

MANAGEMENT AGREEMENT

THIS MANAGEMENT AGREEMENT (this "Management Agreement"), made and entered into this ____ day of _____, 2006, by and between BABCOCK RANCH MANAGEMENT, LLC, a Florida limited liability company, whose central contact address is 9055 Ibis Boulevard West Palm Beach, FL 33412 (hereinafter referred to as "Manager") and the BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA, whose central contact address is 3900 Commonwealth Blvd. MS 100 Tallahassee, Florida 32399 (hereinafter referred to as the "Board of Trustees") FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION ("Commission" or "lead managing agency"), whose address is Bryant Building, 620 South Meridian Street, Tallahassee, Florida 32399-1600, and LEE COUNTY, FLORIDA ("County"), whose address is whose address is P.O. Box 398, Ft. Myers, Florida 33902-0398 (the Board of Trustees and County are collectively referred to herein as "Owners" – all references herein to the term "Owners" shall be deemed to mean Board of Trustees and County with respect to the portions of the Property that each owns)

W I T N E S S E T H:

WHEREAS, the Board of Trustees and County are the owners in fee simple of certain real property lying and being situated in Charlotte and Lee Counties, Florida, more specifically described in Exhibit "A", attached hereto and incorporated herein by reference (hereinafter referred to as the "Property") and Commission is the Board of Trustees' lead managing agency for the Property; and

WHEREAS, the Owners and Manager mutually recognize the agricultural, natural, scenic and special character of the Property and its soils and have the common purpose of conserving certain natural and agricultural values and character of the Property by management of the Property to conserve those values, rural and agricultural character, ecological integrity and hydrological integrity of the Property and conserve and protect the animal and plant populations on the Property.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Owners and Manager agree that the foregoing recitals are true and correct and incorporated herein and further agree as follows:

I. PURPOSE

1. **Purpose.** It is the purpose of this Management Agreement to provide for the management and conservation of the Property as a working ranch and silviculture operation, which shall include: cattle ranching, timber management and harvesting, Florida native plant nursery, apiary operations, sod farm and related operations, or any form of agriculture, as defined in Section 570.02(1), Florida Statutes, in present use on the Property; eco-tourism, natural resource based recreation (such as hiking, hunting and

fishing), horticultural debris disposal business and tenant farming (which tenant farming shall be phased out over time), all as more particularly described herein, to: (i) provide sustainable and relatively natural habitat for fish, wildlife, plants or similar ecosystems; (ii) conserve the Property as productive agricultural land that sustains for the long term the economic and conservation values of the current uses of the Property, including important soils, and its environs through management; and (iii) prevent any use of the Property that will cause or result in degradation of the present environmental and conservation quality of the Property. At or before the closing of the first "Takedown Parcel" (as hereinafter defined) under the Agreement (as hereinafter defined) and execution by Owners of this Management Agreement Manager shall assist the Owners with the development of the management plan for the operation of the Property as required by law, and the business plan, which plans shall include items of operational expense and cost factors, as well as items particular to the purposes herein stated, with the understanding that Manager shall be responsible for all costs of these operations and shall be entitled to all revenues from these operations, subject to all other provisions of this Management Agreement. During the initial term of this Management Agreement and, if extended, the first year of the extended term, Manager shall reinvest no less than 50% of all revenues from the Property in the management, maintenance and improvement of the Property, in accordance with the provisions of this Management Agreement (revenues from the Property that are used to pay salaries and benefits of employees that are employed solely in connection with the Property shall be included within the aforesaid 50% reinvestment requirement). During the second through fifth years of the extended term of this Management Agreement the percentage of reinvestment in the Property as aforesaid shall increase by 10% per year so that 60% is reinvested in the second year of the extended term, 70% in the third year of the extended term, 80% in the fourth year of the extended term, and 90% in the fifth year of the extended term. The management plan adopted by the Board of Trustees and the business plan approved by the Board of Trustees shall become a part of this Management Agreement by this reference. Once adopted and approved by the Board of Trustees, the management and business plans may not be materially amended or modified in any way without the prior written consent of the Board of Trustees, except where such change is required immediately to prevent or mitigate significant risk to the health, safety and welfare of personnel or to prevent or mitigate significant damage to the resources on the Property. Where changes to the plans are so required without the prior written consent of the Board of Trustees, Manager shall bring the need for such changes and the nature of the changes to the attention of DSL and Owners as soon as practicable after the danger has passed. Budgets for the operation of the Property shall be developed annually in cooperation with the Board of Trustees' lead managing agency, and any changes to the budget during the budget year shall be made in cooperation with said lead managing agency. Upon the closing of each Takedown Parcel, Manager shall be deemed to be appointed as the sole and exclusive manager for the applicable Takedown Parcel in coordination with the Board of Trustees' lead managing agency, and as such will have the sole and exclusive right to occupy the Property in accordance with the provisions of this Management Agreement, unless otherwise expressly permitted in Section IV, Paragraphs 25 and 25.1 hereof. If a not-for-profit corporation is created for the management of this property it shall act only in an advisory role until termination of this

Management Agreement. If net revenues from the Property at the date this Management Agreement becomes effective are reduced as a result of changes in operations required by the adopted management plan to the extent the operation operates at a loss, then funds required to cause the operation to break even shall be provided by the lead managing agency, subject to a legislative appropriation to the lead managing agency for the purpose.

2. Preparation of management and business plan. Manager shall participate in the preparation of the management and business plans for the Property and, in connection therewith, the Owners agree that the management and business plans shall not be in conflict with the existing use and operation of the Property. The parties understand that the management plan will be adopted in accordance with the provisions of section 253.034(5), Florida Statutes by the Board of Trustees after review by the Acquisition and Restoration Council. The business plan will be approved by the Board of Trustees in accordance with the requirements of the adopted management plan. The Manager and the Owners shall participate in the preparation of the management plan and the business plan.

II. PROPERTY

The Property is being acquired by the Board of Trustees and County in phases pursuant to that certain Agreement For Sale and Purchase (the "Agreement") dated * _____ *, 2005 between MSKP III, Inc., as seller, and the Board of Trustees, Commission and County as purchaser. In connection therewith, upon each "Closing" under the Agreement, the parties hereto shall execute an amendment to this Management Agreement which will add the "Takedown Parcel", as defined in the Agreement, then being acquired as part of the Property that is to be managed by Manager under the provisions of this Management Agreement as part of Exhibit "A" attached hereto.

III. TERM

1. Term. The term of this Management Agreement (the "Term") shall commence upon the Commencement Date and end on the fifth (5th) anniversary after said Commencement Date, unless sooner terminated as hereinafter provided.

