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 Total 41 Rev \_\_\_\_\_ Int: 82  
 Ck \$ \_\_\_\_\_ Ck # \_\_\_\_\_ Cash \$ 41  
 Refund: \_\_\_\_\_ Cash \$ \_\_\_\_\_ Finance \_\_\_\_\_  
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Prepared by: C. Greg Williamson, Attorney

NORTH CAROLINA  
 BRUNSWICK COUNTY

DECLARATION OF  
 RESTRICTIONS  
 RIVERGATE ESTATE  
 PHASE II

THIS DECLARATION OF RESTRICTIONS, made and entered into this the 22 March, 2010 by and between Eastern Carolina Builders, Inc., party of the first part, (hereinafter referred to as "Developer", and Prospective Purchasers of lots in the Subdivision, party of the second part, (hereinafter referred to as "Owners");

WITNESSETH:

Whereas, Developer is the owner of all of that tract of real property located in Shallotte Township, Brunswick County, North Carolina, and being more particularly shown and described on that certain plat recorded in Plat Cabinet 27, Page 384, Brunswick County Registry, reference to said plat being specifically made; and

Whereas, Developer proposes to sell and convey certain lots shown on the aforesaid plat to be used for residential purposes and to develop said lots and additional property within the Development Area which may be acquired by Developer, into a well planned community.

Now, therefore, Developer hereby declares that this Declaration of Restrictions is affixed and affirmed to and shall run with the land and shall be binding on all parties having or acquiring any right, title, or interest in and to the real property or any part or parts thereof subject to this Declaration of Restrictions.

RESTRICTIONS ON USE AND OCCUPANCY

A. No lot shall be used except for single family residential purposes. No structure shall be erected, placed, or permitted to remain on a numbered Lot other than one (1) detached, single family residence dwelling and such outbuildings as a private enclosed garage with space for not more than three (3) automobiles and a second story



for guests and/or servants quarters, which garage shall not be rented separately for remuneration. Unenclosed carports, (except homes on pilings) or similar storage structures shall not be erected, placed or permitted to remain on any Lot. In no event shall any dwelling be constructed in excess of forty (40) feet in height as measured from its highest point to the ground. All dwelling shall be constructed in a manner that would qualify for Federal Flood Insurance in existence at the time of their construction.

B. Any dwelling constructed on a Lot subject to these Restrictions shall contain not less than 1,600 square feet of fully enclosed and heated floor area devoted to living purposes (exclusive of roofed or unroofed porches, terraces, garages, and any outbuildings).

C. No above-grade structure (except approved fences or walls) may be constructed or placed on any Lot except within the minimum building setback lines as set forth herein:

(a) Ten (10') feet from the Side Lot Line.

(b) Twenty-Five (25') feet from the Front Lot Line or street right of way.

Back property lines of Lot A, B, C, D, E, F, K, L, M, N have 10' wide Utility Easement, plus 10' wide Sewer Easement. Lots G, H, I & J have 10' wide Drainage Easement. Lots D, E, F, G, J, K, L, M, N have a 40' open space, 20' each side of property line as entered in Book 0064, Page 0008, Brunswick County Registry.

An owner of a Lot and a portion or all of an adjoining and contiguous Lot or Lots may construct a dwelling and/or other structures permitted hereinunder upon and across the dividing line of such adjoining and contiguous Lots, all such structures to comply with the minimum building setback lines from the actual boundary lines of the subject Owner's property, and thereafter, such combinations of Lots or portions thereof shall be treated for all purposes under these Restrictions as a single Lot.

D. Individual septic tank or other sewerage systems shall be placed upon lots pursuant to the direction of the appropriate governmental authorities. The owner of Lots K, L, M, & N shall have the option to hook up to the sewer system provided by the developer at the force main located on the property line with tank and pump to be supplied by the owner that is compatible with the sewer system. A monthly maintenance fee established by the Developer is set at \$50.00 per month beginning on January 1<sup>st</sup>, 2011 for each lot connected to the system, together with an Impact fee of \$6,000.00 per ~~acre~~<sup>Lot</sup> payable to Developer for the system.

