

COPY NO: \_\_\_\_\_  
PRESENTED TO: \_\_\_\_\_

CONFIDENTIAL PRIVATE PLACEMENT MEMORANDUM

BAHIA VILLAGE COMMUNITIES, INC.



Bahia Village Communities, Inc.  
2775 E. U.S. Highway 90  
Macclenny, Florida 33063  
(904) 469-0722; <https://www.bahiovillages.com>

Dated: July 7, 2021

*Copy to:*  
Weintraub Law Group, PC  
10085 Carroll Canyon Road, Suite 230  
San Diego, CA 92131

We are offering for sale up to 6,400,000 shares of Common Stock of Bahia Village Communities, Inc. at the price of \$3.125 per share representing a total of 49% of our Company with a minimum purchase of 64,000 shares for \$200,000. We are accepting up to \$20,000,000. The offering shall terminate within twelve (12) months from the first date on which the offering commences, to be extended for six (6) months after the initial twelve (12) month offering period in our sole discretion, or earlier terminated at any time after the offering commences. We are undertaking such offer and sale on a “best efforts” basis, meaning the company is not required to sell any predetermined amount of securities before it may use proceeds of its sale of securities. No assurance can be given that all or any portion of the securities offered hereby will be sold.

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The investment opportunity contemplated herein involves a high degree of risk.  
Please refer to “**Risk Factors**” on page 5 herein.

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NEITHER THE SECURITIES AND EXCHANGE COMMISSION (“SEC”) NOR ANY STATE SECURITIES COMMISSION HAS APPROVED OR DISAPPROVED OF THE SECURITIES

CONFIDENTIAL PRIVATE PLACEMENT MEMORANDUM  
BAHIA VILLAGE COMMUNITIES, INC.

REFERENCED HEREIN OR PASSED UPON THE ADEQUACY OR ACCURACY OF THIS PRIVATE PLACEMENT MEMORANDUM OF BAHIA VILLAGE COMMUNITIES, INC. (THIS “**MEMORANDUM**”). ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

THE SECURITIES REFERENCED HEREIN HAVE NOT BEEN REGISTERED AND WILL NOT BE REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE “**ACT**”), AND ARE BEING OFFERED PURSUANT TO EXEMPTION FROM REGISTRATION THEREUNDER, SPECIFICALLY RULE 506(C) OF REGULATION D PROMULGATED UNDER THE ACT (“**RULE 506(C)**”).

THIS MEMORANDUM HAS BEEN PREPARED ON A CONFIDENTIAL BASIS SOLELY FOR THE BENEFIT OF “**ACCREDITED INVESTORS**,” AS THAT TERM IS DEFINED AND SET FORTH UNDER RULE 501 OF REGULATION D, AS SUCH TERMS ARE USED IN THE CONTEXT OF RULE 506(C), EACH AS PROMULGATED UNDER THE ACT. THERE IS NO PUBLIC MARKET FOR ANY SECURITIES OF THE COMPANY, AND IT IS NOT EXPECTED THAT THERE WILL BE A MARKET FOR ANY SECURITIES OF THE COMPANY IN THE FORESEEABLE FUTURE, INCLUDING THE OFFERED SECURITIES.

YOUR PARTICIPATION IN THIS OFFER OF SECURITIES ENTAILS A HIGH DEGREE OF RISK. THE OFFERING IS SPECULATIVE AND SUITABLE ONLY FOR INVESTORS WHO HAVE SUBSTANTIAL FINANCIAL RESOURCES AND NO NEED FOR LIQUIDITY IN AN INVESTMENT IN THE COMPANY. FURTHER, PARTICIPATION IN THIS OFFER OF SECURITIES SHOULD ONLY BE UNDERTAKEN BY INVESTORS WHO UNDERSTAND OR HAVE BEEN ADVISED WITH RESPECT TO THE TAX CONSEQUENCES AND OTHER RISK FACTORS ASSOCIATED THEREWITH, AND WHO CAN BEAR THE SUBSTANTIAL ECONOMIC RISK OF THEIR INVESTMENT FOR AN INDEFINITE PERIOD. SEE “**RISK FACTORS**” HEREIN.

THE SECURITIES REFERENCED HEREIN ARE OFFERED, AND SHALL BE SOLD, SUBJECT TO THE PROVISIONS OF THIS MEMORANDUM, AND A SUBSCRIPTION AGREEMENT CONTAINING CERTAIN REPRESENTATIONS, WARRANTIES, TERMS, AND CONDITIONS OF AN INVESTOR, AND AN OPERATING AGREEMENT. ANY INVESTMENT IN THE SECURITIES REFERENCED HEREIN SHOULD BE MADE ONLY AFTER A COMPLETE AND THOROUGH REVIEW OF THE PROVISIONS OF THIS MEMORANDUM, SUCH SUBSCRIPTION AGREEMENT, AND SUCH OPERATING AGREEMENT.

THIS CONFIDENTIAL MEMORANDUM MAY NOT BE SHOWN OR GIVEN TO ANY PERSON OTHER THAN THE PERSON WHOSE NAME APPEARS ABOVE, WHO AGREES TO RETURN IT AND ANY OTHER DOCUMENTS MADE AVAILABLE BY THE COMPANY, AND MAY NOT BE PRINTED OR REPRODUCED IN ANY MANNER WHATSOEVER. FAILURE TO COMPLY WITH THIS DIRECTIVE CAN RESULT IN A VIOLATION OF THE ACT, AS AMENDED, AND/OR THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED (THE “**1934 ACT**” OR THE “**EXCHANGE ACT**”). ANY FURTHER DISTRIBUTION OR REPRODUCTION OF THESE MATERIALS, IN WHOLE OR IN PART, OR THE DIVULGENCE OF ANY OF THE CONTENTS BY AN OFFEREE IS UNAUTHORIZED. PLEASE SEE SECTION ENTITLED “FURTHER INFORMATION.”

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## 1. SUMMARY

The following summary is qualified in its entirety by reference to the more detailed information included elsewhere in this Memorandum. Capitalized terms used in the following summary but not previously defined within this Memorandum have those meanings given to them in the following full text of this Memorandum beginning on page 5 herein.

The offer and issuance of Common Shares (“**Shares**”) hereby solely relates to Bahia Village Communities, Inc (the “**Company**,” “**we**,” “**us**,” or “**Bahia**”). We are offering for sale up to 6,400,000 shares of common stock to unaffiliated third parties who are accredited investors (“**Investor(s)**”). Investors will be required to make a minimum investment of \$200,000 (the “**Minimum Contribution**”) or an investment in multiples of \$200,000. Each \$200,000 investment represents approximately 1% of our Company. We are accepting up to \$20,000,000. Management may accept a contribution of real property valued at fair market value in lieu of a cash investment. Please refer to the section entitled “**Use of Proceeds**.”

This Memorandum is proprietary and confidential and is for an intended recipient’s use solely in considering the acquisition of shares. Neither this Memorandum nor any other documentation made available by the Company or any affiliate of the Company may be reproduced, duplicated, or transmitted in whole or in part. An Investor should review this Memorandum, the Bylaws of our Company included herewith, and the Subscription Agreement included herewith in coordination with their independent legal counsel, financial and tax advisers, and other advisers. Other than the information made available in this Memorandum, the Company and its affiliates will not offer an Investor any legal, financial, tax, or other advice concerning the Investor’s acquisition of Shares.

## ***Risk Factors***

Purchasing Shares involves a high degree of risk. If the Company is unable to manage these risks, the Company may not meet its business objectives, and an Investor may lose some or all of the value of their investment in the Company. The following is a summary of the material risks that the Board believes is most relevant to an investment in the Company. However, this summary does not replace a complete review of “***Risk Factors***” herein:

- The Company is newly formed with no operating history. Investors will not have the benefit of reviewing the Company’s past performance.
- No market studies have been performed regarding the offer and sale of the Shares.
- The offer and sale of the Shares is subject to an arbitrary offering price.
- The Company will have broad discretion in the use of proceeds raised by the offer and sale of the Shares.
- An Investor will have minimal to no control over the Company’s operations.
- There is no, and the Company does not anticipate that in the immediate future there will be a public market for the equity securities the Company. The Shares will be illiquid.
- An Investor purchasing the Shares may be subject to risks arising under federal and state securities laws.
- The Company may not be able to sell all of the Shares, which may result in the Company being undercapitalized and unable to achieve its business objectives.
- The Company will be required to indemnify the Board and its executive officers and other agents for good faith actions taken on the Company’s behalf.
- The Company’s results may vary from quarter-to-quarter and year-to-year, and results of one period may not be indicative of, or comparable to, results of subsequent periods.
- The Company competes against traditional and novel solutions to the services it offers, and the Company may face competition from both established and new competitors.
- The Company is heavily reliant on the experience and expertise of the Board and its executive officers and other skilled personnel.
- As a business, the Company may be subject to routine litigation.
- The illiquidity of the Shares may make an investment in them unsuitable for Benefit Plans.

- Presently, the Company is taxed as a Subchapter C corporation under the Code for federal income tax purposes. However, changes to existing laws and regulations may make it favorable for the Company to elect to be taxed as a subchapter-S corporation under the Code, and such a change could adversely affect Investors holding Shares.

***Fiscal Year***

Our fiscal year will end on December 31 of each year.

***Use of Proceeds***

The Company intends to use the proceeds of the offer and sale of Shares for general business purposes as further specified herein. The Board cannot guarantee that the Company will utilize proceeds in precisely the manner identified herein. Please see section entitled “Use of Proceeds.”

***Determination of Offering Price***

The offering price of Shares has been arbitrarily determined by the Board, and may not reflect the perceived or actual market value of Shares, the book value of Shares, or the value of Shares as measured by other established means of valuation.

***Common Stock***

See “Description of Securities” for a summary of the rights of Common Stock.

***Plan of Distribution***

The offer and sale of Shares is not being underwritten. The Board intends to conduct the offer and sale of Shares by and through the Board and the Company’s executive officers. The offer and sale of Shares is being undertaken on a “best efforts” basis. We will not be using an escrow agent. We do not have to raise any minimum amount and the Company will have access to funds as they are raised.

***Dividend Policy***

We have never declared dividends or paid cash dividends. We currently intend to retain and use any future earnings for the development and expansion of our business and do not anticipate paying any cash dividends in the near future.

***Legal Proceedings***

To the Company’s knowledge, it is not a party to any material legal proceeding. To the Company’s knowledge, none of its directors, executive officers, control persons, or promoters of the offer and sale of Shares are a party to material legal proceedings.

***Directors, Executive Officers, Promoters, and Control Persons***

As of the date of this Memorandum, Sharon Amezcua, Larry Braden, Dean DeLisle and John Rowland serve on the Board. Sharon Amezcua is our CEO, Larry Braden is our CFO, and Dean DeLisle is our Secretary.

***Security Ownership of Beneficial Owners and Management***

Presently, Sharon Amezcua, Larry Braden, Dean DeLisle and John Rowland each own 1,650,000 shares of common stock of the Company, a total of 6,600,000 shares of common stock of the Company representing 66% of the Company’s issued and outstanding stock.

***Transactions with Related Persons, Promoters, and Certain Control Persons***

The members of the Board and officers of the Company are entitled to indemnification by the Company for actions taken on behalf of the Company in such capacities.

Our Board members are also involved in the management of and hold beneficial interests in S2A Modular and Modular Green Management Headquarters, LLC, a Delaware limited liability company formed April 23, 2021, and other related entities.

Our officers are also members of Bahia Villages Management LLC, an entity recently formed to perform administrative functions for each of the planned Bahia Village Communities. The managers of Bahia Villages Management LLC are John Rowland, Larry Braden and Sharon Amezcua.

Each of the officers are employees of Modular Green Management Headquarters, LLC. Modular Green Management Headquarters, LLC owns 50% of S<sup>2</sup>A Investments 2 through 36, LLC, a total of thirty-four entities (except for S<sup>2</sup>A Investments LLC 13 which was never formed and will not be informed), each a separate stand-alone legal entity or Investment Subsidiary, in addition to its 38% ownership in S<sup>2</sup>A Investments LLC. S<sup>2</sup>A Modular 2 through 36, LLC, a total of thirty-four entities, is an Operating Entity wholly-owned by a corresponding Investment Subsidiary.

Modular Green Management Headquarters LLC owns 100% of S<sup>2</sup>A Modular Headquarters Corporation, a Delaware corporation formed on April 20, 2021.

GreenLux™ Properties, LLC and GreenLux Properties Corporation are owned by affiliates of the Board.

Santa Rosa Development Consultants, LLC, a California limited liability company, is owned by John Rowland and Brian Kuzdas.

***[The full text of this Memorandum follows.]***

## **2. RISK FACTORS**

The purchase of Shares involves a high degree of risk. An Investor should carefully consider the risks described below in addition to other information set forth in this Memorandum and other documentation and information made available by the Company before deciding to purchase Shares. The risks and uncertainties described below are not exhaustive. Additional risks and uncertainties not presently known or that the Board currently deems immaterial may also impair the Company's results of operations. An Investor may lose some or all of the value of their investment in the Company.

### **A. Cautionary Note Regarding Forward-Looking Statements**

Statements included in this Memorandum and other documentation and information made available by the Board that are not historical facts (including, but not limited to, any statements concerning investment objectives, other plans, and objectives of the Company for future operations or economic performance, or assumptions or forecasts related thereto) are forward-looking statements. These statements are only predictions. Forward-looking statements are not guarantees. Actual events or the Company's results of operation could differ materially from those expressed or implied in forward-looking statements. Forward-looking statements are typically identified by the use of terms such as "may," "will," "should," "expect," "could," "intend," "plan," "anticipate," "estimate," "believe," "continue," "predict," "potential," or the negative of such terms and other comparable terminology.

Forward-looking statements included in this Memorandum and other documentation and information made available by the Board are expectations, plans, estimates, assumptions, and beliefs, which involve numerous risks and uncertainties. Assumptions relating to the foregoing involve judgments with respect to, among other things, future economic, competitive and market conditions, and future business decisions, all of which are difficult or impossible to predict accurately and many of which are beyond the Company's control. Although the Board believes that the expectations reflected in forward-looking statements are based on reasonable assumptions, actual results and performance could differ materially from those set forth in such forward-looking statements. There can be no assurance that (i) the Board has correctly measured or identified all of the factors affecting the Company's business, or the extent or likelihood of their impact, (ii) any information with respect to these factors on which the Board's analysis is based is complete or accurate, (iii) the Board's analysis is correct, or (iv) the Board's strategy for the Company, which is based in part on its analysis, will be successful.

Investors are cautioned not to place undue reliance on any forward-looking statements. All forward-looking statements are made as of the date of this Memorandum, and the risk that actual results will differ materially from the expectations expressed in this Memorandum and other documentation and information made available by the Board will increase with the passage of time. Except as otherwise required by the federal securities laws, the Company undertakes no obligation to update or revise any forward-looking statements after the date of this Memorandum, whether as a result of new information, future events, changed circumstances, or any other reason. In light of the significant uncertainties inherent in forward-looking statements included in this Memorandum and other documentation and information made available by the Board, the inclusion of forward-looking statements should not be regarded as a representation by the Company, the Board, or any other person that the objectives and plans set forth in this Memorandum and other documentation and information made available by the Board will be achieved.

**B. Risks Related to the Offer and Sale of the Company's Shares**

**i. The Company is newly formed with no operating history. Investors will not have the benefit of reviewing its past performance.**

The Company is newly formed and has no operating history. An Investor will not be able to review the Company's prior performance to determine the likelihood of it achieving its business objectives. An Investor should consider an investment in Shares in light of the risks, uncertainties, and difficulties frequently encountered by other newly formed companies. An Investor should not rely upon the past performance of the Board or affiliates of the members of the Board as indicative of the Company's potential future performance

**ii. No market studies have been or will be performed regarding the offer and sale of Shares.**

No studies have been or will be performed regarding the offer and sale of Shares by the Company. The Board has been independently responsible for determining all aspects of such offer and sale. The Company may be unable to sell a sufficient portion of Shares to permit it to successfully operate. Even where the Company to sell the totality of the Shares offered, the Company may nonetheless never become profitable.

**iii. The offer and sale of Shares is subject to an arbitrary offering price.**

The offering price of Shares has been determined through the Board experience with similar investment opportunities and the anticipated expenses to be incurred by the Company. The offering price of Shares is not indicative of the Company's value, or the present or future value its assets. No assurance will be or could be given that Shares, if resellable or transferable, could be resold or transferred for the price at which they will be offered to Investors (or for any amount).

**iv. The Board will have broad discretion in the Company's use of proceeds raised by the offer and sale of Shares.**

The Board will have broad discretion over the use of the proceeds the Company raises through the offer and sale of Shares. Except as described herein, the Board cannot specify with certainty its plans for the use of the proceeds raised by the Company through the offer and sale of Shares. Investors who purchase Shares will be reliant upon the judgment of the Board with respect to the use of proceeds. If the Board does not effectively use the proceeds that the Company raises through the offer and sale of Shares, then the Company's business, results of operations, and financial condition could be adversely affected.

**v. An Investor purchasing Shares will have little to no control over the Company's operations.**

An Investor will have minimal to no control over the operations of the Company, and must rely almost exclusively on the Board to operate the Company's business. The Board will have wide authority to make decisions regarding the Company and its day-to-day operations, and may take actions with which an Investor disagrees. The Board is under no obligation to make its decisions in accordance with the wishes of investors.

**vi. The Company's future issuance of additional equity securities in connection with financings, investments, or otherwise may dilute an Investor's holding in Shares.**

The Board may cause the Company to issue additional equity securities (or securities convertible into, or redeemable for, additional equity securities) in the future that will result in dilution to Investors holding Shares. This may occur through grant equity awards to directors, executive officers, employees, and consultants of the Company, raising capital through equity financings in the future, acquiring or making investments in complementary companies, products, or technologies, as part of a debt financing transaction, or otherwise. Any such issuances of additional equity securities by the Company may cause Investors holding Shares to experience dilution with respect to such holding.

**vii. There will be no public market for the equity securities of the Company. Shares will be illiquid.**

There will be no public market for the equity securities of the Company. Further, because Shares are being offered and sold in accordance with exemptions from the registration or qualification requirements of federal and state securities laws, the resale or transfer of Shares will be highly restricted. An Investor desiring to resell or transfer Shares will have to fully comply with and pay all of the costs associated with such resale or transfer. An Investor must be prepared to indefinitely hold Shares.

If the Company undertakes a public offering in the future, the price at which its equity securities are initially offered to the public or subsequently trade may be lower than the price they were purchased by an Investor. Such prices for the Company's equity securities will be influenced by a number of factors outside of the Board and the Company's control, including but not limited to:

- the subsequent issuance of equity securities by the Company;
- changes in interest rates;
- competitive developments, including announcements by the Company or competitors of new products or services or significant contracts, acquisitions, strategic partnerships, joint ventures, or capital commitments;
- variations in the Company's results of operations;
- the depth and liquidity of the market for the equity securities of the Company, and comparable securities generally; or
- the markets' perceptions of the Company.

**viii. The offer and sale of Shares is subject to risks arising under federal and state securities laws.**

The offer and sale of Shares is being undertaken pursuant to the exemption from registration provided under Rule 506(c) of Regulation D promulgated under the Securities Act of 1933, as amended (the "*Act*"). As part of the offer and sale of Shares, the Company is representing that this Memorandum and any other documents and information made available by the Board do not contain any untrue statements of a material fact nor omit any material fact necessary to make the statements made, in light of the circumstances under which they were made, not misleading. However, if this representation is inaccurate with respect to a material fact or if the offer and sale of Shares fails to qualify for an exemption from registration or qualification under federal or state securities laws, then an Investor may have the right under federal or state securities laws to rescind their purchase and receive their purchase price back in full, plus interest (less income received upon the tender of the units purchased by them). If an Investor

were to successfully seek rescission, the Company could face severe financial demands that could adversely affect our Company or non-rescinding Investors.

**ix. The Company is required to indemnify the Board of Directors, Executive Officers, Employees and Other Agents for good faith actions taken on the Company's behalf.**

Applicable law and the Company's governing documents, including but not limited to, its certification of incorporation, bylaws, and otherwise, require the Company to indemnify the Board of Directors, Executive Officers, Employees, and Other Agents of the Company. If such a right to indemnification is exercised, the Company may be obligated to incur substantial costs in defending or reimbursing the legal costs of the Board and other agents.

**x. The Company may become subject to the Employee Retirement Income Security Act of 1974, as amended ("ERISA").**

The Department of Labor ("DOL") has published regulations describing when the underlying assets of an entity, such as the Company, which has taken on investment by certain employee benefit plans subject to ERISA and other benefit plans subject to Section 4975 of the Internal Revenue Code of 1986, as amended (the "Code," and such plans, "Benefit Plan Investors"), constitute "plan assets" for purposes of ERISA and Section 4975 of the Code. Where a Benefit Plan Investor acquires an equity interest in an entity that is neither (i) a "publicly offered security," nor (ii) a security issued by an investment company registered under the Investment Company Act of 1940, as amended (the "Company Act"), then the plan's assets include both the equity interest and an undivided interest in each of the underlying assets of the entity, unless it is established that the entity is an "operating company" or the equity participation in the entity by Benefit Plan Investors is not "significant." Equity participation in an entity by Benefit Plan Investors is considered "significant" if, immediately after any acquisition or redemption of an equity interest, twenty-five percent (25%) or more of the value of any class of equity interests in the entity is held by such Benefit Plan Investors. If Shares were considered "plan assets," then the Company would be a "fiduciary" for purposes of ERISA with respect to an Investor holding Shares. Moreover, the Board or the Company could become subject to ERISA and Section 4975 of the Code. That may limit the Company's ability to direct the Company's operations, and thereby its ability to achieve its investment objectives. This may adversely affect the Company's results of operations.

**xi. The offer and sale of Shares is being undertaken on a "best efforts" basis.**

The offer and sale of Shares is being undertaken on a "best efforts" basis. This means that the Company is not required to raise any requisite amount of funds before proceeds may be used for the business purposes contemplated herein. If the Company is unable to sell a sufficient number of Shares, the Company may be unable to achieve its intended business objectives.

**C. Risks Related to the Company's Intended Business**

**i. Acquisitions, investments, or significant commercial arrangements could result in operating losses.**

In the normal course of business, the Company may enter into other significant commercial arrangements with one (1) or more third-parties. Accordingly, the Company's success will depend, in part, on the success of such commercial arrangements, which may not materialize for reasons outside of the Company's control. Such reasons may include, but will not be limited to:

- failing to achieve anticipated benefits, revenue, earnings, or cash flows from a commercial arrangement;
- expected and unexpected risks with pursuing a commercial arrangement, including regulatory exposure, unfavorable accounting treatment, increases in tax liabilities, a loss of anticipated tax benefits, or costs incurred in obtaining governmental approvals necessary to effectuate an investment; or
- having to indemnify commercial counterparties.

Moreover, the Company will heavily rely on the representations and warranties made, and the indemnity obligations undertaken, by its commercial counterparties. If the representations and warranties made by a commercial counterparty are inaccurate or are breached, or if the Company is unable to fully exercise any indemnification rights it may have, the Company may incur additional, uncovered liabilities. The Company may be required to incur costs to enforce its contractual rights through litigation. The Company is permitted to substitute vendors, contractors, and purchase replacement properties if a sale does not materialize.

**ii. The impact of local or national emergencies, including the COVID-19 pandemic, can adversely affect our operations, including such impacts from state and federal regulatory action that restricts our ability to operate in the ordinary course and impacts on (i) customer demand for housing, (ii) S<sup>2</sup>A's or an alternative supply chain and the availability of raw materials for the manufacture of their products, (iii) the availability of labor and the health and safety of our workforce and (iv) our liquidity and access to the capital markets.**

Severe weather conditions, natural disasters, hostilities and social unrest, terrorist activities, health epidemics or pandemics or other local or national emergencies (both ones quickly resolved and ones that endure over long periods of time) can adversely affect consumer spending and confidence levels and supply availability and costs, as well as local operations in impacted markets, all of which can affect our financial results, condition and prospects. Home sales are largely dependent on the ability of consumers to obtain financing for the purchase of a home. Consumer financing is dependent on a number of economic factors, including the employment status of borrowers, which may be adversely affected by local or national emergencies. Consumer confidence is also an important factor to support home purchases and is subject to the adverse effects of an emergency situation. Modular homes are produced in a manner that is considered labor-intensive and requires a consistent and available workforce, which may be adversely affected by a large-scale decline in public health conditions or other emergencies.

As it relates to the COVID-19 pandemic, our modular home providers' operations may be constrained by compliance with mandated social distancing and other governmental requirements. Factory capacity utilization levels may change accordingly, and there may be increased employee absenteeism and pandemic impacts to our modular home providers' supply chain.

Depending on the duration and severity of the COVID-19 pandemic, it may also have the effect of heightening many of the other risks described elsewhere in our risk factors and this Memorandum such as: risks related to the successful completion of growth and expansion goals; risks related to the ability of borrowers to make payments on their mortgages or loans; risks related to economic downturns, declining consumer confidence and other market forces and reduced demand for modular homes or homebuyers' ability to get financing for the purchase of modular homes; risks related to depressed home prices and elevated unemployment; risks related to the availability of labor and the pricing and availability of raw

materials; or risks related to our ability to remain in compliance with increasing levels of government regulation while maintaining economic and profitable operations.

**iii. The Company's results of operations may vary from quarter-to-quarter and year-to-year. The Company's results of operations in a certain financial period may not be indicative of, or comparable to, future results of operations in subsequent financial periods.**

The Board expects that the Company's results of operations will vary from quarter-to-quarter and year-to-year, and that the results the Company achieves in a financial period may not be indicative of, or comparable to, the results of operations the Company will achieve in a subsequent period. Accordingly, period-to-period comparisons of the Company's results of operations may never be meaningful, and an Investor cannot rely upon them as an indication of future performance

**iv. Data loss or security breaches could harm the Company's business, reputation, brand, and results of operations.**

Security breaches, computer malware, and computer hacking attacks have become more prevalent across industries and may occur on the Company's systems or those of its third-party service providers. Despite the implementation of security measures, the Company's internal computer systems and those of its third-party service providers and partners are vulnerable to damage from computer viruses, hacking, and other means of unauthorized access, denial of service and other attacks, natural disasters, terrorism, war, and telecommunication and electrical failures. Attacks upon information technology systems are increasing in their frequency, levels of persistence, sophistication, and intensity, and are being conducted by sophisticated and organized groups and individuals with a wide range of motives and expertise. In addition to unauthorized access to or acquisition of personal data, confidential information, intellectual property, or other sensitive information, such attacks could include the deployment of harmful malware and ransomware, and may use a variety of methods, including denial-of-service attacks, social engineering, and other means, to attain such unauthorized access or acquisition, or otherwise affect service reliability and threaten the confidentiality, integrity, and availability of information. Furthermore, the prevalent use of mobile devices increases the risk of data security incidents. Additionally, misplaced, stolen, or compromised mobile devices could lead to unauthorized access to the device and data stored on or accessible through such device. The Company may experience breaches of its security measures, and its systems may be at risk for future breaches as a result of third-party action or employee, service provider, partner, or contractor error or malfeasance.

If an actual or perceived breach of security occurs, the market perception of the effectiveness of the Company's security measures could be harmed. The Company could lose third-party relationships, face lawsuits, regulatory investigations, or other legal or regulatory proceedings, or lose appealability to potential commercial counterparties. The Company could suffer financial exposure due to such events or in connection with regulatory fines, remediation efforts, investigation costs, changes, or augmentation of its security measures.

**v. Our Affiliates own and control, either directly or indirectly, our other Affiliates. Conflicts of interest exist in connection with the principals' control of Affiliates.**

The principals of each of our Affiliates also own and control, either directly or indirectly, our other Affiliates such as: our Affiliates own 50% of S<sup>2</sup>A Investments 2 through 36, LLC, a total of thirty-four entities (S<sup>2</sup>A Investments LLC 13 was never formed and we do not intend to form it), each a separate stand-alone legal entity or Investment Subsidiary, in addition to its 38% ownership in S<sup>2</sup>A Investments LLC; each Operating Entity is wholly-owned by a corresponding Investment Subsidiary; our director,

John Rowland, together with Brian Kuzdas, owns 100% of S<sup>2</sup>A Modular Headquarters Corporation; affiliates of Modular Green Management Headquarters own GreenLux™ Properties, LLC and GreenLux Properties Corporation; and John Rowland and Brian Kuzdas control Santa Rosa Development Consultants, LLC, a California limited liability company. Bahia Villages Management LLC has been formed to perform certain administrative functions for each of the Bahia Village Communities and its members will be the same officers of Bahia Village Communities, Inc. The same members of our management team are S<sup>2</sup>A executives and are also involved in the ongoing offerings of thirty-four S<sup>2</sup>A investment entities. Significant conflicts of interest exist in connection with the principals' control of the Affiliates. Investors should be aware that these, and other conflicts of interest relating to the Affiliates, are permitted under the terms of the operating agreements between the Affiliates and none of these documents have been made available to you for review. Moreover, S<sup>2</sup>A's executives control every aspect of building and installing modular homes that we will attempt to prioritize to populate our Bahia Village Communities, however, in the event S<sup>2</sup>A is not able to deliver homes in time, we will attempt to obtain modular homes from other modular home manufacturers. You should not invest unless you are willing to accept these conflicts of interest and the associated risk.

**vi. The cyclical and seasonal nature of the manufactured housing industry causes the Company's revenues and operating results to fluctuate, and we expect this cyclicity and seasonality to continue in the future.**

The manufactured housing industry is highly cyclical and seasonal and is influenced by many national and regional economic and demographic factors, including the availability of consumer financing for home buyers, the availability of wholesale financing for distributors, seasonality of demand, consumer confidence, interest rates, demographic and employment trends, income levels, housing demand, general economic conditions, including inflation and recessions, and the availability of suitable home sites. As a result of the foregoing economic, demographic and other factors, our revenues and operating results fluctuate, and we expect them to continue to fluctuate in the future.

**vii. No legal opinion in writing has been obtained regarding our intended structure which may harm our reputation and results of operations.**

We have consulted with legal counsel and legal counsel has drafted the rules and regulations attached as Exhibit C. However, we have not obtained a legal opinion in writing regarding our decisions not to form HOA entities in the state of California or draft bylaws with respect to each of our intended Bahia Village Communities. Instead, we are relying on the leadership and guidance of our knowledgeable director, John Rowland, and his discussion with legal counsel. In the event this proves not to be the case, we will have no recourse against legal counsel, and it may harm our reputation and results of operations.

**viii. Our inability to obtain modular homes to populate our Bahia Village Communities could cause the Company to become unprofitable, in which case, you could lose your entire investment.**

The Company's success is dependent upon its ability to obtain modular homes. Though we primarily intend to obtain homes from our strategic partner and affiliate, S<sup>2</sup>A, if S<sup>2</sup>A and its MegaFactories are not successful or experience delays in manufacturing, we will attempt to obtain modular homes from other manufacturers. While we believe we will be able to obtain modular homes from other manufacturers, there is no guarantee that we could do so. If we are unable to obtain modular homes quickly enough to meet demand or development in Bahia Villages Communities, our Company may become unprofitable and you could lose your entire investment.

**ix. The manufactured housing industry is highly competitive, and increased competition may result in lower revenue.**

The manufactured housing industry is highly competitive. Competition at both the manufacturing and retail levels is based upon many factors, including price, product features, reputation for service and quality, merchandising, terms of distributor promotional programs and the terms of retail customer financing. Numerous companies produce manufactured homes in our markets. Certain competitors also have their own retail distribution systems and consumer finance and insurance operations. In addition, there are many independent manufactured housing retail locations in most areas where we have retail operations. In addition, S<sup>2</sup>A's products compete with other forms of low-to-moderate-cost housing, including new and existing site-built homes, apartments, townhouses and condominiums. If S<sup>2</sup>A is unable to compete effectively in this environment, revenues could be reduced.

**x. Factors adversely affecting the financial markets could impact the Company's results of operations.**

Adverse trends in the economy or the financial markets could adversely affect the Company's results of operations. During periods of financial market volatility or market slowdown, financial markets have become systemically illiquid, the United States Dollar has become devalued, and general economic activity has slowed down. During such times, investors have historically reduced their discretionary investment activity. The impact that a preceded or unprecedented economic slowdown may have on the Company's operations cannot be reliably predicted. Similarly, the circumstances under which the economy or financial market may adversely trend cannot be reliably predicted, but are generally outside of the Company's control. Such circumstances may include, but will not be limited to, war, acts of terrorism, systemic issues occurring within the financial markets, and pandemic.

**xi. Our risk management practices may leave us exposed to unidentified or unanticipated risk.**

Our management team is responsible for managing risk, subject to oversight by our board of directors. Our risk management methods may not identify all future risk exposures and may not be completely effective in mitigating all key risks. Furthermore, our risk management methods may not properly identify and mitigate the aggregation of risks across the Company or the interdependency of our risk mitigation efforts. In addition, some of our risk management methods may be based on assumptions that will prove to be inaccurate. Moreover, our Board and officers have financial interests and conflicts of interests in many aspects of the operations of our affiliates which may prevent them from identifying such risks. Failure to manage risk effectively could adversely affect our business, financial condition, and results of operations.

**xii. We anticipate paying no cash dividends for the foreseeable future.**

We currently intend to retain our future earnings, if any, for the foreseeable future, to fund the development and growth of our business. Any future determination to pay dividends to shareholders will be at the sole discretion of our board of directors and will depend upon many factors, including general economic conditions, our financial condition and results of operations, our available cash and current and anticipated cash needs, capital requirements, contractual, legal, tax and regulatory restrictions, the implications of the payment of dividends by us to our shareholders, and any other factors that the board of directors may deem relevant.

**xiii. Investing in real estate is inherently subject to risks that could negatively impact our business.**

Investing in real estate is subject to varying degrees and types of risk. While we seek to mitigate these risks through various strategies, including geographic diversification, market research, among other techniques, these risks cannot be eliminated. Factors that may impact cash flows and real estate values include, but are not limited to:

- Local economic conditions, particularly oversupply or reductions in demand;
- National, regional and local political climates, governmental fiscal health and governmental policies;
- The inability or unwillingness of residents to pay rent increases;
- Cost and availability of labor and materials required to maintain our properties at acceptable standards;
- Availability of attractive financing opportunities;
- Changes in social preferences; and
- Other risks described herein.

**xiv. If we are not able to secure favorable local zoning ordinances, the Company's revenue could decline and its business could be adversely affected.**

Manufactured housing communities and individual home placements are subject to local zoning ordinances and other local regulations relating to utility service and construction of roadways. In the past, property owners often have resisted the adoption of zoning ordinances permitting the location of manufactured homes in residential areas, and it is believed to have restricted the growth of the industry. Manufactured homes may not achieve widespread acceptance and localities may not adopt zoning ordinances permitting the development of manufactured home communities. If we are unable to secure favorable local zoning ordinances, our revenue could decline and the business, results of operations and financial condition could be adversely affected.

**xv. Failure to generate sufficient revenue could limit our ability to make financing payments or distributions to security holders.**

A decrease in cash flows due to declines in rental revenue could negatively affect our ability to make financing payments and distributions to our security holders. Significant expenditures associated with each property, such as real estate taxes, insurance, utilities, maintenance costs and employee wages and benefits, may also negatively impact cash flows, and these expenditures may not decline as quickly or at the same rate as revenues when circumstances might cause a reduction of those revenues at our future properties.

**xvi. Competition for acquisitions may prevent us from acquiring properties on favorable terms.**

We may not be successful in pursuing acquisition and development opportunities. We expect that other real estate investors will compete with us for attractive investment opportunities or may also develop properties in markets where we plan to focus our development and acquisition efforts. We may not be in a position or have the opportunity in the future to make suitable property acquisitions on favorable terms.

**xvii. Operations from new acquisitions, development projects and renovations may fail to perform as expected.**

We intend to actively develop communities as part of our business strategy. Newly developed properties may not perform as we expect. We may also overestimate the revenue (or underestimate the expenses) that a new project may generate. The occupancy rates and rents at these properties may fail to meet the expectations underlying our investment. Development is subject to greater uncertainties and risks due to complexities and lead time in estimating costs. We may underestimate the costs necessary to operate an acquired property to the standards established for its intended market position. We may also underestimate the costs to complete a development property.

**xviii. Environmental problems are possible and can be costly.**

Federal, state and local laws and regulations relating to the protection of the environment may require current or previous owners or operators of real estate to investigate and clean up hazardous or toxic substances at such properties. The owner or operator may have to pay a governmental entity or third parties for property damage and for investigation and clean-up costs incurred by such parties in connection with the contamination. These laws typically impose clean-up responsibility and liability without regard to whether the owner or operator knew of or caused the presence of the contaminants. Even if more than one person may have been responsible for the contamination, each person covered by the environmental laws may be held responsible for all of the clean-up costs incurred. Third parties may also sue the owner or operator of a site for damages and costs resulting from environmental contamination emanating from that site. We cannot be assured that any future environmental assessments of our future properties reveal all environmental liabilities, that any prior owner of any of our properties did not create a material environmental condition not known to us, or that a material environmental condition does not otherwise exist as to any of our properties.

**xix. Construction risks on our development projects could affect our profitability.**

Development often includes long planning and entitlement timelines, subjecting the project to changes in market conditions. It can involve complex and costly activities, including significant environmental remediation or construction work in our markets. We may also experience an increase in costs due to general disruptions that affect the cost of labor and/or materials, such as trade disputes, tariffs, labor unrest and/or geopolitical conflicts. We may abandon opportunities that we have already begun to explore for a number of reasons, and as a result, we may fail to recover expenses or option payments already incurred in exploring those opportunities. We may also be unable to obtain, or experience delays in obtaining, necessary zoning, occupancy, or other required governmental or third-party permits and authorizations. These and other risks inherent in development projects could result in increased costs or the delay or abandonment of opportunities.

**xx. Because real estate investments are illiquid, we may not be able to sell properties when appropriate.**

Real estate investments generally cannot be sold quickly. We may not be able to reconfigure our portfolio promptly in response to changing economic or other conditions. We may be unable to consummate such dispositions in a timely manner, on attractive terms, or at all. In some cases, we may also determine that we will not recover the carrying amount of the property upon disposition. This inability to reallocate our capital promptly could negatively affect our financial condition, including our ability to make distributions to our security holders.

**xxi. We are subject to risks involved in real estate activity through joint ventures.**

We may in the future, develop and acquire properties in joint ventures with other persons or entities. Joint ventures create risks including the following:

- The possibility that our partners might refuse or be financially unable to make capital contributions when due and therefore we may be forced to make contributions to protect our investments;
- We may be responsible to our partners for indemnifiable losses;
- Our projected profits upon exit may be inaccurate. For example, Exhibit D states that BVC LLC plans to build and exit the BV1–Lake Elsinore community within a year of breaking ground to minimize risk and ensure returns to joint venture partners. There is no guarantee this will occur.
- Our partners might at any time have business or economic goals that are inconsistent with ours; and
- Our partners may be in a position to take action or withhold consent contrary to our recommendations, instructions or requests.

To the extent our future partners, if any, do not meet their obligations to us or our intended joint ventures, or they take actions inconsistent with the interests of the joint venture, it could have a negative effect on our results of operations and financial condition, including distributions to our security holders.

**xxii. Rising interest rates can increase costs.**

The Company is exposed to market risk from financial instruments primarily from changes in market interest rates. Such risks derive from the refinancing of debt, exposure to interest rate fluctuations in floating rate debt and from derivative instruments utilized to swap fixed rate debt to floating rates or to hedge rates in anticipation of future debt issuances. Increases in interest rates would increase our interest expense and the costs of refinancing existing debt.

**xxiii. The geographic concentration of our future properties could have an adverse effect on our operations.**

The Company’s future properties will be concentrated in areas that we believe will attract our target residents. For example, we plan to build our first community in the city of Lake Elsinore. Lake Elsinore is located at the bottom of the 720 square-mile San Jacinto Watershed. Rainfall throughout this area flows downstream through various tributaries into Canyon Lake before spilling into Lake Elsinore. This “run-off” brings critical water supply for the lakes, but is also susceptible to carrying with it nutrients and sediment that can be detrimental to the lakes’ water quality over time by encouraging algae growth. Lake Elsinore is Southern California’s Largest Natural, Freshwater Lake. Faced with a historic drought, extremely low water levels, higher temperatures, and an abundance of shad, the city of Lake Elsinore has become increasingly concerned about the health of the lake and the vitality of the fishery. A fish kill is one of Nature’s ways of rebalancing the food chain. While there is no indication currently that an event is imminent, the probability is always high during the hot summer months. In 2015 and 2018, Lake Elsinore did suffer a moderate fish kill. The city of Lake Elsinore remains prepared and regularly monitors the dissolved oxygen in the lake for signs of concern. Lake Elsinore is an extremely complex, unique water body. It is a show lake that struggles due to increasing temperatures, recent algae blooms, and declining dissolved oxygen levels during the hotter months. Unfortunately, there is little the city of Lake Elsinore or Lake Elsinore & San Jacinto Watersheds Authority can do to improve its current condition without a

stable and reliable water level of above one thousand two hundred forty feet. If one or more of our markets is unfavorably impacted by specific economic conditions, local real estate conditions, increases in social unrest, increases in real estate and other taxes, reduced quality of life, deterioration of local or state government health, rent control or stabilization laws, localized environmental issues or natural/man-made disasters, the impact of such conditions may have a more negative impact on our results of operations than if our future properties were more geographically diverse.

**xxiv. The Company is heavily reliant upon the experience and expertise of the Board and other key employees, consultants, and other agents. The failure to retain or motivate any of such persons could adversely affect the Company.**

The Company's success depends on the continued service of the Board and its other key employees, consultants, and other agents. The loss of any such persons may delay or prevent the achievement of the Company's business objectives. We do not maintain any key man life insurance on our Board, officers, or key employees. The loss of our Board, officers, or key employees' services could cause investors to lose all or a part of their investment. Our future success will also depend on our ability to attract, retain and motivate other highly skilled employees. Competition for personnel in our industry is intense. We may not be able to retain our key employees or attract, assimilate or retain other highly qualified employees in the future. If we do not succeed in attracting new personnel or retaining and motivating our current personnel, our business will be adversely affected. In addition, future employment agreements with our key employees may contain restrictive covenants that restrict their ability to compete against us or solicit our customers. These restrictive covenants, or some portion of these restrictive covenants, may be deemed to be against public policy and may not be fully enforceable. If we enter into an employment agreement with our officers or key employees, and these provisions are not enforceable, then our officers or key employees may be in a position to leave us and work for our competitors or start his own competing business.

**xxv. The Company's accounted or reported results of operations may be adversely affected by changes in accounting principles generally accepted in the United States.**

Generally accepted accounting principles in the United States are subject to interpretation by the Financial Accounting Standards Board ("FASB"), the Securities and Exchange Commission ("SEC"), and various bodies formed to promulgate and interpret appropriate accounting principles. A change in these principles or interpretations could have a material effect on the Company's accounted or reported results of operations, and may even affect the accounting or reporting of transactions completed before the announcement or effectiveness of a change.

**xxvi. The failure of any bank in which the Company deposits its funds could reduce the amount of cash the Company has available for operation.**

The Board plans to deposit the cash and cash equivalents of the Company in bank accounts insured by the Federal Insurance Deposit Corporation ("FDIC"). The FDIC generally only insures limited amounts per depositor per insured bank. Currently, the FDIC is insuring up to two hundred fifty thousand dollars (\$250,000.00) per depositor per insured bank for interest-bearing accounts. If the Company's deposits exceed these federally insured levels or if any of the banking institutions holding its cash fails, the Company may lose such deposits over the federally insured levels. The loss of such deposits could reduce the amount of cash the Company has available to utilize in operations.

**xxvii. If currency exchange rates substantially fluctuate, the Company's results of operations (accounted in United States Dollars) could be adversely affected.**

The Company's future operations, which may rely in part upon global supply chains, could expose it to the effects of fluctuations in currency exchange rates. The Company may incur certain operating expenses through international currencies, but account for results of operations in United States Dollars. Accordingly, the Company may face exposure to fluctuations in currency exchange rates, which could adversely affect its results of operations.

**xxviii. The Company does not have statutory intellectual property rights to any of its technologies that are essential to its intended business.**

Presently, the Company has not applied for any intellectual property rights concerning technology or processes which the Board views as essential to the Company's intended business. Even if such applications were submitted, the Company cannot guarantee that such patents or protection will ultimately be granted.

**xxix. Protecting and enforcing our intellectual property rights could consume monetary funds needed for other company objectives.**

Protecting and enforcing our intellectual property rights and combating unlicensed copying and use of our intellectual property can be difficult and expensive. Litigation filed by or against the Company and excessive legal costs could result in insufficient cash available to continue our business objective. Similarly, reductions in the legal protection for our intellectual property rights could adversely affect revenue.

**xxx. We will need to attract additional capital to scale our business but have no assurance that we can do so successfully.**

We will be incurring significant costs as we continue to develop our target properties. We will need to raise additional capital to pay operating expenses until we are able to generate sufficient revenues. Our ability to raise additional equity or debt capital will depend on access to capital and conditions in the capital markets. There is no assurance that we will be able to raise capital at times and in amounts needed to finance the continued development and commercialization of our projects. Even if capital is available, it may not be available on terms that we or our shareholders would consider favorable.

**D. Tax-Related Risks**

**i. Shares may not be suitable for purchase by Benefit Plans.**

Benefit Plans considering the purchase of Shares should consider the limited liquidity of Shares as it relates to applicable minimum distribution requirements of the Code and the requirements of ERISA. If Shares are held in a benefit plan at the time mandatory distributions are required of the IRA or benefit plan, a cash distribution may be difficult or impossible. Separately, an investment in Shares may subject a benefit plan to liability for unrelated business taxable income.

**ii. The Company's profits are taxed at the entity level. Changes to existing laws and regulations relating to taxation could adversely affect Investor's holding Shares.**

Presently, the Company is taxed as a "C-corporation" for federal income tax purposes. Subchapter C of the Code provides that current-year income or loss of a corporation will be taxed at the

entity level, rather than the shareholder level. Accordingly, Investors holding Shares will only report personal income relating to the current-year operations of the Company on their individual federal income tax return in the event that the Company shall declare a dividend. Subchapter C of the Code is complex, and an Investor considering the purchase of Shares should consult with their legal and financial advisers regarding the impact of holding Shares.

However, changes to existing laws and regulations relating to taxation are likely to occur, and may adversely affect the taxation of an Investor holding Shares or the market value of the same. Alternatively, it may become more advantageous for the Company to elect to be classified or taxed as an “S-corporation” for federal income tax purposes, and such election could adversely affect how an Investor receives distributions of capital from the Company or reports personal income relating to the current-year operations of the Company on their individual federal income tax return. Except as may otherwise be provided by applicable law, the Board will have sole and absolute discretion to determine how the Company elects to be classified and taxed for federal income tax purposes.

**iii. A change in the tax treatment of the Company could affect its ability to use net operating losses to offset future taxable income.**

Net operating losses (“NOLs”) of the Company, if any, may not be available to offset taxable income of its stockholders (including Investors holding Shares) in the future. In general, under Section 382 of the Code, an entity taxed as a “C-corporation” that undergoes an “ownership change” is subject to limitations on its ability to utilize its pre-change NOLs to offset future taxable income. If the Company undergoes an ownership change in connection with or after the offer and sale of its equity securities in the future, its ability to utilize NOLs could be limited by Section 382 of the Code. There is also a risk that due to regulatory changes, such as suspensions on the use of NOLs or other unforeseen circumstances, the Company’s existing NOLs could expire or otherwise be unavailable to offset future income tax liabilities, including for state tax purposes. For these reasons, the Company may not be able to utilize some portion of its NOLs, even if it achieves profitability during any given period.

**iv. The Board cannot guarantee that the Company or an Investor will never be subject to an adverse tax consequence.**

The Board cannot guarantee that the Internal Revenue Service or local, state, or foreign tax authorities will accept the tax positions taken by the Company or an Investor holding Shares. If any tax authority successfully contests a tax position taken by the Company, it or Investors holding Shares may be liable for tax, interest, additions to tax, or penalties, and may need to file or amend prior tax returns to reflect such contested positions. The Board will not be liable to the Company or an Investor in such circumstances. Separately, the Board intends to base the Company’s business strategies on economic, not tax, considerations, which could result in adverse tax consequences to Investors holding the Shares.

**3. USE OF PROCEEDS**

Assuming that the total amount of \$20,000,000 is raised through the offer and sale of Shares, the Board intends for the Company to use such proceeds as follows:

<b>BAHIA VILLAGE COMMUNITIES, INC. – BV1 – LAKE ELSINORE</b>	
<b>PHASE I</b>	
Land Acquisition	2,200,000
Structural Engineering Plans	80,000
Building Permit Fees	270,000

Grading	240,000
Asphalt/Paving	190,000
School District Fees	170,000
Civil Engineering	152,000
Garage Permit Fees	51,000
Plan Check Fees	90,000
Landscaping Plans	35,000
Permit Fees for Grading	7,500
Printing fees	4,000
Environmental Expert Fees	22,000
Water and Sewer Fees	670,000
Geotechnical Engineering Fees	31,000
Survey Fees	26,000
Architectural Package	90,000
Traffic Engineer (if required)	25,000
Electrical Engineering	40,000
Land Acquisition	2,200,000
Structural Engineering Plans	80,000
<b>Total Phase I</b>	<b>\$4,393,500</b>

<b>PHASE II</b>	
Perimeter Block Walls	540,000
Foundations	710,000
Landscaping/Walking Trails	290,000
Sidewalk/Parking/Walkways	240,000
Dog Park/Community Garden	110,000
Knoxgate	22,750
Firepits & BBQs	36,000
<b>Total Phase II</b>	<b>\$1,948,750</b>
<b>PHASE III</b>	
S2A Modular Homes	7,813,750
Seventy-One 2-Car Garages	950,000
Secondary Backup System (for 71 units)	296,000
Monument Entry Gates	75,000
Electric Gates	65,000
FreeVolt Solar Panels	660,000
TESLA Battery Storage System	560,000
Swimming Pool/Recreation Area	250,000
Clubhouse	250,000
Cable/Highspeed Internet	395,000
Exterior Solar Lights	130,000
Landscaping	295,000
Delivery	172,000
Set Cost	170,000
Crane	76,000
Contingency/Misc.	500,000
<b>Total Phase I</b>	<b>\$12,657,750</b>

<b>CORPORATE EXPENSES</b>	
Broker-Dealer (not yet engaged)	200,000
Marketing Expenses (50 weeks at \$5,000/week)	250,000
Professional Expenses	100,000
Executive Compensation (6 Months)	240,000
Operating Reserves/Initial Deposit on BV 2 Land	210,000
<b>Total Phase Corporate Expenses</b>	<b>\$1,000,000</b>

The Board cannot guarantee that the Company will utilize proceeds in precisely the manner identified above. Additionally, notwithstanding the foregoing summary, the offer and sale of Shares is being undertaken on a “best efforts” basis. This means that the Company is not required to raise any requisite amount of funds before proceeds may be used for the purposes contemplated herein. See “**Risk Factors**” herein.

In the event the Company does not raise the total amount of \$20,000,000 through the offer and sale of Shares, the Board intends to prioritize its use of proceeds using its best judgment. Again, the Board cannot guarantee that the Company will utilize proceeds in precisely the manner identified above, and cannot guarantee that the Company will be able to achieve its business objectives.

#### **4. DETERMINATION OF OFFERING PRICE**

The offer and sale of Shares is not being underwritten. The offering price of Shares has been arbitrarily determined by the Board, and may not reflect the perceived or actual market value of Shares, the book value of Shares, or the value of Shares as measured by other established means of valuation. See “**Risk Factors**” herein.

#### **5. DILUTION**

Prior to the offer and sale of Shares hereby, the Company will have issued, on a fully diluted basis, 6,600,000 shares of common stock. See “**Beneficial Ownership of the Company**” herein. Such shares of common stock were issued to Sharon Amezcuca, Larry Braden, Dean DeLisle and John Rowland at the price of \$0.003 per share. With respect to such shares:

- the net tangible book value of each was \$0.003, and
- the net tangible book value of each will, as a result of the offer of Shares hereby (assuming all Shares are sold) will be \$1.54.

The discrepancy between the book value of each of the Board members’ shares of common stock prior to, and as a result of, the offer and sale of Shares is a function of implied valuation of the Company alone. As with the price at which the Shares are offered hereby, the Company cannot guarantee that such book value represents the value of the common stock of Company as measured by other established means of valuation. See “**Risk Factors**” herein.

Assuming the totality of Shares were sold, then the capitalization of the Company will be (on a fully-diluted basis) would be follows:

<b>Beneficial Ownership of the Company</b>		
<b><u>Beneficial Owner</u></b>	<b><u>Shares Held</u></b>	<b><u>Percentage Ownership</u></b>
Sharon Amezcua	1,650,000	16.5%
Larry Braden	1,650,000	16.5%
Dean DeLisle	1,650,000	16.5%
John Rowland	1,650,000	16.5%

**6. SELLING SECURITY HOLDERS**

No present holders of the Company’s equity securities are participating in the offer and sale of Shares or any other equity securities of the Company hereby. The Shares represent newly issued shares of common stock of the Company.

**7. PLAN OF DISTRIBUTION**

The offer and sale of Shares is not being underwritten. The Board intends to conduct the offer and sale of Shares by and through the Board and the Company’s executive officers. The offer and sale of Shares is being undertaken on a “best efforts” basis. This means that the Company is not required to raise any requisite amount of funds before proceeds may be used for the business purposes contemplated herein.

**8. DESCRIPTION OF BUSINESS**

The Company was incorporated as a Delaware corporation on January 13, 2021. The Company is a re-imagined real estate development company that intends to build high-quality, net zero energy, modular communities known as Bahia Village Communities, or BVCs. These communities are designed to target two very large demographic groups that desire to purchase homes; millennials and those that are 55+. The Company’s homes are designed and engineered to offer these targeted demographic groups an alternative to everyday living in communities that aims to eliminate many of the traditional expenses typically associated with home ownership. Please see section entitled “Risk Factors.”

**BVC – 55+**

The Bahia Villages 55+ communities will be gated, where feasible, and will offer single story 1 or 2-bedroom, 1 or 2-bath homes (with 2-car detached garages) that are ideal for year-round living and feature attractive amenities such as: 1) a gated dog park; 2) walking trails; 3) a community center with a variety of activities including bingo, bunco, poker night, potluck night, fitness classes, and many other fun options and events designed to create a real sense of “community”. The landscaping throughout the communities will be maintained by a professional landscaping firm on a regular basis, including all trails, common areas as well as each residence in each community. This ensures that the communities are maintained to a high standard for all to enjoy. Based on demand, some BVC communities may include the convenience of retail and food and beverage outlets on site or nearby.

## Millennial Communities

The millennial communities will not be gated and will offer approximately 500 square feet of heating and cooled space with the added bonus of a roof garden, giving the owner additional private outdoor space. Attractive amenities in these communities managed by Bahia Villages Management, LLC will include: 1) a gated dog park; 2) biking/blading/running/walking trails; 3) a central “gathering spot” for festivals/concerts; yoga/fitness classes and many other fun events desired by millennials. As with the Bahia Villages 55+ communities, the landscaping throughout these millennial communities will be maintained by a professional landscaping firm on a regular basis--including all trails, common areas as well as maintaining each residence in each community. This ensures that the communities are kept to a high standard for all to enjoy. Also similar to the Bahia Villages 55+ communities and based on demand, some BVC millennial developments may include the convenience of retail and food and beverage outlets on site or nearby.

We plan to build a total of 350 communities comprised of millennial and/or 55+ communities, with each community consisting of approximately 100 modular homes. The average community size will be approximately 7 homes per acre with 10 acres as a minimum requirement for each planned community. Each BVC site will range from 10 to 100 acres depending on the market. As an S2A Modular strategic partner, the BVC communities will be built exclusively by S2A Modular in the same vicinity as S2A's currently planned 35 “MegaFactory” locations across the nation. BVC plans to develop 1,000 homes in ten distinct communities near each S2A Modular factory for a total of 35,000 homes in the 350 planned communities throughout the US over the next 3-4 years. However, even if S2A were unable to provide us with modular homes, we believe we would be able to obtain them from an alternate source.

The demand for both 55+ and millennial housing is well documented in the US, please see Exhibit D by McKinsey & Company, The next normal in construction. BVC will likely follow the rollout of the S<sup>2</sup>A Modular factories in the locations with the greatest demand for modular homes such that delivery of and other costs associated with the building of BVC homes are optimized, please see attached Exhibit E showing the S<sup>2</sup>A map with the location of each factory. Please also see Exhibit F including the current demand by individuals seeking Bahia Village Communities 55+ housing by market as well as demand by developers in each market. Demand by developers is relevant because developers and builders have land and are ideal in potential joint ventures. Developers and builders understand the demand for housing, the customers’ needs and in particular, the need for 55+ communities. Delivery costs per mile varies and can range from four to nine dollars per mile. S<sup>2</sup>A anticipates that its first factory will be completed in September 2021 in Patterson, California, and the first Bahia Village community shall be in Lake Elsinore. We plan to establish the second and third BVC communities near the city of Patterson.

The homes in the BVC communities that we plan to be produced by S2A Modular are engineered to be the lowest voltage, lowest amperage homes in the world. The S<sup>2</sup>A homes will be built in the controlled environment of the future state-of-the-art S2A factories and will be delivered to each BVC site to be professionally installed. These S<sup>2</sup>A modular homes will be built to the same codes as site-built homes and offer much higher tolerances as well as a much more carbon-neutral footprint than traditional construction techniques. All homes in the BVC planned communities will feature a 2-car detached garage that will be built with patent-protected graphene solar panels on the roof and a Tesla Powerwall battery for use at night or in the case of power outages caused by antiquated power grids around the nation.

The technology described above will be implemented throughout each Bahia Villages community allowing for carbon neutral reductions on almost every aspect of construction of the homes.

The exterior lighting, the “clubhouse” and the homes are all part of the S<sup>2</sup>A ecosystem and can be controlled by the proprietary S<sup>2</sup>A smart home App which, according to S<sup>2</sup>A, should be completed by September 2021. This S<sup>2</sup>A App will allow the homeowner: 1) access to their community; 2) control of the lighting, security, appliances, climate and many other items in each home which should yield a very tech-savvy environment for homeowners with a platform that is easy to operate.

The BVC home ownership model is designed to offer a low-cost way to enter the market as a homeowner and still afford the latest technology available to date. To implement this model, residents will purchase and own the home that they will live in, but they do not own the land that the home is built on in the community. The land is owned by BVC as are the garages, the solar system, the Tesla powerwalls/batteries and all common areas. The homeowners pay monthly rent for the “space” that their homes will occupy in each community. The rent for this “space” will vary depending on the location of the community and the location of each home in each community.

### **Our Revenue Model**

BVC revenue will be derived from initial sales of the homes in each Bahia Villages 55+ and millennial community and forecast profitability will be attained according to our financial model and margins attached as Exhibit G. Additional revenue will be generated on a monthly basis from the sale of excess power generated by the solar system and the batteries located throughout the community which are owned and operated by BVC, and amenities and maintenance fees. Following the complete development of each Bahia Village Community, the Board may decide to sell a particular Bahia Village Community resulting in additional revenue for that Bahia Village Community.

The operating and maintenance costs are forecast in the financial model attached as Exhibit G. The net positive proceeds from each community will be used by BVC to repay and/or dividend investors/shareholders.

### **Joint Venture Model**

BVC, Inc. is currently seeking strategic and/or financial joint venture partners to capitalize our parent company and complete our BV1–Lake Elsinore project by investing the full \$20 million that we seek to raise in this offering, which may be a combination of capital and like-kind contributions of land.

## **9. LEGAL PROCEEDINGS**

To the Company’s knowledge, it is not a party to any material legal proceeding. However, from time to time, the Company may be subject to ordinary, routine litigation incidental to its business. See “*Risk Factors*” herein.

To the Company’s knowledge, none of the members of the Board or its executive officers, control persons, or promoters of the offer and sale of Shares are a party to material legal proceedings. However, with the exception of promoters, from time to time such persons may be subject to ordinary, routine litigation incidental the Company’s business. See “*Risk Factors*” herein.

## **10. DIRECTORS, EXECUTIVE OFFICERS, PROMOTERS, AND CONTROL PERSONS**

As of the date of this Memorandum, the Board is composed of Sharon Amezcua, age 58, Larry Braden, age 53, Dean DeLisle, age 58, and John Rowland, age 50. As of the date of this Memorandum, Sharon Amezcua is our CEO, Larry Braden is our CFO, and Dean DeLisle is our Secretary.

**i. Sharon Amezcua**



Sharon Amezcua is the Chief Executive Officer for Bahia Village Communities. With more than 35 years of experience as a serial entrepreneur and serial investor, Sharon has created, built, incubated, accelerated, invested in, syndicated and exited hundreds of companies across the globe while working closely with a team of sector specialists. Sharon's focus has been at the intersection of technology and finance with a concentration in Alternative Energy, Fintech, Alternative Healthcare, Software, AI, Blockchain and Cryptocurrency. The beginning of Sharon's career was focused on commercial banking as well as building and growing energy-related companies in lighting, HVAC control systems and several alternative energy solutions including solar, wind, hydro and more. After the successful launch and exit of New Energy Ventures in Los Angeles, a company that went from

no revenue to \$1B in 18 months, Sharon co-founded MCC Global NV, an old-style merchant bank that was listed on the Frankfurt stock exchange in 2006. MCC offered a proprietary creation, incubation and acceleration "de-risking" process that Sharon developed and implemented with hundreds of emerging and established companies exhibiting an unmatched track record of success. As vice chairman of Moore Clayton Capital Advisors, Inc. and vice president of Equus II, MCC Global's fund management company and its NYSE-listed private equity fund, respectively, Sharon was instrumental in increasing the overall net asset value and ROI of this highly regulated BDC. Sharon then Co-Founded ESE Partners, LLC and ESE Fund Ltd., a future financial services company and associated fund that built and invested in emerging and established companies in targeted sectors across the world. With the leadership of her London-based business partner, Edward Fitzpatrick, ESE created an unregulated stock exchange in Europe (European Stock Exchange), a regulated stock exchange, AlliedSX (A Start-Up Stock Exchange), that expanded globally in 50 countries and ILOEX (An Initial License Offering Exchange) that makes it easier for companies to raise the growth funding they need without diluting their equity. Sharon is also the co-founder of SSG, LLC, a technology transfer company managed by women at the top of their fields and SSG was initially created to build companies in the United States and the Middle East/North Africa region of the world. ESE and SSG both have a strong focus on traditional industries converging with new technologies particularly in new media, healthcare, wellness, alternative energy and fintech. Sharon's passion, besides dancing and architectural engineering, is working with young people through business and philanthropy to enhance their entrepreneurial skills and help them execute their dreams. She is also an active advisory board/board member of many emerging and established companies across the globe.

**ii. Larry Braden**



Larry Braden is the Chief Financial Officer ("CFO") of the Company. Larry has more than thirty (30) years of diverse consulting and corporate finance experience. As CFO, he supervises the financial operations of the Company including accounting, auditing, corporate finance, and financial compliance. Larry is leading efforts for corporate and individual investors, as well as the Company's opportunity zone investors. Prior to joining the Company, Larry was the U.S. Market Director for the International Stock Exchange Group and ILOCX.com, served as a contracted Chief Financial Officer for Early Growth Financial Services in Seattle, Washington, and was the founder and managing director of Charter Business Brokers (which he merged with Keller Williams as one of the largest business brokers in Washington). He has more than fifteen (15) years of experience as a commercial and residential real estate broker in

California and Washington state. Some of Larry's other notable finance roles include working as the

senior director of finance for Universal Music Group’s e-business divisions in Santa Monica, California, corporate accounting manager for Time Warner in Burbank, California, and senior operations auditor at Paramount Pictures in Hollywood, California. Larry is a Certified Public Accountant (inactive) and a designated real estate broker in both California and Washington. He holds a Bachelor of Science in Accounting from the University of Southern California and a Master of Business Administration in Marketing and Strategy from the UCLA Anderson School of Management.

**iii. Dean DeLisle**



Dean DeLisle is the Secretary of the Company. With an extensive background with large corporations and as an entrepreneur, he is responsible for all of the Company’s marketing functions which include branding, public relations, social media, lead generation and the Company’s website. Dean learned early in his career that hard work and motivation were key ingredients to success. He also learned the value of forging relationships with colleagues and customers to create a powerful network. Leveraging his network, he started his career in technology with Merrill Lynch in Chicago in data center operations at the Board of Trade. Within three (3) years, Dean opened his own technology firm developing apps and solutions for various industries including banking, finance, insurance and real estate. Advancements in technology and the internet caused him to shift his focus to front office operations, specifically

marketing solutions like customer relationship management (“CRM”) and early marketing automation. He later added web design, more advanced automation and digital lead generation to his list of professional services. During this time, he also provided his clients integrated advertising solutions across radio, television, print and outdoor. In 1994, Dean founded tech company Delcom System which provided hardware and telecommunication services, in addition to expanding his CRM services to call center solutions that handled both inbound and outbound calls for companies like such as Sears, Discover, Blue Cross, State Farm, Citi Corp, and others. In 2003, Dean transitioned his focus to digital marketing, CRM and the newest of evolution in social media on new platforms like LinkedIn. Dean then founded Forward Progress, a Chicago-based social media and influencer marketing company which provides integrated marketing solutions via a proven digital thought-leadership methodology, consistently driving clients’ business growth. Then in 2012, Dean launched the leading Influencer Development Platform called Social Jack™ to provide training and equip organizations and professionals to accelerate their digital influence. The core of the curriculum is “social teaming,” a unique system created by Dean. Using its proven influencer methodology, Social Jack guides organizations to humanize their brands using employees, partners, and connected advocates. Dean is a highly sought-after speaker who brings his expertise, enthusiasm and energetic drive to his popular B2B influencer-themed podcast, The Influence Factory. Dean’s recent book FIRST, The Street Guide to Digital Business Influence, contains a proven step-by-step formula for business professionals to fuel thought-leadership and recognition in their industries.



**John Rowland**

John Rowland is a director of the Board. A visionary with a passion for designing homes, communities, and real estate, John’s career has focused on land entitlement, land development, and development feasibility analysis. In most recent years, he has shifted to a primary focus of engineering the most advanced self-sufficient homes in the world—paving the way to his success in building the second off-grid Tesla Powerwall-powered smart home in the United States. Since 1997, John has kept his pulse on home buying and home

building trends. During this time, he has designed and engineered projects secured prime buildable land, and developed custom residential projects. He has produced over fifteen million dollars (\$15 million) in development projects in Southern California, with his one hundred (100)-plus projects valued at over fifty million dollars (\$50 million). As President and a co-founder of the Company, John takes and cultivates vendor and supplier relations to ensure the Company maintains the best pricing and product selection. John also vets and handles contract negotiations with sub-contractors. With a steadfast focus on engineering and building the most energy-efficient, renewable-energy smart homes both domestically and internationally, John works to change the way homes are built inside and out while achieving a “net-zero” energy rating. Born and raised in Orange, California, John embraced the art of home building at a young age, learning from his father who built spec homes in Southern California. Shaping his career as a real estate developer, John attributes his expertise, successes, and work ethic to his father. In 2002, John moved from Orange County to Murrieta to entitle and develop land in the Inland Empire while training his two daughters, Lauren and Ashley, to carry on his legacy. John is a licensed real estate broker in the state of California, a Licensed GC in the state of California, and the premier engineer for energy-efficient homes in the state.

**B. Family Relationships and Involvement in Certain Legal Proceedings**

There are no family relationships among the members of the Board and the Company’s authorized executive officers. The members of the Board or the Company executive officers have not:

- been convicted in a criminal proceeding or been subject to a pending criminal proceeding (excluding traffic violations and other minor offenses);
- had any bankruptcy petition filed by or against the business or property of the person, or of any partnership, corporation or business association of which he was a general partner or executive officer, either at the time of the bankruptcy filing or within two years prior to that time;
- been subject to any order, judgment, or decree, not subsequently reversed, suspended or vacated, of any court of competent jurisdiction or federal or state authority, permanently or temporarily enjoining, barring, suspending or otherwise limiting, his involvement in any type or business, securities, futures, commodities, investment, banking, savings and loan, or insurance activities, or to be associated with persons engaged in any such activity;
- been found by a court of competent jurisdiction in a civil action or by the Securities and Exchange Commission or the Commodity Futures Trading Commission to have violated a federal or state securities or commodities law, and the judgment has not been reversed, suspended, or vacated;

- been the subject of, or a party to, any federal or state judicial or administrative order, judgment, decree, or finding, not subsequently reversed, suspended or vacated (not including any settlement of a civil proceeding among private litigants), relating to an alleged violation of any federal or state securities or commodities law or regulation, any law or regulation respecting financial institutions or insurance companies including, but not limited to, a temporary or permanent injunction, order of disgorgement or restitution, civil money penalty or temporary or permanent cease-and-desist order, or removal or prohibition order, or any law or regulation prohibiting mail or wire fraud or fraud in connection with any business entity; or
- been the subject of, or a party to, any sanction or order, not subsequently reversed, suspended or vacated, of any self-regulatory organization (as defined in Section 3(a)(26) of the Exchange Act), any registered entity (as defined in Section 1(a)(29) of the Commodity Exchange Act), or any equivalent exchange, association, entity or organization that has disciplinary authority over its members or persons associated with a member.