2. Extension of Term. The Term shall be automatically extended for one (1) additional five (5) year period, unless Manager provides written notice to the Board of Trustees no later than one hundred eighty (180) days prior to the expiration of the then existing Term that Manager does not elect to extend the Term for an additional five (5) years. Notwithstanding the foregoing, this Management Agreement shall not be extended beyond a termination date of July 31, 2016.

3. Right of Termination. Manager may terminate this Management Agreement by providing written notice (the "Termination Notice") to the Board of Trustees of such termination at least 180 days prior to the date that this Management Agreement is to be terminated. Upon Manager giving the Termination Notice, this Management Agreement shall terminate on the 180th day after such notice is given. The

Owners may only terminate this Management Agreement in accordance with the provisions of Section VI, Paragraph 1 hereof.

4. Commencement Date. Notwithstanding the date that this Management Agreement is signed by the Board of Trustees and Manager, the “Commencement Date” of the Term of this Management Agreement, and each of the terms and conditions hereof, shall commence upon the acquisition of the first “Takedown Parcel” under the Agreement. Manager shall implement the management and business plans adopted and approved by the Board of Trustees for the Property when the plans are adopted or approved in accordance with Section I above.

IV. USES

The Manager shall have the right and obligation to comply with the following matters pertaining to the use of the Property, subject to the requirements of, and to the extent not inconsistent with, the management and business plans that are adopted and approved by the Board of Trustees in accordance with Section I above. All activities conducted on the Property by or on behalf of Manager shall be conducted in accordance with all federal, state and local laws applicable thereto.

1. Uses. No commercial, residential or industrial activity shall be undertaken or allowed on the Property except as now may exist on the Property or as otherwise expressly allowed by the terms of this Management Agreement, including, without limitation, Section I above, nor shall any license, easement or right-of-passage across or upon the Property be allowed or granted to a third party, if that right of passage is used in conjunction with residential, commercial or industrial activity, except upon the express written approval of the Board of Trustees and, as to the Property located in Lee County, County, which approval shall not be unreasonably withheld, and with such approval being conditioned upon a determination by the Board of Trustees and County, if applicable, that such use and right of passage is consistent with the purpose of this Management Agreement. Agricultural activities by Manager hereunder shall be conducted in accordance with applicable BMPs (as hereinafter defined), if any.

2. Roads. All road construction and maintenance shall be included within the management plan, and shall be in accordance with the Best Management Practices (“BMPs” as hereinafter defined) contained therein. Typical construction and maintenance activities may include disking, plowing, grading, excavating and the application of clay, gravel, shell or other like material, or any other activity necessary to Manager’s performance of its responsibilities under the provisions of this Management Agreement.

3. Firelines and Breaks. Manager may maintain existing fire lines and breaks, as well as plow new fire lines and breaks as reasonably required for fire prevention and control. All construction and maintenance of such firelines shall be subject to any applicable permitting process of the State of Florida or the United States or of any political subdivision or agency of either, shall be included within the management

plan, and shall be in accordance with the applicable BMPs (as hereinafter defined). Such firelines and breaks are recognized to be in anticipation of authorized controlled burns or wildfire control.

4. **Waters.** Manager shall maintain existing culverts, ditches, drains, swales, and other control structures on the property. Manager may, subject to applicable permitting (including applicable BMPs (as hereinafter defined)) install wells for the activities allowed to Manager under the provisions of this Management Agreement.

5. **Nurseries.** Manager may establish nurseries on the Property, not to exceed 5,000 acres in total at a location or locations to be agreed upon between Manager and Owners, to propagate native species for use on the Property, for use by Trustees off-site and for use on the “Retained Property”, as that term is defined in the Agreement, subject to payment by the user at wholesale rates therefor, and for retail sale to the public . These nurseries must use state of the art systems to ensure land and water conservation and stewardship. Manager may use products produced at the nurseries to develop a greenway system(s) throughout the Property for the enjoyment of the public and ecosystem reestablishment.

6. **Purposely omitted.**

7. **Public Access.** Manager shall allow public access to the Property in areas deemed safe by the Owners, and as provided in the management plan. The Owners understand that areas of active cattle grazing, hunting, mechanical agricultural operations, and other functions that could cause risk to public users will not be allowed open access. Manager shall use reasonable effort to ensure that all gates and fences will remain functional and secure. Until adoption of the management plan, the parties shall cooperate to develop an interim access agreement to provide public access to the public to the greatest extent safe and practicable and to the extent reasonably consistent with the existing use and operation of the Property.

8. **Purposely omitted.**

9. **Purposely omitted.**

10. **Research and Education Center.** Manager shall establish a Research and Education Center on the Property, subject to mutual agreement between the Board of Trustees and Manager as to location and size. The Owners shall fully cooperate in the establishment of a Research and Education Center in cooperation with the Florida Gulf Coast University to enhance the overall environment of the Property and to improve and augment curriculum at the University. The Center shall engage in the research and study of the environment, agricultural practices and horticultural practices.

11. **Off Highway Vehicles.** Off Highway Vehicles, as defined in Section 317.0003(1), Florida Statutes, shall not be allowed on the Property except for manager’s

maintenance activities, in emergency situations, and when necessary for compliance with the Americans with Disabilities Act.

12. Construction. There shall be no construction of or the placing of buildings, infrastructure, or roads, signs, billboards or other advertising, utilities, or other structures on, under, or above the ground, except as otherwise authorized in this Management Agreement.

13. Dumping. Unless specifically authorized by the Board of Trustees, or County as to lands in Lee County, there shall be no dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, solid or liquid waste (including sludge material), or hazardous materials, wastes or substances, toxic waste or substances, pollutants or contaminants, or unsightly or offensive materials. This prohibition shall not be construed to prohibit customary lawful accumulations of waste or the use and lawful application of chemicals, pesticides, herbicides or fertilizers, dirt, soil, rock, shell and other materials in accordance with the activities allowed under this Management Agreement.

14. Exotics and Invasive Species. No nuisance, exotic and non-native invasive vegetation may be planted on or encouraged to grow on the Property. Manager shall use reasonable efforts to control the spread of nuisance, exotic and non-native invasive vegetation on the Property.

15. Horticultural Debris Disposal. Manager may continue the debris disposal operations on the Property through the term of the Management Agreement. The Board of Trustees is aware of the necessity to keep this operation on-going to alleviate disposal of plant waste generated through normal agricultural operations, and to assist Manager in disposal of exotic and non-native invasive vegetation on the Property.

