authorizing entry by Declarant into the interior of any Living Unit that is owned by a person other than Declarant, except in emergency.

11.3 **Maintenance of Neighborhood Common Areas.** The Association may contract with any Neighborhood Association to provide for the maintenance and management of its Neighborhood Common Areas.

11.4 **Neighborhood Covenants**. The documents establishing or governing a Neighborhood Association shall not be inconsistent with this Declaration or its recorded exhibits, except they may establish restrictions on subjects related to the use and occupancy of the property within the Neighborhood, such as pets, parking, architectural controls, leasing and guest occupancy, that are more restrictive than those set forth in the Governing Documents.

12. **BABCOCK RANCH COMMUNITY INDEPENDENT SPECIAL DISTRICT.**

12.1 **Establishment: Powers**. The Community lies within the boundaries of the ISD. The ISD may provide and operate certain infrastructure facilities and community services and has the authority to levy and collect fees, rates, charges, taxes and assessments ("ISD Levies") to pay for, finance and provide such facilities and services. These ISD Levies pay for the principal and debt service, acquisition, construction, operation, and/or maintenance costs of certain public facilities within the ISD. These ISD Levies are in addition to county and all other taxes and assessments provided for by law. These ISD Levies will either appear on the annual real estate tax bill for each property Owner in which case they will be payable directly to the Charlotte County Tax Collector or they will appear on a separate bill issued to each Owner by the ISD. All ISD Levies constitute a lien upon those portions of the Property owned by any Owner. The ISD may be responsible for, without limitation, master stormwater management (drainage control), the surface water management system, water and sewer utilities, landscaping and wetland mitigation. Owner acknowledges and agrees that facilities and services may be added to or removed from ISD's responsibilities in Declarant and/or ISD's sole and absolute discretion, which in all cases shall be subject to the prior approval of the ISD.

12.2 **Taxes and Assessments**.

THE BABCOCK RANCH COMMUNITY INDEPENDENT SPECIAL DISTRICT IS A SPECIAL TAXING DISTRICT WITH AUTHORITY TO FUND ITS OPERATIONS BY IMPOSING TAXES OR ASSESSMENTS, OR BOTH, ON THE PROPERTY WITHIN THE BABCOCK RANCH COMMUNITY INDEPENDENT SPECIAL DISTRCT. THE TAXES AND ASSESSMENTS PAY FOR THE CONSTRUCTION, OPERATION, AND MAINTENANCE

COSTS OF CERTAIN PUBLIC FACILITIES OF THE BABCOCK RANCH COMMUNITY INDEPENDENT SPECIAL DISTRICT, AND ARE SET ANNUALLY BY THE BOARD OF SUPERVISORS OF THE BABCOCK RANCH COMMUNITY INDEPENDENT SPECIAL DISTRICT. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW. THESE TAXES AND ASSESSMENTS WILL EITHER APPEAR ON THE ANNUAL REAL ESTATE TAX BILL FOR EACH OWNER AS A SEPARATE TAX AND WILL BE PAYABLE DIRECTLY TO THE CHARLOTTE COUNTY TAX COLLECTOR, OR WILL APPEAR ON A SEPARATE BILL ISSUED TO EACH OWNER BY THE BABCOCK RANCH COMMUNITY INDEPENDENT SPECIAL DISTRICT. THE TAXES AND ASSESSMENTS OF THE BABCOCK RANCH COMMUNITY INDEPENDENT SPECIAL DISTRICT CONSTITUTE A LIEN UPON THE PROPERTY THAT IS WITHIN THE BABCOCK RANCH COMMUNITY INDEPENDENT SPECIAL DISTRICT.

BY ACCEPTANCE OF A DEED TO A LIVING UNIT AND/OR LOT, OR ANY INTEREST THEREIN, EACH OWNER HEREBY AGREES (I) TO PAY ANY AND ALL FEES, CHARGES, TAXES AND ASSESSMENTS IMPOSED BY THE BABCOCK RANCH COMMUNITY INDEPENDENT SPECIAL DISTRICT WITH RESPECT TO THE OWNER'S UNIT, (II) TO ABIDE BY ALL OF THE BABCOCK RANCH COMMUNITY INDEPENDENT SPECIAL DISTRICT'S REGULATIONS, AS THEY MAY BE AMENDED FROM TIME TO TIME, AND (III) TO DISCLOSE IN WRITING TO ANY SUBSEQUENT PURCHASER OF THE OWNER'S UNIT THAT SUCH PROPERTY IS WITHIN THE BABCOCK RANCH COMMUNITY INDEPENDENT SPECIAL DISTRICT, THE FUNCTION OF THE BABCOCK RANCH COMMUNITY INDEPENDENT SPECIAL DISTRICT AND THAT SUCH PURCHASER SHALL BE SUBJECT TO BABCOCK RANCH COMMUNITY INDEPENDENT SPECIAL DISTRICT ASSESSMENTS.

12.3 **ISD Property Becoming Common Area**. If Declarant determines that it is in the best interest of the Properties for any of the ISD Property to become Common Area, and if Declarant, the Association and the ISD all determine that such property should be conveyed to the Association, the ISD shall convey to the Association fee simple title to those portions of the ISD Property which are to become Common Area. However, any such areas conveyed to the Association may still include use rights held by the general public.

12.4 **Common Area Becoming ISD Property**. If Declarant determines, subject to any governmental requirements and the prior approval and acceptance by the ISD, that it is in the best interests of the Properties for any portion(s) of the Common Area to be owned and/or administered by the ISD, rather than by the Association, such portions of the Common Area shall cease to be Common Area and shall thereafter be considered ISD Property. When a part of the Property becomes ISD Property, the expenses of administration and maintenance shall cease to be Association expenses. If required by law, or if deemed by Declarant to be in the best interests of the Properties, subject to the prior approval and acceptance by the ISD, the Association shall convey to the ISD the legal title to any Common Area which becomes ISD Property.

13. **ENVIRONMENTAL AREAS AND ISSUES**.

13.1 **Assignment of Responsibilities**. Within and adjacent to Babcock National there are various types of property such as wetlands, drainage areas, conservation areas, open spaces and buffers upon which restrictions, monitoring requirements, or other obligations may be imposed by local, state, federal or other governmental agencies. The Declarant may from time to time and at any time deed, convey, transfer, or assign any or all of the foregoing areas or responsibilities to the Association and/or the ISD, which shall accept, own, maintain, and preserve the foregoing areas in accordance with the requirements of such agencies. All such areas that are conveyed, transferred, assigned to the Association, or otherwise placed within the Association's responsibility, shall become a portion of the Common Area, and the ownership, operation, and maintenance thereof shall be a Common Expense. Alternatively, the Declarant may deed, convey, transfer, or assign any or all of the foregoing areas or responsibilities to another community association, tax-exempt organization, independent special district or similar type entity with which the Association shall cooperate, perform the responsibilities and obligations as set forth therein, and share in the costs.

Any of the properties and responsibilities within, adjacent to, or benefiting Babcock National such as wetlands, drainage areas, conservation areas, open spaces, signage, landscaping, and buffers may be included within the jurisdiction of the ISD. The Association shall cooperate with and perform the responsibilities delegated to it by the ISD.

13.2 **Surface Water Management System**. All surface water management systems (including, ditches, canals, lakes, and water retention ponds) within Babcock National which are accepted by or constructed by the ISD, excluding those areas (if any) normally maintained by the county, will be the ultimate responsibility of the ISD, which may enter any Lot, tract, or Neighborhood Common Area and make whatever alterations, improvements or repairs that are deemed necessary to provide or restore property water management. The cost shall be the expense of the ISD. Nothing shall be construed to allow any person to construct any new water management facility, or to alter any storm management systems or conservation areas, without first obtaining necessary permits from all governmental agencies having jurisdiction, including the ISD.

(A) No structure of any kind shall be constructed or erected, nor shall an Owner in any way change, alter, impede, revise or otherwise interfere with the flow and the volume of water in any portion of the Surface Water Management System reserved for, or intended by Declarant to be reserved for, drainage ways, sluiceways or for the accumulation of runoff waters, as reflected in any permits therefor, or plat or instrument of record, without the specific written permission of the ISD and the Declarant.

(B) An Owner or Neighborhood Association shall in no way deny or prevent ingress and egress by Declarant, the Association, the South Florida Water Management District, or the ISD to such Surface Water Management System and drainage areas for maintenance or landscape purposes. The right of ingress and egress, and easements therefor are hereby specifically reserved and created in favor of the Declarant, the Association, the South Florida Water Management District, the ISD, or any appropriate governmental or quasi-governmental agency that may reasonably require such ingress and egress.

(C) No Lot or Living Unit shall be increased in size by filling in any water retention or drainage areas on which it abuts. Owners shall not fill, dike, rip-rap, block, divert or

change the established Surface Water Management System without the prior written consent of the Association, the South Florida Water Management District, the ISD, and the Declarant (so long as Declarant owns any portion of the Properties).

(D) Water management for any Lot, Living Unit or Neighborhood shall be provided in accordance with the overall Surface Water Management System for the Properties. Surface water drainage and management including but not limited to, stormwater treatment and storage capacity, shall conform to the overall Surface Water Management System requirements and permits for the Properties and meet with the approval of the Declarant, the Association, and the ISD.

(E) Lakes and spillways in Babcock National are not visual amenities to the Properties, but are part of a functioning water management system. As such, the water levels in the lakes are not guaranteed, and will fluctuate from time to time.

(F) The use of any lake or wetland within Babcock National is managed by the Association or the ISD. No Owner may use the lakes within any part of the Properties in any manner except as may be permitted from time to time by the Association or the ISD at the Association's or the ISD's sole and absolute discretion. Owners shall cooperate in maintaining the same in a clean, attractive, pristine manner in order to be aesthetically pleasing.

(G) No boats or other watercraft powered by gasoline or diesel fuel shall be permitted on any body of water within Properties except as may be required by the Association, the ISD, or the Declarant. Boat usage is expressly limited to the maintenance of the Surface Water Management System.

(H) The use of pesticides in any lake or wetland is prohibited, excepting only any such use by the Association, the ISD, and the Declarant.

(I) No wells may be drilled, dug or installed within any Lot or Living Unit, Common Area or common element of any condominium except by the Declarant or with the Declarant's written consent.

The South Florida Water Management District shall have the right to take enforcement actions, including civil actions for an injunction or penalty, against the violating party in order to compel the correction of any outstanding violations or problems with the surface water management system or conservation or mitigation areas. Each Owner hereby agrees to indemnify and hold Declarant, the Association, the ISD, and the Golf Club harmless from any and all claims, causes of action, injuries, and damages of any kind or nature, including without limitation actual attorney and paralegal fees, court costs, and other disbursements, including attorney and paralegal fees incurred on appeal, incurred by Declarant, the ISD, the Association, or the Golf Club as a result of such Owner's use or misuse of any of the lakes or other bodies of water regardless of the type within the Properties.

13.3 **Conservation Areas**.

THE CONSERVATION AREAS SHALL BE THE PERPETUAL RESPONSIBILITY OF THE ISD OR THE ASSOCIATION AND MAY IN NO WAY BE ALTERED FROM THEIR NATURAL OR PERMITTED STATE. ACTIVITIES PROHIBITED WITHIN THE CONSERVATION AREAS INCLUDE, BUT ARE NOT LIMITED TO, CONSTRUCTION OR PLACING OF BUILDINGS ON OR ABOVE THE GROUND; DUMPING OR PLACING SOIL OR OTHER SUBSTANCES SUCH AS TRASH; REMOVAL OR DESTRUCTION OF TREES, SHRUBS, OR OTHER VEGETATION – WITH THE EXCEPTION OF EXOTIC/NUISANCE VEGETATION REMOVAL; EXCAVATION, DREDGING OR REMOVAL OF SOIL MATERIAL; DIKING OR FENCING; ANY OTHER ACTIVITIES DETRIMENTAL TO DRAINAGE; FLOOD CONTROL, WATER CONSERVATION, EROSION CONTROL, OR FISH AND WILDLIFE HABITAT CONSERVATION OR PRESERVATION.

Any portions of the Common Area designated as a conservation area shall be maintained and preserved by the ISD or Association in accordance with the rules and regulations of Charlotte County, Florida as well as the South Florida Water Management District and any recorded conservation easement. The Association shall not, and it shall not allow any person to, undertake or perform any activity or improvements to a conservation area, or remove any native vegetation, without the prior approval of the foregoing agencies. No excavation, placement of debris, dumping, construction, or other activity shall be permitted in a conservation area.