**11. SECURITY OWNERSHIP OF BENEFICIAL OWNERS AND MANAGEMENT**

**A. Beneficial Ownership of the Company**

The following table sets forth information regarding the beneficial ownership of our common stock as of the date of this Memorandum and as of immediately prior to the offer and sale of Shares hereby, the beneficial ownership of the Company (on a fully-diluted basis) is as follows:

<b>Beneficial Ownership of the Company</b>		
<b><u>Beneficial Owner</u></b>	<b><u>Nature of Beneficial Ownership</u></b>	<b><u>Degree of Beneficial Ownership</u></b>
Sharon Amezcua	Common Stock	1,650,000
Larry Braden	Common Stock	1,650,000
Dean DeLisle	Common Stock	1,650,000
John Rowland	Common Stock	1,650,000

The address for each of the individuals above is c/o Bahia Village Communities, Inc., 2775 E. U.S. Highway 90, Macclenny, Florida 33063

**B. Changes in Control of the Company**

To the best of the Board's knowledge, as of the date of this Memorandum, there are no circumstances under which the control of the Company could change.

**12. TRANSACTIONS WITH RELATED PERSONS, PROMOTERS, AND CERTAIN CONTROL PERSONS**

**A. Indemnification of the Board and Executive Officers**

As a member of the Board and an executive officer of the Company, Sharon Amezcua, Larry Braden, Dean DeLisle and John Rowland are entitled to indemnification by the Company for actions

taken by them on behalf of the Company in such capacities. Such a right to indemnification derives from a combination of the laws of the State of Delaware and the bylaws of the Company.

**13. AS A MEMBER OF THE BOARD AND AN EXECUTIVE OFFICER OF THE COMPANY, SHARON AMEZCUA, LARRY BRADEN, DEAN DELISLE AND JOHN ROWLAND ARE ENTITLED TO INDEMNIFICATION BY THE COMPANY FOR ACTIONS TAKEN BY THEM ON BEHALF OF THE COMPANY IN SUCH CAPACITIES. SUCH A RIGHT TO INDEMNIFICATION DERIVES FROM A COMBINATION OF THE LAWS OF THE STATE OF DELAWARE AND THE BYLAWS OF THE COMPANY. LARRY BRADEN, DEAN DELISLE AND JOHN ROWLAND HAVE OWNERSHIP AND MANAGEMENT POSITIONS IN S2A MODULAR HEADQUARTERS CORPORATION, A POTENTIAL CUSTOMER OF THE COMPANY. IF A DISPUTE WERE TO ARISE BETWEEN THE COMPANY AND S2A MODULAR HEADQUARTERS CORPORATION, A CONFLICT OF INTEREST WOULD ARISE. SEE "RISK FACTORS." DISCLOSURE OF COMMISSION POSITION ON INDEMNIFICATION FOR SECURITIES ACT LIABILITIES**

Insofar as indemnification for liabilities arising under the Act may be permitted to the Company's directors, executive officers, or controlling persons, the Company has been informed that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is therefore unenforceable.

**14. SUBSCRIPTION PROCEDURES**

In order to subscribe for Shares in this offering, a prospective investor must execute the Subscription Agreement included herewith by:

1. Identifying the amount they wish to invest in in Section 2(a) therein (found on page 3 of the Subscription Agreement);
2. Executing the Subscription Agreement on page 10 therein, providing all information requested in the signature block provided; and
3. Completing the Accreditation Disclosure Form included as Exhibit A to the Subscription Agreement.
  - a. The Investor must check the box applicable to their ground(s) for qualifying as an accredited investor, and thereafter execute the Accreditation Disclosure Form on the top portion of page 3 therein. Please note:
  - b. If the Investor has an applicable professional representative whom is representing and warranting that the Investor is an accredited investor, then that professional representative must complete and execute the applicable, bottom portion of page 3 of the Accreditation Disclosure Form.
  - c. If the Investor is using a third-party service provider to verify that the Investor is an accredited investor, then the Investor must provide the Company with such documentation made available from the third-party service provider that verifies the Investor is, in fact, an accredited investor.
  - d. If the Investor neither has an applicable professional representative whom is representing and warranting that the Investor, nor is using a third-party service provider to verify that the Investor is an accredited investor, then the Investor must provide the Company with such documentation and information as the Company requests to determine that the Investor is, in fact, an accredited investor. Such documentation and information may include tax returns, pay stubs, verification of banking and

investment account balances, and the like.

Thereafter, if the Company accepts the Investor's request to acquire shares, the Investor must:

1. Make a contribution of capital to the Company, preferably by electronic transfer using the wire instructions below, or a check, in the amount identified by the Investor in Section 2(a) of the Subscription Agreement (which in no event shall be less than the Minimum Contribution);

Account Name:	Bahia Village 1
Bank Name:	J.P. Morgan Chase
Bank Address:	P.O. Box 182051, Columbus, OH 43128-2051
Routing Number:	322271627
Account Number:	699300130
Customer Address:	2775 E U.S. Highway 90, Macclenny, FL 33063

Subscriptions from suitable prospective investors will be accepted in our sole discretion after receipt of all subscription documents, properly and completely executed, with the appropriate payment. All subscription payments must be in United States Dollars. Any subscription which is not accompanied by payment and properly executed accompanying documents will be rejected. If a potential investor elects not to make a subscription or his entire subscription is rejected, the potential investor, by accepting delivery of this memorandum, agrees to destroy it, along with any documents or other information supplied in connection with it, upon our request. The funds received by us from any investor whose subscription to purchase securities is rejected by us will be returned to such investor, without deduction from or interest on the funds, but no sooner than those funds have cleared the banking system in the normal course of business.

## 15. DESCRIPTION OF SECURITIES

### **Common Stock**

We are authorized to issue up to 100,000,000 shares of common stock, par value \$0.0001 per share and up to 50,000,000 shares of preferred stock; no shares of preferred stock have been issued. All of the issued and outstanding shares of our common stock are duly authorized, validly issued, fully paid and non-assessable. To the extent that additional shares of our common stock are issued, the relative interests of existing stockholders will be diluted.

*Voting Rights.* The holders of our common stock are entitled to one vote for each share held of record on all matters submitted to a vote of the stockholders. Any corporate action to be taken by vote of stockholders other than for election of directors shall be authorized by the affirmative vote of the majority of votes cast. Directors are elected by a plurality of votes. Stockholders do not have cumulative voting rights.

*Dividends.* Subject to preferences that may be applicable to any then-outstanding preferred stock, if any, holders of common stock are entitled to receive ratably those dividends, if any, as may be declared from time to time by our board of directors out of legally available funds. We have never declared dividends or paid cash dividends. We currently intend to retain and use any future earnings for the development and expansion of our business and do not anticipate paying any cash dividends in the near future.

*Liquidation Rights.* In the event of our liquidation, dissolution or winding up, holders of common stock will be entitled to share ratably in the net assets legally available for distribution to stockholders after the payment of all of our debts and other liabilities and the satisfaction of any liquidation preference granted to the holders of any then-outstanding shares of preferred stock, if any.

*Transfer Restrictions.* No holder of any of the shares of stock in the Corporation may sell, transfer, assign, pledge, or otherwise dispose of or encumber any of the shares of stock in the Corporation or any right or interest therein, whether voluntarily or by operation of law, or by gift or otherwise (each, a “*Transfer*”) without the prior written consent of the Corporation, upon duly authorized action of its Board of Directors. The Corporation may withhold consent for any legitimate corporate purpose, as determined by the Board of Directors.

*Right of First Refusal.* If any stockholder receives a bona fide offer to purchase all or any part of his or her common stock that such stockholder desires to accept, the stockholder shall notify us of such offer. For a period of thirty (30) days after receipt by us of such offer, we shall have the right and option to purchase the shares at the offered price. This right of first refusal may be waived with respect to any transfer either by our board of directors, or by our stockholders upon the express written consent of the owners of a majority of the voting power of our Company. This right of first refusal shall automatically terminate upon the date our securities are first offered to the public pursuant to a registration statement or offering statement filed with, and declared effective or qualified by, as applicable, the SEC under the Securities Act.

*Other Rights.* Holders of common stock have no preemptive, conversion or subscription rights and there are no redemption or sinking fund provisions applicable to our common stock. The rights, preferences and privileges of the holders of common stock are subject to, and may be adversely affected by, the rights of the holders of shares of any series of preferred stock, if any.

## **16. INVESTOR QUALIFICATIONS**

Prospective investors should consider carefully each of the risks associated with this offering, particularly those described in “Risk Factors.” In view of these risks, including the limited trading market for the securities, and the consequent long-term nature of any investment in us, this offering is available only to investors who have substantial net worth and no need for liquidity in their investment. The securities will be offered for sale only to accredited investors that are sophisticated investors, who, in conjunction with such sale, will represent in the subscription agreement that, among other things, the securities purchased are being acquired by each investor for his own account, for investment purposes and not with a view to resell or distribute those securities.

We, in reliance upon the criteria set forth in Rule 501(a) promulgated under the Securities Act, have established investor suitability standards for investors in the securities. Securities will be sold only to an investor who:

- (a) represents that such investor is acquiring the securities for such investor’s own account, for investment only, not with a view to the resale or distribution thereof;
- (b) acknowledges that the right to transfer the securities will be restricted by the Securities Act, applicable state securities laws and certain contractual restrictions, and that the investor’s ability to do so will be restricted by the absence of a market for the securities which does not currently exist; and

- (c) represents that such investor qualifies as one or more of the following:
1. Any natural person whose individual net worth, or joint net worth with that person's spouse, at the time of his purchase exceeds \$1,000,000 excluding from assets the value of such person's primary residence, but including as liabilities (i) the amount of indebtedness secured by such primary residence to the extent such indebtedness exceeds the fair market value of such primary residence and (ii) the amount of indebtedness secured by such primary residence to the extent such indebtedness at the time of the sale of securities exceeds such amount of indebtedness 60 days before such sale;
  2. Any natural person who had an individual income in excess of \$200,000 in each of the two most recent years, or joint income with that person's spouse in excess of \$300,000 in each of those years, and has a reasonable expectation of reaching the same income level in the current year;
  3. Any natural person with certain professional certifications, designations or credentials or other credentials issued by an accredited educational institution, which the SEC may designate from time to time by order, such as designated by order holders in good standing of the Series 7, Series 65, and Series 82 licenses;
  4. Any natural person, with respect to investment in a private fund, who is a "knowledgeable employee" of the fund;
  5. Any limited liability company with \$5 million in assets and possibly entities such as SEC and state-registered investment advisers, exempt reporting advisers, and rural business investment companies to the list of entities that may qualify;
  6. Any entity, including Indian tribes, governmental bodies, funds, and entities organized under the laws of foreign countries, that own "investments," as defined in Rule 2a51-1(b) under the Investment Company Act, in excess of \$5 million and that was not formed for the specific purpose of investing in the securities offered;
  7. "Family offices" with at least \$5 million in assets under management and their "family clients," as each term is defined under the Investment Advisers Act;
  8. Any "spousal equivalent", so that spousal equivalents may pool their finances for the purpose of qualifying as accredited investors;
  9. Any bank as defined in Section 3(a)(2) of the Securities Act), or any savings and loan association or other institution as defined in Section 3(a)(5)(A) of the Securities Act whether acting in its individual or fiduciary capacity; any broker or dealer registered pursuant to Section 15 of the Exchange Act, as amended; any insurance company as defined in Section 2(13) of the Securities Act; any investment company registered under the Investment Company Act of 1940, or a business development company as defined in Section 2(a)(48) of that Act; any Small Business Investment Company licensed by the U.S. Small Business Administration under Section 301(c) or (d) of the Small Business Investment Act of 1958; any plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its

political subdivisions for the benefit of its employees, if such plan has total assets in excess of \$5,000,000; any employee benefit plan within the meaning of the Employee Retirement Income Security Act of 1974, or ERISA, if the investment decision is made by a plan fiduciary, as defined in Section 3(21) of ERISA, which is either a bank, savings and loan association, insurance company, or registered investment adviser, or if the employee benefit plan has total assets in excess of \$5,000,000 or, if a self-directed plan, with investment decisions made solely by persons that are accredited investors;

10. Any private business development company as defined in Section 202(a)(22) of the Investment Advisers Act of 1940;
11. Any organization (described in Section 501(c)(3) of the Internal Revenue Code), corporation, Massachusetts or similar business trust, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of \$5,000,000;
12. Any director, or executive officer of our Company;
13. Any trust, with total assets in excess of \$5,000,000, not formed for the specific purpose of acquiring the securities offered, whose purchase is directed by a person who has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment, or the company reasonably believes immediately prior to making any sale that such purchaser comes within this description; or
14. Any entity in which all of the equity owners are accredited investors.

Investors will be required to make certain representations and to satisfy certain other standards and conditions, which are set forth in the subscription agreement (attached as Exhibit B) that must be executed by all investors in this offering. The suitability standards referred to above are minimum requirements; the satisfaction of such standards does not mean that an investment in our Company is a suitable investment for an investor. In addition, we may revoke the offer made and refuse to sell any securities to a prospective investor for any other reason whatsoever.

#### **17. FURTHER INFORMATION**

The statements contained in this memorandum constitute only a brief summary of certain provisions of the documents referred to and the transactions contemplated. The statements contained in this document do not purport to be a complete description of every term and condition of such documents and are qualified in their entirety by reference to such documents. As with any summary, some details and exceptions have been omitted. If any of the statements made in this document are in conflict with any of the terms of any of such documents, the terms of such documents will govern. Reference is made to the actual documents for a complete understanding of what they contain. Each prospective investor and his/her/its advisor are invited and encouraged to ask us questions with respect to the terms and conditions of the offering and our business and request additional information necessary to verify information in this memorandum. We will seek to provide answers and such information to the extent possessed or obtainable without unreasonable effort or expense. Potential investors will be required to execute non-disclosure agreements as a prerequisite to reviewing documents determined by us to contain proprietary, confidential or otherwise sensitive information. To obtain such information or to make arrangements to

ask such questions of us, prospective investors should contact our CEO.

We are not a “reporting company” for purposes of the Act or 1934 Act. We do not file with the SEC (or with any state securities commission) any audited or unaudited financial statements or other information required under either the Act or the 1934 Act. We do not send annual or periodic reports to holders of its securities under the Act or the 1934 Act. Any reports or other information provided by us to holders of its securities are provided pursuant to the laws of the Company’s domicile (if applicable). We maintain an internet site at: <http://www.bahivillages.com>. We do not make any reports or other filings available on this site.

EXHIBIT A

BYLAWS

BYLAWS  
OF  
BAHIA VILLAGE COMMUNITIES, INC.  
(A DELAWARE CORPORATION)

## ARTICLE I OFFICES

**Section 1. Registered Office.** The registered office of Bahia Village Communities, Inc., (the “*Corporation*”) in the State of Delaware shall be 8 The Green, Suite B, Dover, Delaware 19901, or in such other location as the Board of Directors of the Corporation (the “*Board of Directors*”) may from time to time determine or the business of the Corporation may require.

**Section 2. Other Offices.** The Corporation shall also have and maintain an office or principal place of business at 2775 E. U.S. Highway 90, Macclenny, Florida 33063, and may also have offices at such other places, both within and without the State of Delaware or Florida, as the Board of Directors may from time to time determine or the business of the Corporation may require.

## ARTICLE II CORPORATE SEAL

**Section 3. Corporate Seal.** The Board of Directors may adopt a corporate seal. Said seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced or otherwise.

## ARTICLE III STOCKHOLDERS’ MEETINGS

**Section 4. Place of Meetings.** Meetings of the stockholders of the Corporation may be held at such place, either within or without the State of Delaware, as may be determined from time to time by the Board of Directors. The Board of Directors may, in its sole discretion, determine that the meeting shall not be held at any place, but may instead be held solely by means of remote communication as provided under the applicable provisions of Delaware Code Title 8, Section 211 or the General Law of the State of Delaware (the “*Act*”).

**Section 5. Annual Meeting.**

(a) The annual meeting of the stockholders of the Corporation, for the purpose of election of directors and for such other business as may lawfully come before it, shall be held on such date and at such time as may be designated from time to time by the Board of Directors. Nominations of persons for election to the Board of Directors of the Corporation and the proposal of business to be considered by the stockholders may be made at an annual meeting of stockholders: (i) pursuant to the Corporation’s notice of meeting of stockholders; (ii) by or at the direction of the Board of Directors; or (iii) by any stockholder of the Corporation who was a stockholder of record at the time of giving of notice provided for in the following paragraph, who is entitled to vote at the meeting and who complied with the notice procedures set forth in this Section.

(b) At an annual meeting of the stockholders, only such business shall be conducted as shall have been properly brought before the meeting. For nominations or other business to be properly brought before an annual meeting by a stockholder pursuant to clause (iii) of paragraph (a) of this Section, (i) the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation, (ii) such other business must be a proper matter for stockholder action under the Act and applicable law, (iii) if the stockholder, or the beneficial owner on whose behalf any such proposal or nomination is made, has provided the Corporation with a Solicitation Notice (as defined in this Section 5(b)), such stockholder or beneficial owner must, in the case of a proposal, have delivered a proxy statement and form of proxy to holders of at least the percentage of the Corporation’s voting shares required under applicable law to carry any such proposal, or, in the case of a nomination or nominations, have delivered a proxy statement and

form of proxy to holders of a percentage of the Corporation's voting shares reasonably believed by such stockholder or beneficial owner to be sufficient to elect the nominee or nominees proposed to be nominated by such stockholder, and must, in either case, have included in such materials the Solicitation Notice, and (iv) if no Solicitation Notice relating thereto has been timely provided pursuant to this Section, the stockholder or beneficial owner proposing such business or nomination must not have solicited a number of proxies sufficient to have required the delivery of such a Solicitation Notice under this Section. To be timely, a stockholder's notice shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the ninetieth (90<sup>th</sup>) day nor earlier than the close of business on the one hundred twentieth (120<sup>th</sup>) day prior to the first anniversary of the preceding year's annual meeting; *provided, however*, that in the event that the date of the annual meeting is advanced more than thirty (30) days prior to or delayed by more than thirty (30) days after the anniversary of the preceding year's annual meeting, notice by the stockholder to be timely must be so delivered not earlier than the close of business on the one hundred twentieth (120<sup>th</sup>) day prior to such annual meeting and not later than the close of business on the later of the ninetieth (90<sup>th</sup>) day prior to such annual meeting or the tenth (10<sup>th</sup>) day following the day on which public announcement of the date of such meeting is first made. In no event shall the public announcement of an adjournment of an annual meeting commence a new time period for the giving of a stockholder's notice as described above. Such stockholder's notice shall set forth: (i) as to each person whom the stockholder proposed to nominate for election or reelection as a director all information relating to such person that is required to be disclosed in solicitations of proxies for election of directors in an election contest, or is otherwise required, in each case pursuant to Regulation 14A under the Securities Exchange Act of 1934, as amended (the "*Exchange Act*"), and Rule 14a-4(d) thereunder (including such person's written consent to being named in the proxy statement as a nominee and to serving as a director if elected); (ii) as to any other business that the stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the reasons for conducting such business at the meeting and any material interest in such business of such stockholder and the beneficial owner, if any, on whose behalf the proposal is made; and (iii) as to the stockholder giving the notice and the beneficial owner, if any, on whose behalf the nomination or proposal is made (a) the name and address of such stockholder, as they appear on the Corporation's books, and of such beneficial owner, (b) the class and number of shares of the Corporation which are owned beneficially and of record by such stockholder and such beneficial owner, and (c) whether either such stockholder or beneficial owner intends to deliver a proxy statement and form of proxy to holders of, in the case of the proposal, at least the percentage of the Corporation's voting shares required under applicable law to carry the proposal or, in the case of a nomination or nominations, a sufficient number of holders of the Corporation's voting shares to elect such nominee or nominees (an affirmative statement of such intent, a "*Solicitation Notice*").

(c) Notwithstanding anything in the second sentence of paragraph (b) of this Section 5 to the contrary, in the event that the number of directors to be elected to the Board of Directors of the Corporation is increased and there is no public announcement naming all of the nominees for director or specifying the size of the increased Board of Directors made by the Corporation at least one hundred (100) days prior to the first anniversary of the preceding year's annual meeting, a stockholder's notice required by this Section shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the tenth (10<sup>th</sup>) day following the day on which such public announcement is first made by the Corporation.

(d) Only such persons who are nominated in accordance with the procedures set forth in this Section 5 (or elected or appointed pursuant to Article IV of these Bylaws) shall be eligible to serve as directors and only such business shall be conducted at a meeting of stockholders as shall have been brought before the meeting in accordance with the procedures set forth in this Section 5. Except as

otherwise provided by law, the Chairman of the meeting shall have the power and duty to determine whether a nomination or any business proposed to be brought before the meeting was made, or proposed, as the case may be, in accordance with the procedures set forth in these Bylaws and, if any proposed nomination or business is not in compliance with these Bylaws, to declare that such defective proposal or nomination shall not be presented for stockholder action at the meeting and shall be disregarded.

(e) Notwithstanding the foregoing provisions of this Section, in order to include information with respect to a stockholder proposal in the proxy statement and form of proxy for a stockholders' meeting, stockholders must provide notice as required by the regulations promulgated under Exchange Act. Nothing in these Bylaws shall be deemed to affect any rights of stockholders to request inclusion of proposals in the Corporation proxy statement pursuant to Rule 14a-8 under Exchange Act.

(f) For purposes of this Section, "*public announcement*" shall mean disclosure in a press release reported by the Dow Jones News Service, Associated Press, or comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission (the "*SEC*") pursuant to Section 13, 14 or 15(d) of the Exchange Act.

#### **Section 6. Special Meetings.**

(a) Special meetings of the stockholders of the Corporation may be called, for any purpose or purposes, by (i) the Chairman of the Board of Directors, (ii) the Chief Executive Officer, (iii) the President (iv) the Board of Directors pursuant to a resolution adopted by directors representing a quorum of the directors then serving on the Board of Directors or (v) by the holders of shares entitled to cast not less than fifty percent (50%) of the votes at the meeting, and shall be held at such place, on such date, and at such time as the Board of Directors shall fix. Any action required to be taken at any special meeting or which may be taken without a meeting, without prior notice and without a vote, if a consent or consents, setting forth

(b) If a special meeting is properly called by any person or persons other than the Board of Directors, the request shall be in writing, specifying the general nature of the business proposed to be transacted, and shall be delivered personally or sent by certified or registered mail, return receipt requested, or by telegraphic or other facsimile transmission to the Chairman of the Board of Directors, the Chief Executive Officer, the President, or the Secretary of the Corporation. No business may be transacted at such special meeting otherwise than specified in such notice. The Board of Directors shall determine the time and place of such special meeting, which shall be held not less than thirty-five (35) nor more than one hundred twenty (120) days after the date of the receipt of the request. Upon determination of the time and place of the meeting, the officer receiving the request shall cause notice to be given to the stockholders entitled to vote, in accordance with the provisions of Section 7 of these Bylaws. Nothing contained in this paragraph (b) shall be construed as limiting, fixing, or affecting the time when a meeting of stockholders called by action of the Board of Directors may be held.

**Section 7. Notice of Meetings.** Except as otherwise provided by law, notice, given in writing or by electronic transmission, of each meeting of stockholders shall be given not less than ten (10) nor more than sixty (60) days before the date of the meeting to each stockholder entitled to vote at such meeting, such notice to specify the place, if any, date and hour, in the case of special meetings, the purpose or purposes of the meeting, and the means of remote communications, if any, by which stockholders and proxyholders may be deemed to be present in person and vote at any such meeting. If mailed, notice is given when deposited in the United States mail, postage prepaid, directed to the stockholder at such stockholder's address as it appears on the records of the Corporation. Notice of the time, place, if any, and purpose of any meeting of stockholders may be waived in writing, signed by the

person entitled to notice thereof or by electronic transmission by such person, either before or after such meeting, and will be waived by any stockholder by his or her attendance thereat in person, by remote communication, if applicable, or by proxy, except when the stockholder attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Any stockholder so waiving notice of such meeting shall be bound by the proceedings of any such meeting in all respects as if due notice thereof had been given.

**Section 8. Quorum and Manner of Voting.** At all meetings of stockholders, except where otherwise provided by statute or by the Certificate of Incorporation, or by these Bylaws, the presence, in person, by remote communication, if applicable, or by proxy duly authorized, of the holders of a majority of the outstanding shares of stock entitled to vote shall constitute a quorum for the transaction of business. In the absence of a quorum, any meeting of stockholders may be adjourned, from time to time, either by the chairman of the meeting or by vote of the holders of a majority of the shares represented thereat, but no other business shall be transacted at such meeting. The stockholders present at a duly called or convened meeting, at which a quorum is present, may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum. Except as otherwise provided by statute, or by the Certificate of Incorporation or these Bylaws, in all matters other than the election of directors, the affirmative vote of a majority of shares present in person, by remote communication, if applicable, or represented by proxy duly authorized at the meeting and entitled to vote generally on the subject matter shall be the act of the stockholders. Except as otherwise provided by statute, the Certificate of Incorporation or these Bylaws, directors shall be elected by a plurality of the votes of the shares present in person, by remote communication, if applicable, or represented by proxy duly authorized at the meeting and entitled to vote generally on the election of directors. Where a separate vote by a class or classes or series is required, except as otherwise provided by the statute or by the Certificate of Incorporation or these Bylaws, a majority of the outstanding shares of such class or classes or series, present in person, by remote communication, if applicable, or represented by proxy duly authorized, shall constitute a quorum entitled to take action with respect to that vote on that matter. Except where otherwise provided by statute or by the Certificate of Incorporation or these Bylaws, the affirmative vote of the majority (plurality, in the case of the election of directors) of shares of such class or classes or series present in person, by remote communication, if applicable, or represented by proxy at the meeting shall be the act of such class or classes or series.

**Section 9. Adjournment and Notice of Adjourned Meetings.** Any meeting of stockholders, whether annual or special, may be adjourned from time to time either by the chairman of the meeting or by the vote of a majority of the shares present in person, by remote communication, if applicable, or represented by proxy. When a meeting is adjourned to another time or place, if any, notice need not be given of the adjourned meeting if the time and place, if any, thereof are announced at the meeting at which the adjournment is taken. At the adjourned meeting, the Corporation may transact any business which might have been transacted at the original meeting pursuant to the Certificate of Incorporation, these Bylaws or applicable law. If the adjournment is for more than thirty (30) days or if after the adjournment a new record date is fixed for the adjourned meeting, a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

**Section 10. Voting Rights.** For the purpose of determining those stockholders entitled to vote at any meeting of the stockholders, except as otherwise provided by law, only persons in whose names shares stand on the stock records of the Corporation on the record date, as provided in Section 12 of these Bylaws, shall be entitled to vote at any meeting of stockholders. Every person entitled to vote or execute consents shall have the right to do so either in person, by remote communication, if applicable, or by an agent or agents authorized by a proxy granted in accordance with Delaware law. An agent so appointed need not be a stockholder. No proxy shall be voted after three (3) years from its date of creation

unless the proxy provides for a longer period.

**Section 11. Joint Owners of Stock.** If shares or other securities having voting power stand of record in the names of two (2) or more persons, whether fiduciaries, members of a partnership, joint tenants, tenants in common, tenants by the entirety, or otherwise, or if two (2) or more persons have the same fiduciary relationship respecting the same shares, unless the Secretary is given written notice to the contrary and is furnished with a copy of the instrument or order appointing them or creating the relationship wherein it is so provided, their acts with respect to voting (including consent provided pursuant to Section 13) shall have the following effect: (i) if only one (1) votes, his or her act binds all; (ii) if more than one (1) votes and the vote is not evenly split, the act of the majority so voting binds all; (iii) if more than one (1) votes, but the vote is evenly split on any particular matter, each faction may vote the securities in question proportionally, or may apply to the Delaware Court of Chancery for relief so provided in Section 217(b) of the Act. If the instrument filed with the Secretary shows that any such tenancy is held in unequal interests, a majority or even-split for the purpose of subsection (iii) shall be a majority or even-split in interest.

**Section 12. List of Stockholders.** The Secretary shall prepare and make, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at said meeting, arranged in alphabetical order, showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, on a reasonably accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or during ordinary business hours, at the principal place of business of the Corporation. In the event that the Corporation determines to make the list available on an electronic network, the Corporation may take reasonable steps to ensure that such information is available only to stockholders of the Corporation. The list shall be open to examination of any stockholder during the time of the meeting as provided by law.

**Section 13. Action without Meeting.**

(a) Unless otherwise provided in the Certificate of Incorporation, any action required by statute to be taken at any annual or special meeting of the stockholders, or any action which may be taken at any annual or special meeting of the stockholders, may be taken without a meeting, without prior notice and without a vote, if a consent in writing, or by electronic transmission setting forth the action so taken, shall be signed by the holders of outstanding stock having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted.

(b) Every written consent or electronic transmission shall bear the date of signature of each stockholders who signs the consent, and no written consent or electronic transmission shall be effective to take the corporate action referred to therein unless, within sixty (60) days of the earliest dated consent delivered to the Corporation in the manner herein required, written consents or electronic transmissions signed by a sufficient number of stockholders to take action are delivered to the Corporation by delivery to its principal office in the State of Florida, its principal place of business or an officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to a Corporation's registered office shall be by hand or by certified or registered mail, return receipt requested.

(c) Prompt notice of the taking of the corporate action without a meeting by less than unanimous written consent shall be given to those stockholders who have not consented in writing or by

electronic transmission and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for such meeting had been the date that written consents signed by a sufficient number of stockholders to take action were delivered to the Corporation as provided in the Act. If the action to which the stockholders consented is such as would have required the filing of a certificate under any section of the Act if such action had been voted on by stockholders at a meeting thereof, then the certificate filed under such section shall state, in lieu of any statement required by such section concerning any vote of stockholders, that written consent has been given in accordance with the Act.

(d) An electronic mail, facsimile or other electronic transmission consenting to an action to be taken and transmitted by a stockholders or proxyholder, shall be deemed to be written, signed and dated for the purposes of this Section, provided that any such electronic mail, facsimile or other electronic transmission sets forth or is delivered with information from which the Corporation can determine (i) that the electronic mail, facsimile or other electronic transmission was transmitted by the stockholder or proxyholder or by a person or persons authorized to act for the stockholder and (ii) the date on which such stockholders or proxyholder or authorized person or persons transmitted such electronic mail, facsimile or electronic transmission. The date on which such electronic mail, facsimile or electronic transmission is transmitted shall be deemed to be the date on which such consent was signed. No consent given by electronic mail, facsimile or other electronic transmission shall be deemed to have been delivered until such consent is reproduced in paper form and until such paper form shall be delivered to the Corporation by delivery to its principal office in the State of Florida, its principal place of business or an officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to a Corporation's registered office shall be made by hand or by certified or registered mail, return receipt requested. Notwithstanding the foregoing limitations on delivery, consents given by electronic mail, facsimile or other electronic transmission may be otherwise delivered to the principal place of business of the Corporation or to an officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders are recorded if, to the extent and in the manner provided by resolution of the Board of Directors. Any copy, facsimile or other reliable reproduction of a consent in writing may be substituted or used in lieu of the original writing for any and all purposes for which the original writing could be used, provided that such copy, facsimile or other reproduction shall be a complete reproduction of the entire original writing.

#### **Section 14. Organization.**

(a) At every meeting of stockholders, the Chairman of the Board of Directors, or, if a Chairman has not been appointed or is absent, the Chief Executive Officer, or, if a Chief Executive Officer has not been appointed or is absent, the President, or, if the President is absent, a chairman of the meeting chosen by a majority in interest of the stockholders entitled to vote, present in person or by proxy, shall act as chairman. The Secretary, or, in his or her absence, an Assistant Secretary directed to do so by the Chief Executive Officer, shall act as secretary of the meeting.

(b) The Board of Directors shall be entitled to make such rules or regulations for the conduct of meetings of stockholders as it shall deem necessary, appropriate or convenient. Subject to such rules and regulations of the Board of Directors, if any, the chairman of the meeting shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts as, in the judgment of such chairman, are necessary, appropriate or convenient for the proper conduct of the meeting, including, without limitation, establishing an agenda or order of business for the meeting, rules and procedures for maintaining order at the meeting and the safety of those present, limitations on participation in such meeting to stockholders of record of the Corporation and their duly authorized and constituted proxies and such other persons as the chairman shall permit, restrictions on entry to the

meeting after the time fixed for the commencement thereof, limitations on the time allotted to questions or comments by participants and regulation of the opening and closing of the polls for balloting on matters which are to be voted on by ballot. The date and time of the opening and closing of the polls for each matter upon which the stockholders will vote at the meeting shall be announced at the meeting. Unless and to the extent determined by the Board of Directors or the chairman of the meeting, meetings of stockholders shall not be required to be held in accordance with rules of parliamentary procedure.

## **ARTICLE IV DIRECTORS**

**Section 15. Number and Term of Office.** The authorized number of directors of the Corporation shall be fixed by the Board of Directors from time to time. Directors need not be stockholders unless so required by the Certificate of Incorporation. If for any cause, the directors shall not have been elected at an annual meeting, they may be elected as soon thereafter as convenient.

**Section 16. Powers.** The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors, except as may be otherwise provided by statute or by the Certificate of Incorporation.

**Section 17. Term of Directors.**

(a) Subject to the rights of the holders of any class or series of stock to elect additional directors under specified circumstances, directors shall be elected at each annual meeting of stockholders to serve until the next annual meeting of stockholders and his or her successor is duly elected and qualified or until his or her death, resignation, or removal. No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent director.

(b) No person entitled to vote at an election for directors may cumulate votes to which such person is entitled, unless, at the time of such election, the Corporation is subject to Delaware Code Title 8, Section 214. During such time or times that the Corporation is subject to Delaware Code Title 8, Section 214, every stockholder entitled to vote at an election for directors may cumulate such stockholder's votes and give one (1) candidate a number of votes equal to the number of directors to be elected multiplied by the number of votes to which such stockholder's shares are otherwise entitled, or distribute the stockholder's votes on the same principle among as many candidates as such stockholder thinks fit. No stockholder, however, shall be entitled to so cumulate such stockholder's votes unless (i) the names of such candidate or candidates have been placed in nomination prior to the voting and (ii) the stockholder has given notice at the meeting, prior to the voting, of such stockholder's intention to cumulate such stockholder's votes. If any stockholder has given proper notice to cumulate votes, all stockholders may cumulate their votes for any candidates who have been properly placed in nomination. Under cumulative voting, the candidates receiving the highest number of votes, up to the number of directors to be elected, are elected.

**Section 18. Vacancies.**

(a) Unless otherwise provided in the Certificate of Incorporation, and subject to the rights of the holders of any class or series of stock, any vacancies on the Board of Directors resulting from death, resignation, disqualification, removal, or other causes and any newly created directorships resulting from any increase in the number of directors shall, unless the Board of Directors determines by resolution that any such vacancies or newly created directorships shall be filled by stockholder, be filled only by the affirmative vote of a majority of the directors then in office, even though less than a quorum of the Board of Directors, or by a sole remaining director; *provided, however*, that whenever the holders of any class or

classes of stock or series thereof are entitled to elect one or more directors by the provisions of the Certificate of Incorporation, vacancies and newly created directorships of such class or classes or series shall, unless the Board of Directors determines by resolution that any such vacancies or newly created directorships shall be filled by stockholders, be filled by a majority of the directors elected by such class or classes or series thereof then in office, or by a sole remaining director so elected. Any director elected in accordance with the preceding sentence shall hold office for the remainder of the full term of the director for which the vacancy was created or occurred and until such director's successor shall have been elected and qualified. A vacancy in the Board of Directors shall be deemed to exist under these Bylaws in the case of the death, removal, or resignation of any director.

**(b)** At any time or times that the Corporation is subject to Section 223 of the Act, if, after the filling of any vacancy, the directors then in office who have been elected by stockholders shall constitute less than a majority of the directors then in office, then

**(i)** any stockholder or stockholders of an aggregate of ten percent (10%) or more of the total number of shares at the time outstanding having the right to vote for those directors may call a special meeting of stockholders; or

**(ii)** the Court of Chancery of the proper county shall, upon application of any stockholder or stockholders holding at least ten percent (10%) of the voting stock at the time outstanding having the right to vote for such directors, summarily order a special meeting of the stockholders, to be held to elect the entire board, all in accordance with Section 223 of the Act, the term of office of any director shall terminate upon that election of a successor.

**Section 19. Resignation.** Any director may resign at any time by delivering his or her notice in writing or by electronic transmission to the Secretary, such resignation to specify whether it will be effective at a particular time, upon receipt by the Secretary or at the pleasure of the Board of Directors. If no such specification is made, it shall be deemed effective at the pleasure of the Board of Directors. When one or more directors shall resign from the Board of Directors, effective at a future date, a majority of the directors then in office, including those who have so resigned, shall have power to fill such vacancy or vacancies, the vote thereon to take effect when such resignation or resignations shall become effective, and each director so chosen shall hold office for the unexpired portion of the term of the director whose place shall be vacated and until his successor shall have been duly elected and qualified.

**Section 20. Removal.**

**(a)** Subject to any limitations imposed by applicable law, the Board of Directors or any director may be removed from office at any time (i) with cause by the affirmative vote of the holders of a majority of the voting power of all then-outstanding shares of capital stock of the Corporation entitled to vote generally at an election of directors or (ii) without cause by the affirmative vote of the holders of a majority of the voting power of all then-outstanding shares of capital stock of the Corporation, entitled to elect such director.

**(b)** During such time or times that the Corporation is subject to Section 141 of the Act, the Board of Directors or any individual director may be removed from office at any time without cause by the affirmative vote of the holders of a majority of the outstanding shares entitled to vote on such removal; *provided, however*, that unless the entire Board of Directors is removed, no individual director may be removed when the votes cast against such director's removal, or not consenting in writing to such removal, would be sufficient to elect that director if voted cumulatively at an election in which the same total number of votes were cast (or, if such action is taken by written consent, all shares entitled to

vote were voted) and the entire number of directors authorized at the time of such director's most recent election were then being elected.

## **Section 21. Meetings**

**(a) Regular Meetings.** Unless otherwise restricted by the Certificate of Incorporation, regular meetings of the Board of Directors may be held at any time or date and at any place within or without the State of Delaware which has been designated by the Board of Directors and publicized among all directors, either orally or in writing, including a voice-messaging system or other system designated to record and communicate messages, facsimile, or by electronic mail, or other electronic means. No further notice shall be required for a regular meeting of the Board of Directors.

**(b) Special Meetings.** Unless otherwise restricted by the Certificate of Incorporation, special meetings of the Board of Directors may be held at any time and place within or without the State of Delaware whenever called by the Chairman of the Board of Directors, the Chief Executive Officer (if a director), the President or any director.

**(c) Meetings by Electronic Communications Equipment.** Any member of the Board of Directors, or of any committee thereof, may participate in a meeting by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting by such means shall constitute presence in person at such meeting.

**(d) Notice of Special Meetings.** Notice of the time and place of all special meetings of the Board of Directors shall be orally or in writing, by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, facsimile, telegraph or telex, or by electronic mail or other electronic means, during normal business hours, at least twenty-four (24) hours before the date and time of the meeting. If notice is sent by US mail, it shall be sent by first class mail, postage prepaid at least three (3) days before the date of the meeting. Notice of any meeting may be waived in writing or by electronic transmission at any time before or after the meeting and will be waived by any director by attendance thereat, except when the director attends the meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

**(e) Waiver of Notice.** The transaction of all business at any meeting of the Board of Directors, or any committee thereof, however called or noticed, or wherever held, shall be as valid as though had at a meeting duly held after regular call and notice, if a quorum be present and if, either before or after the meeting, each of the directors not present who did not receive notice shall sign a written waiver of notice or shall waive notice by electronic transmission. All such waivers shall be filed with the corporate records or made a part of the minutes of the meeting.

## **Section 22. Quorum and Voting.**

**(a)** Unless the Certificate of Incorporation requires a greater number, a quorum of the Board of Directors shall consist of a majority of the exact number of directors then serving; *provided, however,* that such number shall never be less than one-third (1/3) of the total number of directors authorized except that when one (1) director is authorized, then one (1) director shall constitute a quorum. At any meeting, whether a quorum be present or otherwise, a majority of the directors present may adjourn from time to time until the time fixed for the next regular meeting of the Board of Directors, without notice other than by announcement at the meeting. If the Certificate of Incorporation provides that one (1) or more directors shall have more or less than one vote per director on any matter, every

reference in this Section to a majority or other proportion of the directors shall refer to a majority or other proportion of the votes of the directors.

(b) At each meeting of the Board of Directors at which a quorum is present, all questions and business shall be determined by the affirmative vote of a majority of the directors present, unless a different vote be required by law, the Certificate of Incorporation or these Bylaws.

**Section 23. Action without Meeting.** Unless otherwise restricted by the Certificate of Incorporation or these Bylaws, any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if all members of the Board of Directors or committee, as the case may be, consent thereto in writing or by electronic transmission, and such writing or writings or transmission or transmissions are filed with the minutes of proceedings of the Board of Directors or committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

**Section 24. Fees and Compensation.** Directors shall be entitled to such compensation for their services as may be approved by the Board of Directors, including, if so approved, by resolution of the Board of Directors, a fixed sum and expenses of attendance, if any, for attendance at each regular or special meeting of the Board of Directors and at any meeting of a committee of the Board of Directors. Nothing herein contained shall be construed to preclude any director from serving the Corporation in any other capacity as an officer, agent, employee, or otherwise and receiving compensation therefor.

**Section 25. Committees.**

(a) **Executive Committee.** The Board of Directors may appoint an Executive Committee to consist of one (1) or more members of the Board of Directors. The Executive Committee, to the extent permitted by law and provided in the resolution of the Board of Directors, shall have and may exercise all the powers and authority of the Board of Directors in the management of the business and affairs of the Corporation, and may authorize the seal of the Corporation to be affixed to all papers which may require it; but no such committee shall have the power or authority in reference to (i) approving or adopting, or recommending to the stockholders, any action or matter expressly required by the Act to be submitted to stockholders for approval, or (ii) adopting, amending or repealing any bylaw of the Corporation.

(b) **Other Committees.** The Board of Directors may, from time to time, appoint such other committees as may be permitted by law. Such other committees appointed by the Board of Directors shall consist of one (1) or more members of the Board of Directors and shall have such powers and perform such duties as may be prescribed by the resolution or resolutions creating such committees, but in no event shall any such committee have the powers denied to the Executive Committee in these Bylaws.

(c) **Committee Composition and Term.** The Board of Directors, subject to any requirements of any outstanding class or series of stock, if any, and the provisions of paragraphs (a) or (b) of this Section may at any time increase or decrease the number of members of a committee or terminate the existence of a committee. The membership of a committee member shall terminate on the date of his or her death or voluntary resignation from the committee or from the Board of Directors. The Board of Directors may at any time for any reason remove any individual committee member and the Board of Directors may fill any committee vacancy created by death, resignation, removal, or increase in the number of members of the committee. The Board of Directors may designate one (1) or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting

of the committee, and, in addition, in the absence or disqualification of any member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he, she, or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member.

**(d) Meetings.** Unless the Board of Directors shall otherwise provide, regular meetings of the Executive Committee or any other committee appointed pursuant to this Section shall be held at such times and places as are determined by the Board of Directors, or by any such committee, and when notice thereof has been given to each member of such committee, no further notice of such regular meetings need be given thereafter. Special meetings of any such committee may be held at any place which has been determined from time to time by such committee, and may be called by any director who is a member of such committee, upon notice to the members of such committee of the time and place of such special meeting given in the manner provided for the giving of notice to members of the Board of Directors of the time and place of special meetings of the Board of Directors. Notice of any special meeting of any committee may be waived in writing at any time before or after the meeting and will be waived by any director by attendance thereat, except when the director attends such special meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Unless otherwise provided by the Board of Directors in the resolutions authorizing the creation of the committee, a majority of the authorized number of members of any such committee shall constitute a quorum for the transaction of business, and the act of a majority of those present at any meeting at which a quorum is present shall be the act of such committee.

**Section 26. Organization.** At every meeting of the directors, the Chairman of the Board of Directors, or, if a Chairman has not been appointed or is absent, the Chief Executive Officer (if a director), or if the Chief Executive Officer is not a director or is absent, the President, or if the President is absent, the most senior Vice President (if a director) or, in the absence of any such person, a chairman of the meeting chosen by a majority of the directors present, shall preside over the meeting. The Secretary, or in his or her absence, any Assistant Secretary directed to do so by the Chief Executive Officer or President, shall act as secretary of the meeting.

## **ARTICLE V OFFICERS**

**Section 27. Officers Designated.** The officers of the Corporation shall include, if and when designated by the Board of Directors, the Chief Executive Officer, the President, one (1) or more Vice Presidents, the Secretary, the Chief Financial Officer, the Treasurer and the Controller, all of whom shall be elected or appointed from time to time by the Board of Directors. The Board of Directors may also appoint one or more Assistant Secretaries, Assistant Treasurers, Assistant Controllers and such other officers and agents with such powers and duties as it shall deem necessary. The Board of Directors may assign such additional titles to one or more of the officers as it shall deem appropriate. Any one (1) person may hold any number of offices of the Corporation at any one time unless specifically prohibited therefrom by law. The salaries and other compensation of the officers of the Corporation shall be fixed by or in the manner designated by the Board of Directors.

### **Section 28. Tenure and Duties of Officers.**

**(a) General.** All officers shall hold office at the pleasure of the Board of Directors and until their successors shall have been duly elected or appointed and qualified, unless sooner removed. Any officer elected or appointed by the Board of Directors may be removed at any time by the Board of

Directors. If the office of any officer becomes vacant for any reason, the vacancy may be filled by the Board of Directors, or by the Chief Executive Officer or other officer if so authorized by the Board of Directors.

**(b) Duties of Chairman of the Board of Directors.** The Chairman of the Board of Directors, when present, shall preside at all meetings of the stockholders and the Board of Directors. The Chairman of the Board of Directors shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors shall designate from time to time. If there is no Chief Executive Officer and no President, then the Chairman of the Board of Directors shall also serve as the Chief Executive Officer of the Corporation and shall have the powers and duties prescribed in paragraph (c) of this Section.

**(c) Duties of Chief Executive Officer.** The Chief Executive Officer shall preside at all meetings of the stockholders and (if a director) at all meetings of the Board of Directors, unless the Chairman of the Board of Directors has been appointed and is present. The Chief Executive Officer shall be the chief executive officer of the Corporation and shall, subject to the control of the Board of Directors, have general supervision, direction and control of the business and officers of the Corporation. The Chief Executive Officer shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors shall designate from time to time.

**(d) Duties of President.** In the absence or disability of the Chief Executive Officer or if the office of Chief Executive Officer is vacant, the President shall preside at all meetings of the stockholders and (if a director) at all meetings of the Board of Directors, unless the Chairman of the Board of Directors has been appointed and is present. If the office of Chief Executive Officer is vacant, the President shall be the chief executive officer of the Corporation (including for purposes of any reference to Chief Executive Officer in these Bylaws) and shall, subject to the control of the Board of Directors, have general supervision, direction and control of the business and officers of the Corporation. The President shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors shall designate from time to time.

**(e) Duties of Vice Presidents.** The Vice Presidents may assume and perform the duties of the President in the absence or disability of the President or whenever the office of President is vacant. The Vice Presidents shall perform other duties commonly incident to their office and shall also perform such other duties and have such other powers as the Board of Directors or the President shall designate from time to time.

**(f) Duties of Secretary.** The Secretary shall attend all meetings of the stockholders and of the Board of Directors and shall record all acts and proceedings thereof in the minute book of the Corporation. The Secretary shall give notice in conformity with these Bylaws of all meetings of the stockholders and of all meetings of the Board of Directors and any committee thereof requiring notice. The Secretary shall perform all other duties provided for in these Bylaws and other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors shall designate from time to time. The Chief Executive Officer may direct any Assistant Secretary to assume and perform the duties of the Secretary in the absence or disability of the Secretary, and each Assistant Secretary shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors or the Chief Executive Officer shall designate from time to time.

**(g) Duties of Chief Financial Officer.** The Chief Financial Officer shall keep or cause to be kept the books of account of the Corporation in a thorough and proper manner and shall render statements of the financial affairs of the Corporation in such form and as often as required by the Board of Directors or the Chief Executive Officer. The Chief Financial Officer, subject to the order of the Board of Directors, shall have the custody of all funds and securities of the Corporation. The Chief Financial Officer shall perform other duties commonly incident to his or her office and shall also perform such other duties and have such other powers as the Board of Directors or the Chief Executive Officer shall designate from time to time. The Chief Executive Officer may direct the Treasurer or any Assistant Treasurer, or the Controller or any Assistant Controller, to assume and perform the duties of the Chief Financial Officer in the absence or disability of the Chief Financial Officer, and each Treasurer and Assistant Treasurer and each Controller and Assistant Controller shall perform other duties commonly incident to the office and shall also perform such other duties and have such other powers as the Board of Directors or the Chief Executive Officer shall designate from time to time.

**Section 29. Delegation of Authority.** The Board of Directors may from time to time delegate the powers or duties of any officer to any other officer or agent, notwithstanding any provision hereof.

**Section 30. Resignations.** Any officer may resign at any time by giving notice in writing or by electronic transmission notice to the Board of Directors or to the Chief Executive Officer or to the President or to the Secretary. Any such resignation shall be effective when received by the person or persons to whom such notice is given, unless a later time is specified therein, in which event the resignation shall become effective at such later time. Unless otherwise specified in such notice, the acceptance of any such resignation shall not be necessary to make it effective. Any resignation shall be without prejudice to the rights, if any, of the Corporation under any contract with the resigning officer.

**Section 31. Removal.** Any officer may be removed from office at any time, either with or without cause, by the affirmative vote of a majority of the directors in office at the time, or by the unanimous written or electronic consent of the directors in office at the time, or by any committee or superior officers upon whom such power of removal may have been conferred by the Board of Directors.

## **ARTICLE VI EXECUTION OF CORPORATE INSTRUMENTS AND VOTING OF SECURITIES OWNED BY THE CORPORATION**

**Section 32. Execution of Corporate Instruments.** The Board of Directors may, in its discretion, determine the method and designate the signatory officer or officers, or other person or persons, to execute on behalf of the Corporation any corporate instrument or document, or to sign on behalf of the Corporation the corporate name, or to enter into contracts on behalf of the Corporation, except where otherwise provided by law or these Bylaws, and such execution or signature shall be binding upon the Corporation. All checks and drafts drawn on banks or other depositaries of funds to the credit of the Corporation or on special accounts of the Corporation shall be signed by such person or persons as the Board of Directors shall authorize so to do. Unless authorized or ratified by the Board of Directors or within the agency power of an officer, no officer, agent or employee shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or for any amount.

**Section 33. Voting of Securities Owned by the Corporation.** All stock and other securities of other Corporations owned or held by the Corporation for itself, or for other parties in any capacity, shall be voted, and all proxies with respect thereto shall be executed, by the person authorized so to do by

resolution of the Board of Directors, or, in the absence of such authorization, by the Chairman of the Board of Directors, the Chief Executive Officer, the President, or any Vice President.

## **ARTICLE VII SHARES OF STOCK**

**Section 34. Form and Execution of Certificates.** The shares of stock in the Corporation shall be represented by certificates, or shall be uncertificated. Certificates for the shares of stock, if any, of the Corporation shall be in such form as is consistent with the Certificate of Incorporation and applicable law. Every holder of shares of stock in the Corporation represented by certificate shall be entitled to have a certificate signed by or in the name of the Corporation by any two authorized officers of the Corporation, including but not limited to the Chief Executive Officer, the President, the Chief Financial Officer, any Vice President, the Treasurer or Assistant Treasurer or the Secretary or Assistant Secretary, certifying the number of shares owned by him or her in the Corporation. Any or all of the signatures on the certificate may be facsimiles. In case any officer, transfer agent, or registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent, or registrar before such certificate is issued, it may be issued with the same effect as if he or she were such officer, transfer agent, or registrar at the date of issue.

**Section 35. Lost Certificates.** A new certificate or certificates shall be issued in place of any certificate or certificates theretofore issued by the Corporation alleged to have been lost, stolen, or destroyed, upon the making of an affidavit of that fact by the person claiming the certificate of stock to be lost, stolen, or destroyed. The Corporation may require, as a condition precedent to the issuance of a new certificate or certificates, the owner of such lost, stolen, or destroyed certificate or certificates, or the owner's legal representative, to agree to indemnify the Corporation in such manner as it shall require or to give the Corporation a surety bond in such form and amount as it may direct as indemnity against any claim that may be made against the Corporation with respect to the certificate alleged to have been lost, stolen, or destroyed.

**Section 36. Restrictions on Transfer.**

(a) No holder of any of the shares of stock in the Corporation may sell, transfer, assign, pledge, or otherwise dispose of or encumber any of the shares of stock in the Corporation or any right or interest therein, whether voluntarily or by operation of law, or by gift or otherwise (each, a "*Transfer*") without the prior written consent of the Corporation, upon duly authorized action of its Board of Directors. The Corporation may withhold consent for any legitimate corporate purpose, as determined by the Board of Directors. Examples of the basis for the Corporation to withhold its consent include, without limitation, (i) if such Transfer to individuals, companies, or any other form of entity identified by the Corporation as a potential competitor or considered by the Corporation to be unfriendly; or (ii) if such Transfer increases the risk of the Corporation having a class of security held of record by two thousand (2,000) or more persons, or five hundred (500) or more persons who are not accredited investors (as such term is defined by the SEC), as described in Section 12(g) of the Exchange Act and any related regulations, or otherwise requiring the Corporation to register any class of securities under Exchange Act; or (iii) if such Transfer would result in the loss of any federal or state securities law exemption relied upon by the Corporation in connection with the initial issuance of such shares or the issuance of any other securities; or (iv) if such Transfer is facilitated in any manner by any public posting, message board, trading portal, internet site, or similar method of communication, including without limitation any trading portal or internet site intended to facilitate secondary transfers of securities; or (v) if such Transfer is to be effected in a brokered transaction; or (vi) if such Transfer represents a Transfer of less than all of the shares then held by the stockholder and its affiliates or is to be made to more than a single transferee.

(b) If a stockholder desires to Transfer any shares, then the stockholder shall first give written notice thereof to the Corporation. The notice shall name the proposed transferee and state the number of shares to be transferred, the proposed consideration, and all other terms and conditions of the proposed transfer. Any shares proposed to be transferred to which Transfer the Corporation has consented pursuant to paragraph (a) of this Section will first be subject to the Corporation's right of first refusal located in Section 46 of these Bylaws.

(c) Any Transfer, or purported Transfer, of shares not made in strict compliance with this Section shall be null and void, shall not be recorded on the books of the Corporation and shall not be recognized by the Corporation.

(d) The foregoing restriction on Transfer shall terminate upon the date securities of the Corporation are first offered to the public pursuant to a registration statement filed with, and declared effective by, the SEC under the Securities Act of 1933, as amended (the "*1933 Act*").

(e) The certificates representing shares of stock in the Corporation shall bear on their face the following legend so long as the foregoing Transfer restrictions are in effect:

"THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO A TRANSFER RESTRICTION, AS PROVIDED IN THE BYLAWS OF THE CORPORATION."

### **Section 37. Fixing Record Dates.**

(a) In order that the Corporation may determine the stockholders entitled to notice of or to vote at any meeting of stockholders or any adjournment thereof, the Board of Directors may fix, in advance, a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which record date shall, subject to applicable law, not be more than sixty (60) nor less than ten (10) days before the date of such meeting. If no record date is fixed by the Board of Directors, the record date for determining stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day immediately preceding the day on which notice is given, or if notice is waived, at the close of business on the day immediately preceding the day on which the meeting is held. A determination of stockholder of record entitled to notice of or to vote at a meeting of stockholder shall apply to any adjournment of the meeting; *provided, however*, that the Board of Directors may fix a new record date for the adjourned meeting.

(b) In order that the Corporation may determine the stockholders entitled to consent to corporate action in writing without a meeting, the Board of Directors may fix a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted by the Board of Directors, and which date shall not be more than ten (10) days after the date upon which the resolution fixing the record date is adopted by the Board of Directors. Any stockholder of record seeking to have the stockholders authorize or take corporate action by written consent shall, by written notice to the Secretary, request the Board of Directors to fix a record date. The Board of Directors shall promptly, but in all events within ten (10) days after the date on which such a request is received, adopt a resolution fixing the record date. If no record date has been fixed by the Board of Directors within ten (10) days of the date on which such a request is received, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting, when no prior action by the Board of Directors is required by applicable law, shall be the first date on which a signed written consent setting forth the action taken or proposed to be taken is delivered to the Corporation by delivery to its registered office in the State of Delaware, its principal place of business or an officer or agent of the Corporation having custody of the book in which proceedings of meetings of stockholders are recorded. Delivery made to the

Corporation's registered office shall be by hand or by certified or registered mail, return receipt requested. If no record date has been fixed by the Board of Directors and prior action by the Board of Directors is required by law, the record date for determining stockholders entitled to consent to corporate action in writing without a meeting shall be at the close of business on the day on which the Board of Directors adopts the resolution taking such prior action.

(c) In order that the Corporation may determine the stockholders entitled to receive payment of any dividend or other distribution or allotment of any rights or the stockholders entitled to exercise any rights in respect of any change, conversion or exchange of stock, or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a record date, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which record date shall be not more than sixty (60) days prior to such action. If no record date is fixed, the record date for determining stockholders for any such purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto.

**Section 38. Registered Stockholders.** The Corporation shall be entitled to recognize the exclusive right of a person registered on its books as the owner of shares to receive dividends, and to vote as such owner, and shall not be bound to recognize any equitable or other claim to or interest in such share or shares on the part of any other person whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of Delaware.

## ARTICLE VIII OTHER SECURITIES OF THE CORPORATION

**Section 39. Execution of Other Securities.** All bonds, debentures and other corporate securities of the Corporation, other than stock certificates (covered in Section 34 of these Bylaws), may be signed by the Chairman of the Board of Directors, the Chief Executive Officer, the President or any Vice President, or such other person as may be authorized by the Board of Directors, and the corporate seal impressed thereon or a facsimile of such seal imprinted thereon and attested by the signature of the Secretary or an Assistant Secretary, or the Chief Financial Officer or Treasurer or an Assistant Treasurer; *provided, however,* that where any such bond, debenture or other corporate security shall be authenticated by the manual signature, or where permissible facsimile signature, of a trustee under an indenture pursuant to which such bond, debenture or other corporate security shall be issued, the signatures of the persons signing and attesting the corporate seal on such bond, debenture or other corporate security may be the imprinted facsimile of the signatures of such persons. Interest coupons appertaining to any such bond, debenture or other corporate security, authenticated by a trustee as aforesaid, shall be signed by the Treasurer or an Assistant Treasurer of the Corporation or such other person as may be authorized by the Board of Directors, or bear imprinted thereon the facsimile signature of such person. In case any officer who shall have signed or attested any bond, debenture or other corporate security, or whose facsimile signature shall appear thereon or on any such interest coupon, shall have ceased to be such officer before the bond, debenture or other corporate security so signed or attested shall have been delivered, such bond, debenture or other corporate security nevertheless may be adopted by the Corporation and issued and delivered as though the person who signed the same or whose facsimile signature shall have been used thereon had not ceased to be such officer of the Corporation.

## ARTICLE IX DIVIDENDS

**Section 40. Declaration of Dividends.** Dividends upon the capital stock of the Corporation, subject to the provisions of the Certificate of Incorporation and applicable law, if any, may be declared by

the Board of Directors pursuant to law at any regular or special meeting. Dividends may be paid in cash, in property, or in shares of the capital stock, subject to the provisions of the Certificate of Incorporation and applicable law.

**Section 41. Dividend Reserve.** Before payment of any dividend, there may be set aside out of any funds of the Corporation available for dividends such sum or sums as the Board of Directors from time to time, in their absolute discretion, think proper as a reserve or reserves to meet contingencies, or for equalizing dividends, or for repairing or maintaining any property of the Corporation, or for such other purpose as the Board of Directors shall think conducive to the interests of the Corporation, and the Board of Directors may modify or abolish any such reserve in the manner in which it was created.

## **ARTICLE X FISCAL YEAR**

**Section 42. Fiscal Year.** The fiscal year of the Corporation shall be fixed by resolution of the Board of Directors.

## **ARTICLE XI INDEMNIFICATION**

**Section 43. Indemnification of Directors, Executive Officers, Employees and Other Agents.**

**(a) Directors and Executive Officers.** The Corporation shall indemnify its directors and executive officers (for the purposes of this Article, “executive officers” shall have the meaning defined in Rule 3b-7 promulgated under Exchange Act) to the fullest extent not prohibited by the Act or any other applicable law; *provided, however*, that the Corporation may modify the extent of such indemnification by individual contracts with its directors and executive officers; *provided, further*, that the Corporation shall not be required to indemnify any director or executive officer in connection with any proceeding (or part thereof) initiated by such person unless (i) such indemnification is expressly required to be made by law, (ii) the proceeding was authorized by the Board of Directors of the Corporation, (iii) such indemnification is provided by the Corporation, in its sole discretion, pursuant to the powers vested in the Corporation under the Act or any other applicable law or (iv) such indemnification is required to be made under paragraph (d) of this Section 43.

**(b) Other Officers, Employees and Other Agents.** The Corporation shall have power to indemnify its other officers, employees and other agents as set forth in the Act or any other applicable law. The Board of Directors shall have the power to delegate the determination of whether indemnification shall be given to any such person except executive officers to such officers or other persons as the Board of Directors shall determine.

**(c) Expenses.** The Corporation shall advance to any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such person is or was a director or executive officer of the Corporation, or is or was serving at the request of the Corporation as a director or executive officer of another Corporation, partnership, joint venture, trust or other enterprise, prior to the final disposition of the proceeding, promptly following request therefor, all expenses incurred by any director or executive officer in connection with such proceeding; *provided, however*, that, if the Act requires, an advancement of expenses incurred by a director or officer in his or her capacity as a director or officer (and not in any other capacity in which service was or is rendered by such indemnitee, including, without limitation, service to an employee benefit plan) shall be made only upon delivery to the

Corporation of an undertaking, by or on behalf of such indemnitee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal that such indemnitee is not entitled to be indemnified for such expenses under this Section 43 or otherwise.

Notwithstanding the foregoing, unless otherwise determined pursuant to paragraph (e) of this Section, no advance shall be made by the Corporation to an executive officer of the Corporation (except by reason of the fact that such executive officer is or was a director of the Corporation, in which event this paragraph shall not apply) in any action, suit or proceeding, whether civil, criminal, administrative or investigative, if a determination is reasonably and promptly made (i) by a majority vote of a quorum consisting of directors who were not parties to the proceeding, even if not a quorum, or (ii) by a committee of such directors designated by a majority of such directors, even though less than a quorum, or (iii) if there are no such directors, or such directors so direct, by independent legal counsel in a written opinion, that the facts known to the decision-making party at the time such determination is made demonstrate clearly and convincingly that such person acted in bad faith or in a manner that such person did not believe to be in or not opposed to the best interests of the Corporation.

**(d) Enforcement.** Without the necessity of entering into an express contract, all rights to indemnification and advances to directors and executive officers under this Section shall be deemed to be contractual rights and be effective to the same extent and as if provided for in a contract between the Corporation and the director or executive officer. Any right to indemnification or advances granted by this Section to a director or executive officer or officer shall be enforceable by or on behalf of the person holding such right in any court of competent jurisdiction if (i) the claim for indemnification or advances is denied, in whole or in part, or (ii) no disposition of such claim is made within ninety (90) days of request therefor. The claimant in such enforcement action, if successful in whole or in part, shall be entitled to be paid also the expense of prosecuting the claim. In connection with any claim for indemnification, the Corporation shall be entitled to raise as a defense to any such action that the claimant has not met the standards of conduct that make it permissible under the Act or any other applicable law for the Corporation to indemnify the claimant for the amount claimed. In connection with any claim by an executive officer of the Corporation (except in any action, suit or proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that such executive officer is or was a director of the Corporation) for advances, the Corporation shall be entitled to raise as a defense as to any such action clear and convincing evidence that such person acted in bad faith or in a manner that such person did not believe to be in or not opposed to the best interests of the Corporation, or with respect to any criminal action or proceeding that such person acted without reasonable cause to believe that his or her conduct was lawful. Neither the failure of the Corporation (including its Board of Directors, independent legal counsel or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the Act or any other applicable law, nor an actual determination by the Corporation (including its Board of Directors, independent legal counsel or its stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that claimant has not met the applicable standard of conduct.

**(e) Non-Exclusivity of Rights.** The rights conferred on any person by this Section 43 shall not be exclusive of any other right which such person may have or hereafter acquire under any applicable statute, provision of the Certificate of Incorporation, Bylaws, agreement, vote of stockholders or disinterested directors or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding office. The Corporation is specifically authorized to enter into individual contracts with any or all of its directors, officers, employees or agents respecting indemnification and advances, to the fullest extent not prohibited by the Act or any other applicable law.

**(f) Survival of Rights.** The rights conferred on any person by this Section 43 shall continue as to a person who has ceased to be a director or executive officer and shall inure to the benefit of the heirs, executors, and administrators of such a person.

**(g) Insurance.** To the fullest extent permitted by the Act, or any other applicable law, the Corporation, upon approval by the Board of Directors, may purchase insurance on behalf of any person required or permitted to be indemnified pursuant to this Section.

**(h) Amendments.** Any repeal or modification of this Section shall only be prospective and shall not affect the rights under these Bylaws in effect at the time of the alleged occurrence of any action or omission to act that is the cause of any proceeding against any agent of the Corporation.

**(i) Saving Clause.** If this Section or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Corporation shall nevertheless indemnify each director and executive officer to the full extent not prohibited by any applicable portion of these Bylaws that shall not have been invalidated, or by any other applicable law. If this Section 43 shall be invalid due to the application of the indemnification provisions of another jurisdiction, then the Corporation shall indemnify each director and executive officer to the full extent under applicable law.

**(j) Certain Definitions.** For the purposes of this Section 43, the following definitions shall apply:

**(1)** The term “proceeding” shall be broadly construed and shall include, without limitation, the investigation, preparation, prosecution, defense, settlement, arbitration and appeal of, and the giving of testimony in, any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative.

**(2)** The term “expenses” shall be broadly construed and shall include, without limitation, court costs, attorneys’ fees, witness fees, fines, amounts paid in settlement or judgment and any other costs and expenses of any nature or kind incurred in connection with any proceeding.

**(3)** The term the “Corporation” shall include, in addition to the resulting Corporation, any constituent Corporation (including any constituent of a constituent) absorbed in a consolidation or merger which, if its separate existence had continued, would have had power and authority to indemnify its directors, officers, and employees or agents, so that any person who is or was a director, officer, employee, or agent of such constituent Corporation, or is or was serving at the request of such constituent Corporation as a director, officer, employee, or agent of another Corporation, partnership, joint venture, trust, or other enterprise, shall stand in the same position under the provisions of this Section with respect to the resulting or surviving Corporation as he or she would have with respect to such constituent Corporation if its separate existence had continued.

**(4)** References to a “director,” “executive officer,” “officer,” “employee,” or “agent” of the Corporation shall include, without limitation, situations where such person is serving at the request of the Corporation as, respectively, a director, executive officer, officer, employee, trustee, or agent of another Corporation, partnership, joint venture, trust, or other enterprise.

**(5)** References to “other enterprises” shall include employee benefit plans; references to “fines” shall include any excise taxes assessed on a person with respect to an employee benefit plan; and references to “serving at the request of the Corporation” shall include any service as a

director, officer, employee, or agent of the Corporation which imposes duties on, or involves services by, such director, officer, employee, or agent with respect to an employee benefit plan, its participants, or beneficiaries; and a person who acted in good faith and in a manner he or she reasonably believed to be in the interest of the participants and beneficiaries of an employee benefit plan shall be deemed to have acted in a manner “not opposed to the best interests of the Corporation” as referred to in this Section.

## ARTICLE XII NOTICES

### Section 44. Notices.

(a) **Notice to Stockholders.** Written notice to stockholders of stockholder meetings shall be given as provided in Section 7 of these Bylaws. Without limiting the manner by which notice may otherwise be given effectively to stockholders under any agreement or contract with such stockholder, and except as otherwise required by law, written notice to stockholders for purposes other than stockholder meetings may be sent by United States mail or nationally recognized overnight courier, or by facsimile, telegraph, or telex, or by electronic mail or other electronic means.

(b) **Notice to Directors.** Any notice required to be given to any director may be given by the method stated in paragraph (a) of this Section, or as provided for in Section 21 of these Bylaws. If such notice is not delivered personally, it shall be sent to such address as such director shall have filed in writing with the Secretary, or, in the absence of such filing, to the last known post office address of such director.

(c) **Affidavit of Mailing.** An affidavit of mailing, executed by a duly authorized and competent employee of the Corporation or its transfer agent appointed with respect to the class of stock affected or other agent, specifying the name and address or the names and addresses of the stockholder or stockholders, or director or directors, to whom any such notice or notices was or were given, and the time and method of giving the same, shall in the absence of fraud, be prima facie evidence of the facts therein contained.