E. The Developer-owned sewer system shall terminate six (6) months after the first availability of public or community sewer to the lots benefited by the system. Availability as used in this document is having a public or community sewer connection

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point within 500 feet of the lots benefited by the system, with the responsibility, if required, for the Grantee to pay normal connection, capacity, services or other related charges as generally required of other customers of the sewer utility.

F. The design, site, and location of containers for the collection and removal of garbage, trash, and other like household refuse shall be subject to rules and regulations to be established by the Developer and/or the Association.

G. As required by N.C.D.E.N.R., Division of Water Quality, see Schedule "A" for maximum allowable impervious surfaces to be constructed within each lot in this development. Increasing of these impervious areas will require notification to the Division of Water Quality, N.C.D.E.N.R. and modification of the drainage permit.

H. The covenants set out on Schedule "A" attached hereto are incorporated herein, to ensure ongoing compliance with State Stormwater Management Permit Number SW8 050839, as issued by the Division of Water Quality under NCAC 2H.1000.

I. The following general prohibitions and requirements shall apply and control the improvement, maintenance, and use of all Lots:

1. No mobile home, manufactured home, trailer, camper, tent, or temporary house, temporary garage, or other temporary outbuilding shall be placed or erected on any Lot, provided, however, that temporary structures for storage of materials during construction are permissible. No such temporary structure will be permitted or used at any time as a residence.

2. Once construction of a dwelling or other improvements is started on any Lot, the improvements must be substantially completed in accordance with the approved plans and specifications within twelve (12) months from commencement.

3. During construction of improvements on any Lot, adequate portable toilets must be provided for the construction crew and the Lot must be cleaned of any excess debris at least once a week.

4. All dwellings and permitted structures erected or placed on any Lot shall be constructed of material of good grade, quality and appearance, and all construction shall be performed in good workmanship manner and quality. The exterior of all dwellings and permitted structures shall be either natural wood, stone, brick, or Hardi Panel vinyl. The covering for all roofs shall be wood shake shingles or Timberline style shingles or similar dimensional and style shingles. No used structures shall be relocated or placed on any Lot and no structures shall be relocated or placed on any Lot. No structures shall have an exterior constructed of concrete blocks, asbestos or asphalt siding. Any permitted outbuilding shall be of the same material, quality,

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general appearance and workmanship as the dwelling on the Lot. Modular built homes are permitted frame or on frame modular homes are acceptable.

5. Except structures erected by the Developer, no structure erected upon any Lot may be used as a model exhibit or house unless prior written permission to do so shall have been obtained from the Developer and/or the Association.

6. All Lots, whether occupied or unoccupied, shall be well maintained and no unattractive growth or accumulation of rubbish or debris shall be permitted.

7. No trash, ashes, garbage, or other refuse shall be dumped or stored or accumulated on any Lot or other area in the subdivision.

8. Any dwelling or improvement on any Lot which is destroyed in whole or in part by fire or other casualty must be rebuilt or all debris removed and the Lot restored to a sightly condition with reasonable promptness, provided, however, that in no event shall such debris remain on such Lot longer than three (3) months.

9. No stripped, partially wrecked, or junked motor vehicle, or part thereof, shall be permitted to be parked or kept on any Lot. All motor vehicles of any type kept on any Lot shall have current registration and inspection certificates.

10. No vehicle of any type shall be parked on any street in the subdivision. No truck nor other vehicle in excess of a one-ton load capacity nor any mobile home, trailer, camper, similar vehicle or boat shall be parked or kept overnight or longer, on any Lot, in such manner as to be visible to the occupants of other Lots or the users of any street or recreation area.

11. All fuel storage tanks shall be buried below the surface of the ground and all outdoor receptacles for ashes, trash, rubbish or garbage shall be installed underground, screened, or so placed and kept as not to be visible to the occupants of other Lots or the users of any street or recreation area.

12. All outdoor poles, clotheslines and similar equipment shall be screened or so placed as not to be visible to the occupants of other Lots or the users of any street or recreation area.

13. All recreational equipment and personal property other than automobiles or bicycles must be stored in such a manner as not to be visible from any street or to the occupants of other Lots.