16. Pesticides/Herbicides and Fertilizer. Pesticides, herbicides and fertilizer must be applied in accordance with label instructions. All such applications shall further be subject to any applicable permitting process, shall be included within the Rural Land Stewardship plan that is to be established for the Property, and shall be in accordance with the applicable BMPs (as hereinafter defined).

17. Mining and Excavation. Unless specifically authorized by the Board of Trustees or this Management Agreement, or County as to lands lying in Lee County, no mining, excavation, filling or dredging shall be allowed on the Property.

18. Conversion of Natural Areas. Areas identified as natural areas shall not be converted to other land uses. The parties shall identify such areas before each closing of a Takedown Parcel using such maps or aerial photographs as agreed to by the parties.

19. Replacement Structures and New Working Facilities. Existing structures may be replaced at their current location as required. Any such replacement structures may be increased to a footprint size no larger than 125% of the size of the

original structure (square footage may be increased with more than one story structures). Additionally, Manager may construct up to three (3) new working facilities (e.g., working cattle pens, maintenance barns, etc.) as required to accommodate existing ranch operations or as required to accommodate any agricultural enterprise expansion. Each of these allowed, newly constructed working facilities will be limited to an area no greater than 15,000 sq ft. and may not be located in natural areas, designated as set forth in Paragraph 18 above, or wetlands.

20. Improved Pasture. Pastures currently improved for cattle and equine operations may continue to be used as improved pasture (the “Improved Pasture Area”). The parties shall identify such areas before each closing using such maps or aerial photographs as agreed to by the parties. For the purposes hereof, generally accepted habitat management practices shall include rotation of forage crops in Improved Pasture Areas.

a. Manager may plant cover and forage crops in the existing pasture areas, provided any such crop is of a non-invasive, non-exotic species. Forage harvesting from these Improved Pasture Areas, and processing of these forages for enhanced animal consumption, is allowed. Agricultural activities reserved by Manager hereunder shall be conducted in accordance with applicable BMPs (as hereinafter defined), if any. Consistent with the applicable BMPs (as hereinafter defined), Manager may maintain the Improved Pasture Areas through generally accepted habitat management practices, such as controlled burning, mowing, rotary chopping and disking as required to further good husbandry and game management.

b. Manager may harvest pasture-grass sod, hay and seed in the Improved Pasture Areas as a part of ongoing soil stabilization and rotation of grasses for pasture maintenance in accordance with good horticultural practices, provided that no more than twenty percent (20%) of the Improved Pasture Areas shall be harvested for pasture-grass sod in any one calendar year.

c. The Owners understand that past tenant farming was for the limited purpose of converting previously unproductive sites to useful improved pasture, done through limited agreements with third parties responsible for labor and operational costs which were recouped through income derived from planted crops. Manager shall ensure no tenant farming exists by the end of the first term of this Management Agreement.

21. Silviculture. Manager may conduct commercial forestry operations (silviculture) and timber harvesting on the Property as described below, in accordance with the applicable BMPs (as hereinafter defined) and subject to the following conditions and restrictions:

a. **Wetland Harvesting.** There shall be no harvesting in wetlands and no harvesting of cypress trees anywhere on the Property.

b. **Upland Harvesting.** Management of the upland harvesting areas shall be in accordance with applicable BMPs (as hereinafter defined) and may include generally accepted habitat management practices, such as controlled burning, mowing, rotary chopping and disking as required to further good husbandry and game management. Manager may harvest pine trees, if low thinning methodology is utilized and BMPs (as hereinafter defined) are followed; provided, however, there shall be no clear cutting except to control or eradicate disease, hazard mitigation, or salvage operations. After such harvesting, the remaining stand shall be approximately thirty (30) square feet of basal area per acre and the leave trees shall be selected from the dominant and the co-dominant species. Site preparation, application of fertilizers, use of pesticides and herbicides, and implementation of prescribed burning, and harvesting methods shall be addressed in accordance with BMPs (as hereinafter defined).

c. **Salvage Harvesting.** Salvage harvesting following natural disasters, including but not limited to insect infestations or wildfires, shall be allowed in all areas of the Property in accordance with applicable BMPs (as hereinafter defined), if any. Following such disaster, all site preparation and re-establishment activities will be conducted according to BMPs (as hereinafter defined), if any, and consistent with the condition of such area prior to the disaster.

d. **Palm Tree Removal.** Manager may systematically remove and sell palm trees as part of an ongoing thinning operation.

22. **Ranch Operation.** Manager shall maintain commercial cattle and equine operations in accordance with the Natural Resources Conservation Service ("NRCS"), local soil and water district, or State of Florida Department of Agriculture and Consumer Services' ("DACS") BMPs (as hereinafter defined), as and to the extent contemplated by the management and business plans. Manager shall repair and maintain existing fences and may fence and cross-fence as reasonably required for the conduct of ranch operations, provided, however any such fencing shall not substantially impede the movement of wildlife onto, across or upon the Property. Manager may maintain existing wells on the Property, and use the same for irrigation subject to regulatory approval as applicable.

23. **Signs.** Manager shall have the right to construct, place and maintain signs on the Property solely for the purpose of identifying the Property or the allowed activities thereon. The total square footage of any allowed signage for the Property shall not exceed sixty-four (64) square feet.

24. Roads, Game Plots, Vehicular Game Trails and Utilities. Manager shall maintain existing roads, game plots, vehicular game trails and utilities, and construct, expand and install such impervious roads, trails and utilities as may be, or become, reasonably necessary to manage the Property and the installations and facilities now existing or hereafter constructed upon the Property as allowed by this Management Agreement. Absent any contrary agreement, any additional roads, game plots and game trails to be constructed shall be limited to no more than fifteen percent (15%) (in terms of length or size) of such roads, game plots and game trails in existence as of the date of each closing, exclusive of (a) roads necessary to provide access for new construction allowed under this Management Agreement and (b) conversion of tenant farms to wildlife habitat and forage areas. The design, construction and location of such roads, plots, trails and utilities shall be decided upon in cooperation with the Board of Trustees' lead managing agency and in accordance with the NRCS, local soil and water district, or DACS' BMPs (as hereinafter defined).