13.4 **Open Space and Buffers.** Any property conveyed or dedicated to the Association or the ISD, which is designated as open space, landscape buffer, preserve area, or conservation area on any plat, permit, or other document recorded in the Public Records, shall be owned and maintained by the Association or the ISD in a natural open condition. The Association, the ISD, or any Owner shall not do anything that diminishes or destroys the open space, buffers, preserve area or conservation areas, and such areas shall not be developed for any purpose except that which improves or promotes the use and enjoyment of such areas as open space.

Any landscape buffer installed and maintained in the Common Area under requirements of Charlotte County ordinances, or the requirements of any other governmental entity, and which is located in an easement area shall be permanently maintained by the Association. In the event that any portion of the landscaping consisting of trees and shrubs in such easement areas are removed, the Association shall replace the trees and shrubs with like size and species as a Common Expense of the Association and without expense to Charlotte County, Florida or such other governmental entity with jurisdiction over the buffer.

13.5 **Effluent Disposal and Water Supply.** By the act of purchasing or occupying a Lot or Living Unit within the Properties, all Owners understand and irrevocably consent to the possibility of irrigation of the Common Area and other areas within the Properties with treated effluent, provided that the effluent emanates from an approved treatment plant with a current operating permit from the State of Florida, Department of Environmental Protection, or other such agency with jurisdiction.

All Lots, Living Units and Neighborhoods within the Properties may be equipped with dual water lines, one of which shall be designated to utilize non-potable water. All underground irrigation systems must be connected to the non-potable water line and all spigots on the exterior portion of a structure shall be connected to the potable water line. OWNERS ARE HEREBY ADVISED THAT THE EFFLUENT

AND NON-POTABLE WATER EMANATING FROM THE NON-POTABLE WATER SYSTEMS THROUGHOUT THE PROPERTIES MAY NOT BE SAFE OR APPROVED FOR HUMAN OR ANIMAL CONSUMPTION. ONLY THE POTABLE WATER AVAILABLE AT THE PROPERTIES SHALL BE CONSUMED. Each Owner and Neighborhood Association shall be required to connect the water lines on his Lot, Living Unit or Neighborhood Common Area to the lines of the utility provider(s) providing service within the Properties. The Declarant, its designees, successors or assigns shall have the exclusive right to develop and utilize the ground and surface water resources of the Properties for any legal purpose, including the distribution and use of such water within and beyond the Properties. The conveyance of any Lot or Living Unit to an Owner or parcel to a Builder by Declarant does not include the right to develop or utilize the ground or surface water resources within such Lot or Living Unit or parcel or the right to use or extract any of the subsurface oil, gas, or minerals within such Lot, Living Unit or parcel.

13.6 **Environmental Permits and Reporting.** The Association or the ISD shall be responsible for monitoring, maintaining, repairing, reporting and performing obligations including providing evidence of financial assurances for the performance of said obligations arising out of any environmental permits as may be designated by Declarant from time to time. Declarant may notify the Association and/or the ISD in writing of the applicable environmental permit along with a copy thereof or summary of the monitoring, maintenance, repair, reporting or other performance obligations. An Owner shall in no way deny or prevent ingress and egress by the Declarant, the Association, or ISD to areas necessary for the performance of such obligations arising under such environmental permits. The right of ingress and egress, and easements therefor, are hereby specifically reserved and created in favor of the Association and the ISD, any appropriate governmental or quasi-governmental agency that may reasonably require such ingress and egress for purposes related to any environmental permits, and Declarant for so long as Declarant owns any Property for development and sale in the ordinary course of business.

14. INSURANCE.

14.1 **Duty to Insure and to Reconstruct**. Each Owner and/or Neighborhood Association, as applicable, shall at all times maintain property insurance on his Living Unit and all other insurable improvements in an amount equal to the full replacement cost thereof. If any Living Unit or other improvements located on any Lot is destroyed or damaged as a result of fire, windstorm, flood, tornado, hurricane or other casualty, the Owner of such improvements shall cause repair or replacement' to be commenced within six (6) months from the date that such damage or destruction occurred, and shall complete the repair or replacement within nine (9) months thereafter. All such repairs or replacements must restore the improvements to substantially their original character, design and appearance, and shall utilize and conform with the original foundation and appearance of the original improvements, except as otherwise approved by the ARC.

14.2 **Failure to Reconstruct**. If the Owner of any Lot or Living fails to commence or complete construction to repair or replace any damaged or destroyed improvements within the time periods provided for in Section 14.1 above, the Association shall give written notice to the Owner of his default. If the Owner has not notified the Association of satisfactory arrangements to meet his obligations within thirty (30) days after the Association mailed such notice, the Association shall be deemed to have been granted the right by the Owner, as such Owner's attorney-in-fact, to remove all debris and damaged improvements, or to commence and/or complete the repairs sufficient to substantially restore the

improvements to their original condition, according to the plans and specifications of the original improvements. If the Association exercises the rights afforded to it by this Section, which shall be in the sole discretion of the Board of Directors, the Owner of the Lot or Living Unit shall be deemed, to have assigned to the Association any right he may have to insurance proceeds that may be available because of the damage or destruction of the improvements. The Association shall have the right to recover from the Owner any costs not paid by insurance, and shall have a lien on the Lot and Living Unit to secure payment.

14.3 **Failure to Insure; Association as Additional Insured**. For the purpose of this Section 14, each Owner of a Lot or Living Unit within Babcock National agrees that the Association shall be an additional insured under any contract of property insurance and/or flood insurance relating to his Lot and improvements constructed thereon. Further, the Association may require that all such policies be in an amount sufficient to finance the repair or replacement of the improvements, taking into account local construction costs and property values as they may, from time to time exist. The Association has the right to require each Owner to produce proof of insurance. If an Owner fails or refuses to maintain such insurance coverage deemed reasonably necessary by the Association, or if the Owner allows the required insurance coverage to lapse, or for some other reason, causes the same to become ineffective, the Association may but is not obligated to, purchase whatever coverage it deems reasonably necessary for the Association's benefit. The costs incurred by the Association in procuring insurance shall become due and payable by the Owner in all respects, together with interest, reasonable attorney's fees and costs of collection, immediately upon the Association notifying the Owner, in writing, that it has procured such insurance, and the costs thereof.

14.4 **Association's Right of Entry**. For the purpose of performing the duties authorized by this Section 14, the Association, through its duly authorized agents and employees, shall have the right, after reasonable notice to the Owner, to enter upon the Lot at reasonable hours.

14.5 **Association Insurance; Duty and Authority to Obtain.** The Board of Directors shall obtain and keep in force at all times the insurance coverage which it is required to carry, and may obtain and keep in force any or all of such other or additional insurance coverage as it may deem necessary. The premiums shall be a common expense. The name of the insured shall be the Association as agent for the Owners without naming them, and their mortgagees.

14.6 **Required Coverage**. The Association shall maintain adequate liability insurance and casualty insurance covering all buildings and other insurable improvements (if any) within the Common Areas, with coverage equal to the maximum insurable replacement value thereof, as determined annually by the Board of Directors; such insurance to afford the following protection:

(A) Property. Loss or damage by fire, extended coverage (including windstorm) vandalism, and malicious mischief, and other hazards covered by what is commonly referred to as an "all risk" property contract.

(B) Liability. Premises and operations liability for bodily injury and property damage in such limits of protection and with such coverage as shall be required by the Board of Directors, with cross liability endorsement to cover liabilities of the Owners as a group to any single Owner.

(C) Automobile. Automobile liability for bodily injury and property damage for owned and/or non-owned motor vehicles, in such limits of protection and with such coverage as shall be required by the Board of Directors.

(D) Fidelity Bonding. Adequate fidelity bond coverage for all individuals having control of or access to Association funds.

In addition, the Association shall, if so specified in a Supplemental Declaration applicable to any Neighborhood, obtain and maintain property insurance on the insurable improvements within such Neighborhood. Any such policies shall provide for a certificate of insurance to be furnished upon request to the Owner of each Living Unit insured.

Premiums for all insurance on the Common Areas or Neighborhood Common Areas shall be Common Expenses, except that premiums for property insurance on Living Units within a Neighborhood shall be a Neighborhood Expense

(A) Flood insurance.

(B) Broad Form Comprehensive General Liability Endorsement.

(C) Directors and Officers Liability.

(D) Medical Payments.

14.7 **Description of Coverage.** A detailed summary of the coverage included in the Association's policies shall be available for each Owner upon request. All Association insurance policies shall be available for inspection by Owners upon request.

14.8 **Waiver of Subrogation**. If available and where applicable, the Board of Directors shall endeavor to obtain insurance policies which provide that the insurer waives its right to subrogate as to any claim against Owners, the Association, or their respective servants, agents or guests, except for any claim based primarily upon gross negligence evidencing reckless, willful or wanton disregard for life or property.

14.9 **Insurance Proceeds.** All insurance policies purchased by the Association shall be for the benefit of the Association, and all proceeds shall be payable to the Association.

14.10 **Distribution of Proceeds.** Proceeds of insurance policies received by the Association shall be used to defray the cost of repair or reconstruction. Any proceeds remaining after defraying costs shall become part of the Association's common surplus.

14.11 **Association as Agent.** The Association is hereby irrevocably appointed agent for each Owner to adjust all claims arising under insurance policies purchased by the Association for damage or loss to the Living Units.

14.12 **Reconstruction of Common Areas.** Damaged improvements on the Common Area shall be

repaired or reconstructed unless the Declarant Member, if any, votes not to repair or reconstruct or after the period of the Declarant Membership the Neighborhood Representatives representing at least 75% of the total Class "A" votes in the Association vote not to repair or reconstruct. Except as otherwise provided in any written agreement between Declarant and Declarant's Mortgagee, no Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed. If a decision is made not to restore the damaged improvements, and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition. Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by the Association for the benefit of its Members and placed in a capital improvements account. This is a covenant for the benefit of Mortgagees and may be enforced by the Mortgagee of any affected Lot or Living Unit. If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Membership, levy Special Assessments to cover the shortfall.

15. **GOLF CLUB**.

15.1 **Golf Club**. All of Babcock National shall be subject to the following:

(A) Golf Club. No Owner of any of the Properties shall have any right, by virtue of Ownership of any parcel within Babcock National, whether or not contiguous to the Golf Club's golf course, of access, entry, or other use of the Golf Club Facilities. While Babcock National Owners shall have the right to quiet enjoyment to their property, there shall be no activity on any parcels that are contiguous to the Golf Club Facilities or any other portion of the Babcock National located within a distance of one hundred (100) feet from the boundary of the Golf Club Facilities that unreasonably disturbs play or the enjoyment of the Golf Club Facilities by Golf Members and guests thereof, including, without limitation, undue noise, unsightly trash and debris, or any other noxious or offensive activity. There shall be no fencing or other obstructions on the remainder of the Babcock National within a distance of ten (10) feet from the boundary of the Golf Club Facilities without the prior written permission of the management of the Golf Club and the ARC to be established in connection with the Babcock National. There shall be no fencing around or abutting the boundary of the Golf Club, except for temporary fencing erected during tournaments or for a limited time during any construction activity at the Golf Club.

(B) Ownership of pets by Babcock National Owners shall be in compliance with all local laws and regulations and such other rules as may be promulgated by the Association to be established in connection with Babcock National. Such rules shall include, but not be limited to, a requirement that all dogs or other pets be kept on a leash whenever such pets are not on the Owner's property and that such pets be kept off the Golf Club grounds, including the golf course at all times.

15.2 **Easement for Errant Golf Balls and Overspray**.

(A) All of the Lots, Living Units, Common Areas or Neighborhood Common Areas

adjacent to the Golf Club Facilities shall be burdened with an easement permitting golf balls unintentionally to come upon and to fly over such land and for golfers, at reasonable times and in a reasonable manner, to come upon the land to retrieve errant golf balls; provided, however, if any of the land is fenced or otherwise secured, the golfer shall seek the Owner's permission before entry and nothing herein shall give any person the right to enter any dwelling, building or other structure on such property to retrieve golf balls; and provided further, that nothing herein shall permit a golfer to strike a golf ball from any land outside the Golf Club Facilities. The existence of this easement shall not relieve golfers striking the errant golf balls of liability caused by any such errant golf balls.