(d) **Methods of Notice.** It shall not be necessary that the same method of giving notice be employed in respect of all recipients of notice, but one permissible method may be employed in respect of any one or more, and any other permissible method or methods may be employed in respect of any other or others.

(e) **Notice to Person with Whom Communication Is Unlawful.** Whenever notice is required to be given, under any provision of law or of the Certificate of Incorporation or Bylaws of the Corporation, to any person with whom communication is unlawful, the giving of such notice to such person shall not be required and there shall be no duty to apply to any governmental authority or agency for a license or permit to give such notice to such person. Any action or meeting which shall be taken or held without notice to any such person with whom communication is unlawful shall have the same force and effect as if such notice had been duly given. In the event that the action taken by the Corporation is such as to require the filing of a certificate under any provision of the Act, the certificate shall state, if such is the fact and if notice is required, that notice was given to all persons entitled to receive notice except such persons with whom communication is unlawful.

(f) **Notice to Stockholders Sharing an Address.** Except as otherwise prohibited under the Act, any notice given under the provisions of the Act, the Certificate of Incorporation or the Bylaws shall be effective if given by a single written notice to stockholders who share an address if consented to by the stockholder at that address to whom such notice is given. Such consent shall have

been deemed to have been given if such stockholder fails to object in writing to the Corporation within sixty (60) days of having been given notice by the Corporation of its intention to send the single notice. Any consent shall be revocable by the stockholder by written notice to the Corporation.

### **ARTICLE XIII AMENDMENTS**

**Section 45. Amendments.** The Board of Directors is expressly empowered to adopt, amend or repeal Bylaws of the Corporation. The stockholders shall also have power to adopt, amend or repeal the Bylaws of the Corporation; *provided, however*, that, in addition to any vote of the holders of any class or series of stock of the Corporation required by law or by the Certificate of Incorporation, such action by stockholders shall require the affirmative vote of the holders of a majority of the voting power of all of the then-outstanding shares of the capital stock of the Corporation entitled to vote generally in the election of directors, voting together as a single class.

### **ARTICLE XIV RIGHT OF FIRST REFUSAL**

**Section 46. Right of First Refusal.** No stockholder shall Transfer any of the shares of stock in the Corporation, except by a Transfer which meets the requirements set forth in Section 36 and below:

(a) If the stockholder desires to Transfer any of his shares of stock, then the stockholder shall first give the notice specified in Section 36(b) of these Bylaws and comply with the provisions therein.

(b) For thirty (30) days following receipt of such notice, the Corporation shall have the option to purchase of the shares specified in the notice at the price and upon the terms set forth in such notice; *provided, however*, that, with the consent of the stockholder, the Corporation shall have the option to purchase a lesser portion of the shares specified in said notice at the price and upon the terms set forth therein. In the event of a gift, property settlement or other Transfer in which the proposed transferee is not paying the full price for the shares, and that is not otherwise exempted from the provisions of this Section, the price shall be deemed to be the fair market value of the stock at such time as determined in good faith by the Board of Directors. In the event the Corporation elects to purchase all of the shares or, with consent of the stockholder, a lesser portion of the shares, it shall give written notice to the transferring stockholder of its election and settlement for said shares shall be made as provided below in paragraph (d) of this Section.

(c) The Corporation may assign its rights hereunder.

(d) In the event the Corporation or its assignee(s) elect to acquire any of the shares of the transferring stockholder as specified in said transferring stockholder's notice, the Secretary of the Corporation shall so notify the transferring stockholder and settlement thereof shall be made in cash within thirty (30) days after the Secretary of the Corporation receives said transferring stockholder's notice; *provided, however*, that if the terms of payment set forth in said transferring stockholder's notice were other than cash against delivery, the Corporation or its assignee(s) shall pay for said shares on the same terms and conditions set forth in said transferring stockholder's notice.

(e) In the event the Corporation or its assignees(s) do not elect to acquire all of the shares specified in the transferring stockholder's notice, said transferring stockholder may, subject to the Corporation's approval and all other restrictions on Transfer pursuant to Section 36 of these Bylaws, within the sixty (60)-day period following the expiration or waiver of the option rights granted to the

Corporation or its assignees(s) herein, Transfer the shares specified in said transferring stockholder's notice which were not acquired by the Corporation or its assignees(s) as specified in said transferring stockholder's notice. All shares so sold by said transferring stockholder shall continue to be subject to the provisions of these Bylaws in the same manner as before said Transfer.

(f) Anything to the contrary contained herein notwithstanding, the following transactions shall be exempt from the right of first refusal in paragraph (a) of this Section:

(1) A stockholder's Transfer of any or all shares held either during such stockholder's lifetime or on death by will or intestacy to such stockholder's immediate family or to any custodian or trustee for the account of such stockholder or such stockholder's immediate family or to any limited partnership or limited liability company of which the stockholder, members of such stockholder's immediate family or any trust for the account of such stockholder or such stockholder's immediate family will be the general or limited partner(s) of such partnership or the controlling member(s) of such limited liability company. "Immediate family" as used herein shall mean spouse, lineal descendant, father, mother, brother, or sister of the stockholder making such Transfer;

(2) A stockholder's bona fide pledge or mortgage of any shares with a commercial lending institution, provided that any subsequent Transfer of said shares by said institution shall be conducted in the manner set forth in these Bylaws;

(3) A stockholder's Transfer of any or all of such stockholder's shares to the Corporation or to any other stockholder of the Corporation;

(4) A stockholder's Transfer of any or all of such stockholder's shares to a person who, at the time of such Transfer, is an officer or director of the Corporation;

(5) A corporate stockholder's Transfer of any or all of its shares pursuant to and in accordance with the terms of any merger, consolidation, reclassification of shares, or capital reorganization of the corporate stockholder, or pursuant to a sale of all or substantially all of the stock or assets of a corporate stockholder;

(6) A corporate stockholder's Transfer of any or all of its shares to any or all of its stockholders; or

(7) A Transfer by a stockholder which is a limited or general partnership, or limited liability company, to any or all of its partners or former partners, or limited liability company members or former limited liability company members, in accordance with partnership interests and limited liability company interests, respectively.

In any such case, the transferee, assignee, or other recipient shall receive and hold such stock subject to the provisions of this Section and the transfer restrictions in Section 36, and there shall be no further Transfer of such stock except in accord with this Section and the transfer restrictions in Section 36.

(g) The provisions of these Bylaws may be waived with respect to any Transfer either by the Corporation, upon duly authorized action of its Board of Directors, or by the stockholders, upon the express written consent of the owners of a majority of the voting power of the Corporation (excluding the votes represented by those shares to be transferred by the transferring stockholder). These Bylaws may be amended or repealed either by a duly authorized action of the Board of Directors or by the

stockholders, upon the express written consent of the owners of a majority of the voting power of the Corporation.

(h) Any Transfer, or purported Transfer, of securities of the Corporation shall be null and void unless the terms, conditions, and provisions of these Bylaws are strictly observed and followed.

(i) The foregoing right of first refusal shall terminate upon the date securities of the Corporation are first offered to the public pursuant to a registration statement filed with, and declared effective by, the SEC under the Securities Act of 1933, as amended.

(j) The certificates representing shares of stock in the Corporation shall bear on their face the following legend so long as the foregoing right of first refusal remains in effect:

“THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO A RIGHT OF FIRST REFUSAL OPTION IN FAVOR OF THE CORPORATION OR ITS ASSIGNEE(S), AS PROVIDED IN THE BYLAWS OF THE CORPORATION.”

(k) To the extent this Section conflicts with any written agreements between the Company and the stockholder attempting to Transfer shares, any such written agreements shall control.

## **ARTICLE XV LOANS TO OFFICERS**

**Section 47. Loans to Officers.** Except as otherwise prohibited under applicable law, the Corporation may lend money to, or guarantee any obligation of, or otherwise assist any officer or other employee of the Corporation or of its subsidiaries, including any officer or employee who is a Director of the Corporation or its subsidiaries, whenever, in the judgment of the Board of Directors, such loan, guarantee or assistance may reasonably be expected to benefit the Corporation. The loan, guarantee, or other assistance may be with or without interest and may be unsecured, or secured in such manner as the Board of Directors shall approve, including, without limitation, a pledge of shares of stock in the Corporation. Nothing in these Bylaws shall be deemed to deny, limit, or restrict the powers of guaranty or warranty of the Corporation at common law or under any statute.

## **ARTICLE XVI MISCELLANEOUS**

### **Section 48. Annual Report.**

(a) Subject to the provisions of paragraph (b) of this Section, the Board of Directors shall cause an annual report to be sent to each stockholder of the Corporation not later than one hundred twenty (120) days after the close of the Corporation’s fiscal year. Such report shall include a balance sheet as of the end of such fiscal year and an income statement and statement of changes in financial position for such fiscal year, accompanied by any report thereon of independent accountants or, if there is no such report, the certificate of an authorized officer of the Corporation that such statements were prepared without audit from the books and records of the Corporation. When there are more than one hundred (100) stockholders of record of the Corporation’s shares, and in accordance with the Act, additional information as required shall also be contained in such report; *provided, however*, that if the Corporation has a class of securities registered under Section 12 of the Exchange Act, the Exchange Act shall take precedence. Such report shall be sent to stockholders at least fifteen (15) days prior to the next annual meeting of stockholders after the end of the fiscal year to which it relates.

(b) If and so long as there are fewer than one hundred (100) holders of record of the Corporation's shares, the requirement of sending of an annual report to the stockholders of the Corporation is hereby expressly waived.

**Section 49. Forum.** Unless the Corporation consents in writing to the selection of an alternative forum, Wilmington, Delaware shall be the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the Corporation; (ii) any action asserting a claim of breach of a fiduciary duty owed by any director, officer or other employee of the Corporation to the Corporation or the Corporation's stockholders; (iii) any action asserting a claim against the Corporation or any director or officer or other employee of the Corporation arising pursuant to any provision of the Act, the Certificate of Incorporation or the Bylaws of the Corporation; or (iv) any action asserting a claim against the Corporation or any director or officer or other employee of the Corporation governed by the internal affairs doctrine.

EXHIBIT B  
SUBSCRIPTION AGREEMENT

## SUBSCRIPTION AGREEMENT

THE SECURITIES REFERRED TO HEREIN HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS. THESE SECURITIES MUST BE ACQUIRED FOR INVESTMENT PURPOSES ONLY AND NOT WITH A VIEW TO DISTRIBUTION OR RESALE. THE SECURITIES MAY NOT BE TRANSFERRED UNLESS REGISTERED OR QUALIFIED FOR AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS UNDER FEDERAL AND STATE SECURITIES LAWS.

Bahia Village Communities, Inc.  
2775 E. U.S. Highway 90  
Macclenny, Florida 33063

This Subscription Agreement (this “Agreement”) has been executed by \_\_\_\_\_ (the “Subscriber”) in connection with the purchase of [number of shares] shares (the “Shares”) of the common stock, \$0.0001 par value per share (“Common Stock”), of Bahia Village Communities, Inc., a Delaware corporation (the “Company”) for \$3.125 per share for an aggregate investment of \$[dollar amount].

The Shares being subscribed for pursuant to this Agreement have not been registered under the Securities Act of 1933, as amended (the “Securities Act”). The offer and sale of the Shares is being made exclusively to the Subscriber, who is an “accredited investors,” as defined in Regulation D under the Securities Act, known to the Company.

1. **Subscription.** The Subscriber hereby subscribes to purchase the Shares, subject to the terms and conditions of this Agreement and on the basis of the representations, warranties, covenants and agreements contained herein. The Company hereby accepts the Subscriber’s subscription.

2. **Representations and Warranties of the Company.** The Company hereby represents and warrants to the Subscriber as follows:

(a) **Organization and Qualification.** The Company is a corporation duly organized and validly existing under the laws of the State of Delaware. The Company has all requisite power and authority to carry on its business as currently conducted, other than such failures that would not reasonably be expected to have a material adverse effect on the Company’s business, properties or financial condition (a “Material Adverse Effect”).

(b) **Authorization.** All action on the part of the Company, its board of directors, officers and existing stockholders necessary for the authorization, execution and delivery of this Agreement and the performance of all obligations of the Company hereunder has been taken, and this Agreement, assuming due execution by the Subscriber, will constitute valid and legally binding obligations of the Company, enforceable in accordance with its terms, subject to: (i) judicial principles limiting the availability of specific performance, injunctive relief, and other equitable remedies and (ii) bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect generally relating to or affecting creditors’ rights.

(c) **Capitalization.** The Company is authorized to issue One Hundred Million (100,000,000) shares of Common Stock, \$0.0001 par value per share and Fifty Million (50,000,000) shares of Preferred Stock. As of the date hereof but immediately prior to the

issuance of the Shares, (1) a total of Six Million Six Hundred Thousand (6,600,000) shares of the Company's Common Stock are issued and outstanding; (2) no shares of Preferred Stock are outstanding; and (3) no shares of Common Stock are reserved for issuance under securities that are exercisable or exchangeable for, or convertible into, Common Stock. All of the issued and outstanding shares of the Company's capital stock have been duly authorized and validly issued and are fully paid, nonassessable and free of pre-emptive rights and were issued in full compliance with applicable state and federal securities law and any rights of third parties. No Person has any right of first refusal, preemptive right, right of participation, or any similar right to participate in connection with the sale of the Shares to the Subscriber. Other than indicated above, there are no outstanding options, warrants, script rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities, rights or obligations convertible into or exchangeable for, or giving any person any right to subscribe for or acquire, any shares of Common Stock, or contracts, commitments, understandings or arrangements by which the Company is or may become bound to issue additional shares of Common Stock, or securities or rights convertible or exchangeable into shares of Common Stock. The issue and sale of the Shares to the Subscriber will not obligate the Company to issue shares of Common Stock or other securities to any person (other than the Subscriber) and will not result in a right of any securityholder in Company securities to adjust the exercise, conversion, exchange or reset price under such securities. Except for the right of first refusal contained in the Company's bylaws, there are no voting agreements, buy-sell agreements, options or right of first purchase agreements or other agreements of any kind among the Company and any of the security holders of the Company relating to the securities of the Company held by them.

(d) Valid Issuance of the Shares. The Shares, when issued, sold and delivered in accordance with the terms of this Agreement for the consideration expressed herein, shall be duly and validly issued.

(e) Governmental Consents. No consent, approval, order or authorization of, or registration, qualification, designation, declaration or filing with, any federal, state or local governmental authority on the part of the Company is required in connection with the offer, sale or issuance of the Shares to the Subscriber, except for the following: (i) the filing of such notices as may be required under the Securities Act and (ii) the compliance with any applicable state securities laws, which compliance will have occurred within the appropriate time periods therefor.

(f) Litigation. There are no actions, suits, proceedings or investigations pending or, to the best of the Company's knowledge, threatened before any court, administrative agency or other governmental body against the Company which question the validity of this Agreement or the right of the Company to enter into it, or to consummate the transactions contemplated hereby, or which would reasonably be expected to have a Material Adverse Effect. The Company is not a party or subject to, and none of its assets is bound by, the provisions of any order, writ, injunction, judgment or decree of any court or government agency or instrumentality which would reasonably be expected to have a Material Adverse Effect.

(g) Bad Actor Disqualification. The Company and its Affiliates are not subject to any of the "bad actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the Act, and Subscriber agrees to notify the Company if Subscriber becomes subject to such disqualifications after the date of their signature hereto.

3. **Representations and Warranties of the Subscriber.** Each Subscriber represents and warrants to the Company the following:

(a) The Subscriber has the knowledge and experience in financial and business matters necessary to evaluate the merits and risks of its prospective investment in the Company, and has carefully reviewed and understands the risks of, and other considerations relating to, the purchase of the Shares and the tax consequences of the investment, and has the ability to bear the economic risks of the investment.

(b) The Subscriber is acquiring the Shares for investment for its own account and not with the view to, or for resale in connection with, any distribution thereof, except for a resale or distribution that complies with the Securities Act and all other applicable state securities laws. The Subscriber understands and acknowledges that the Shares have not been registered under the Securities Act or any state securities laws, by reason of a specific exemption from the registration provisions of the Securities Act and applicable state securities laws, which depends upon, among other things, the bona fide nature of the investment intent as expressed herein. The Subscriber further represents that it does not have any contract, undertaking, agreement or arrangement with any person to sell, transfer or grant participation to any third person with respect to any of the Shares. The Subscriber understands and acknowledges that the sale of the Shares to the Subscriber pursuant to this Agreement will not be registered under the Securities Act nor under the state securities laws on the ground that the sale provided for in this Agreement and the issuance of securities hereunder is exempt from the registration requirements of the Securities Act and any applicable state securities laws.

(c) The Subscriber understands that no public market now exists, and there may never be a public market for, the Shares.

(d) The Subscriber has received and reviewed information about the Company and has had an opportunity to discuss the Company's business, management and financial affairs with its management. The Subscriber understands that such discussions, as well as any written information provided by the Company, were intended to describe the aspects of the Company's business and prospects which the Company believes to be material, but were not necessarily a thorough or exhaustive description, and except as expressly set forth in this Agreement, the Company makes no representation or warranty with respect to the completeness of such information and makes no representation or warranty of any kind with respect to any information provided by any entity other than the Company. Some of such information may include projections as to the future performance of the Company, which projections may not be realized, may be based on assumptions which may not be correct and may be subject to numerous factors beyond the Company's control.

(e) As of the date hereof, all action on the part of Subscriber, and its officers, directors and partners, if applicable, necessary for the authorization, execution and delivery of this Agreement and the performance of all obligations of the Subscriber hereunder and thereunder shall have been taken, and this Agreement, assuming due execution by the parties hereto, constitutes valid and legally binding obligations of the Subscriber, enforceable in accordance with its terms, subject to: (i) judicial principles limiting the availability of specific performance, injunctive relief, and other equitable remedies and (ii) bankruptcy, insolvency,

reorganization, moratorium or other similar laws now or hereafter in effect generally relating to or affecting creditors' rights.

(f) The Subscriber is an "accredited investor" as defined in Rule 501 of Regulation D as promulgated by the Securities and Exchange Commission under the Securities Act, and Subscriber's basis or bases for falling within that definition are accurately set forth on Exhibit A hereto, which is incorporated herein as a representation and warranty of Subscriber, in full, by reference.

(g) The Subscriber or its duly authorized representative realizes that because of the inherently speculative nature of businesses of the kind conducted and contemplated by the Company, the Company's financial results may be expected to fluctuate from month to month and from period to period and will, generally, involve a high degree of financial and market risk that could result in substantial or, at times, even total losses for investors in securities of the Company.

(h) The Subscriber has adequate means of providing for its current and anticipated financial needs and contingencies, is able to bear the economic risk for an indefinite period of time and has no need for liquidity of the investment in the Shares and could afford complete loss of such investment.

(i) If a legal entity, (i) Subscriber has all requisite authority to execute and deliver this Subscription Agreement to the Company and to carry out and perform its obligations hereunder, and (ii) all action on the part of Subscriber necessary for the authorization, execution, and performance of this Subscription Agreement and Subscriber's obligations hereunder has been taken or will be taken prior to the closing. This Subscription Agreement, when executed and delivered by Subscriber to the Company, shall constitute a valid and binding obligation of Subscriber enforceable in accordance with its terms.

(j) If a legal entity, Subscriber is duly organized, validly existing, and in good standing under the laws of the state of its incorporation or organization, and is duly qualified and authorized to do business, and is in good standing as a foreign entity in, all jurisdictions in which the nature of its activities makes such qualification necessary, except for those jurisdictions in which failure to do so would not have a material adverse effect on Subscriber or its business.

(k) Subscriber is not subject to any of the "bad actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the Act, and Subscriber agrees to notify the Company if Subscriber becomes subject to such disqualifications after the date of their signature hereto

(l) Subscriber understands and acknowledges that the Shares will afford Subscriber limited rights in and to the Company as a shareholder thereof. Specifically, Subscriber understands that in subscribing to purchase Shares and, if Subscriber's subscription is accepted by the Company, purchasing Shares, will afford Subscriber the limited rights. Subscriber has fully read and understands the Bylaws, and understands the limitations on its rights in and to the Company that Shares shall afford Subscriber.

(m) All of the information that the Subscriber has heretofore furnished or which is set forth herein is correct and complete as of the date of this Agreement, and, if there should be any

material change in such information prior to the admission of the undersigned to the Company, the Subscriber will immediately furnish revised or corrected information to the Company.

(n) Subscriber has not been furnished any offering literature, other than the Bylaws, this Subscription Agreement, the PPM and its Exhibits, and Subscriber or their representative has relied only on the information contained therein or otherwise made available by the Company.

4. **Transfer Restrictions.** The Subscriber acknowledges and agrees as follows:

(a) The Shares have not been registered for sale under the Securities Act, in reliance on the private offering exemption in Rule 506(c) of Regulation D; the Company does not intend to register the Shares under the Securities Act at any time in the future.

(b) The Subscriber understands that the certificates representing the Shares, until such time as they have been registered under the Securities Act, shall bear a restrictive legend in substantially the following form (and a stop-transfer order may be placed against transfer of such certificates or other instruments):

THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 AS AMENDED. THEY MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED OR HYPOTHECATED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT AS TO THE SECURITIES UNDER SAID ACT OR AN OPINION OF COUNSEL SATISFACTORY TO THE CORPORATION THAT SUCH REGISTRATION IS NOT REQUIRED.

THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO A RIGHT OF FIRST REFUSAL OPTION IN FAVOR OF THE CORPORATION AND/OR ITS ASSIGNEE(S) AS PROVIDED IN THE BYLAWS OF THE CORPORATION.

(c) No governmental agency has passed upon the Shares or made any finding or determination as to the wisdom of any investments therein.

5. **Use of Proceeds.** The Company shall only use the net proceeds of the sale of the Shares to the Subscriber only for the purposes as described in the Private Placement Memorandum, however, in the event the Company does not raise the total amount of \$20,000,000, the Board intends to prioritize its use of proceeds using its best judgment.

6. **Modification.** This Agreement shall not be modified or waived except by an instrument in writing signed by the party against whom any such modification or waiver is sought.

7. **Notices.**

(a) Form of Notice. All notices, requests, claims, demands and other communications between the parties shall be in writing and given (a) if to the Company, at the address set forth above, or (b) if to a Subscriber, at the address set forth on the signature page for such Subscriber (or, in either case, to such other address as the party shall have furnished to the other in writing in accordance with the provisions of this Section 7).

(b) Method of Notice. All notices shall be given (i) by delivery in person (ii) by a nationally recognized next day courier service, (iii) by first class, registered or certified mail, postage prepaid, (iv) by facsimile or (v) by electronic mail to the address of the party specified in this Agreement or such other address as either party may specify in writing.

(c) Receipt of Notice. All notices shall be effective upon (i) receipt by the party to which notice is given, or (ii) on the fifth (5th) day following mailing, whichever occurs first.

8. **Assignability.** This Agreement and the rights, interests and obligations hereunder are not transferable or assignable by any Subscriber and the transfer or assignment of the Shares shall be made only in accordance with the Certificate of Incorporation and Bylaws of the Company and all applicable laws.

9. **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without reference to the principles thereof relating to the conflict of laws.

10. **Miscellaneous.**

(a) This Agreement constitutes the entire agreement between the Subscriber and the Company with respect to the sale of the Shares to the Subscriber and supersedes all prior oral or written agreements and understandings, if any, relating to the subject matter hereof. The terms and provisions of this Agreement may be waived, or consent for the departure therefrom granted, only by a written document executed by the party entitled to the benefits of such terms or provisions.

(b) The representations and warranties of the Company and each Subscriber made in this Agreement shall survive the execution and delivery hereof and delivery of the Shares to the Subscriber.

(c) Each of the parties hereto shall pay its own fees and expenses (including the fees of any attorneys, accountants, appraisers or others engaged by such party) in connection with this Agreement and the transactions contemplated hereby, whether or not the transactions contemplated hereby are consummated.

(d) This Agreement may be executed in one or more original or facsimile counterparts, each of which shall be deemed an original, but all of which shall together constitute one and the same instrument.

(e) Waiver of Jury Trial; Arbitration. THE PARTIES EACH HEREBY VOLUNTARILY, KNOWINGLY, AND IRREVOCABLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY DISPUTE.

Any controversy, dispute, or claim arising from or relating to this Subscription Agreement, including, not limited to, the breach, enforcement, interpretation, or termination of this Subscription Agreement (each, a “*Dispute*”), shall be handled by binding arbitration administered by Judicial Arbitration and Mediation Services, Inc. (“*JAMS*”) in Wilmington, Delaware, before one (1) arbitrator, who shall be a retired judge, selected by the Parties. Such arbitration shall be conducted in accordance with

either (i) the JAMS Streamlined Arbitration Rules or Procedures, if the amount in controversy is less than one hundred thousand dollars (\$100,000.00), or (ii) the JAMS Comprehensive Arbitration Rules & Procedures if the amount in controversy exceeds one hundred thousand dollars (\$100,000.00). Each Party shall bear its own fees and expenses in such arbitration; *provided, however*, that the arbitrator may assess the prevailing Party's fees and costs against the non-prevailing Party as part of the arbitrator's award. Such arbitration shall be confidential and neither Party nor the arbitrator shall disclose the existence, contents, or results of such process without the prior written consent of the other, except where necessary or compelled by a court of law to enforce this arbitration provision or an award from such arbitration or otherwise in a legal proceeding.

The Parties agree that any claim brought against the Company in connection with a Dispute will be brought against the Company by the applicable party individually, and that the applicable party may not assert any such claim against Company as class member or other form of representative party in any purported class or representative proceeding. To the fullest extent of the law: (i) no arbitration shall be joined with any other; (ii) no Dispute between the Company and Subscriber and another Investor or other party is to be arbitrated on a class action or representative basis, or to utilize such procedures; and (iii) neither Subscriber nor any other Investor may bring any Dispute against the Company in a purported class action or representative capacity on behalf of the general public, other Investors, or any other Persons.

(f) Each provision of this Agreement shall be considered separable and, if for any reason any provision or provisions hereof are determined to be invalid or contrary to applicable law, such invalidity or illegality shall not impair the operation of or affect the remaining portions of this Agreement.

(g) Paragraph titles are for descriptive purposes only and shall not control or alter the meaning of this Agreement as set forth in the text.

(h) The Subscriber hereby agrees to furnish the Company such other information as the Company may request with respect to its subscription hereunder.

*[Signature pages follow]*

SIGNATURE PAGE TO  
SUBSCRIPTION AGREEMENT

IN WITNESS WHEREOF, the Subscriber hereby executes this Subscription Agreement,  
as of July \_\_\_\_, 2021.

**Subscription Amount \$** \_\_\_\_\_

**SUBSCRIBER (individual)**

**SUBSCRIBER (entity)**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of Entity

\_\_\_\_\_  
Print Name

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature (if Joint Tenants or Tenants in Common)

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address of Principal Residence:  
\_\_\_\_\_  
\_\_\_\_\_

Address of Executive Offices:  
\_\_\_\_\_  
\_\_\_\_\_

Social Security Number(s):  
\_\_\_\_\_

IRS Tax Identification Number:  
\_\_\_\_\_

Telephone Number:  
\_\_\_\_\_

Telephone Number:  
\_\_\_\_\_

Facsimile Number:  
\_\_\_\_\_

Facsimile Number:  
\_\_\_\_\_

E-mail Address:  
\_\_\_\_\_

E-mail Address:  
\_\_\_\_\_

Agreed to and accepted as of \_\_\_\_\_.

**Bahia Village Communities, Inc.**

By: \_\_\_\_\_  
Name: Sharon Amezcua  
Title: Chief Executive Officer

## EXHIBIT A: ACCREDITATION DISCLOSURE FORM

### For Individual Accredited Investors Only (all Individual Accredited Investors must *INITIAL* where appropriate):

Print Name of Investor: \_\_\_\_\_

The undersigned's income<sup>1</sup> during each of the last two (2) years exceeded two hundred thousand dollars (\$200,000.00) or, if the undersigned is married, the joint income of the undersigned and their spouse during each of the last two (2) years exceed three hundred thousand dollars (\$300,000.00), and the undersigned reasonably expects their income from all sources during this year, will exceed two hundred thousand dollars (\$200,000.00) or, if the undersigned is married, the joint income of the undersigned and their spouse from all sources during this year will exceed three hundred thousand dollars (\$300,000.00);

The undersigned's net worth,<sup>2</sup> including the net worth of the undersigned's spouse, is in excess of one million dollars (\$1,000,000.00) excluding the value of the undersigned's primary residence;

The undersigned is a director, limited liability company manager, general partner, or executive officer of the issuer of the securities being purchased, or is a director, limited liability company manager, general partner, or executive officer of a general partner of the issuer of the securities being purchased;

The undersigned possesses certain professional certifications, designations or credentials or other credentials issued by an accredited educational institution, which the Commission may designate from time to time by order, such as designated in good standing of the Licensed General Securities Representative (Series 7), Licensed Investment Adviser Representative (Series 65), or Licensed Private Securities Offerings Representative (Series 82);

The undersigned is a "knowledgeable employee" as defined in Rule 3c-5(a)(4) under the Investment Company Act, of the issuer of the securities being offered where the issuer is a private fund (excluded from the definition of investment company in Section 3(c)(1) or 3(c)(7));

The undersigned is a "spousal equivalent," so that spousal equivalents may pool their finances for the purpose of qualifying as accredited investors;

---

<sup>1</sup> "**Income**" means adjusted gross income, as reported for federal income tax purposes, increased by the following amounts: (i) the amount of any tax exempt interest income received; (ii) the amount of losses claimed as a limited partner in a limited partnership; (iii) any deduction claimed for depletion; (iv) amounts contributed to an individual retirement account or Keogh retirement plan; (v) alimony paid; and (vi) any amounts by which income from long-term capital gains has been reduced in arriving at adjusted gross income pursuant to the provisions of Section 1202 of the Internal Revenue Code of 1986, as amended.

<sup>2</sup> "**Net worth**" means the excess of total assets, excluding a primary residence, at fair market value over total liabilities, including a mortgage or any other liability secured by your primary residence only if and to the extent that it exceeds the value of a primary residence. Net worth should include the value of any other shares of stock or options held by the undersigned and the undersigned's spouse and any personal property owned by you or your spouse (e.g. furniture, jewelry, other valuables, etc.).

The undersigned's professional representative has determined that the undersigned is an accredited investor, and such professional representative has (in addition to the undersigned) duly completed and executed this Accreditation Disclosure Form below; or

The undersigned is unable to make any of the representations set forth above. If the undersigned nonetheless represents that Purchaser is an accredited investor, the undersigned's basis or bases for that representation is or are (*please explain; an empty field shall be presumed as a representation that the undersigned is not an accredited investor*):

**For Non-Individual Accredited Investors  
(all Non-Individual Accredited Investors must *INITIAL* where appropriate):**

The undersigned is a trust with total assets in excess of five million dollars (\$5,000,000.00) whose purchase is directed by a person with such knowledge and experience in financial and business matters that such person is capable of evaluating the merits and risks of the prospective investment in the issuer of the securities being purchased;

The undersigned is: (i) a bank, insurance company, investment company registered under the Investment Company Act of 1940, as amended; (ii) a broker or dealer registered pursuant to Section 15 of the Securities Exchange Act of 1934, as amended; (iii) a business development company (as that term is defined under the Investment Company Act of 1940, as amended); (iv) a Small Business Investment Company licensed by the Small Business Administration; (v) a plan with total assets in excess of five million dollars (\$5,000,000.00) established and maintained by a state for the benefit of its employees; or (vi) a private business development company as defined in Section 202(a)(22) of the Investment Advisers Act of 1940, as amended;

The undersigned is a "family office," as defined in Rule 202(a)(11)(G)-1 under the Investment Advisers Act of 1940: with at least \$5 million in assets under management, that is not formed for the specific purpose of acquiring the securities being offered, and whose prospective investment is directed by a person who has such knowledge and experience in financial and business matters that the family office is capable of evaluating the merits and risks of the prospective investment; or any such family office's "family clients," as defined in Rule 202(a)(11)(G)-1 under the Investment Advisers Act of 1940;

The undersigned is an employee benefit plan and either (i) all investment decisions are made by a bank, savings and loan association, insurance company, or registered investment advisor, (ii) the undersigned has total assets in excess of five million dollars (\$5,000,000.00), or (iii) if such plan is a self-directed plan, investment decisions are made solely by persons who are accredited investors;

The undersigned is (i) either (a) a corporation, partnership, or business trust not formed for the purpose of acquiring the securities being purchased, or (b) an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and (ii) has total assets in excess of five million dollars (\$5,000,000.00);

The undersigned is an entity in which each of its equity owners satisfies the definition of accredited investor applicable to individuals as described above. If relying upon this basis for qualifying as an accredited investor, each of the undersigned's equity owners must separately complete and duly execute a copy of this Accreditation Disclosure Form setting forth their separate basis or bases for qualifying as accredited investors as individuals;

The undersigned is a limited liability company manager or general partner of the issuer of the securities being purchased, or is a limited liability company manager or general partner of a general partner of the issuer of the securities being purchased;

The undersigned's professional representative has determined that the undersigned is an accredited investor, and such professional representative has (in addition to the undersigned) duly completed and executed this Accreditation Disclosure Form below;

The undersigned is unable to make any of the representations set forth above. If the undersigned nonetheless represents that the undersigned is an accredited investor, the undersigned's basis or bases for that representation is or are (*please explain; an empty field shall be presumed as a representation that the undersigned is not an accredited investor*):

**INVESTORS WHO HAVE UTILIZED A THIRD-PARTY SERVICE PROVIDER: Please check the below.**

In addition to the representation(s) and warranty (or warranties) made by Subscriber above, Subscriber represents and warrants that if Subscriber has utilized a third-party service provider for the purposes of effectuating the Company's determination that Investor is an accredited investor, that any and all information or documentation provided by Investor to such third-party service provider was true and accurate at the time such information or documentation was provided, and remain true and accurate as of the date of Subscriber's signature hereto.

***NOTE:*** *If the undersigned does not have a professional representative concurrently representing and warranting that the undersigned is an accredited investor, the undersigned must provide to the issuer of the securities being purchased, together with a duly completed and executed copy of this Accreditation Disclosure Form, documentation which substantiates and evidences the representations and warranties made above. Such documentation would include bank account statements, investment account statements, tax returns, credit reports, analogous and other records prepared for corporations, partnerships, limited liability companies, and other entities, and any other information reasonably requested by the issuer of the securities being purchased to determine the undersigned's suitability as an investor.*

The undersigned hereby agrees to indemnify and hold harmless the issuer of the securities being purchased with respect to this representation and warranty (in addition to any other indemnity which the undersigned may separately owe to the issuer of the securities being purchased), and hereby executes this Accreditation Disclosure Form as of the date of its signature below.<sup>3</sup>

\_\_\_\_\_Signature \_\_\_\_\_Signatory

<sup>3</sup> If signing on behalf of a legal entity, (i) identify the name of the legal entity for "**Name**," (ii) identify your name for "**Signatory**," and (iii) identify your title with respect to the legal entity for "**title**." If signing on behalf of yourself as a natural person, then only identify your name for "**Name**."

\_\_\_\_\_ Name \_\_\_\_\_ Title

\_\_\_\_\_ Date

***For the undersigned's professional representative (if applicable):***

I, \_\_\_\_\_,<sup>4</sup> of \_\_\_\_\_,<sup>5</sup>  
represent the above-named individual or entity as their duly engaged and licensed (*check all that apply*):

- broker-dealer (my Central Registration Depository number is \_\_\_\_\_);
- registered investment adviser (my Central Registration Depository number is \_\_\_\_\_);
- attorney (I am licensed in the State of \_\_\_\_\_, and my state bar number or equivalent is \_\_\_\_\_); or
- certified public accountant (I am licensed in the State of \_\_\_\_\_, and my license number or equivalent is \_\_\_\_\_).

I represent and warrant to the issuer of the securities being purchased that, after taking reasonable steps to do so, I have determined that the above-named individual or entity is an accredited investor. Together with the above-named individual or entity, I agree to jointly and severally indemnify and hold harmless the issuer of the securities being purchased with respect to this representation and warranty. I hereby execute this Accreditation Disclosure form as of the date of my signature below.

\_\_\_\_\_ Signature \_\_\_\_\_ Address

\_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_ Email

<sup>4</sup> Identify your full name here.

<sup>5</sup> Identify your place of employment here.

EXHIBIT C

RULES AND REGULATIONS



## **BAHIA VILLAGE COMMUNITIES**

**APN: 370-310-002**

**APN: 370-310-012**

**LAKE ELSINORE, CA 92545**

## **RULES AND REGULATIONS**

### **EQUAL HOUSING OPPORTUNITY**

**WE DO BUSINESS IN ACCORDANCE WITH  
THE FEDERAL FAIR HOUSING LAW**

**IT IS ILLEGAL TO DISCRIMINATE AGAINST ANY  
PERSON BECAUSE OF RACE, COLOR, RELIGION, SEX,  
HANDICAP, FAMILIAL STATUS OR NATIONAL ORIGIN.**

**BAHIA VILLAGE COMMUNITIES**  
**APN: 370-310-002 & APN 370-310-012**  
**LAKE ELSINORE , CA 92545**

**RULES AND REGULATIONS**

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**BAHIA VILLAGE COMMUNITIES**

APN: 370-310-002 & APN 370-310-012, Lake Elsinore, CA 92545

Rules and Regulations

2021

Space Number: \_\_\_\_\_

Resident Names: \_\_\_\_\_

**1. INTRODUCTION:**

**A. General:** In these Rules and Regulations, we have used the words “you” to describe the Resident, “we” and “us” when referring to the Park Owner, and “Park” to describe Bahia Village Communities. The Rules and Regulations are part of the rental agreement and are mandatory requirements of tenancy. Tenancy in the Park is based on your promise, for the sole benefit of the management, that the rules will not be violated. Please read the Rules and Regulations carefully and keep them on file. The Rules and Regulations constitute a binding agreement between you and the park. However, these Rules and Regulations are not permanent or irrevocable, and may be changed any time in accordance with Civil Code section 798.25, including section 798.25(d). Changes to the Mobile Home Residency Law occur each year. If significant, we will provide you copies of the Mobile Home Residency Law. If you do not understand any of these rules, contact management.

**B. The Rules and Regulations** are for the protection of the park and to promote care for common areas and reasonable maintenance standards. At all times, the Rules and Regulations will be interpreted in a reasonable fashion consistent with the Mobile Home Residency Law as it may change from time to time.

**C. UNIVERSAL RULE.** The universal rule always applicable and controlling unless a more specific rule exists, is that residents must conduct themselves in a reasonable manner for the benefit of the management, so as not to adversely affect management and property. In other words, no conduct affecting owner, common areas, management or management employees is permitted as follows: nuisance, breach of quiet enjoyment, annoyance, violation of laws or regulations, injurious conduct or conditions, even if not specifically described.

**D. AGE RESTRICTIONS:** At least one person who is at least fifty-five (55) years of age must live in and occupy the modular home on a full time basis at all times in the future. All other persons who will live in the modular home must be at least forty-five (45) years of age or older. The preceding age requirements apply to all of the Spaces in the Park.

(1) We require the verification of the age of all residents, purchasers and guests by production of documentary proof (drivers license, birth certificate, baptismal certificate, passport, military identification, etc.).

(2) Re-Verification Questionnaire: We may require re-verification every two years of the ages of all persons residing on the homesite. You agree to provide this information promptly and on request.

(3) Advertisements for Sale of Modular home: Any advertisement for the sale of the modular home should include a reference to the fact that the community is reserved for “older persons” 55 years of age or more so long as this rule remains in effect. Homeowner is liable and shall indemnify and defend the owner and all management personnel in the event that Homeowner or any agent or representative on homeowner’s behalf misrepresents the age requirements for the residency in this community or otherwise fails to comply with all requirements of the state and federal laws barring discrimination in housing for any reason.

(4) We shall attempt to maintain the park for “older persons” so long as practicable and feasible in our discretion. We, however, expressly reserve the right to rescind any age regulation, including the “older persons” age regulations, upon lawful notice as permitted by the Mobile Home Residency Law. Therefore, this community reserves the right to change to a park for persons of “all age”; we do not promise or covenant that the community will always be, remain, or operate as a community for “older persons.” Purchasing a modular home in this community should not be made in reliance on any belief that the park will not change or abandon this regulation during the course of the resident’s stay in the community.

(5) **Please note:** The foregoing rule and regulation expresses the exclusive and complete statement of the community owner’s intentions respecting the rules and regulations with respect to “older persons” housing. For these reasons, you agree that there is no other written or verbal statement, representation, or inducement upon which you rely in residing in this community, and you do not rely on any information except as conveyed by the foregoing provision. The intent and purpose of this regulation is to manifest the continuing offer of housing for “older persons” in all spaces in the community, and to additionally publish the management’s intention of requiring all spaces to be occupied by persons who satisfy the criteria established under the Fair Housing Amendments Act of 1988 and the Housing for Older persons Act of 1995. Moreover, it has been the experience of the management that housing once occupied by qualified “older persons” in the park and later assumed by the survivors of the deceased have not contributed to the “older persons” atmosphere, lifestyle or social life, but have detracted from the goals of management to offer “older persons” housing, including providing a quiet and peaceful residential community catering to the older person. Management has also experienced other factors rendering the instant policy more likely to produce an “older persons” community desirable for older persons as contemplated by the Fair Housing Amendments Act of 1988 and the Housing for Older Persons Act of 1995. Therefore, enforcement of this “older persons” rule and regulation is required at such time as it is discovered that no person regularly residing on the homesite who is 55 years of age or older. As is true of all our other rules and regulations, this rule may be changed at any time on proper notice.

**E. RESIDENTIAL NEIGHBORHOOD STANDARDS.** As a general rule, our Park is a residential neighborhood with usual benefits, flaws and drawbacks. As in other typical neighborhoods, it is suggested that residents try to reside among each other as neighbors do, accept a reasonable amount of contact and possible disturbances from time to time which may not be to your liking. If one of your neighbors, another resident or their guest disturbs you, it is agreed that you will affirmatively make a friendly and respectful contact and seek to resolve and remedy the disturbance. Management is not the cause of such disturbances and shall have no responsibility, duty or obligation to intercede in a "neighbor vs. neighbor" dispute, except as may be required by law. No amount of management effort can make for good neighbors. No such responsibility duty or obligation lies on management's part by reason of any residency document. If management seeks to take reasonable steps to try to resolve a "neighbor vs. neighbor" dispute, claim or demand, the following requirements apply.

(1) Homeowner shall indemnify and defend the owners and all agents (management agents, entities and employees) (severally and collectively "owner") in respect to any claimed damage or injury inflicted by the homeowner, including homeowner's family members, residents and guests or other invitees (severally and collectively the "homeowner"). Specifically, homeowner, as so defined, agrees to indemnify owner and agrees to defend and hold owner harmless from all liability, loss, expense, damage, judgments, awards in arbitration, or other injury or loss to owner, including without limitation, attorney's fees and expenses, to the fullest extent not prohibited by applicable law, and all other costs and expenses incurred by reason of, or in any manner resulting from the acts or omissions of the homeowner, for which any person seeks to impose liability against owner, including all third-party claims of or related to any facts or circumstances with respect to the acts or omissions of the homeowner. Defending the owner in the circumstances defined in this sub-paragraph shall require homeowner to allow owner to select counsel of its choice, and owner shall permit defense to be undertaken by homeowner's counsel on approval of qualifications specified by Civil Code section 2860, so long as no other factor such as conflict of interest disqualifies homeowner's counsel from undertaking such defense. Such a conflict of interest shall be deemed to exist in the event that owner has commenced legal action against homeowner for injunctive or other relief or in the event that homeowner denies and or refuses to defend owner.

(2) When homeowners commence legal action against another homeowner:

(i) If homeowner obtains a temporary restraining order or injunctive relief against another homeowner (including, again, all family members, residents and guests or other invitees), it is agreed that owner shall not be required to do so in order or seek any other remedy to satisfy any legal duty owing to homeowner, because further injunctive or other relief by the owner is redundant or superfluous to the relief already previously obtained by the homeowner for homeowner's protection to remedy any claimed injury or damage;

(ii) If some other resident obtains a temporary restraining order or injunctive relief against you as homeowner (including again all family members, residents and guests or other invitees), it is agreed that owner shall not be required to seek injunctive relief or other remedy in order to satisfy any legal duty, because of the judicial determination that you as homeowner are at fault: owner shall have no responsibility, duty or obligation to champion a cause on your behalf as to which you have been declared, by judicial decree or order at fault;

(iii) In the event you as homeowner commence legal action for injunctive or other relief as against another resident, and, conversely another resident contemporaneously commences such a legal action against you as homeowner, and by order of the court a mutual restraining order or injunction or other reciprocal relief as against you as homeowner and any other resident, is issued again as between both affected residents, owner shall not be required to seek injunctive relief or other remedy in order to satisfy any legal duty, because of the judicial determination that both of the affected residents are at fault: management shall have no responsibility, duty or obligation to champion a cause on your behalf or another resident's behalf as to which you both have been declared, by judicial decree or order at fault. And in such case, it is agreed that further injunctive relief if sought by owner may be redundant or superfluous to the relief already previously obtained by the affected residents. Owner may seek to terminate the tenancy of one or both such residents, or seek other relief including without limitation injunctive relief, and this provision shall be without prejudice to such right of owner.

(iv) In the event a temporary restraining order is issued against any resident, owner may seek supplemental injunctive relief for protection of its own interest. Moreover, homeowner agrees that issuance of a restraining order against a resident, or breach of the covenant of quiet and peaceable enjoyment by one resident against another, constitutes good and sufficient grounds for termination of tenancy as a substantial annoyance or other relief including, without limitation, injunctive relief.

(v) Once homeowners or residents become embroiled in any altercation, that is a matter to be handled by peace officers and not by the property manager or owner. Such conduct constitutes sufficient grounds for termination of tenancy as a substantial annoyance.

(vi) THE PROVISIONS OF THIS PARAGRAPH AND SUB-PARAGRAPHS IMMEDIATELY ABOVE SHALL BE CONSTRUED AND INTERPRETED AS BEING MADE IN ACKNOWLEDGMENT OF THE COVENANT OF QUIET ENJOYMENT AND IN LIEU OF ALL DUTIES EXPRESS OR IMPLIED AS TO THE COVENANT OF QUIET ENJOYMENT TO THE EXTENT PERMITTED BY LAW. THERE ARE NO PROMISES, EXPRESS OR IMPLIED, MADE BY OWNER AS TO THE COVENANT OF QUIET ENJOYMENT, OR THE QUALITY, CONDITION, VALUE OR FITNESS FOR USE OF THE MODULAR HOME, SPACE AND TENANCY EXCEPT AS SO PROVIDED.

**F.** We will make a reasonable effort and try and have residents and guests comply with these Rules and Regulations, but at the discretion of the Owner, minor or ordinary occurrences tolerated in a typical neighborhood constitute modern day life which cannot be avoided or remedied. There will also be instances where we will not be able to be successful in enforcing these rules when we reasonably seek to do so. In many instances, it may be impossible or impractical for us to enforce these rules because, for example, our legal advisors conclude that judicial willingness to enforce certain rules may not be reasonably certain, the severity of the violation warrants no enforcement activity, and due to other practical and legal reasons. Because of these and other similar considerations, you agree that by freely deciding to establish tenancy in the Park and continuing your tenancy, we will not be liable to you or others for typical and routine disturbances commonly foreseeable, nor are we liable for inconsistent or lack of enforcement of these Rules and Regulations. Homeowner agrees, therefore, that the enforcement of the Rules and Regulations and conditions of tenancy are a private matter between the Park and each Homeowner individually. Homeowner agrees that he is not a third party beneficiary of any other Agreement between the Park and any other resident of the Park. Should management seek any injunction, homeowner agrees that irreparable harm and the lack of adequate legal remedy exists and need not be proved, established, or evidence thereof proffered.

**G. Design and Appearance of Modular home:** The design and appearance of your modular home, accessory equipment and structures and landscaping are subject to these Rules and Regulations. You must have our written approval before changing their design or appearance.

**H. Compliance with Law and Lease and Rental Agreement:** No violation of any federal, state, or local law or regulation or administrative order will be permitted at any time. Also prohibited is any violation of any term, condition, or other provision of the lease or rental agreement applicable to anyone's tenancy or residency in the Park.

**2. USE OF FACILITIES AND DEFINITIONS:** Residents and guests have the right to use the premises and Park facilities only if all rules and regulations and other conditions of tenancy are complied with. "Residents" includes all permanent residents of the Park. "Guests" includes all employees, guests, invitees, and permittees, care givers and care receivers (as per Civil Code section 798.34 and its subdivisions), licensees or other persons in the Park or on the premises at the invitation, request or tolerance of residents. Guests must obey the Rules and Regulations and other conditions of tenancy in the same manner as residents. "Park" means our modular home park and "Park facilities" means those areas and facilities of the Park which are generally open for use by residents and guests. "Space" means the real property rented to you by us, including the Park facilities.

**3. OTHER RULES AND REGIONS AND DOCUMENTS:** In addition to these Rules and Regulations, certain other rules and regulations and documents are referred to and incorporated in the Lease. Others are posted in and about the Park facilities that are open for general use by residents and guests. Said rules, regulations and other documents (as they may be amended, modified or otherwise changed from time to time), are incorporated herein by this reference and you are reminded of your obligation to comply with them.

#### **4. LANDSCAPING:**

**A.** Prior to commencing any landscaping, including changes to existing landscaping, you shall discuss landscaping plans with us for our approval. Any landscaping installed without our approval shall be removed by you within ten (10) days of receipt of written notice.

**B.** Landscaping of Spaces not previously landscaped shall be completed within forty-five (45) days of the date your residency documents are signed. All other landscaping shall be completed within forty-five (45) days of the date the work is first commenced.

**C.** Because of the infinite variety of living and non-living objects which may be used in landscaping, it is impossible to describe all things which we will or will not accept as landscaping. Consequently, the following general landscaping standards are listed only to assist you in preliminary planning. You are cautioned that there are Spaces in the Park which contain landscaping that no longer conforms with present Park standards; therefore, do not assume your plans will be approved because they conform to landscaping which exists on other Spaces. You must discuss your landscaping plans with Park Management.

**D.** The Park's general landscaping standards are:

(1) All landscaping must be clean and attractive in appearance;

(2) Evergreen grasses, ground cover, flowers and shrubs are generally acceptable. Large trees and tall plantings are prohibited;

(3) Where rock is approved for use as a ground cover, the soil under the rock must be covered with heavy gauge visqueen to prevent weed intrusion.

(4) Trees which shed leaves, seeds or pollen over neighbors' yards must be trimmed so that their effects are confined to your own lot. Dead or dry palm fronds must be removed yearly to prevent fire hazards. Trees, shrubs and bushes must be trimmed to the level of the modular home roof line and must not encroach on adjoining spaces or obscure the street view of persons driving in the Park. This does not include trees or shrubs on Park common grounds, or certain areas where height or root structure of a tree or shrub is not hazardous to neighbor's property. It is suggested you plant trees, which will not reach over 15 feet in height at maturity.

i. Homeowner has the responsibility and shall perform all the trimming and maintenance of all trees and shrubs in a manner that prevents them from: (i) developing a root structure that causes cracking or buckling or reasonable likelihood of required re-leveling of a modular home or accessory structure or equipment or appliance, or otherwise interferes with the streets, driveways, any paved surface, or other community facilities or common area; (ii) becoming a specific hazard or health and safety violation. "Specific hazard" is defined as a clear and present danger of bodily injury or property damage.

ii. Homeowner is responsible for the maintenance of all trees located on his/her space, except as otherwise provided by the Mobile Home Residency Law as it may be amended from time to time and these Rules and Regulations shall not be otherwise construed, interpreted or enforced. Homeowner will not trim trees or shrubs on Park property other than on his or her space without Owner's written consent. Trees the trunks of which are situated on the space, predominantly on the space or within the lot lines shall be maintained by the homeowner whether planted by homeowner or their predecessors or other persons. Homeowner shall maintain all landscaping as required by the Rules and Regulations. Owner may require tree branch and limb thinning, trimming or tree removal, cutting and stump grinding to grade, or root removal if necessary and as appropriate to avoid a specific hazard or health and safety violation, risk of injury to others, property damage or other loss. Homeowner represents that there are no specific hazards or health and safety violations which result from the condition of any tree on or partially on or over the space as of the date of these Rules and Regulations; homeowner will provide a separate written statement attached to the Rules and Regulations if the foregoing material representation of the homeowner is not correct. Homeowner has exclusive responsibility for landscaping-related conditions at and below grade, including full responsibility for trees and other landscaping except as otherwise required by the Mobile Home Residency Law when a tree becomes a specific hazard or a health and safety violation determined by the State Department of Housing and Community Development.

iii. Homeowner shall have the duty, in the event of any disputed condition as to any tree on the space, to request the Department of Housing and Community Development or authorized governmental agency to inspect any such condition and until the inspection is conducted, no action is required to be taken by the Park owner except at its option, to trim, remove or otherwise provide care or maintenance to the subject tree(s). Furthermore, a reasonable time after such determination is received by the Park Owner by the Department of Housing and Community Development or authorized governmental agency shall be allowed for action as specified by the Department of Housing and Community Development or authorized governmental agency in order to allow time to retain tree removal contractors, schedule and complete the removal of the tree or other work. It is expected that such work shall take approximately thirty to sixty days and we agree that time is reasonable.

iv. If the Department of Housing and Community Development or authorized governmental agency determines that a tree does pose a specific hazard to property or persons, or violates a health and safety code, Park shall remove such tree in whole or part, and to comply with the notification of the Department of Housing and Community Development or authorized governmental agency or challenge its determination as provided under law. On removal of the tree, the stump shall be permitted to remain unless it is determined by the Department of Housing and Community Development or authorized governmental agency that the stump further poses a specific hazard or health and safety violation. Such stump shall be permitted to remain on the space protruding above the grade. Any actions of the Park owner and resulting conditions pursuant to the terms herein or performance of the duties set forth hereunder shall not result or give rise to any claims for rent reduction, offset, discount, deduction or other diminution in the amount of monthly rents and no other relief is proper despite the effect on the value of the modular home or loss of attractiveness which may result from the permanent removal of trees from the space. Removal is expressly allowed in order to remove the park owner's property from the space to avoid further maintenance cost and risk of harm resulting from Park's trees.

**E. Drainage.** You are responsible at all times to make sure the drainage is proper so that water will drain away from your Modular home to the street and not onto other spaces or common areas. This includes the modification and alteration of the grading of the Space if the present grading does not meet these requirements. Drainage must be sufficient to prevent water from accumulating on your space or under your modular home or running off so it adversely affects other spaces or our property.

**F. Maintenance.**

- (1) Lawns must be mowed weekly.
- (2) Landscaping must be kept trimmed, watered, and fertilized, and all weeds and debris removed.
- (3) Landscaping may not enter over the lot line to a neighbor's space, be excessively high or rub against modular homes, awnings, or other structures so as to cause damage or other problems.
- (4) Landscaping must be maintained so that it does not cause damage to or interfere with property belonging to you, your neighbors or the Park.
- (5) You may not plant or remove a tree without our consent.
- (6) If rock is permitted, additional rock must be added as necessary to ensure there is sufficient rock to adequately cover the area where rock is spread.
- (7) If you will be on vacation or absent from the space, you are responsible to arrange for someone to water and maintain your landscaping.

#### **5. ACCESSORY EQUIPMENT, STRUCTURES AND APPLIANCES:**

**A.** Prior to commencing installation of accessory equipment and structures, or any appliance which is to be connected to the gas, electric or water supply, you shall submit for our approval a plan describing in detail the accessory equipment, structure or appliance which you propose to install. Any accessory equipment, structure or appliance installed without our approval shall be removed within ten (10) days of receipt of written notice.

**B.** The installation of all required accessory equipment and structures shall be completed within forty-five (45) days after execution of the Lease or Rental Agreement. All other installation of accessory equipment and structures shall be completed within forty-five (45) days after the date installation is first commenced.

**C.** Because of the wide variety of types and styles of available accessory equipment and structures, it is impossible to describe all those which we will or will not accept. Therefore, the following general standards for accessory equipment and structures are listed only to assist you in preliminary planning. You are cautioned that there are Spaces in the Park which contain accessory equipment and structures which no longer conform with present Park standards; therefore, do not assume your plans will be approved because they conform with those which exist on other Spaces. Consequently, you must discuss your plans for accessory equipment and structures with us prior to preparing a plan for our approval. Solar heating is generally not acceptable, but exceptions will be made based on the architectural/aesthetic appearance of the solar heating unit and the location where it will be installed. Because of the potential for overloading the Park's electrical system, the installation of electrically-powered heat pump and air conditioning systems must be approved by us in advance and we may withhold approval if we believe they will create a potential for overloading the electrical system. The same is true of other electrically-powered appliances.

**D.** Building permits are required before construction or installation of certain accessory equipment, structures or appliances, and all such equipment and structures must comply with all federal, state and local laws and ordinances.

**E.** Our general standards for accessory equipment, structures or appliances for incoming modular homes are:

- (1) Any raised porch or deck must be approved by management and must meet city requirements.
- (2) For exterior color of the modular home, color and or colors must be approved by management prior to commencement of work.
- (3) We require that exterior steps, both patio side and carport side, be of an approved material painted to match the exterior material of the modular home. Treads and porch surfaces must be covered with carpet or other approved material.
- (4) The temporary steps provided by your dealer must be removed from the Park no later than sixty (60) days from the time the modular home is moved into the Park. Steps must have approved handrails, as required by law.
- (5) You may install one storage shed, with a maximum of 120 square feet, placed in a spot we approve. A second storage shed may be installed, provided that together the two sheds do not exceed 120 square feet. Storage sheds must be of an approved manufactured type. The roof of the shed should match the contour of the awning and allow for a 3' (non-combustible material) or 6' (combustible material) minimum passageway between your modular home, accessory building and storage shed. Storage sheds must be an approved manufactured type, and the roof and siding must match the exterior of the modular home. We must approve the location of all storage sheds.
- (6) Sunshades and Privacy Screens. Shades and screens shall be constructed of wood, or aluminum painted to match the siding or trim of the modular home. Plastic, canvas, cloth or bamboo screens and shades are permitted but must be maintained and replaced periodically.
- (7) Drippings from air conditioners are not allowed to fall onto the ground under the modular home. They must be piped away from the modular home in a manner satisfactory to us. We must approve the location and type of all air conditioning units.
- (8) A satellite dish or T.V. antenna installed by a homeowner of the Park must be located to the rear of the modular home space and attached to the rear or side of the home, so as to be minimally visible from the street without unreasonable degradation of reception. The antenna or dish shall be painted to blend with its surroundings, and attractively shielded from view with landscaping to the extent feasible.

In all instances, the satellite dish must be securely affixed and placed in a manner that will not constitute a hazard. Satellite dishes larger than one meter in diameter are prohibited. Height as per FCC guidelines shall prevail. Homeowners are strongly urged to rely on indoor antennas, cable or master antenna distribution rather than install visible outdoor antennas.

- (9) Special Standards. Owner retains the right to make additional requirements for corner spaces or spaces located in unique locations.
- (10) Water Softeners. Water softeners which discharge into our sewer system are not permitted.
- (11) Manufactured Equipment/Structures. Only manufactured accessory equipment and structures are permitted and no "homemade" equipment or structures may be installed.
- (12) Colors. A color chart and other color requirements for exterior colors of the modular home, accessory equipment, structures, and other improvements will be available in the Park Office. You may submit other color/s for approval by management.
- (13) Modular homes. All modular homes coming into the Park for the first time must meet the following requirements: (1) Only modular homes built by S2A Modular shall be permitted within the Park. The location and placement of the modular home on the space will be determined by us. (2) Must be the largest modular home which may be permissibly and lawfully installed on the Space.

**PLEASE NOTE:** The Space leased to resident is subject to all easements, encroachments, and limitations on use and occupancy of record and as exist in fact. The homesite may or does contain underground easements, rights of way, utilities or other encumbrances which may limit the maximum size of any modular home, accessory structure or equipment which may be installed on the homesite otherwise defined by the lot lines. In some locations in the park, potentially including the homesite, there are underground utility lines, some of which may exist beneath the modular home. However, all regulatory requirements for conforming installation of all modular homes in the park have been satisfied based on such requirements as existed at the time of installation, reflected by either certificates of occupancy or statements of installation acceptance which are issued by the local enforcement agency to approve habitation within the approved modular home. No action has been required of the management respecting relocation or re-routing of utility lines by local enforcement agencies; pending clarification of any and all regulatory responsibilities or further actions of the management which may be required in the future, the potential extent of which are unknown. Speculatively, such actions as relocation or re-routing of utility lines may be required only on the installation or replacement of a modular home or other accessory structures or equipment, upon substantial re-habilitation of an existing modular home, the replacement or rehabilitation of common area utilities by the management, or at such sooner time as may be required by the local enforcement agency. Any or all such eventualities may result in the inconvenience or expense to the resident.

F. Our general standards for accessory equipment, structures and appliances for existing modular homes are:

(1) We require that you maintain in good condition and repair the modular home and all accessory equipment, structures and appliances which are presently installed or may be installed on the Space. This obligation includes the replacement of any such items which are missing or are damaged to the point that they cannot be reasonably repaired. This obligation also includes the repainting of the modular home, accessory equipment, structures and appliances when they are reasonably in need of repainting. Color and materials used are subject to our discretion. You must have management's approval prior to repainting your modular home. In addition, all such items shall be required to comply with all applicable laws and regulations.

(2) If you were a resident prior to the standards for incoming modular homes being instituted, you will not be required to adhere to them unless you voluntarily undertake to make a change or addition to your Space, modular home, accessory equipment, structures or appliances. If you do make such a change, you must meet the standards noted above for incoming modular homes. You will only be required to adhere to the new standard(s) which apply to any change or addition you are actually making.

G. All awning posts or supports and all skirting which is bent, "kinked" or damaged must be immediately replaced with a replacement part or material which matches the existing skirting or the undamaged awning post or supports.

H. All fences are prohibited except decorative low fencing. Any fencing must be approved by management prior to installation. Any existing fences which may exist must be removed at your expense when the modular home is sold or otherwise transferred or the Space is vacated.

#### 6. LOT AND MODULAR HOME MAINTENANCE AND APPEARANCE:

A. You are financially responsible to maintain, repair and replace as reasonably necessary your modular home and all equipment, structures and other improvements to your modular home and Space in good and safe condition and repair, and in an aesthetically pleasing condition at all times. The foregoing includes, without limitation, the following: your modular home, accessory equipment and structures, fences, driveways, trees, banks, and all landscaping. Regardless of whether you are the original resident/occupant of the Space, or your modular home, or purchased your modular home from a former resident, this paragraph applies to you. You are also financially responsible for insuring at all times that your modular home, Space, and their improvements complies with all local, state and federal laws and regulations. (The only exception is any of the Park's utility systems on your Space which are owned by us or a utility company so we or they are responsible for them.) The preceding includes without limitation such things as: ensuring that the drainage is sufficient to prevent water from accumulating on your Space or under your modular home or running off so it adversely affects other Spaces or our property; that all required setbacks and lot line requirements are met and there are no encroachments on other property; that all building code and other similar requirements are met; and that all building and other permits have been obtained.

B. You are required to maintain your Space and all landscaping, structures and other things attached thereto or placed thereon in a neat, clean, attractive and well-kept fashion.

C. No furniture may be used on the patio, porch, yard or other portions of the Space unless it is outdoor patio furniture.

**D.** Nothing may be placed or stored outside of the modular home or storage shed(s) unless specifically permitted by these Rules and Regulations or approved in writing by us. This includes, but is not limited to, overstuffed furniture, appliances, ironing boards, brooms, mops, tools, gardening equipment, debris, refuse, litter, or any item which is unsightly in appearance. The following items may be stored on driveways: bicycles, scooters, golf carts and small exercise equipment. Said items must be in maintained in 1<sup>st</sup> class and operable condition, free of weathering, rust and disrepair. The storage of any other items on driveways must be approved in writing or promptly removed by resident.

**E.** No permanently installed clotheslines are allowed.

**F.** All modular homes, storage sheds, accessory equipment and structures must be washed, cleaned, painted and waxed as necessary to maintain their appearance.

**G.** The City of Lake Elsinore provides special trash containers to each resident for refuse. All garbage and refuse must be promptly deposited in your trash containers. Trash containers must be covered and stored so they are not visible from the street or adjacent modular homes. On trash pickup day, your trash container may not be placed out at the curb any earlier than the evening before and must be promptly removed from the curb and stored out of sight on your space after being emptied by the trash company.

**H.** No flammable, combustible, or explosive fluid, material, chemical or substance, except those used for normal household purposes, may be stored on the premises. Anything which creates a threat to health and safety or threatens damage to property or which induces or harbors or may tend to induce or harbor offensive odors, infectious plant disease, and/or noxious insects and/or rodents or reptiles is strictly prohibited. No flammable, combustible, explosive or environmentally hazardous fluids, material, chemical or substance may be stored on the space (other than ones customarily used for normal household purposes, and then only in quantities necessary for household purposes).

i. Additionally, you may not engage in any activity in the Park which causes an environmental hazard or violates any law relating to environmental protection, hazards and other similar laws. This includes, but is not limited to, changing the oil in any motor vehicle in any common area of the Park. Furthermore, you may not allow any environmentally hazardous substance including, but not limited to, toxins, cleaning fluids, oil, grease or any substance defined as environmentally hazardous to be placed on any surface area in the Park. You may not allow such substances to be disposed of anywhere in the Park, including, but not limited to, trash cans, trash bins, surface areas, the sewage disposal system or any other trash, garbage or disposal area in the Park. Such substances must be physically removed from the Park and disposed of elsewhere in compliance with the law.

ii. In addition to other remedies allowed by law, Homeowner will indemnify and hold the Park harmless for any such environmentally hazardous act or omission prohibited by this rule or law, including any compensatory damages, statutory damages, punitive damages, expense and attorney's fees and costs sustained by the Park. Homeowner will also be required to reimburse the Park for any actual attorney's fees, litigation expenses, and costs incurred in defending any action against the Park as a result of any environmentally hazardous act or omission of Homeowner, Residents, Guests, Contractors and invitees.

iii. For purposes of this rule, "hazardous substances" includes without limitation: (I) Those substances included within the definitions of "hazardous substance," "hazardous waste," "hazardous material," "toxic substance," "solid waste," or "pollutant or contaminant" in federal law including C.E.R.C.L.A., R.C.R.A., T.S.C.A., H.M.T.A., or under any other Environmental Law; (II) Those substances listed in the United States Department of Transportation (D.O.T.) Table [49 C.F.R. 172.101], or by the Environmental Protection Agency (E.P.A.), or any successor agency, as hazardous substances [40 C.F.R. Part 302]; (III) Other substances, materials, and wastes that are or become regulated or classified as hazardous or toxic under federal, state, or local laws or regulations; and (IV) Any material, waste, or substance that is: (V) a petroleum or refined petroleum product, (ii) asbestos, (iii) polychlorinated biphenyl, (iv) designated as a hazardous substance pursuant to 33 U.S.C. § 1321 or listed pursuant to 33 U.S.C. § 1317, (VI) a flammable explosive, or (VII) a radioactive material.

**I.** Nothing which creates a hazard or increases our insurance rates shall be permitted on the premises.

**J.** All concrete, asphalt and other surfaces shall be kept clean and free of oil and all other sticky or oily substances.

**K.** All landscaping shall be kept trimmed, watered and fertilized and all weeds and debris removed. Grass must be kept edged and mowed.

**L.** Additional decorative rock must be added, as necessary to ensure that there is sufficient rock at all times to adequately cover the area over which the rock is spread.

**M.** If you do not maintain your modular home or space as required by these rules and regulations and the rental or lease agreement applicable to your tenancy, we may give you a notice requiring you to comply in 14 days. If you do not comply, you agree that we may charge you a reasonable fee for having this maintenance, repair or replacement work done. The provisions applicable to the demands of a fourteen (14) day notice are as follows:

1. Owner will charge a reasonable fee for services relating to the maintenance of the land and premises upon which a modular home is situated in the event the homeowner fails to maintain the land or premises in accordance with the Rules and Regulations of the park after written notification to the homeowner and the failure of the homeowner to comply within 14 days. The written notice will state the specific condition to be corrected and an estimate of the charges to be imposed by Owner if the services are performed by Owner or an agent or contractor.

2. Owner and homeowner agree that the estimate or amount actually billed for any work performed by any licensed contractor on behalf of Owner, when or after permitted under the terms of a Fourteen (14) day notice, are conclusively reasonable and fair. Such charges may be billed on the first of the month following completion of the work performed under the terms of the Fourteen (14) day notice and collected as further rent at the option of the Owner.

**N.** In order to prevent odors, insects and wind-blown debris, any garbage or trash that cannot be put in your garbage disposal must be placed in your trash cans and the trash bins provided by the Park. Your trash cans must be covered and must be stored out of sight. Sanitary and health laws must be obeyed at all times.

**O.** If any portion of the exterior of the modular home or its accessory equipment, structures, appliances, or the Space is damaged, you must repair the damage in 30 days. For example, damage to the siding, downspouts, porch or patio awnings or awning supports.

**P.** The utility pedestals (water, gas and electric hookups) must be accessible at all times. If one of the Park's gas or water shut-off valves is located on your Space, it must also be kept uncovered and accessible at all times. You may not connect, except through existing electrical or natural gas outlets or water pipes on the Space, any apparatus or device for purposes of using electric current, natural gas or water. The pedestal shall not be tampered with by resident, nor modified, inspected, or touched except with prior management approval, to avoid risk of harm or injury.