25. Hunting, Wildlife Management, and Nature Study Rights. Manager may exercise wildlife viewing and nature study rights on or related to the Property during the term of this Management Agreement, and Manager may grant licenses and sell privileges in respect of such rights on the Property; subject, however, to obtaining such permits as may be required. Manager acknowledges that the Commission shall manage the hunting and wildlife management activities on the Property. Notwithstanding the foregoing there shall be no hunting on the Property or changes to wildlife management from those in existence at the date of this Management Agreement until the management plan relating to same has been approved by Commission. Manager acknowledges that the state currently provides certain funds to its lead managing agencies for the management of state-owned lands. Consequently, the parties expect the Commission to receive such management funds, which will be invested by Commission as it determines for the management of the Property.

25.1 Gopher Tortoise Mitigation Park. If the Commission has established a Gopher Tortoise Mitigation Park on the Property in accordance with the provisions of the Agreement, then the area of the Property so designated and established as a Gopher Tortoise Mitigation Park shall be managed by Commission in accordance with the Commission's criteria for the management of Gopher Tortoise Mitigation Parks. Commission and Manager shall cooperate to identify and manage additional uses of areas designated as a Gopher Tortoise Mitigation Park that are compatible with use of the areas for such mitigation.

26. Cypress Lodge and Other Dwellings. Manager shall operate and manage the Cypress Lodge and may coordinate with a member of the state university and community college systems to advance hotel/restaurant management job training. Manager shall also operate and manage the other structures on the Property, including, without limitation, the dwellings that are used by the employees of Manager who are employed in connection with the Property.

27. **Camping Areas.** Manager shall cooperate with the Owners to develop and place a camp/cottage system on the Property in accordance with the terms of the management plan. Such system may include ecotourism activities, such as canoeing, bird watching, or horseback trail rides in areas deemed safe for public use. Manager shall also cooperate with the Owners to develop primitive campsites where feasible. Such cooperation will include locating necessary infrastructure such as utilities and emergency vehicle access routes.

28. **Greenway System.** Manager may develop a comprehensive greenway system for the use of the public, which greenway system may be connected to a greenway system planned for the Retained Property. It is anticipated that this greenway system shall be connected south to the regional park to provide access to the Caloosahatchee River for the owners within the Retained Property and the public.

29. **Ecosystem tours.** Manager shall continue to manage and operate the ecosystem tour program currently in operation on the Property.

30. **Property Owner's Association (POA).** One hundred percent of the funds collected by the POA for the purpose of supporting the environmental stewardship activities of the Property, as more particularly provided for in the Agreement, shall be deposited to the management account for the Property and used for the management, maintenance and improvement of the Property and for the Research and Education Center, as provided by this Management Agreement.

31. **Ponds.** Manager may excavate ponds in the Improved Pasture Area for the benefit of livestock and wildlife only in accordance with applicable BMPs (as hereinafter defined). Ponds may not be excavated in the identified natural areas.

32. **Manager's Interest.** The Owners acknowledge and agree that for the purposes of this Management Agreement, Manager is an independent contractor and not an agent of the Owners.

V. **ENFORCEMENT.**

The Board of Trustees and County shall have the right to enforce, by proceedings at law or in equity, compliance with this Management Agreement, including, but not limited to, the right to require restoration of the Property by Manager to the condition at the date of this Management Agreement. In addition to the above rights, should Manager not restore the Property upon reasonable notice, the Board of Trustees and County shall have the right to undertake such restoration and recover the reasonable cost of such restoration from Manager.

Manager shall have the right to enforce, by proceedings at law or in equity, compliance with this Management Agreement.

VI. GENERAL PROVISIONS.

1. Board of Trustees' and County's Remedies. In the event the Board of Trustees or County becomes aware of a violation of the terms of this Management Agreement, the management plan or the business plan (the "documents") the Board of Trustees or County shall give written notice to Manager in accordance with the notice provisions herein. Manager, shall only be deemed to be in default under the terms the documents in the event Manager fails to keep, observe or perform any material covenant, material agreement or material term or provision of the documents to be kept, observed or performed by it and such failure continues for a period of thirty (30) days after written notice thereof by the Board of Trustees or County; provided, however, that if such failure is not susceptible of cure within such 30-day period and Manager has commenced such cure within such period and thereafter diligently pursues such cure, then Manager shall have such additional time as is reasonably necessary to cure such failure. In the event a default by Manager occurs under the documents after expiration of the aforesaid applicable grace and notice periods, then the Board of Trustees and County shall have the right to bring an action at law or in equity before a court of competent jurisdiction to: (i) enforce the terms of the documents; (ii) require the restoration of the Property to the condition that existed prior to such activity; (iii) recover liquidated damages in lieu of restoration of harvested timber, and in the event Manager harvests or causes to be harvested timber in violation of the documents, Manager stipulates to liquidated damages for such violation in an amount equal to two hundred percent (200%) of the then fair market value of the harvested timber together with restoration of any portions of the Property altered in violation of the documents; (iv) enjoin such noncompliance by a temporary or permanent injunction in a court of competent jurisdiction; (v) seek a mandatory injunction in a court of competent jurisdiction to compel Manager to take such corrective action as required to remedy the violation; (vi) recover any actual damages arising from noncompliance with the documents, except as provided in clause (iii) above; and/or (vii) terminate this Management Agreement.

(a) If the Board of Trustees or County, in its discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Property, the Board of Trustees or County may pursue its remedies under this paragraph without prior notice to Manager or without waiting for the period for cure to expire; provided, however, that (i) the Board of Trustees or County shall provide written notice to Manager of the violation and the Owners' actions to prevent or mitigate said damage at the earliest feasible time and (ii) in no event shall the Board of Trustees or County have the right to terminate this Management Agreement under this subparagraph (a).

(b) The Board of Trustees and County do not waive or forfeit the right to take such action as may be necessary to ensure compliance with this Management Agreement by any prior failure to act and Manager hereby waives any defenses of laches with respect to any delay by the Board of

Trustees or County in acting to enforce any restriction or exercise any rights under this Management Agreement.

(c) Nothing herein shall be construed to entitle the Board of Trustees or County to institute any enforcement proceedings against Manager for any changes to the Property or plant or animal life thereon due to causes beyond Manager's control, such as, without limitation, changes caused by fire, flood, storm, earthquake, major plant or animal disease, or acts of God.

(d) Nothing herein shall be construed to prohibit the Board of Trustees or County from terminating this Management Agreement in addition to any other remedies provided at law or in equity, after expiration of applicable notice and grace periods set forth above in this Paragraph 1.