(B) The management of the Golf Club, its agents, successors and assigns, shall at all times have a right and non-exclusive easement of access and use over those portions of all Common Areas reasonably necessary to the operation, maintenance, repair and replacement of the Golf Club.

(C)The portion of the Babcock National immediately adjacent to the Golf Club Facilities is hereby burdened with a non-exclusive easement in favor of the Golf Club for overspray of water from the irrigation system serving the Golf Club Facilities, from the spraying of fertilizer, pesticides and other chemicals used at the Golf Club Facilities and for the incursion onto that portion of Babcock National by maintenance and other vehicles performing work on the Golf Club Facilities.

(D)The management of the Golf Club, its agents, successors and assigns, shall have a perpetual, exclusive easement over the Babcock National for the purpose of retrieving golf balls from bodies of water within Common Areas lying reasonably within range of golf balls hit from the Golf Club Facilities. Under no circumstances shall the management of the Golf Club, any Member or partner thereof or any affiliate of any such Member or partner, or their respective employees, shareholders, Members, partners, officers, directors or agents or any architect, builder, land planner or contractor hired or retained by the Golf Club, in their capacities as such, be held liable for any damage or injury resulting from errant golf balls hit by third parties, retrieval of errant golf balls by third parties or from the overspray from the Golf Club Facilities.

15.3 **Enforceability**. The rights and obligations to implement the enforcement of the provisions of covenants that are directly and solely for the protection of, and enjoyment of, the Golf Club shall be delegated to the Board of the Golf Club and its successors and assigns.

15.4 **Events**. The Golf Club may from time to time in the Golf Club's sole and absolute discretion conduct or allow to be conducted non-sporting events, parties, or functions (i.e. weddings, banquets, etc.) whereby certain portions of the Golf Club will be made available to nonresidents of Babcock National and non-Members of the Golf Club. During any such non-sporting events, parties, or functions, nonresidents of Babcock National may enter Babcock National for the purpose of attending such event, party, or function.

15.5 **Indemnification**. Each Owner and the Association shall jointly and severally indemnify, defend, and hold harmless the Declarant, the Golf Club, their affiliates, successors and assigns and their respective

Members, partners, shareholders, officers, directors, employees and agents, against and in respect of, and to reimburse the Declarant, the Golf Club, their affiliates, successors and assigns and their respective Members, partners, shareholders, officers, directors, employees and agents, on demand for, any and all claims, demands, losses, costs, expenses, obligations, liabilities, damages, recoveries and deficiencies, including, but not limited to, interest, penalties, attorney and paraprofessional fees and disbursements (even if incident to any appeals), that the Declarant, the Golf Club, their affiliates, successors and assigns and their respective Members, partners, shareholders, officers, directors, employees and agents, shall incur or suffer, which arise out of, result from or relate to any claim that because the Golf Club may be deemed to be open space or a recreation area for purposes of applicable zoning ordinances and regulations, the Golf Club must be owned and/or operated by the Association or the Owners and/or that Owners may use the Golf Club without being a Golf Club Member for the use of the Golf Club Facilities and dues, fees and charges established by the Golf Club from time to time.

15.6 **View Impairment.** Declarant, the Association, or the Golf Club, does not guarantee or represent that any view over and across the Golf Club Facilities from Lots or Living Units adjacent to the Golf Club Facilities will be preserved without impairment. The Golf Club shall have no obligation to prune or thin trees or other landscaping, and shall have the right, in its sole and absolute discretion, to add trees and other landscaping to the Golf Club Facilities from time to time. In addition, the Golf Club, in its sole and absolute discretion, changes the location, configuration, size and elevation of the trees, bunkers, fairways and greens from time to time. Further, the Golf Club Facilities may be expanded in the future in such a manner as to encompass and contain through a conveyance or other transfer any vacant platted lots. Any such additions or changes may diminish or obstruct any view from the Units and any express or implied easements for view purposes or for the passage of light and air are hereby expressly disclaimed.

15.7 **Rights of Access and Parking.** There is hereby established for the benefit of the Golf Club and their Members (regardless of whether such Members are Owners hereunder), guests, invitees, employees, agents, contractors, and designees, a right and nonexclusive easement of access and use over all roadways located within Babcock National reasonably necessary to travel between the entrance to Babcock National and the Golf Club Facilities and over those portions of Babcock National (whether Common Area or otherwise) reasonably necessary to the operation, maintenance, repair, and replacement of the Golf Club Facilities. Without limiting the generality of the foregoing, Members of the Golf Club and guests and invitees of the Golf Club shall have the limited right to park their vehicles on the roadways located within Babcock National at such locations and at such reasonable times and in such manner as determined by the Association from time to time before, during, and after tournaments and other similar functions held by or at the Golf Club Facilities to the extent that the Golf Club has insufficient parking to accommodate such vehicles.

15.8 **Limitations on Amendments.** In recognition of the fact that the provisions of this Section are for the benefit of the Golf Club, no amendment to this Section, and no amendment in derogation of any other provisions of this Declaration benefiting the Golf Club, may be made without the written approval of the Golf Club. The foregoing shall not apply, however, to amendments made by Declarant.

15.9 **Jurisdiction and Cooperation.** It is Declarant's intention that the Association and the Golf Club shall cooperate to the maximum extent possible in the operation of Babcock National and the Golf Club. Each shall reasonably assist the other in upholding the community-wide standard as they pertain to maintenance and the Community Development Standards and Design Guidelines. The Association shall

have no power to promulgate Use Restrictions or Rules affecting activities on or use of the Golf Club without the prior written consent of the Golf Club affected thereby.

15.10 **Assumption of Risk and Indemnification.** Each Owner, by its purchase of a Lot or Living Unit in the vicinity of the Golf Club, hereby expressly assumes the risk of noise, personal injury or property damage caused by maintenance and operation of the Golf Club Facilities including, without limitation: (a) noise from maintenance equipment (it being specifically understood that such maintenance typically takes place around sunrise or sunset); (b) noise caused by golfers; swimmers, and other users of the Golf Club Facilities(c) use of pesticides, herbicides and fertilizers; (d) use of effluent in the irrigation or fertilization of any golf course or the grounds of the Golf Club Facilities; (e) reduction in privacy caused by constant user traffic on the golf course or at any other Golf Club Facilities or the removal or pruning of shrubbery or trees on the golf course or at any other Golf Club Facility; (f) errant golf balls, and golf clubs and other equipment used at any Golf Club Facilities; and (g) design of the golf course.

Each such Owner agrees that neither Declarant, the Association, the Golf Club nor any of Declarant's affiliates or agents shall be liable to Owner or any other person claiming any loss of damage, including, without limitation, indirect, special or consequential loss or damage arising from personal injury, destruction of property, trespass, loss of enjoyment or any other alleged wrong or entitlement to remedy based upon, due to, arising from or otherwise related to the proximity of Owner's Lot or Living Unit to the golf course or any other Golf Club Facilities, including, without limitation, any claim arising in whole or in part from the negligence of Declarant, any of Declarant's affiliates or agents or the Association. The Owner hereby agrees to indemnify and hold harmless Declarant, Declarant's affiliates and agents and the Association against any and all claims by Owner's visitors, tenants and others upon such Owner's Lot or Living Unit.

15.11 **Priority of Irrigation.** The Golf Club may own one or more lakes, water retention ponds or other water features within the Properties. Notwithstanding the ownership of such lakes or water retention ponds, the Golf Club may use any and all lakes, water retention ponds or other water features within the Properties for the purpose of irrigating and maintaining the Golf Club with the result that the water level in such lakes, water retention ponds or other water features may from time to time vary. Each Owner of a Lot or Living Unit acknowledges such right on the part of the Golf Club and agrees not to commence any cause of action or other proceeding involving the Golf Club based on the exercise of such right or otherwise interfere therewith.

In the event there are insufficient water levels to provide the necessary irrigation needs of the Golf Club and all other areas of the Properties, subject to applicable governmental permits and requirements, the Golf Club shall have first priority of irrigation, followed by the, Common Area and any Neighborhood Common Area.

16. **RIGHTS OF DECLARANT AND DEVELOPERS.** In addition to those provided elsewhere in the Governing Documents, the Declarant shall have the following rights and privileges:

16.1 **Sales Activity.** While one or more Lots or Living Units are for sale in the ordinary course of business, the Declarant shall have the right to use those Lots or Living Units and the Common Areas or Neighborhood Common Areas (including, but not limited to, all recreational facilities) to establish, modify, maintain and utilize, as it and they deem appropriate, model Living Units, sales offices, or other

offices for use in selling or providing warranty services to any part of the Community including temporary trailers or other structures used for sales marketing, or construction purposes. No Owner or Neighborhood Association may interfere with, or do anything detrimental to, the Declarant's sales efforts. Without limiting the generality of the foregoing, the Declarant and its designees may show model Living Units or the Common Areas to prospective purchasers or tenants, advertise, erect signs, conduct promotional activities and special events, and take all other action helpful for sales, leases and promotion of Babcock National.

16.2 **Assignment of Rights to Successor Declarant.** Except as otherwise specifically provided herein, Declarant reserves the right and the power to delegate or assign, either exclusively or non-exclusively, partially or completely, to any person or entity, any or all of its development rights, powers, duties, privileges created in or provided for by this Declaration. Such assignment shall not in any way lessen the Declarant's rights with respect to property not subject to such assignment.

16.3 **Use of Common Areas.** The Declarant has the right and authority, as long as that Declarant owns any Lot or Living Unit, to use the Common Areas without charge for a sales office, for promotional activities, and other special events whether private or open to the public, to promote the Community and to assist in its overall marketing effort.

16.4 **Security; Non-Liability of Declarant and Association.** The Declarant and the Association shall not be liable if security services are not provided.

ALL PERSONS USING OR OCCUPYING ANY PORTION OF THE COMMUNITY ARE RESPONSIBLE FOR THEIR OWN SECURITY AND THE SECURITY OF THEIR OWN PROPERTY.

NEITHER THE ASSOCIATION, THE DECLARANT NOR THE GOLF CLUB ARE INSURERS OR GUARANTORS OF SECURITY FOR PERSONS OR PROPERTY WITHIN THE COMMUNITY.

NEITHER THE ASSOCIATION, THE DECLARANT NOR THE GOLF CLUB SHALL BE LIABLE IN ANY WAY ON ACCOUNT OF LOSS, DAMAGE OR INJURY RESULTING FROM LACK OF SECURITY, OR THE LACK OF EFFECTIVENESS OF ANY SECURITY MEASURES UNDERTAKEN. THE DECLARANT MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, RELATIVE TO ANY FIRE PROTECTION SYSTEM AND/OR BURGLAR ALARM SYSTEMS, OR OTHER SECURITY SYSTEMS RECOMMENDED OR INSTALLED, OR ANY SECURITY MEASURES UNDERTAKEN WITHIN THE COMMUNITY.

16.5 **Miscellaneous.**

(A) Declarant shall have the right and the power to regulate and control the external design and appearance of all Common Areas in such a manner as to:

(1) Promote a quality environment which will preserve the value of the

Lots and Living Units; and

(2) Foster the attractiveness and functional utility of the Community as a place to live and play, including a harmonious relationship among structure, vegetation and topography.

(B) Any use of Common Areas other than the uses intended pursuant to this Declaration shall be subject to the prior written approval of the Declarant so long as it owns any land in Babcock National which it holds for the purpose of development.

(C) The Declarant has the right to replat unsold portions of the Properties without the joinder or consent of any Owner.

(D) The Declarant has the right to receive a refund of any and all deposits or other payments made to utility companies or governmental authorities which are refunded in the course of development, even if such refunds occur after the sale of the last Lot or Living Unit in Babcock National to an Owner other than the Declarant.

16.6 **Management Contract**. Declarant shall have the right and the power to enter into professional management contracts on behalf of the Association before turnover of control of the Association.

16.7 **Appointment of Directors**. As further provided in the Bylaws, the Declarant shall have the right to appoint all of the Board of Directors of the Association, provided, however, that Members other than the Declarant are entitled to elect at least one Director of the Association (but not a majority of the Directors of the Board) once 50% percent of the Lots, Living Units and parcels in all phases of the Community which will ultimately be operated by the Association have been conveyed to Members. Declarant shall have the right to appoint at least one Director until the time specified in Section 8.4 of the Bylaws.