14. All lot owners acknowledge that there is a pond located to the rear of the development. Developer is not responsible for supervising or patrolling the pond for the safety of the general public or any of the lot owners and all lot owners and members of their families and guests expressly release the Developer, its agents, employees,

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owners, successors or assigns, from any and all damages or injuries that may be caused by or to the lot owners, their families, or guests, using the ponds. ALL OF THE FOREGOING PERSONS ARE PROHIBITED BY THESE RESTRICTIONS FROM USING THE PONDS.

15. No sign (excluding "For Sale" and builder identification signs or similar signs), billboards, or other advertising or structures of any kind may be erected or maintained upon any Lot, provided however, that construction identification signs showing the Lot number and name of the builder may be established upon the Lot during the period of construction.

16. No radio station or short wave operator of any kind shall operate from any Lot or residence without the prior written approval of the Developer and/or Association.

17. All dwelling connection for all utilities including but not limited to water, electricity, gas, telephone, and television shall be run underground from the proper connecting points to the dwelling structure in such manner as may be acceptable to the appropriate utility authority.

18. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets in a reasonable number may be kept provided they are not kept, bred or maintained for any commercial purpose, and provided, further, that such pets do not constitute a danger or nuisance to other Lot owners or the neighborhood.

19. No window air-conditioning units shall be installed in the side of any structure in such manner as to be visible from any street or recreational area.

20. No noxious, offensive or illegal trade or activity shall be carried on upon any Lot nor shall anything be done on any Lot that shall be or become an unreasonable annoyance or nuisance to other Lot owners or the neighborhood.

21. Road Maintenance Agreement-Construction of driveways and culverts on all lots shall not be done in such a way as to impede the flow of water through road ditches, and all construction shall meet Department of Transportation standards in regard to type of materials and size of tile or culverts. All driveways constructed on any lot shall be paved with standard paving materials, asphalt, concrete, or the like, in the street right of way.

22. An initial annual Homeowners Association fee of \$200.00 per year will be due by January 30th of each year beginning January 30, 2010, payable to the Developer/Homeowners Association for road and community area maintenance.

23. Construction of driveways and culverts in the subdivision shall be done in a

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matter so as not to impede the flow of water through road ditches, and all constructions shall meet Department of Transportation standards with regard to type of materials and size and type of tiles, or culverts. All driveways constructed on lots in said subdivision shall be constructed in non-hazardous locations on the lot, that is they shall be located in such a manner as not to impede the traffic flow on the streets in the subdivision. The location of said driveway shall be subject to the approval of the developer (or any Homeowner Association duly constituted to make said approval)

24. Easement for the installation and maintenance of utilities, water systems, and drainage facilities are hereby reserved by the Developer over all streets and the set back lines of each lots as shown set out, this being 15 feet on the front and side lines and 30 feet on the back line, for the installation and maintenance of utilities, water systems, storm water sewers, surface drains, underground electric or other utility services, and/or street lighting. No structure, planting, or other material shall be placed or permitted to remain within these easements or within any utility or similar easements shown on the Plat, which may damage or interface with the installation and maintenance of utilities, or which may changes the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the owner of the Lot, except for those improvements whose maintenance is the responsibility of a governmental body or agency or a public authority or utility company. No conveyance by the Developer of any Lot, or of any interest herein, shall be deemed to be, or construed as, a conveyance or release of these easements, or any of them, even though the conveyance purports to convey the Lot in fee simple or by other language purports to convey the Developer's entire interest therein.

All utility services to said Lots including but not limited to power, electrical, water, telephone, television, or for any other purposes, shall be constructed underground and not above ground.

25. The Developer hereby reserves to itself, its successors and assigns, the right to grade, regrade, and improve the streets, avenues, roads, courts, and open spaces as the same may be located on the plat, including the creation or extension of slopes, banks, or excavation in connection therewith and the construction or an installation of drainage structures therein.

26. The Developer further reserves to itself, its successors and assigns, the right to grant easement, rights-of-way and licenses to any person, individual, corporate body, or municipalities, to install and maintain pipelines, underground or above ground, with the appurtenances necessary thereto, for public utilities or quasi-public utilities, or to grant such other licenses or permits as the Developer may deem necessary for the improvement of the Property in, over, through, upon, and across any and all of the streets, avenues, roads, courts, and open spaces, and in, over, through, upon, and across each and every Lot or in the easement area reserved herein. The Developer

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further reserves to itself, its successors, and assigns, the right to dedicate all of the streets, avenues, roads, courts, open spaces, and easements to public use. No street, avenue, road, court, open space, or easement shall be laid out or constructed through or across any Lot, except as set forth in this Declaration, or as laid down and shown on the Plat, without the prior written approval of the Developer.