2. **Taxes and Assessments.** Manager agrees to pay when due any real estate taxes or other assessments levied on the Property. Any funds received from an governmental agency or authority for the management of the Property pursuant to this Management Agreement may not be used for the payment of such taxes or other assessments, but Manager shall be individually liable for any such taxes and assessments on its own behalf and not on behalf of the Owners. Upon request of the Board of Trustees, Manager shall furnish to the Board of Trustees timely proof of such payment. In the event that Manager fails to pay any tax or assessment on the Property when due, the Board of Trustees, subject to the notice and cure provision of this Management Agreement and in the Board of Trustees' absolute discretion, may pay such tax or assessment. Such payment by the Board of Trustees on behalf of Manager shall bear interest at the statutory rate for money judgments then in effect in the State of Florida from date of demand therefor.

3. **Amendment.** This Management Agreement may be amended only if in the sole and exclusive judgment of the Board of Trustees, or County as to lands lying within Lee County, such amendment furthers or is not inconsistent with the purposes of this Management Agreement and the conservation and protection of the Property. Any such amendment must be mutually agreed upon by Manager and the Board of Trustees or County, as appropriate, signed and duly recorded by the parties, or their respective successors or assigns, and in compliance with all applicable laws and regulations.

4. **Manager Remedies.** In the event of a default under the "documents" (as defined in subparagraph 1 of this Section) by the Board of Trustees, County or the Commission, Manager shall be entitled to exercise any and all rights and remedies that Manager may have as a result of such default, under the documents, at law or in equity. The foregoing rights and remedies shall be deemed to include, without limitation: (a) if the default is the failure to pay sum of money, then Manager shall be the right to expend such sums and seek reimbursement from the appropriate party, together with interest at the statutory rate for money judgments then in effect in the State of Florida from date of demand therefor; (b) if the default is the failure to take any action or result of any action

in violation of the terms of this Management Agreement, then Manager shall have the right to seek specific performance, injunction or any other equitable remedy with respect thereto, it being agreed that Manager, Board of Trustees, County and Commission all acknowledge and agree that the unique and unusual nature of the Property is a material inducement for Manager to enter into this Management Agreement, and in the event that this Managing Agreement is terminated by the Board of Trustees, County and Commission in violation of the express terms of this Agreement, then Manager shall have the right to seek an injunction or other equitable remedy to have Manager's right to manage the Property under the terms of this Management Agreement enforced; (c) the right to seek any and all damages; and/or (d) the right to terminate this Management Agreement.

5. Attorneys' Fees and Costs. In any dispute between the Owners and Manager arising out of this Management Agreement that results in the filing of a lawsuit, each party in such action shall bear its own attorney fees (including fees on appeal) incurred by such party in regard to this dispute.

6. Successors and Assigns. The terms "Owners" and "Manager" as used herein shall include, without limitation, the successors and assigns of the Owners and Manager. The covenants, terms, conditions and restrictions of this Management Agreement shall be binding upon and inure to the benefit of Manager and the Owners. Manager shall not assign this Management Agreement in whole or in part without the prior written consent of the Owners. Any assignment made either in whole or in part without the prior written consent of the Owners shall be void and without legal effect. In the event that Manager assigns its rights under this Management Agreement, with the approval of the Owners, to an entity that is affiliated with Manager to a not-for-profit entity that is created under Internal Revenue Code Section 501(c)(3) or to another entity, specifically for the management of the Property, then assignor shall be released from all liability under this Management Agreement upon the effective date of such assignment except for matters arising before the approved assignment and while assignor was managing the Property.

7. Notices. Any notice, demand, consent, or communication that either party is required to give to the other hereunder shall be in writing and either served personally by hand-delivery, next-day courier delivery, or by registered or certified mail, postage prepaid, addressed as follows:

To the Board of Trustees:

Board of Trustees of the Internal Improvement Trust Fund of the
State of Florida
3900 Commonwealth Blvd. MS 100
Tallahassee, Florida 32399
850-245-2555 FAX 850-245-2572

To County

Board of County Commissioners
of Lee County, Florida
P.O. Box 398
Ft. Myers, Florida 33902-0398

To Commission:

Florida Fish and Wildlife Conservation Commission
Bryant Building
620 South Meridian Street
Tallahassee, Florida 32399-1600

To Manager:

Babcock Ranch Management, LLC,
9055 Ibis Boulevard
West Palm Beach, FL 33412
(561) 624-4000 (561) 624-4537 FAX

With a copy to:

Ard, Shirley & Hartman, PA
207 West Park Avenue, Suite B
Tallahassee, FL 32301
ATT: Sam Ard, Esq.
(850)577-6500, (850)577-6512 FAX

With a copy to:

Gunster, Yoakley & Stewart, P.A.
777 South Flagler Drive
Suite 500, East Tower
West Palm Beach, Florida 33401
ATT: Ernie Cox, Esq. and Daniel Mackler, Esq.
561/655-1980, 561/655-5677 FAX

Or to such other address as any of the above parties shall from time to time designate by written notice, delivered pursuant to the terms of this paragraph. All such notices delivered hereunder shall be effective upon delivery, if by hand-delivery or next-day courier delivery, or within three (3) days from the date of mailing if delivered by registered or certified mail.

8. Mediation. From time to time, the terms and conditions of this Management Agreement will require the Owners and Manager to reach agreement on certain plans and courses of action described and contemplated herein. The Owners and Manager agree to attempt to reach agreement on such plans and courses of action in good

faith. In the event that, after a reasonable effort, the Owners and Manager fail to reach agreement on a plan or course of action required to be undertaken pursuant to this Management Agreement, then in that event, the Owners or Manager may submit such issue to mediation. Mediation shall be held at a time and place mutually agreeable to the Owners and Manager provided, however, in no event shall the mediation be scheduled earlier than thirty (30) days or later than sixty (60) days after notice provided by one party to the other requesting mediation on the issue in dispute. The mediation shall be held before a panel of three mediators chosen in the following manner: The Owners shall choose one mediator, Manager shall choose one mediator, and the two mediators selected shall confer and choose a mutually acceptable third mediator having expertise in the subject matter in dispute. The cost of the mediation shall be borne equally by Owners and Manager. This mediation provision is intended to apply to good faith disputes regarding mutual decisions to be reached by the Owners and Manager under the terms and conditions of this Management Agreement. In no event shall this mediation provision supplant or impede election of the remedies otherwise set forth herein.

9. No Waiver of Regulatory Authority. Nothing herein shall be construed to restrict or abrogate the lawful regulatory jurisdiction or authority of the State of Florida or the United States or any political subdivision or agency of either.