**Q.** When you landscape a Space for the first time or substantially redo existing landscaping, you are responsible to make sure the drainage is proper so that water will drain away from your modular home and not run onto other Spaces. This includes your redoing the grading of the Space if the present grading does not meet these requirements. Existing drainage patterns and grading may not be changed without our written consent. You may not divert water or interfere with the normal flow and drainage. You will be responsible for correcting any drainage problems encountered by altering the drainage, or for any subsequent re-leveling or adjustment required on the home, or other improvements which result from drainage problems, soil expansion or contraction, tree roots, and/or any other reason. You may not leave hoses or sprinklers running so that water runs in the street or onto a neighbor's property. You are also responsible for correcting any drainage problems which existed on your Space at the time you purchased your Modular home.

**R.** You must pay the cost of repair to any utilities or Park property damaged by you. To avoid damage to underground utilities, you must have our consent before digging or driving rods or stakes in the ground.

**S.** Building permits, licenses and other similar permission from governmental or quasi-governmental bodies or agencies are required and must be obtained before construction or installation of certain accessory equipment, structures and appliances, and all equipment, structures and appliances must comply with all federal, state and local laws and ordinances. You are responsible for obtaining these permissions when required.

**T.** Driveways: Individual driveway cleaning shall be your responsibility. All concrete, asphalt and other surfaces shall be kept clean and free of oil and all other sticky or oily substances. Individual driveway maintenance so as to avoid damage to the driveway shall be Homeowner's responsibility.

(1) Homeowners shall keep the street area in front of the space free from debris from the space including landscape trimming, leaves or other debris or trash. Owner shall comply with its obligations under the Mobile Home Residency Law including but not limited to Civil Code §798.37.5 as it may be amended from time to time with respect to driveways. Homeowner shall be responsible for the maintenance, repair, replacement, paving, sealing, and the expenses related to the maintenance of a homeowner-installed driveway, including driveways installed by any previous homeowners.

(2) Homeowner shall be charged for the cost of any damage to the driveway caused by an act of a resident or a breach of the homeowner's responsibilities under these Rules and Regulations and such costs and damages may be added as further rent, or, at option of the Owner, assessed under the terms of a fourteen day notice as provided under Civil Code §798.15. The provisions applicable to the demands of a fourteen (14) day notice are as follows: Owner will charge a reasonable fee for services relating to the maintenance of the land and premises upon which a modular home is situated in the event the homeowner fails to maintain the land or premises in accordance with the Rules and Regulations of the park after written notification to the homeowner and the failure of the homeowner to comply within 14 days. The written notice will state the specific condition to be corrected and an estimate of the charges to be imposed by Owner if the services are performed by Owner or an agent or contractor. Owner and homeowner agree that the estimate or amount actually billed for any work performed by any licensed contractor on behalf of Owner, when or after permitted under the terms of a fourteen day notice, are conclusively reasonable and fair. Such charges may be billed on the first of the month following completion of the work performed under the terms of the Fourteen (14) day notice and collected as further rent at the option of the Owner. Owner may further, upon ascertaining the amount of damage caused by homeowner, bill the amount of such damage as further rent, or elect to treat the damage as a breach of contract, or damage to real property owned by the Owner (as a legal claim in tort), or seek other legal redress as permitted by law.

(3) To avoid damage to driveways, no maintenance, repair or other work of any kind on any vehicle, boat or trailer (other than the modular home Homeowner resides in) is permitted on the space without Owner's consent. This includes, but is not limited to the changing of oil, or changing, adding or draining any automotive fluid. Any damaging dripping or spill from any vehicle or other source caused by or resulting from the acts or omissions of residents, must be immediately cleaned by homeowner. No car washing or washing of any other thing is permitted on any park street or other common area. No water is permitted on the driveway portion of the space except for minimal amounts as needed for avoiding accumulation of dust or other debris.

**U.** Pursuant to Civil Code section 798.36 (effective January 1, 2006), Management may, but is not required, to charge a reasonable fee for the maintenance or cleanup, as described below of the homesite in the event resident fails to do so in accordance with the rules and regulations after written notification and resident's failure to comply within 14 days. Management will state the specific condition to be corrected and an estimate of the charges to be imposed if the services are performed.

(1) If management determines that the removal of personal property from the space is necessary to bring it into compliance with the rules and regulations or applicable law (Mobile Home Parks Act or Title 25 of the Code of Regulations), management may remove the property to a reasonably secure storage facility. Management in such case will provide written notice of at least 14 days of intent to remove the personal property, including a description of the property to be removed. The notice shall include the rule, regulation, or code justifying the removal and shall provide an estimate of the charges to be imposed.

(2) Resident shall be responsible for reimbursing to management the actual, reasonable costs, if any, of removing and storing the property. These costs in correcting the rules violation associated with the removal and storage of the property, are deemed reasonable incidental service charges and may be collected pursuant to subdivision (e) of Section 798.56 if a notice of nonpayment of the removal and storage fees, as described in paragraph (3), is personally served.

(3) Within seven days from the date the property is removed to a storage area, management shall provide written notice that includes an inventory of the property removed, the location where the property may be claimed, and notice that the cost of removal and storage shall be paid. If, within 60 days, resident does not claim the property, the property shall be deemed to be abandoned, and management may dispose of the property in any manner. The resident's liability for storage charges shall not exceed 60 days. If resident claims the property, but has not reimbursed management for storage costs, management may bill those costs in a monthly statement which shall constitute notice of nonpayment, and the costs shall become the obligation of the resident. If a resident communicates in writing his or her intent to abandon the property before 60 days has expired, management may dispose of the property immediately and no further storage charges shall accrue.

(4) If management elects to dispose of the property by way of sale or auction, and the funds received from the sale or auction exceed the amount owed to management, management shall refund the difference within 15 days from the date of management's receipt of the funds from the sale or auction. If a sale or auction of the property yields less

than the costs incurred, resident shall be responsible for the difference, and this amount shall be deemed a reasonable incidental service charge and may be collected pursuant to subdivision (e) of Civil Code section 798.56 if a notice of nonpayment of the removal and storage fees, as described in paragraph (3), is personally served. You agree to maintain your modular home and space as required. If you do not, management may give notice requiring you to comply in 14 days. If you don't comply, you agree that we may have the work done and bill the work as per the rental or lease agreement. Election to proceed in this matter is not a limitation or election of remedies by the management and shall not prejudicemanagement from the exercise of all other remedies.

#### **7. RECREATIONAL FACILITIES:**

- A.** Recreational facility hours are posted, but may be closed earlier at our discretion. The facilities will also be closed from time to time for cleaning and repairs. Additional rules and regulations governing the use of Park facilities are posted in and about the facilities.
  - B.** You are required to adhere to the restrictions on the use of the recreational facilities which are posted in and about the recreational facilities. Unless specifically posted to the contrary, all guests must be accompanied by a resident when they are in the recreational facilities.
  - C.** Footwear must be worn in all areas except the pool area.
  - D.** Bathing suits and apparel are not allowed in the clubhouse at any time.
  - E.** No alcoholic beverages will be consumed in any area of the Park, which is open to you and your guests without our prior written approval. Bahia Village Fun Club functions may consume alcoholic beverages without our written approval. Management may revoke this permission at any time at our discretion.
  - F.** No glassware or similar breakable containers are allowed in the swimming pool area
  - G.** Scheduling of functions or events in the clubhouse may be accomplished by any resident of the Park by simply filling out a request form in the Park Office and obtaining written approval from the Park Management two weeks in advance. No resident may be excluded from using the clubhouse facilities because of any scheduled function or event. There will be no charge for the use of the clubhouse. However, those scheduling the function will be responsible for the normal clean-up afterwards, and a breakage and clean-up deposit of \$200.00 will be required.
  - H.** Swimming pool hours for residents and guests are from, 9:00 am. to 10:00 p.m. daily.
  - I.** Swimming pool may be closed to guests during planned community functions.
- 8. CHILDREN:** Visiting children under 18 years of age must be under the direct supervision of a resident at all times.
- 9. SMOKING RESTRICTIONS:** No smoking allowed in the interior area of all recreational facilities, including laundry facilities, within the modular home park.

#### **10. BILLIARD ROOM**

- A.** The Billiard Room and its equipment is for the exclusive use of the resident tenants and their invited guests. No one under 18 years of age is permitted in the facility or to play pool at any time. The pool tables should be brushed one way, with nap. When finished with your game, return the equipment to the proper place and cover the table, unless there are others waiting to play. The last player out is requested to cover the table and turn out the lights.
- B.** When others are waiting to play, please use courtesy and limit your game, or ask others to join.
- C.** Sitting on pool tables is strictly forbidden.
- D.** All guests must be accompanied by a resident tenant.

#### **11. SHUFFLEBOARD:**

- A.** Players must be 18 years of age or over.
- B.** All guests must be accompanied by a resident tenant.
- C.** Shuffleboard courts are not to be walked on at any time.
- D.** All equipment must be returned to the proper places.

- 12. CAR WASH:** Your vehicle/s may be washed only in your own driveway. However, changing oil or performing mechanical work is prohibited.

### 13. CONDUCT

- A. No "Ham" or "CB" radios or other radio transmitters or devices may be operated in the Park if they interfere with the radio or T.V. or other electronic equipment of other residents.
- B. All Park property which is not for the use of residents and guests, including, but not limited to, gas, electric, water and sewer connections and other equipment connected with utility services and tools and equipment of the Park shall be avoided and not used, tampered or interfered with in any way.
- C. Except as specifically allowed by the Mobile Home Residency Law, soliciting or peddling is not permitted without our consent.
- D. Actions by any person of any nature which may be dangerous or may create a health and safety problem or unreasonably disturb others are not permitted.
- E. You and your guests shall not encroach or trespass on any resident's space or upon any area which is not open for general use by residents. All Park property which is not for the use of residents, shall not be used, tampered with, or interfered with in any way.
- F. Visiting children must be supervised, well-behaved, and are not allowed to play in the streets or on the property of other residents. Children must not unreasonably disturb others. You must acquaint all children with these Rules and Regulations. Control and discipline of children will be the responsibility of the parents, guardians, or adult in charge of the child. Skates, roller blades, skateboards, "Big Wheels," and other similar toys may not be used in the streets because of the potential danger to children from vehicles. Although children may play in the streets, their activities must be limited to ones which will not present a reasonable likelihood that they, other persons or property will be injured. If persons or property are injured or damaged because of a child's activities, the parents, guardians, or other adult responsible for the child will be liable, not us.
- G. Except for barbecues or fireplaces and other appliances installed in your modular home, no fires are permitted.
- H. The modular home and space may not be used for any business or commercial activity which would result in the residential nature of the Park being changed or disturbed. For example, you may have a business where the work is done inside the modular home and other residents are not disturbed by the business activity. The modular home and space shall be used only for private residential purposes and no business or commercial activity of any nature shall be conducted thereon. All proposed business activity must be approved in writing and in advance by us and we may, in our sole discretion, refuse permission. This prohibition applies to any commercial or business activity, including, but not limited to, the following:
1. Any activity requiring the issuance of a business license or permit by any governmental agency.
  2. Any activity inconsistent with park zoning and conditional use permits, which would increase the risk of harm to the management or to any other person or property.
  3. Any activity which would increase the insurance cost to the Owner or tenant, affect the ability of the park or tenant to obtain insurance.
  4. Any activity which would increase noise, dust, vibration, odors or fumes, smoke, or any other condition offensive to the senses, traffic (vehicle or pedestrian), deliveries and delivery or mail trucks, require storage of anything outside the modular home, result in manufacturing of anything, require additional employees or other persons on the space, affect parking.
  5. "Caravanning" by realtors or brokers of Modular homes, which are for sale, is specifically prohibited.
  6. The law or one of our other rules and regulations or conditions of tenancy being violated.
  7. Subleasing of the modular home. Subleasing is prohibited. There is no power and no right to sublease. Homeowner shall not sublet the Homesite or any portion of the Homesite or modular home. Any subleasing will be void. Any assignment or subleasing will be void unless done per the term of this Agreement. Subleasing may be permitted under the following circumstances of medical hardship. Management shall permit a homeowner to sublease his or her home if the modular home serves as the homeowner's primary residence and a homeowner's medical emergency or medical treatment requires the homeowner to be absent from his or her home and this is confirmed in writing by an attending physician. Only one modular home may be subleased by the homeowner though the homeowner may own or control one or more modular homes or homesites in the Park. The following provisions shall apply to a rental or sublease pursuant to this section:
    - A. The minimum term of the sublease shall be six months but no greater than 12 months.
    - B. The management may require approval of a prospective renter or sublessee, subject to the process and restrictions provided by subdivision (a) of Section 798.74 for prospective purchasers of modular homes. The management may charge a prospective sublessee a credit screening fee for the actual cost of any personal reference check or consumer credit report that is provided by a consumer credit reporting agency, as defined in Section 1785.3.
    - C. The renter or sublessee shall comply with all rules and regulations of the park. The failure of a renter or sublessee to comply with the rules and regulations of the park may result in the termination of the homeowner's tenancy in the modular home park, in accordance with Section 798.56. A homeowner's tenancy will not be terminated however, if the homeowner completes an action for unlawful detainer or executes a judgment for possession, pursuant to Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure within 60 days of the homeowner receiving notice of termination of tenancy.
      - D. The homeowner shall remain liable for the modular home park rent and other park charges.
      - E. The management may require the homeowner to reside in the modular home park for a term of one year before management permits the renting or subletting of a modular home or modular home space.
      - F. Notwithstanding subdivision [a] of Section 798.39, if a security deposit has been refunded to the homeowner pursuant to subdivision [b] or [c] of Section 798.39, the management may require the homeowner to resubmit a security deposit in an amount or value not to exceed two months' rent in addition to the first month's rent. Management will retain this security deposit for the duration of the term of the rental or sublease.
      - G. Homeowner shall keep current address and telephone number on file with the management during the term of rental or sublease. If applicable, the homeowner may provide the name, address, and telephone number of his or her legal representative. Homeowner agrees that subtenant is authorized as an agent for receipt of service of process and notices of Homeowner and that service of any papers shall only be required to be made to the premises.

H. Homeowner may not charge a renter or sublessee more than an amount necessary to cover the cost of space rent, utilities, and scheduled loan payments on the modular home, if any. Therefore, the rental agreement must be submitted prior to the sublease for inspection by the management. Failure to do so or overcharging a subtenant constitutes a violation of these rules and regulations.

I. Homeowner shall further agree, warrant and guarantee the dutiful performance of all terms and conditions of the sublease agreement by the sublessee and agree to indemnify and defend Management and all agents and employees against any claim or demand made by or against the sublessee for any injury or damage caused by sublessee or resulting to the sublessee, active negligence and willful misconduct excepted.

J. Homeowner acknowledges that sub-lessees are not homeowners because there is no landlord/tenant relationship as between Management and a sublessee. It is specifically agreed and understood that Sublessee cannot become a Homeowner by attempting or purporting to pay Park such monies.

K. Receipt, retention, acceptance or possession of any monies from the sublessee shall only be on behalf of the Homeowner. As between Park and sublessee there is no privity of estate or contract. Any endorsements tendered on the face of any conditional obligation of the Homeowner to the contrary shall be deemed a breach of this agreement entitling Management to immediately declare breach and termination hereof.

L. Homeowner further agrees to defend and indemnify, at his or her sole expense, the Park from any claims, liabilities, or actions brought by sublessee against the Management or for any action brought against the Park by any person arising out of conduct related to Sublessee's conduct within the Park. Subleasing not approved or in any way inconsistent with this agreement is void. There is no power and no right to sublease unless all rules and regulations pertaining to subleasing are satisfied and complied with. For purposes of the Rental Agreement, Rules and Regulations, and other residency documents, "subleasing" includes the rental of the modular home and space, including "home sitting", "housesitting", "house-watching", "caretaking", subleasing with an option to purchase, and purchase contracts unless in such circumstances the purchaser is bona fide and has been approved in accordance with Civil Code §798.74 and becomes the registered owner of the modular home. Subleasing also refers to contractors who occupy the space or modular home in the absence of the homeowner, for whatever the purpose.

**14. GUESTS:** You are responsible for the conduct of your guests.

A. You agree to acquaint all guests with the conditions of tenancy of the Park, including, but not limited to, these Rules and Regulations. You are personally responsible for all actions and conduct of your guests.

B. We reserve the right to determine whether our recreational and other facilities can accommodate all residents and their guests and, therefore, we may refuse any guest access to the facilities if the guest's presence would reasonably detract from the use and enjoyment of these facilities by other residents and guests who are then using the facilities.

C. If you will not be present, no guest may occupy or otherwise use your modular home without our consent.

D. Guests will not have any rights of tenancy in the Park. We may require the guest to register with us and sign these Rules and Regulations, or other documents reasonably necessary to protect our interests and the interests of other residents. These requirements apply to any guests who stays with you more than a total of twenty (20) consecutive days or thirty (30) days in the calendar year. Except as limited by California law, a guest staying beyond said period of time may, at our option, be charged as per the lease or rental agreement. These guests charges may be increased at any time by our giving you sixty (60) days' notice and without reducing the rent or affecting other terms of your tenancy. If you wish to add as a member of your household a person so they are not considered a "guest," you may only do so with our prior written consent, and if that person (if they are of required minimum age) also signs a copy of your rental or lease agreement, as well as our Rules and Regulations and other documents we normally have new residents sign when they first establish tenancy in the Park. If at any time in the future you and other adults who originally signed your rental or lease agreement move from the Park for any reason and the new resident whom we approved to live with you remains in the modular home, this shall be treated as a sale or other transfer of the modular home or assignment of the Space to that remaining adult resident and all rent increases provided for or allowed will be immediately applicable and effective as to that remaining adult resident.

E. Any guest under 18 years of age must be accompanied by you at all times they are in the park. You must accompany your guests at all times they are in the park recreational area facilities, including the recreation building, swimming pool, spa, laundry, etc. If you will not be present, your guest may not occupy or use the modular home without our consent.

**15. REMOVAL OF MODULAR HOMES UPON SALE:** Management may, in order to upgrade the quality of the Park, require the removal of modular homes from the space upon their sale or transfer to a third party, in accordance with the provisions of the Mobile Home Residency Law and other applicable law. Any such rights granted us due to amendments, deletions, or modifications of the Mobile Home Residency Law and other applicable law may be enforced by us at our option.

A. Park reserves the right to require that the Homeowner obtain an inspection conducted by the California Department of Housing and Community Development, or if applicable, the local enforcement agency with responsibility and jurisdiction to enforce Division 13, Part 2.1 of the California Health and Safety Code and the applicable provisions of the California Code of Regulations Title 25, Division 1, Chapter 2 (mobile home parks). The modular home may not be transferred or sold for in-park residency by a new prospective Homeowner if the modular home and accessory structures, equipment and appliances do not pass such code inspection. The inspection shall be requested by the Homeowner no later than on the date Homeowner is required to notify the management that the modular home is being offered for sale. Such notification must be given as soon as possible, because there may be delays encountered in scheduling an inspection. Homeowner should further seek inspection as soon as possible in order to avoid possible inconvenience or delay in finalizing a subsequent sale of the modular home after the expiration of the 60 day written notice of termination of tenancy required to be given to the management.

B. In addition to the requirement of inspection, Management shall furthermore, require repairs and or improvements prior to approval of the modular home for in-park sale in the following respects:

C. All damage caused by the actions or negligence of the Homeowner or an agent of the Homeowner;

D. The repair or improvement of the modular home, its appurtenances, or an accessory structure that is not owned and installed by the management, based upon or as required by local ordinance or state statute or regulation relating to modular homes, or a rule or regulation that implements or enforces a local ordinance or a state statute or regulation relating to modular homes. Such requirements shall apply to the exterior of the modular home, its appurtenances, or an accessory structure that is not owned and installed by the management.

E. Homeowner is required to request written statement itemizing all required repairs and or improvements. Management shall provide a written summary of repairs or improvements required no later than 10 business days following the receipt of a request for this information, as part of the notice of termination of tenancy required by Civil Code §798.59 (the written advance 60 day notice of termination of tenancy to be given to the management).

F. Management further reserves the right, pursuant to Civil Code §798.73, to require removal on sale if the modular home is in a significantly rundown condition or in disrepair, as determined by the general condition of the modular home and its acceptability to the health and safety of the occupants and to the public, exclusive of its age.

G. Any such rights granted either party due to amendments, deletions or modifications of the Mobile Home Residency Law and other applicable law may be enforced by either party at that party's option.

H. If, on the date of this Agreement, there is not presently a modular home located on the space, or if Homeowner is to remove the modular home presently located on said space and replace it with another modular home, Homeowner acknowledges and agrees that a certain make, model, type, size, age, and condition of the modular home which will occupy the space and the accessory equipment and structures which will be a part of or installed with the modular home. Homeowner warrants to Park that all representations made regarding the modular home and all accessory equipment and structures prior to their being placed on the space are true and accurate. Park is permitted by this paragraph to inspect the modular home and the accessory equipment, and Homeowner agrees not to substitute another modular home or other accessory equipment and structures for the ones approved by Park unless they meet all of Park's requirements and specifications. If Park determines that said representations are not true and accurate, then Park may refuse to accept the modular home or the accessory equipment and structures for installation. Submission of a plot plan is required by Homeowner (or its agent) and approval in writing by management must be obtained before seeking or procuring any permits for installation of the modular home. Inspection by management may be made at the time the modular home and the accessory equipment and structures arrive at the Park, and the modular home and the accessory equipment and structures shall not be allowed within the Park until they are inspected and approved.

I. Incapacitation, Decease of Homeowner: Upon the departure of the last homeowner from the Space, the requirements under this rule and regulation shall become applicable and remain in effect until the inception date of a succeeding tenancy approved by park management (as reflected by mutual execution of a new rental agreement for the homesite). "Departure" is defined as the vacation from the homesite by the last of the homeowners (who have executed the rental agreement), whether based on change of residence or decease. In such event:

(1) Civil Code §798.78 shall apply in the event of decease. The heir(s) or representatives of the deceased homeowner may sell the modular home to a third party in accordance with these rules and regulations, but only if:

(i) All the homeowner's responsibilities and liabilities to the management regarding rent, utilities, and other charges of the tenancy are timely paid on the first of the month in advance as they accrue.

(ii) The modular home and the homesite are reasonably maintained pursuant to the rental agreement including the rules and regulations.

(2) In addition to the foregoing and where the departure is based on a change of place of residence, the following requirements shall also be applicable:

(i) The modular home will be stored (no physical occupancy/possession as a residence, office or any purpose except as defined herein).

(ii) No prospective homeowner shall take possession of the modular home except after approval by the management of the new purchaser, in writing and after close of escrow. Failure to comply shall entitle management to declare termination and breach and seek all remedies. Prospective homeowner is required to be the registered owner of the modular home.

(iii) Payment made pursuant to this rule and regulation is compensation for storage use, month to month, and shall under no circumstances be construed as rent or evidence of the intention, agreement, or acquiescence to the establishment or renewal of a modular home tenancy; no modular home tenancy is created by receipt of monies by management, nor shall such receipt affect any demand, suit or claim.

(iv) Best efforts must be used to sell the modular home. Heir(s) or representative shall at all times during this agreement: maintain an active listing agreement with an agent of choice to offer the modular home for sale; cooperate with the listing agent(s); and, negotiate in good faith for the sale of the modular home.

(v) The modular home must remain vacant and unoccupied at all times. Entry onto the homesite and within the park is restricted as follows. The storage of the modular home prohibits any actual or personal possession for residence or other purposes by anyone. The modular home may be shown to prospective purchasers. Entry onto the homesite is permitted for maintenance of the homesite and the landscaping as required by the rules and regulations. Entry onto the homesite is permitted for the purposes of accompanying inspectors or contractors giving bids for work. No entry onto the homesite is otherwise permitted. No use of the common areas is permitted.

(vi) In the event of any breach or default, Management may pursue all rights under law, including public sale of the modular home.

## 16. VEHICLES:

A. All vehicles must be operated safely.

B. Only properly licensed vehicles (except golf carts, which do not have to be licensed) may be operated in the Park.

C. Pedestrians, electric carts and bicycles shall be granted the right of way.

D. No vehicle may be operated within the Park by any person who is not licensed.

- E. No maintenance, repair or other work of any kind on any vehicles, boat or trailer (other than the modular home you reside in) may be done on the premises without our consent.
- F. No vehicles with leaking oil or any other fluid or substance shall be allowed in the Park.
- G. Excessively noisy vehicles are not permitted in the Park.
- H. Bicycles may only be driven on the roadways and not on sidewalks, grass or any other paved area.
- I. Bicycles must obey the same traffic regulations as cars.
- J. You shall obey all posted traffic control signs (e.g., " stop" signs, "no parking" signs, etc.).

**K. IMPORTANT NOTICE RE TOWING VEHICLES FROM DRIVEWAY:** No vehicle is permitted to be in the Park or parked on a modular home driveway or designated parking space if it is not maintained in normal operating condition, neat and clean in appearance, in compliance with all Vehicle Code equipment requirements, bears current registration, not containing unsightly loads that are visible to other persons and not "stored." "Storage" shall include, but not be limited to, the parking of an inoperative vehicle for a period exceeding two (2) weeks, the parking of an operative vehicle that is not used for a period exceeding two (2) weeks; or the parking of more than one vehicle for the purpose of selling those vehicles as part of a commercial activity. No automobile may be "stored" on the space. However, Homeowners may leave their vehicle in their parking space when on vacation. The foregoing vehicles include, but are not limited to, "junkers" or other vehicles whose exterior appearance has deteriorated to a point where they are unsightly and detract from the appearance of the Park, any vehicle dripping oil, gasoline or other automotive fluid and excessively noisy vehicles. Any vehicle not meeting these standards may be removed from the Park by management at Homeowner expense in accordance with the Mobile Home Residency Law, after applicable notice is given. In the event that the vehicle poses a danger to others, no notice is required prior to removal by the management. A drip pan may be used if cleaned regularly by prior written agreement. If it is returned to the driveway or designated parking space in violation of this rule, the vehicle may be removed without further notice. Management may refuse admittance to the Park of any vehicle that does not comply with these Rules and Regulations and remove it in accordance with law.

#### 17. PARKING:

A. Passenger cars and other vehicles may only be parked in designated parking areas. The term "passenger cars" specifically includes those vehicles commonly referred to as sports cars, coupes, sedans and station wagons, and specifically excludes vehicles included within the definition of "other vehicles." The term "other vehicles" includes pickup trucks, campers, vans, buses, trucks and other commercial vehicles of every kind and description, boats, trailers (except the modular home you occupy), "RV's," dune buggies, motorcycles, motor scooters, minibikes, mopeds and other 2- and 3-wheeled motorized vehicles, electric carts, all other recreational vehicles and all other means of motorized or self-propelled transportation.

B. Unless otherwise posted or permitted by these Rules and Regulations, it is necessary to restrict parking on the streets to an absolute minimum. No overnight street parking is permitted.

C. Only passenger cars may be parked on your Space, unless the other vehicle is used on a regular basis by you in the same manner as a passenger car would be used. Any number of passenger cars or permitted other vehicles may be parked in your Space so long as the available parking space is not exceeded. If we allow you to have cars and other vehicles which cannot be parked on your Space, they must be parked in the recreational vehicle lot, outside the Park, or in another available parking space we may assign to you.

D. No vehicle is permitted in the Park if it is not regularly maintained in normal operating condition. The foregoing includes, but is not limited to, inoperable vehicles.

E. Vehicles which are otherwise prohibited may be temporarily parked in your Space or on the street for the purpose of loading or unloading the vehicles. These limitations do not apply to identifiable service vehicles during the time service is being performed.

F. Visitor parking is reserved for visitors only and may be used temporarily by residents for business at the park office and recreation club functions and events. Residents may not park overnight in guest parking without management's permission.

#### 18. PETS.

A. Written permission to keep a pet must be obtained in advance from management. Management reserves the right to deny homeowner a pet if there are an excessive number of pets in the Park at the time homeowner seeks permission for a pet or if the proposed pet appears to present a threat to the health and safety or the general welfare of the Park or its residents. Should homeowner lose their pet or should it die, homeowner must obtain written permission from management before acquiring another pet.

B. Pets permitted in the Park are defined as a house pet that spends its primary existence within the modular home. The type of pets permitted are small dogs, cats, small birds such as parakeets and canaries, fish and other pets kept at all times in an aquarium, usual household pets approved by management. Small dogs are defined as those which, at maturity, will weigh no more than twenty (20) pounds and measure no more than twelve (12) inches at the shoulder. Guide dogs, signal dogs and other service dogs and animals as defined by

Civil Code Section 54.1 are exempt from the size limitation otherwise applicable to dogs. Farm animals (chickens, etc.), animals which are dangerous (pit bulls, etc.), exotic, illegal, poisonous or wild animals are not allowed. Except for fish (and pets in an aquarium) no more than a total of 2 pets will be allowed per mobilehome.

C. Each dog and cat must be licensed and inoculated in accordance with applicable laws. Evidence of such license and inoculation must be submitted by homeowner to management within seven (7) days after request for same.

D. Pets will not be allowed in the clubhouse, laundry, or any recreational area of the Park at any time with the exceptions of guide dogs, signal dogs and other service dogs as defined by Civil Code Section 64.1. Pets must be walked on a short leash, and the person walking the pet must carry and use a "pooper-scooper" or something else to pick up any excrement from the pet. Pets are not allowed to run loose in the Park, and any pet found running loose in the Park may be impounded and taken to Animal Control at homeowner's expense. Pets are not permitted on another resident's Space without that resident's permission.

E. Pets will not be allowed to cause any unreasonable disturbance or harm. If a pet causes any unreasonable disturbance, annoyance or harm (including, without limitation, excessive barking, growling, biting, or any other unreasonable noises or damage to property), permission to keep the pet may be revoked by management.

F. Dog runs must be approved by management. Regardless of the area, any excrement left by a pet must be picked up on a daily basis and disposed of within homeowners' modular home or the trash collection facilities provided by management. Tying of pets outside the modular home or leaving pets unattended outside the modular home or anywhere in the Park's common areas is prohibited.

G. Feeding of pets or placing containers for food or water outside of the modular home or anywhere in the Park is prohibited.

H. Animals of visiting guests must comply with all Park rules under this section.

I. If homeowner or homeowner's pet does not comply with each of these rules, management may, in management's sole discretion, revoke management's approval of the pet and require that the pet be permanently removed from the Park.

#### 19. LAUNDRY:

A. Laundry hours are posted; however, laundry room may be closed at our discretion. These facilities will also be closed from time to time for cleaning and repairs.

B. Washers, dryers and all other laundry facilities are to be cleaned inside and out immediately after use.

C. Clothes are to be removed from clothes lines and dryers as soon as they are dry.

D. Dyeing may not be done in the washers.

E. The laundry is to be left in a clean, neat and orderly condition.

F. Additional rules and regulations governing the use of the laundry and its facilities are posted.

#### 20. PARK OFFICE:

A. The business hours for the Park Office are posted.

B. The Park Office telephone is for business and emergency use only; therefore, please do not give this phone number to others.

21. COMPLAINTS: Except in an emergency, all complaints must be made in writing and signed by you.

#### 22. SIGNS:

A. You are permitted to advertise the sale or exchange of your modular home; however, any sign(s) advertising your modular home for sale or exchange may not exceed the maximum size and number of such signs and may only be located in the place(s) permitted by the then-current provisions of the Mobile Home Residency Law. Any change in the Mobile Home Residency Law or other laws affecting these restrictions shall automatically become applicable and become a part of these Rules and Regulations. Unless specifically permitted by the Mobile Home Residency Law, you may not have any "Open House" signs or other similar advertisements except at those times designated by the Park.

B. "Patio Sale", "Yard Sale", or other similar activity will be allowed under the following conditions: (1) There will be a limit of 2 per year per modular home space; (2) If required by the City, a permit will be necessary; (3) A verbal authorization must be obtained from Management; (4) There will be no "Sales" on holidays or "Trash Day"; and (5) All signs relating to these "Sales" shall not be posted until the day of the "Sale" and must be removed promptly after the "Sale".

C. Homeowner may display a political campaign sign relating to a candidate for election to public office or to the initiative, referendum, or recall process in the window or on the side of the modular home, or within the site on which the home is located or installed. The size of the face of a political sign may not exceed six square feet, and the sign may not be displayed in excess of a period of time from 90 days prior to an election to 15 days following the election, unless local ordinance imposes a more restrictive period of time for the display of such a sign.

D. Except as specifically permitted by these Rules and Regulations, no other signs are permitted.

**23. MODULAR HOMES:** Only modular homes approved by us in writing and in advance will be permitted to move onto any empty Space in the Park.

**24. LIMITATIONS ON ELECTRICAL SERVICE AND RESIDENTS' RESPONSIBILITIES TO INSURE THAT MODULAR HOME/ETC., ARE COMPATIBLE:** You are responsible for making sure that your modular home and all appliances and equipment in your modular home are compatible with the electric service and capacity now available, and we shall have no liability or responsibility to you if the available electrical supply is incompatible. You agree not to install electrical appliances which will use energy in excess of the electrical service and capacity available to your Space. You also agree that you will not attempt to increase the electrical service and capacity of your Space by installing any device or doing anything else unless you have received our prior written permission. If your electrical demands exceed the capability of the Park, or are otherwise inconsistent with the capabilities of the Park, you will be deemed to be in default under your rental or lease agreement and you will, in addition to all of the remedies available to us, reimburse us within ten (10) working days for any costs and expense we incur in remedying the situation created by your use of excessive or inconsistent electrical demands. You also agree to indemnify and hold us harmless against any loss, cost, damage, expense (including attorneys' fees and costs) or other liability incurred or imposed by reason of any injury to persons or property which occurs as a result of your electrical demands. As the amount of such electrical service and capacity will affect your ability to have electrical appliances, you must determine in advance from us in writing the amount of electrical service and capacity available to your Space and insure that your modular home and all appliances and equipment in it are compatible with that service and capacity.

**A. CAUTION: INTERMITTENT POWER INTERRUPTIONS ARE FOLLOWED BY RESTORATION OF ELECTRICITY WHICH MAY CAUSE SURGES IN ELECTRICAL POWER. POWER SURGES OFTEN AFFECT UNPROTECTED CONSUMER HOUSEHOLD APPLIANCES SUCH AS ELECTRONIC EQUIPMENT (COMPUTERS, STEREOS, RADIOS, ETC.). THE OWNER IS NOT RESPONSIBLE FOR THE DISRUPTIONS, OUTAGES, SURGES, OR OTHER IRREGULARITIES IN THE PROVISION OF ELECTRICAL SERVICE TO THE PREMISES WHICH ARE CAUSED BY THE SERVING PUBLIC UTILITY. HOMEOWNER AGREES THAT OWNER IS FULLY AND UNCONDITIONALLY RELEASED AND DISCHARGED FROM ANY AND ALL LIABILITY WHICH ARISES AS A RESULT OF THE ACTS AND OMISSION OF THE SERVING PUBLIC UTILITY. IT IS THE RESPONSIBILITY OF THE HOMEOWNER, EXCLUSIVELY, TO EXERCISE PRUDENT CARE FOR PROPERTY WHICH MAY BE AFFECTED BY DISRUPTIONS, OUTAGES, SURGES, OR OTHER IRREGULARITIES IN THE PROVISION OF ELECTRICAL SERVICE TO THE PREMISES. ACCORDINGLY, HOMEOWNER HAS THE RESPONSIBILITY TO TAKE THE FOLLOWING PRECAUTIONS:**

**B.** Homeowner has the responsibility, always, TO USE SURGE PROTECTORS FOR THE PROTECTION OF HOMEOWNER'S PROPERTY, especially for computer equipment, stereo equipment, radios and other electrical appliances, devices and products which may be affected by disruptions, outages, surges, or other irregularities in the provision of electrical service. Unplug heat-producing items such as irons or portable heaters to prevent a fire when power is restored.

C. Report the difficulty to the management immediately. Turn off and unplug all computer equipment, stereo equipment, radios, appliances and other electrical equipment, except for a single light bulb, which will be the signal your power has been restored. This helps ensure against circuit overloading, which could delay restoration of service. In the event of an outage, do not use candles for lighting during an outage, since they create a fire hazard. Use flashlights or battery-powered lanterns instead. Check the neighborhood to see if others have their power. If they do, the problem may be a "tripped" circuit breaker.

**D. IT IS RECOMMENDED THAT HOMEOWNER OBTAIN A HOMEOWNER'S INSURANCE POLICY TO COVER DAMAGE, LOSS AND LIABILITY ASSOCIATED WITH THE DISRUPTIONS, OUTAGES, SURGES, OR OTHER IRREGULARITIES IN THE PROVISION OF ELECTRICAL SERVICE TO THE PREMISES AND OTHER RISKS.**

**25. CABLE T.V and Internet.:** Cable TV service and wifi service available, contact your local service provider for your options.

**26. USE OF MODULAR HOME AND SPACE:** Your modular home and Space may be used only as a private residence and no business or commercial activity may be conducted there. This prohibition applies to any commercial or business activity, including but not limited to, the following: (a) any activity requiring the issuance of a business license or permit; and (b) the leasing, subleasing, sale, or exchange of modular homes. We, or someone we designate, may conduct a modular home sales business in the Park.

**27. PROHIBITION AGAINST WASTE NUISANCE AND UNREASONABLE ANNOYANCE:** You agree not to do anything that will constitute waste, nuisance, or unreasonable annoyance to the other residents in the Park. You also agree not to do anything which will cause damage to the Space or the Park. You also agree not to permit any act or maintain or permit to be maintained any condition on your Space or modular home which may cause an increase in the rate of insurance we pay or increase our costs of maintenance and repair or in any way increase the risk of damage to the Space, or the Park, or any person.

**28. ENTRY UPON YOUR SPACE:** So long as we do not unreasonably interfere with your use of the Space, we shall have the right to enter onto your Space for any legitimate purpose, including, inspecting, maintaining, repairing, replacing, and/or adding utilities or improvements on your space or other areas of the Park.

**29. NON-RESPONSIBILITY OF PARK:** We are not responsible to inspect and approve any work done by you or for you by others, including, but not limited to, the installation of your modular home, driveway, walkways, fences or any other equipment or improvements of any type. To the extent that we may inspect or approve something, it is for our own purpose only and you are not entitled to rely on that inspection or approval to ensure that the item has been installed or constructed correctly or that the work has otherwise been done as required. Instead, you are responsible for all required inspections and approvals and you agree to indemnify and hold us harmless from any work which is improperly done.

**30. NO WARRANTIES:** We are not agreeing to provide a Park which provides other than low to moderate-cost housing opportunities for residents. We are also not warranting or representing that your modular home will appreciate in value.

**31. REMOVAL OF IMPROVEMENTS:** If you remove your modular home, you agree to remove all trees, shrubs and all other landscaping and also remove all other improvements, structures and other things except the driveway, utilities and other property and improvements belonging to the Park. In other words, with the exception of improvements and other property belonging to the Park, when you remove your modular home, you will take your Space down to bare ground.

**32. LOT AND LINES AND LOT LINE MARKERS:** The boundaries of the real property rented to Homeowner shall be the lesser of either (1) the lot lines as determined by a governmentally approved survey or by a recorded plot plan or (2) the apparent physical boundaries of the Homesite as they exist at the time this Agreement is entered into. However, if the minimum area necessary to comply with setback requirements of state and local agencies comprises of a smaller area than stated above then this smaller area shall comprise the Homesite. Any adjustment shall not result in reduction, or offset of rents.

**A.** The lesser of the lot lines or actual and apparent use of a homesite defines the expectations of occupation which homeowner may use and enjoy. Such expectations are also subject to change based on any adjustments required by any authority requiring same or as needed for setback compliance. In such cases, no claim shall lie against management for satisfaction of such legal mandate or direction and homeowner releases owner, management and all persons from any loss in area of the homesite resulting from legally required lot line adjustments. Homeowner is responsible for homesite maintenance within the area defined by the lot line markers. You shall maintain your lot line markers as they currently exist and you will promptly notify us if your lot line markers are lost, moved or destroyed.

**B.** The foregoing defines the enforceable expectations of use, occupation and enjoyment to which Homeowner is entitled. The lot line markers and lot lines in the park are for the purpose of establishing the separation and set-backs for installation of modular homes, accessory structures and equipment, utilities and appliances as defined by applicable codes and standards and for no other purpose. Therefore, homeowner may not rely on the lot line markers to define the area of use and enjoyment to be expected. Owner reserves the right to modify any lot line at any time provided that such modification does not violate any applicable law. If homeowner or any prior Homeowner of the space or any adjoining space has installed landscaping or other improvements that have been discovered to encroach across a lot line over a course of time of previously-established consistent usage, then homeowners of any adjoining spaces agree to continue to allow the use of the area encroached upon as was expected before such discovery. This use of the encroached-upon area will not, however, affect the location of the lot line markers. Homeowner shall maintain the lot line markers as they currently exist. Homeowner agrees to indemnify and hold harmless owner and owner's agents, employees, representatives, assigns and successors, against any loss, cost, damage, expense (including attorneys' fees) or other liability incurred or imposed by reason of any person, association, firm or corporation claiming to have an interest in the event that the lot line markers are lost, moved or destroyed.

**C.** The space is demised and let unto Homeowner, subject to all easements and encumbrances of record and which exist in fact. The space may contain underground easements, rights of way, utilities or other encumbrances which may limit the maximum size of any modular home, accessory structure or equipment which may be subsequently installed on the space which would otherwise be permitted by defined lot lines and applicable codes and standards.

**33. ALTERATIONS AND ADDITIONS:** You agree not to make any changes, alterations, improvements, additions, or utility installations to, on or about your Space or home, nor install, remove, or change any existing improvements, modify the drainage or landscaping nor make any contract for such work without our prior written consent and approval. NOTE IN PARTICULAR THAT ANY CHANGE IN THE DRAINAGE PATTERN OF THE SPACE MAY RESULT IN WATER RUNNING UNDER YOUR MODULAR HOME OR THE MODULAR HOMES ON ADJACENT SPACES. In giving or withholding our consent to any such work, we may, at our option and in our sole discretion, take into account and base our agreement or refusal of consent entirely upon aesthetic considerations and the compatibility of such changes to the rest of the Park. If you fail to obtain our prior written consent and approval, all such changes, alterations, improvements, additions, or utility installations shall be promptly removed by you and the property restored to its original condition, at your expense, upon our request.

**34. USE OF FACILITIES:** You and your guests have the right to use the Park and the Park's facilities only if they comply with these Rules and Regulations and the other provisions of the Park's residency documents. We will attempt to promptly, equally and impartially obtain the cooperation and compliance of all residents with respect to the Rules and Regulations and other conditions of residency. You recognize, however, that our ability to obtain compliance is dependent upon a number of factors, including the cooperation of all residents and their guests. You agree, therefore, that the enforcement of the Rules and Regulations and conditions of tenancy are a private matter between us and each resident individually. You agree that you are not a third party beneficiary of any other agreement between us and any other resident in this Park.

**35. EXPANSIVE SOIL:** The Park is located on very expansive soil which, as it expands and contracts, can cause damage to your modular home and other property and improvements for which you are financially responsible to maintain, repair and replace or to property and improvements of the Park. This expansive soil will also require that you pay to have your modular home leveled on a more frequent basis.

**36. OCCUPANCY RESTRICTIONS.** No more than two (2) persons per bedroom, plus one (1) additional person per modular home, may regularly occupy the modular home. For purposes of this restriction, a "bedroom" is a room intended by the manufacturer of the modular home to be regularly used as a bedroom and all bedrooms must contain closet space. A bedroom is not a den, family room, living room or other room, which has been or could be converted to a bedroom.

**37. INSPECTION.** You agree you have carefully inspected the Space you are renting and all of the Park's services, improvements and facilities and you have found them to be safe and as represented by us to you, either orally or in writing, and you accept them as they are. To the extent that you have found such services, improvements or facilities not to be safe or not to be as represented by us to you, either orally or in writing, you nonetheless agree to accept them as they are. If you have any complaints or reports of defects of any kind, please list them here:

Dated:

\_\_\_\_\_

**38. CIVIL CODE NOTICE:** The following notice is provided for the information of the homeowner and resident, and is required to be provided for residential rental agreements. For the convenience of modular home owners, this notice is also included herein. "Pursuant to Section 290.46 of the Penal Code, information about specified registered sex offenders is made available to the public via an Internet Web site maintained by the Department of Justice at [www.meganslaw.ca.gov](http://www.meganslaw.ca.gov). Depending on an offender's criminal history, this information will include either the address at which the offender resides or the community of residence and ZIP Code in which he or she resides." The law further provides that based on this notification, the lessor (owner and management), seller, or broker is not required to provide information in addition to that contained in the notice regarding the proximity of registered sex offenders; the information in the notice shall be deemed to be adequate to inform the lessee or transferee about the existence of a statewide data base of the locations of registered sex offenders and information from the data base regarding those locations. The information in the notice shall not give rise to any cause of action against the disclosing party by a registered sex offender.

**PLEASE NOTE:** Owner and management are permitted to investigate the ability of the prospective homeowner to pay rent and to comply with the rules and regulations of the Community pursuant to Civil Code §798.74. Homeowners and residents are free to further investigate in this regard to the extent not unlawful and deemed necessary and appropriate.

**39. INDEMNIFICATION:**

A. We will not be liable for any damage, injury, loss, expense, or inconvenience to any person or property caused by any use of the Park or your Space, or by any defects in any improvements, or failure of services or amenities, or arising from any other cause, unless resulting from our active negligence or willful misconduct. You agree to release, discharge, indemnify, and hold us free and harmless from all such injury, damage, loss, expense, or inconvenience for which we are not liable, including the provision of a defense and payment of attorneys' fees and costs which relate thereto. This paragraph is not an exculpatory clause of any legally imposed duty of care upon us, or a disclaimer or release of liability to other than the fullest extent permitted by law, and shall not be otherwise construed or interpreted.

B. You agree to indemnify us for all liability, damages, injury, loss, debts, suits, actions, claims, demands, causes of action, judgments, and expenses, including the provision of a defense, attorneys' fees, and costs, resulting from or alleged to have resulted from your negligent, willful, or intentional conduct, or the condition or the maintenance, or lack thereof, of your modular home, Space, vehicle(s), equipment, accessory structures, property, improvements, or all of them, prior to the termination of this Lease.

C. You understand that the variables inherent in a modular home investment include risks of obsolescence, changes in demand, location, modular home maintenance, wear and tear, age, technological advances, interest rates and terms, economic climate and development, neighborhood change, and many other factors beyond our control. The value of your modular home may decline in the future, like any residence. You agree to indemnify, discharge, release, and hold us free and harmless against and in the event of economic loss, diminution in market value, or depreciation of your modular home, or its accessory structures or equipment, and other improvements, including lack of demand therefore, which results in the future. You understand the existence of such investment risk, and agree to accept all risks of economic loss or loss in value to the modular home. This indemnification and release does not relieve us of any legally-imposed duty of care as to injury or property damage (for example, physical damage for which we have a duty to repair or compensate you).

**40. PAYMENT OF TAXES FOR RESIDENTS' PROPERTY.** You agree to pay, before delinquency, all taxes, assessments, license fees, and other charges ("taxes") that are levied or assessed against your personal property and improvements which are installed or located in or on the Space, including your modular home and its accessory structures and equipment ("improvements"). Upon our request, you will furnish us with satisfactory evidence of these payments. If any taxes on your improvements are levied against us or our property, or if the assessed value of the Park, the Space and/or other improvements is increased by the inclusion of a value placed on your improvements and if we pay the taxes on any of these improvements or the taxes based on the increased assessment of these improvements, you will, at our request, immediately reimburse us for the taxes levied against us or the proportion of the taxes resulting from the increases in our assessment. We will have the right to pay these taxes regardless of the validity of the levy or assessment. You may contest any such tax that is levied or assessed against your personal property and improvements. However, you are still obligated to pay such tax, before delinquency.

**41. INSURANCE.** We do not carry public liability or property damage insurance to compensate you, your guests, or any other person from any loss, damage, or injury except those resulting from situations where we would be legally liable for such loss, damage, or injury. You are required to obtain, at your own cost, extended coverage for your modular home, fire, earthquake, and other casualty insurance on the modular home, other improvements and contents to the full insurable value, personal liability and such other insurance as is necessary to protect you, your guests, or others from loss or liability.

**42. CONTRACTORS AND LIENS AND CLAIMS.** Only licensed contractors having adequate liability and Worker's Compensation Insurance are permitted to work in the Park and we may require them to provide proof of insurance to us in advance of beginning any work.

A. Homeowner will not allow any lien, claim or demand arising from any work of construction, repair, restoration, maintenance or removal done to or regarding the modular home or homesite, to be enforced against Owner, and Homeowner will pay all liens, claims and demands before any action is brought to enforce them. Homeowner agrees to hold Owner free and harmless from all liability for any and all such liens, claims or demands, together with all costs and expenses, including but not limited to, attorney's fees and court costs incurred by Owner in connection with them. If any such lien, claim or demand is made, Owner may require Homeowner to discharge same within 30 days by either payment, deposit or bond. If Homeowner fails to do so, then, in addition to any other rights or remedies Owner may have, Owner may, but is not obligated to, procure the discharge of the lien, claim or demand by either paying the amount claimed to be due by deposit in court or bonding. Any amount Owner pays or deposits plus all other costs and expenses incurred, including reasonable attorney's fees and costs in defending any such action or procuring the discharge of the lien, claim or demand, shall be payable by Homeowner as additional Monthly Rent on the next monthly billing.

B. No Recording of Interest: Homeowner shall not record any homestead against the title to the park property, nor allow any mechanics lien, materialman lien or other lien to be filed against the park property. Homeowner shall not file any lis pendens against the park property. Homeowner shall not record this agreement or any memorandum of this agreement

against the park property. Owner may require Homeowner to discharge same within 30 days by either payment, deposit or bond. If Homeowner fails to do so, then, in addition to any other rights or remedies Owner may have, Owner may, but is not obligated to, procure the discharge of the lien, claim or demand by either paying the amount claimed to be due by deposit in court or bonding. Any amount Owner pays or deposits plus all other costs and expenses incurred, including reasonable attorney's fees and costs in defending any such action or procuring the discharge of the lien, claim or demand, shall be payable by Homeowner as additional Monthly Rent on the next monthly billing. You may not allow any liens or other claims to be made against our property and, if you do, you agree to immediately do whatever is necessary to remove them and protect our interests.

**43. ALTERATIONS AND ADDITIONS:** Homeowner agrees not to make any alterations, improvements, additions or utility installations to, on or about the homesite or modular home, nor install, remove or change any existing improvements, or modify the drainage or landscaping nor make any contract for such work without Owner's prior written consent and approval. Homeowner is responsible for all conditions under the modular home including grading, compaction, subsidence, drainage, moisture, and ventilation. In giving or withholding consent to any such work, Owner may, at its option, consider and base consent or refusal of consent entirely upon aesthetic considerations and the compatibility of such changes to the Park. If Homeowner fails to obtain prior written consent and approval, all such alterations, improvements, additions or utility installations shall be promptly removed at Homeowner's sole expense, upon Owner request.

**44. ZONING AND USE PERMIT INFORMATION:** (WILL CHANGE WITH APPROVED BAHIA VILLAGE C.U.P.) The nature of the zoning, which the Park operates, is as follows, according to excerpt from letter of \_\_\_\_\_, 2021 from the City of Lake Elsinore: "The Conditional Use Permit No. 7-69 was of a permanent type. Said C.U.P. was approved by the Planning Commission at their meeting of \_\_\_\_\_, 20\_\_, subject to City Council Approval. The current zoning is R-A (Rural-Agricultural). The zone is not consistent with the General Plan designation, which is Medium-Density housing, allowing 10-40 dwelling units per acre. The General Plan takes precedence over the zoning in the event the property were developed other than as the existing Conditional Use Permit." The permits under which the Park operated are not subject to expiration or renewal. Owner has the right at any time in the future to lease the land on which the Park is located. Should owner do so, owner will give written notice of the expiration date of that new lease. The Park is located on land, which we lease from someone else. The term of the Land Lease is for \_\_\_\_\_ ( ) years, commencing on the 1st day of \_\_\_\_\_ 2021, and ending on the 31st day of \_\_\_\_\_ 20\_\_.

**45. DUTY TO INSPECT FOR MOLD.** Homeowner agrees that prior to taking possession of the modular home on completion of sale, a home warranty inspection shall be conducted by buyer at buyer's expense in order to investigate the conditions of the modular home including the presence of any mold. If buyer discovers the presence of any mold, it shall be the immediate duty of the buyer to remediate and remove any such discovered mold. Buyer shall thereafter at reasonable and recommended intervals, cause to be made further periodic inspections, as necessary and appropriate, in order to ensure that the modular home shall be kept free of any mold. Buyer assumes all risk that any mold is present in or about the modular home at time of purchase. Buyer therefore agrees to indemnify, defend and hold management, owner and all agents and employees free and harmless from any claim, demand, suit, action, or liability (personal or bodily injury or property damage to any person or thing) caused or claimed to be caused by mold in, about or under a modular home or any accessory structure equipment, appliance or other property, or upon the homesite. Since management may not enter the modular home except under the circumstances allowed by the Mobile Home Residency Law, homeowner further warrants that the modular home is under the exclusive control of the homeowner and that management has no duties respecting prevention or treatment of mold within the modular home. If the occurrence of mold is observed by the management and Homeowner fails to properly remediate such condition, management may but has no duty to proceed with any available remedy to cause Homeowner to do so.

**A.** Homeowner Responsible for Moisture, Accumulated Water, Mold. Homeowner shall maintain the homesite so water does not accumulate. Water must drain off in a fashion as to avoid runoff onto another homesite. The skirting shall not extend into the grade because moisture or water may accumulate under the modular home. All watering systems shall be installed, maintained and adjusted as necessary to avoid water run-off and standing water. Any berms shall be maintained to avoid the accumulation of water on the homesite. Any masonry skirting must contain sufficient ventilation to prevent accumulation of water under the modular home.

**B.** Homeowner warrants to maintain the modular home and areas under the modular home and space free of and from conditions which produce mold. Homeowner is also responsible for mold cleanup. It is imperative to treat and remove all molds as if they are potentially harmful. The following are sources of indoor moisture that may cause problems: flooding, backed-up sewers, leaky roofs, humidifiers, mud or ice dams, damp crawl spaces, constant plumbing leaks, house plants -- watering can generate large amounts of moisture, steam from cooking, shower/bath steam and leaks, wet clothes on indoor drying lines, clothes dryers vented indoors, combustion appliances (e.g. stoves) not exhausted to the outdoors. Homeowner should keep the humidity of the home down and ensure adequate ventilation inside the home (especially in the kitchen and bathroom).

**C.** Homeowner agrees to indemnify, defend and hold management, owner and all agents and employees free and harmless from any claim, demand, suit, action, or liability (personal or bodily injury or property damage to any person or thing) caused or claimed to be caused by mold in, about or under a modular home or any accessory structure equipment, appliance or other property, or upon the homesite. Homeowner furthermore warrants that there is no mold of any kind upon any location on the homesite. Since management may not enter the modular home except under the circumstances allowed by the Mobile Home Residency Law, Homeowner further warrants that the modular home is under the exclusive control of the Homeowner and that management has no duties respecting prevention or treatment of mold within the modular home. If the occurrence of mold on the homesite is observed by the management and resident fails to properly remediate such condition, management may proceed with any available remedy including a fourteen day notice as elsewhere provided for in Homeowner's agreements with the management (with management cost therefore to be added as further rent payable together with rents and other charges on the first month, as billed, following such remediation); seek injunctive relief to compel compliance with mold remediation as hereby required; and / or terminate tenancy for failure to comply with this reasonable rule and regulation. Such remedies are cumulative and election of any remedy shall not preclude the resort to other remedies.

**46. RESERVATION OF FUTURE SURVEILLANCE FOR COMMON AREAS.** Management reserves the right to monitor, by audio and visual equipment including a surveillance camera and recording equipment, common areas of the Park including streets, recreation hall, swimming pool and parking areas.

**47. WAIVER OF DEFAULT:** If homeowner fails to meet any obligation under this Agreement, a delay or omission in exercising any right or remedy will not impair any rights or remedies nor will it be considered a waiver of any right or remedy.

**A.** No waiver to enforce any provision of this Agreement after any default will be effective unless it is made in writing and signed by management, nor will it be considered a waiver of any rights to enforce each and every provision of this Agreement upon any further or other default. Acceptance of rent will also not be a waiver (nor estoppel or acquiescence) of any breach of this Agreement, including any rule, regulation or other term or provision contained in any document referred to in this Agreement, nor affect any demand, notice or suit, but is agreed to offset recovery.

**B.** Acceptance of rent shall not reinstate or create a tenancy. Conditional acceptance of rent pending approval of tenancy shall not be deemed to create a tenancy or waive any requirements applicable to tenancy, purchaser application or approval requirements or assignment or transfer requirements. Acceptance of rent shall constitute no waiver of rule violations, substantial annoyance, or other grounds for the termination of tenancy specified under the Mobile Home Residency Law.

**C.** Acceptance of rent after service of a notice to terminate tenancy as specified in Civil Code section 798.57 shall not waive, affect or prejudice the notice. Nor shall routine service of other notices, management communications, or other actions or omissions of the management waive, prejudice, or affect the right to terminate tenancy, process a purchaser application and approve a homeowner for tenancy, or otherwise affect the rights of management. Possession of rent by the resident manager shall not be acceptance until actually approved by the park owner; accordingly, the receipt by or the tender of payment to the resident park manager shall be conditional and for custody purposes only until approved and accepted by the park owner.

**D.** Management may exercise any right under the terms of this agreement, or these rules and regulations as amended or modified or any other right of the management under applicable law, and do so at any time subsequent to the date such right became effective hereunder, and do so retroactively to the date the right initially became effective or enforceable and demand performance from such inception through to and including the date of the demand and thereafter; any such delay, forbearance, whether intentional or inadvertent in enforcing any such right shall not be construed as a waiver, release or acquittal, accord and satisfaction, settlement in whole or part; shall not constitute an estoppel, or laches; and, shall not render any such right unenforceable or be a defense against enforcement of such rights from the time such right could first be exercised and thereafter.

**48. ATTORNEY'S FEES:** Attorney's fees and costs may be awarded per the provisions of the Mobile Home Residency Law, or other laws, including changes to these laws which may occur in the future. The same is true of any litigation between the parties to this agreement even if not arising under the Mobile Home Residency Law or other laws.

**49. REMEDIES:** Injunctive relief may be sought without proof of irreparable harm or lack of an adequate legal remedy in the event of a violation of these rules and regulations. A violation of these rules and regulations raises a conclusive presumption of irreparable harm and lack of adequate legal remedy and proof thereof is agreed to be unnecessary. All terms of the rental agreement are deemed rules and regulations at election of management.

**50. SEWER DISPOSAL: MATERIAL WHICH WILL NOT DISSOLVE IN THE SEWER SYSTEM,** such as facial tissue, paper towels, sanitary napkins, or dryer sheets **MUST NOT BE FLUSHED DOWN THE TOILETS.** To prevent stoppage, grease and coffee grounds must not be placed in sewer system. No toxic substances may be placed in any refuse container but must be carried out of the park and disposed of in accordance with law. Such substances as oils, gas, machinery fluids of all kinds, paint, astringents, solvents, thinners, acids, detergent waste, etc. are prohibited from being disposed of in the park. (Your cooperation in this matter will be appreciated by all of the residents of the Park; violation of these rules may require eviction or other relief for protection of the park and natural environment.) Any cost or expense incurred by the management in remediating a sewer stoppage caused by homeowner or residents which can be identified as having occurred in the branch line located between the modular home sewer outlet and the main sewer line, not affecting other modular homes, shall be the responsibility of the homeowner or residents who caused the stoppage to occur; in such case, management may charge homeowner, as further rent pursuant to the rental agreement, for the damage and expense so resulting, and may do so by adding the cost of the remediation to the monthly rent statement for the month which follows the completion of the remediation and payment of the cost for same.

**51. SECURITY NOT PROVIDED:** Tenant acknowledges that the Park is not a "security" community. Resident agrees that Owner, his employees, and agents have not made any representations or warranties that the Park is secure from theft or other criminal acts which may be perpetrated by any resident or other persons. The park is a reflection of modern society, with many of the same benefits and risks. All residents should exercise typical precautionary measures for their own protection and well-being. While there are no specific incidents which call for warnings or precautionary security measures by the management known at this time, good "common sense" advice should be remembered.

**A.** First, be aware of your surroundings. When walking in the park, be aware of traffic, bicyclists, and other people. Be even more careful at night when vision is reduced, pedestrians are more difficult to see.

**B.** Ordinary security measures are also appropriate, including locking of doors and windows, watching for suspicious activity, watching out for your neighbors. Report any suspicious activities to the police. Be wary of solicitors and salesmen or contractors who canvas door-to-door.

**C.** Do not allow strangers into your home for any reason. Be more cautious for your own safety in the evening hours. Management hopes that preventive measures will be effective in avoiding problems before they arise.

**D.** Management strongly urges homeowners to keep their modular homes secured and all personal effects insured for their protection. It is strongly recommended that homeowners fully secure all windows with locking devices and that a deadbolt lock with a one inch throw be installed on all doors. It is suggested that each homeowner carry personal liability and property damage insurance and replacement coverage on their modular home and belongings.

**52. EMERGENCY TELEPHONE INFORMATION:** Gas Co.; XXX-XXX-XXXX Fire Dept: XXX-XXX-XXXX EMERGENCIES: **911** Police: Dept.: XXX-XXX-XXXX Park Office: XXX-XXX-XXXX. The responsible person for operation and maintenance: Contact the Park Office of Bahia Village at XXX-XXX-XXXX (or as subsequently amended by notice or posting); Enforcement agency:

Department of Housing and Community Development or authorized governmental agency; Nearest fire alarm box, when available: **N/A** Park Phone to reach resident manager: **xxx-xxx-xxxx**. (This information and the emergency procedure for gas leaks or other safety hazards in the gas distribution system is in the park office.)

53. HEADINGS: The headings and titles of the paragraphs within these Rules and Regulations are included for the purpose of convenience only, and shall not affect the construction or interpretation of any of the provisions of said Rules and Regulations.

54. CHANGES TO RULES AND REGULATIONS AND ARCHITECTURAL AND LANDSCAPING SPECIFICATIONS: All of the above rules and regulations may be changed at any time as permitted by the Mobile Home Residency Law, including changes to the Mobile Home Residency Law which may be made in the future.

55. ACKNOWLEDGMENT. You acknowledge and agree as follows:

**A. THAT YOU AND THE OTHER MEMBERS OF YOUR HOUSEHOLD HAVE HAD THE OPPORTUNITY TO READ THESE RULES AND REGULATIONS AND ALL DOCUMENTS IT INCORPORATES OR REFERS TO AND THE OPPORTUNITY TO DISCUSS THESE RULES AND REGULATIONS AND ALL SUCH DOCUMENTS WITH AN ATTORNEY AND ANY OTHER ADVISOR YOU MIGHT CHOOSE TO SELECT. YOU AND THE OTHER MEMBERS OF YOUR HOUSEHOLD AGREE TO COMPLY WITH ALL THE TERMS OF THESE RULES AND REGULATIONS AND THE DOCUMENTS IT INCORPORATES OR REFERS TO. YOU ALSO AGREE TO BE RESPONSIBLE FOR THE CONDUCT OF OTHER MEMBERS OF YOUR HOUSEHOLD AND ALL GUESTS OR OTHER PERSONS WHO ARE IN THE PARK WITH THE PERMISSION OR AT THE REQUEST OF YOU OR OTHER MEMBERS OF YOUR HOUSEHOLD.**

Initial by Homeowner \_\_\_\_\_

Initial by Management: \_\_\_\_\_

**B. YOU AND THE OTHER MEMBERS OF YOUR HOUSEHOLD ALSO AGREE THAT THESE RULES AND REGULATIONS MAY BE MODIFIED TO ADD OR SUBTRACT PROVISIONS OR MODIFY EXISTING PROVISIONS IN ACCORDANCE WITH CALIFORNIA CIVIL CODE §§ 798, et seq. BY SIGNING BELOW, YOU AGREE THAT THESE RULES AND REGULATIONS ARE EFFECTIVE IMMEDIATELY ON YOU AND ALL MEMBERS OF YOUR HOUSEHOLD.**

Initial by Homeowner: \_\_\_\_\_

Initial by Management: \_\_\_\_\_

**C. NOTE TO NEW HOMEOWNERS AND ESCROW: THIS AGREEMENT WILL NOT BE EFFECTIVE UNLESS THE PURCHASE OF THE MODULAR HOME IS COMPLETED; OTHERWISE THIS AGREEMENT IS EXPRESSLY NULL AND VOID FOR ANY PURPOSE. You warrant that all information provided to us is true and correct, constituting material inducements for this agreement. You shall promptly notify us in writing of any change in this information. Provision of false information is fraud, and justifies rescission, damages, and other remedies.**

Initial by Homeowner: \_\_\_\_\_

Initial by Management: \_\_\_\_\_

RESIDENT \_\_\_\_\_

RESIDENT: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

RESIDENT: \_\_\_\_\_

RESIDENT: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

Names of all other persons residing at space: \_\_\_\_\_

ACCEPTED AND AGREED:  
MANAGEMENT

Dated: \_\_\_\_\_ AUTHORIZED AGENT: \_\_\_\_\_

EQUAL HOUSING OPPORTUNITY  
WE DO BUSINESS IN ACCORDANCE WITH THE FEDERAL FAIR  
HOUSING LAW IT IS ILLEGAL TO DISCRIMINATE AGAINST ANY  
PERSON BECAUSE OF RACE, COLOR, RELIGION,  
SEX, HANDICAP, FAMILIAL STATUS, OR  
NATIONAL ORIGIN

EXHIBIT D  
INDUSTRY REPORT

# BAHIA VILLAGE JOINT VENTURE OPPORTUNITY

*BV1—Lake Elsinore, CA*

## BAHIA VILLAGE JV OVERVIEW

Bahia Village Communities Inc (BVC Inc.) was formed in early 2021 to deliver state-of-the-art sustainable energy homes in Lake Elsinore, California. The luxury community for ages 55+ features 71 custom modular homes that will be energy net positive using graphene solar panel technology.

The Bahia Village concept is a single-story home with 2 bedrooms and 2 baths over approximately 1K square feet of space and 2 car garage. . Community amenities include: a clubhouse, pool, spa, gardens, and a dog park. It is a highly affordable lifestyle with **no electricity bill** for people 55+.

The BV1—Lake Elsinore community is the first Bahia Village to be developed with additional villages to be built near 35 S2A Modular plants in the US. The result will be more than 35K homes serving the explosive demand for affordable, clean, and energy efficient 55+ communities.

BVC, Inc. is currently seeking strategic and/or financial joint venture partners to capitalize the parent company and complete the BV1—Lake Elsinore project. The total investment capital required is \$1M for corporate expenses and \$19M over three phases for BV1 development expenses. The company is accepting accredited investors for a JV partner investment of \$20M, which may be a combination of capital and like-kind contributions of land.

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**PHASE 1 BUDGET: \$4,393,500**

---

**PHASE 2 BUDGET: \$1,948,750**

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**PHASE 3 BUDGET: \$12,657,750**



## MEET THE BAHIA EXEC TEAM



**SHARON AMEZCUA | CEO**

35+ years as global serial entrepreneur and investor.



**DEAN DELISLE | President**

35+ years marketing, real estate, capital markets, and finance.



**JOHN ROWLAND | COO**

30+ years construction and energy. Real Estate Broker.



**LARRY BRADEN | CFO**

30+ years financial impact and Designated RE Broker.



## INCOME STREAMS

10 acres of land has been secured in escrow in Lake Elsinore, CA for the first Bahia Village community. BVC Inc. estimates that this project will generate **more than \$14M** in profitability. Below is an overview of the three income streams generating profitability: Home Sales, Residual Income through maintenance and amenity fees, and the eventual sale of the entire BV1–Lake Elsinore community.

<b>HOME SALES</b>	Initial sale of 71 homes returns 100% of \$20M investment plus more than \$5M in profitability to be split proportionally with the JV partner
<b>RESIDUAL</b>	\$45.5K per month in perpetuity from maintenance/amenity fees plus the sale of excess electricity totaling ~\$86k per year generates an estimated \$570K NOI per year for the JV partner.
<b>SALE OF BV1</b>	The sale of the Lake Elsinore community will result in an estimated \$8.25M (depending on market conditions at sale) to be split with JV partner.

## ESTIMATED ROI

The BV1–Lake Elsinore community is ready for development and completion in calendar year 2021. BVC Inc. is offering a 50% ownership stake in The BV1–Lake Elsinore community for \$20M.

BVC Inc. has a long-term contract with S2A Modular to build Bahia Village communities at cost plus 22.5%. Construction costs will be driven down further to increase profitability as BVC Inc. builds more communities.