16.8 **Declarant's Inaction**. Neither the execution and recordation of this Declaration, nor the creation of any Association or other entity, nor the recordation of any other instrument subjecting any land in Babcock National to protective covenants, conditions or restrictions or other provisions, shall obligate or require:

(A) Declarant to grant any right, power, duty or privilege of any nature or kind to the Association or to any other entity; or

(B) Declarant, the Association or any other entity, to perform any act permitted by this Declaration or by any other recorded instrument, or to enforce any covenant, condition, restriction or other provision hereof or thereof, or to do anything which it does not, in its sole discretion, elect to do.

16.9 **Assignment of Rights to Builders**. In addition to any other rights of assignment, any or all of the rights and obligations of the Declarant set forth in this Declaration or the Bylaws may be transferred and assigned, in whole or in part, to any Builder, provided that transfer shall not reduce an obligation nor enlarge a right beyond that which the Declarant has under this Declaration or Bylaws. No such

transfer or assignment shall be effective unless it is in a written instrument signed by the Declarant. The foregoing sentence shall not preclude Declarant from permitting Builders or other persons to exercise on a one time or limed basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety, and in such case it shall not be necessary to record any written assignment.

17. **RIGHTS OF MORTGAGEES**.

17.1 **Notice of Casualty or Condemnation.** In the event of condemnation, eminent domain proceedings, or very substantial damage to, or destruction of any significant portion of the Common Areas, the record holder of any first mortgage on the Common Areas who has requested such notice in writing, shall be entitled to written notice.

17.2 **Mortgage Foreclosure.** Except as otherwise provided by Florida law as amended from time to time, an Intuitional Mortgagee that acquires title to a Lot or Living Unit through mortgage foreclosure, or acceptance of a deed in lieu of foreclosure. in which the Association has been named as a defendant in the initial complaint, shall be liable for assessments levied against such Lot or Living Unit in the same manner as provided in the preceding paragraph unless the mortgagee is entitled to limited liability for delinquent assessments as provided in Chapter 720, Fla. Stat., which currently requires the lender to pay the Association the lesser of 1% of the original mortgage indebtedness, or the sum of the regular and special assessments that accrued or became due during the 12 months immediately preceding acquisition of title by the lender, and as Chapter 720, Fla Stat., may be amended by time to time. The foregoing sentence pertaining to entitlement to limited liability shall not be construed to negate the authority of a court to order a mortgagee to pay a surcharge pursuant to 11 USC Section 506(c), or grant other relief that may be found to be applicable under federal or state law. Any unpaid assessment or charges for which such acquirer is exempt from liability becomes an expense collectible from all Owners, including such acquirer and his successors and assigns. No Owner or acquirer of title to a Lot or Living Unit by foreclosure (or by a deed in lieu of foreclosure) may, during the period of his Ownership, be excused from the payment of any assessments or charges coming due during the period of such Ownership.

17.3 **Right to Inspect Documents and Books.** The Association shall make available to Institutional Mortgagees requesting same the current Governing Documents and Rules and Regulations of the Association and financial statements of the Association. "Available" shall mean ready for inspection, upon written request, during normal business hours, or under other reasonable circumstances. Photocopies shall be at the expense of the mortgagee requesting same.

17.4 **Financial Statement**. Any Institutional Mortgagee is entitled, upon written request, to a copy of the financial statements of the Association for the immediately preceding fiscal year.

17.5 **Lender's Notices**. Upon written request to the Association, any Institutional Mortgagee shall be entitled to timely written notice of:

(A) Any delinquency of more than sixty (60) days in the payment of assessments or charges owed by the Owner of any Lot or Living Unit on which it holds a mortgage.

(B) A lapse, cancellation, or material modification of any insurance policy or fidelity

bond maintained by the Association. An increase in coverage or a change of insurer does not require notice under this Paragraph.

(C) Any proposed action that requires the consent of a specified percentage of mortgage holders.

18. **DURATION OF COVENANTS; AMENDMENT**.

18.1 **Duration of Covenants.** The covenants, conditions, easements and restrictions in this Declaration shall run with and bind the property within the Community, and shall inure to the benefit of and be enforceable by the Association, the Declarant and any Owner, their respective legal representatives, heirs, successors, and assigns, for an initial period to expire on the ninety-ninth (99th) anniversary of the date of recording this Declaration in the Public Records of Charlotte County, Florida. Upon the expiration of said initial period, this Declaration shall be automatically renewed and extended for an unlimited number of successive ten (10) year periods, this Declaration as it may be amended being automatically renewed and extended upon the expiration of each ten (10) year renewal period for an additional ten (10) year period, until terminated as provided below.

18.2 **Termination**. After turnover this Declaration may be terminated at any time after the initial period if not less than eighty percent (80 %) of the voting interests of all classes of the Members of the Association vote in favor of terminating this Declaration. Written notice of any meeting at which a proposal to terminate this Declaration is to be considered, setting forth the fact that such a proposal will be considered, shall be given at least forty-five (45) days in advance of said meeting. If the Members vote to terminate this Declaration, the President and Secretary of the Association shall execute a certificate which shall set forth the resolution of termination so adopted, the date of the meeting of the Association at which the resolution was adopted, the date that notice of the meeting was given, the total number of votes cast in favor of the resolution, and the total number of votes cast against the resolution. The certificate shall be recorded in the public records of the County, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration. The termination shall be effective on the date the Certificate is recorded in the public records.

18.3 **Amendments**. This Declaration may be amended at any time. Except as otherwise specifically provided, amendments to this Declaration may be proposed by the Board of Directors or by written petition of at least one-fourth (1/4th) of the voting interests.

18.4 **Procedure**. Upon any amendment or amendments to this Declaration being proposed as provided above, the proposed amendment or amendments shall be submitted to a vote of the Members not later than the next annual meeting for which proper notice can be given.

18.5 **Vote Required**. Except as otherwise provided by law, or by specific provision of this Declaration, a proposed amendment to this Declaration shall be adopted if it is approved at an annual or special meeting called for the purpose by at least sixty-six and two-thirds (66-2/3rds) of the voting Members present, in person or by proxy and voting, provided that notice of the text of each proposed amendment was sent to the Members with notice of the meeting.

18.6 **Certificate; Recording**. A copy of each adopted amendment shall be attached to a certificate that the amendment was duly adopted as an amendment to the Declaration, which certificate shall be executed by officers of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the public records of the County. The certificate must set forth the location in the public records of the County where this Declaration was originally recorded.

18.7 **Proviso**. Regardless of any other provision in this Declaration, no amendment of the governing documents by any person, and no termination or amendment of this Declaration, can be effective to change the Association's responsibilities, if any, for the Stormwater Management System, the Conservation Areas, unless the amendment has been consented to in writing by the SFWMD. If the surface water management system is administered by the ISD, any such amendment shall likewise require the consent of the ISD.

18.8 **Exceptions**. Wherever in this Declaration the consent, approval, or affirmative vote of two-thirds (2/3rds) or more of the voting interests of the Members is required to authorize or take a particular action, the language requiring the particular number of consents, approvals, or votes may not be amended except by the same vote required to authorize or take the action. This provision does not apply to amendments by the Declarant.

18.9 **Amendment of Provision Relating to Declarant**. As long as a Declarant holds any Lot or Living Unit for sale in the ordinary course of business, no amendment shall have the effect of changing any provision relating specifically to the Declarant without its written consent.

18.10 **Amendment by Declarant**. In addition to any other right of amendment or modification provided for in this Declaration, in which case those provisions shall apply, Declarant, may, in its sole discretion, by an instrument filed of record, unilaterally modify, enlarge, amend, waive or add to the covenants, conditions, restrictions and other provisions of this Declaration, and any recorded exhibit hereto. In addition, Declarant shall have the unilateral right to add, annex, withdraw or subtract any property from the jurisdiction of this Declaration. This right shall expire at such time as Declarant no longer holds any property for sale in the ordinary course of business within the Community.

18.11 **Limitations**.

(A) No amendment to any of the Governing Documents shall be effective to materially and adversely change any Member's voting rights as set forth in Section 2.2 of the Bylaws, or the provisions of Sections 18.9 or 18.10 above, unless all Members affected first consent in writing to said amendment.

(B) No amendment to any of the Governing Documents and Community Development Standards and Design Guidelines shall be effective without (i) prior written notice to Founder during the "Development and Sale Period" as defined in the Residential Charter, or to the Community Association, thereafter, at the address of its principal office in the State of Florida, with a copy to its registered agent as shown on the records of the Secretary of State of the State of Florida, accompanied by a copy of the proposed amendment; and (ii) execution of such amendment by the Founder during such Development and Sale Period or by the Community Association, thereafter,

evidencing its approval thereof, such approval not to be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, the approval of the Founder or the Community Association shall not be required for amendments solely for the purposes of submitting additional property to the Declaration or adding or modifying use restrictions or Rules and Regulations, provided such use restrictions or Rules and Regulations are not inconsistent with the Residential Charter and Community Association rules (the fact that the use restrictions or rules may be more restrictive shall not make them inconsistent).

18.12 **Exhibits**. Exhibit "A" attached to this Declaration is incorporated by this reference and amendment of such exhibit shall be governed by this Section. Exhibit "B" is attached for informational purposes and may be amended as provided therein. Exhibit "C" is attached for informational purposes and may be amended as provided therein.

19. **GENERAL PROVISIONS**.

19.1 **Other Documents**. Declarant, the Association, and the Neighborhood Associations shall have such rights, powers, duties, and privileges as are set forth in the Governing Documents and Neighborhood Covenants; this Declaration and its provisions shall prevail in all events of conflict.

19.2 **Severability**. If any covenant, condition, restriction or other provision of this Declaration is held to be invalid in whole or in part by any court of competent jurisdiction, the holding shall in no way affect the validity of the remaining provisions of this Declaration, all of which shall remain in full force and effect.

19.3 **Merger or Consolidation of Associations**. Upon a merger or consolidation of the Association with another corporation as provided by law, the Association's rights, obligations and property may, by operation of law, be transferred to another surviving or consolidated association or the ISD, alternatively, remain the rights, obligations and property of the Association as the surviving corporation. The surviving or consolidated corporation or ISD may administer this Declaration within the existing property together with the covenants and restrictions established upon any other property, as one common scheme. Notwithstanding the foregoing, merger or consolidation of the Association with any other party including an independent special district shall have no effect on altering or changing any granted power in the charter of the ISD.

19.4 **Dissolution**. If the Association is dissolved other than by a merger or consolidation as provided for above, each Lot or Living Unit shall continue to be subject to the assessments provided for in Section 9, and each Owner shall continue to be personally obligated to Declarant or the successor or assigns of the Association (as the case may be) for such assessment to the extent that such assessments are required to enable Declarant or any such successors or assigns acquiring any real property previously owned by the Association to properly maintain, operate and preserve it.

19.5 **Gender; Number**. Wherever in this Declaration the context so requires, the singular number shall include the plural, and the converse; and the use of any gender shall be deemed to include all genders.

19.6 **Notices**.

(A) **To Declarant**. Notices to Declarant as may be required herein shall be in writing and delivered or mailed to Declarant at its principal place of business as shown by the records of the Secretary of State, or at any other location designated by Declarant.

(B) **To the Association.** Notices to the Association shall be in writing and delivered or mailed to the Association at its principal place of business as shown by the records of the Secretary of the State of Florida, or at any other location designated by the Association.

(C) **To Owners**. Notices to any Owner as may be required herein shall be in writing and shall be delivered or mailed to the Owner at his last known address, or at the address shown on the deed recorded in the public records of the County.

(D) **To ISD**. Notices to the ISD as may be required herein, shall be in writing and shall be delivered or mailed to the ISD at its principal place of business as shown by the records of the State of Florida Department of Community Affairs.

19.7 **Construction**. The provisions of this Declaration shall be liberally interpreted and construed to provide maximum flexibility consistent with the general development plan and the purposes set forth herein, including the premises.

19.8 **Captions, Headings and Titles.** Captions, headings, capitalization of certain words, and titles inserted throughout the Governing Documents are for convenience only, and in no way shall such captions, headings or titles define, limit, or in any way affect the subject matter, content or interpretation of the terms and provisions of the Governing Documents.