10. Environmental Indemnification. Manager hereby indemnifies and agrees to save, defend and hold harmless the Owners, from and against any and all liabilities, claims, demands, losses, expenses, damages, fines, fees, penalties, suits, proceedings, actions, costs and other liabilities (whether legal or equitable in nature including, without limitations, attorneys fees and costs) claimed or asserted by or on behalf of any person or governmental authority and caused by a violation by Manager (or Manager's agents or employees, invitees or guests) of Environmental Laws. Provided, however, in the event that the Owners or any of them are named or joined as a party in a suit or proceeding alleging a violation by Manager of Environmental Laws (or a violation by Manager's agents, employees, invitees or guests), the Owners shall give Manager timely notice of such suit or proceeding. Upon receipt of such notice, Manager shall tender a defense of the Owners in such action or proceeding. The Owners shall have the right to reasonably approve Manager's selection of counsel for such defense. So long as Manager tenders and maintains such defense on behalf of the Board of Trustees, the indemnity provisions of this Paragraph shall not extend to attorneys' fees and costs incurred or paid in defense of such suit or proceeding if such fees and costs are independent of the defense tendered by Manager. The term "Environmental Law" shall mean all federal, state and local laws including statutes, regulations, ordinances, codes, rules and other governmental restrictions and requirements relating to the environment or hazardous substances including, but not limited to, as amended, the Federal Solid Waste Disposal Act ("SWDA"), the Federal Clean Air Act ("CAA"), the Federal Clean Water Act ("CWA"), the Federal Resource Conservation and Recovery Act of 1976 ("RCRA"), the Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), the Federal Superfund Amendments and Reauthorization Act of 1986 ("SARA"), the Federal Emergency Planning and Community Right-To-Know Act ("EPCRA"), the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA"), the

Toxic Substances Control Act (“TSCA”), Chapters 161, 253, 373, 376, and 403, Florida Statutes, and the rules and regulations of the (i) United States Environmental Protection Agency, (ii) the State of Florida Department of Environmental Protection, and (iii) the South Florida Water Management District, now or at any time hereafter in effect. Notwithstanding anything herein to the contrary, in no event shall Manager be obligated to remediate, clean-up any or indemnify the Owners or any other party for, present or former cattle “dipping vats” on the Property or any applicable Takedown Parcel and the existence of the such “dipping vats” shall not be deemed, as between Manager and the Owners, to be a violation of any Environmental Law.

11. Best Management Practices. As used in this Management Agreement, the term “Best Management Practices” (“BMPs”) shall be deemed to be those Best Management Practices that are approved by any of the following: DACS, University of Florida Institute of Food and Agricultural Sciences, NRCS, the local soil and water conservation district, or in the absence of the foregoing, those BMPs then utilized as the prevailing practices for commercial ranching and silviculture operations in Florida. Provided, however, that in following such BMPs, Manager shall explore improved methods of conducting farm and ranch operations to better protect the resources and environment to the extent the same are consistent with the approved business plan for the Property. Manager shall adopt any improved methods so discovered and consistent with the business plan even though such methods may exceed then-current BMPs.

12. Duty of Care. The Owners and Manager recognize and acknowledge the natural, scenic, aesthetic, ecological, and hydrological character of the Property and have the common purpose and intent of the conservation and preservation of the Property in perpetuity. Accordingly, both parties hereby acknowledge a continuing duty of care to each other imposed by this Management Agreement carry out the intent and purpose of this Management Agreement in regard to the management of the Property.

13. Consideration. The Owners and Manager acknowledge that there are no provisions for the payment of rent or management fees in this Management Agreement. However, the Owners and Manager acknowledge and agree that the covenants in this Management Agreement that are binding upon the Owners and Manager provide sufficient consideration for this Management Agreement.

14. Agency. Owners’ agent in all matters under this Management Agreement shall be the Division of State Lands of the Florida Department of Environmental Protection (“DSL”). The foregoing agency shall be deemed to include, without limitation: (a) review and approval or disapproval, as applicable, of any matter that requires or contemplates Owners’ approval herein, and (b) the approval and execution of any amendments to this Management Agreement. Provided, however, that in the event that any provision of this Management Agreement or proposed amendment of this Management Agreement materially affects or materially relates to the Property located in Lee County, Florida, owned by County then such provision shall also require the County’s approval. The parties’ approval under the provisions of this paragraph 14. shall not be unreasonably withheld or delayed.

15. **Title Disclaimer.** The Owners do not warrant or guarantee any title, right or interest in or to the Property.

16. **Unauthorized Use.** Manager shall, through its agents and employees, use reasonable efforts to prevent the unauthorized use of the Property or any use thereof not in conformance with this Management Agreement.

17. **Sub-Management Agreements.** This Management Agreement is for the purposes specified herein and sub-management agreements of any nature are prohibited, without the prior written approval of the Owners. Any sub-management agreement not approved in writing by the Owners shall be void and without legal effect; provided, however, that nothing in this Paragraph 17 shall prohibit Manager from entering into service contracts with third parties to provide services that the Manager has the right or obligation to provide under this Management Agreement.

18. **Ownership of Improvements/Surrender of Property.** Possession and use of the Property together with all improvements located thereon and all livestock and equipment then in use and reasonably necessary for the operation of the Property (such improvements and livestock then in use and reasonably required for the operation of the Property are herein collectively called the "Personalty"), upon the permitted termination of this Management Agreement (and for reasons other than default by the Board of Trustees, County or Commission), shall automatically vest in the Board of Trustees free and clear of any liens and encumbrances. Manager shall, nonetheless, thereafter execute and deliver to the Board of Trustees such evidence of title as the Board of Trustees may reasonably request. Upon such termination of this Management Agreement, Manager shall peaceably and quietly surrender to the Owners the Property together with all improvements located thereon and said Personalty. Personal property placed on the Property by Manager that does not become a permanent part of the Property and is not Personalty, as defined above, will remain property of Manager and may be removed by Manager upon termination of this Management Agreement. If Manager fails to remove its personal property within 30 days after termination of this Management Agreement, the Owners may retain said personal property and the same may be disposed of, without accountability, in such manner as the Owners sees fit.