BVC Inc. plans to build and exit the BV1–Lake Elsinore community within a year of breaking ground to minimize risk and ensure returns to JV partners. Assuming this exit timing, estimated profits and returns are:

<b>2021</b>	JV Partner invests \$20M
<b>2022</b>	JV Partner receives entire return on initial investment
<b>2022</b>	JV Partner receives 50% of realized profits from 2021
	JV Partner can cash out or reinvest in next BVC Inc. project

# BAHIA VILLAGE COMMUNITIES, INC. INVESTMENT OPPORTUNITY

## BAHIA VILLAGE COMMUNITIES, INC. INVESTMENT OVERVIEW

Bahia Village Communities Inc (BVC Inc.) was formed in early 2021 to deliver state-of-the-art sustainable energy homes across the United States. The luxury community for ages 55+ features custom modular homes that will be energy net positive using graphene solar panel technology.

The Bahia Village concept is a single-story home with 2 bedrooms and 2 baths over approximately 1K square feet of space and 2 car garage. Community amenities include: a clubhouse, pool, spa, gardens, and a dog park. It is a highly affordable lifestyle with **no electricity bill** for people 55+.

The BV1–Lake Elsinore community is the first Bahia Village to be developed with additional villages to be built near 35 S2A Modular plants in the US. The result will be more than 35K homes serving the explosive demand for affordable, clean, and efficient over 55+ communities.

BVC, Inc. is currently seeking investors to capitalize the parent company and complete the BV1–Lake Elsinore project. The company is accepting accredited investors in the current private placement memorandum at a minimum investment amount of \$200K.

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**PHASE 1 BUDGET: \$4,393,500**

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**PHASE 2 BUDGET: \$1,948,750**

---

**PHASE 3 BUDGET: \$12,657,750**

---



## MEET THE BAHIA EXEC TEAM



**SHARON AMEZCUA | CEO**

35+ years as global serial entrepreneur and investor.



**DEAN DELISLE | President**

35+ years marketing, real estate, capital markets, and finance.



**JOHN ROWLAND | COO**

30+ years construction and energy.  
Real Estate Broker.



**LARRY BRADEN | CFO**

30+ years financial impact and Designated RE Broker.



## SAMPLE INCOME STREAMS FROM BV1- LAKE ELSINORE

10 acres of land has been secured in escrow in Lake Elsinore, CA for the first Bahia Village community. BVC Inc. estimates that this project will generate **more than \$14M** in profitability. Below is an overview of the three income streams generating profitability: Home Sales, Residual Income through maintenance and amenity fees, and the eventual sale of the entire BV1–Lake Elsinore community.

<b>HOME SALES</b>	Initial sale of 71 homes returns 100% of \$20M investment plus more than \$5M in profitability to be split based on your percentage of ownership in BVC Inc.
<b>RESIDUAL</b>	\$45.5K per month in perpetuity from maintenance/amenity fees plus the sale of excess electricity totaling ~\$86k per year generates an estimated \$570K NOI per year to be split based on your percentage of ownership in BVC Inc.
<b>SALE OF BV1</b>	The sale of the Lake Elsinore community will result in an estimated \$8.25M in profit (depending on market conditions at sale) to be to be split based on your percentage of ownership in BVC Inc.

## ESTIMATED ROI

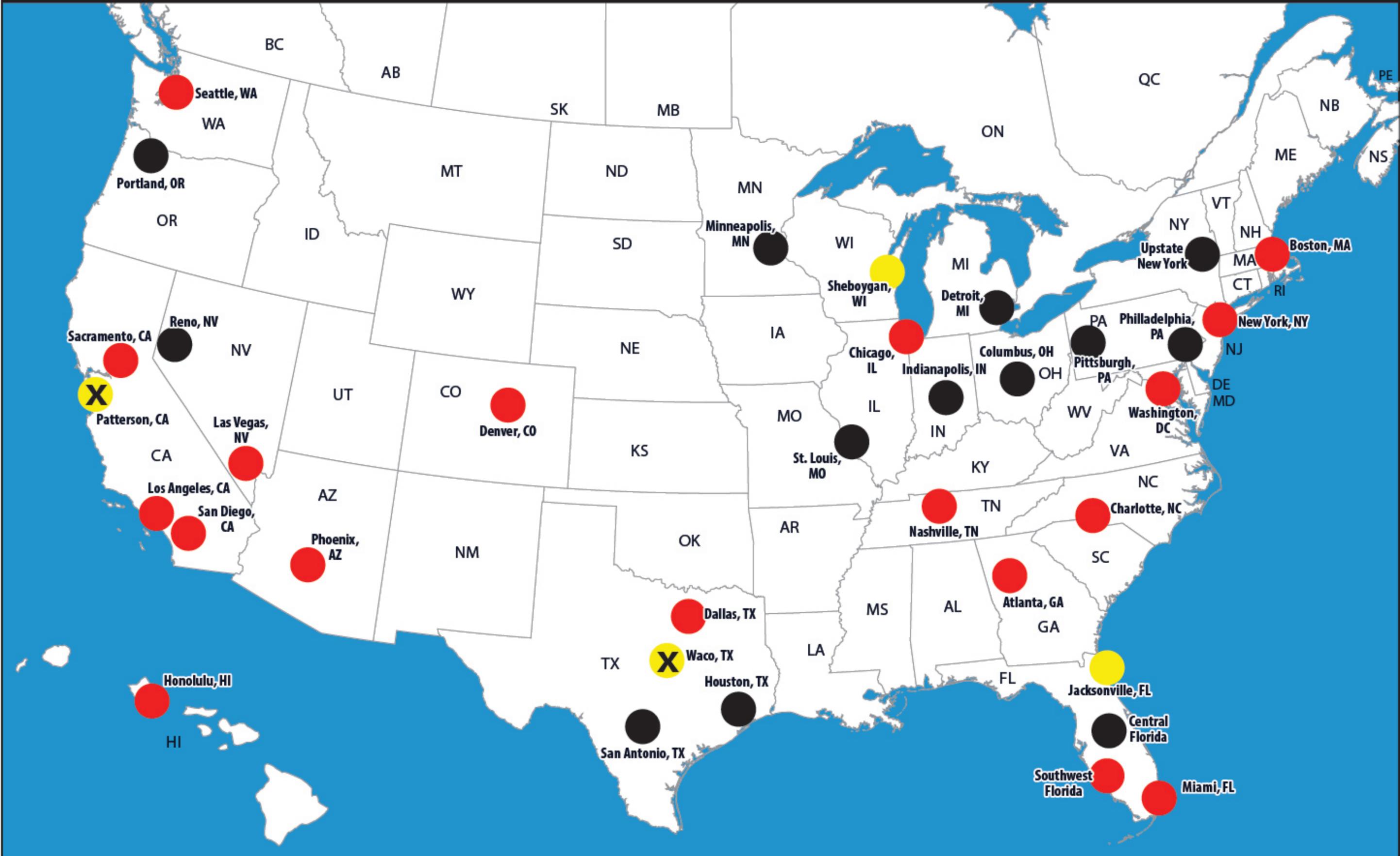
BVC Inc. is offering up to a 49% ownership stake in the parent company up to \$20M.

BVC Inc. has a long-term contract with S2A Modular to build Bahia Village communities at cost plus 22.5%. Management will use their best efforts to optimize construction costs with a goal of enhancing profitability as BVC Inc. builds more communities.

BVC Inc. plans to build and exit its first community, BV1–Lake Elsinore, within a year of breaking ground to minimize risk and maximize returns to investors. Assuming this projected exit timing, estimated profits and returns are forecasted to exceed \$14M, which will be shared based on percentage of ownership:

<b>2021</b>	Investor invests \$200K
<b>2022</b>	Investor receives entire return of initial investment + percentage of ownership in net operating income
<b>2022</b>	Upon exit, Investor can cash out or reinvest in next BVC Inc. project

EXHIBIT E  
FACTORY LOCATIONS



- |                  |                  |                     |                     |                   |                   |                      |                     |                    |
|------------------|------------------|---------------------|---------------------|-------------------|-------------------|----------------------|---------------------|--------------------|
| 1. Waco, TX      | 5. San Diego, CA | 9. Jacksonville, FL | 14. Miami, FL       | 18. Honolulu, HI  | 22. Sheboygan, WI | 26. Indianapolis, IN | 30. San Antonio, TX | 34. Upstate NY     |
| 2. Patterson, CA | 6. Chicago, IL   | 10. Charlotte, NC   | 15. Central Florida | 19. Denver, CO    | 23. Detroit, MI   | 27. Columbus, OH     | 31. Houston, TX     | 35. Pittsburgh, PA |
| 3. Seattle, WA   | 7. Boston, MA    | 11. Washington, DC  | 16. Los Angeles, CA | 20. Nashville, TN | 24. Portland, OR  | 28. Philadelphia, PA | 32. Dallas, TX      | 36. Southwest FL   |
| 4. Phoenix, AZ   | 8. New York, NY  | 12. Reno, NV        | 17. Sacramento, CA  | 21. Atlanta, GA   | 25. Las Vegas, NV | 29. St. Louis, MO    | 33. Minneapolis, MN |                    |

EXHIBIT F  
DEMAND NUMBERS

<b>State/Region</b>	<b>Single Family 55+</b>	<b>Developers</b>
California	5,102	2,228
Florida	3,866	1,948
New York Tri-State	3,217	1,601
Texas	3,212	1,873
D.C. Metro Area	2,304	992
Canada	2,195	1,093
Georgia	1,787	925
Washington	1,494	558
North Carolina	1,412	638
Illinois	1,159	647
Colorado	1,153	599
Arizona	1,111	481
Pennsylvania	992	531
Massachusetts	913	412
Michigan	902	510
Ohio	717	359
Oregon	706	287
Tennessee	701	363
Minnesota	673	277
Nevada	543	251
South Carolina	540	267
Missouri	506	302
Wisconsin	420	210
Indiana	407	216
Utah	400	208

EXHIBIT G  
MODULAR DISRUPTION

McKinsey  
& Company

# The next normal in construction

How disruption is reshaping the world's largest ecosystem

June 2020



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© Dong Wenjie/Getty Images

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# The next normal in construction

How disruption is reshaping the world's  
largest ecosystem

June 2020

This article was a collaborative, global effort among  
Maria João Ribeirinho, Jan Mischke, Gernot Strube,  
Erik Sjödin, Jose Luis Blanco, Rob Palter, Jonas  
Börck, David Rockhill, and Timmy Andersson.

# Preface

June 2020

**Countervailing factors are reshaping** the global economy, and no industry is immune to their impact. Grounded in the built, physical world, construction may seem less vulnerable to the impact of digital technologies and Silicon Valley disrupters. Indeed, the cranes accenting fast-rising urban centers and the workers on commercial and residential projects might lead some executives to believe that as it has been, so it shall be.

In truth, construction is just as susceptible to these disruptions as other industries, but the ways in which the landscape will be affected are different. In 2017, the McKinsey Global Institute (MGI) highlighted that the construction industry needs to evolve and showed ways in which it can change to improve productivity by 50 to 60 percent and deliver \$1.6 trillion a year in incremental global value.<sup>1</sup> The call to action was heard: executives we speak to are thinking through how to prepare for changes ahead—and they increasingly recognize that it's no longer a matter of if or when construction will be affected. Change is already here.

The COVID-19 crisis unfolding at the time of publishing this report will accelerate disruption and the shift to a “next normal” in the construction ecosystem. Many executives are wrestling with the pandemic's economic turmoil, the shifts in demand it entails, and operating restrictions and longer-term safe working procedures. However, it is also critical for executives to lift their view to what the future will hold in terms of changes to business models and industry dynamics. It is in times of crisis that winners segregate from losers, and those who take bold moves fast can reap the rewards.

This research analyzes how the entire ecosystem of construction will change, how much value is at risk for incumbents, and how companies can move fast to adapt to and, in fact, create a new industry structure. We relied on top-down reviews of industry dynamics, bottom-up analysis of company data, and executive surveys to offer an unprecedented look at the entire value chain. In developing the report, we have sought to address the most pressing longer-term strategic

questions for executives in the ecosystem: how their part of the value chain will be affected, by how much, and what they should consider doing to prepare for a future that will differ radically from the present.

Our hope is that these insights will help accelerate a transformation that we believe will and must happen and provide executives around the world with a map to help navigate the rough water ahead.

This research was led by Jan Mischke, partner at the McKinsey Global Institute (MGI) in McKinsey's Zurich office; Jonas Biörck, associate partner based in Stockholm; Gernot Strube, senior partner in Munich and leader of the Capital Projects and Infrastructure Practice; Maria João Ribeirinho, partner in Lisbon; Erik Sjödin, partner in Stockholm; Jose Luis Blanco, partner in Philadelphia; Rob Palter, senior partner in Toronto; and David Rockhill, associate partner in London. We are grateful for the input, guidance, and support of Oskar Lingqvist, senior partner in Stockholm and Steffen Fuchs, senior partner in Dallas and coleader of our Capital Projects and Infrastructure Practice. The project team was led by Timmy Andersson and comprised Nadja Bogdanova, Isak Söderberg, and Richard Karlsson. Many McKinsey partners and colleagues offered helpful expert input, including Alex Abdelnour, Piotr Pikul, Nick Bertram, Subbu Narayanswamy, Marcel Brinkman, Matthew Hill, Gerard Kuperfarb, Priyanka Kamra, Niklas Berglind, Patrick Schulze, Nicklas Garemo, Koen Vermeltfoort, Fredrik Hansson, Ymed Rahmania, Frank Wiesner, Francesco Cuomo, Eric Bartels, and Kathleen Martens. Further, we wish to thank Gunnar Malm and Mats Williamson for their contributions to this report.

This report was edited by Scott Leff and David Peak and designed by Leff. Daphne Luchtenberg, Suzanne Counsell, and Lukasz Kowalik helped disseminate the report.

*Maria João Ribeirinho*

*Jan Mischke*

*Gernot Strube*

*Erik Sjödin*

*Jose Luis Blanco*

*Rob Palter*

*Jonas Biörck*

*David Rockhill*

*Timmy Andersson*

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# In brief

The construction industry, and its broader ecosystem, erects buildings, infrastructure, and industrial structures that are the foundation of our economies and are essential to our daily lives. It has successfully delivered ever more challenging projects, from undersea tunnels to skyscrapers. However, the industry also has performed unsatisfactorily in many regards for an extended period of time. The COVID-19 pandemic may be yet another crisis that wreaks havoc on an industry that tends to be particularly vulnerable to economic cycles.

External market factors, combined with fragmented and complex industry dynamics and an overall aversion to risk, have made change both difficult and slow. The COVID-19 crisis looks set to dramatically accelerate the ecosystem's disruption that started well before the crisis. In such times, it is more important than ever for actors to find a guiding star for what the next normal will look like in the aftermath and make the bold, strategic decisions to emerge as a winner.

Many studies have examined individual trends such as modular construction and sustainability. This report provides an assessment of how the full array of disruptive trends will combine to reshape the industry in earnest. Our research builds future scenarios based on more than 100 conversations with experts and executives, firsthand experience serving clients throughout the ecosystem, and reviews of other industries and their transformation journeys. We confirmed the trends and scenarios that surfaced by conducting a survey of 400 global industry leaders. Finally, we quantitatively modeled value and profit pools across the value chain, based on company data today, and formulated future scenarios. We found overwhelming evidence that disruption will touch all parts of the industry and that it has already begun at scale.

Among our findings are the following:

- *Construction is the biggest industry in the world, and yet, even outside of crises, it is not performing well.* The ecosystem represents 13 percent of global GDP, but construction has seen a meager productivity growth of 1 percent annually for the past two decades. Time and cost overruns are the norm, and overall earnings before interest and taxes (EBIT) are only around 5 percent despite the presence of significant risk in the industry.
- *Nine shifts will radically change the way construction projects are delivered—and similar industries have already undergone many of the shifts.* A combination of sustainability requirements, cost pressure, skills scarcity, new materials, industrial approaches, digitalization, and a new breed of player looks set to transform the value chain. The shifts ahead include productization and specialization, increased value-chain control, and greater customer-centricity and branding. Consolidation and internationalization will create the scale needed to allow higher levels of investment in digitalization, R&D and equipment, and sustainability as well as human capital.

- *The COVID-19 crisis will accelerate change that has already started to occur at scale.* Our research suggests that the industry will look radically different five to ten years from now. More than 75 percent of respondents to our executive survey agreed that the nine shifts are likely to occur, and more than 60 percent believe they are likely to occur at scale in the next five years. We already see concrete signs of change: for example, the permanent modular-construction market share of new North American real-estate construction projects has grown by 50 percent from 2015 to 2018, R&D spending among the top 2,500 construction companies globally has risen by approximately 77 percent since 2013, and a new breed of player has emerged to lead the change. Two-thirds of survey respondents believe that COVID-19 will lead to an acceleration of the transformation, and half have already raised investment in that regard.
- *A \$265 billion annual profit pool awaits disrupters.* A value chain delivering approximately \$11 trillion of global value added and \$1.5 trillion of global profit pools looks set for overhaul. In a scenario based on analysis and expert interviews by asset class, strongly affected segments could have a staggering 40 to 45 percent of incumbent value added at risk, even when the economic fallout from COVID-19 abates—value that could shift to new activities such as off-site manufacturing, to customer surplus, or to new sources of profit. If the value at stake is captured by players in the construction ecosystem, total profit pools could nearly double, from the current 5 to 10 percent.<sup>2</sup> The scale and pace of change and the appropriate response will differ greatly among real-estate, infrastructure, and industrial construction—but all of them will be affected. Players that move fast and manage to radically outperform their competitors could grab the lion's share of the \$265 billion in new and shifting profits and see valuations more akin to those of Silicon Valley start-ups than traditional construction firms.
- *To survive and thrive, incumbents must respond.* All of the players in the construction value chain will need to develop their strategies for dealing with or leading disruption. This is especially true for engineering and design, materials distribution and logistics, general contracting, and specialized subcontracting, all of which are likely to face commoditization and declining shares of value for parts of their activities. Companies can try to defend their positions and adjust to the changing environment, or reinvent themselves to take advantage of changes in the industry. All will need to invest in enablers like agile organizations.
- *Investors are well advised to use foresight on the respective shifts in their investment activity and will have ample opportunity to generate alpha.* Policy makers should help the industry become more productive and achieve better housing and infrastructure outcomes for citizens. And owners stand to benefit from better structures at lower cost if they play their part in making the shifts happen.



@Getty Images/Mel Melcon

# Executive summary

**Construction, which encompasses** real estate, infrastructure, and industrial structures, is the largest industry in the global economy, accounting for 13 percent of the world's GDP. A closer look at its underlying performance highlights the industry's challenges in good economic times, let alone in times of crisis. We expect a set of nine shifts to radically change the way construction is done. Companies that can adjust their business models stand to benefit handsomely, while others may struggle to survive.

## **Historically, the construction industry has underperformed**

Construction is responsible for a wide range of impressive accomplishments, from stunning cityscapes and foundational infrastructure on a massive scale to sustained innovation. However, in the past couple of decades, it also has been plagued by dismal performance.

Annual productivity growth over the past 20 years was only a third of total economy averages. Risk aversion and fragmentation as well as difficulties in attracting digital talent slow down innovation. Digitalization is lower than in nearly any other industry. Profitability is low, at around 5 percent EBIT margin, despite high risks and many insolvencies. Customer satisfaction is hampered by regular time and budget overruns and lengthy claims procedures.

The industry will feel the economic impact of the COVID-19 strongly, as will the wider construction ecosystem—which includes construction companies' component and basic-materials suppliers, developers

and owners, distributors, and machinery and software providers. At the time of writing, high levels of economic uncertainty prevail worldwide, and the construction industry tends to be significantly more volatile than the overall economy. MGI scenarios suggest that if things go well, construction activity could be back to pre-crisis levels by early 2021. But longer-term lockdowns could mean that it takes until 2024 or even later. In the past, crises have had an accelerative effect on trends, and this crisis is also expected to trigger lasting change impacting use of the built environment, like online channel usage or remote-working practices.

The lagging performance of the construction industry is a direct result of the fundamental rules and characteristics of the construction market and the industry dynamics that occur in response to them. Cyclical demand leads to low capital investment, and bespoke requirements limit standardization. Construction projects are complex, and increasingly so, and logistics need to deal with heavy weight and many different parts. The share of manual labor is high, and the industry has a significant shortage of skilled workers in several markets. Low barriers to entry in segments with lower project complexity and a significant share of informal labor allow small and unproductive companies to compete. The construction industry is extensively regulated, subject to everything from permits and approvals to safety and work-site controls, and lowest-price rules in tenders make competition based on quality, reliability, or alternative design offerings more complicated.

In response to these market characteristics, today's construction industry must grapple with several dynamics that impede productivity and make change more difficult. Bespoke projects with unique features and varying topology have a limited degree of repeatability and standardization. Local market structures and ease of entry have resulted in a fragmented landscape (both vertically and horizontally) of mostly small companies with limited economies of scale. Moreover, every project involves many steps and companies in every project with scattered accountability, which complicates the coordination. Contractual structures and incentives are misaligned. Risks are often passed to other areas of the value chain instead of being addressed, and players make money from claims rather than from good delivery. High unpredictability and cyclicalities have led construction firms to rely on temporary staff and subcontractors, which hampers productivity, limits economies of scale, and reduces output quality and customer satisfaction.

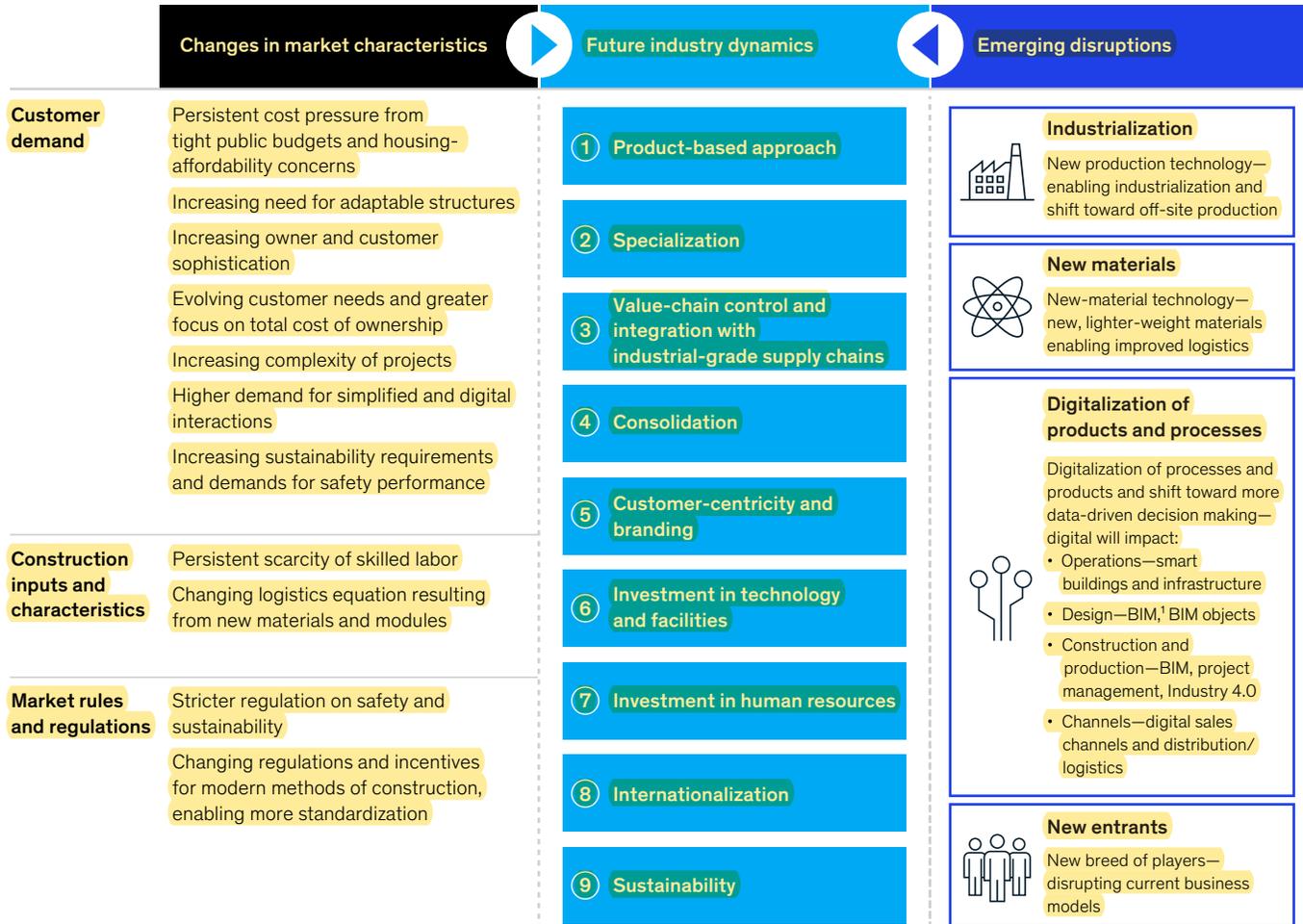
## **A changing market environment, technological progress, and disruptive new entrants will trigger industry overhaul**

The construction industry was already starting to experience an unprecedented rate of disruption before the COVID-19 pandemic. In the coming years, fundamental change is likely to be catalyzed by changes in market characteristics, such as scarcity of skilled labor, persistent cost pressure from infrastructure and affordable housing, stricter regulations on work-site sustainability and safety, and evolving sophistication and needs of customers and owners. Emerging disruptions, including industrialization and new materials, the digitalization of products and processes, and new entrants, will shape future dynamics in the industry (Exhibit A).

### **Sources of disruption**

*Rising customer sophistication and total-cost-of-ownership (TCO) pressure.* Customers and owners are increasingly sophisticated, and the industry has seen an influx of capital from more savvy customers. From 2014 to 2019, for example, private-equity firms raised more than \$388 billion to fund infrastructure projects, including \$100 billion in 2019 alone, a 24 percent increase from 2018. Client demands are also evolving regarding performance, TCO, and sustainability: smart buildings, energy and operational efficiency, and flexibility and adaptability of structures will become higher priorities. Expectations are also rising among customers, who want simple, digital interactions as well as more adaptable structures.

**Changing characteristics and emerging disruptions will drive change in the industry and transform ways of working.**



<sup>1</sup>Building-information modeling.

The industry is facing persistent cost pressure because of tight public budgets and housing-affordability issues. McKinsey analysis found that \$69.4 trillion in global infrastructure investment would be needed through 2035<sup>3</sup> to support expected GDP growth and that every third global urban household cannot afford a decent place to live at market prices.<sup>4</sup> The economic fallout of the COVID-19 crisis magnifies the cost and affordability issues.

*Persistent scarcity of skilled labor and changing logistics equations.* Skilled-labor shortages have become a major issue in several markets, and retirements will drain talent. For example, about 41 percent of the current US construction workforce is expected to retire by 2031. The impact the COVID-19 crisis will have on this dynamic in the long term is unclear at the time of writing.

**Safety and sustainability regulations and possible standardization of building codes.** Requirements for sustainability and work-site safety are increasing. In the wake of COVID-19, new health and safety procedures will be required. The global conversation about climate change puts increasing pressure on the industry to reduce carbon emissions.

At the same time, in some markets, governments are recognizing the need to standardize building codes or provide type certificates and approvals for factory-built products rather than reviews of each site. The process, however, is still slow.

**Industrialization.** Modularization, off-site production automation, and on-site assembly automation will enable industrialization and an off-site, product-based approach. The shift toward a more controlled environment will be even more valuable as the COVID-19 pandemic further unfolds. The next step in the transition to efficient off-site manufacturing involves integrating automated production systems—essentially making construction more like automotive manufacturing.

**New materials.** Innovations in traditional basic materials like cement enable a reduction of carbon footprints. Emerging lighter-weight materials, such as light-gauge steel frames and cross-laminated timber, can enable simpler factory production of modules. They will also change the logistics equation and allow longer-haul transport of materials and greater centralization.

**Digitalization of products and processes.** Digital technologies can enable better collaboration, greater control of the value chain, and a shift toward more data-driven decision making. These innovations will change the way companies approach operations, design, and construction as well as engage with partners. Smart buildings and infrastructure that integrate the Internet of Things (IoT) will increase data availability and enable more efficient operations as well as new business models, such as performance-based and collaborative contracting. Companies can improve efficiency and integrate the design phase with the rest of the value chain by using building-information modeling (BIM) to create a full three-dimensional model (a “digital twin”)—and add further layers like schedule and cost—early in the project rather than finishing design while construction is already underway. This will materially change risks and the sequence of decision making in construction projects and put traditional engineering, procurement, and construction (EPC) models into question. Automated parametric design and object libraries will transform engineering. Using digital tools can significantly improve on-site collaboration. And digital channels are spreading to construction, with the potential to transform interactions for buying and selling goods across the value chain. As in other industries, the COVID-19 pandemic is accelerating the integration of digital tools.

**New entrants.** Start-ups, incumbent players making new bets, and new funding from venture capital and private equity are accelerating disruption of current business models. As the COVID-19-propelled economic crisis unfolds, we also expect an increase in corporate restructuring and M&A activity.

### **The nine resulting industry shifts**

In response, we expect nine shifts to fundamentally change the construction industry. According to our executive survey, more than 75 percent of respondents agree that these shifts are likely to occur, and more than 60 percent believe that they are likely to occur within the next five years. The economic fallout from the COVID-19 pandemic looks set to accelerate them.

**Product-based approach.** In the future, an increasing share of structures and surrounding services will be delivered and marketed as standardized “products.” This includes developers promoting branded offerings,

with standardized but customizable designs that can improve from one product generation to the next, and delivery using modularized elements and standardized components produced in off-site factories. The modules and elements will be shipped and assembled on site. Production will consist of assembly line–like processes in safe, nonhostile environments with a large degree of repeatability.<sup>5</sup>

**Specialization.** To improve their margins and levels of differentiation, companies will start to specialize in target niches and segments (such as luxury single-family housing, multistory residential buildings, hospitals, or processing plants) in which they can build competitive advantages. And they will specialize in using different materials, subsegments, or methods of construction. The shift toward specialization will also require companies to develop and retain knowledge and capabilities to maintain their competitive advantages. Obviously, players will need to weigh carefully the effectiveness, efficiency, and brand positioning that greater specialization enables against the potential risk or cyclical benefits of a more diversified portfolio.

**Value-chain control and integration with industrial-grade supply chains.** Companies will move to own or control important activities along the value chain, such as design and engineering, select-component manufacturing, supply-chain management, and on-site assembly. Companies will be able to achieve this goal through vertical integration or strategic alliances and partnerships by using collaborative contracting and more closely aligned incentives. Digital technology will change the interaction model: BIM models will lead to more decision making early on in the process, distribution will move toward online platforms and advanced logistics management, and end-to-end software platforms will allow companies to better control and integrate value and supply chains. Value-chain control or integration will reduce interface frictions and make innovation more agile.

**Consolidation.** Growing needs for specialization and investments in innovation—including the use of new materials, digitalization, technology and facilities, and human resources—will require significantly larger scale than is common today. As product-based approaches, with higher standardization and repeatability, further increase the importance of gaining scale, the industry is likely to increasingly see a significant degree of consolidation, both within specific parts of the value chain and across the value chain.

**Customer-centricity and branding.** With productization—that is, turning development, engineering, or construction services into easy-to-market products or solutions<sup>6</sup>—and specialization in the industry, having a compelling brand that represents an organization’s distinctive attributes and values will take on added importance. As in traditional consumer industries, a strong brand can tie customers more closely to the construction company’s or supplier’s products and help to build and maintain relationships and attract new customers. Similar to brands in other manufacturing industries, such construction brands will encompass, among other aspects, product and service quality, value, timing of delivery, reliability, service offerings, and warranties.

**Investment in technology and facilities.** Productization implies a need to build off-site factories, which requires investments in plants, manufacturing machinery and equipment (such as robotics to automate manufacturing), and technology. Where modular is not used, the construction site also will likely become more capital intensive, using advanced automation equipment and drones, among other technologies. R&D investment will become more important for specialized or more productized companies, so companies are likely to increase spending to develop new, innovative products and technologies.

**Investment in human resources.** Innovation, digitalization, value-chain control, technology use, and specialization in end-use segments all increase the importance of developing and retaining in-house

expertise, which will compel players to invest more in human resources. The importance of risk management and other current capabilities will decrease and be replaced by an emphasis on others, such as supply-chain management. To build the necessary capabilities, companies will need to further invest in their workforces. This becomes even more important in light of the transition to the future of work.<sup>7</sup> Most incumbents struggle to attract the digital talent they need, and will need to raise excitement about their future business models.

**Internationalization.** Greater standardization will lower the barriers to operating across geographies. As scale becomes increasingly important to gaining competitive advantages, players will increase their global footprints—both for low-volume projects in high-value segments such as infrastructure, as well as for winning repeatable products that will be in demand across the world. The COVID-19 pandemic might slow down this development.

**Sustainability.** While sustainability is an important decision factor already, we are only at the very beginning of an increasingly rapid development. Beyond the carbon-abatement discussions, physical climate risks are already growing and require a response.<sup>8</sup> Companies will need to consider the environmental impact when sourcing materials, manufacturing will become more sustainable (for example, using electric machinery), and supply chains will be optimized for sustainability as well as resilience. In addition, the working environments will need to radically change from hostile to nonhostile, making construction safer. Water consumption, dust, noise, and waste are also critical factors.

Today's project-based construction process looks set to shift radically to a product-based approach (Exhibit B). Instead of building uniquely designed structures on the jobsite, companies will conduct their production at off-site construction facilities.<sup>9</sup> Standardized sub-elements and building blocks will likely be designed in house in R&D-like functions. The elements will be manufactured separately and then combined with customization options to meet bespoke requirements. To produce efficiently and learn through repetition, developers, manufacturers, and contractors will need to specialize in end-user segments. Data-driven business models will emerge. Overall, the process may resemble manufacturing in other industries such as shipbuilding or car manufacturing.

There is reason to believe that a winner-take-most dynamic will emerge, and companies that fail to adjust fast enough risk seeing market shares and margins erode until they eventually go out of business.

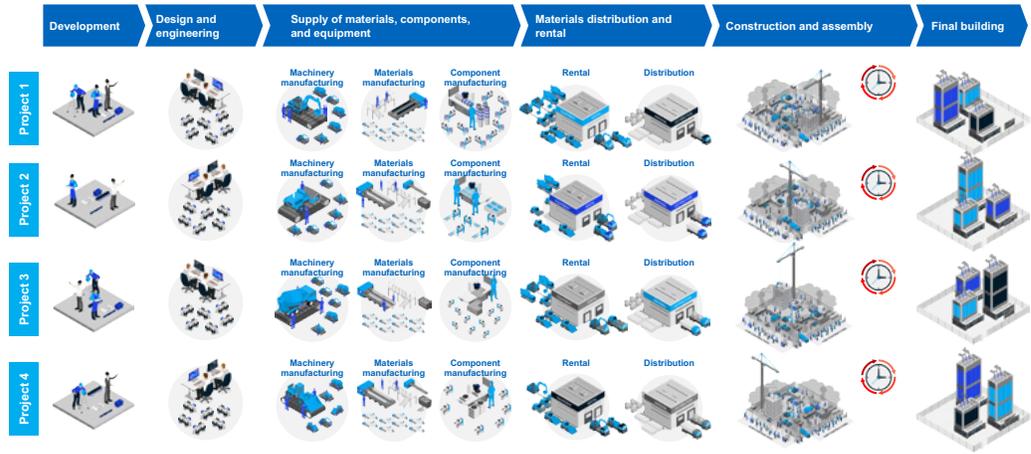
Construction is not the first industry to encounter lagging productivity and disruption across the value chain. Lessons can be learned from others that had similar traits and encountered the same challenges that construction faces now. We have analyzed shifts in four of them: shipbuilding, commercial aircraft manufacturing, agriculture, and car manufacturing. Clear patterns of the shifts are evident in all of them, and value shifted to those handling the change best. Innovation in production technology and new work methods kick-started all four of the industries' journeys. Today, across industries, winners continue to heavily invest in technology, many with focus on digitalization and data-driven products and services.

In commercial aircraft manufacturing, for example, the industry landscape was highly fragmented. Each airplane was built from scratch in a bespoke and project-based-manufacturing setup. Industrialization sparked a shift toward assembly-line manufacturing, which later became highly automated. As a result of the subsequent standardization, the industry entered a phase of consolidation that led to the rise of two major players: Airbus and Boeing. The transformation resulted in a significant shift of value to customers. This transformation journey took roughly 30 years to complete, as commercial aircraft manufacturing faced barriers to change similar to those now confronting construction.

## The future construction ecosystem will be radically different.

### Today's construction ecosystem

A highly complex, fragmented, and project-based construction process . . .



The construction process is highly **project based**—developed from unique customer specifications, using designs **planned from scratch**, and with limited degree of repetition

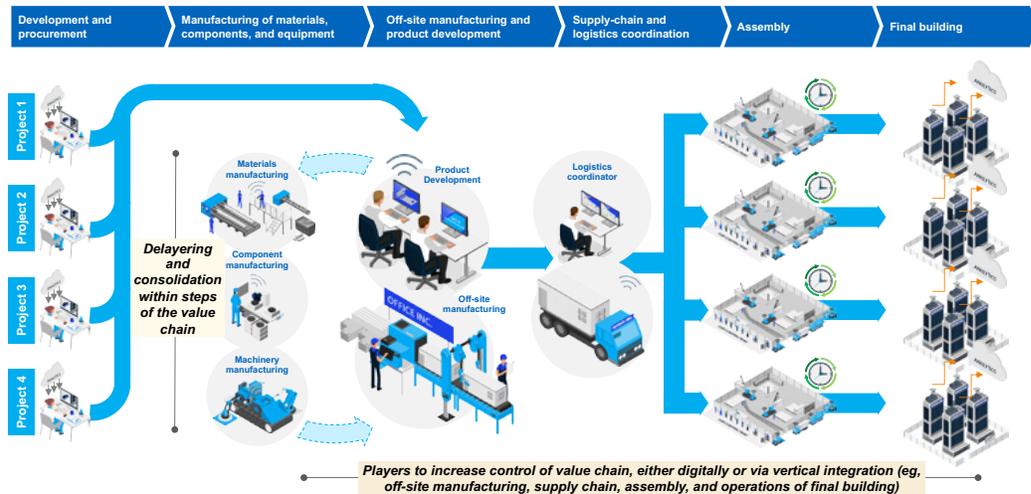
The value chain and player landscape are **local and highly fragmented vertically and horizontally**, resulting in a multitude of players involved at each step and major interface frictions

Construction is performed by generalists **on site in hostile environments**, with a large part of the workforce being **temporary and manual**

Limited use of **end-to-end digital tools and processes** as well as a capital-light delivery approach

### The construction ecosystem of the future

. . . A more standardized, consolidated, and integrated construction process



The construction process is increasingly **product based**, meaning structures will be products and manufactured off site by branded product houses **specializing** in certain end-user segments

Developers choose **entire designs or specific components** from a **library** of options developed in house or offered externally on the market

**Value chain is more consolidated, both vertically (delaying) and horizontally**, with increased degree of **internationalization**

**Disintermediation** takes place through digital marketplaces and direct channels

Contractors focus on **lean, on-site execution and assembly of products**

**Data and analytics** on customer behavior generated after completion to optimize total cost of ownership and future designs

## **Almost half of incumbent value added is at stake**

The transformation of the industry will create both large opportunities and sizable risks as value and profit pools shift in the next 15 years. Over the past years, approximately \$11 trillion in value added and \$1.5 trillion in profits have been unevenly distributed along the construction value chain and across all asset classes. Looking ahead, up to 45 percent of incumbent value may be at stake in those parts of the market most heavily affected by shifts, such as hotel construction (Exhibit C). Of this total, 20 to 30 percentage points will be kept and redistributed within the ecosystem to enable the shifts to take place. The remaining 15 to 20 percentage points will be value up for grabs as a result of the cost savings and productivity gains generated by the shifts, with the benefits accruing to players or customers (in the form of price reductions or quality increase). If that value is captured fully by players in the ecosystem, total profit pools could nearly double, to 10 percent, from the current 5 percent.<sup>10</sup> Players that move fast and manage to radically outperform their competitors could grab the lion's share of the \$265 billion in new profit pools.

Some players will be more affected than others. For example, software providers are expected to significantly increase their value-added contribution, albeit from a small base of 1 to 2 percent of the value chain. Also, a large share of value is expected to move from construction jobsites to off-site prefabrication facilities. In contrast, general and specialized contractors could face a large decline unless they reposition themselves as companies that go beyond execution alone. Basic design and engineering and materials distribution and logistics may face substantial commoditization and automation risks.

The value at stake could benefit either the players in the ecosystem as profits increase, workers in the form of higher wages, or customers through lower prices and higher quality. Companies that move fast and manage to lower their cost base and increase productivity will have an advantage over the competition. These early movers could translate their productivity gains into profit. In the long term, as other players adjust and competition intensifies, the dynamics in other industries suggest that a large share of the gains will be passed on to customers.

Our baseline scenario estimates that 10 to 12 percent of construction activities will move along shifts outlined in this report by 2035, but change will vary significantly by asset class because of different starting points and abilities to transform. In real estate, for example, we expect that by 2035 an additional 15 percent of new building projects could be completed through a redesigned value chain. This higher-than-average number is partly the result of the potential for standardization in single- and multifamily residential, hotels, offices, and hospitals. For infrastructure, approximately 7 percent of additional new building volume could be delivered in a transformed way—with bridges, airports, and railways, for example, having particular potential. Industrial construction could see an additional penetration of about 5 percent, as several of its subsegments have already made significant progress in the past.

## **Transformation will take time, but the COVID-19 crisis will accelerate change**

The full transformation of the construction industry could take decades, but the process has already begun. Our survey shows that industry leaders largely agree that the shifts outlined in this report are likely to occur at scale within the next five to ten years, and that the COVID-19 crisis will accelerate shifts.

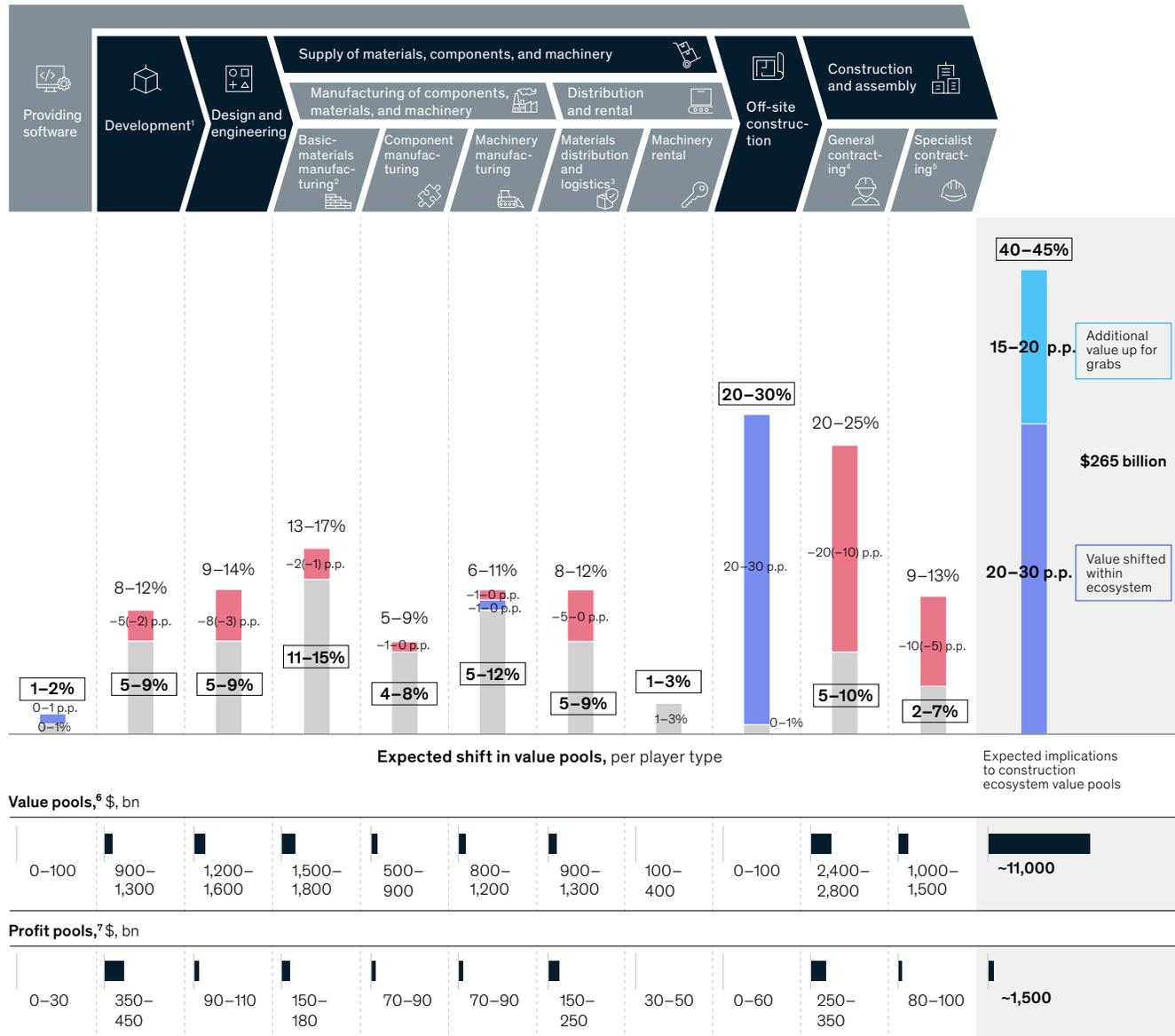
Our executive survey of 400 decision makers in November and December 2019 found that the attitudes of executives have evolved materially since three to five years ago (see sidebar “About the executive survey” in chapter 1 for more details on the survey). In all, 90 percent of the respondents strongly believe that the industry needs to change and that this sentiment has grown in the past ten years. Eighty percent also believe that the construction industry will look radically different 20 years from now.

Exhibit C

## Forty to 45 percent of value pools are expected to shift and impact all players along the value chain.

Example of fully productized value chain (eg, real estate new build), current and future value pools, p.p.

Value at risk Remaining value added Value shifted Value captured



<sup>1</sup> Calculated by applying an assessed share of total value of development of output per asset class, allocated on top of total market output, since a limited number of stand-alone, pure-player developers have been identified.

<sup>2</sup> Looking at players processing raw materials but not the actual manufacturing of raw materials (eg, mining). If all steps of producing and refining raw materials were included, the value pool would be ~2.5x bigger.

<sup>3</sup> Adjusted downward to reflect that some things materials distributors sell don't contribute to construction output (eg, clothes, white goods).

<sup>4</sup> General builders (buildings and other heavy construction).

<sup>5</sup> Specialized trade construction.

<sup>6</sup> Defined as value added per player type.

<sup>7</sup> EBIT pools.

Source: CapitalIQ; Euroconstruct; FMI; McKinsey analysis

Beyond our analysis and the overwhelming beliefs of the surveyed executives, we see signs today that the industry had already started to change before the COVID-19 crisis began. For instance, adoption of product-based approaches is increasing. In North America, the permanent modular-construction market share of new real-estate construction projects grew by approximately 51 percent from 2015 to 2018, and revenues for the segment grew (from a small base of \$2 billion) by a factor of 2.4 over the same period. Also, emerging players as well as incumbents are already seeking to control a larger part of the value chain; Katerra, for instance, used new technology to control the value chain, including design and engineering and off-site manufacturing. Indicators suggest the construction industry is increasing its emphasis on R&D, and companies that have invested in construction technology and facilities are gaining traction. Global R&D spending by the top 2,500 construction companies grew by 77 percent from 2013 to 2017.

The COVID-19 crisis looks set to accelerate change (Exhibit D). We conducted an additional survey in early May 2020 to understand the potential implications of the crisis on the disruptions and shifts outlined in the report. Respondents comprised 100 decision makers out of the same sample that responded to our first survey. Nearly two-thirds of respondents believe that the COVID-19 crisis will accelerate industry transformation, and half have already raised investment in line with the shifts. Investments in digitalization and supply-chain control are most pronounced, while respondents believe the crisis will slow down internationalization and the rise of new entrants—giving incumbents a rare opportunity to step in and drive change.

### All players must prepare now for a fundamentally different next normal

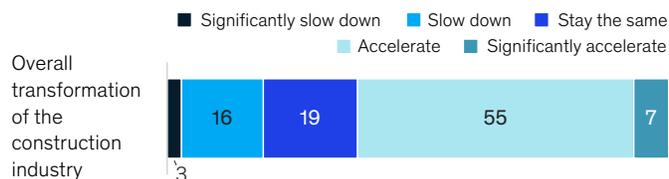
Our research shows that leaders leave laggards behind in times of crisis. Those that go beyond managing their survival to take fast, bold, strategic action tend to emerge as the winners. During past economic cycles, companies that managed to move quickly to improve their productivity (for example, reducing

Exhibit D

## Two-thirds of survey respondents believe that the COVID-19 crisis will accelerate industry transformation.

**As a result of COVID-19, do you believe that transformation of the construction industry will accelerate, stay the same, or slow down?**

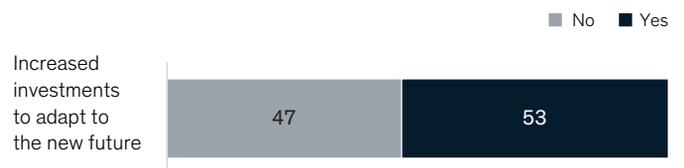
Share of respondents, %



Around two-thirds of respondents believe that the COVID-19 crisis will accelerate the overall transformation of the construction industry

**As a result of COVID-19, has your company increased overall investments to adapt to the new future?**

Share of respondents, %



More than 50% of respondents' companies have started to invest more to adjust to the new future

Source: Survey of 100 industry CxOs, May 2020

# In the face of this transformation, companies all along the value chain need to review where they want to play.

their cost of goods sold through operational efficiency), divest earlier and are more acquisitive during the recovery. They cleaned up their balance sheets ahead of a downturn and outperformed competition in both revenues and earnings before interest, depreciation, taxes, and amortization (EBITDA).

Players in the ecosystem will need to develop strategies to deal with the disruption ahead. Our survey respondents identified four types of players set to face the largest long-term decline: design and engineering firms, materials distributors, general contractors, and specialist contractors. Furthermore, respondents believe that general contractors will be required to move first, as they could experience commoditization and a declining share of value.

In the face of this transformation, companies all along the value chain need to review where they want to play: which asset classes, segments, geographies, and value-chain steps. They will need to assess the impact of each of the disruptions and the nine shifts, decide how they want to act on them, and define new-business models and operating models in line with those decisions. This process is critical whether they aim to defend their core business and adjust to the new environment or fundamentally reinvent themselves and attack. For success, it will be critical for companies to invest in a set of enablers, such as agile organizations. Finally, companies can choose how to implement the new strategy and transformation, whether it's trying to evolve incumbent operations to work within the new setup, starting up new divisions or arm's-length operations, or applying targeted M&A.

In the materials-distribution and logistics segment, for instance, off-site manufacturing facilities will shift demand for shipments to factory hubs, the main logistics nodes, which will increase customer expectations for just-in-time delivery. The segment will be further reshaped by online and direct sales channels (including new competition from online-distribution behemoths), rising customer expectations, and increased use of technologies such as advanced analytics or automated warehouses. A shift in procurement activity, from small specialized trades firms to larger contractors, will affect companies' bargaining power, and internationalization will enable companies to source more from low-cost countries.

In response, companies could try to defend their core by, for instance, focusing on the refurbishment market, becoming leaner, and undertaking category reviews. They could adjust to the changing

environment by, for example, strengthening customer relationships, offering new business solutions to avoid disintermediation, consolidating to gain scale, and developing industrial-grade supply-chain capabilities. Reinvention would entail becoming the logistics hub of the future construction landscape. Strategies could include partnering closely with off-site manufacturers and materials suppliers to optimize logistics and inventory according to their needs, helping with international sourcing, or offering credit financing.<sup>11</sup>

Companies that familiarize themselves with the next normal and move quickly will be best positioned to both create value and maintain their competitive edge.

Organizations that are adjacent to the construction ecosystem should look to facilitate—and benefit from—the coming changes. Investors are well advised to use foresight to anticipate the respective shifts and generate above-market returns. Insurance companies are already factoring use of modern methods of construction into their terms. Policy makers should help the industry become more productive and thereby attain better housing and infrastructure for citizens. And building owners stand to benefit from better structures at lower costs if they play their part in making the shifts happen.

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Construction is already in the perfect storm. Industrialization, globalization, and digitalization have been key drivers of change in all industries. While this change happened in sequential waves—for example, in auto industrialization in the 1970s and 1980s, globalization in the 1990s and 2000s, and digitalization in the 2010s and ongoing—all of these drivers are hitting construction simultaneously. It is a daunting task and will require bold and agile moves to maneuver, but the size of the prize is enormous.



@Getty Images/Jung Getty

# 1 Historically, the construction industry has underperformed

**The construction industry**, which encompasses real estate, infrastructure, and industrial structures, is the largest industry in the global economy, accounting for 13 percent of the world's GDP (Exhibit 1). A closer look at its underlying performance highlights the industry's challenges in good economic times, let alone in times of crisis. We expect a set of nine shifts to radically change the way construction is done. Companies that can adjust their business models stand to benefit handsomely, while others may struggle to survive.

## **Poor long-term performance stems from unfavorable market characteristics and industry dynamics**

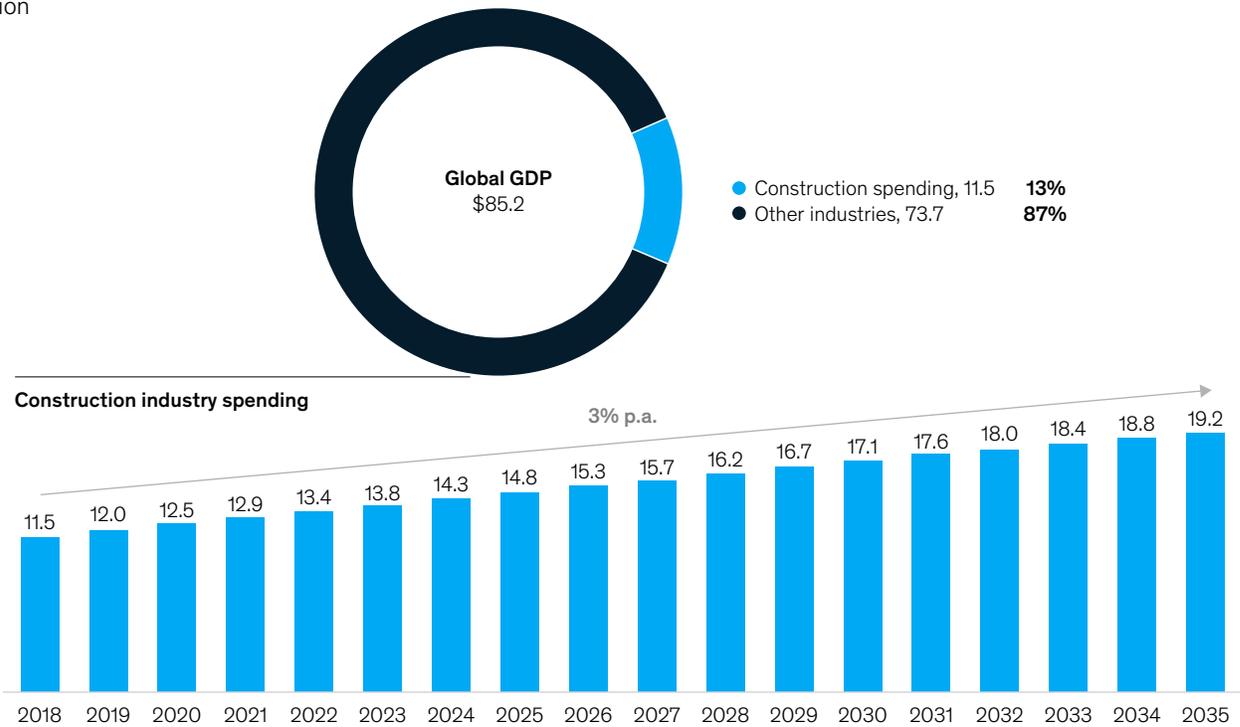
Construction is responsible for a wide range of impressive accomplishments, from stunning cityscapes and foundational infrastructure on a massive scale to sustained innovation. However, in the past couple of decades, it has been plagued by dismal performance, characterized by lagging productivity growth, limited digitalization, frequent insolvencies, and low levels of customer satisfaction. The industry will feel the economic impact of COVID-19 strongly, as will the wider construction ecosystem—which includes construction companies' suppliers, distributors, customers, and competitors, as well as government regulators.

*Lagging productivity growth.* The industry's global annual labor productivity growth over the past 20 years was less than 1 percent, which is significantly less than the productivity growth of the global economy, approximately 2.8 percent a year.<sup>12</sup>

Exhibit 1

## Construction-related spending accounts for 13 percent of global GDP.

\$ trillion



Note: Due to COVID-19, the amount of spending in 2020 and subsequent years is likely to change.

Source: IHS Global Insight; ISSA – Infrastructure Stock & Spend Analyzer; World Bank; McKinsey Global Institute analysis

**Slow innovation and digitalization.** A low degree of standardization combined with a fragmented value chain provides low barriers to entry, and has resulted in limited economies of scale, which impede innovation and digitalization. A 2015 McKinsey Global Institute (MGI) analysis found that the construction industry was among the least digitized industries in the total economy across assets, usage, and labor. Innovation is further hampered, understandably, by risk aversion and limited margins. For example, building-information modeling (BIM) adoption rates have reached just 60 to 70 percent in 35 years. For comparison, many technologies (such as cloud customer relationship management, magnetic resonance imaging, laparoscopic surgery, lithium-ion batteries, and microwaves) reached an adoption rate of 90 percent in eight to 28 years from when they became commercially available.

**Low profits and high risks despite strong growth.** The industry’s overall profitability is about 5 percent, and lower in certain parts of the value chain. The construction industry frequently tops insolvency lists across geographies because of a combination of low profitability and high risk. According to a global Euler Hermes analysis,<sup>13</sup> construction was the industry with the most major insolvencies in the first three quarters of 2018, approximately 5 percent higher than the second-worst sector, and 70 percent higher than the third. Construction topped a UK insolvency list in the first quarter of 2019, with approximately 3,000 insolvencies over the previous 12 months.<sup>14</sup> Valuation multiples are significantly below the average—EV/EBITDA multiple

## Low productivity growth: Less than 1.0 percent per year for the industry over the past 20 years, versus 2.8 percent for the total economy.

for the engineering and construction sector has averaged 5.8 over the past ten years, compared with 12.4 for the S&P 500.

*Low customer satisfaction and regular time and budget overruns.* A 2016 McKinsey analysis found that construction projects typically take 20 percent longer to finish than scheduled and are up to 80 percent over budget, frequently resulting in litigation.<sup>15</sup> That often leaves customers dissatisfied, resulting in complex and time-consuming claims processes.

For these reasons, awareness was growing even before the COVID-19 crisis struck that the ecosystem must transform to meet the challenges ahead. Our industry survey found that the attitudes of CxOs have evolved materially since three to five years ago (see sidebar “About the executive survey”). In all, 90 percent of executives strongly believe that the industry needs to change and that this sentiment has grown in the past ten years. Eighty percent also believe that the construction industry will look radically different 20 years from now.

# 20%

Low customer satisfaction:  
Typical schedule overrun  
of 20 percent for large  
construction projects

## About the executive survey

**Our survey of** construction industry leaders was conducted from November to December 2019. Respondents comprised 400 decision makers, the majority of whom were CxOs, owners, and executives, who were distributed over asset classes and geographies as well as across the value chain (exhibit).

Specifically, 63 percent of the respondents were from the real-estate sector; 19 percent, infrastructure; 18 percent, industrial. The geographies break down in the following way: 47 percent are from North America; 39 percent, Europe; 11 percent, Asia-

Pacific (APAC); 2 percent, Middle East and Africa; and 2 percent, Latin America.

We asked questions and let respondents react to our initial hypotheses on the industry, such as on the most important issues in construction today, the change factors that will have the largest impact on the industry, and the most significant disruptions. We also included questions on the future of the construction industry, such as which shifts outlined in this report are most likely to occur, when they will affect the industry at scale, which players will need to move first, and which players will

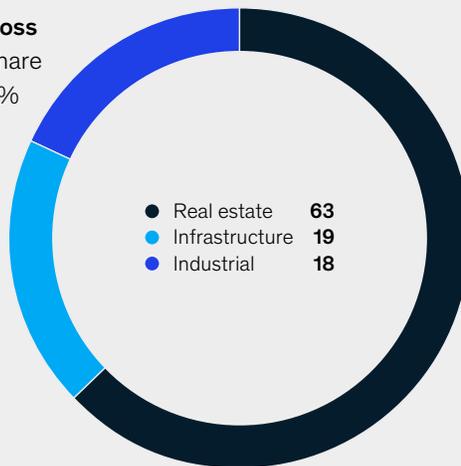
decline the most in the coming ten years.

Given that the COVID-19 crisis was unfolding during the publishing process of this report, an additional survey was conducted in early May 2020 to help us understand the potential implications of the crisis on accelerating the disruptions and shifts outlined in the report. Respondents comprised 100 decision makers from the same sample that responded to the first survey in November and December 2019, with similar distribution over asset classes and geographies as well as across the value chain.

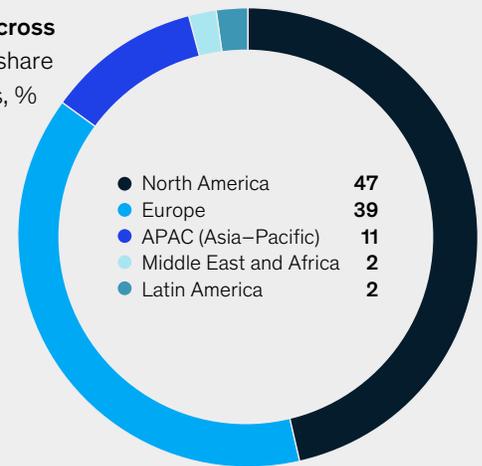
Exhibit

### The distribution of survey respondents to our initial survey represents a fair view of the setup of the industry today.

**Distribution across asset classes, share of respondents, %**



**Distribution across geographies, share of respondents, %**



**Distribution across the value chain, share of respondents, %**



Source: McKinsey survey of 400 construction-industry CxOs; expert interviews; McKinsey analysis

Rough seas lie ahead for the construction ecosystem. Beyond the economic downturn that will reduce construction demand, the COVID-19 crisis has also shocked supply chains and may lead to lasting shifts in investment patterns (see sidebar “The impact of the COVID-19 crisis on the construction industry’s outlook”).

### **How companies respond determines industry dynamics and outcomes**

The lagging performance of the construction industry is a direct result of the fundamental rules and characteristics of the construction market and the industry dynamics that occur in response to them (Exhibit 2). Our analysis identified the following three broad market characteristics that are now influencing the external environment:

#### **Cyclical demand with bespoke customer requirements**

The industry benefits from robust long-term demand, thanks to economic and population growth and rising urbanization around the world. That demand is highly sensitive to economic cycles, however, leading to low capital investment that slows productivity growth. A fragmented market includes customers ranging from individual single-family homeowners making once-in-a-lifetime purchasing decisions to administrators in

## **The impact of the COVID-19 crisis on the construction industry’s outlook**

**The economic impact** of COVID-19 will be felt strongly throughout the ecosystem. At the time of writing, high levels of economic uncertainty prevail worldwide. MGI scenarios suggest that if things go well, the virus is contained within months, and the right economic policies are implemented, economic activity could be back to pre-crisis levels by early 2021. But longer-term lockdowns, even if intermittent, or other severe restrictions that last until a vaccination is developed, could throw the economy into a severe and sustained downturn—with economic activity returning to 2019 levels only in 2024 or even later.<sup>1</sup>

The construction industry is typically significantly more volatile than the overall economy, and it might benefit from public stimulus programs. As economic activity

recedes, there is less need for new commercial or industrial structures, uncertainty dampens investment, and income losses and lower consumer confidence hurt housing construction. As the value of structures in an economy closely tracks GDP, the need for new construction activity is also highly sensitive to GDP growth in longer-term models. A slump as long as five years could substantially reduce construction’s share of GDP beyond the initial contraction, even though this crisis is, in contrast to the global financial recession of 2008–09, not primarily a real-estate crisis.

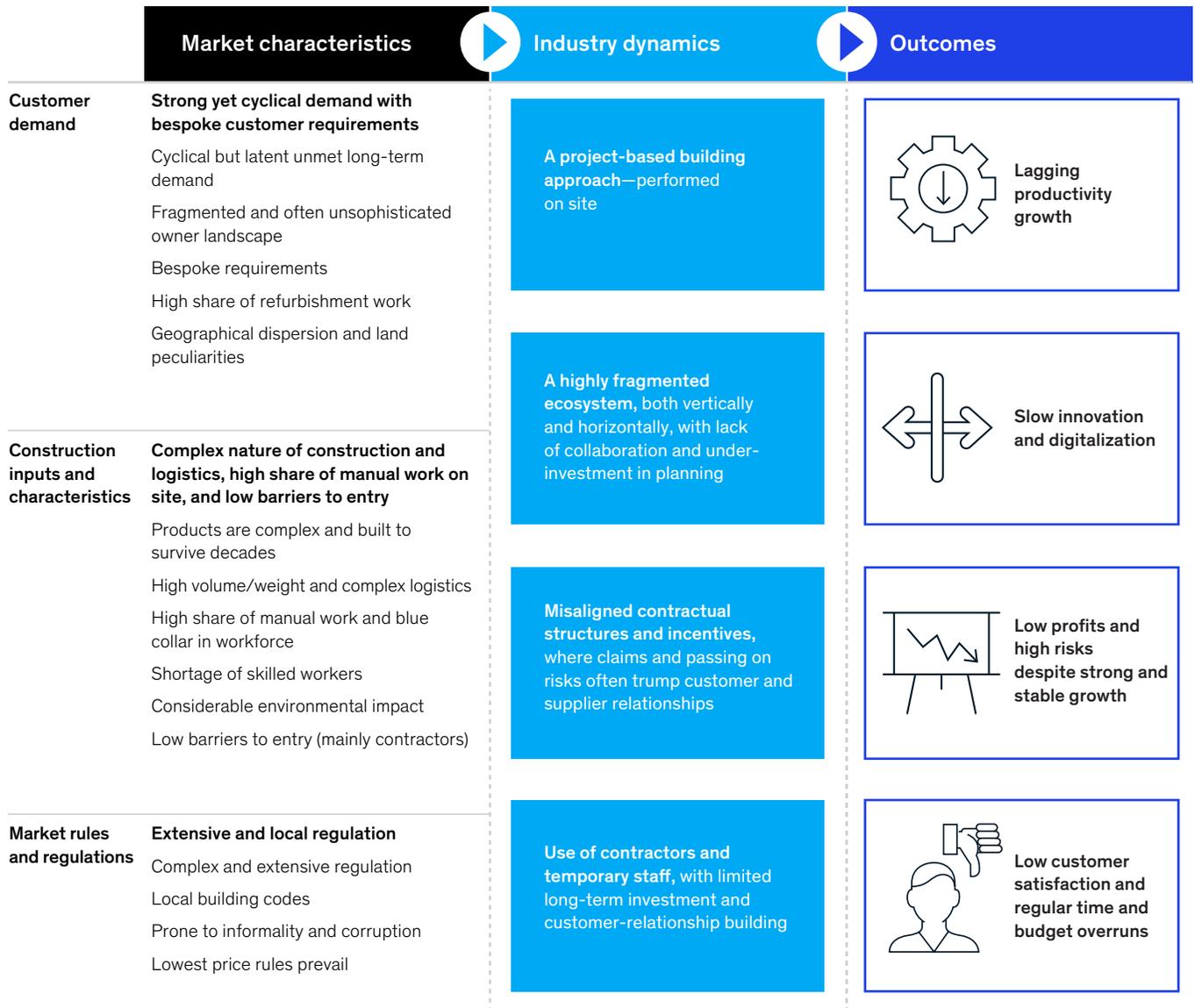
On the upside, unprecedented public stimulus packages passed by Congress could not only help support a V-shaped recovery but also be followed by public investment programs.

COVID-19 also represents a shock to supply. Migrant labor cannot always cross borders, construction workers cannot always get to or work at jobsites, and all employees will need to act in line with clear protocols for some time. Some building-materials supply chains are interrupted.

As economic activity resumes, we may find that the demand for structures has changed permanently. It is too early to judge whether changes in preferences—such as shopping online rather than at malls, employees preferring to work remotely and thus reducing the need for office space, or different airline-terminals or residential layouts—will be lasting. But it is important to monitor such developments closely.

<sup>1</sup> Sven Smit, Martin Hirt, Kevin Buehler, Susan Lund, Ezra Greenberg, and Arvind Govindarajan, “Safeguarding our lives and livelihoods: The imperative of our time,” March 2020, McKinsey.com.

**Market characteristics have shaped an industry response with unfavorable outcomes.**



city governments overseeing billion-dollar infrastructure projects. Inexperienced or unsophisticated owners often lack the experience and competence to navigate the industry landscape. Further, many projects ask for a significant degree of customization, and small projects and renovations account for a majority of industry revenues. Local-market structures and land peculiarities result in a geographically dispersed industry, with few companies achieving global scale.