19.9 **Interpretation**. The Board of Directors of the Association shall be responsible for interpreting the provisions of the Governing Documents. Their interpretation shall be binding upon all parties unless wholly unreasonable. A written opinion rendered by Association legal counsel that an interpretation adopted by the Board is not wholly unreasonable shall conclusively establish the validity of such interpretation.

19.10 **Applicable Statutes.** The validity, application, and construction of this Declaration and its exhibits shall be governed by the Laws of Florida, as they exist on the date of recording this Declaration.

19.11 **Rights Limited to Express Terms of Governing Documents.** Every Member of the Association acknowledges that his or her rights, duties or obligations are limited to the express terms of the Declaration, Articles of Incorporation, Bylaws and the Rules and Regulations (Governing Documents). Every prospective Member should make his decision to purchase within Babcock National based upon these representations as set out in the Governing Documents which contain the entire understanding at the parties and no prior or present agreements or representation shall be binding upon the Declarant unless included in the Governing Documents.

19.12. **Conflicts.** The Lands are contained within Babcock Ranch and are subject to the Residential Charter and the Supplement to the Residential Charter. If there are any conflicts between the Governing Documents and the Residential Charter or the Supplement to the Residential Charter, the Residential Charter and the Supplement to the Residential Charter shall control; provided however, if there is a

conflict between the Governing Documents and the Residential Charter, any additional provisions set forth in the Supplement to the Residential Charter shall control over such conflicting provision.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be duly executed and its corporate seal to be hereunto affixed this 5th day of November, 2019.

WITNESSES:

Print name: Russell Smith

Print name: BARRY BUSH

LENNAR HOMES, LLC, a Florida limited liability company

By: _____
Darin McMurray, Vice President

STATE OF FLORIDA

COUNTY OF LEE

The foregoing instrument was acknowledged before me this 5th day of November, 2019 by Darin McMurray as Vice President of **Lennar Homes, LLC**, a Florida limited liability company, on behalf of the company, who is personally known to me.

My commission expires:

KAREN E. ASSINI
Notary Public - State of Florida
Commission # GG 367637
My Comm. Expires Oct 1, 2023
Bonded through National Notary Assn.

NOTARY PUBLIC, State of Florida
Print name: _____

EXHIBIT "A"

All of the plat of Babcock National, a subdivision, recorded in Plat Book 23, Page 14A-14Z-16, Public Records of Charlotte County, Florida

Less and Except:

Tracts MA-1, MA-4 and D-46 of the plat of Babcock National, a subdivision, recorded in Plat Book 23, Page 14A-14Z-16 Public Records of Charlotte County, Florida.

H19000152853 Exhibit "B"

FILED
19 MAY -8 AM 11:16
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

ARTICLES OF INCORPORATION
OF
BABCOCK NATIONAL HOMEOWNER'S ASSOCIATION, INC.

Pursuant to Section 617.01201, Florida Statutes, these Articles of Incorporation are created by Charles Mann, Esq., 1833 Hendry Street, Fort Myers, Florida 33901, as sole incorporator, for the purpose set forth below.

ARTICLE I

NAME: The name of the corporation is Babcock National Homeowner's Association, Inc., sometimes hereinafter referred to as the "Association".

ARTICLE II

PRINCIPAL OFFICE: The initial principal office of the corporation is located at 10481 Six Mile Cypress Parkway, Fort Myers, FL 33966.

ARTICLE III

PURPOSE AND POWERS: This Association will not permit pecuniary gain or profit nor distribution of its income to its members, officers or Directors. It is a corporation not for profit organized on a non-stock basis for the purpose of providing a residential homeowners' association. For the accomplishment of its purpose, the Association shall have all of the common law and statutory powers and duties of a corporation not for profit, except as limited or modified by these Articles and a Declaration of Covenants, Conditions and Restrictions to be recorded in the Public Records of Charlotte County, Florida, and shall have all of the powers and authority reasonably necessary or appropriate to the operation and regulation of a residential neighborhood subject to the said recorded Declaration, as it may from time to time be amended, including but not limited to the power to:

(A) Fix, levy, collect and enforce payment by any lawful means all charges or assessments levied pursuant to the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all license fees, taxes or governmental charges.

(B) Enforce any and all covenants, conditions, restrictions and agreements applicable to the residential neighborhood known as the Babcock National Homeowner's Association, Inc.

(C) Acquire (by gift, purchase or otherwise) own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association.

(D) Borrow money, and mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security.

(E) Dedicate, sell or transfer all or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members.

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(F) Purchase policies of insurance upon the Properties and use the proceeds from such policies to effectuate its purposes.

(G) Participate in mergers and consolidations with other non-profit corporations organized for the same or similar purposes, or to annex additional property and common areas, provided that merger, consolidation or annexation shall have the consent of at least two-thirds (2/3rds) of the voting interests of the Association.

(H) Establish Rules and Regulations in accordance with the Governing Documents.

(I) Sue and be sued.

(J) Exercise any and all powers, rights and privileges which a homeowners association organized under Chapter 720, Florida Statutes, may now or hereafter have or exercise; subject always to the Declaration as amended from time to time.

(K) Contract for services necessary to operate and maintain the Common Areas and improvements located thereon.

(L) To be the responsible entity to operate and maintain the Surface Water Management System as permitted by the South Florida Water Management District, including but not limited to, all lakes, retention areas, culverts and related appurtenances.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS: Membership and voting rights shall be as set forth in the Bylaws of the Association However, all owners of lots within the Babcock National Homeowner's Association, Inc. shall be members of the Association.

ARTICLE V

TERM: The Association shall commence upon the filing of these Articles of Incorporation with the Secretary of State, State of Florida. The Association shall have perpetual existence. Notwithstanding anything in the foregoing to the contrary, the Association may be terminated in accordance with the Declaration and the Bylaws, subject however to any required prior governmental approval, and provided that upon such termination proper written consent must be duly recorded in the Public Records of Charlotte County, Florida. In the event of dissolution, the assets owned by the Association, including without limitation, the control and right of access to all surface water management system facilities, shall be conveyed or dedicated to an appropriate agency of local government, and if such agency refuses to accept such assets, then such assets shall be transferred to a non-profit corporation similar to the Association.

ARTICLE VI

BYLAWS: The Bylaws of the Association may be altered, amended or rescinded in the manner provided therein.

ARTICLE VII

AMENDMENTS: Amendments to these Articles shall be proposed and adopted in the following manner:

(A) Proposal. Amendments to these Articles may be proposed by a majority of the Board or by petition to the Board signed by at least one-fourth (1/4) of the voting interests.

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(B) Procedure. A proposed amendment must be submitted to a vote of the members not later than the next annual meeting for which proper notice can still be given.

(C) Vote Required. Except as otherwise required by Florida law, a proposed amendment to these Articles of Incorporation shall be adopted if it is approved at any annual or special meeting called for the purpose by at least a majority of the voting interests of the Association, or if it is approved in writing by a majority of the voting interests without a meeting, as authorized in these Bylaws, provided that notice of any proposed amendment must be given to the members of the Association, and the notice must contain the full text of the proposed amendment.

(D) Effective Date. An amendment becomes effective upon filing with the Secretary of State and retarding a certified copy in the Public Records of Charlotte County, Florida, with the same formalities as are required in the Declaration for recording amendments to the Declaration.

ARTICLE VIII

DIRECTORS AND OFFICERS:

(A) The affairs of the Association will be administered by a Board of Directors consisting of the number of Directors set in the Bylaws, but never less than three (3), and in the absence of a Bylaw provision shall consist of three (3) Directors.

(B) Directors of the Association shall be elected by the members in the manner determined by the Bylaws. Directors may be removed and vacancies on the Board of directors shall be filled in the manner provided by the Bylaws.

(C) The business of the Association shall be conducted by the officers designated in the Bylaws. The officers shall be elected by the Board of Directors at its first meeting after the annual meeting of the members and shall serve at the pleasure of the Board.

ARTICLE IX

INITIAL DIRECTORS:

The initial Directors of the Association shall be:

Matthew Koratich, President/Director	10481 Six Mile Cypress Parkway Fort Myers, FL 33912
David Caldwell, Vice President/Director	10481 Six Mile Cypress Parkway Fort Myers, FL 33912
David Negip, Secretary/Treasurer/Director	10481 Six Mile Cypress Parkway Fort Myers, FL 33912

ARTICLE X

REGISTERED OFFICE AND INITIAL REGISTERED AGENT:

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The street address of the initial Registered Office of the Association is 1833 Hendry Street, Fort Myers, Florida 33901. The name of the initial Registered Agent of the Association is PLF Registered Agent, L.L.C., 1833 Hendry Street, Fort Myers, Florida 33901.

ARTICLE XI

INDEMNIFICATION: To the fullest extent permitted by Florida law, the Association shall indemnify and hold harmless every Director and every officer of the Association against all expenses and liabilities, including attorney's fees, actually and reasonably incurred by or imposed on him in connection with any legal proceeding (or settlement or appeal of such proceeding) to which he may be a party because of his being or having been a Director or officer of the Association. The foregoing right of indemnification shall not be available if a judgment or other final adjudication establishes that his actions or omissions to act were material to the cause adjudicated and involved:

(A) Willful misconduct or a conscious disregard for the best interests of the Association, in a proceeding by or in the right of the Association to procure a judgment in its favor.

(B) A violation of criminal law, unless the Director or officer had no reasonable cause to believe his action was unlawful or had reasonable cause to believe it was lawful.

(C) A transaction from which the Director or officer derived or sought to derive an improper personal benefit.

(D) Recklessness, or an act or omission which was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and wilful disregard for human rights, safety or property, in an action by or in the right of someone other than the association or a member.

(E) Wrongful conduct by Directors or officers appointed by the Developer, in a proceeding brought by or on behalf of the Association.

In the event of a settlement, there is no right to indemnification unless a majority of the disinterested Directors approve such settlement as being in the best interest of the Association. The foregoing rights of indemnification shall be in addition to, and not exclusive of, all other rights to which a Director or officer may be entitled.

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For the purpose of forming this Association under the Laws of the State of Florida, the undersigned, Pavese Law Firm, its Authorized Member of PLF Registered Agent, L.L.C., being the incorporator of this Association, has executed these Articles of Incorporation as of the 8th day of May, 2019.

PLF Registered Agent, L.L.C.,
a Florida limited liability company

By: Pavese Law Firm, its Authorized Member

By: _____
Charles Mann, Managing Partner

STATE OF FLORIDA)
COUNTY OF LEE)

The foregoing instrument was acknowledged before me this 8th day of May, 2019, by Charles Mann, Managing Partner of Pavese Law Firm, Authorized Member of PLF Registered Agent, L.L.C., a Florida limited liability company, on behalf of the company, who is personally known to me and did not take an oath.

(Seal)

Notary Public State of Florida
Jennifer L Denby
My Commission GG 055310
Expires 12/15/2020

_____
Notary Public
Printed Name: _____
Commission Expires: _____

FILED
19 MAY -8 AM 11:46
TALLAHASSEE, FLORIDA

May. 8. 2019 4:30PM No. 0979 P. 7/7

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ACCEPTANCE BY REGISTERED AGENT

The undersigned, having been named to accept service of process for the above-stated Association at the place designated in this certificate, hereby agrees to act in this capacity, is familiar with, and accepts, the obligations of this position and further agrees to comply with the provisions of all statutes relative to the proper and complete performance of my duties.

Dated this 8th day of May 2019.

PLF REGISTERED AGENT, L.L.C. a Florida limited liability company

By: Pavese Law Firm, its Authorized Member

By: _____
Charles Mann, Managing Partner

FILED
19 MAY -8 AM 11:46
TALLAHASSEE, FLORIDA

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Exhibit "C"

BYLAWS OF BABCOCK NATIONAL HOMEOWNER'S ASSOCIATION, INC.

1. GENERAL These are the Bylaws of Babcock National Homeowner's Association, Inc., (hereinafter the "Association"), a Florida corporation not for profit organized for the purposes set forth in the Articles of Incorporation.

1.1 Principal Office. The principal office of this corporation shall initially be located at 10481 Six Mile Cypress Parkway, Fort Myers, Florida, 33966 and subsequently at such other place as may be established by resolution of the Board of Directors.