19. **Insurance Requirements.** During the term of this Management Agreement Manager shall procure and maintain policies of fire, extended risk, and liability insurance coverage. The extended risk and fire insurance coverage shall be in an amount equal to the full insurable replacement value of any improvements or fixtures located on the Property. The liability insurance coverage shall be in amounts not less than \$100,000 per person and \$200,000 per incident or occurrence for personal injury, death, and property damage on the Property. Such policies of insurance shall name Manager, the Owners and the State of Florida as co-insureds. Manager shall submit written evidence of having procured all insurance policies required herein prior to the effective date of this Management Agreement and shall submit annually thereafter, written evidence of maintaining such insurance policies to the Bureau of Public Land

Administration, Division of State Lands, Department of Environmental Protection, Mail Station 130, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000. Manager shall purchase all policies of insurance from a financially responsible insurer duly authorized to do business in the State of Florida. Manager shall immediately notify the Owners and the insurer of any erection or removal of any building or other improvement on the Property and any changes affecting the value of any improvements and shall request said insurer to make adequate changes in the coverage to reflect the changes in value. Manager shall be financially responsible for any loss due to failure to obtain adequate insurance coverage, and Manager's failure to maintain such policies in the amounts set forth shall constitute a breach of this Management Agreement.

20. Indemnity. Manager hereby covenants and agrees to investigate all claims of every nature at its own expense, and to indemnify, protect, defend, save and hold harmless the Owners and the State of Florida from any and all claims, actions, lawsuits and demands of any kind or nature, all to the extent arising out of Manager's default under the terms of this Management Agreement. Neither this indemnification nor any other indemnity, term or provision of this Management Agreement shall be deemed to be a waiver of or release by any of the governmental entities that are a party to this Management Agreement of any sovereign immunity or other similar limitation of liability in favor thereof, including, without limitation, those set forth in Chapter 768 of the Florida Statutes and Manager, to the fullest extent permitted by law, is hereby granted the right to assert such sovereign immunity or other similar limitation on behalf of any governmental party to this Management Agreement for any matters that Manager is required to indemnify, defend or otherwise be responsible for under this paragraph or any other provision of this Management Agreement.

21. No Waiver Of Breach. The failure of the Owners to insist in any one or more instances upon strict performance of any one or more of the covenants, terms and conditions of this Management Agreement shall not be construed as a waiver of such covenants, terms or conditions, but the same shall continue in full force and effect, and no waiver of the Owners of any of the provisions hereof shall in any event be deemed to have been made unless the waiver is set forth in writing, signed by the Owners.

22. Time. Time is expressly declared to be of the essence of this Management Agreement.

23. Non-Discrimination. Manager shall not discriminate against any individual because of that individual's race, color, religion, sex, national origin, age, handicap, or marital status with respect to any activity occurring on the Property or upon lands adjacent to and used as an adjunct of the Property.

24. Venue Privileges. The Owners and Manager agree that the Board of Trustees and Commission have a venue privilege as to any litigation arising from matters relating to this Management Agreement. Any such litigation between the Board of Trustees or Commission and Manager shall be initiated and maintained only in Leon County, Florida.

25. Utility Fees. The Owners shall not be responsible for the furnishing of any services of any kind to Manager during the term of this Management Agreement. Manager shall be responsible for the payment of all charges for the furnishing of gas, electricity, water and other public utilities to the Property and for having all utilities turned off when the Property is surrendered.

26. Mineral Rights. This Management Agreement does not cover petroleum or petroleum products or minerals and does not give the right to Manager to drill for or develop the same, and the Owners specifically reserve the right to lease the Property for purposes of exploring and recovering oil and minerals by whatever means appropriate so long as such activities do not materially affect the water resources on and under or natural beauty of the Property.

27. Right of Audit. Manager shall make available to the Owners all financial and other records relating to this Management Agreement and the management of the Property, and the Owners shall have the right to either audit such records at any reasonable time or require the submittal of an annual independent, detailed, financial audit, performed by a certified public accountant according to generally accepted accounting principles and auditing standards verifying all financial records pertaining to this Management Agreement, during the term of this Management Agreement. This right shall be continuous until this Management Agreement expires or is terminated. This Management Agreement may be terminated by the Owners should Manager fail to allow public access to all documents, papers, letters or other materials made or received in conjunction with this Management Agreement, pursuant to, but only to the extent such public access is required by the provisions of Chapter 119, Florida Statutes. In addition, Manager shall be required to maintain and allow public access to all documents, papers, letters or other materials made or received in conjunction with this Management Agreement for a period of three years after the expiration or termination of this Management Agreement, solely to be the extent required by applicable law.

28. Condition Of Property. The Owners assume no liability or obligation to Manager with reference to the condition of the Property. Manager accepts the Property in an "as is" condition, and the Owners assume no responsibility for the care, repair, maintenance or improvement of the Property for the benefit of Manager.

29. Compliance With Laws. Manager agrees that this Management Agreement is contingent upon and subject to Manager obtaining all applicable permits and complying with all applicable permits, regulations, ordinances, rules, and laws of the State of Florida or the United States or of any political subdivision or agency of either.

30. Damage To The Property. (a) Manager shall not do, or suffer to be done, in, on or upon the Property or as materially affecting said Property or adjacent properties, any act which may result in damage or depreciation of value to the Property or adjacent properties, or any part thereof, so long as the foregoing is not required by the management or business plans adopted pursuant to Section I hereof. (b) Manager shall

not generate, store, produce, place, treat, release or discharge any contaminants, pollutants or pollution, including, but not limited to, hazardous or toxic substances, chemicals or other agents on, into, or from the Property or any adjacent lands or waters in any manner not allowed by law. For the purposes of this Management Agreement, "hazardous substances" shall mean and include those elements or compounds defined in 42 USC Section 9601 or which are contained in the list of hazardous substances adopted by the United States Environmental Protection Agency (EPA) and the list of toxic pollutants designated by the United States Congress or the EPA or defined by any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance, material, pollutant or contaminant. "Pollutants" and "pollution" shall mean those products or substances defined in Chapters 376 and 403, Florida Statutes, and the rules promulgated thereunder, all as amended or updated from time to time. In the event of Manager's failure to comply with this paragraph, Manager shall, at its sole cost and expense, promptly commence and diligently pursue any legally required closure, investigation, assessment, cleanup, decontamination, remediation, restoration and monitoring of (1) the Property, and (2) all off-site ground and surface waters and lands affected by Manager's failure to comply, as may be necessary to bring the Property and affected off-site waters and lands into full compliance with all applicable federal, state or local statutes, laws, ordinances, codes, rules, regulations, orders and decrees, and to restore the damaged property to the condition existing immediately prior to the occurrence which caused the damage. Manager's obligations set forth in this Paragraph shall survive the termination or expiration of this Management Agreement. This Paragraph shall not be construed as a limitation upon Manager's obligations regarding indemnification and payment of costs and fees as set forth in Section VI, Paragraphs 2, 10 and 20 of this Management Agreement, nor upon any other obligations or responsibilities of Manager as set forth herein. Nothing herein shall relieve Manager of any responsibility or liability prescribed by law for fines, penalties and damages levied by governmental agencies, and the cost of cleaning up any contamination caused directly or indirectly by Manager's activities or facilities. Upon discovery of a release of a hazardous substance or pollutant, or any other violation of local, state or federal law, ordinance, code, rule, regulation, order or decree relating to the generation, storage, production, placement, treatment, release or discharge of any contaminant, Manager shall report such violation to all applicable governmental agencies having jurisdiction, and to the Owners, all within the reporting periods of the applicable governmental agencies.