### **Complex nature of construction and logistics, much manual work on site, and low barriers to entry**

Construction projects have become increasingly complex, with a growing share of megaprojects that are above \$1 billion. The size and weight of materials and components entail a regionally fragmented setup. Logistics are further complicated by the large number and variety of components and suppliers as well as the delivery by separate parties of different subcomponents of the same products.

Although projects increasingly require more experience and skill to execute, construction work still relies on a large share of manual work being completed by a largely blue-collar workforce. Construction firms typically grapple with a significant shortage of skilled labor, which hampers both existing operations and innovations such as digitalization. Our survey highlighted the labor shortage as one of the main issues in the construction industry, with around 85 percent of respondents in our survey saying pre-crisis that the issue is highly important, although the coming economic turmoil could change that.

Low barriers to entry and a significant share of informal labor allow small and unproductive companies to compete.

### **Extensive and local regulation**

The construction industry is extensively regulated, subject to everything from permits and approvals to safety and work-site controls. As each geography has its own local building codes, companies that operate in multiple geographies must educate themselves on each market, which makes standardizing products, materials, or processes more difficult. In many geographies, the public sector mandates lowest-price rules in tenders, making competition based on quality, reliability, or alternative design offerings more complicated. Such codes and regulations reflect the industry's aversion to risk, as structures need to hold up for decades—or even centuries—and any deficiencies can lead to fatal accidents. However, the regulatory landscape has the potential to change if the industry fundamentals are reformed.

In response to these three broad market characteristics, today's construction industry must grapple with several dynamics that add to the industry's complexity, impeding its productivity and making changes more difficult. Those dynamics include the following:

#### **A project-based building approach**

Customers want—and seem willing to pay for—bespoke projects with unique features, and structures need to be designed for the natural environments they are in. The challenge is that such projects have a limited degree of repeatability and standardization and require the coordination of companies across the value chain. This dynamic is a main cause of the industry's complexity and low productivity growth. There are obviously differences across asset classes.

#### **A highly fragmented ecosystem**

Local market structures and ease of entry have resulted in a fragmented landscape of mostly small companies with limited economies of scale. Moreover, the project-based construction process involves many steps with scattered accountability and a multitude of active entities in every project—from several specialist engineering and planning companies to multiple subcontractors and sub-subcontractors and myriad material suppliers. Since the level of collaboration across the value chain is low, the result is a siloed ecosystem where companies tend to manage their own risk and frictions at the interfaces are high.

#### **Misaligned contractual structures and incentives**

The multitude of stakeholders in a project rarely collaborate well because of misaligned incentives. Owners

often tender projects at the lowest cost and pass on risks such as soil properties or rising prices for materials that they might better handle or absorb themselves. Engineers are often paid as a percentage of total construction cost, limiting their desire to apply design-to-cost and design-to-constructability practices. General contractors are often only able to make profits via claims, so rather than highlighting design issues early in a project they often prefer charging for change orders later. Incentives and discounts from distributors and material suppliers to subcontractors obscure material prices.

### **Extensive use of contractors and temporary staff**

Cyclicality and the project-based approach to building create high volatility in activity from day to day. Materials and components can arrive at sites late, and companies must manage restrictions on activities that can be performed only during certain hours of the day. Rather than solving these underlying issues, construction firms rely on temporary staff and subcontractors—which hampers productivity, limits economies of scale, and reduces output quality and customer satisfaction. Furthermore, the need for temporary staff is often solved by contracting foreign workers, which can result in additional language challenges.

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All of these market characteristics and industry dynamics are interconnected, so the construction industry must change the underlying fundamentals to meet the challenges ahead. To date, the wider industry response has been to maintain the status quo, which is the root cause of many of the challenges mentioned above that construction companies are facing. However, executives recognize the necessity to adapt. Our survey found 90 percent of respondents strongly believe that the industry needs to change—and that this need has increased over the past ten years (Exhibit 3).

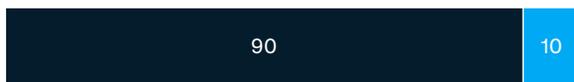
Exhibit 3

## **Industry leaders expect change.**

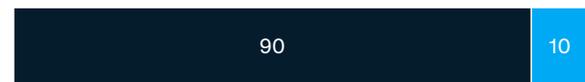
**Survey of 400 industry CxOs across asset classes, geographies, and value chain, share of respondents, %**

■ Yes ■ No

Do you think that there is a need for change in the construction industry setup and the current ways of working?



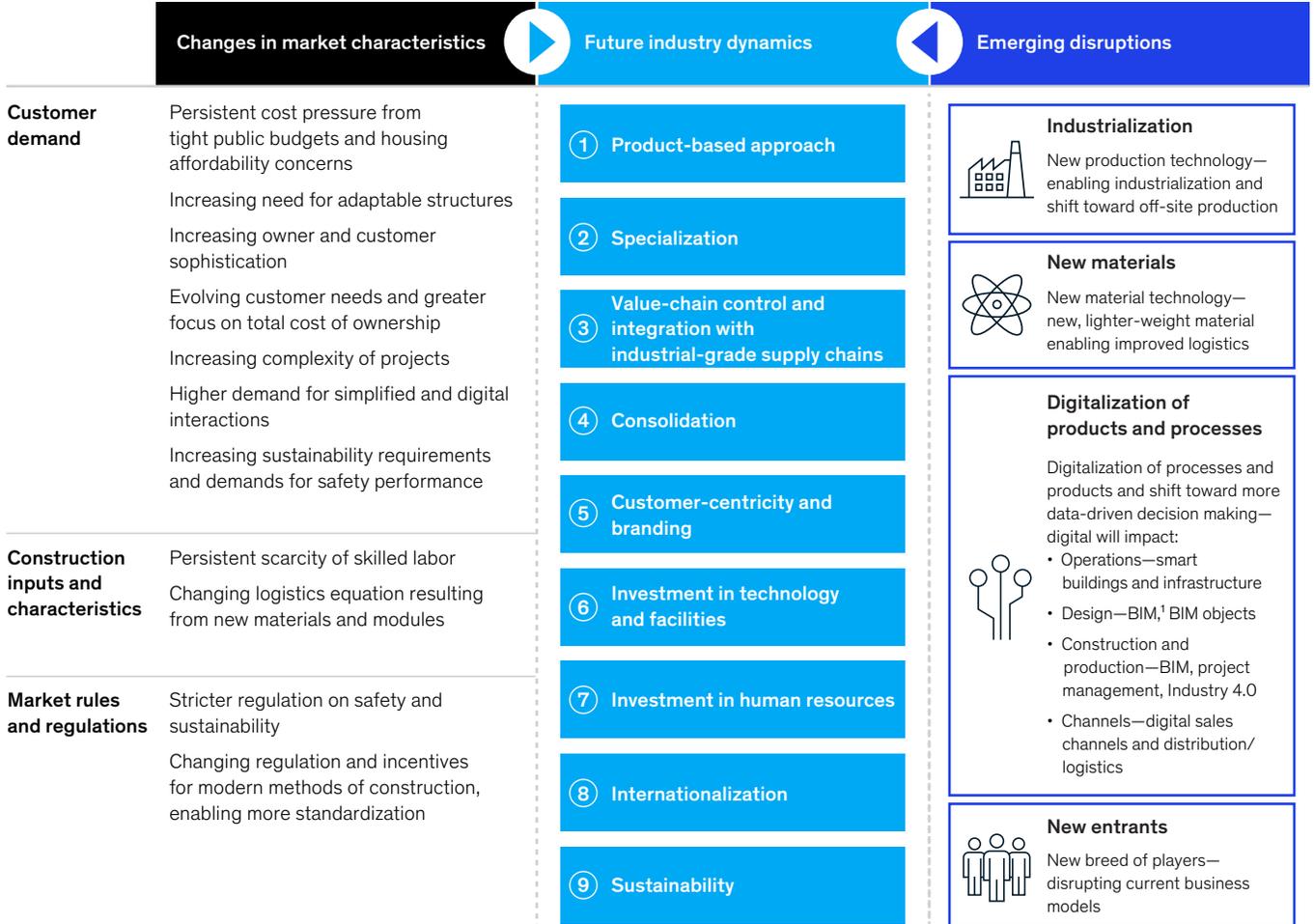
Do you think that the need for change in the construction industry setup and the current ways of working is higher compared to five to ten years ago?



Source: McKinsey survey of 400 construction-industry CxOs; expert interviews; McKinsey analysis



**Changing characteristics and emerging disruptions will drive change in the industry and transform ways of working.**



<sup>1</sup>Building-information modeling.

alone, a 24 percent increase from 2018. Institutional investment in multifamily homes as an asset class has also soared. Because these investors will have different expectations of everything from delivery times to budgets, construction companies will have to be prepared for that level of engagement.

Client expectations regarding performance are evolving: smart buildings, energy and operational efficiency, and flexibility of structures will become higher priorities. Our survey found that 69 percent of respondents believe that the transition of customers toward TCO would have a major impact on the construction industry, and more than 90 percent expect this shift to occur in the next ten years.

Our analysis suggests the industry will see increased cost pressure from gaps in infrastructure and affordable housing. In our survey, 74 percent of respondents believe that a greater focus on costs (mainly in

infrastructure and affordable housing) would have a large impact on the industry. This trend will be felt in the near term: more than 90 percent expect to feel its influence within the next ten years.

McKinsey analysis found that \$69.4 trillion in infrastructure investment (at 2018 prices) will be required by 2035 to support expected GDP growth.<sup>16</sup> Investment will need to increase from current levels by 0.3 percentage points of GDP, or an average of approximately \$300 billion a year. Government budgets are tight, however, as debt levels have soared during the pandemic. In real estate, our research found that about a third of the global urban population cannot afford a decent place to live.<sup>17</sup> The supply of housing will need to increase—at lower price points. The COVID-19 crisis magnifies cost and affordability issues.

## **2. Persistent scarcity of skilled labor and changing logistics equations**

The shortage of qualified workers has become a major issue in several markets. Our survey, which was conducted before the COVID-19 outbreak, shows that 87 percent of respondents believe that skilled-labor scarcity will have a high impact on the industry, and almost 50 percent of respondents expect that it will become even more of an issue at scale over the next two decades (Exhibit 5). For example, about 41 percent of the current US construction workforce is expected to retire by 2031. The impact the COVID-19 crisis will have on this dynamic in the long term is unclear at the time of writing.

New, lighter-weight materials and structurally stronger modules will change the logistics equation and allow longer-haul transport of materials and modules, and hence greater centralization.

## **3. Sustainability and safety regulation and possible standardization of building codes**

Our survey revealed that 69 percent of the respondents believe that stricter regulation on work-site sustainability and safety would affect the industry. While 90 percent expect sustainability and safety to make a significant impact in the next ten years, 19 percent believe the shift will occur far more rapidly—potentially within the next year. Because of COVID-19, new health and safety procedures will be required for some time.

The global conversation about climate change, exemplified by the implementation of UN sustainability targets, will compel construction companies and materials suppliers to factor sustainability into their products, construction processes, and designs. The current pace of urbanization will require significant investment in infrastructure and housing to accommodate regional population shifts, highlighting the need for urban sustainability. A 2015 McKinsey analysis found that green districts (densely populated areas located in a city that use technologies and design elements to reduce resource use and pollution) can reduce energy consumption by 20 to 40 percent and freshwater consumption and wastewater production by up to 65 percent.<sup>18</sup>

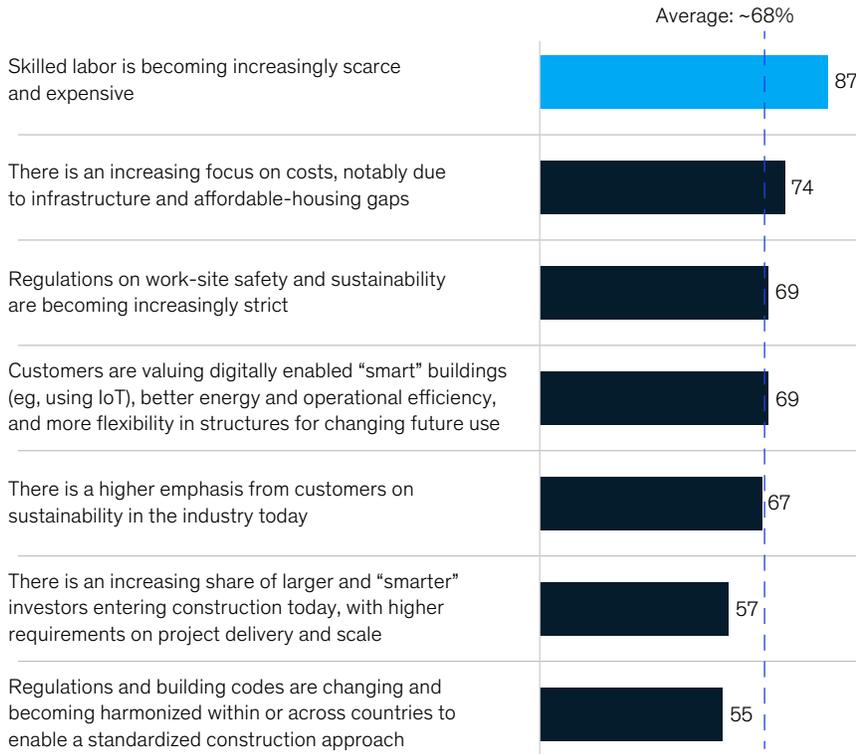
The physical impact of climate change will shape demand (through mass migration and physical mitigation such as flood defense), while construction will come under pressure to mitigate carbon emissions. For example, cement production currently accounts for 8 percent of global carbon emissions, according to the Royal Institute of International Affairs.<sup>19</sup> The rate of new regulations could also accelerate in line with the perceived threat.

Indications are emerging that regulations and incentives are changing to accommodate modern methods of construction, enabling more standardization across the building process. One such method is modular construction. Type certificates can replace individual on-site approvals to alleviate the shift, or governments can actively mandate modern methods of construction. For example, all government housing projects in Singapore must use prefinished volumetric modules.

## The industry believes that market characteristics will change at scale.

### Which of [these changes in market characteristics] do you think will have the highest impact on the construction industry?

Share of respondents rating changes in characteristics “high impact,”<sup>1</sup> %



### When do you think [the changes in market characteristics] will impact at scale? Share of respondents, %

Share of respondents, %



**Almost 90% of the industry believe that a further shortage of skilled labor would have a high impact on construction ...**

**... and almost half of respondents think that this will happen within the coming year**

<sup>1</sup>High impact equals a 7 or higher (where 10 is highest impact). Figures may not sum to 100%, because of rounding.

Source: McKinsey survey of 400 construction-industry CxOs; expert interviews; McKinsey analysis

## Emerging disruptions will fuel the transformation of the value chain

The demands put on the construction ecosystem have continued to change, but the fundamental business models and approaches of most players have not. The result has been instability in the ecosystem and difficulty meeting growing demand efficiently. In addition, the compounding effects of new production technologies and materials, digitalization of processes and products, and new breeds of players across the value chain have the potential to radically transform the construction industry.

### Industrialization

Advancements in technology have enabled industrialization and a shift toward an off-site, product-based approach. A more controlled environment will be even more valuable for the duration of the COVID-19

pandemic. Elements include a production system that uses increasingly modular components, automated manufacturing, and robotics-supported on-site execution.

Modularization has the potential to enable standardization and drastically improve productivity in construction. Prefabrication and off-site manufacturing have been around for a long time in construction, but the combination of lighter-weight materials and digital planning and production technologies could enable the industry to attain new levels of quality, variability, and efficiency. A 2018 survey of UK home builders found that 40 percent of the respondents were already investing in manufacturing facilities or intended to do so in the near future. In Scandinavia, 45 percent of housing is currently built using off-site manufacturing.<sup>20</sup>

The next step in the transition to efficient off-site manufacturing involves integrating automated production systems—essentially making construction more like automotive manufacturing. Parts of the industry are already moving in this direction. Modular construction firm Lindbäcks uses Randek’s industrial construction machinery to perform manufacturing tasks such as nailing, milling of openings, sheet cutting, and gluing.

On-site execution that uses automation technology could become significantly more efficient. Construction has already started to explore automation in three areas: additive construction (3-D printing), autonomous navigation technology for construction machinery enabled by light detection and ranging (LiDAR, a remote-sensing method for examining the Earth’s surface), and robotics and drone technology.

### **New materials**

Increased use of lighter-weight materials, such as light-gauge steel frames and cross-laminated timber, is reducing costs and allowing longer-haul logistics and more centralization in production and distribution. New types of versatile, lighter-weight, and flexible concrete are self-compacting and have a higher viscosity that eliminates vibration and finishing while enabling single-point pouring and more intricate formwork. Other varieties materially reduce carbon footprint. Alternative materials (both structural and nonstructural) are also being developed: for example, ethylene tetrafluoroethylene (ETFE) is 99 percent lighter, stronger, more eco-friendly, better at transmitting light, and more flexible than glass.

### **Digitalization of products, design, processes, and channels**

Digital technologies are enabling better collaboration, greater control of the value chain, and a shift toward more data-driven decision making. In turn, companies are adopting 5-D building-information modeling (BIM), advanced analytics, and digital-procurement and supply-chain management throughout their organizations.

*Smart products and operations.* Smart buildings and infrastructure that integrate the Internet of Things (IoT) will increase data availability and enable more efficient operations as well as new business models, such as performance-based contracting. IoT sensors and communication technology give companies the ability to track and monitor utilization, energy efficiency, and maintenance needs. By using BIM, owners and operators can create a virtual 3-D model with precise transparency on all components used in a completed building, which can increase efficiency as well as reduce maintenance costs.

*Design.* BIM has been used in construction for many years now. Over time, additional features and components (such as scheduling and budgeting) have been added to create a full-scale project-management software solution. However, the industry has struggled to adopt and successfully integrate BIM in operations. By using BIM to create a full 3-D model (a “digital twin”) early in the project rather than finishing design once the project is already initiated, companies can improve efficiency and integrate the

design phase with the rest of the value chain. This capability improves coordination and communication with materials and component suppliers and allows early clash detection and design and planning improvements. In a 2017 McKinsey survey, contractors indicated that their expected use of BIM could increase by 50 percent and that they were planning significant investment to expand their BIM programs until 2020.<sup>21</sup> Such capabilities will materially change risks in construction projects and put traditional engineering, procurement, and construction (EPC) models into question.

**Construction and production processes.** Using digital tools can significantly improve on-site collaboration. These solutions include mobile project-management apps and cloud-based project control towers that integrate communication among teams on site and sync with sensors, wearable devices, and desktop machines to constantly track progress and utilization. Advanced analytics can help to further enhance construction efficiency. Industry 4.0<sup>22</sup> approaches allow greater flexibility in factories and thus more customization of modules. As in other industries, the COVID-19 pandemic is accelerating the integration of digital tools.

**Channels.** Digital channels are spreading to construction, with the potential to transform interactions for buying and selling goods across the value chain. Online marketplaces, which have optimized supply chains in other industries, could significantly improve the efficiency of buying and selling goods along the construction value chain and improve interactions—both between customers and suppliers of whole projects as well as among industry participants along the value chain during projects. Digital channels can also radically disrupt distribution and reshape construction logistics. Across the value chain, start-ups have emerged to establish online marketplaces for buying and selling goods such as heavy equipment, construction materials, and professional services. Over the past two years, these marketplaces have received 27 venture-capital funding rounds. This activity represents about 40 percent of the total venture-capital funding rounds to online marketplaces. As in other industries, the COVID-19 pandemic is accelerating the integration of digital tools.

### **New entrants**

Start-ups, incumbent players making new bets, and new funding from venture capital and private equity are disrupting current business models. In addition, a new breed of player, backed by capital from investment funds, is entering the construction industry. Indeed, the number of annual venture-capital funding rounds grew about 30 percent a year from 2012 to 2018. Katerra, for example, raised \$1.2 billion to develop a business model based on new technology to control the value chain, including design and engineering and off-site manufacturing. As the economic crisis unfolds, we also expect an increase in corporate restructuring and M&A activity.

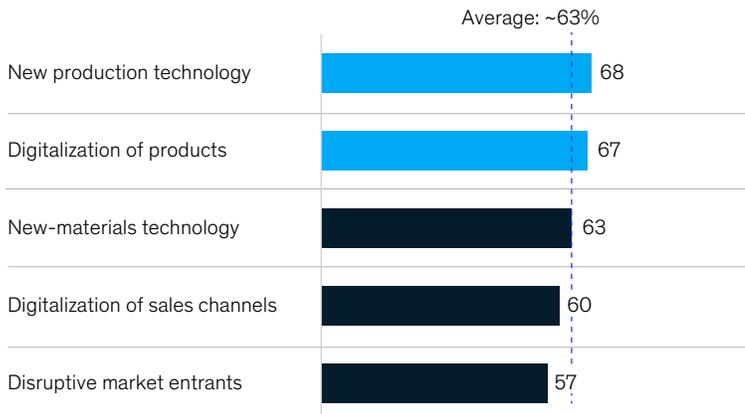
In our survey of industry leaders, a majority of the respondents believe that the disruptions outlined in this report would have a large impact on the industry (Exhibit 6). A significant majority expect the shifts to occur in the next five years and to fuel the industry's transformation journey in the near term. As the COVID-19-propelled economic crisis unfolds, we also expect an increase in corporate restructuring and M&A activity.

## **Nine shifts will disrupt the construction industry ecosystem**

We expect nine shifts to fundamentally change the entire construction ecosystem. According to our executive survey, more than 75 percent of respondents agree that these shifts are likely to occur, and more than 60 percent believe that they are likely to occur within the next five years. The economic fallout from the COVID-19 pandemic looks set to accelerate them.

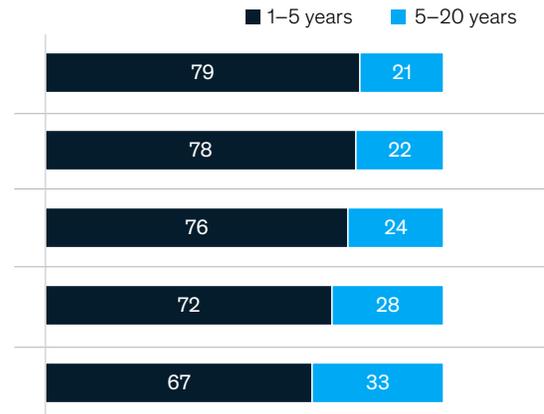
## Industry leaders expect disruption to occur.

**Which [of these emerging disruptions] do you think will have highest impact on the construction industry?** Share of respondents rating that emerging disruptions will have “high impact,”<sup>1</sup> %



More than two-thirds of respondents think that industrialization and digitalization will have the highest impact of the emerging disruptions

**When do you think the emerging disruptions will impact construction at scale?** Share of respondents, %



More than two-thirds of respondents expect disruptions to impact construction in the near term

<sup>1</sup> High impact equals a 7 or higher, where 10 is highest impact.

Source: McKinsey survey of 400 construction-industry CxOs; expert interviews; McKinsey analysis

A refusal to adapt to this upheaval will only worsen performance, while developing new business and operating models could allow companies to generate more value and profit. The new characteristics will combine to erect higher barriers to entry, which will be positive for companies that manage to strengthen their market position and to invest.

**Product-based approach.** In the future, a large share of construction projects will be built using customizable, modularized elements and components produced using standardized processes in off-site factories. The modules and elements will be shipped and assembled on site. Production will consist of assembly line–like processes in safe, nonhostile environments with a large degree of repeatability.<sup>23</sup> In addition, common, industry-wide standards for elements and components may emerge. There will likely be a balance between simple elements and components (manufactured according to common, industry-wide standards) and tailored, customizable ones (such as exteriors) to fit bespoke customer needs.

Each player will develop its own design library of elements and components that can be assembled according to customer requirements. A portion of the market might be composed of prefinished volumetric modules, and customizable, LEGO-like, modularized elements and components could become the industry standard. With this shift, the creativity in designing bespoke products will remain—developers and product manufacturers will collaborate, possibly through strategic alliances, to design products according to unique circumstances.<sup>24</sup>

The product-based approach will not be confined to construction: developers and owners are also likely to increasingly develop and market branded “products” comprising a standardized structure and contractual terms with integrated service offerings.

Digital technologies will be a critical factor in the shift to a product-based approach. Therefore, companies that own the digital model will be able to control the process without actually owning any factories and to price products based on TCO rather than using today’s simple cost-plus approach.

**Specialization.** To improve their margins and levels of differentiation, companies will likely increasingly specialize in target niches and segments (such as luxury single-family housing, multistory residential buildings, hospitals, or processing plants) in which they can build a competitive advantage. And they will specialize in using different materials, subsegments, or methods of construction. The shift toward specialization will also require companies to develop and retain knowledge and capabilities to maintain their competitive advantages. Obviously, players will need to carefully weigh the effectiveness, efficiency, and brand positioning that greater specialization enables against the potential risk and cycle-hedging benefits of a more diversified portfolio.

**Value-chain control and integration with industrial-grade supply chains.** Companies will move to own or control important activities along the value chain, such as design and engineering, select-component manufacturing, supply-chain management, and on-site assembly. Companies will be able to achieve this goal through vertical integration or strategic alliances and partnerships by using collaborative contracting and more closely aligned incentives. Similar to other manufacturing industries, controlling the supply of key components will be critical to securing just-in-time delivery of right-sized inputs to manufacturing as well as the supply of goods to on-site assembly. Digital technology will change the interaction model: BIM models will lead to more decision making early on in the process, distribution will move toward online platforms and logistics management, and end-to-end software platforms will allow companies to better control and integrate value and supply chains. By successfully integrating a five-dimensional BIM model with the value chain, for example, companies will be able to link activities from formulating the initial concept to producing the finished product. Value-chain control or integration will reduce interface frictions and make innovation more agile.

**Consolidation.** Growing needs for specialization and investments in innovation—including the use of new materials, digitalization, technology and facilities, and human resources—will require significantly larger scale than is common today. In addition, larger and more professional investors will seek more sizable, more sophisticated companies to be their counterparties. As product-based approaches, with a greater amount of standardization and repeatability, further increase the importance of gaining scale, the industry is likely to increasingly see a significant degree of consolidation, both within specific parts of the value chain and across the value chain. Globalization will further increase scale effects as future winning products will be fashionable and in demand across the world.

**Customer-centricity and branding.** With productization—that is, turning development, engineering, or construction services into easy-to-market products or solutions<sup>25</sup>—and specialization in the industry, having a compelling brand that represents an organization’s distinctive attributes and values will take on added importance. As in traditional consumer or B2B industries, a strong brand can tie customers more closely to the construction company’s or supplier’s products and help to build and maintain relationships and attract new customers. Similar to brands in other sectors, such a brand will encompass, among other aspects, product and service quality, value, timing of delivery, reliability, service offerings, and warranties.

**Investment in technology and facilities.** Productization implies a need to build off-site factories, which requires investments in plants, manufacturing machinery and equipment (such as robotics to automate manufacturing), and technology. Where modular is not used, the construction site also will likely become more capital intensive, using advanced automation equipment and drones, among other technologies. R&D investment will become more important for specialized or more productized organizations, so companies are likely to increase spending to develop new, innovative products and technologies. All across the value chain, investment in digitalization will continue to rise.

**Investment in human resources.** Innovation, digitalization, value-chain control, technology use, and specialization in end-use segments all increase the importance of developing and retaining in-house expertise, which will compel players to invest more in human resources. In addition, the shifts outlined in this report will likely require companies to reskill their workforce. The importance of risk management and some other current capabilities will decrease and be replaced by an emphasis on others, such as supply-chain management. To build the necessary capabilities, companies will need to invest further in their workforces. This becomes even more important in light of the transition to the future of work.<sup>26</sup> Most incumbents struggle to attract the digital talent they need and will need to raise excitement about their future business models.

**Internationalization.** Greater standardization will lower the barriers to operating across geographies. As scale becomes increasingly important to gaining competitive advantages, players will increase their global footprints—especially for low-volume projects in high-value segments such as infrastructure—although the COVID-19 pandemic might slow down this development.

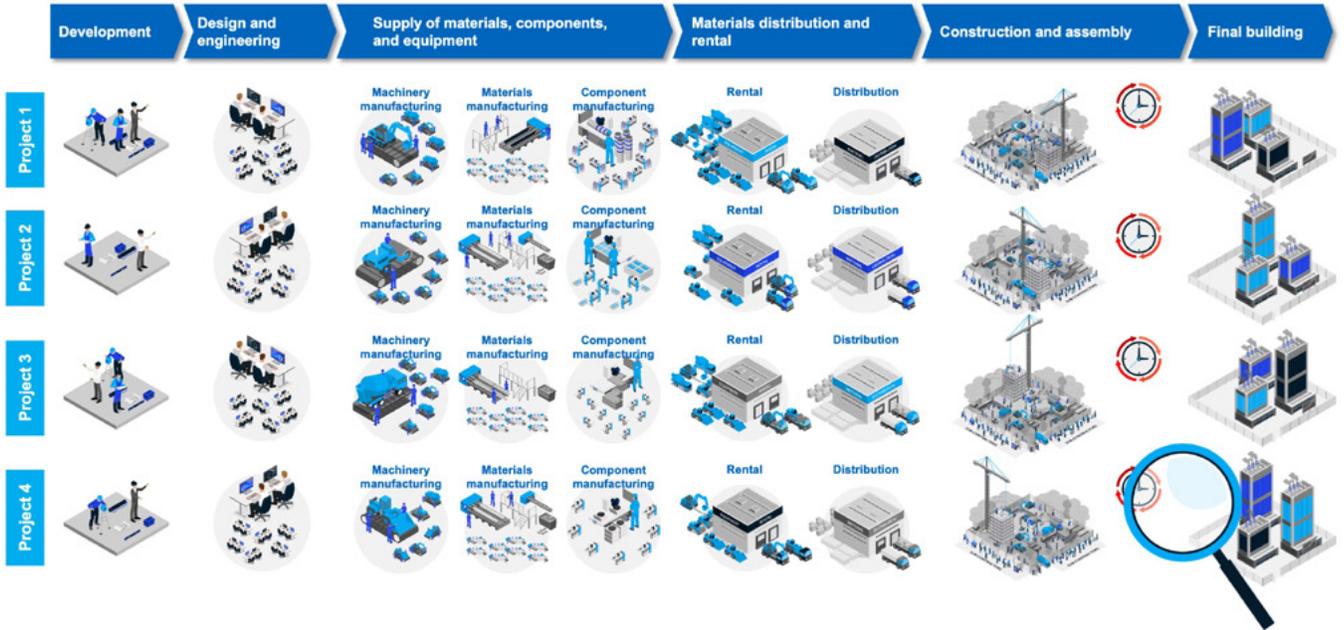
**Sustainability.** While sustainability is an important decision factor already, we are only at the very beginning of an increasingly rapid development. Beyond the carbon-abatement discussions, physical climate risks grow as the scale increases.<sup>27</sup> Companies will need to consider the environmental impact when sourcing materials, manufacturing will become more sustainable (for example, using electric machinery), and supply chains will be optimized for sustainability as well as resilience. In addition, working environments will need to radically change from hostile to nonhostile, making construction safer. Water consumption, dust, noise, and waste are also critical factors.

The construction process is expected to undertake a radical shift toward an industrialized setup by moving from a project- to a product-based approach (Exhibit 7). The current complex and fragmented construction ecosystem will transition to a more standardized, consolidated, and integrated construction process. Not all parts of the construction industry will be equally affected by the shifts. A large proportion of projects will still be unique, low-volume builds carried out in a conventional manner.

According to our survey, more than 75 percent of respondents believe that each of the nine shifts outlined in this section is likely to occur (Exhibit 8), and a majority of those respondents believe that each of the shifts is likely to make an impact on the industry at scale in the next five years. While 75 percent of respondents indicated that the industrialization shifts (product-based approach, technology and facility, human resources, control of the value chain, and customer-centricity) will occur within the next five years, around 40 percent believe shifts around scale (consolidation, internationalization, and specialization) will occur over the next five to 20 years.

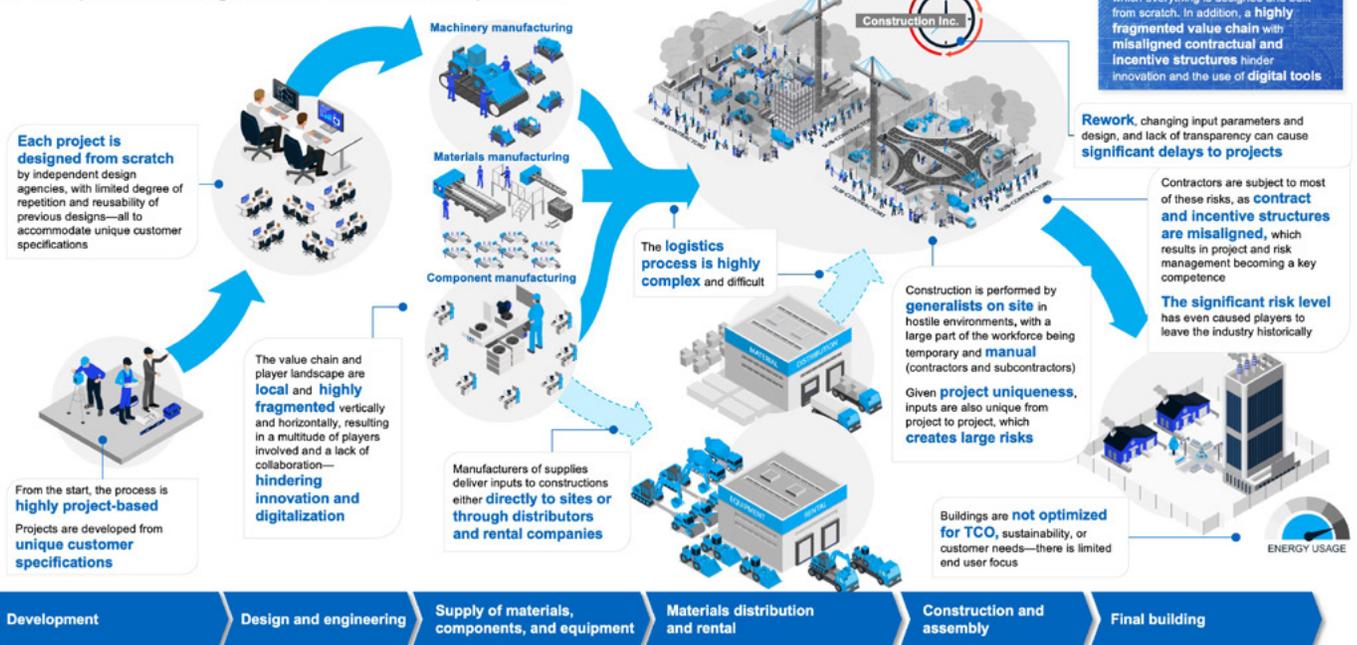
FROM

**Today's construction ecosystem (new build):** A highly complex, fragmented, and project-based construction process

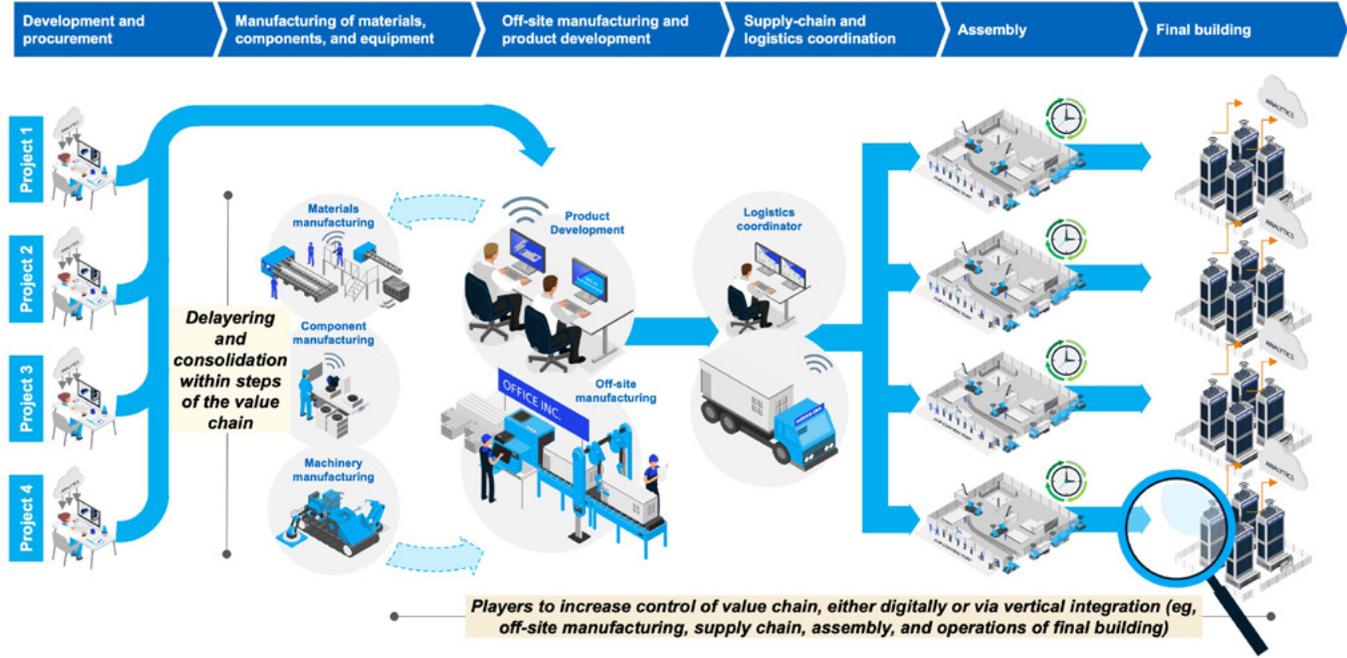


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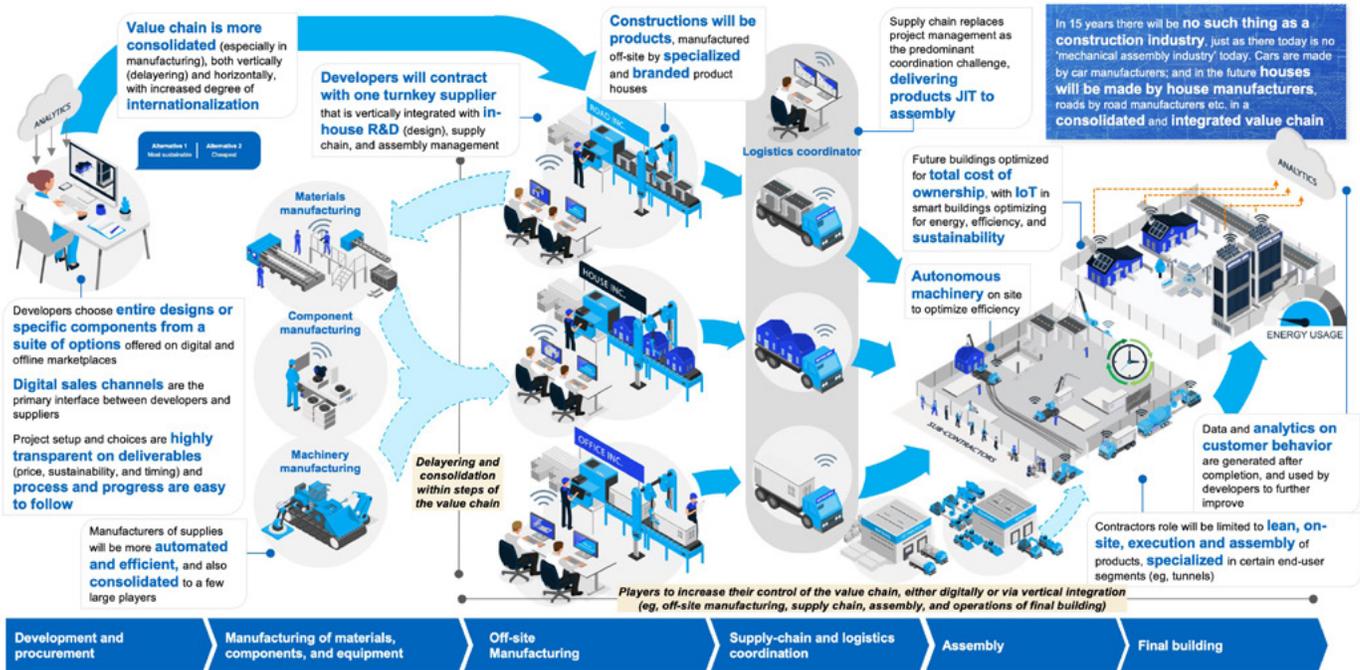
**Today's construction ecosystem (new build):** Current industry dynamics have resulted in a complex and fragmented construction process



**The construction ecosystem of the future (new build):** A more standardized, consolidated, and integrated construction process



**The construction ecosystem of the future (new build):** However, industry shifts will drive a transformation of the construction process



## Construction can draw lessons from other industries that have faced disruption

Construction is not the first industry to encounter low productivity and disruption across the value chain. Lessons can be learned from others that had similar traits and encountered the same challenges. We have analyzed shifts in four industries with similar attributes: shipbuilding, commercial aircraft manufacturing, agriculture, and car manufacturing. By studying these industries, clear patterns emerge regarding shifts and changes to the industry value pools. In each case, an eventual transformation was preceded by a set of underlying industry issues (such as low productivity and dissatisfied customers). Innovation in production technology and new best-practice work methods kick-started the journey.

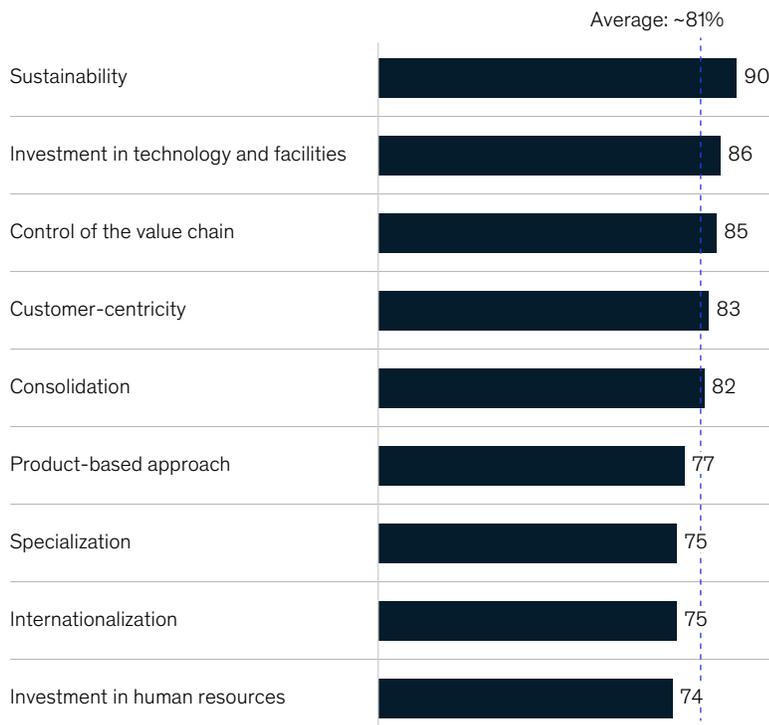
**Shipbuilding.** A geographically fragmented market structure meant that local shipyards covered the full process. Ships were manually produced in a bespoke and project-based setup over long periods of time and with a limited degree of repetition and standardization.

Exhibit 8

### Industry leaders expect shifts to occur in the short term.

#### How probable do you think [the listed shifts] are to occur?

Share of respondents rating shifts as “probable,”<sup>1</sup> %, n = 400



More than 75% of respondents believe that the shifts will probably occur—sustainability shift seen as most likely

#### When do you think the shifts will impact at scale?

Share of respondents who rated shifts as “probable,”<sup>1</sup> %, n = 370



More than 70% of the respondents who believe that shifts will occur also believe that industrialization will occur in the short term

Note: N = 400 - whereof 63% real estate, 19% infrastructure, 18% industrial; 47% North America, 39% Europe, 11% APAC, 2% Middle East and Africa, 2% Latin America

<sup>1</sup> Probable equals a 5 or higher, where 10 equals the highest certainty that the shift will occur.

Source: McKinsey survey of 400 construction-industry CxOs; expert interviews; McKinsey analysis

**Commercial aircraft manufacturing.** In addition to sharing many of the same characteristics as shipbuilding, commercial aircraft manufacturing required a high degree of specialized trade skills (for example, engineering and physics), and the cost of failure was (and still is) very high.

**Agriculture.** Each agricultural organization was confined to a specific plot of land, and the amount of manual work in production (for example, seeding and farming) was high.

**Car manufacturing.** Historically, automakers produced cars one by one with limited use of best practices and standardization. Design and production required a high level of specialized trades such as engineering.

While none of these industries is fully comparable to construction, they shared a number of characteristics: Most also were historically highly fragmented and adopted a largely bespoke and project-based approach, with limited standardization and repetition of processes. Productivity was low, and as demand picked up companies had trouble increasing production. All of them but agriculture also share the high complexity with construction and a high cost of failure. We included agriculture because its geographic dispersion and reliance on land as a key input are similar to construction.

Further, customer satisfaction was often low, caused by long delivery timelines, costly products, and limited assurance on quality. All these industries went through multidecades-long transformation journeys along similar dimensions as the nine shifts we lay out for construction (Exhibit 9).

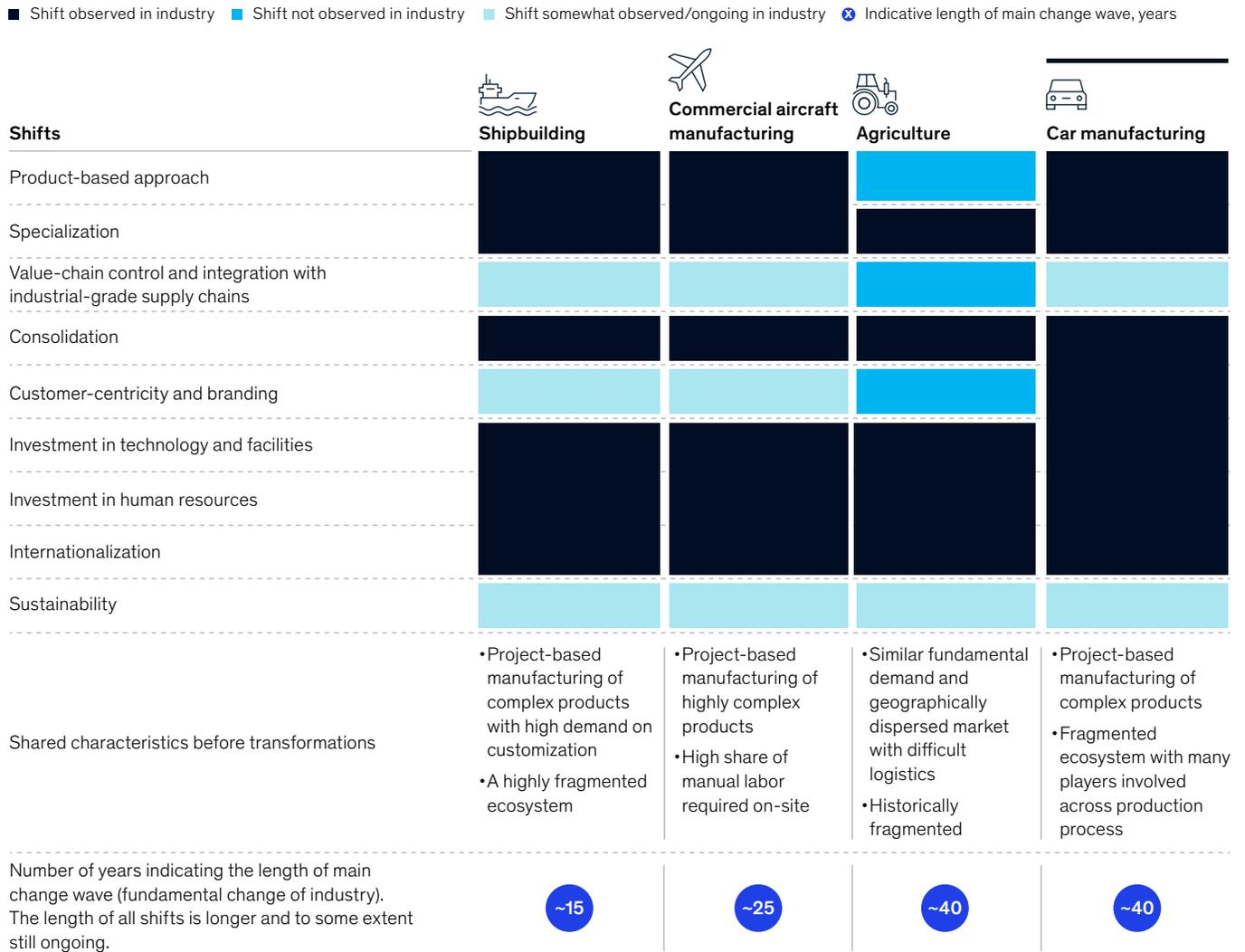
In commercial aircraft manufacturing, for example, the industry landscape was highly fragmented. Each airplane was built from scratch in a bespoke and project-based-manufacturing setup. Industrialization sparked a shift toward assembly-line manufacturing, which later became highly automated. As a result of the subsequent standardization, the industry entered a phase of consolidation that led to the rise of two major players: Airbus and Boeing. The transformation resulted in a significant shift of value to customers. According to an analysis based on data compiled by Airline Monitor, the realized prices of airlines have been decreasing, on average, at a compound annual growth rate (CAGR) of nearly 2 percent, and today's models have significantly improved safety, TCO, and technology.

This transformation journey took roughly 30 years to complete, as commercial aircraft manufacturing faced barriers to change similar to those now confronting construction: risks associated with product innovation, relatively strict regulation, often-limited scale of projects on which to apply innovation, and a value chain that requires many stakeholders to be involved and closely aligned. Commercial aircraft was able to navigate these variables and meet the challenges, which should give construction reason to be optimistic today.

**Product-based approach.** In shipbuilding, commercial aircraft manufacturing, and car manufacturing, players shifted to a product-based approach for which production facilities became assembly sites. The most famous example is Ford's innovation of the assembly-line manufacturing process for its Model T. Most of the auto-manufacturing industry adopted the process within ten years. In this model, prefabricated and modularized subcomponents are inputs, and ships, airplanes, and cars are outputs. While the manufacturing process was significantly standardized, products remained customizable because subcomponents could take various forms and sizes within an industry-wide, standardized framework. When early movers boosted their productivity and profit margins, competitors adopted the innovation over time. Toyota's lean manufacturing and use of robotics, further innovations in the assembly-line manufacturing process, boosted the company from a small player to one of the largest in the industry.

Exhibit 9

**The expected shifts in construction have already occurred in other industries that show some (albeit imperfect) similarities.**



**Specialization.** As industrialization started to reform these industries and processes became standardized, companies targeted specific niches and segments (for example, tankers, freight ships, and cruise ships in shipbuilding and budget, luxury, and utility autos in car manufacturing). As a result of this specialization, players created a competitive advantage by developing knowledge and scale in their market segment.

**Value-chain control and integration with industrial-grade supply chains.** As ship, aircraft, and car manufacturing shifted to assembly lines, the supply of critical components was increasingly important. In many cases, those components were the basis of differentiation: in car manufacturing, for example, the quality of the engines could be a distinctive factor. Therefore, it was important to control the supply.

Vertical integration or partnerships along the value chain were common shifts in the industries. In commercial aircraft manufacturing, engines were, and are, produced by external suppliers, but, in order to develop better-quality and more efficient engines than their competitors', manufacturers hold integrated partnerships in R&D and testing. Also, Boeing recently decided to build the 777X wing internally (which was formerly outsourced) and has also set up an internal avionics division to reduce reliance on suppliers of navigation, flight controls, and information systems.

**Consolidation.** As industrialization emerged in the four industries, companies started to consolidate in order to gain scale. In agriculture, land reforms in combination with industrialization (such as standardized seeding and harvesting) resulted in the industry's transformation from a large set of small and local farms to one dominated by regional and global players. In manufacturing industries, standardization spurred a large wave of consolidation. In commercial aircraft manufacturing, several companies consolidated into Airbus and Boeing. The defense sector also consolidated over the past 50 years, with several large deals made to align companies' services and product portfolios.

**Customer-centricity and branding.** Following specialization in end-use segments, companies invested heavily to build strong brands within their market niches and segments. In car manufacturing, brands tell stories that are centered on the customers—and customers let the products shape their lifestyles. Given changes in how consumers acquire and use cars, automakers have emphasized their use of technology and innovation to enhance the customer experience.

**Investment in technologies and facilities.** Industrialization created the need to invest in technology and facilities: manufacturing plants needed to be built, machinery to be acquired. Product and manufacturing innovation became important sources of competitive advantage, which led players to boost R&D spending significantly. In the four comparable industries, greater R&D spending led to short-term gains and advantages for the companies, while customers have benefited over the long term. Consider that the current cost of a car or airplane has changed little in the past ten to 20 years, but both cars and airplanes have significantly more value-adding technologies and other features. The trend has continued with investments by original-equipment manufacturers in the electric-vehicle-battery market—from R&D and packaging to cell production. Volkswagen recently invested in a battery-cell factory that it is developing in partnership with SK Innovation in Germany. It has also struck major supply deals with LG Chem, Samsung, and Chinese battery maker CATL. Overall, the company's ratio of R&D spending to total revenues is now close to 6 percent compared with an average across the construction sector of less than 2 percent. Indeed, Volkswagen alone invested more than \$13 billion in R&D in 2019, the same amount the 25 largest construction and building materials players together spent on R&D, according to the 2019 EU Industrial R&D Investment Scoreboard. And although that level of R&D spending may converge to the current automotive-sector average of almost 5 percent, it would still represent a significantly higher commitment to R&D than is typical in construction.<sup>28</sup> In sum, across industries winners continue to heavily invest in technology, many with a focus on digitalization and data-driven products and services.

**Investment in human resources.** Employee attraction and retention became a priority when industrialization affected the four comparable industries at scale. First, players built up their technical knowledge in order to create a competitive advantage. Second, improved production processes have, over time, resulted in a need for constant retraining of the workforce.

**Internationalization.** Industrialization ushered in the standardization of processes, which was adopted across geographies. Internationalization enabled companies to expand beyond their borders in pursuit

of scale, gave them access to new markets, and resulted in operations cost savings. For example, in an attempt to increase commercial aircraft sales in China and the Mideast, Airbus and Boeing set up local final-assembly lines in China.

**Sustainability.** The growing global emphasis on sustainability is being felt across industries. Most notably, automotive has already embarked on a material transformation toward zero-emission vehicles. In Norway, airport operator Avinor and Widerøe Airlines vowed to fully electrify all domestic flights by 2040.

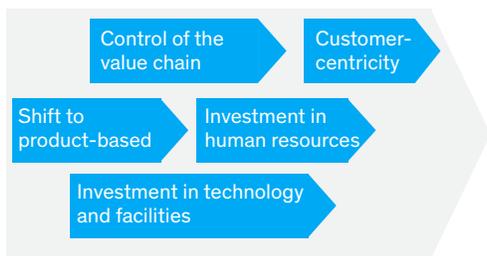
Exhibit 10

## The construction industry expects sequencing of shifts similar to comparable industries.

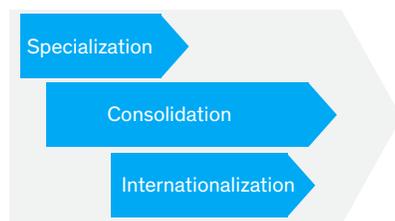
### Transformation journeys in comparable industries have typically followed the same pattern

Length of phases highly indicative

#### First main change wave—industrialization, 20–25 years



#### Second main change wave—scale, 10–15 years



### Sustainability shift to occur sooner in the transformation of the construction industry



### In construction, industry practitioners expect a similar transformation journey, share of respondents, %

■ 1–5 years ■ 5–20 years

#### First expected main change wave—industrialization

Sustainability	79	21
Customer-centricity	74	26
Investment in human resources	74	26
Investment in technology and facilities	72	28
Product-based approach	71	29
Control of the value chain	71	29

#### Second expected main change wave—scale

Specialization	65	35
Consolidation	57	43
Internationalization	57	43

Source: McKinsey survey of 400 construction-industry CxOs; expert interviews; McKinsey analysis

## **Across industries, winners continue to heavily invest in technology, many with a focus on digitalization and data-driven products and services.**

The transformation journeys of the comparable industries took decades to complete (Exhibit 10). Survey respondents indicate that shifts in construction will occur in two main waves, similar to the transformation journey observed in those industries. In the first wave, industrialization will standardize processes and increase sector productivity. The second wave will focus on scale, where players will specialize in end-use segments, consolidate vertically in the value chain, and also expand internationally. By drawing on these lessons, construction companies can begin to position themselves for the coming upheaval.



@Getty Images/SJasmin Merdan

### 3 Almost half of incumbent value added is at stake

**The transformation of** the industry will create both large opportunities and sizable risks as value and profit pools shift in the next 15 years. Over the past years, approximately \$11 trillion in value added and \$1.5 trillion in profits have been unevenly distributed along the construction value chain and across all asset classes. Looking ahead, up to 45 percent of incumbent value may be at stake in those parts of the market most heavily affected by shifts, such as hotel construction. Of this total, 20 to 30 percentage points will be kept and redistributed within the ecosystem to enable the shifts to take place. The remaining 15 to 20 percentage points will be value up for grabs as a result of the cost savings and productivity gains generated by the shifts, with the benefits accruing to players or customers (in the form of price reductions or quality increase). If that value is captured fully by players in the ecosystem, profitability could nearly double, to 10 percent of revenues, from the current 5 percent.<sup>29</sup> Players that move fast and manage to radically outperform their competitors could grab the lion's share of the \$265 billion in new profit pools. (For more on our methodology, see sidebar "How we measure value and profit pools.")

#### **Value is distributed unevenly along the construction value chain**

Value and profit pools have remained stable, with only minor changes, for a long period, as the overall industry has maintained its status quo. While a multitude of players are active within and across the construction value chain, few manage to grab significant shares of value—not to mention profits (Exhibit 11).

For example, software providers and off-site manufacturers often command high earnings before interest and taxes (EBIT) but remain relegated to niche pockets in the value chain. In contrast, developers manage to capture a large share of the value pool. General contractors and subcontractors typically have low margins (especially considering the high risks of the industry). Given their sheer number, however, they still collectively attract a significant share of overall value. Top generalist contractors have revenues of about \$60 billion, while average revenues for contractors in our database are much lower, at \$27 million. The value declines to just \$10 million for specialist contractors and declines further when the long tail of individual owner-operators and small firms (which is not included in our database) is included (Exhibit 12).

Materials distribution and logistics still represents a relatively high share of both value added and profits, as it plays a central role in connecting a large number of suppliers with project sites on which subcontractors are active on each site. The best-performing basic-materials providers manage to attain the typical scale of manufacturers and achieve EBIT margins of 15 to 25 percent, but a long tail of less-profitable players brings down average margins.

### Minor differences exist across regions

The differences among regions are somewhat limited (Exhibit 13). However, a few things should be taken into consideration, such as whether contractors specialize, to what degree materials distributors are able to add

## How we measure value and profit pools

**We analyzed financial data** on more than 240,000 global companies in the Capital IQ database, in an effort to size value and profit pools across the ecosystem. We then built a database that categorizes industry players according to their principal activities, using the Standard Industrial Classification (SIC) system. Revenue pools were determined by adding up revenue, and profit pools were determined by earnings before interest and taxes (EBIT). Averages for the 2015–17 period were then used to create a consistent view over time.

Value added is defined as revenue excluding externally procured cost. This approach calculates the value added by each step (and player type) in the value chain and helps avoid “double counting” what has been procured from previous steps in the chain or players in the same

step. Drawing on a sample of 10,000 companies where data was available as well as expert interviews, we determined the typical ratio of value added per step in the value chain and applied these calculations to companies for which exact data were not available. Individual player type and size were considered when approximating value added.

The resulting data set covered three regions and six countries: Europe (mainly Spain, Sweden, and the United Kingdom); Asia (China and Japan); and North America (the United States). Individual perspectives were developed for each country and were then aggregated to create regional and global perspectives. Together, these three regions account for approximately 90 percent of global spending on construction, while the group of countries

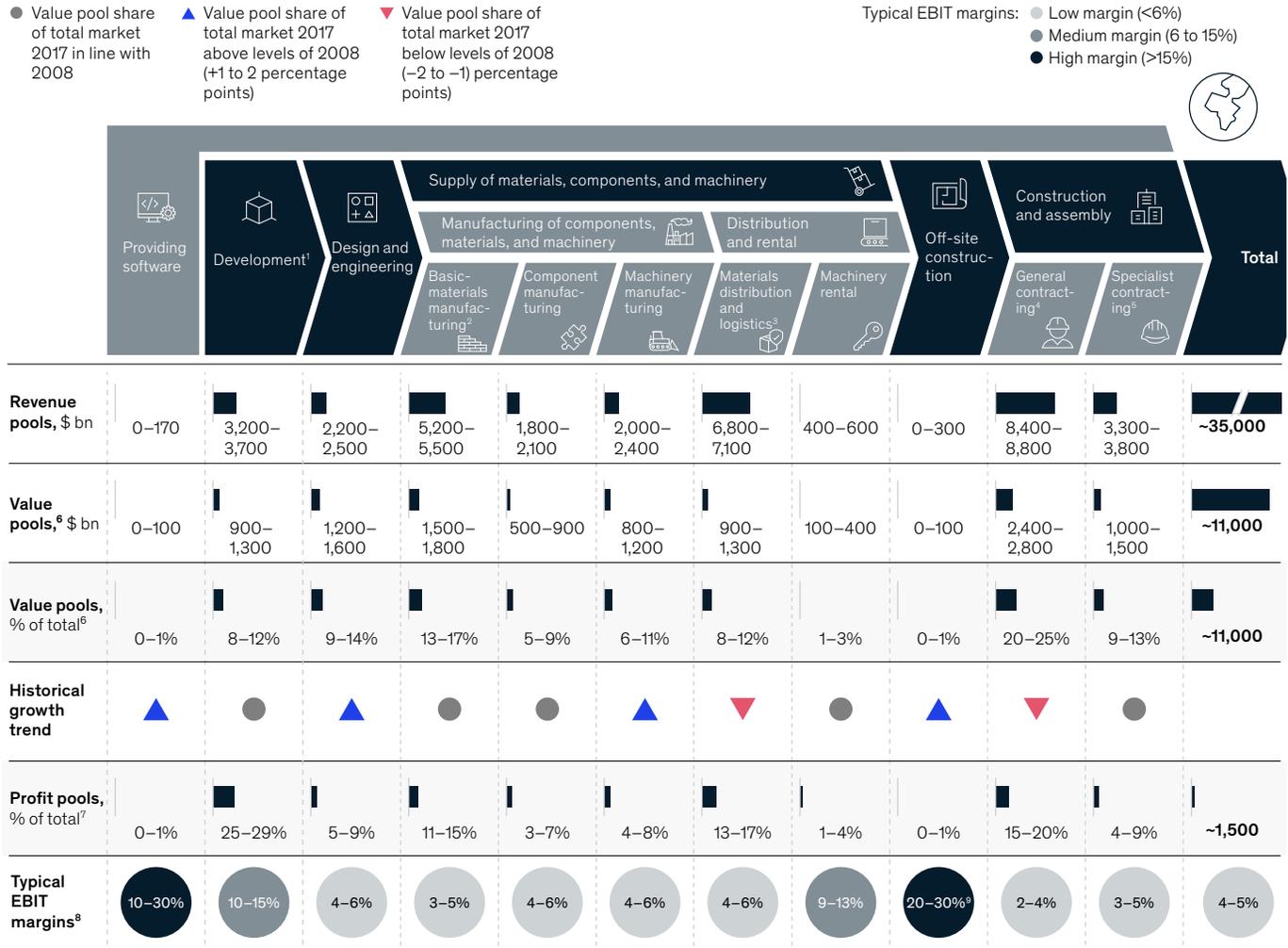
adds up to approximately 65 percent of global spending.

Data quality and coverage varied by country. Adjustments were made to account for gaps in data. On average, the data coverage included in the data set was estimated at 60 to 65 percent. In the United States, for example, EBIT coverage was particularly poor. Therefore, EBIT margins were based on what was available in the sample and then augmented using other sources, including research on annual reports and other publicly available information.

Finally, adjustments were made to remove revenue that did not contribute to industry output. For example, figures for materials distribution and logistics companies don't include revenues from the distribution of white goods.

## Value pools are fragmented across the value chain and profitability levels are low.

### Value and profit pools per player type in ecosystem (new build and renovation); average, 2015–17



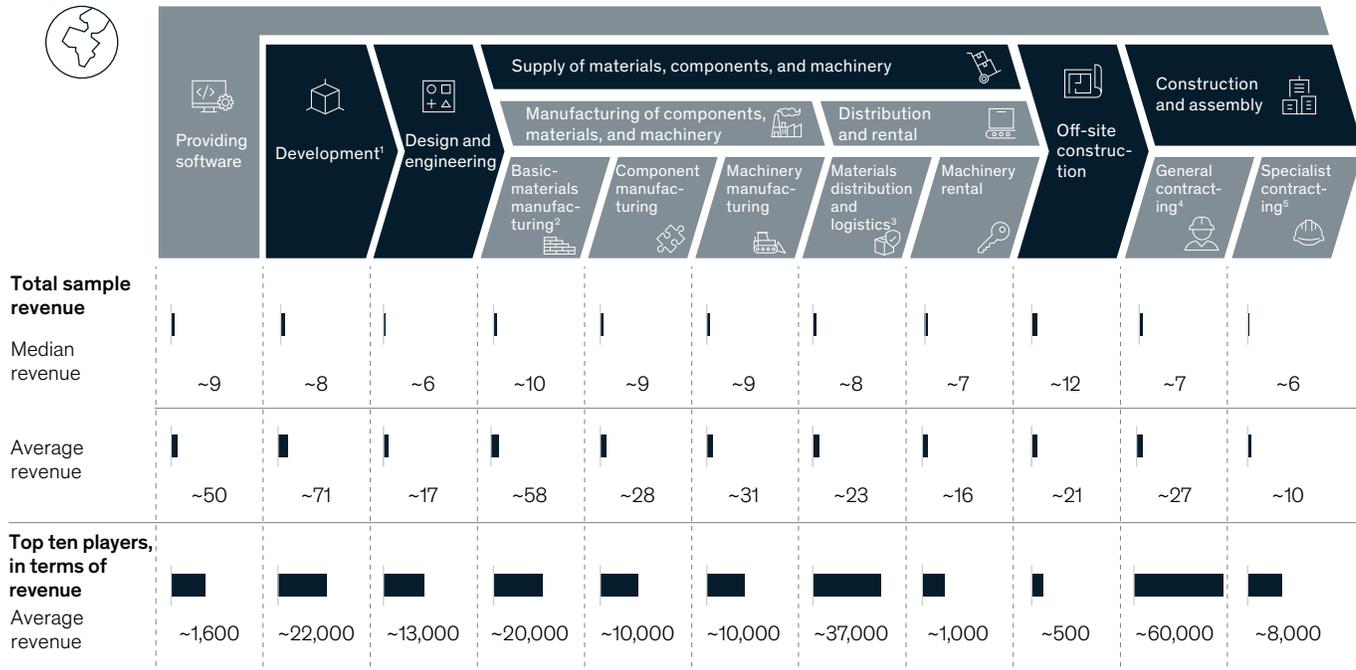
value, and to what extent players rent machinery and tools. Moreover, a country’s tendency to import goods or add value domestically also affects the distribution of value added.

The following takeaways highlight some of the differences by region:

- In China, general contracting has higher value added since contractors tend to perform specialist work in an integrated manner.
- UK value pools are skewed toward materials distribution because the United Kingdom is a more indirect market than some other countries. In the United States, however, the massive size of the domestic market allows for distributors to reach larger scale and therefore create more value.

**The construction value chain is fragmented with a significant number of small-scale players.**

Refers to average for 2015–17, \$ mn



<sup>1</sup> Calculated by applying an assessed share of total value of development of output per asset class, allocated on top of total market output, since a limited number of stand-alone, pure-player developers have been identified.

<sup>2</sup> Looking at players processing raw materials but not the actual manufacturing of raw materials (eg, mining). If all steps of producing and refining raw materials were included, the value pool would be ~2.5x bigger.

<sup>3</sup> Adjusted downward to reflect that some things materials distributors sell don't contribute to construction output (eg, clothes, white goods).

<sup>4</sup> General builders (buildings and other heavy construction).

<sup>5</sup> Specialized trade construction.

Source: CapitalIQ; Euroconstruct; FMI; McKinsey analysis

— The US rental market is fairly sophisticated, and companies tend to achieve significant scale as a result of the sheer size of the domestic market.