1.2 Definitions. All terms defined in the Declaration of Covenants, Conditions and Restrictions for Babcock National ("Declaration") to which these Bylaws were attached as an exhibit when it was originally recorded, shall be used with the same meanings as defined therein.

1.3 Seal. The seal of the Association shall be inscribed with the name of the Association, the year of its organization, and the words "Florida" and "corporation not for profit". The seal may be used by causing it, or a facsimile of it, to be impressed, affixed, reproduced or otherwise placed upon any document or writing of the corporation where a seal may be required.

2. MEMBERSHIP AND VOTING RIGHTS. The classes of membership shall be as more fully set forth in Article 4 of the Declaration.

2.1 Membership. Every person or entity who or which is a record owner of a fee or undivided fee interest in any Lot or Living Unit which is subject to the Declaration shall be a Member of the Association, provided that any such person or entity who merely holds record ownership merely as security for the performance of an obligation shall not be a Member of the Association.

2.2 Voting Rights. The votes of the classes of Members of the Association shall be cast by their respective classes of Voting Members as follows:

Class A. Class A Members shall be all those owners, as defined in Section 2.1, with the exception of the Declarant (as to Declarant, as long as the Class B Membership shall exist, and thereafter, the Declarant shall be a Class A Member to the extent it would otherwise qualify).

Class B. The Declarant shall be a voting Member for each Lot or Living Unit it owns. Declarant Membership and voting rights shall cease to exist at the Turnover Meeting described in Section 8.2 of these Bylaws, but all of the Declarant's other rights and privileges as the Declarant, as set forth elsewhere in this Declaration or in the Bylaws, shall continue as long as the Declarant holds any property within the Community for sale in the ordinary course of business. If the Declarant conveys undeveloped property within the Community to a successor developer, the Declarant may assign its Declarant Membership and/or some or all of its voting rights and privileges to the

successor developer. Until the turnover of control as described in Section 8 below, the Declarant shall have the number of votes in all matters equal to the total combined votes of the other classes of members, plus 100 votes.

2.3 Rights and Privileges of Members.

(A) Every Member shall have the right to:

(1) Have his vote cast at the meetings of the members;

(2) Serve on the Board if elected;

(3) Serve on committees; and

(4) Attend membership meetings.

Each member is encouraged to take an active interest in Association affairs.

(B) Every member in good standing shall have the privilege of using and enjoying the Common Areas in accordance with the type of membership held by the member, subject to the rules of the Association and the right of the Association to charge admission and other fees for the use of any facilities.

(C) A member is in good standing if he is current in the payment of all assessments and other financial obligations to the Association, and his membership is not suspended.

2.4 Delegation of Rights to use Common Areas.

(A) In accordance with Section 4.5 of the Declaration, a member may delegate his privilege to use the Common Areas to:

(1) A reasonable number of guests if accompanied by the member; or

(2) Residential tenants who reside in the member's Living Unit

(B) In the case of residential tenants of the member's Living Unit, the delegating member must give prior written notice to the Association of such delegation. The written notification shall state the name, age, permanent address, intended length of time the delegation will be effective, and such other information about each residential tenant as the Board shall require.

(C) A member who has delegated his use privileges and is not in residence in Babcock National may not use Common Areas during the period of the delegation, except as a guest of another member. A member may not be the guest of his tenant.

(D) Members shall be responsible for keeping the Association informed as to the identity and relationship of any persons who normally reside with the member and intend to utilize the Common Areas.

(E) The Board of Directors may limit the number of guests or the frequency or duration of any member's delegation of use rights, and may impose fees for the delegation of such rights of use of the facilities by renters or guests, which fees may be different from fees charged to members for their use.

2.5 Suspension of Membership. As further provided in Section 10 of the Declaration, the Board may suspend a member's membership in the Association:

(A) For the period of time during which an assessment against the member remains unpaid more than ninety (90) days after the date it was due and payable; or

(B) For a reasonable period during or after any infraction of the Association's rules and regulations by a member or by any person to whom he has expressly or impliedly delegated his use privileges; or

(C) For misuse, abuse, or intentional destruction of Association property, real or personal.

Suspension of any member's membership temporarily revokes the member's rights and privileges to use and enjoy Common Areas and facilities and to participate in Association affairs. A suspension shall in no way impair the enforceability of any assessment or lien therefor, or the authority of the Association to assess and collect any future assessment and lien, nor shall it impair the member's right of access to, and use of, his own property in a manner consistent with the Governing Documents.

2.6 **Electronic Voting**. Electronic voting may occur in and for the Association under the terms and provisions of the following:

(A) In order for electronic voting to occur on any Association matter, the Board must first pass a resolution authorizing same, which resolution must:

(1) provide that Members receive notice of the opportunity to vote through an online voting system;

(2) establish reasonable procedures and deadlines for Members to consent, in writing, to online voting; and

(3) establish reasonable procedures and deadlines for Members to opt out of online voting after giving consent.

(B) Once such a resolution has been passed, elections and other membership votes may be conducted through an internet-based online voting system if a Member consents, in writing, to online voting and if the following requirements are met:

(1) The Association shall provide each Member with a method or means:

(i) to authenticate the Member's identity to or within the online voting system;

(ii) to confirm, at least 14 days prior to the date of the vote or the voting deadline, that the Member's electronic device can successfully communicate with the online voting system; and

(iii) that is consistent with the election and voting procedures in these Bylaws and the other Governing Documents; and

(2) The Association utilizes an online voting system that is able to:

(i) authenticate the Member's identity;

(ii) authenticate the validity of each electronic vote to ensure that the vote is not altered in transit;

(iii) transmit a receipt from the online voting system to each Member who casts an electronic vote;

(iv) permanently separate any authentication or identifying information from the electronic election ballot, rendering it impossible to tie an election ballot to a specific Member (this provision only applies if these Bylaws provide for secret ballots for the election of Directors); and

(vi) store and keep electronic ballots accessible to election officials for recount, inspection, and review.

(C) A Member voting electronically pursuant to or as a result of this Section 2.6 shall be counted as being in attendance at the meeting for purposes of determining a quorum.

(D) A Member's consent to online voting is and shall remain valid until the Member opts out of online voting pursuant to the procedures established by the Board.

(E) This Section 2.6 shall apply to any matter that requires a vote of the Members.

3. MEMBERS' MEETINGS.

3.1 Annual Meeting. The annual meeting shall be held in either Charlotte County, at a date, place and time designated by the Board of Directors, for the purpose of electing Directors and transacting any other business duly authorized to be transacted by the members. The annual meeting is a general meeting, and unless the law or the Governing Documents require otherwise, notice of an annual meeting need not include a description of the purpose or purposes for which the meeting is called.

3.2 Special Members' Meetings. Special members' meetings must be held whenever called for by the President or by a majority of the Directors, and must be promptly called by the Board upon receipt of a written request signed by members entitled to cast at least ten percent (10%) of the votes of the Association. Such requests shall be in writing and shall state the purpose or purposes of the meeting. Business at any special meeting shall be limited to the item specified in the request or contained in the notice of meeting.

3.3 Quorum. A quorum shall be attained at a members meeting by the presence, in person or by proxy, of at least thirty percent (30%) of the total voting interests.

3.4 Vote Required to Transact Business. The acts or resolution approved by at least a majority of the votes cast at a duly called meeting at which a quorum has been attained shall be the act of the Members, unless a higher vote is specifically required by law or by the Governing Documents.

3.5 Notice of Meetings. Written notice of meetings shall be mailed or hand-delivered to each member at the address last provided to the Association by the members. The notices must be mailed or delivered by the Association not less than fourteen (14) days prior to the date of the meeting. Notice may also be furnished by electronic transmission to any member who has consented to receive notice by electronic transmission. Consent by a member to receive notice by electronic transmission shall be revocable by the member by written notice to the Association.

3.6 Adjourned Meetings. Any duly called meeting of the members may be adjourned to be reconvened at a later time by vote of the majority of the voting interests present, regardless of whether a quorum has been attained. Unless the Bylaws require otherwise, adjournment of annual or special meeting to a different date, time or place must be announced at that meeting before an adjournment is taken, or notice must be given of the new date, time, or place pursuant to Section 720.303(2), Florida Statutes, as amended. Any business that might have been transacted on the original date of the meeting may be transacted at the adjourned meeting. If a new record date for the adjourned meeting is or must be fixed under Section 617.0707, Florida Statutes, as amended, notice of the adjourned meeting must be given to persons who are entitled to vote and are members as of the new record date but were not members as of the previous record date.

3.7 Order of Business. The order of business at Members' meetings shall be substantially as follows:

(A) Determination that a quorum has been attained.

(B) Reading or waiver of reading of minutes of last Members' meeting.

(C) Reports of Officers

(D) Reports of Committees

(E) Election of Directors (when appropriate)

(F) Unfinished Business

(G) New Business

(H) Adjournment

3.8 Minutes. Minutes of all meetings of the Members must be maintained in written form, or in another form that can be convened into written form within a reasonable time.

3.9 Parliamentary Rules. Roberts' Rules of Order (latest edition) shall govern the conduct of the Association meetings when not in conflict with the law, with the Declaration, or with these Bylaws. The presiding officer may appoint a Parliamentarian, but the decision of the presiding officer on questions of parliamentary procedure shall be final. Any question or point of order not raised at the meeting to which it relates shall be deemed waived.

3.10 Action by Members without a Meeting. Except the holding of the annual meeting and annual election of Directors, any action required or permitted to be taken at a meeting of the Members may be taken by mail without a meeting if written instruments expressing approval of the action proposed to be taken are signed and returned by Members having not less than the minimum number of votes that would be necessary to take such action at a meeting at which all of the voting interests were present and voting. If the requisite number of written consents are received by the Secretary within sixty (60) days after the earliest date which appears on any of the consent forms received, the proposed action so authorized shall be of full force and effect as if the action had been approved at a meeting of the Members held on the sixtieth (60th) day. Within ten (10) days thereafter, the Board shall send written notice of the action taken to all Members who have not consented in writing. Nothing in this paragraph affects the rights of members to call a special meeting of the membership, as provided for by Section 3.2 above, or by law.

4. BOARD OF DIRECTORS. The administration of the affairs of the Association shall be by a Board of Directors. All powers and duties granted to the Association by law, as modified and explained in the Declaration, Articles of Incorporation, and these Bylaws, shall be exercised by the Board, subject to the approval or consent of the members only when such is expressly required.

4.1 Powers. The Board shall have the authority to:

(A) Manage and control the affairs of the Association.

(B) Appoint and remove at its pleasure all officers, agents and employees of the Association, prescribe their duties, fix their compensation and require of them such security or fidelity bond as it may deem expedient. Nothing in these Bylaws shall be construed to prohibit the employment of any member, officer or Director of the Association in any capacity whatsoever.

(C) Establish, levy, assess, and collect any assessment or charge provided for in the Governing Documents.

(D) Designate one or more financial institution(s) as depository for Association funds, and the officer(s) authorized to make withdrawals therefrom.

(E) With the prior consent of at least a majority of the voting interests, borrow money for Association purposes, and assign, pledge, mortgage or encumber any Common Areas or future revenues of the Association as security therefor;

(F) Adopt, amend or revoke rules and regulations relating to the use of Common Areas, and such sanctions for noncompliance therewith, as it may deem necessary for the best interest of the Association and its Members. The Board may also establish and levy fees for the use of Common Areas or Association property;

(G) Cause the Association to employ sufficient personnel to adequately perform the responsibilities of the Association;

(H) Negotiate and enter into contracts for the maintenance and operation of the Common Areas;

(I) Make improvements to the Common Areas.

(J) Establish committees of the Association and appoint the members thereof. It may assign to such committees responsibilities and duties not inconsistent with the provisions of these Bylaws as it may deem appropriate;

(K) Acquire property, real or personal, and enter into agreements with any persons, including Declarant, relating to the orderly transfer of property from said person to the Association and such other matters as the Board may deem appropriate.

(L) Perform all other acts not inconsistent with law or the Governing Documents and necessary for the proper functioning of the Association.

4.2 Management by Directors. The property, business and affairs of the Association shall be managed and conducted by a Board of Directors of no fewer than three (3) or more than seven (7) members.