31. Environmental Audit. At the Owners' discretion, which shall be based upon reasonable grounds, Manager shall provide the Owners with a current Phase I environmental site assessment conducted in accordance with the Department of Environmental Protection, Division of State Lands' standards prior to termination of this Management Agreement, and if necessary a Phase II environmental site assessment.

32. Public Lands Arthropod Control Plan. Manager shall identify and subsequently designate to the respective arthropod control district or districts within one year of the effective date of this Management Agreement all of the environmentally

sensitive and biologically highly productive lands contained within the Property, in accordance with Section 388.4111, Florida Statutes and Chapter 5E-13, Florida Administrative Code, for the purpose of obtaining a public lands arthropod control plan for such lands.

33. Prohibitions Against Liens Or Other Encumbrances. The Board of Trustees and County hold fee title to the Property. Manager shall not do or permit anything to be done which purports to create a lien or encumbrance of any nature against the Property including, but not limited to, mortgages or construction liens against the Property or against any interest of the Board of Trustees or County therein.

34. Partial Invalidity. If any term, covenant, condition or provision of this Management Agreement shall be ruled by a court of competent jurisdiction, to be invalid, void, or unenforceable, the remainder shall remain in full force and effect and shall in no way be affected, impaired or invalidated so long as the term, covenant, condition or provision that is rendered invalid does not invalidate a material term of this Management Agreement.

35. Archaeological And Historic Sites. Execution of this Management Agreement in no way affects any of the parties' obligations pursuant to Chapter 267, Florida Statutes. The collection of artifacts or the disturbance of archaeological and historic sites on state-owned lands is prohibited unless prior authorization has been obtained from the Department of State, Division of Historical Resources. Manager shall be required to work with the Division of Historical Resources to insure that adequate measures have been planned to locate, identify, protect and preserve the archaeological and historic sites and properties on the Property.

36. Sovereignty Submerged Lands. This Management Agreement does not authorize the use of any lands located waterward of the mean or ordinary high water line of any lake, river, stream, creek, bay, estuary, or other water body or the waters or the air space thereabove.

37. Radon Gas Disclosure. Florida law requires the following notification: "RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department."

38. Conviction Of Felony. If Manager or any principal thereof is convicted of a felony during the term of this Management Agreement, such conviction shall constitute, at the option of the Owners, grounds for termination of this Management Agreement.

39. Maintenance Of Improvements. Manager shall, at its sole cost and expense, maintain the Property and any improvements located thereon, in a state of good

condition, working order and repair including, but not limited to, keeping the Property free of trash or litter and meeting all building and safety codes, all in accordance with and as contemplated by the management and business plans adopted as described in Section I hereof.

40. Governing Law. This Management Agreement shall be governed by and interpreted according to the laws of the State of Florida.

41. Section Captions. Articles, subsections and other captions contained in this Management Agreement are for reference purposes only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Management Agreement or any provisions thereof.

42. Operational Report. Manager shall prepare and submit an Operational Report to the Board of Trustees annually detailing all activities on the Property of any nature during the prior year, including those matters addressed in the management and business plans and this Management Agreement, together with information regarding funding, expenditures, permit applications, and design or building contracts for the prior year.

43. Interest Exclusion on Bonds. Anything in this Management Agreement to the contrary notwithstanding, Manager shall do nothing hereunder to cause the interest on the bonds issued for the acquisition of the Property by the Board of Trustees or County to lose exclusion from gross income for federal income tax purposes. Any provision of this Management Agreement that would so cause the loss of the exclusion shall be void. Notwithstanding the foregoing, in no event shall this paragraph be deemed to require Manager to incur any additional expense or cost if any of the foregoing requires Manager to perform any action or undertake any liability or obligation that is not contemplated by the management and business plans that are adopted pursuant to Section I hereof.

44. Conflicts. If any conflict exists between the provisions of this Management Agreement and any management plan adopted by the Board of Trustees, the terms of the management plan shall control. Any disputes by Manager with the terms of the management plan shall be subject to mediation in accordance with the provisions of Section VI, paragraph 8, of this Management Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Management Agreement, to become effective as of the day and year first above written.

**Signed, Sealed and Delivered
In the Presence of:**

**BOARD OF TRUSTEES OF THE
INTERNAL IMPROVEMENT TRUST
FUND OF THE STATE OF FLORIDA**

By: _____
Deborah Poppell, Assistant Director

Print name: _____

Print name: _____

**Division of State Lands, State of
Florida Department of
Environmental Protection, as agent
for and on behalf of the Board of
Trustees of the Internal Improvement
Trust Fund of the State of Florida**

**STATE OF FLORIDA
COUNTY OF LEON**

I HEREBY CERTIFY that the foregoing instrument was acknowledged before me this _____ day of _____, 2005, by Deborah Poppell, Assistant Director, Division of State Lands, State of Florida Department of Environmental Protection, as agent for and on behalf of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida. She is personally known to me.

(SEAL)

NOTARY PUBLIC, State of Florida
My Commission Expires: _____
My Commission No.: _____

LEE COUNTY, FLORIDA

BY ITS BOARD OF COUNTY
COMMISSIONERS

By: _____
(Chairman or Vice Chairman)

Date: _____

Attest: _____

Date: _____

APPROVED AS TO FORM AND LEGALITY:

By _____

Date: _____

**BABCOCK RANCH MANAGEMENT,
LLC, a Florida limited liability company**

Print Name: _____

By: _____
Sydney Kitson as Managing Member

Print Name: _____

Attest: _____

Print Name: _____

Title: _____

**STATE OF FLORIDA
COUNTY OF _____**

I HEREBY CERTIFY that the foregoing instrument was acknowledged before me this _____ day of _____, 2005, by Sydney Kitson and _____ as Managing Member and _____, respectively, of Babcock Ranch Management, LLC, a Florida limited liability company, on behalf of the company, who are personally known to me or who provided _____ as identification.

NOTARY PUBLIC, State of Florida
My Commission Expires: _____
My Commission No.: _____

EXHIBIT "A"

LEGAL DESCRIPTION