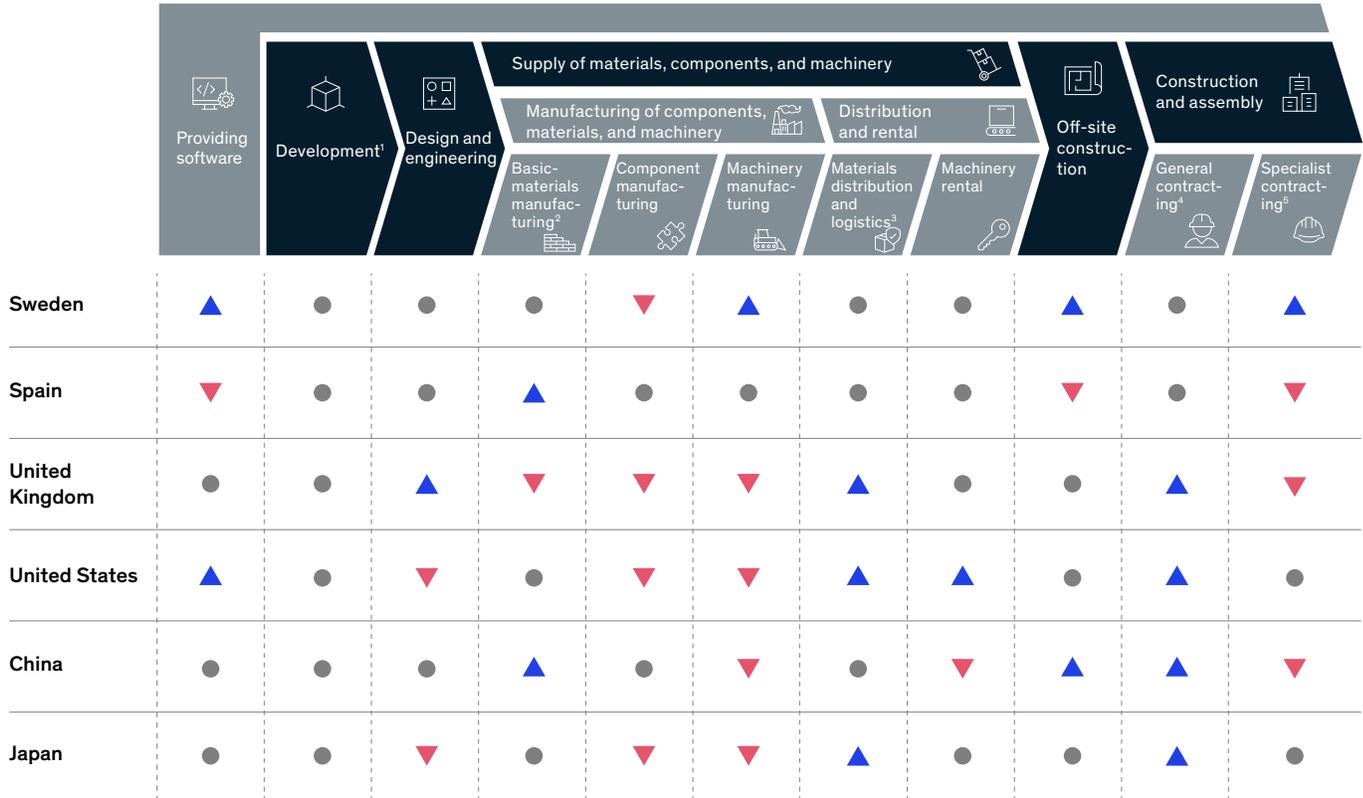
**Almost half of submarket value-added pools could be reshuffled**

As the industry transforms, segments in which the nine shifts have the highest potential to materialize (such as hotels or single- or multifamily housing in new real-estate projects) could see a reshuffling of 40 to 45 percent of value added in the next 15 years (Exhibit 14). Of this total, 20 to 30 percentage points will be kept and distributed within the ecosystem to enable the shifts to take place. The remaining 15 to 20 percentage points will be value up for grabs as a result of the cost savings and productivity gains generated by the shifts, with the benefits accruing to companies as profits, workers as wage rises, or customers in the form of better quality or price reductions. As competition catches up with early movers, companies will lower their prices to win individual projects and pass more of the value on to customers—a pattern that has been observed in other industries.

## There are minor regional differences in value added per chain step among regions and countries.

### Compared to global results

▲ Somewhat higher ▼ Somewhat lower ● Similar



<sup>1</sup> Calculated by applying an assessed share of total value of development of output per asset class, allocated on top of total market output, since a limited number of stand-alone, pure-player developers have been identified.  
<sup>2</sup> Looking at players processing raw materials but not the actual manufacturing of raw materials (eg, mining). If all steps of producing and refining raw materials were included, the value pool would be ~2.5x bigger.  
<sup>3</sup> Adjusted downward to reflect that some things materials distributors sell don't contribute to construction output (eg, clothes, white goods).  
<sup>4</sup> General builders (buildings and other heavy construction).  
<sup>5</sup> Specialized trade construction.

### The rate of change will differ across the construction value chain

Some players will be more affected than others. For example, software providers are expected to significantly increase their value-added contribution, albeit from a small base of 1 to 2 percent of the value chain. Also, a large share of value is expected to move from construction jobsites to off-site prefabrication facilities. In contrast, general and specialized contractors could face a large decline unless they reposition themselves as companies that go beyond execution alone. Basic design and engineering and materials distribution and logistics may face substantial commoditization risks.

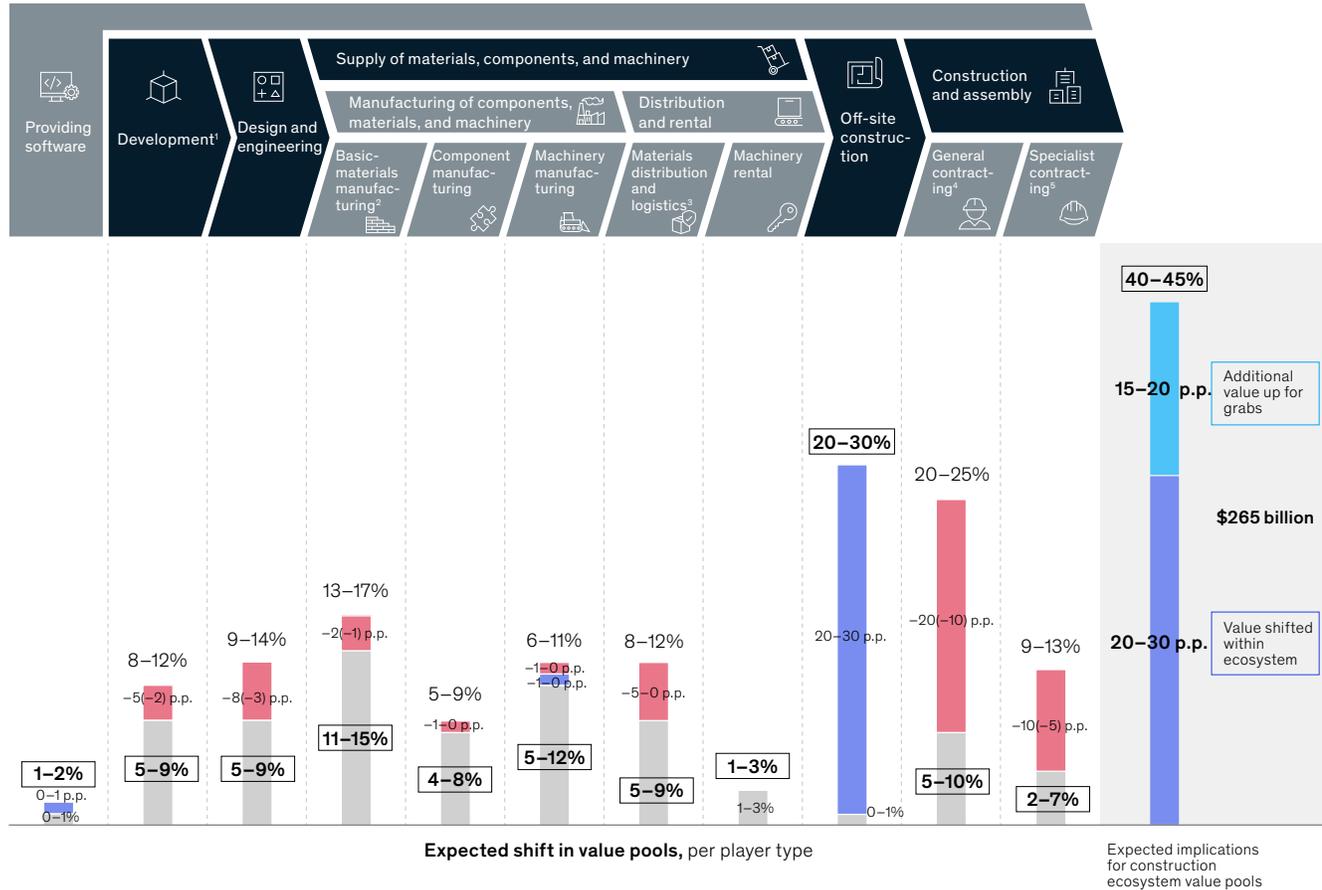
Our estimates are based on expert interviews and analysis. However, the rate of change in the industry could play out slower or faster, depending on overall dynamics and adoption rates.

Exhibit 14

# Forty to 45 percent of value pools are expected to shift and impact all players along the value chain.

Example of fully productized value chain (eg, real estate new build), current and future value pools, p.p.

Value at risk Remaining value added Value shifted Value captured



Value pools, <sup>6</sup> \$, bn											
0-100	900-1,300	1,200-1,600	1,500-1,800	500-900	800-1,200	900-1,300	100-400	0-100	2,400-2,800	1,000-1,500	<b>~11,000</b>
Profit pools, <sup>7</sup> \$, bn											
0-30	350-450	90-110	150-180	70-90	70-90	150-250	30-50	0-60	250-350	80-100	<b>~1,500</b>

<sup>1</sup> Calculated by applying an assessed share of total value of development of output per asset class, allocated on top of total market output, since a limited number of stand-alone, pure-player developers have been identified.

<sup>2</sup> Looking at players processing raw materials but not the actual manufacturing of raw materials (eg, mining). If all steps of producing and refining raw materials were included, the value pool would be ~2.5x bigger.

<sup>3</sup> Adjusted downward to reflect that some things materials distributors sell don't contribute to construction output (eg, clothes, white goods).

<sup>4</sup> General builders (buildings and other heavy construction).

<sup>5</sup> Specialized trade construction.

<sup>6</sup> Defined as value added per player type.

<sup>7</sup> EBIT pools.

Source: CapitalIQ; Euroconstruct; FMI; McKinsey analysis

**Providing software.** Software and platforms increasingly will be built to integrate and serve companies throughout the ecosystem. The industry will see the launch of analytics services and software, while online marketplaces will offer entire designs or specific components from a suite of options. Emerging digital sales channels will become the primary interface between builders and suppliers.

Software providers are expected to be strongly affected by changes in the ecosystem, and their value added will increase accordingly. Software will enable cost savings across the value chain—and grab significant share of the gains as a result. Overall software usage is expected to increase as technology advances—for example, through more sophisticated data analysis and increased IoT connectivity. According to IDC, IT-related software and infrastructure will grow 5.3 percent and 1.7 percent, respectively, despite the COVID-19 impact. Some estimates indicate it could even double as the construction industry starts to catch up with the manufacturing industry in terms of IT spending as a share of revenue, which is currently at two to three percentage points.<sup>30</sup> Therefore, the associated value pools should rise considerably as well.

When taking into account the doubling of spending on software, the value-pool increase of software providers could rise by one percentage point.

**Development.** Public- and private-sector developers of real-estate, infrastructure, and industrial projects orchestrate the development process from beginning to end: securing financing, sourcing land, and scoping and overseeing value-adding projects. As customer expectations continue to evolve rapidly, developers look set to increasingly specialize and invest in productizing and branding their offerings, which will increasingly require multinational scale, leaving behind those working in traditional ways. A deep understanding of customer needs, by segment and subsegment, will be increasingly important.

The most successful players are already bringing together these customer insights with product and supply-chain innovation to deliver high-performing projects. For example, leading commercial real-estate developers are already building direct relationships with end users and creating spaces that can be rapidly repurposed as demand changes. Similarly, highway developers are connecting directly with drivers to better understand usage patterns to inform future highway design and operation. In many ways, developers set the tone for the whole industry.

Since developers sit at the top of the value chain, they can strongly influence how and how fast disruption in other parts of the value chain takes place, including actively embracing industrial production of their offerings as well as library-based designs and subsystems.

Such approaches can reduce the cost, time, and riskiness of projects—all improvements in the financial viability of projects—which may translate into higher profits, greater volume, or value shifting to customers. Specifically, significantly shortened project duration will be the key driver for cost reduction in development as all indirect and financing costs will be reduced. We expect two to five percentage points of value added to be at stake.

**Design and engineering.** Disruption could fundamentally change what it means to be an engineer or an architect in construction. Historically, these professionals have applied their considerable expertise to create designs and specifications for individual projects: each design optimized to meet the project's unique requirements. The coming years will see these stand-alone professional-services firms closely collaborating with productized and branded developers, off-site construction firms, and highly specialized contractors as an integrated R&D-like function. These firms will increasingly add value through the standardization

of structure and subsystem designs and develop standardized design libraries of products in their target segments. This modular design will be reused across a large set of construction projects. In this way, design and engineering firms could influence industry standards. As the industry shifts to a more product-based approach, the challenge for engineering and architecture firms will be to retrain their existing workforces and hire the right talent.

Of course, modularization and automation will not apply to all projects: highly architectural or complex projects will have limited amounts of standardization. Similarly, renovation-maintenance-improvement (RMI) projects are likely to continue to follow more traditional design approaches for some time. In affected segments, however, design and engineering firms are likely to improve their efficiency by using standardized products and libraries as well as software-based design automation—though the extent will depend on how the transformation plays out. The best performers will still stand to gain. There will often be a premium for modular or customizable product design, as only a few firms have the required capabilities and experience. But as the industry adjusts to designs that can be replicated and adapted multiple times, the volume of work is likely to decrease in the affected segments. The need for redesign is also expected to decrease drastically with more specialized and productized approaches, generating significant cost savings for design and engineering and putting the respective value of activities at stake.

Currently, design and redesign account for 14 percent of total value added. The developments discussed here could lower cost by three to eight percentage points—and shift it to the best performers or other parts of the value chain.

**Basic-materials manufacturing.** A large share of the inputs used in construction projects involve processing raw materials such as cement, steel, wood, or glass. Many players in this sector are already large, global firms with slower-moving shifts in value-chain dynamics. The most pronounced impact might arise from a transition to new, lighter-weight materials, as well as satisfying a growing number of sustainability requirements including less waste and more recycling. While the industry should benefit from long-term (post-cycle) growth of the construction market, the volume of traditional materials per structure, such as the amount of cement per building, looks set to decline. Digitization and consolidation of the distribution and contracting landscape may alter logistics and customer interfaces.

Overall, we expect that about one to two percentage points in value generated in this sector might be at stake.

**Component manufacturing.** Today, components such as elevators, HVAC equipment, and pipes are often produced using a silo-like approach, which limits the ability to integrate the components once they have been installed in buildings. Installers tend to have strong affinities for specific suppliers—due to either personal experience or suppliers' incentive schemes—while the brand affiliation of end customers is not as strong.

Several of the nine shifts will most strongly affect component manufacturers: productization and standardization (including through BIM object libraries), as well as online channels, will increase price transparency and lead to commoditization. Consolidation will improve the bargaining power of large contractors or modular construction firms, and internationalization will lead to low-cost-country sourcing. In turn, the best companies will achieve further economies of scale and offer solutions with a TCO advantage and value-adding digital services. The companies might also shift from manufacturing components to entire subsystems and taking direct-sales approaches.

# Since developers sit at the top of the value chain, they can strongly influence how and how fast disruption in other parts of the value chain takes place.

Overall, we expect that about one percentage point of value added from component manufacturing will be grabbed by other parts for the value chain or the best-performing players.

***Machinery manufacturing.*** Over the next two decades, manufacturers will transition from producing traditional heavy machinery and tools used in the construction process to highly automated, connected products used in the ecosystem. The new equipment will be integrated with robotics that could be used in the ecosystem's manufacturing processes—for example, in plants for building materials, components, and buildings. Rather than simply selling products, manufacturers will offer services that are completed with their products. This will increase the value added of machinery, and increasing automation will support greater volume. In addition, demand for machinery used in off-site fabrication is expected to rise.

In turn, improved efficiency and reduced time requirements for on-site work are expected to have a negative impact on the volume of machines sold.

Overall, we estimate a range of an increase or decrease by one percentage point in value added for machinery manufacturing.

***Materials distribution and logistics.*** Distributors procure, store, and transport basic materials, components, and equipment and resell them to consumers and businesses. Some distributors also provide credit. Part of this model is the organization of logistics and inventory, primarily for construction sites and installers.

Several of the nine shifts may hit distributors in a negative way. Productization, standardization, and consolidation will move decisions and procurement upstream from small specialized subcontractors to large contractors and product-based developers, increasing bargaining power and reducing the breadth of materials needed. Better and earlier planning using BIM and digital twins will reinforce those shifts and reduce the need for local stock. Off-site manufacturing facilities will shift demand for shipments to factory hubs, with more predictable levels of demand, which will be the main logistics nodes and decrease the need for a dense storage network close to construction sites, while also raising the expectation of just-in-time delivery. Internationalization will enable more sourcing from low-cost countries. Online and direct-sales

channels, including new competition from online distribution behemoths—which serve customers with high expectations and use increasing amounts of technology, such as advanced analytics or automated warehouses—will further reshape this segment.

While these shifts pose a major threat to distributors that lack scale and logistics capabilities, they provide opportunities to companies that have them. There is an opportunity to consolidate the sector, supported by lean efficiencies, category reviews, and new business solutions. Direct-to-customer digital interaction channels and interfaces connecting to BIM and building-management systems allow better integration into the value chain. Distributors can fill the roles of the logistics hubs of the future construction landscape by using advanced analytics in logistics, demand forecasting, and inventory management to allow just-in-time delivery from suppliers to modular-construction factories to construction sites. Distributors can create new value for customers by helping with international sourcing, by offering credit finance, packing in assembly order, offering in-room delivery, making deliveries before the working day, providing on-site logistics planning and operations, or even handling simple pre-assembly.<sup>31</sup>

Overall, we expect zero to five percentage points of value added could be at stake and could move to other parts of the value chain or to the best-performing companies that are fastest to adjust to the new world.

***Machinery rental.*** Currently, rental businesses provide companies in the ecosystem with an efficient capital-expenditure option for yellow machinery and tools, which help to optimize equipment utilization. Digital technologies will enable greater efficiency through on-site logistics, either providing the right machinery at the right time or operating and using the machinery for customers. By offering digital services, rental companies gather usage data from products to enable best-in-class employment of machinery for customers.

Some machinery—particularly tools—is expected to be moved off site, trending toward higher utilization and limited rentals rather than direct purchases. This shift will affect machinery-rental players negatively, although only to a small extent. In turn, service-based business models and IoT-connected machinery and tools could compensate for these shifts. Machinery for groundwork will likely be less affected by the upcoming shifts.

Overall, we do not expect a significant net change in value into or out of the machinery-rental sector.

***Off-site construction.*** Today, off-site construction companies primarily manufacture building elements, structures, or modules for real estate—but also for industrial structures and infrastructure like bridge segments. Overall, off-site construction is still a relatively young and immature part of the larger construction ecosystem, with high fragmentation and smaller-scale players that use mostly manual labor.

All nine of the shifts described in this report are expected to positively shape future demand for off-site construction in one way or another, and the collective effect is expected to be the most significant throughout the ecosystem. Led by a product-based approach, standardization, and sustainability, the coming years will see a shift to manufacturing a broad range of products off site, typically on a manual or automated production line.

Off-site construction will see much deeper integration even in flat-pack design such as doors, windows, and fully preinstalled mechanical, electrical, and plumbing systems. Data will be flexibly transferred from BIM models to the automated factory controls for customization within standard designs. The level of integration

and connector technology aims to require no skilled labor on the final site and enable extremely fast building times. There will be a mix of flat-pack (2-D) and volumetric (3-D) preconstruction.

Through close collaboration with designers or integrated R&D departments, companies will build standardized libraries of subsystems that allow mass customization. We expect off-site construction companies to specialize by end-user segments, such as hospitals or certain types of bridges. Branding will also become important to differentiate offerings.

While off-site construction is expected to enjoy strong demand growth, owner expectations and requirements will increase. As a consequence, the future landscape is likely to look very different from today's. Players that can differentiate at scale will stand head and shoulders above others. Some of those players might already exist in today's ecosystem, while others might arise from new entrants that see opportunities in areas such as real estate or infrastructure being the next platform for the deployment of smart technology. Either way, future winners will look very different from the fragmented players that exist today.

Our analysis suggests that, as a direct result of the shift to an industrialized approach, the off-site construction sector could gain a share in value added of 20 to 30 percentage points in the most affected segments. This amount represents the cost of off-site labor (typically 10 to 15 percent of a modular project) and the cost of investing in and operating the factory. Recently constructed facilities suggest an initial capital outlay of \$50 million to \$100 million.

**General and specialist contracting.** With a focus on managing overall construction projects, general contractors perform construction work, coordinate subcontractors and suppliers, and handle risk. Many of them currently have a limited degree of specialization. Specialist contractors perform specialized tasks in a construction project, such as mechanical, electrical, and plumbing work—but often do so for a broad spectrum of projects.

The generalist and specialist contracting sector faces some of the most imminent threats to their business model as work shifts from jobsites to off-site facilities. Up to 80 percent of the traditional labor activity in a modular building project can be moved off site to the manufacturing facility. Some of the most skill-intensive and expensive types of work, such as mechanical, electrical, and plumbing, can be handled by lower-cost manufacturing workers.

Better and earlier specification with BIM and other digital tools, as well as specialization and productization, will further reduce risks and project-management needs and simplify supply-chain management.

Overall, in the most affected segments, we expect ten to 20 percentage points of value added in general contracting and an additional five to ten percentage points of value added in specialized contracting to be at stake. Competitors include module manufacturers and the developers that employ them or the contractors that are best able to adjust their business models in line with the shifts ahead.

### **Companies that move fast may reap disproportionate rewards**

Whether the share of value at stake benefits players in the larger construction ecosystem or their customers depends on industry dynamics and conduct. Drawing on expert interviews and industry analysis, we created a scenario for overall industry profitability. In the short term, profit pools in some segments of the industry could double if the value of the shifts benefits the ecosystem as whole. Profits could even increase for

companies that make fast and radical changes to outperform their competition and that capture a majority of value shifts in the value chain (Exhibit 15). In the long term, as competition intensifies, we expect gains from cost savings to benefit customers through price reductions and quality improvements.

### The impact of these shifts will differ significantly by asset class and project type

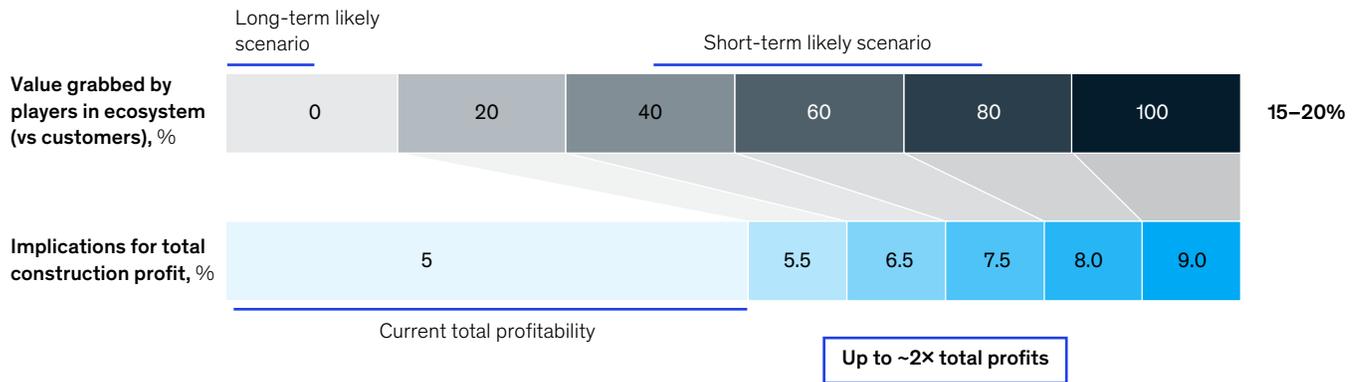
Across segments, shifts in the industry are expected to affect new building projects more than renovation projects. Therefore, our estimates have focused on new projects, though renovation could certainly still have some potential (see sidebar “The potential of renovation”).

That said, emerging evidence in the market indicates that the renovation segment is subject to shifts that are similar to those of new projects and has significant potential for change. The next 15 years could bring considerable improvements.

Exhibit 15

## Profit margins could increase for players that move fast and capture value that is up for grabs.

Fully productized value chain in the subsegments of real-estate new build where shifts are the most applicable



## The potential of renovation

In this report, we focus on new building projects because we believe this is the category for which change will occur most quickly. In fact, many shifts in new projects have already begun and are moving particularly fast in this segment.

The renovation segment will likely transform at a later time. First, renovation projects are more frequently carried out by fragmented small and medium-size enterprises, which tend to have limited funding available for pursuing innovation. Subsystems manufactured off site could

also be more difficult to integrate into renovation projects than new building projects, as a greater degree of customization would be expected. The reason is that customized building projects often do not follow cogent standards of measurement or setup.

Shifts have different levels of applicability within asset classes and their respective subsegments, and value redistribution is expected to affect them differently in the foreseeable future. Our baseline scenario estimates the adoption rate for the shifts outlined in this report at about 11 percent across asset classes by 2035. Exhibit 16 shows an illustrative timeline of how the shifts are expected to affect new building projects in the various asset classes.

In real estate, for example, we expect an additional applicable volume of 15 percent of new building projects by 2035. This higher number is partly the result of the potential for standardization in single- and multifamily residential, hotels, offices, and hospitals.

Across segments, the shifts could generate profits of up to approximately \$265 billion for innovative players and customers (Exhibit 17).

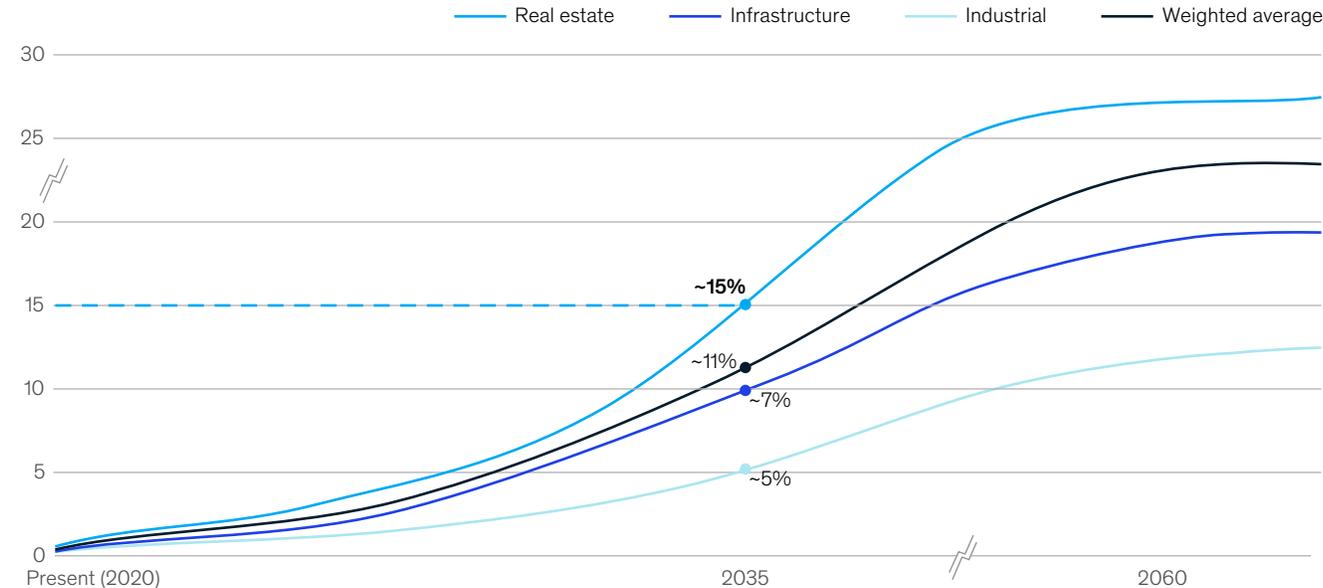
The shifts are expected to affect infrastructure to a lesser degree than real estate. Structures are more difficult to transport as subsystems than in real estate, and repeatability is often more difficult. Some segments—such as airports and railways, but also bridges or tubing rings in tunnels—show more potential, but overall this volume is small compared with roads, which are expected to be less affected. In our scenario, additional applicable volume for new building projects within the infrastructure segment could be approximately 7 percent by 2035.

Exhibit 16

**Asset classes will be impacted at different rates of speed.**

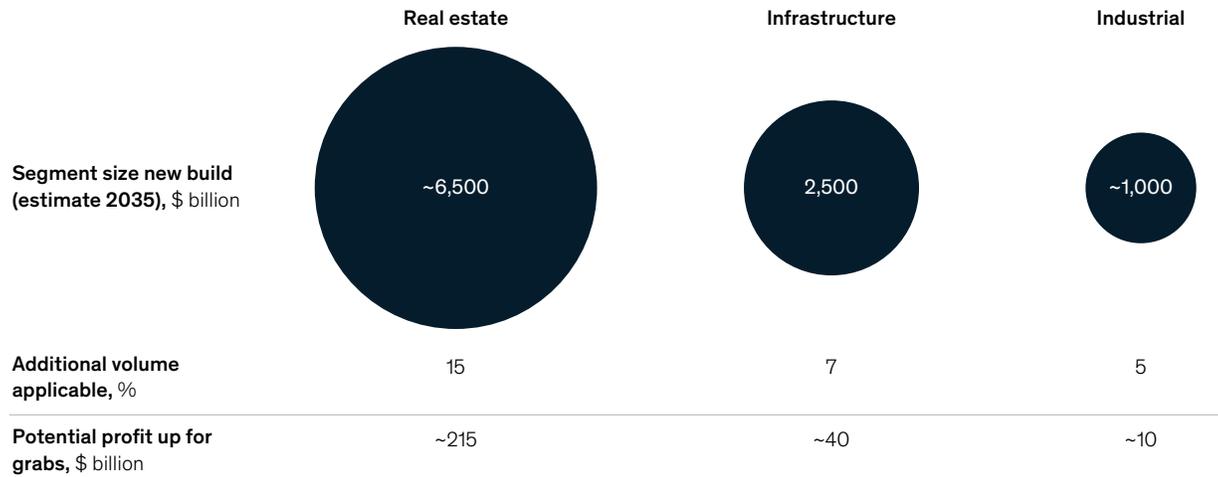
**Fully productized value chain in the subsegments of new build**

Additional applicable volume for the potential in new build, % of total output per asset class



**About \$265 billion in new profits is at stake for fast movers.**

Fully productized value chain in the subsegments of real-estate new build where shifts are the most applicable



The industrial segment is expected to have a lower incremental penetration than real estate and infrastructure. The oil and gas sector already has high productivity and is advanced in terms of off-site production, and so are some other industrial structure projects. We estimate that an additional applicable volume of 5 percent for new industrial building projects could be affected by the shifts.



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## 4 Transformation will take time, but the COVID-19 crisis will accelerate change

**The full transformation** of the construction industry will take time. However, the process has already begun. The industry leaders who responded to our survey largely agree that the shifts outlined in this report are likely to occur at scale within the next five to ten years. The COVID-19 pandemic is likely to accelerate the impending changes.

Industry leaders emphasize that the need for drastic change is greater today than it was five to ten years ago. In fact, approximately 80 percent of the survey respondents believe that the industry will look radically different in 20 years (Exhibit 18). In addition, more than 75 percent of respondents believe that the shifts outlined in this report are likely to occur, while a majority expect them to materialize in the next five years.

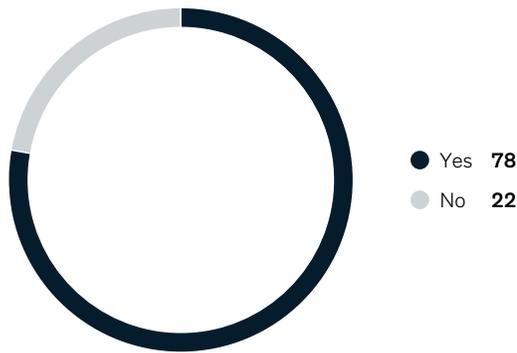
### **Disruption has started to occur at scale**

Both incumbent players and emerging start-ups have been pushing for changes in the industry. While similar transformation journeys have taken decades in other industries (as described in Section 3), construction could harness new digital technologies to speed up its process. In addition, the construction industry has attracted a significant amount of capital in the past few years from private equity and venture capital.

## Many players believe that the construction industry is ripe for disruption.

**Do you think that the construction industry will change radically in the coming 20 years?**

Share of respondents, %



**Selected quotes from respondents who answered 'yes'**

*"We've been building the same way for 200 years ... but now **assumptions are changing that will drive** demand for automation, ownership, scalability, speed, and the need for zero carbon emissions—**all of these drivers are unprecedented in the construction industry.**"*

— Real-estate architect in US

*"The industry is ripe for disruption. ... Think Kodak resisting the move from film to digital. **The extrinsic risk for traditional contractors doing things tomorrow the way they do them today is extremely high.**"*

— COO for a real-estate general contractor in US

*"All resources (raw material as well as qualified labour) are limited. At the same time, there is increasing demand for [housing with sufficient living standards]—which drives a gap that needs to be filled. **There must be new methods of construction [to be able to fill the gap]—there is no other way.**"*

— CEO for an infrastructure general contractor in Switzerland

Source: McKinsey survey of 400 construction-industry CxOs; expert interviews; McKinsey analysis

Tomorrow's construction industry will be radically different from today's. Beyond our analysis of the next normal, and the overwhelming belief of the surveyed executives, we see signs today that the industry had already started to change before the COVID-19 crisis began. There has been activity by both new and existing players against each of our nine shifts.

**Product-based approach.** While prefabrication and modularization have been present in construction for a long time, they have only recently started to regain traction with new materials, better quality, and more design flexibility. Modular construction offers several advantages over traditional methods: it reduces the need for labor (a particularly appealing benefit in markets facing labor shortages), reduces costs, and decreases construction timelines by 30 to 50 percent.

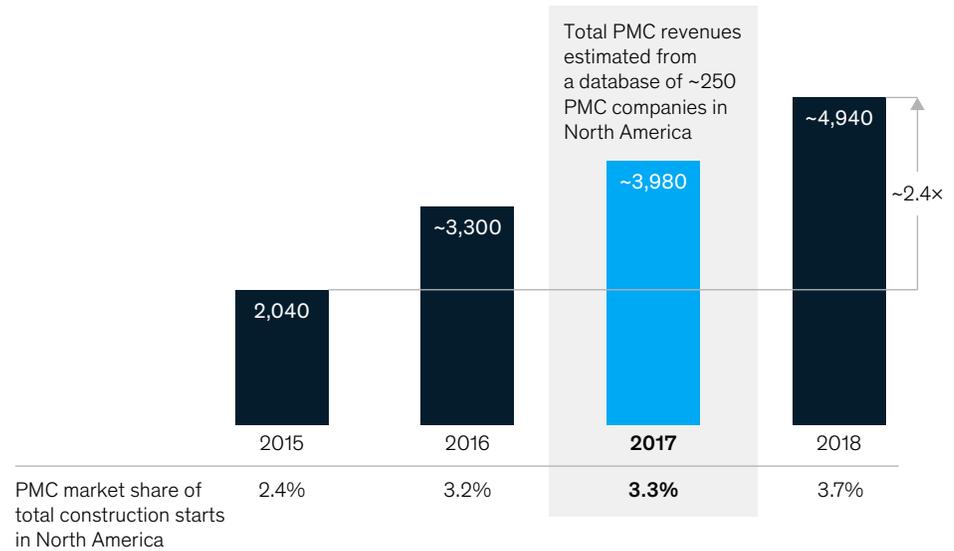
The product-based approach is gaining traction. In North America, for example, growth in the total market share for permanent modular-construction real-estate projects was 51 percent during the period of 2015–18, and total revenue growth for the segment increased by a factor of 2.4 (Exhibit 19). In the United Kingdom and the United States, modular construction accounts for approximately 20 percent of total hotel construction projects.

Seventy-seven percent of our survey respondents believe that a shift to a product-based construction approach is likely to occur at scale, and around 71 percent of those believe such a shift will take place in the next five years.

Exhibit 19

**There are emerging indications that permanent modular construction is taking off in North America.**

**Revenue of permanent modular construction (PMC) companies in North America 2015–18,<sup>1</sup> millions, \$**



<sup>1</sup>Estimated from Modular Building Institute database of 250 modular construction companies engaged in PMC.  
Source: Construction Connect Insights; Modular Building Institute

**Specialization.** Players have already begun to specialize in end-user segments, and this shift is expected to gain further traction as construction processes become standardized and the industry adopts an increasingly product-based approach.

For example, in the marine-construction sector, top players are highly specialized contractors such as Royal Boskalis Westminster, which over the years has become one of the world leaders in dredging, land reclamation, and offshore energy construction (Case Study 1).

Approximately 75 percent of survey respondents believe that players will specialize in the future construction-industry ecosystem, and approximately 65 percent of those believe that this change will happen during the next five years.

**Case Study 1**

*Boskalis has focused on becoming the leading global dredging contractor and marine services provider through strategic acquisitions and R&D investments*

With more than 100 years of history, Boskalis has become a global leader in the field of dredging and offshore energy. Over the years, the company made strategic acquisitions of both dredging companies and

marine-services providers to maintain leading positions in specific markets as well as to expand its fleet for optimal deployment across projects. Investment in R&D have been essential to Boskalis as a way of increasing both efficiency and effectiveness of operations. The company has dedicated in-house research team and test facilities, and it also collaborates with peer companies and academia. With its multipurpose vessels, Boskalis won the Innovation Award in the category “Dredging Support Vessel” in 2016.

*Value-chain control and integration with industrial-grade supply chains.* Emerging players as well as incumbents are already seeking to control a larger part of the value chain, particularly those currently moving to adopt a product-based construction approach.

For example, Katterra used new technology to productize and to control the value chain, including design and engineering and off-site manufacturing (Case Study 2).

Nearly 85 percent of the survey respondents believe that it is likely that players will move to control the value chain in the future construction industry, and around 71 percent of those believe that this will take place within the next five years.

### **Case Study 2**

#### *Katterra aims to control the construction value chain by leveraging technology*

US-based off-site construction company Katterra has raised \$1.2 billion to integrate and control the construction value chain. To harness technology, the company integrates activities throughout the construction process, including design and engineering, components supply, and off-site manufacturing. A Katterra-designed and -developed, end-to-end integrated digital platform serves as the backbone from project initiation to delivery. As a result, Katterra’s modular component factories can work in tandem with the company’s automated precast-concrete factories.

*Consolidation.* The construction industry has already started to consolidate, particularly in specific segments and certain parts of the value chain. Specifically, M&A activity in the engineering and construction industry increased approximately 9 percent a year from 2011 to 2017, reaching approximately \$180 billion, while its growth in global M&A volume has been nearly 7 percent a year, reaching \$3.2 trillion (see Case Study 3 for an example of consolidation in the equipment-rental industry).

From 2014 to 2017, the industry experienced an average of nearly 100 more M&A transactions a year than it did from 2009 to 2014.

Approximately 82 percent of survey respondents believe that the industry is likely to consolidate, and approximately 57 percent believe that consolidation will occur in the next five years.

### **Case Study 3**

#### *Equipment rental has been significantly consolidated in Europe and North America*

As equipment-rental companies seek scale, this industry segment has experienced substantial consolidation. In Europe, for example, Loxam and Boels began in 2015 to apply buy-and-build strategies—

and recently bid to acquire the two foremost equipment-rental companies in northern Europe. Similar movements have been observed in North America, especially in the United States. These moves affect several asset classes, including real estate, infrastructure, and industrial.

**Customer-centricity and branding.** While greater focus on customers and branding is likely to gain scale after the shift to a product-based approach, companies are already intensifying their customer focus. Companies that have incorporated the voice of the customer into their product design have seen an uptick in occupancy rates and satisfaction. For example, the European office developer HB Reavis developed a customer-centric and branded approach for its building projects. The company has earned more than 60 awards since 2015 (Case Study 4).

Eighty-three percent of survey respondents believe that players in the future construction industry will shift their focus toward customers, and approximately 74 percent believe that this shift is likely to take place in the next five years.

#### **Case Study 4**

##### ***HB Reavis is pursuing a customer-centric and branded business model***

The office market has evolved dramatically over the past decade. Technological advancements accelerated shifts in employees' work patterns, leading organizations to seek greater flexibility in their office-space arrangements. European real-estate-office developer HB Reavis sought to take advantage of this opportunity by adopting a people-centric approach to the design and construction of flexible work-space solutions. The company used design thinking, ethnographic research, and video prototyping to identify the features and amenities most important to workers. This process produced detailed design briefs that informed project development and construction.

The new brand was named Qubes, and its offices were 95 percent booked before opening. Standardized contract terms for an office package helped to streamline the process for prospective tenants. As important, the extensive user testing resulted in no additional investment in remodeling. Further, 100 percent of HB Reavis buildings under development are expected to become certified by the International WELL Building Institute, a global certification of health and wellness for buildings and interior spaces.

**Investment in new technology and facilities.** R&D spending in construction, at around 1.4 percent of net sales (based on a sample of the 2,500 companies), still lags behind other industries, which spend approximately 4.1 percent. However, indicators suggest the construction industry is increasing its emphasis on R&D, and companies that have invested in construction technology and facilities are gaining traction. In fact, R&D spending in construction has increased by 35 percent since 2013 compared with 25 percent for the total industry (Exhibit 20).

From 2012 to 2018, funding for construction-technology companies increased at a compound annual growth rate (CAGR) of nearly 40 percent versus nearly 27 percent for other companies throughout the total economy.<sup>32</sup>

Nearly 86 percent of respondents believe that a shift toward more investment in new technologies and facilities is likely to occur, and nearly 72 percent believe that this is likely to happen at scale within the next five years.

Exhibit 20

**R&D spending in the construction industry has increased faster than the rest of the economy.**

**Benchmark of R&D spend of top 2,500 companies globally, R&D spend as % of net sales**



*Investment in human resources.* Players have started to implement more robust HR activities aimed at attracting and retaining employees. Seventy-five percent of engineering and construction players in the United States have made changes to training and development programs in the past two years, to better enable employee retraining and ensure continuous learning of their workforces (Case Study 5).

Approximately 74 percent of our survey respondents believe that the industry will invest more in HR going forward, and 74 percent believe that it is likely to take place at scale in the next five years.

**Case Study 5**

*Bechtel has launched a learning and development academy to support continuous development*

A leading engineering, construction, and project-management company, US-based Bechtel focuses on serving both industries and the government. As part of the company’s in-house virtual learning and development program, Bechtel University provides more than 1,000 instructor-led and online courses on leadership, professional development, technical skills, sustainability, languages, safety, and ethics. For its efforts, the academy was awarded two Brandon Hall Awards for technology and innovation in 2016.

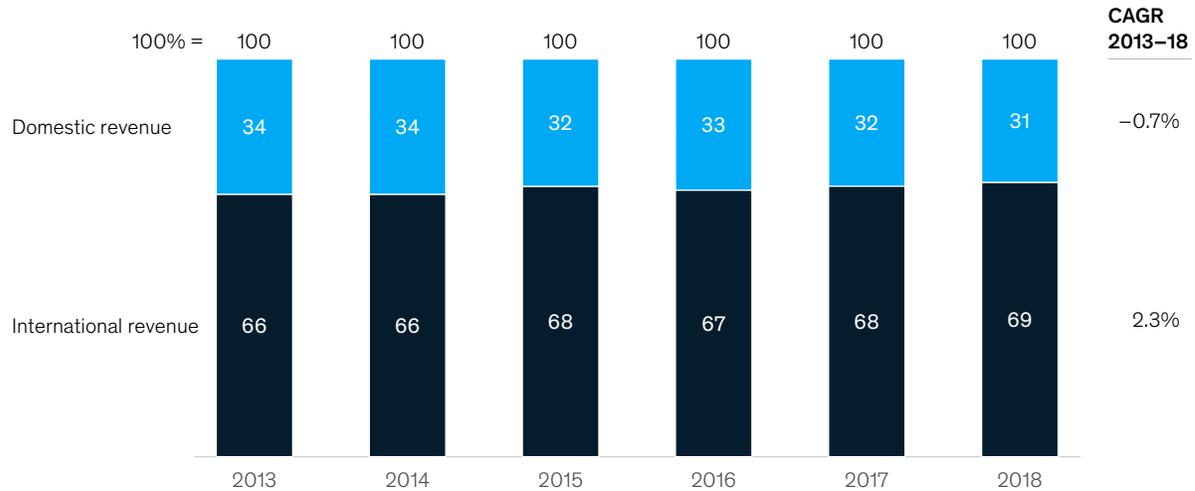
*Internationalization.* This shift has already started to show signs of traction in the construction industry, with larger players moving internationally to gain scale. Our analysis of the top ten contractors by revenue found that their international revenues increased by a CAGR of 2.3 percent from 2013 to 2018, while domestic revenues decreased by a CAGR of 0.7 percent during the same period (Exhibit 21). International revenues accounted for almost 70 percent of their total in 2018.

Nearly 75 percent of our survey respondents believe that players will expand internationally, and 57 percent believe that this is likely to take place at scale in the next five years.

Exhibit 21

**Among the top ten contractors globally, international revenues have increased faster than domestic revenues.**

**Domestic vs international average revenue breakdown for top 10 contractors,<sup>1</sup> %**



<sup>1</sup>Balfour Beatty, Boutgeus Construction, Grupo ACS, Hochtief, Royal BAM, Skanska, Strabag, Vinci, Bechtel, Laing O'Rourke.  
 Source: CapitalIQ

**Sustainability.** There has been a major change in attitudes toward reducing carbon emissions across industries—and construction is one of them. Green building activity continues to rise, driven by both client demands and environmental regulations, as well as a push to create “healthier” buildings and improve occupants’ health. According to the World Green Building Council, building and construction are together responsible for 39 percent of all carbon emissions in the world. Operational emissions (from energy used to heat, cool, and light buildings) account for 28 percent, while the remaining 11 percent comes from embodied carbon emissions associated with materials and construction processes throughout the whole building life cycle.

The United Nations has announced several ambitious targets for sustainability in construction. For example, the target reduction rate for energy intensity per square meter in buildings will be approximately 30 percent by 2030, as defined by the Paris Agreement. Furthermore, several of the largest players have already established ambitious carbon-reduction targets for the future (Case Study 6). However, the fragmented and project-based nature of the construction sector creates additional challenges for the adoption of the sustainable practices, often coupled with the lack of educated green-construction professionals.

Nearly 90 percent of respondents believe that sustainability in construction will be important at scale going forward, and 79 percent believe that the shift will take place in the next five years.

### Case Study 6

#### Several of the largest construction and materials players have set ambitious sustainability targets

Many large construction companies have set ambitious carbon-reduction targets for the coming years. For example, both BAM and Skanska have announced plans to reduce CO<sub>2</sub> emissions by 50 percent by 2030. Other companies have set a goal of using 100 percent renewable fuel as early as 2022. Sustainability is high on the agenda for cement players as well, thanks in part to pressure coming from investors. Germany's HeidelbergCement plans to produce carbon-neutral concrete by 2050, with overall CO<sub>2</sub> reduction targets being assessed against the criteria of the Science Based Targets initiative.<sup>1</sup>

<sup>1</sup> See sciencebased-targets.org.

## The COVID-19 crisis will accelerate the transformation

According to our additional survey conducted in light of the Covid-19 outbreak, around two-thirds of respondents expect the pandemic to accelerate the impending changes and transformation of the industry. Fifty-three percent of the respondents have also started to invest more to adjust to the new future (Exhibit 22).

Specifically, a majority of the respondents expect the crisis to accelerate the disruptions ahead (Exhibit 23). An exception is the expectation regarding disruptive market entrants, as many start-ups and tech companies struggle with financing in the unfolding situation. Around one-third of the respondents also state that their companies have started to invest more in the respective dimensions since the outbreak (especially in digitalization of sales channels and products).

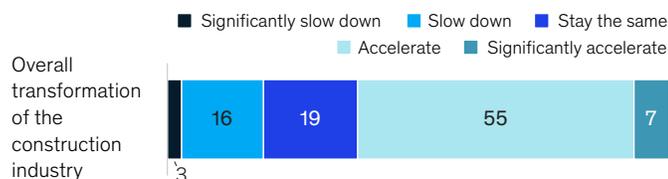
Also, around two-thirds of respondents believe that the COVID-19 crisis will accelerate the nine shifts. They also stated that their companies have started to invest more in these dimensions (especially in technology and facilities, as well as value-chain control). However, one-third of the respondents expect the shifts toward more industrialization and investments in human resources to slow down (Exhibit 24).

Exhibit 22

## Two-thirds of survey respondents believe that the COVID-19 crisis will accelerate industry transformation.

**As a result of COVID-19, do you believe that transformation of the construction industry will accelerate, stay the same, or slow down?**

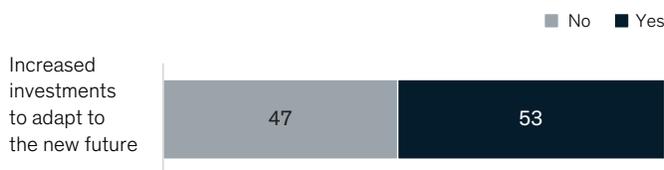
Share of respondents, %



Around two-thirds of respondents believe that the COVID-19 crisis will accelerate the overall transformation of the construction industry

**As a result of COVID-19, has your company increased overall investments to adapt to the new future?**

Share of respondents, %



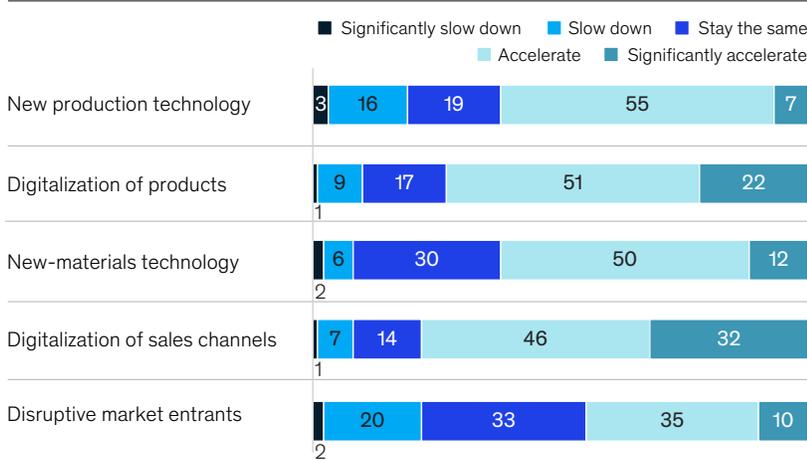
More than 50% of respondents' companies have started to invest more to adjust to the new future

Source: Survey of 100 industry CxOs, May 2020

**A majority of survey respondents believe that the COVID-19 crisis will accelerate disruptions—and have increased investments accordingly.**

**As a result of COVID-19, which [of these emerging disruptions] do you believe will accelerate, stay the same, or slow down?**

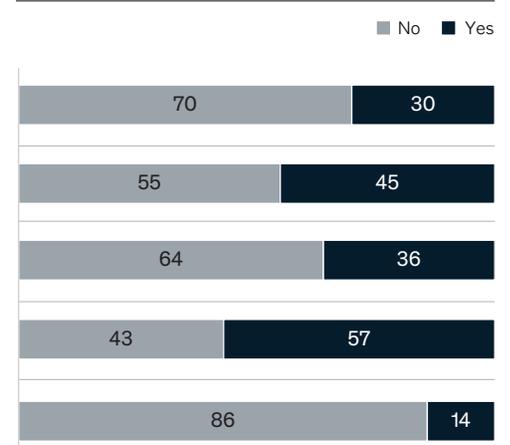
Share of respondents, %



Around two-thirds of respondents believe that the COVID-19 crisis will accelerate virtually all emerging disruptions (disruptive market entrants being the exception)

**As a result of COVID-19, has your company increased investments in the respective disruptions?**

Share of respondents, %



Around one-third of respondents' companies have invested more in disruptions (except in market entrants), especially in the digitalization of sales channels and products

Source: Survey of 100 industry CxOs, May 2020

**Owners and financial institutions need to support change**

The industry cannot change in isolation. Rather, change must be a joint effort by both players in the ecosystem and those they interact with. In particular, both customers that commission construction projects and the institutions that finance them must adapt in order to enable change. Demand must exist for players to invest in the capabilities that are required to enable the shifts, and that may require stakeholders to alter how they define value as well as to whom it accrues.

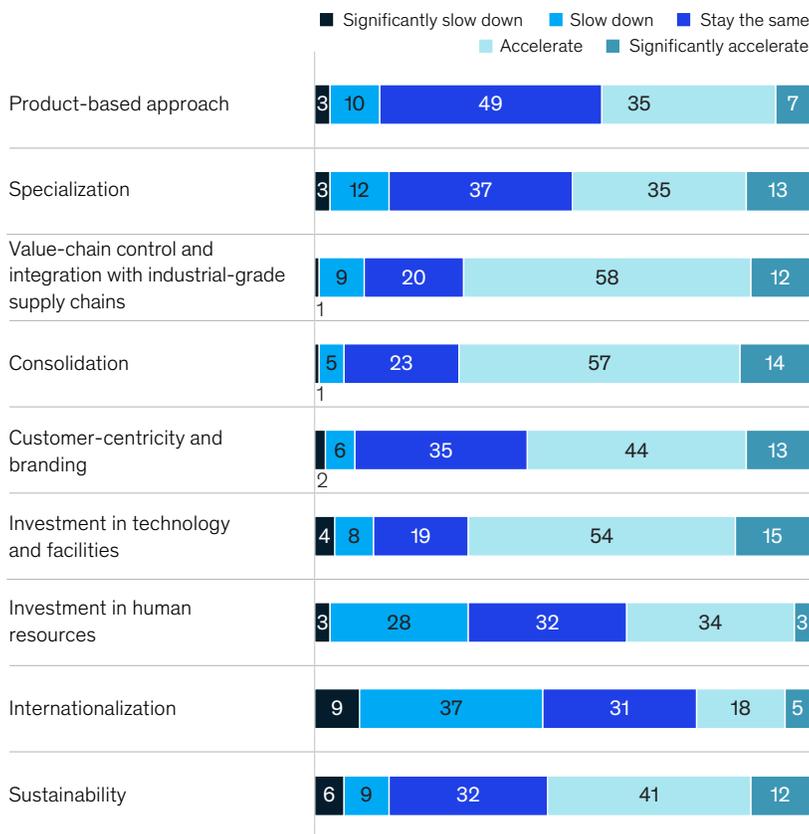
Historically, owners have opted for customized solutions, but some level of standardization is necessary for the efficiency gains outlined in the future ecosystem to be viable. Owners must embrace new, more modular approaches to design to create demand for it in the marketplace. Such a shift would not be altruistic. Indeed, owners should expect to reap multiple benefits in the future ecosystem. Long-term-efficiency gains are expected to materialize as customer surplus, which would result in the generation of additional output by customers' spending. Moreover, the future ecosystem is expected to focus on and improve TCO, thus further benefiting owners. Last, shifts could result in greater overall transparency, which owners could use to improve performance per dollar spent as well as reap other benefits.

The future of construction also requires new financing solutions as well as a willingness to change the risk profile of investments. A shift to a product-based approach would affect project schedules and the total

**Around two-thirds of respondents believe that most industry shifts will accelerate as a result of the COVID-19 crisis, although internationalization and investment in people are expected to slow down.**

**As a result of COVID-19, which [of these shifts] do you believe will accelerate, stay the same, or slow down?**

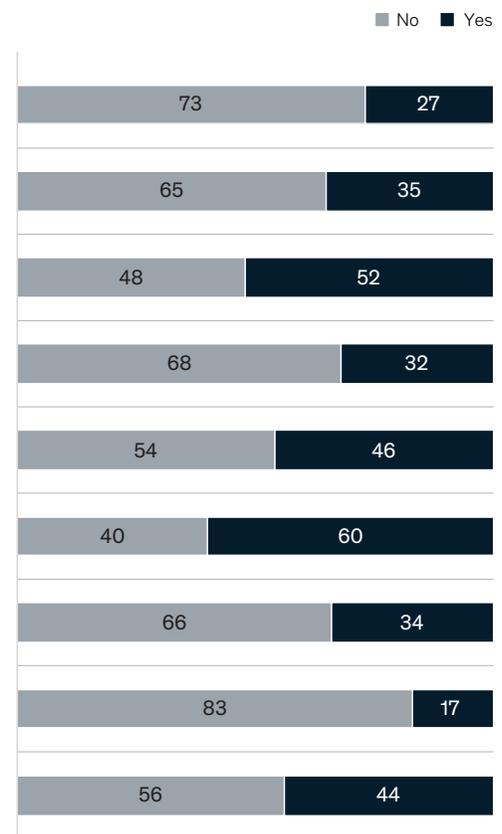
Share of respondents rating shifts, %



Around two-thirds of respondents believe that the COVID-19 crisis will accelerate virtually all emerging disruptions (disruptive market entrants being the exception)

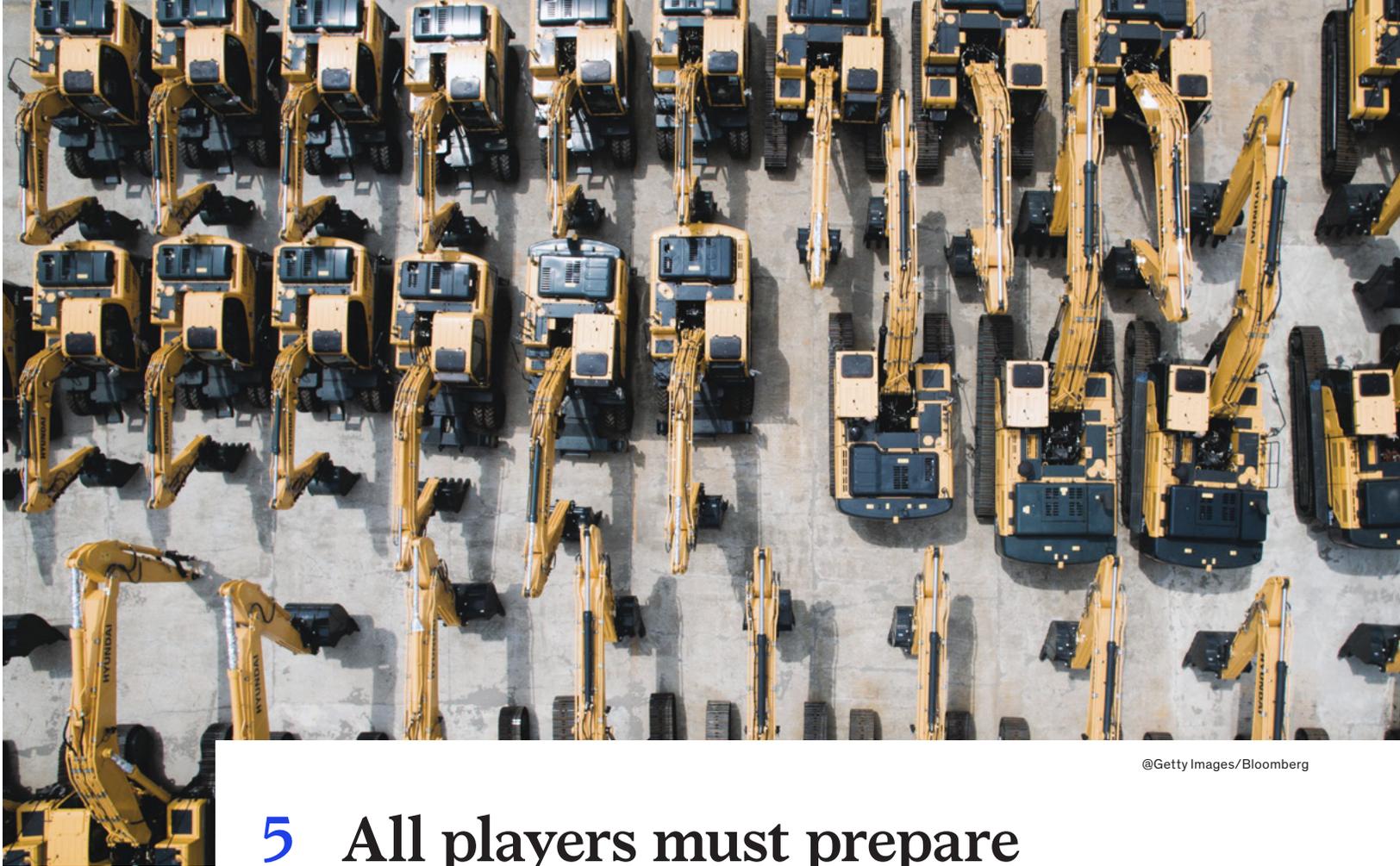
Source: Survey of 100 industry CxOs, May 2020

**As a result of COVID-19, has your company increased investments in the respective shifts? Share of respondents, %**



Around one-third of respondents' companies have invested more in most shifts, especially in technology and value-chain control

time required for financing. The required overall construction period would be shorter, thus decreasing the overall amount of time for which financing is required. However, a larger share of financing could also be required up front. To create incentives for players to embrace change, financial institutions must therefore develop products tailored to the new demands. However, since market risk and project complexity are also expected to decline, financial institutions will need to reexamine how they price risk into their products to ensure an attractive return. This also holds true for other closely linked institutions such as insurance companies, where some are already factoring use of modern methods of construction into their terms.



@Getty Images/Bloomberg

## 5 All players must prepare now for a fundamentally different next normal

**To effectively manage** industry disruption, companies throughout the construction ecosystem must change their strategies, business models, and operating models. They will need to put the enablers in place to survive in the new world and choose their own transformation approach. Some segments will be more affected than others, but each will have its own winning moves.

COVID-19 makes bold strategic action yet more important. During crises, companies that take fast, bold strategic action beyond managing survival tend to emerge as the winners. Looking at the past economic cycles, companies that managed to move fast on productivity (such as reducing cost of goods sold through operational efficiency), divested earlier and pursued more acquisitions in the recovery, and cleaned up their balance sheets ahead of the downturn outperformed competition in both revenues and EBITDA.<sup>33</sup>

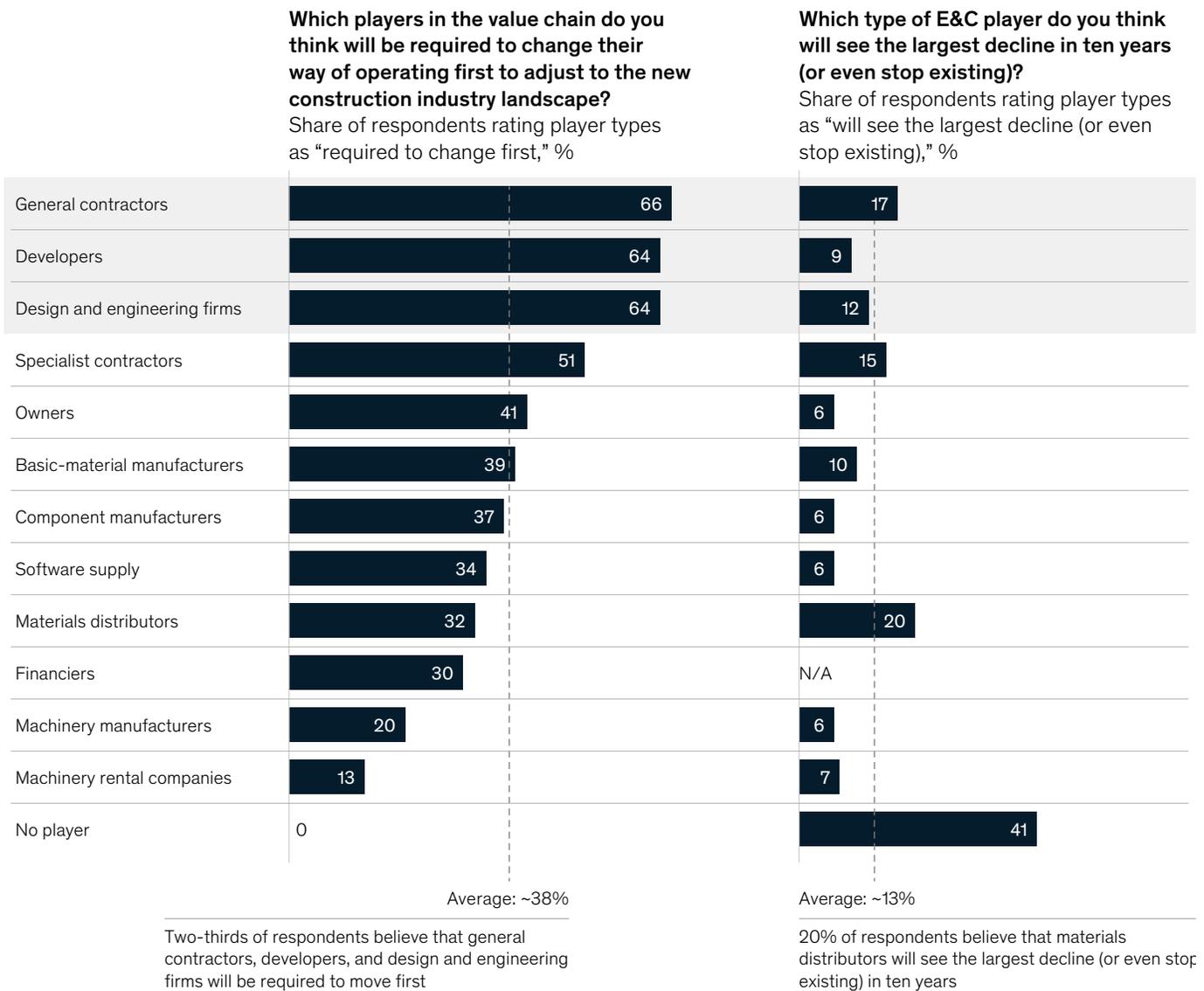
Players adjacent to the construction ecosystem should react to the changes in various ways, to both facilitate and benefit from change. First, investors are advised to use foresight on the respective changes when evaluating opportunities. Second, policy makers should have a high level of interest in making the entire

industry more productive and in achieving better housing and infrastructure outcomes. Third, owners are expected to benefit as the industry changes but will need to play an active part in making the shifts happen.

Four segments of companies are set to face the largest long-term decline independent of the COVID-19 impact: materials distributors, generalist contractors, specialist contractors, and design and engineering firms. These players could face commoditization as well as a declining share of value. In addition, respondents believe that general contractors will be required to move first (Exhibit 25).

Exhibit 25

**While all players will be affected, industry leaders believe general contractors will be required to move first and materials distributors will see the largest decline.**



Source: McKinsey survey of 400 construction-industry CxOs; expert interviews; McKinsey analysis

## **All players will need to act on the nine shifts that are ahead**

In response to the industry transformation detailed throughout this report, companies will need to reinvent themselves and redefine their strategies and business and operating models (Exhibit 26). A typical journey might start with an initial strategy-resetting effort including a review of where to play and how to win, and include an assessment of how—and how strongly—the nine shifts will affect focus markets, and what requirements are put on future winning business and operating models. Companies will also need to put in place a set of enablers to make them successful for the future and choose how they want to implement the new strategy. Given the highly dynamic of the changing construction industry, successful strategy formulation and direction setting need to be approached as a constant reiterative process.

The strategy (resetting) effort needs to determine “where to play.” Which asset classes, segments, geographies, and value-chain steps are large, growing, profitable, and at acceptable levels of risk? In which ones can a company build a sustained competitive advantage and barriers to entry? The spectrum may range from global development of high-end office towers through the regional provision of precision cross-laminated timber for residential prefab to continent-wide steel bridge construction or owner-operation of logistics facilities.

Following the question of “where to play,” companies must assess the impact of the nine shifts on “how to win”; that is, the implications for future winning business and operating models. The answer will greatly differ between segments—for example, small residential refurb projects compared with multibillion-dollar oil and gas projects or between basic-materials supply versus machinery rental. Executives in all sectors, however, will need to answer questions related to the expected impact of each of the nine shifts. Following are a few thought starters:

***Product-based approach.*** How far can I productize and standardize my product and service offering? Which target customer groups do I want to address? What kind of customization will be necessary and economical to offer to them? Should I try to follow current customer demands or attempt to act as a market maker? Do I want to explicitly avoid productization and focus on high-end, individual projects?