4.3 Election of Directors. Except as otherwise provided herein, and for the first Board of Directors and their Declarant-appointed replacements, Directors shall be elected by the Members at the Annual Meeting of the Association. Notwithstanding the foregoing, until such time as the Class B Membership in the Association terminates, the Class B Voting Member shall have the right to appoint Directors in accordance with the provisions of the Declaration and Chapter 720, Florida Statutes. At the Annual Meeting next following the date upon which ninety percent (90%) of the Lots to ultimately be located within the Lands have been conveyed to Class A Members, the Class A Members shall elect a majority of the Board of Directors.

(A) Directors shall be elected in accordance with Chapter 720, Florida Statutes, these Bylaws and the election rules, if any, and process established and utilized by the Board of Directors. Not less than sixty (60) days before a scheduled election, the Association shall mail, or deliver, whether by separate Association mailing or included in another Association mailing or delivery including regularly published newsletters, and including electronic transmission for those Members who have so consented, to each Member entitled to vote, a first notice of the date of the election. Any eligible person who nominates himself to be a candidate may do so no later than forty (40) days prior to the annual meeting and may also submit a resume by such deadline on one side of an 8 and ½" x 11" sheet of paper. As Members have been given the opportunity to nominate themselves in advance and prior to the annual meeting where the election will take place, nominations from the floor shall not be accepted. Not less than fourteen (14) days prior to the annual meeting, the Association shall send a Second Notice of Annual Meeting to all Members, along with either an election ballot for the election of Directors, any timely submitted candidates' resumes, a proxy and any other documents in the Board's discretion. The election ballot shall contain the names of all candidates who nominated themselves in a timely manner, listed alphabetically by surname. If a voter checks off the names of more candidates than the number of Directors to be elected, the election ballot shall not be counted for the election. Elections shall be

determined by a plurality of the votes cast; a quorum of the Members need not cast a vote for a valid election to occur, so long as at least ten percent (10%) of the eligible Voting Interests cast a ballot. The candidates who are elected shall take office upon the adjournment of the annual meeting. The Board may require all ballots to be received by the Association at some point prior to the annual meeting so that votes can be tallied prior to the annual meeting and the results announced at the annual meeting. No election shall be necessary if the number of candidates is less than or equal to the number of vacancies. In addition to the foregoing, to the extent that the Association wishes to provide for and allow Members to vote electronically, Members who have consented to vote electronically shall be permitted to do so as otherwise provided for by Florida Statute Section 720.317 (2018) or as later amended.

(B) Within 90 days after being elected or appointed to the Board, each Director shall certify in writing to the secretary of the Association that he or she has read the Association's declaration of covenants, articles of incorporation, bylaws and current written rules and policies; that he or she will work to uphold such documents and policies to the best of his or her ability; and that he or she will faithfully discharge his or her fiduciary responsibility to the Association's members. In lieu of the written certification, the newly elected or appointed director may submit a certificate of having satisfactorily completed the educational curriculum administered by a Division-approved education provider within 1 year before or 90 days after the date of election or appointment. The written certification or educational certificate is valid for the uninterrupted tenure of the director on the Board. A director who does not timely file the written certification or educational certificate is suspended from the Board until he or she complies with the requirement. The Board may temporarily fill the vacancy during the period of suspension. The Association shall retain each director's written certification or educational certificate for 5 years after the director's election; however, the failure to retain the certificate does not affect the validity of any Board action.

4.4 Term of Office. Except as provided herein to the contrary, the term of each Director's service shall extend until the next Annual Meeting and subsequently until his successor is duly elected and has taken office, or until he is removed in the manner elsewhere provided. Notwithstanding the foregoing, any Director designated by the Class B Voting Member shall serve at the pleasure of the Class B Voting Member.

4.5 Vacancies and Removal.

(A) Except as to vacancies resulting from removal of Directors by Voting Members (as addressed in subsection (B) below), vacancies in the Board of Directors occurring between Annual Meetings of Members shall be filled by the remaining Directors at any Board meeting, provided that (i) all vacancies in directorships to which Directors were appointed by the Class B Member shall be filled by the Class B Member without the necessity of any meeting and (ii) a vacancy in a directorship elected by Class A Voting Members shall be filled with a Class A Member.

(B) Any Director elected by the Voting Members (other than the Class B Member) may be removed by concurrence of a majority of the votes of the Class A Voting Members at a special meeting called for that purpose or by written agreement signed by the Voting Members entitled to cast a majority of the Class A votes. The vacancy in the Board of Directors so created shall be filled by the Voting Members at a special meeting called for such purpose, or by the Board of Directors if such meeting does not occur within five (5) days of the removal.

(C) A Director or Officer charged by information or indictment with a felony theft or embezzlement offense involving the association's funds or property is removed from office. The Board shall fill the vacancy according to general law until the end of the period of the suspension or the end of the director's term of office, whichever occurs first. However, if the charges are resolved without a finding of guilt or without acceptance of a plea of guilty or nolo contendere, the Director or Officer shall be reinstated for any remainder of his or her term of office.

4.6 Organizational Meeting. An organizational meeting of a new Board of Directors shall be held within ten (10) days after the election of new Directors at such place and time as may be fixed by the new Directors at the meeting when they were elected.

4.7 Regular Meetings. After turnover of control, regular meetings of the Board shall be held at such time and place in Charlotte County, Florida, as shall be determined from time to time by the Directors. A regular meeting of the Board of Directors is any meeting held according to a regular weekly, monthly or other periodic schedule adopted from time to time by the Board. Notice of regular meetings shall be given to each Director, personally or by mail, telephone or telegram, at least ten (10) days before the day named for such meeting. At regular meetings any business of the Association may be transacted. If any Director elected by the Members shall be absent for any reason from three (3) consecutive regular meetings of the Board, the Board may, by vote of at least a majority of the whole Board taken at the next meeting, declare the office of said Director to be vacant, and may appoint a successor.

4.8 Special Meetings. Special meetings of the Board are all meetings other than the annual organizational meeting and regular meetings. Special meetings may be called by the President, the Secretary, or by a majority of the Directors. Not less than two (2) days notice of a special meeting shall be given to each Director, personally or by mail, facsimile, telephone or telegram, which notice shall state the time, place, and purposes of the meeting. Business conducted at a special meeting shall be limited to the items specified in the notice of the meeting.

4.9 Waiver of Notice by Directors. Any Director may waive notice of a Board meeting before or after the meeting, and such waiver shall be deemed equivalent to the receipt of notice. Attendance at a meeting by any Director constitutes waiver of notice, unless that Director objects to the lack of notice at the beginning of the meeting.

4.10 Board Meetings; Notice to Members. A meeting of the Board of Directors occurs whenever a quorum of the Board gathers and conducts Association business. All meetings of the Board shall be open to all members, except as otherwise provided by law. Notice of all Board meetings shall be posted in a conspicuous place on the Common Areas at least forty-eight (48) hours in advance of a meeting, except in an emergency. An assessment may not be levied at a Board meeting unless the notice of the meeting includes a statement that assessments will be considered and the nature of such assessments. Any owner may tape-record or videotape meetings of the Board and meetings of the members. The Board may adopt reasonable rules governing the taping of meetings of the Board and the membership.

4.11 Quorum of Directors. A quorum at a Board meeting shall exist only when a majority of all Directors are present in person. Directors may not vote by proxy or secret ballots at Board meetings, except that secret ballots may be used in electing officers. Any Director has a right to participate in any meeting of the Board, or meeting of an executive or other committee, by means of a conference telephone call or similar communicative arrangement whereby all persons present can hear and speak to all other persons. Participation by such means shall be deemed equivalent to presence in person.

4.12 Vote Required. Except as otherwise required by law or the Governing Documents, the acts approved by a majority of the Directors present and voting at a duly called Board meeting at which a quorum exists shall constitute the acts of the Board of Directors.

4.13 Adjourned Meetings. The majority of the Directors present at any meeting of the Board, regardless of whether a quorum exists, may adjourn the meeting to be reconvened at a later time. When the meeting is reconvened, provided a quorum exists, any business that might have been transacted at the meeting originally called may be transacted without further notice.

4.14 The Presiding Officer. The President of the Association, or in his absence, the Vice-President, shall be the presiding officer at all meetings of the Board of Directors. If neither is present, the presiding officer shall be selected by majority vote of those present.

4.15 Compensation of Directors and Officers. Neither Directors nor officers shall receive compensation for their services as such. Directors and officers may be compensated for all actual and proper out-of-pocket expenses relating to the proper discharge of their respective duties.

4.16 Emergency Powers. In the event of an "emergency" as defined in Paragraph 4.16(G) below, the Board of Directors of the Association may exercise the emergency powers as described in this Section, and any other emergency powers authorized by Sections 617.0207, and 617.0303, Florida Statutes, as amended from time to time.

(A) The Board may name as assistant officers persons who are not Directors, which assistant officers shall have the same authority as the executive officers of whom they are assistant during the period of the emergency, to accommodate the incapacity of any officer of the Association.

(B) The Board may relocate the principal office or designate alternative principal offices or authorize the officers to do so.

(C) During any emergency the Board may hold meetings with notice given only to those Directors with whom it is practicable to communicate, and the notice may be given in any practical manner, including publication or radio. The Director or Directors in attendance at such a meeting shall constitute a quorum.

(D) Corporate action taken in good faith during an emergency under this Section to further the ordinary affairs of the Association shall bind the Association; and shall have the rebuttable presumption of being reasonable and necessary.

(E) Any officer, Director or employee of the Association acting with a reasonable belief that his actions are lawful in accordance with these emergency Bylaws shall incur no liability for doing so, except in the case of willful misconduct.

(F) The provisions of these emergency Bylaws shall supersede any inconsistent or contrary provisions of the Bylaws during the period of the emergency.

(G) For purposes of this Section, an "emergency" exists only during a period of time that the Community, or the immediate geographic area in which the Community is located, is subjected to:

(1) a state of emergency declared by law enforcement authorities;

(2) a hurricane warning;

(3) a partial or complete evacuation order;

(4) designation by federal or state government as a "disaster area;" or

(5) a catastrophic occurrence, whether natural or man-made, which seriously damages or threatens serious damage to the Community, such as an earthquake, tidal wave, fire, hurricane, tornado, war, civil unrest, or acts of terrorism.

4.17 Committee Meetings. The provisions of this Section 4 governing the calling and holding of Board meetings shall also apply to the meetings of all committees or other similar bodies specified in the Governing Documents, and to any committee or similar body appointed by the Board or any member thereof, or elected by the members, to which the Board has delegated its decision-making powers. The meetings of any committee vested with the power to approve or disapprove architectural decisions with respect to a specific parcel of residential property owned by a member of the Association must be conducted with the same formalities as required for meetings of the Board.

5. OFFICERS.

5.1 Officers and Elections. The executive officers of the Association shall be a President, and one or more Vice-Presidents, who must be Directors of the Association, as well as a Treasurer and a Secretary, all of whom shall be elected annually by majority vote of the Board of Directors. Any officer may be removed, with or without cause, by vote of a majority of all Directors at any meeting. Any person except the President may hold two or more offices. The Board of Directors shall, from time to time, appoint such other officers, and designate their powers and duties, as the Board shall find to be required to manage the affairs of the Association. If the Board so determines, there may be more than one Vice-President.

5.2 President. The President shall be the chief executive officer of the Association; he shall preside at all meetings of the Members and Directors, shall be ex-officio a member of all standing committees, shall have general and active management of the business of the Association, and shall see that all orders and resolutions of the Board are carried into effect. He shall execute bonds, mortgages and other contracts or documents requiring the seal of the Association, except where such are permitted by law to be otherwise executed, and the power to execute is delegated by the Board of Directors to another officer or agent of the Association.

5.3 Vice-Presidents. The Vice-Presidents in the order of their seniority shall, in the absence or disability of the President, perform the duties and exercise the powers of the President; and they shall perform such other duties as the Board of Directors shall prescribe.

5.4 Secretary. The Secretary shall attend the meetings of the Board and meetings of the members, and shall record all votes and the minutes of all proceedings in a book or books to be kept for the purpose, and shall perform like duties for the standing committees when required. He shall give, or cause to be given, notice of all meetings of the members and of the Board of Directors, and shall perform such other duties as may be prescribed by the Board or the President. He shall keep in safe custody the seal of the Association and, when authorized by the Board, affix the same to any instrument requiring it. The Secretary shall be responsible for the proper recording of all duly adopted amendments to the Governing Documents. Any of the foregoing duties may be performed by an Assistant Secretary, if any has been designated.