27. That no owner shall do anything to impede the use of the streets by any other lot owners and the easement and rights to use said streets for purposes of access and ingress to and from said lots is permanent and perpetual in nature and runs with each and all lots.

28. That the foregoing costs shall be equally shared by the owners of all lots with each owner's share of cost to be determined on a pro-rata basis by the number of lots the owner owns and not by the actual acreage of each lot.

29. The Developer reserves the right to contract with any public or private utility company for the installation of street lighting and the individual lot owners shall be responsible for the future cost or monthly expense of any such street lighting. That these costs shall be equally shared by the owners of all lots with each owners share of the cost to be determined on a pro-rata basis by the number of lots the owner owns and not by the actual acreage of each lot as set out in paragraph 21 above. That these costs shall be assessed to the individual lot owners and such costs shall be paid and become liens on the property.

30. The covenants and restrictions herein set forth shall run with the land and binding on all parties and persons claiming under them. If any persons, their heirs or assigns shall violate or attempt to violate any of the covenants and restrictions herein, it shall be lawful for any person or persons owning any real property situate in the subdivision to prosecute any proceeding at law or equity against any person violating or attempting to violate these covenants, and enjoining said violation(s). Any person found to have violated or to have attempted to violate these covenants shall be responsible for paying the cost of such proceedings including all Court costs, attorney fees, or other costs incurred.

31. These covenants shall be binding on all parties and persons for a period of 25 years from the date that said covenants are recorded in the Brunswick County Register of Deeds, after which time said covenants shall automatically be extended for successive periods of 10 years each, unless an instrument signed by a majority of the directors of the Homeowners Association of said lots has been recorded agreeing to change said covenants in whole or in part.

32. The Developer reserves unto itself the right to form a Homeowners Association and upon the formation of such Homeowners Association, then the Homeowners Association shall assume all control, authority, rights, duties and obligations under these covenants and the Developer shall be released from any future duties or obligations under these covenants. That said Homeowners Association shall

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be governed by a board of directors with two of the directors to be elected by the owners of all lots and the remaining three directors to be appointed by the Developer. That these directors shall receive a reasonable amount of compensation for their services to be established by said board of directors and to be paid by assessing the lot owners on a pro-rata basis.

33. The owners may construct a garage or utility building, so long as the structure is of similar materials and is architecturally similar to the single family dwelling. Only single family dwelling will be allowed in areas designated as residential.

34. At which time all land set aside for residential or 5 lots are sold, the owners shall form a Homeowners Association with the costs to be borne by them on a prorate basis. After which the responsibility for approval for design, locations, etc. of houses, or any other items within these restrictions which call for the approval of the developers, shall be the homeowners sole responsibility. Further, the Homeowners Association shall be responsible for the maintenance of the street and the ~~75~~ foot right of way. All lots shall be subject to assessment by the homeowners made on a prorate basis. No assessments which are unreasonable shall be made, nor shall assessments be made for any other purpose unless voted on by the Homeowners Association. If any land owner refuses to pay the same, the provisions of N.C. General Statutes Chapter 44A, as first tier contractor providing services to the property owner. All time limitations provided by Chapter 44A shall be strictly observed.

35. The developers shall not be a part of the Homeowners Association or be assessed for any purpose on any unsold lots.

36. The covenants and restrictions herein set forth shall with the land and be binding on all parties and persons claiming under them. If any persons, their heirs or assigns shall violate or attempt to violate any of the covenants and restrictions herein, it shall be lawful for any person or persons owning real property situated within the area affected by these restrictions to prosecute any proceeding at law or equity against any person violating or attempting to violate these covenants and enjoining said violations.

37. Any violations of any of these covenants and restrictions shall in no matter effect the remainder, all of which shall remain in full force and effect.

In testimony whereof, Eastern Carolina Builders, Inc., has caused this instrument to be executed this the 22 day of MARCH, 2010.

EASTERN CAROLINA BUILDERS, INC.

By: Stuart Robert Selby