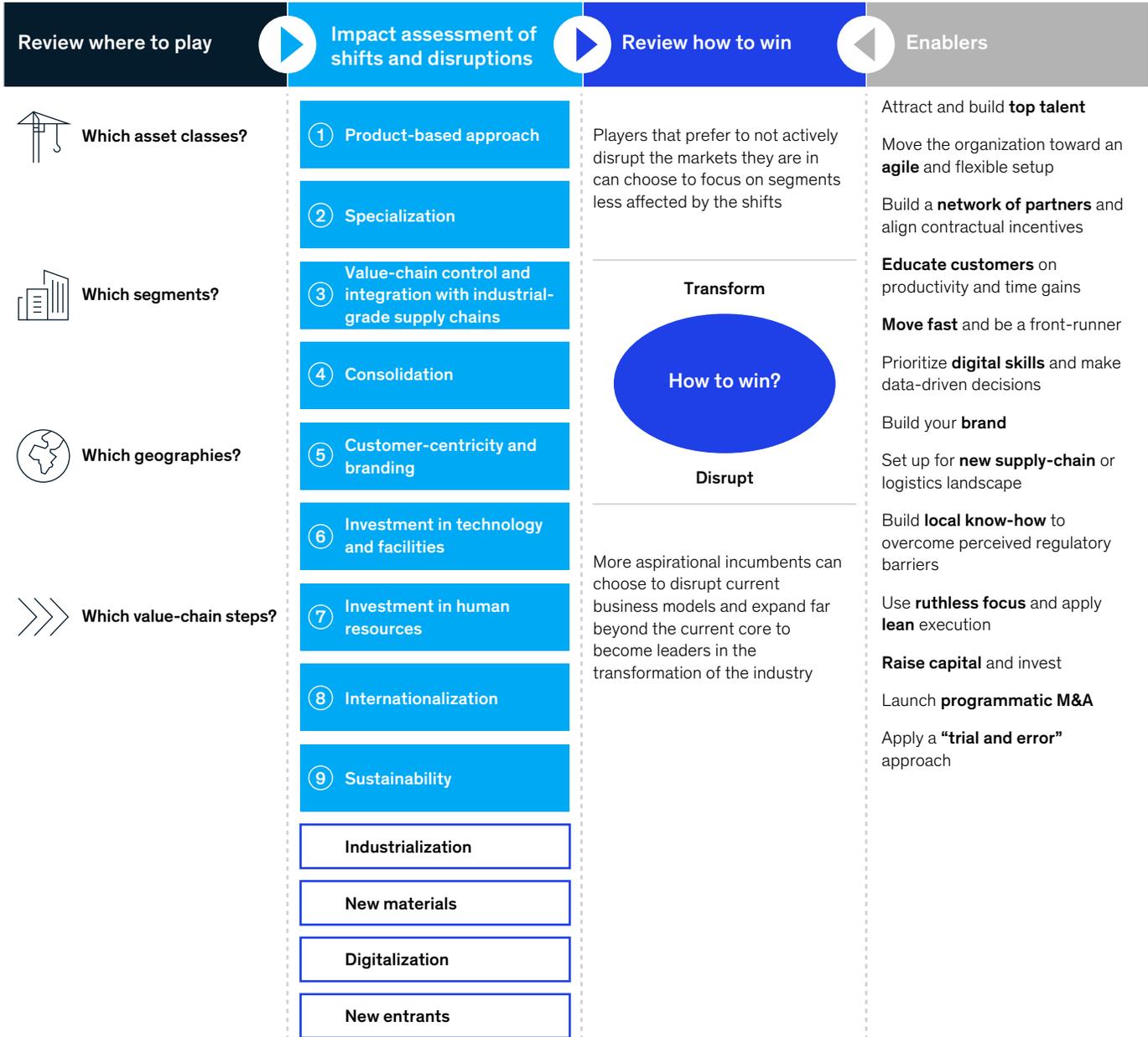
***Specialization.*** How much do I want to specialize in niches in the markets I’ve chosen to play in? What is the right balance between creating competitive advantage and experience versus balancing the order pipeline and market cyclicity? Can I be a regional leader across many segments?

***Value-chain control and integration with industrial-grade supply chains.*** What interface complexities do I have today, and to what extent do they constrain innovation and efficiency improvements? Can and should I enter—or disintermediate—adjacent value-chain steps? Do I need M&A to do that? Can I achieve end-to-end control of the value chain through strategic alliances and partnerships? Do my chosen partners share the same vision of how to innovate value delivery and business models?

***Customer-centricity and branding.*** If I aim to be a recognized leader in my chosen markets, how can I build brands to support that goal—and what values should those brands convey? How can I balance branding at the corporate level with products or services and by region? How can I shift my business model to create a better outcome and experience for my business partners as well as eventual customers, even if the current ecosystem’s incentive structure might be set up to benefit from overengineering to increase project volumes, change orders and claims, fudging market transparency, or unjustifiably passing on risks?

***Consolidation.*** What scale do I need to enable the required massive increase in investment in technology, facilities, and human resources and to build critical scale in all target markets? Can I achieve that scale organically, or do I need M&A? Would sell-side M&A be an option for me?

**All players will need to reinvent themselves and redefine their strategies and business and operating models.**



**Strategy implementation and transformation approach:** Broad transformation, new divisions in new setup, arm’s-length subsidiary attacker, and M&A

**Investment in technology and facilities.** What activities can I automate or digitize? What are the right technology suppliers? How can I build out or migrate my IT platforms to be future-proof? Which activities can be taken from project sites to factories? What is the right production-footprint balance versus logistics cost?

**Investment in human resources.** How can I revamp the culture of my organization to embrace change? What skill-building activities for my staff will be needed? What sort of new talent will I need? And, particularly in technology, how can I successfully compete on the recruiting market? Might an attractive new strategy and brand be part of the answer?

**Internationalization.** In which target geographies can I be successful? How do I balance governance at the regional, business-segment, and functional levels? Can I use low-cost country-sourcing or production-footprint strategies? How can I allow for regional variation in building codes and industry dynamics?

**Sustainability.** How can I raise the environmental and social sustainability of my operations, my products, and the inputs I source? How far can I go—and how fast—to meet regulations as well as my own ethical standards? How can I create a business case for investments in sustainability?

Incumbents also need to decide to what extent they should focus on defending their core business and adjusting to the changing environment compared with actively reinventing themselves to attack and disrupt the markets they operate in. Disruptive plays require risk taking and investment, but successful moves can be rewarded with step changes in profitability and valuation multiples.

**Defend the core and transform.** Players that prefer not to actively disrupt the markets they are in may choose to focus on segments that will be less affected by the impending shifts, such as renovation or unique, iconic buildings. These segments may face declining market share and increasing levels of price competition, however. Consequently, players will need to continually improve their capabilities and competitiveness as well as their ability to manage risks. And they will need to adjust to the changing environment. Contractors, for example, will need to invest in on-site automation, digitization of processes, end-to-end adoption of BIM, or sourcing of high-value pods that simplify construction on site.

**Reinvent to attack and disrupt.** More aspirational incumbents may choose to reinvent current business models and expand far beyond the current core to be leaders in the industry's transformation. They would explicitly target the segments where change is imminent, consolidate value chains, embrace online direct channels with advanced logistics management, apply programmatic M&A to achieve scale, or invest in manufacturing capabilities and capacities well beyond the scale of their current project pipeline.

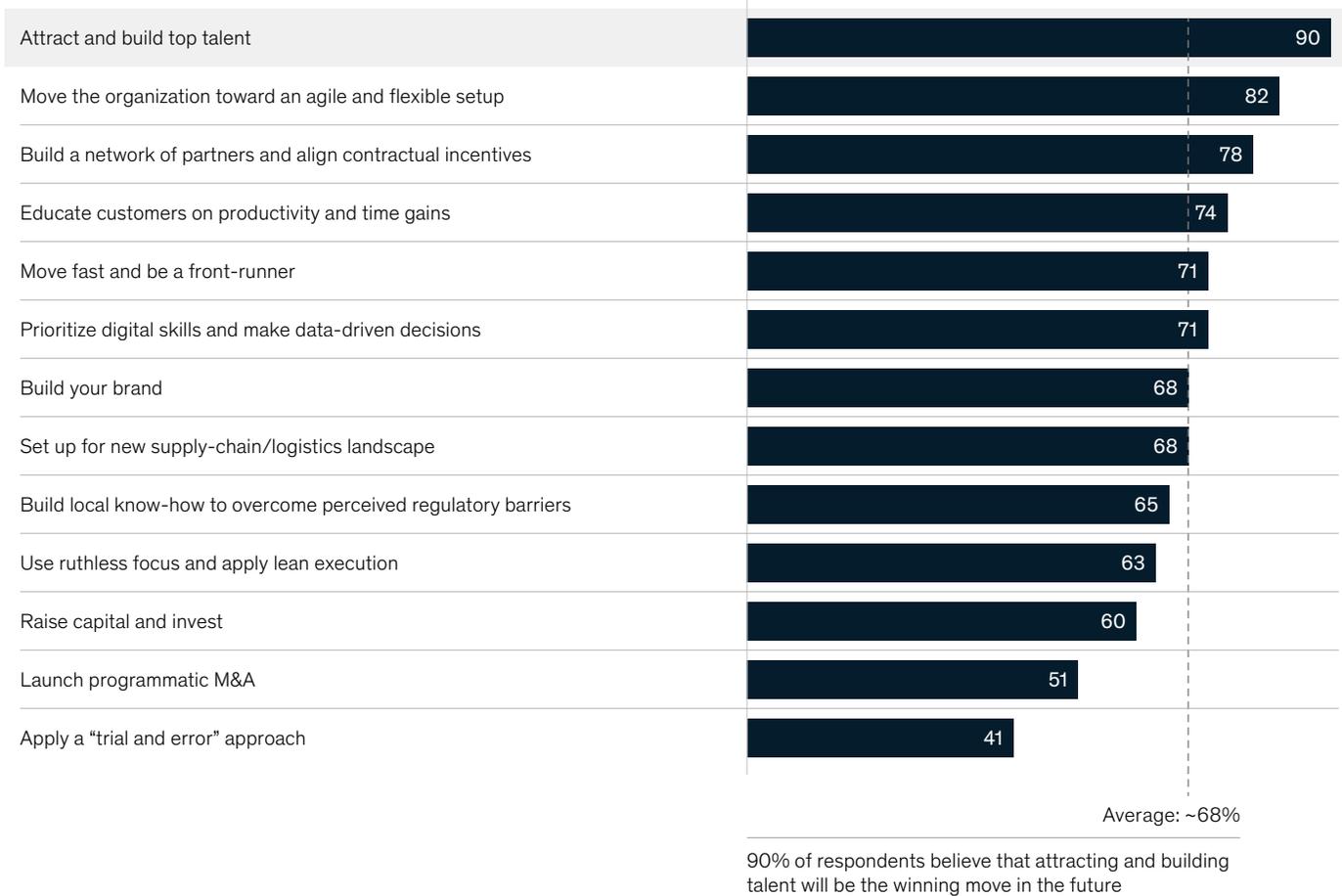
Regardless of chosen strategies, a set of enablers can benefit all players in the ecosystem. As indicated by our survey, attracting and building top talent is of primary importance (Exhibit 27). In fact, 90 percent of the surveyed industry experts believe this action will be the most important one in the future ecosystem. In addition, 82 percent of the respondents consider moving toward an agile organizational setup critical, and 78 percent cite building a network of partners and aligning contractual incentives.

Finally, companies need to define how to implement and achieve a corporate transformation. At the most basic level, several options exist. Some companies will build new business units in line with the target business, operating model, and new-market environment—and, over time, transfer more and more volume and resources to that unit. Other companies will attempt to transform their incumbent or core operations.

## The industry believes that winning moves are centered on talent attraction and retention.

### What will be the winning moves in the future construction-industry ecosystem?

Share of respondents rating move as “very beneficial,”<sup>1</sup> %



<sup>1</sup>Very beneficial equals a 7 or more, where 10 equals the most beneficial.

Source: McKinsey survey of 400 construction-industry CxOs; expert interviews; McKinsey analysis

Yet others might opt to start new attacker businesses at arm’s length from the incumbent operations. And some will use buy- or sell-side M&A to jump-start a move to new business and operating models. Depending on the circumstances, all of these approaches can succeed.

### Each industry type has its own winning moves

In the years to come, each player in the value chain must react to or drive the shifts and reinvent business and operating models. We provide short examples and vignettes of the type of changes ahead, as inspiration for the development of individualized winning strategies.



Thought starters for

## Developers



**Public- and private-sector developers** of real-estate, infrastructure, and industrial projects orchestrate the development process from beginning to end: securing financing, sourcing land, and scoping and overseeing value-adding projects. As customer expectations continue to evolve rapidly, developers look set to increasingly specialize and invest in productizing and branding their offerings, which will increasingly require multinational scale and leave behind those working in traditional ways. Specialization will be key to attract customers, and developers need to decide whether they want to focus on slivers, whether they want to develop individual opportunities or also establish quarter or precinct capabilities, and which of the required capabilities they need to own versus source. Further, a deep understanding of customer needs, by segment and subsegment, will be at the heart of the most successful strategies, whatever the sector or asset type; without it, the assets that have been built can quickly become obsolete.

The most successful players are already bringing together these customer insights with product and supply-chain innovation to deliver high-performing projects. For example, leading commercial real-estate developers are building direct relationships with end users and creating spaces that can rapidly be repurposed as demand changes. Similarly, highway developers are connecting directly with drivers to better understand usage patterns to inform future highway design and operation. In many ways, developers set the tone for the whole industry.

Since developers sit at the top of the value chain, they can strongly influence how and how fast disruption in other parts of the value chain takes place, including actively steering companies toward industrial production of their offerings as well as library-based designs and subsystems. Such approaches can reduce the cost, time, and risk of projects—all improvements in the financial viability of projects—which may translate into higher profits, greater volume, or value shifting to customers. Only with the right signals from developers will change spread through the rest of the ecosystem. Here the public sector has an important role to play given that in aggregate, the sector is a very sizable developer (and owner).

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## Transform

### Double down on segments less affected by shifts where you have a distinctive expertise?

- Continue with the current business model, emphasizing segments facing less disruption in the medium term (e.g., renovation, maintenance, improvement)?
- Invest in deeper understanding of customer segments?
- Identify and invest in core capabilities (e.g., land access and acquisition)?

### Augment current offerings with technology and module sourcing?

- Identify opportunities to use prefabricated and module sourcing (e.g., through standardized structural-frame modules for all buildings a standard catalog of kitchens) in a targeted way, to substantially reduce project risk and improve time and cost parameters?

- Invest in digital technology to accelerate and reduce the risk of target segments (e.g., identification of land parcels using geographic information system, real-time progress tracking using lidar scanning, digital twin to streamline operations and maintenance)?

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## Disrupt

### Create a product house (with or without manufacturing) and build a vertically integrated platform business with close links to customers?

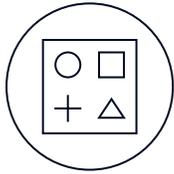
- Develop a carefully composed, specialized product and service portfolio that is tailored to end users and purposefully designed for industrialized manufacturing at scale (ideally, influencing the establishment of industry standards in the long term)?

- Aim to be a global leader in offerings by scaling operations and entering international markets?
- Build a digital backbone to support end-to-end customer journeys, from acquisition through specification, design, execution, and handover?
- Look for opportunities for vertical integration and control of the value chain by integrating design and engineering and manufacturing?
- Establish new funding and risk-management structures to accommodate new delivery models?
- Capture operational data to continuously refine and improve designs for future projects?
- Use develop-and-hold strategies to capture TCO advantages of product or service offerings?



Thought starters for

## Designers and engineers



**Disruption could fundamentally change** what it means to be an engineer or an architect in the construction industry. Historically, these professionals have applied their considerable expertise to create designs and specifications for individual projects: each design optimized to meet the project's unique requirements. The coming years will see these stand-alone professional-services firms closely collaborating with productized and branded developers, off-site construction firms, and highly specialized contractors as an integrated R&D-like function. The firms will increasingly add value through the standardization of structure and subsystem designs, by developing standardized design libraries of products in their target segment that are highly integrable to allow for a customizable whole. This modular design will be reused for a large set of construction projects. In this way, design and engineering firms could influence industry standards. As the industry shifts to a more product-based approach, the challenge for engineering and architecture firms will be to reskill their workforces and hire the right talent to design in this new world.

Of course, modularization and automation will not apply to all projects: highly architectural or complex projects will have limited degrees of standardization. Similarly, refurbishment-maintenance-improvement (RMI) projects are likely to continue to follow more traditional design approaches for some time. In affected segments, however, design and engineering firms are likely to improve their efficiency by using standardized products and libraries, as well as more software-based automation and parametric design—though the extent will depend on how the transformation plays out. The best performers will still stand to gain. Large owners may pay a premium for modular or customizable product design, as only a few firms have the required capabilities and experience. But as the industry adjusts to designs that can be replicated and adapted multiple times, the volume of work is likely to decrease in the affected segments. The need for redesign is also expected to decrease drastically with more specialized and productized approaches, generating significant cost savings for design and engineering and putting their respective value at stake.

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## Transform

### Continue to focus on traditional approaches in core segments?

- Concentrate on projects such as renovation, maintenance, and improvement that are not expected to face disruption in the short term?
- Double down in segments with strong demand or where the company has the competitive advantages of strong customer relationships or a deep understanding of customer requirements?

### Invest in technology to streamline parts of the design process?

- Partner with a software company to automate simple parts of the design processes by using parametric and generative design software and BIM workflows; retrain existing employees and seek out new talent?
- Invest in building (or buying) object libraries and standardized design elements to be used both off and on site?

### Change the commercial model and charge for advisory services and outcomes—not hours or percentages of cost?

- Invest in getting closer to customers to better understand what determines value, and adjust offerings to suit (e.g., design a facade panel optimized for speed of insulation, create a valve optimized for minimal service intervals)?
- Calculate and articulate the value add from services and switch the business model from charges per hour to an outcome-based model?

### Become the go-to partner for design-to-manufacture?

- Build capabilities in design-to-manufacture?
- Invest heavily in manufacturing talent, R&D, and design software?
- Build relationships with off-site manufacturers?

### Consolidate to gain scale and internationalize the company footprint?

- Consolidate with other players and internationalize the company's presence to

gain benefits from increased scale and to gain access to the largest projects?

- Aggressively target international markets?

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## Disrupt

### Become the design arm of an integrated manufacturer or product house including via mergers, acquisitions and alliances (MA&A)?

- Integrate with a modular manufacturer and/or developer to become an in-house engineering arm that optimizes design for manufacture?
- Integrate with a software house to build engineering capability?

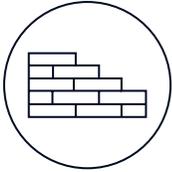
### Build business around data?

- Support clients in quickly defining the most adequate concept and then delivering it, and support operations and maintenance (O&M) through advanced analytics (AA)?



Thought starters for

## Basic-materials manufacturers



**A large share of inputs** used in construction projects involve processing raw materials such as cement, steel, wood, or glass. Many players in this sector are already large, global firms with slower-moving shifts in value-chain dynamics. The most pronounced impact might arise from a transition to new, lighter-weight materials, as well as higher requirements on sustainability, recycling, and waste reduction. While the industry should benefit from long-term (post-cycle) growth of the construction market, the volume of traditional materials, such as the amount of cement, looks set to decline on a per-building basis (including due to a rise of lighter-weight off-site module production and, consequently, less strong foundations). Digitalization and consolidation of the distribution and contracting landscape may alter logistics and customer interfaces. It will be critical for the industry to stay ahead of those developments, raising the pace of innovation and the level of customer intimacy.

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## Transform

**Double down on operational excellence by, among other actions, digitalizing processes and plants, adopting agile and lean principles, and using advanced analytics in the core business?**

- Raise the level of customer intimacy, understanding better how to address customers' primary challenges and improving (digital) interactions?

**Invest in sustainability and higher pace of innovation?**

- Develop, brand, and advocate for products that are sustainable or made from zero-carbon materials?
- Invest in materials recycling, and find a strong position vis-à-vis contractors?
- Increase use of alternative fuels?
- Invest in new types of talent with backgrounds in product development, construction, and digital—and avoid the

pure-cost-cutting culture that prevails in the industry?

- Manufacture materials that enable lower TCO through energy efficiency?
- Carefully monitor materials choices in module production, and build a presence or alternative?

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## Disrupt

**Invest in a portfolio of products and technologies that will eventually cannibalize your core business?**

- In cement, replace Portland cement with zero-carbon binders like ultra-sulfated cement, as slower processes are less problematic in prefabrication?
- Invest in carbon capture and storage/ carbon capture, and use technologies such as lightweight aggregates?
- Move from "reactive" precast facilities to the development of entire prefab construction

and building systems that include engineering or BIM modules, construction solutions, precast modules, etc?

**Proactively disrupt company's footprint?**

- Disrupt your own production footprint with advanced digital and carbon-neutral plants?
- Plan downscaling and exit road maps for outdated facilities?
- Create further regional consolidation, including through distressed assets and corporate failures?

**Integrate in value chain by developing own solutions?**

- Create modular-construction business units; for instance in infrastructure like bridges?
- Become the one-stop shop for building materials?



Thought starters for

## Component manufacturers



**Today, components such as** elevators, HVAC equipment, and pipes are often produced using a silo-like approach, which limits the ability to integrate the components once they have been installed in buildings. Installers tend to have strong affinities for specific suppliers—due to either personal experience or suppliers' incentive schemes—while the brand affiliation of end customers is usually not as strong.

Several of the nine shifts will most strongly affect component manufacturers: productization and standardization (including through BIM object libraries) and online channels will increase price transparency and lead to commoditization. Consolidation will improve the bargaining power of large contractors or modular-construction firms, and internationalization can lead to low-cost-country sourcing. In turn, the best companies can push consolidation and market share gains themselves to achieve further economies of scale, and offer solutions with a TCO advantage and value-adding digital services. They might also shift from manufacturing components to entire modules or subsystems, direct-sales approaches, and orchestrating just-in-time logistics to prefabrication or eventual construction sites.

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### Transform

#### **Gain scale and standardize across borders?**

- Consolidate with other players and internationalize presence to gain benefits from increased scale?
- Standardize production across borders?

#### **Invest in sustainable solutions and optimize energy efficiency for customers?**

- Develop products and solutions that help customers optimize their operations in terms of energy usage throughout the entire system?
- Offer services to help customers evaluate energy usage and improve efficiency where possible?

#### **Invest in digital channels while avoiding commoditization?**

- Invest in digital and BIM object libraries and shift go-to-market strategies to influence

component choices earlier in the value chain?

- Build direct channels to emerging product houses, module suppliers, and consolidated contractors?
- Invest in R&D, brand, and differentiation to decrease the potential effects of standardization and increased transparency, including value-adding features and services and value-based pricing models?
- Build or integrate into industrial-grade digital supply chains from factory to site?

#### **Modularize products and service offerings to enable standardization and reduce variances?**

- Seek to modularize product offerings to be able to provide standardized submodules that can be combined into entire systems and solutions?

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### Disrupt

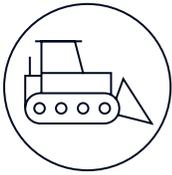
#### **Adjust the business model to be able to charge for output instead of actual products?**

- Change business and pricing models to charge for the actual savings or benefits that are generated (e.g., optimized energy systems for heating, ventilation, lighting, etc) instead of charging for the actual products?
- Take shared responsibility for optimizing customer costs and benefits (e.g., energy usage) in the entire system?
- Move forward along the value chain to producing modules?



Thought starters for

## Machinery manufacturers



**Over the next** two decades, manufacturers will transition from producing traditional heavy machinery and tools used in the construction process to highly automated, connected products used in the ecosystem. The new equipment will be integrated with robotics that could be used in the ecosystem's manufacturing processes—for example, in plants for building materials, components, and buildings. Rather than simply selling products, manufacturers will offer services that are completed with their products. This will increase the value added of machinery, and increasing automation will support greater volume. In addition, the demand for machinery used in off-site fabrication is expected to rise. In turn, improved efficiency and reduced time requirements for on-site work are expected to have a negative impact on the volume of machines sold.

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### Transform

#### **Consolidate and internationalize the company footprint as products become more standardized?**

- Focus on internationalizing as preferences and the way machines are used become more harmonized across regions?
- Engage in M&A activity and identify attractive targets for acquisition?

#### **Future-proof the product portfolio in line with trends and general development of the market—for example, IoT or vehicle electrification?**

- Develop a product portfolio that seamlessly integrates into an end-to-end, controlled, industrial-grade supply chain (requiring IoT connectivity)?
- Adopt an electric fleet and product portfolio to prepare for lower carbon-emission requirements?
- Build supporting infrastructure, such as charging stations for electric vehicles and 5G connectivity on site as well as training and certification programs for operators?
- Help customers to evaluate their energy usage and optimize energy efficiency in operations?

#### **Right-size areas expected to be negatively affected by shifts to a product-based approach?**

- Identify the areas in the business that could be negatively affected by the various shifts (for example, tower cranes used in residential real estate, as project timelines are expected to get shorter)?
- Divest or “milk” different areas of the business, and invest the generated cash in other parts of the business?
- Shift the product portfolio toward the tools and machinery used in off-site construction facilities?

#### **Invest in digital and develop agnostic software to optimize the entire fleet on site?**

- Develop machines and tools that are compatible with each other and able to run on different types of software, since customers want to optimize their entire fleets of mixed brands?
- Develop products that are compatible and can be connected to different types of site protocols (e.g., BIM)?
- Invest in bulletproof systems to handle and access data (e.g., to avoid unauthorized people taking control of machines)?

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### Disrupt

#### **Build automated machinery for use in future off-site manufacturing facilities?**

#### **Develop robotics and autonomous vehicles used on site for select, repetitive tasks (e.g., bricklaying)?**

#### **Adjust the business model to be able to charge for output (e.g., machine uptime, tons of earth moved) instead of actual products?**



Thought starters for

## Materials distributors and logistics players



**Distributors procure, store, and transport** basic materials, components, and equipment and resell them to consumers and businesses. Some distributors also provide credit. Part of this model is the organization of logistics and inventory, primarily for construction sites and installers.

Several of the nine shifts may hit distributors in a negative way. Productization, standardization, and consolidation will move decisions and procurement upstream from small specialized subcontractors to large contractors and product-based developers, increasing bargaining power and reducing the breadth of materials needed. Better and earlier planning using BIM and digital twins will reinforce those shifts and reduce the need for local stock. Off-site manufacturing facilities will shift demand for shipments to factory hubs, with more predictable levels of demand, which will be the main logistics nodes and decrease the need for a dense storage network close to construction sites, while also raising the expectation of just-in-time delivery. Internationalization will enable more sourcing from low-cost countries. Online and direct-sales channels, including new competition from online distribution behemoths—which serve customers with high expectations and use increasing amounts of technology, such as advanced analytics or automated warehouses—will further reshape this segment.

While these shifts pose a major threat to distributors that lack scale and logistics capabilities, they provide opportunities to companies that have them. There is an opportunity to consolidate the sector, supported by lean efficiencies, category reviews, and new business solutions. Direct-to-customer digital interaction channels and interfaces connecting to BIM and building-management systems allow better integration into the value chain. Distributors can fill the roles of the logistics hubs of the future construction landscape by using advanced analytics in logistics, demand forecasting, and inventory management to allow just-in-time delivery from suppliers to modular-construction factories to construction sites. Distributors can create new value for customers by helping with international sourcing, offering credit finance, packing in assembly order, offering in-room delivery, making deliveries before the working day, providing on-site logistics planning and operations, or even handling simple pre-assembly.<sup>34</sup>

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## Transform

### Focus on segments that the shifts will affect less than others?

- Stay in a traditional materials-distributor role but focus on projects expected to be produced on site in the foreseeable future, such as refurbishment work or in other segments that are expected to have low levels of standardization?

### Concentrate on operational excellence, better customer-value propositions, and integrated systems, to avoid disintermediation?

- Focus on operational improvements, lean execution, category reviews, commercial and pricing excellence, and procurement optimization?
- Reduce the carbon footprint of operations and materials?

- Create a digital user experience to match those of leading online players?

- Allow integration with BIM and building-management solutions, allowing direct ordering from models as well as improving forecasting?

- Provide flexible and just-in-time logistics and value-adding logistics services (e.g., packing in assembly order, in-room delivery, delivery before the next working day)?

- Focus on the core value proposition, superior availability, inventory transparency, best-in-class logistics, and demand forecasting using advanced analytics?

- Improve customer relationships with advice and financing services?

### Consolidate to gain scale in each region of presence?

- Consolidate with other players to gain benefits from increased scale?

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## Disrupt

### Become the logistics hub of the future construction landscape?

- Integrate or partner with other players in the value chain to create and control an industrial-grade supply chain?
- Partner closely with off-site manufacturers and materials suppliers to optimize logistics and inventory according to their needs and prioritize just-in-time delivery?



Thought starters for

## Machinery- rental players



**Currently, rental businesses provide** companies in the ecosystem with an efficient capital-expenditure option for yellow machinery and tools, which help to optimize equipment utilization. Digital technologies will enable greater efficiency through on-site logistics, either providing the right machinery at the right time or operating and using the machinery for customers. By offering digital services, rental companies gather usage data from products to enable best-in-class employment of machinery for customers.

Some machinery—particularly tools—is expected to be moved off site, trending toward higher utilization and limited rentals rather than direct purchases. This shift will affect machinery-rental players negatively, although only to a small extent. In turn, service-based business models and IoT-connected machinery and tools could compensate for these shifts. Machinery for groundwork will likely be less affected by the upcoming shifts.

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## Transform

### Generate data-driven productivity insights?

- Collect data critical for equipment to generate “customer-ready” insights, through collaboration that improves project planning, productivity, and safety, including equipment usage (encouraging early returns and pay-as-you-go-type services), equipment and labor productivity (based on hours of operation), or unsafe behavior?

### Capitalize on major trends and build supporting infrastructure?

- Lead the way on deployment and support of the new wave of equipment in the field, such as electric vehicles, autonomous vehicles, and robotics?
- Build supporting infrastructure, such as charging stations for electric vehicles and 5G connectivity on site, as well as training and certification programs for operators?

- Help customers evaluate their energy usage, and optimize energy efficiency in operations?
- Increase service offerings to help customers maintain a focus on their core expertise?
- Take on responsibility for tasks that are unrelated to contractors’ and owners’ core businesses (e.g., logistics, waste handling) to help them focus on their main sources of value add?

### Invest in digital and agnostic software to optimize entire fleet at site?

- Build fleet of machines and tools that are compatible and able to run on different types of software, since customers want to optimize their entire fleet of mixed brands?
- Offer products that are compatible with each other and can be connected to different types of site protocols (e.g., BIM)?
- Invest in bulletproof systems to handle and access data (e.g., to avoid unauthorized people taking control of machines)?

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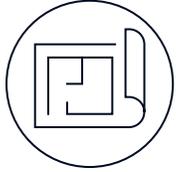
## Disrupt

**Adjust the business model to be able to charge for output (e.g., machine uptime, tons of earth moved) instead of actual products?**



Thought starters for

## Off-site construction players



**Today, off-site construction companies** primarily manufacture building elements, structures, or modules for real estate—but also for industrial structures and infrastructure like bridge segments. Overall, off-site construction is still a relatively young and immature part of the larger construction ecosystem, with high fragmentation and smaller-scale players that use mostly manual labor.

All nine of the shifts described in this report are expected to positively shape future demand for off-site construction in one way or another, and the collective effect is expected to be the most significant throughout the ecosystem. Led by a product-based approach, standardization, and sustainability, the coming years will see a shift to manufacturing a broad range of products off site, typically on a manual or automated production line.

Off-site construction will see much deeper integration even in flat-pack design such as doors, windows, and fully preinstalled mechanical, electrical, and plumbing systems. Data will be flexibly transferred from BIM models to the automated factory controls for decent customization within standard designs. The level of integration and connector technology aims to require no skilled labor on final site and enable extremely fast building times. There will be a mix of flat-pack (2-D) and volumetric (3-D) preconstruction. These products will then be assembled on site.

Through close collaboration with designers or integrated R&D departments, companies will build standardized libraries of subsystems that allow mass customization. We expect off-site construction companies to specialize by end-user segments, such as hospitals or certain types of bridges. Branding will become important to differentiate offerings.

While off-site construction is expected to enjoy massive demand growth in the near term, owner expectations and requirements will increase. For instance, the capability to integrate sustainability and new materials, and flexible automation (minimal work on final site) will become increasingly important criteria. As a consequence, the future landscape is likely to look very different from today's. Players that can differentiate at scale will stand head and shoulders above others. Some of those players might already exist in today's ecosystem, while others might arise from new entrants that see opportunities in areas such as real estate or infrastructure being the next platform for the deployment of smart technology. Either way, future winners will look very different from the players that exist today.

**We expect off-site construction companies to specialize by end-user segments, such as hospitals or certain types of bridges. Branding will become important to differentiate offerings.**



Thought starters for

## Off-site construction players



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## Transform

### **Achieve economies of scale?**

- Build a sufficiently large factory and secure sufficient throughput for ensuring repeatability, learning, and volume savings on procurement?
- Secure a robust pipeline of projects to ensure capacity utilization, possibly via strategic partnerships?
- Specialize to target individual segments and align operating model accordingly?
- Select a segment to pursue and develop products accordingly?
- Set up production system in line with the targeted segment, such as maximizing cost efficiency or allowing flexibility?

### **Optimize design for production and logistics?**

- Apply design thinking to enable production efficiencies?
- Develop standardization that allows for mass customization?
- Design and choose materials to make transport and assembly easier?

### **Build digital end-to-end processes?**

- Set up digital front ends for customers to allow mass customization?
- Deploy digital platform that supports processes—including customer interaction, design, machinery and tools, logistics, assembly, quality control, and facility management?

### **Optimize production footprint in line with markets and characteristics of products or logistics?**

- Depending on the volume and weight of modules and the geographic scale, consider (1) setting up one large plant to cover an entire region; (2) building the plant close to project sites (if serving megaprojects); (3) focusing on metropolitan areas (large capitals); or (4) serving all sites by setting up offshore manufacturing in low-cost locations?

### **Build ecosystem of partners?**

- Build close relationships with banks to ensure customer access to financing?
- Build partnerships with contractors for assembly and project risk management and with developers for early involvement in projects?

### **Automate production in factory, including Industry 4.0 setup and mass customization?**

- Introduce manufacturing robotics and other automation technology?
- Ensure a steady demand pipeline to utilize factory, and plan facilities to use automation effectively?
- Procure materials and components that allow for automated production (with higher accuracy)?
- Build automated factory with inherent flexibility to allow for customization while maintaining cost efficiency?

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## Disrupt

### **Integrate and own the entire value chain?**

- Acquire design capabilities to manage the development of standardized products tailored for the manufacturing process?
- Integrate materials supply at the back end of the value chain to help capture gains from standardization, and internalize distributor and original-equipment manufacturers' markups?
- Leverage increased control to become best in class at logistics, and apply just-in-time delivery to avoid unnecessary on-site storage?
- Influence the establishment of industry standards for the design of subsystems?
- Build own development capabilities, and raise funds for ownership and operations of assets?

### **Build a library of subsystems and try to influence the emergence of standards (after reaching scale)?**

### **Make a data and TCO play?**

- Capitalize on TCO advantages by including and managing sensors and smart building components; also combine scale and as-built BIM models for predictive maintenance?
- Capture and leverage building-use data?



Thought starters for

## General contractors



**General contractors face** major commoditization risk. Part of the construction work looks set to shift off site. And digitalization, specialization, and productization will reduce risks and project-management needs and thus hollow out the role of the general contractor. However, the demand for the traditional contractor role is expected to continue for projects less affected by shifts, such as renovation or other areas with low levels of standardization. To differentiate themselves from the competition, general contractors will focus on becoming lean in execution to manage costs, closely integrate with the rest of the value chain, and specialize on end-user segments and subsegments within an asset class.

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## Transform

### Specialize and win in segments in which shifts are less prevalent and expertise creates an edge?

- Identify an end-user segment in which expertise generates a competitive edge, such as hospitals, and become best in class?
- Focus on segments expected to be less affected than others by shifts, such as refurbishment, or segments expected to have low levels of standardization?
- Leverage off-site manufacturing to the extent applicable in the segment, but maintain the contractor role and learn to manage risk very well?

### Focus on operational excellence and lean execution of on-site assembly?

- Focus on the assembly of construction products that are manufactured off site using in-house labor?

- Create partnerships with off-site manufacturers to leverage relationships and increase efficiency in execution?
- Build best-in-class on-site logistics capabilities?
- Clean up project portfolio in terms of end markets, services offered, and geographic footprint to enable a focus on operational excellence?
- Improve risk-management and value-assurance processes and lean capabilities?
- Reconsider the balance of different types of projects in portfolio (e.g., size of contracts, types of contracts) to adjust risk in portfolio?

### Develop value-added offerings and move forward along the value chain?

- Implement capabilities for performance-based contracting and offer consulting services to customers?

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## Disrupt

### Drive integration along the value chain and lead in module development and production or new building approaches?

- Benefit from role as main point of contact for owners or developers to integrate design and engineering, module production, and related logistics activities?
- Design new building systems and use innovative building approaches using a mixture of prefabricated standardized elements and on-site solutions to sustainably raise competitiveness?
- Strive to become responsible from the beginning to the end, taking care of everything from customers' capex portfolios to managing assets?



Thought starters for

# Specialist contractors



Today, **specialist contractors perform** discrete tasks in construction projects, such as mechanical, electrical, and plumbing work. In the future, a significant share of activity for specialist contractors will move to factories and lower-cost workers. Digitalization and direct-procurement approaches may remove markups and incentives on materials purchases common in some markets in the industry. Much like general contractors, they will have to expand their skills, excel in execution, integrate with companies throughout the value chain, and consider further specialization (for example, particular types of buildings)—or prepare for downscaling.

## Transform

### Master digitalization and operational excellence?

- Prepare for seamless integration into value chain via digital interfaces and process support?
- Focus on operational excellence, including lean and logistics or procurement, to stay ahead of competition?

### Specialize and consolidate or rightsize?

- Achieve scale in the market, matching or exceeding the scale of contractors, to sustain bargaining power vis-à-vis general contractors, distributors, and component manufacturers?
- Consider pursuing sell-side M&A?
- Specialize in high-value-adding segments and activities or those less affected by the shifts, such as refurbishment work or complex projects?

## Disrupt

### Enter subsystem integration or production?

- Partner with manufacturers or build own capabilities in subsystem supply—e.g., 3-D printing of facade elements or module connectors in water and electricity?
- Increase level of subassembly off site to enable standardization of installation process?

### Become an adviser to help customers optimize their energy usage?

- Become an adviser to those selecting components, materials, and solutions that optimize energy usage for customers?

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Disruptive change is coming to the construction industry, and it will affect every segment of the value chain. Revenues and value added will be redistributed, in some cases dramatically. Disruption has already begun and will only accelerate in the coming years, and the COVID-19 crisis has created an overriding urgency to act—and act decisively. Executives, investors, and policy makers alike will need to step up the scale and pace of their responses and make sure they stand on the right side of a transformation that will create new winners but also leave many behind.

# Related reading

## Further insights

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Seizing opportunity in today's construction technology ecosystem



Artificial intelligence: Construction technology's next frontier



Bridging infrastructure gaps: Has the world made progress?

# Endnotes

- <sup>1</sup> “Reinventing construction through a productivity revolution,” McKinsey Global Institute, February 2017.
- <sup>2</sup> EBIT margins are calculated on revenues, not value pools. We see large variances in EBIT margins among players; the profitability of some segments and regions is considerably higher than that of others..
- <sup>3</sup> “Bridging infrastructure gaps: Has the world made progress?” McKinsey Global Institute, October 2017.
- <sup>4</sup> “Tackling the world’s affordable housing challenge,” McKinsey Global Institute, October 2014.
- <sup>5</sup> Hostile environments include outdoor construction sites, places where weather conditions vary, and dangerous settings such as high-rise buildings. Nonhostile environments are typically indoors, on the ground, and measurably safer.
- <sup>6</sup> An example would be a student residency “product,” with a standardized design and service package, built from modules produced in factories.
- <sup>7</sup> “Skill shift: Automation and the future of the workforce,” McKinsey Global Institute, May 2018.
- <sup>8</sup> “Climate risk and response: Physical hazards and socioeconomic impacts,” McKinsey Global Institute, January 2020.
- <sup>9</sup> Nick Bertram, Steffen Fuchs, Jan Mischke, Robert Palter, Gernot Strube, and Jonathan Woetzel, “Modular construction: From projects to products,” June 18, 2019, McKinsey.com.
- <sup>10</sup> EBIT margins are calculated on revenues, not value pools. We see large variances in EBIT margins among players; the profitability of some segments and regions is considerably higher than that of others.
- <sup>11</sup> Alex Abdelnour, Amna Hussein, Nick Malik, Steve Reis, Nick Santhanam, and Sri Swaminathan, “The coming shakeout in industrial distribution: And five keys to outperformance in the years ahead,” McKinsey, May 2019, on McKinsey.com.
- <sup>12</sup> “Reinventing construction through a productivity revolution,” February 2017.
- <sup>13</sup> “The view: Insolvency outlook,” Euler Hermes, January 2019.
- <sup>14</sup> “Insolvencies soar as business confidence dwindles,” *Financial Times*, July 30, 2019.
- <sup>15</sup> Rajat Agarwal, Shankar Chandrasekaran, and Mukund Sridhar, “Imagining construction’s digital future,” June 2016, McKinsey.com.
- <sup>16</sup> “Bridging infrastructure gaps,” October 2017.
- <sup>17</sup> “Tackling the world’s affordable housing challenge,” October 2014.
- <sup>18</sup> Shannon Bouton, David Newsome, and Jonathan Woetzel, “Building the cities of the future with green districts,” May 2015, McKinsey.com.
- <sup>19</sup> Joanna Lehne and Felix Preston, “Making concrete change: Innovation in low-carbon cement and concrete,” Chatham House, June 13, 2018, chathamhouse.org.
- <sup>20</sup> “Housing in Sweden: An overview,” Turner Center for Housing Innovation, UC Berkeley, November 2017.
- <sup>21</sup> Filipe Barbosa, Jan Mischke, and Matthew Parsons, “Improving construction productivity,” July 2017, McKinsey.com.
- <sup>22</sup> Andreas Behrendt, Nicolai Müller, Peter Odenwälder, and Christoph Schmitz, “Industry 4.0 demystified—lean’s next level,” March 30, 2017, McKinsey.com.
- <sup>23</sup> Hostile environments include outdoor construction sites, places where weather conditions vary, and dangerous settings such as high-rise buildings. Nonhostile environments are typically indoors, on the ground, and measurably safer.
- <sup>24</sup> “Modular construction,” June 2019.
- <sup>25</sup> An example would be a student residency “product,” with a standardized design and service package, built from modules produced in factories.
- <sup>26</sup> “Skill shift,” May 2018.
- <sup>27</sup> “Climate risk and response: Physical hazards and socioeconomic impacts,” McKinsey Global Institute, January 2020.
- <sup>28</sup> *EU Industrial R&D Investment Scoreboard*, December 2019.
- <sup>29</sup> EBIT margins are calculated on revenues, not value pools. We see large variances in EBIT margins among players; the profitability of some segments and regions is considerably higher than that of others.
- <sup>30</sup> Gartner IT Key Metrics Data Summary report, December 2019.
- <sup>31</sup> “The coming shakeout in industrial distribution,” May 2019.
- <sup>32</sup> Includes funding from venture-capital firms, private-equity firms, and investment banks but does not include Chinese companies.
- <sup>33</sup> Chris Bradley, Martin Hirt, and Sven Smit, “Strategy to beat the odds,” *McKinsey Quarterly*, February 13, 2018, McKinsey.com.
- <sup>34</sup> “The coming shakeout in industrial distribution,” May 2019.





## SUBSCRIPTION AGREEMENT

THE SECURITIES REFERRED TO HEREIN HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR APPLICABLE STATE SECURITIES LAWS. THESE SECURITIES MUST BE ACQUIRED FOR INVESTMENT PURPOSES ONLY AND NOT WITH A VIEW TO DISTRIBUTION OR RESALE. THE SECURITIES MAY NOT BE TRANSFERRED UNLESS REGISTERED OR QUALIFIED FOR AN EXEMPTION FROM THE REGISTRATION REQUIREMENTS UNDER FEDERAL AND STATE SECURITIES LAWS.

Bahia Village Communities, Inc.  
2775 E. U.S. Highway 90  
Macclenny, Florida 33063

This Subscription Agreement (this “Agreement”) has been executed by \_\_\_\_\_ (the “Subscriber”) in connection with the purchase of [number of shares] shares (the “Shares”) of the common stock, \$0.0001 par value per share (“Common Stock”), of Bahia Village Communities, Inc., a Delaware corporation (the “Company”) for \$3.125 per share for an aggregate investment of \$[dollar amount].

The Shares being subscribed for pursuant to this Agreement have not been registered under the Securities Act of 1933, as amended (the “Securities Act”). The offer and sale of the Shares is being made exclusively to the Subscriber, who is an “accredited investors,” as defined in Regulation D under the Securities Act, known to the Company.

1. **Subscription.** The Subscriber hereby subscribes to purchase the Shares, subject to the terms and conditions of this Agreement and on the basis of the representations, warranties, covenants and agreements contained herein. The Company hereby accepts the Subscriber’s subscription.

2. **Representations and Warranties of the Company.** The Company hereby represents and warrants to the Subscriber as follows:

(a) **Organization and Qualification.** The Company is a corporation duly organized and validly existing under the laws of the State of Delaware. The Company has all requisite power and authority to carry on its business as currently conducted, other than such failures that would not reasonably be expected to have a material adverse effect on the Company’s business, properties or financial condition (a “Material Adverse Effect”).

(b) **Authorization.** All action on the part of the Company, its board of directors, officers and existing stockholders necessary for the authorization, execution and delivery of this Agreement and the performance of all obligations of the Company hereunder has been taken, and this Agreement, assuming due execution by the Subscriber, will constitute valid and legally binding obligations of the Company, enforceable in accordance with its terms, subject to: (i) judicial principles limiting the availability of specific performance, injunctive relief, and other equitable remedies and (ii) bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect generally relating to or affecting creditors’ rights.

(c) **Capitalization.** The Company is authorized to issue One Hundred Million (100,000,000) shares of Common Stock, \$0.0001 par value per share and Fifty Million (50,000,000) shares of Preferred Stock. As of the date hereof but immediately prior to the

issuance of the Shares, (1) a total of Six Million Six Hundred Thousand (6,600,000) shares of the Company's Common Stock are issued and outstanding; (2) no shares of Preferred Stock are outstanding; and (3) no shares of Common Stock are reserved for issuance under securities that are exercisable or exchangeable for, or convertible into, Common Stock. All of the issued and outstanding shares of the Company's capital stock have been duly authorized and validly issued and are fully paid, nonassessable and free of pre-emptive rights and were issued in full compliance with applicable state and federal securities law and any rights of third parties. No Person has any right of first refusal, preemptive right, right of participation, or any similar right to participate in connection with the sale of the Shares to the Subscriber. Other than indicated above, there are no outstanding options, warrants, script rights to subscribe to, calls or commitments of any character whatsoever relating to, or securities, rights or obligations convertible into or exchangeable for, or giving any person any right to subscribe for or acquire, any shares of Common Stock, or contracts, commitments, understandings or arrangements by which the Company is or may become bound to issue additional shares of Common Stock, or securities or rights convertible or exchangeable into shares of Common Stock. The issue and sale of the Shares to the Subscriber will not obligate the Company to issue shares of Common Stock or other securities to any person (other than the Subscriber) and will not result in a right of any securityholder in Company securities to adjust the exercise, conversion, exchange or reset price under such securities. Except for the right of first refusal contained in the Company's bylaws, there are no voting agreements, buy-sell agreements, options or right of first purchase agreements or other agreements of any kind among the Company and any of the security holders of the Company relating to the securities of the Company held by them.

(d) Valid Issuance of the Shares. The Shares, when issued, sold and delivered in accordance with the terms of this Agreement for the consideration expressed herein, shall be duly and validly issued.

(e) Governmental Consents. No consent, approval, order or authorization of, or registration, qualification, designation, declaration or filing with, any federal, state or local governmental authority on the part of the Company is required in connection with the offer, sale or issuance of the Shares to the Subscriber, except for the following: (i) the filing of such notices as may be required under the Securities Act and (ii) the compliance with any applicable state securities laws, which compliance will have occurred within the appropriate time periods therefor.

(f) Litigation. There are no actions, suits, proceedings or investigations pending or, to the best of the Company's knowledge, threatened before any court, administrative agency or other governmental body against the Company which question the validity of this Agreement or the right of the Company to enter into it, or to consummate the transactions contemplated hereby, or which would reasonably be expected to have a Material Adverse Effect. The Company is not a party or subject to, and none of its assets is bound by, the provisions of any order, writ, injunction, judgment or decree of any court or government agency or instrumentality which would reasonably be expected to have a Material Adverse Effect.

(g) Bad Actor Disqualification. The Company and its Affiliates are not subject to any of the "bad actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the Act, and Subscriber agrees to notify the Company if Subscriber becomes subject to such disqualifications after the date of their signature hereto.

3. **Representations and Warranties of the Subscriber.** Each Subscriber represents and warrants to the Company the following:

(a) The Subscriber has the knowledge and experience in financial and business matters necessary to evaluate the merits and risks of its prospective investment in the Company, and has carefully reviewed and understands the risks of, and other considerations relating to, the purchase of the Shares and the tax consequences of the investment, and has the ability to bear the economic risks of the investment.

(b) The Subscriber is acquiring the Shares for investment for its own account and not with the view to, or for resale in connection with, any distribution thereof, except for a resale or distribution that complies with the Securities Act and all other applicable state securities laws. The Subscriber understands and acknowledges that the Shares have not been registered under the Securities Act or any state securities laws, by reason of a specific exemption from the registration provisions of the Securities Act and applicable state securities laws, which depends upon, among other things, the bona fide nature of the investment intent as expressed herein. The Subscriber further represents that it does not have any contract, undertaking, agreement or arrangement with any person to sell, transfer or grant participation to any third person with respect to any of the Shares. The Subscriber understands and acknowledges that the sale of the Shares to the Subscriber pursuant to this Agreement will not be registered under the Securities Act nor under the state securities laws on the ground that the sale provided for in this Agreement and the issuance of securities hereunder is exempt from the registration requirements of the Securities Act and any applicable state securities laws.

(c) The Subscriber understands that no public market now exists, and there may never be a public market for, the Shares.

(d) The Subscriber has received and reviewed information about the Company and has had an opportunity to discuss the Company's business, management and financial affairs with its management. The Subscriber understands that such discussions, as well as any written information provided by the Company, were intended to describe the aspects of the Company's business and prospects which the Company believes to be material, but were not necessarily a thorough or exhaustive description, and except as expressly set forth in this Agreement, the Company makes no representation or warranty with respect to the completeness of such information and makes no representation or warranty of any kind with respect to any information provided by any entity other than the Company. Some of such information may include projections as to the future performance of the Company, which projections may not be realized, may be based on assumptions which may not be correct and may be subject to numerous factors beyond the Company's control.

(e) As of the date hereof, all action on the part of Subscriber, and its officers, directors and partners, if applicable, necessary for the authorization, execution and delivery of this Agreement and the performance of all obligations of the Subscriber hereunder and thereunder shall have been taken, and this Agreement, assuming due execution by the parties hereto, constitutes valid and legally binding obligations of the Subscriber, enforceable in accordance with its terms, subject to: (i) judicial principles limiting the availability of specific performance, injunctive relief, and other equitable remedies and (ii) bankruptcy, insolvency,

reorganization, moratorium or other similar laws now or hereafter in effect generally relating to or affecting creditors' rights.

(f) The Subscriber is an "accredited investor" as defined in Rule 501 of Regulation D as promulgated by the Securities and Exchange Commission under the Securities Act, and Subscriber's basis or bases for falling within that definition are accurately set forth on Exhibit A hereto, which is incorporated herein as a representation and warranty of Subscriber, in full, by reference.

(g) The Subscriber or its duly authorized representative realizes that because of the inherently speculative nature of businesses of the kind conducted and contemplated by the Company, the Company's financial results may be expected to fluctuate from month to month and from period to period and will, generally, involve a high degree of financial and market risk that could result in substantial or, at times, even total losses for investors in securities of the Company.

(h) The Subscriber has adequate means of providing for its current and anticipated financial needs and contingencies, is able to bear the economic risk for an indefinite period of time and has no need for liquidity of the investment in the Shares and could afford complete loss of such investment.

(i) If a legal entity, (i) Subscriber has all requisite authority to execute and deliver this Subscription Agreement to the Company and to carry out and perform its obligations hereunder, and (ii) all action on the part of Subscriber necessary for the authorization, execution, and performance of this Subscription Agreement and Subscriber's obligations hereunder has been taken or will be taken prior to the closing. This Subscription Agreement, when executed and delivered by Subscriber to the Company, shall constitute a valid and binding obligation of Subscriber enforceable in accordance with its terms.

(j) If a legal entity, Subscriber is duly organized, validly existing, and in good standing under the laws of the state of its incorporation or organization, and is duly qualified and authorized to do business, and is in good standing as a foreign entity in, all jurisdictions in which the nature of its activities makes such qualification necessary, except for those jurisdictions in which failure to do so would not have a material adverse effect on Subscriber or its business.

(k) Subscriber is not subject to any of the "bad actor" disqualifications described in Rule 506(d)(1)(i) to (viii) under the Act, and Subscriber agrees to notify the Company if Subscriber becomes subject to such disqualifications after the date of their signature hereto

(l) Subscriber understands and acknowledges that the Shares will afford Subscriber limited rights in and to the Company as a shareholder thereof. Specifically, Subscriber understands that in subscribing to purchase Shares and, if Subscriber's subscription is accepted by the Company, purchasing Shares, will afford Subscriber the limited rights. Subscriber has fully read and understands the Bylaws, and understands the limitations on its rights in and to the Company that Shares shall afford Subscriber.

(m) All of the information that the Subscriber has heretofore furnished or which is set forth herein is correct and complete as of the date of this Agreement, and, if there should be any

material change in such information prior to the admission of the undersigned to the Company, the Subscriber will immediately furnish revised or corrected information to the Company.

(n) Subscriber has not been furnished any offering literature, other than the Bylaws, this Subscription Agreement, the PPM and its Exhibits, and Subscriber or their representative has relied only on the information contained therein or otherwise made available by the Company.

4. **Transfer Restrictions.** The Subscriber acknowledges and agrees as follows:

(a) The Shares have not been registered for sale under the Securities Act, in reliance on the private offering exemption in Rule 506(c) of Regulation D; the Company does not intend to register the Shares under the Securities Act at any time in the future.

(b) The Subscriber understands that the certificates representing the Shares, until such time as they have been registered under the Securities Act, shall bear a restrictive legend in substantially the following form (and a stop-transfer order may be placed against transfer of such certificates or other instruments):

THE SHARES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 AS AMENDED. THEY MAY NOT BE SOLD, OFFERED FOR SALE, PLEDGED OR HYPOTHECATED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT AS TO THE SECURITIES UNDER SAID ACT OR AN OPINION OF COUNSEL SATISFACTORY TO THE CORPORATION THAT SUCH REGISTRATION IS NOT REQUIRED.

THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO A RIGHT OF FIRST REFUSAL OPTION IN FAVOR OF THE CORPORATION AND/OR ITS ASSIGNEE(S) AS PROVIDED IN THE BYLAWS OF THE CORPORATION.

(c) No governmental agency has passed upon the Shares or made any finding or determination as to the wisdom of any investments therein.

5. **Use of Proceeds.** The Company shall only use the net proceeds of the sale of the Shares to the Subscriber only for the purposes as described in the Private Placement Memorandum, however, in the event the Company does not raise the total amount of \$20,000,000, the Board intends to prioritize its use of proceeds using its best judgment.

6. **Modification.** This Agreement shall not be modified or waived except by an instrument in writing signed by the party against whom any such modification or waiver is sought.

7. **Notices.**

(a) Form of Notice. All notices, requests, claims, demands and other communications between the parties shall be in writing and given (a) if to the Company, at the address set forth above, or (b) if to a Subscriber, at the address set forth on the signature page for such Subscriber (or, in either case, to such other address as the party shall have furnished to the other in writing in accordance with the provisions of this Section 7).

(b) Method of Notice. All notices shall be given (i) by delivery in person (ii) by a nationally recognized next day courier service, (iii) by first class, registered or certified mail, postage prepaid, (iv) by facsimile or (v) by electronic mail to the address of the party specified in this Agreement or such other address as either party may specify in writing.

(c) Receipt of Notice. All notices shall be effective upon (i) receipt by the party to which notice is given, or (ii) on the fifth (5th) day following mailing, whichever occurs first.

8. **Assignability.** This Agreement and the rights, interests and obligations hereunder are not transferable or assignable by any Subscriber and the transfer or assignment of the Shares shall be made only in accordance with the Certificate of Incorporation and Bylaws of the Company and all applicable laws.

9. **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without reference to the principles thereof relating to the conflict of laws.

10. **Miscellaneous.**

(a) This Agreement constitutes the entire agreement between the Subscriber and the Company with respect to the sale of the Shares to the Subscriber and supersedes all prior oral or written agreements and understandings, if any, relating to the subject matter hereof. The terms and provisions of this Agreement may be waived, or consent for the departure therefrom granted, only by a written document executed by the party entitled to the benefits of such terms or provisions.

(b) The representations and warranties of the Company and each Subscriber made in this Agreement shall survive the execution and delivery hereof and delivery of the Shares to the Subscriber.

(c) Each of the parties hereto shall pay its own fees and expenses (including the fees of any attorneys, accountants, appraisers or others engaged by such party) in connection with this Agreement and the transactions contemplated hereby, whether or not the transactions contemplated hereby are consummated.

(d) This Agreement may be executed in one or more original or facsimile counterparts, each of which shall be deemed an original, but all of which shall together constitute one and the same instrument.

(e) Waiver of Jury Trial; Arbitration. THE PARTIES EACH HEREBY VOLUNTARILY, KNOWINGLY, AND IRREVOCABLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY DISPUTE.

Any controversy, dispute, or claim arising from or relating to this Subscription Agreement, including, not limited to, the breach, enforcement, interpretation, or termination of this Subscription Agreement (each, a “*Dispute*”), shall be handled by binding arbitration administered by Judicial Arbitration and Mediation Services, Inc. (“*JAMS*”) in Wilmington, Delaware, before one (1) arbitrator, who shall be a retired judge, selected by the Parties. Such arbitration shall be conducted in accordance with

either (i) the JAMS Streamlined Arbitration Rules or Procedures, if the amount in controversy is less than one hundred thousand dollars (\$100,000.00), or (ii) the JAMS Comprehensive Arbitration Rules & Procedures if the amount in controversy exceeds one hundred thousand dollars (\$100,000.00). Each Party shall bear its own fees and expenses in such arbitration; *provided, however*, that the arbitrator may assess the prevailing Party's fees and costs against the non-prevailing Party as part of the arbitrator's award. Such arbitration shall be confidential and neither Party nor the arbitrator shall disclose the existence, contents, or results of such process without the prior written consent of the other, except where necessary or compelled by a court of law to enforce this arbitration provision or an award from such arbitration or otherwise in a legal proceeding.

The Parties agree that any claim brought against the Company in connection with a Dispute will be brought against the Company by the applicable party individually, and that the applicable party may not assert any such claim against Company as class member or other form of representative party in any purported class or representative proceeding. To the fullest extent of the law: (i) no arbitration shall be joined with any other; (ii) no Dispute between the Company and Subscriber and another Investor or other party is to be arbitrated on a class action or representative basis, or to utilize such procedures; and (iii) neither Subscriber nor any other Investor may bring any Dispute against the Company in a purported class action or representative capacity on behalf of the general public, other Investors, or any other Persons.

(f) Each provision of this Agreement shall be considered separable and, if for any reason any provision or provisions hereof are determined to be invalid or contrary to applicable law, such invalidity or illegality shall not impair the operation of or affect the remaining portions of this Agreement.

(g) Paragraph titles are for descriptive purposes only and shall not control or alter the meaning of this Agreement as set forth in the text.

(h) The Subscriber hereby agrees to furnish the Company such other information as the Company may request with respect to its subscription hereunder.

*[Signature pages follow]*

SIGNATURE PAGE TO  
SUBSCRIPTION AGREEMENT

IN WITNESS WHEREOF, the Subscriber hereby executes this Subscription Agreement,  
as of July \_\_\_\_, 2021.

**Subscription Amount \$** \_\_\_\_\_

**SUBSCRIBER** (individual)

**SUBSCRIBER** (entity)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of Entity

\_\_\_\_\_  
Print Name

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature (if Joint Tenants or Tenants in Common)

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address of Principal Residence:

Address of Executive Offices:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Social Security Number(s):

IRS Tax Identification Number:

\_\_\_\_\_

\_\_\_\_\_

Telephone Number:

Telephone Number:

\_\_\_\_\_

\_\_\_\_\_

Facsimile Number:

Facsimile Number:

\_\_\_\_\_

\_\_\_\_\_

E-mail Address:

E-mail Address:

\_\_\_\_\_

\_\_\_\_\_

Agreed to and accepted as of \_\_\_\_\_.

**Bahia Village Communities, Inc.**

By: \_\_\_\_\_  
Name: Sharon Amezcua  
Title: Chief Executive Officer

## EXHIBIT A: ACCREDITATION DISCLOSURE FORM

### For Individual Accredited Investors Only (all Individual Accredited Investors must *INITIAL* where appropriate):

Print Name of Investor: \_\_\_\_\_

The undersigned's income<sup>1</sup> during each of the last two (2) years exceeded two hundred thousand dollars (\$200,000.00) or, if the undersigned is married, the joint income of the undersigned and their spouse during each of the last two (2) years exceed three hundred thousand dollars (\$300,000.00), and the undersigned reasonably expects their income from all sources during this year, will exceed two hundred thousand dollars (\$200,000.00) or, if the undersigned is married, the joint income of the undersigned and their spouse from all sources during this year will exceed three hundred thousand dollars (\$300,000.00);

The undersigned's net worth,<sup>2</sup> including the net worth of the undersigned's spouse, is in excess of one million dollars (\$1,000,000.00) excluding the value of the undersigned's primary residence;

The undersigned is a director, limited liability company manager, general partner, or executive officer of the issuer of the securities being purchased, or is a director, limited liability company manager, general partner, or executive officer of a general partner of the issuer of the securities being purchased;

The undersigned possesses certain professional certifications, designations or credentials or other credentials issued by an accredited educational institution, which the Commission may designate from time to time by order, such as designated in good standing of the Licensed General Securities Representative (Series 7), Licensed Investment Adviser Representative (Series 65), or Licensed Private Securities Offerings Representative (Series 82);

The undersigned is a "knowledgeable employee" as defined in Rule 3c-5(a)(4) under the Investment Company Act, of the issuer of the securities being offered where the issuer is a private fund (excluded from the definition of investment company in Section 3(c)(1) or 3(c)(7));

The undersigned is a "spousal equivalent," so that spousal equivalents may pool their finances for the purpose of qualifying as accredited investors;

---

<sup>1</sup> "**Income**" means adjusted gross income, as reported for federal income tax purposes, increased by the following amounts: (i) the amount of any tax exempt interest income received; (ii) the amount of losses claimed as a limited partner in a limited partnership; (iii) any deduction claimed for depletion; (iv) amounts contributed to an individual retirement account or Keogh retirement plan; (v) alimony paid; and (vi) any amounts by which income from long-term capital gains has been reduced in arriving at adjusted gross income pursuant to the provisions of Section 1202 of the Internal Revenue Code of 1986, as amended.

<sup>2</sup> "**Net worth**" means the excess of total assets, excluding a primary residence, at fair market value over total liabilities, including a mortgage or any other liability secured by your primary residence only if and to the extent that it exceeds the value of a primary residence. Net worth should include the value of any other shares of stock or options held by the undersigned and the undersigned's spouse and any personal property owned by you or your spouse (e.g. furniture, jewelry, other valuables, etc.).

The undersigned's professional representative has determined that the undersigned is an accredited investor, and such professional representative has (in addition to the undersigned) duly completed and executed this Accreditation Disclosure Form below; or

The undersigned is unable to make any of the representations set forth above. If the undersigned nonetheless represents that Purchaser is an accredited investor, the undersigned's basis or bases for that representation is or are (*please explain; an empty field shall be presumed as a representation that the undersigned is not an accredited investor*):

**For Non-Individual Accredited Investors  
(all Non-Individual Accredited Investors must *INITIAL* where appropriate):**

The undersigned is a trust with total assets in excess of five million dollars (\$5,000,000.00) whose purchase is directed by a person with such knowledge and experience in financial and business matters that such person is capable of evaluating the merits and risks of the prospective investment in the issuer of the securities being purchased;

The undersigned is: (i) a bank, insurance company, investment company registered under the Investment Company Act of 1940, as amended; (ii) a broker or dealer registered pursuant to Section 15 of the Securities Exchange Act of 1934, as amended; (iii) a business development company (as that term is defined under the Investment Company Act of 1940, as amended); (iv) a Small Business Investment Company licensed by the Small Business Administration; (v) a plan with total assets in excess of five million dollars (\$5,000,000.00) established and maintained by a state for the benefit of its employees; or (vi) a private business development company as defined in Section 202(a)(22) of the Investment Advisers Act of 1940, as amended;

The undersigned is a "family office," as defined in Rule 202(a)(11)(G)-1 under the Investment Advisers Act of 1940: with at least \$5 million in assets under management, that is not formed for the specific purpose of acquiring the securities being offered, and whose prospective investment is directed by a person who has such knowledge and experience in financial and business matters that the family office is capable of evaluating the merits and risks of the prospective investment; or any such family office's "family clients," as defined in Rule 202(a)(11)(G)-1 under the Investment Advisers Act of 1940;

The undersigned is an employee benefit plan and either (i) all investment decisions are made by a bank, savings and loan association, insurance company, or registered investment advisor, (ii) the undersigned has total assets in excess of five million dollars (\$5,000,000.00), or (iii) if such plan is a self-directed plan, investment decisions are made solely by persons who are accredited investors;

The undersigned is (i) either (a) a corporation, partnership, or business trust not formed for the purpose of acquiring the securities being purchased, or (b) an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and (ii) has total assets in excess of five million dollars (\$5,000,000.00);

The undersigned is an entity in which each of its equity owners satisfies the definition of accredited investor applicable to individuals as described above. If relying upon this basis for qualifying as an accredited investor, each of the undersigned's equity owners must separately complete and duly execute a copy of this Accreditation Disclosure Form setting forth their separate basis or bases for qualifying as accredited investors as individuals;

The undersigned is a limited liability company manager or general partner of the issuer of the securities being purchased, or is a limited liability company manager or general partner of a general partner of the issuer of the securities being purchased;

The undersigned's professional representative has determined that the undersigned is an accredited investor, and such professional representative has (in addition to the undersigned) duly completed and executed this Accreditation Disclosure Form below;

The undersigned is unable to make any of the representations set forth above. If the undersigned nonetheless represents that the undersigned is an accredited investor, the undersigned's basis or bases for that representation is or are (*please explain; an empty field shall be presumed as a representation that the undersigned is not an accredited investor*):

**INVESTORS WHO HAVE UTILIZED A THIRD-PARTY SERVICE PROVIDER: Please check the below.**

In addition to the representation(s) and warranty (or warranties) made by Subscriber above, Subscriber represents and warrants that if Subscriber has utilized a third-party service provider for the purposes of effectuating the Company's determination that Investor is an accredited investor, that any and all information or documentation provided by Investor to such third-party service provider was true and accurate at the time such information or documentation was provided, and remain true and accurate as of the date of Subscriber's signature hereto.

***NOTE:*** *If the undersigned does not have a professional representative concurrently representing and warranting that the undersigned is an accredited investor, the undersigned must provide to the issuer of the securities being purchased, together with a duly completed and executed copy of this Accreditation Disclosure Form, documentation which substantiates and evidences the representations and warranties made above. Such documentation would include bank account statements, investment account statements, tax returns, credit reports, analogous and other records prepared for corporations, partnerships, limited liability companies, and other entities, and any other information reasonably requested by the issuer of the securities being purchased to determine the undersigned's suitability as an investor.*

The undersigned hereby agrees to indemnify and hold harmless the issuer of the securities being purchased with respect to this representation and warranty (in addition to any other indemnity which the undersigned may separately owe to the issuer of the securities being purchased), and hereby executes this Accreditation Disclosure Form as of the date of its signature below.<sup>3</sup>

\_\_\_\_\_Signature \_\_\_\_\_Signatory

<sup>3</sup> If signing on behalf of a legal entity, (i) identify the name of the legal entity for "**Name**," (ii) identify your name for "**Signatory**," and (iii) identify your title with respect to the legal entity for "**title**." If signing on behalf of yourself as a natural person, then only identify your name for "**Name**."

\_\_\_\_\_ Name \_\_\_\_\_ Title

\_\_\_\_\_ Date

***For the undersigned's professional representative (if applicable):***

I, \_\_\_\_\_,<sup>4</sup> of \_\_\_\_\_,<sup>5</sup>  
represent the above-named individual or entity as their duly engaged and licensed (*check all that apply*):

- broker-dealer (my Central Registration Depository number is \_\_\_\_\_);
- registered investment adviser (my Central Registration Depository number is \_\_\_\_\_);
- attorney (I am licensed in the State of \_\_\_\_\_, and my state bar number or equivalent is \_\_\_\_\_); or
- certified public accountant (I am licensed in the State of \_\_\_\_\_, and my license number or equivalent is \_\_\_\_\_).

I represent and warrant to the issuer of the securities being purchased that, after taking reasonable steps to do so, I have determined that the above-named individual or entity is an accredited investor. Together with the above-named individual or entity, I agree to jointly and severally indemnify and hold harmless the issuer of the securities being purchased with respect to this representation and warranty. I hereby execute this Accreditation Disclosure form as of the date of my signature below.

\_\_\_\_\_ Signature \_\_\_\_\_ Address

\_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_ Email

<sup>4</sup> Identify your full name here.

<sup>5</sup> Identify your place of employment here.