5.5 Treasurer. The Treasurer shall have responsibility for the collection, safe-keeping, and disbursement of funds and securities of the Association, shall keep full and accurate accounts of receipts and disbursements in books belonging to the Association, and shall deposit all monies and other valuable effects in the name and to the credit of the Association in such depositories as may be designated by the Board of Directors, and prepare the budget for the Association. He shall disburse the funds of the Association, making proper vouchers for such disbursements, and shall render to the President and Directors, at the regular meetings of the Board, or whenever they may require it, an account of all transactions and of the financial condition of the Association. Any of the foregoing duties may be performed by an Assistant Treasurer, if any has been designated.

6. ARCHITECTURAL REVIEW COMMITTEE. The ARC provided for in Section 6 of the Declaration shall be selected, and conduct its affairs as provided in this Section.

6.1 Members; Qualification. The Architectural Review Committee, hereinafter the "ARC," shall initially be composed of three (3) persons, all appointed by the Declarant, who may also be Directors of the Association. After the Declarant no longer has a right to appoint the ARC, the size of the ARC shall be increased to five (5) persons. Except for those appointed by the Declarant, and as otherwise provided in Section 6.5 below, no member of the ARC shall be a Director. Whenever possible and practical, one of the committee members should be an architect, general contractor, or other person with professional expertise in building, landscaping, or architectural design.

6.2 Selection; Terms. The members of the ARC shall be appointed by the President of the Association to serve terms of one year beginning on January 1 of each year. If a mid-term vacancy occurs for any reason, the President shall appoint a successor to fill the unexpired term. Members of the ARC, once appointed, may be removed only by vote of a majority of all the voting interests, and not by the officers or Directors.

6.3 Compensation. If approved by the Board of Directors, any or all members of the ARC may be compensated for their services.

6.4 Meetings. The ARC shall meet as necessary, and otherwise at the call of the Chairman as necessary, to carry out its duties and functions. The ARC shall meet with the same formalities and notice requirements as required for Board meetings, unless otherwise permitted by law. Written notice of meetings shall be provided to each owner at least one week in advance, and any Owner wishing to appear before the ARC may do so. Special meetings may be called as needed by the Chairman. Notwithstanding anything herein to the contrary, during Declarant control, the Declarant may appoint one (1) person who shall be empowered to serve on behalf of and act for the Architectural Review Committee.

6.5 Procedures, Voting. A majority of the members of the ARC present in person at any duly called meeting shall constitute a quorum. All questions shall be decided by a majority of the entire committee.

Where a question involves proposed changes to a Lot or Living Unit owned by a member of the ARC, that member shall be disqualified from participation in the proceedings, and his place shall be taken by the then President of the Association. If a proposed change is not approved, the reasons for disapproval shall be stated in writing. Minutes of all meetings of the ARC shall be kept in a business-like manner, and shall be available at reasonable times for inspection or photocopying by any owner. Copies of the plans and specifications for all approved changes and construction shall be kept for at least five years.

7. FISCAL MATTERS. The provisions for assessments and fiscal management of the Association set forth in the Declaration of Covenants shall be supplemented by the following provisions:

7.1 Depository. The Association shall maintain its accounts in federally insured accounts at financial institutions doing business in the State of Florida as may be designated from time to time by the Board. Withdrawal of monies from such accounts shall be only by such persons as are authorized by the Board. The Board may invest Association funds in interest-bearing accounts, money market funds, certificates of deposit, U.S. Government securities, and other similar investment vehicles, provided they are federally insured, or backed by the full faith and credit of the United States.

7.2 Budget. The Board of Directors shall, at a meeting each year, adopt a budget of general expenses for the next fiscal year. The budget must reflect the estimated revenues and expenses for that year and the estimated surplus or deficit as of the end of the current year. The budget must set out separately all fees or charges for recreational amenities, whether owned by the Association, the Declarant, or another person. The Association shall provide each member with a copy of the annual budget or a written notice that a copy of the budget is available upon request at no charge to the member. The proposed budget shall be detailed and shall show the amounts budgeted by accounts and expense classifications.

7.3 Reserves. The Board may, but shall not be obligated to, establish in the budgets one or more reserve accounts for contingencies, operating expenses, repairs, improvements, capital expenditures or deferred maintenance. The purpose of the reserves is to provide financial stability and to avoid the need for special assessments. The amounts proposed to be so reserved shall be shown in the proposed annual budgets each year. These funds may be spent only for purposes for which they were reserved, unless another use is approved by unanimous consent of the entire Board.

7.4 Fidelity Bonds. The Treasurer, and all other officers who are authorized to sign checks, and all Directors and employees of the Association handling or responsible for Association funds, shall be bonded in such amounts as determined by the Board of Directors. The premiums on such bonds shall be paid by the Association.

7.5 Accounts and Accounting Procedures. The financial and accounting records of the Association must be kept according to good accounting practices. All financial and accounting records must be maintained for a period of at least seven (7) years. The financial and accounting records must include:

(A) Accurate, itemized, and detailed records of all receipts and expenditures.

(B) A current account and a period statement of the account for each member, designating the name and current address of each member who is obligated to pay assessments, the due date and amount of each assessment or other charge against the member, the date and amount of each payment on the account, and the balance due.

(C) All tax returns, financial statements, and financial reports of the Association.

(D) Any other records that identify, measure, record or communicate financial information.

7.6 Financial Reporting. The Association shall prepare an annual financial report within sixty (60) days after the close of the fiscal year. The Association shall, within ten (10) business days after the report is prepared, provide each member with a copy of the report, or a written notice that a copy of the financial report is available upon request at no charge to the member.

7.7 Application of Payments and Commingling of Funds. All monies collected by the Association may be commingled, for investment purposes only, in a single fund, or divided into two or more funds, as determined by the Board of Directors. The books and records of the Association shall be kept in conformity to generally accepted accounting principles and the audit and accounting guide for Common Interest Realty Associations of the American Institute of Certified Public Accountants. All payments on account by an Owner shall be applied as to interest, delinquencies, costs and attorney's fees, other charges, and annual or special assessments, in such manner and amounts as the Board of Directors may determine, or as may be required by law.

7.8 Fiscal Year. The fiscal year for the Association shall begin on the first day of January each year. The Board of Directors may change to a different fiscal year in accordance with the provisions and regulations from time to time prescribed in the Internal Revenue Code of the United States.

7.9 Payment of Assessments. The Association shall make annual assessments based on the adopted budgets shall be payable quarterly (due on January 1, April 1, July 1, and October 1 of each year or such other date as the Board of Directors may determine). Assessments and Special Assessments as the term is used in this Section 7.9 and 7.10 are assessments levied by the Association and shall not be confused with assessments which are levied by any local government (county, municipality or ISD). Written notice of the annual assessment shall be sent to all owners at least thirty (30) days prior to the due date. Failure to send or receive such notice shall not, however, excuse the obligation to pay. By resolution, the Board may establish the place for payment, the method of payment, and a late payment fee.

7.10 Special Assessments. Special assessments may be imposed by the Association's Board of Directors whenever necessary to meet unbudgeted, emergency, or non-recurring expenses, or for such other purposes as are authorized by the Declaration or these Bylaws. Special assessments are due on the day specified in the resolution of the Board approving such assessment.

7.11 Proof of Payment. Within ten (10) business days after receipt of request from the Owner, mortgagee, or purchaser of a Lot or Living Unit, the Association shall furnish a written statement certifying that all assessments then due from any Lot or Living Unit have been paid, or indicating the amounts then due.

7.12 Suspension. The Association shall not be required to transfer Memberships on its books or to allow the exercise of any rights or privileges of Membership on account thereof to any owner, or to any persons claiming under an owner, unless and until all assessments and charges to which said owner and his Lot or Living Unit is subject have been paid in full.

8. TURNOVER OF CONTROL OF ASSOCIATION.

8.1 Time of Turnover. Turnover of control of the Association occurs when the Class A Members are first entitled to elect a majority of the Directors of the Association. Class A Members shall be entitled to

assume control of the Association by electing the entire Board of Directors not later than ninety (90) days after the conveyance of title, to owners other than Declarant, of at least ninety percent (90%) of the Lots within the Lands. At that time the Directors appointed by the Declarant shall resign. The election shall occur at a meeting of the members (the Turnover Meeting).

8.2 Procedure for Calling Turnover Meeting. No less than sixty (60) days prior to the Turnover Meeting, the Association shall notify in writing all Members of the date of the Turnover Meeting. At the Turnover Meeting the Directors elected by the Members as further provided in Section 4 above, and all but one of the Directors previously appointed by the Declarant, shall resign.

8.3 Early Turnover. The Declarant may turn over control of the Association to the Members prior to the time for turnover set forth above, by causing all but one of its appointed Directors to resign, whereupon it shall be the affirmative obligation of the Class A Members to elect the other Directors and assume control of the Association. If at least sixty (60) days' notice of Declarant's decision to cause its appointees to resign is given as described in Section 8.2 above, neither the Declarant, nor such appointees shall be liable in any manner in connection with such resignations if the Members refuse or fail to assume control.

8.4 Declarant Representative. The Declarant is entitled to appoint at least one member of the Board of Directors as long as the Declarant holds for sale in the ordinary course of business at least five percent (5%) of the Lots or Living Units in the Community. After the Declarant relinquishes control of the Association, the Declarant may exercise the right to vote any Declarant-owned interests in the same manner as any other member, except for purposes of reacquiring control of the Association or selecting a majority of the Directors.

8.5 Turnover - "As Is". When owners other than Declarant assume control of the Association by electing the majority members on the Board of Directors, the Association will accept turnover of the common areas and facilities in their "as is" condition, without recourse. The Declarant makes no representations, to the fullest extent permitted by law, and disclaims all warranties, expressed or implied, in law or in fact, with respect thereto, including without limitation representations or warranties or merchantability or fitness for any particular purpose, in representations or warranties regarding the construction, design, adequacy of size or capacity in relation to the utilization, date of completion, future economic performance, or operations of, or the materials, furniture, or equipment which have been used in the common areas and facilities at the time of turnover, the Association accepts the conditions of all common areas and common area facilities from the Declarant without recourse against the Declarant herein.

9. AMENDMENT OF BYLAWS. Amendments to these Bylaws shall be proposed and adopted in the following manner:

9.1 Proposal. Amendments to these Bylaws may be proposed either by a resolution approved by a majority of the whole Board of Directors, or by a petition to the Board signed by at least twenty-five percent (25%) of the voting interests of the Association. Once so proposed, the amendments shall be submitted to a vote of the Members at a meeting no later than the next annual meeting for which notice can still properly be given.

9.2 Vote Required. Except as otherwise provided by law, or by specific provision of the Governing Documents, these Bylaws may be amended by concurrence of at least two thirds (2/3) of the voting interests present and voting at any annual or special meeting, provided that the text of any proposed amendment has been given to the Members with notice of the meeting.

9.3 Amendment by Board. As long as Declarant Membership exists, the Board of Directors, by majority vote, may unilaterally amend these Bylaws in any manner which it deems advisable, including but not limited to amendments to correct errors or conform the Bylaws to any applicable statute or local ordinance. Such amendments shall not require consent of the Members.

9.4 Certificate; Recording. A copy of each approved amendment shall be attached to a certificate reciting that the amendment was duly adopted, which certificate shall be executed by the President or Vice-president of the Association with the formalities of a deed. The amendment shall be effective when the certificate and copy of the amendment are recorded in the Public Records of the County. The certificate must identify the book and page of the Public Records where the Declaration was originally recorded.

10. MISCELLANEOUS.

10.1. Gender; Number. Whenever the masculine or singular form of the pronoun is used in these Bylaws, it shall be construed to mean the masculine, feminine or neuter; singular or plural, as the context requires.

10.2 Severability. Should any portion hereof be void or become unenforceable, the remaining provisions of the instrument shall remain in full force and effect.

10.3 Conflict. If any irreconcilable conflict should exist, or hereafter arise, with respect to the interpretation of these Bylaws and the Declaration or the Articles of Incorporation of the Association, the provisions of the Declaration or Articles of Incorporation shall prevail over the provisions of these Bylaws.

EXHIBIT "D"



10" x 18" Wood or Metal sign (Dark Green Background w/White Letters and Border) mounted to metal step stake