



SALES AGREEMENT

BY THIS AGREEMENT EVIA PARTNERS, LTD., a Texas limited partnership ("SELLER") and _____ ("BUYER", whether one or more) agree as follows:

1. **Property Purchased.** SELLER agrees to sell and BUYER agrees to buy the following described property, together with any improvements thereon, subject to the terms and conditions hereinafter set forth (collectively referred to as the "Property"):

Lot _____, Block _____, of Evia, or _____, a subdivision in Galveston, Galveston County, Texas filed for record under Galveston County Public Records of Real Property Clerk's No. 2005009466.

2. **Purchase Price.** The price and terms are as follows:

- Total Lot Price: \$ _____
- Down Payment at Closing: \$ _____
- Third Party Financing: \$ _____

3. **Earnest Money Deposit.** BUYER has deposited with South Land Title Company, 6710 Stewart Road, Galveston, Texas 77551, Attn: Marla Gibbons ("Escrow Agent") the sum of \$ _____ ("Earnest Money"), which shall be applied to the Purchase Price at Closing or otherwise held or distributed as required herein.

4. **Financing.** BUYER shall make application for any desired third party financing, including payment of any required fees, within (5) business days of the date hereof. If BUYER fails to make such application within the five (5) business day time period, and thereafter diligently pursue approval of such application, SELLER may, at SELLER's option, terminate this Agreement and retain BUYER's Earnest Money. BUYER acknowledges that neither SELLER nor any employee, agent or representative of SELLER has made any representation of any kind regarding financing the purchase price or any portion thereof, including (but not limited to) the availability of such financing, sources of such financing, availability of any specific terms of such financing or BUYER's ability to qualify for such financing. Should BUYER seek to obtain interim lot financing for a construction loan as a condition to purchasing the Lot, the Purchase Price will be adjusted by and Additional Earnest Money Deposit will be required in the amount of \$ 1,000.00 per month.. The Additional Earnest Money will be deposited with SELLER at the time of execution of this Agreement and shall be applied to the Purchase Price at Closing or otherwise held or distributed as required herein.

5. **Property Owners Association.** Any purchaser of property in the community in which this property is located will automatically become a member of a property owners' association known as the Evia Congress. Restrictive covenants governing the use and occupancy of the property and the establishment, maintenance, and operation of this community and the Congress (the "Declaration") have been recorded in the real property records of the county in which the property is located. BUYER hereby acknowledges receipt of a copy of the Declaration and has reviewed and approved it. Each owner of property in Evia is obligated to pay assessments to the Evia Congress. The general assessments are estimated to be \$504 annually per Lot but are subject to change at any time in accordance with the Declaration and Bylaws of the Congress. Invoices for general assessments will be mailed out by January 1, and shall be due and payable to the Congress within thirty (30) days thereafter. Failure to make timely payment of any assessment(s) could result in a lien being filed against the Lot, and the possibility of the institution of an action of foreclosure against the Lot(s).

6. **Closing.** Absent written agreement between SELLER and BUYER to the contrary, Closing will take place on or before the earlier of (i) the expiration of twenty (20) days from the date of execution of this Agreement, or (ii) the date set forth in Section 16, below. BUYER's failure to close within the twenty (20) day period shall be a default under this Agreement, and SELLER may (i) terminate this Agreement and retain the Earnest Money and any other sums paid to SELLER hereunder as liquidated damages, and BUYER shall have no further rights and SELLER no further obligations hereunder; or, (ii) SELLER may, at its sole option, extend the closing date by up to 30 days and increase the Purchase Price of the Property for each day beyond the said ten (10) working day period until Closing by an amount equal to \$____10__ per day (the "Per Diem Amount"). Taxes, maintenance or homeowners association fees

or assessments assessed against the Property for the year in which the Closing occurs shall be prorated as of the date of Closing. All closing costs not specifically designated herein as SELLER's obligation shall be paid by BUYER. BUYER shall be responsible for all costs and expenses associated with any third party financing including, without limitation, all fees, points, expenses and prepaid items required by the lender. BUYER acknowledges that SELLER'S estimated date for providing the Closing Notice (if any) is only an estimate, and the failure of SELLER to provide notice by the estimated date shall not be a default under this Agreement or subject SELLER to any penalties or charges.

7. **Title.** At Closing, SELLER shall furnish to BUYER, at BUYER's expense, an owner's policy of title insurance in the amount of the Purchase Price, in the standard form, subject to the standard title exceptions, the easements, reservations, restrictions and covenants of record, and the reservation of all oil, gas and other minerals as heretofore reserved by SELLER or its predecessors in title. SELLER shall furnish BUYER a General Warranty Deed to the Property, subject to the exceptions set forth in the title insurance policy.

8. **Seller Default.** If SELLER fails to comply with the provisions of this Agreement for any reason, BUYER shall have, as its sole remedy, at law, equity or otherwise, the right to terminate this Agreement in accordance with Section 12, below.

9. **Attorney's Fees.** Any party to this Agreement who is the prevailing party in any legal proceeding against any other party with respect to this Agreement or the transactions described herein shall be additionally entitled to recover court costs and reasonable attorney's fees from the non-prevailing party.

10. **Acceptance of Property.** BUYER hereby agrees that the acceptance of the deed from SELLER conveying the Property to BUYER will evidence BUYER's acknowledgment to SELLER that BUYER has relied on its own investigation of the physical condition of the Property in consummating this transaction and that the acceptance by BUYER of such deed constitutes a representation to SELLER that BUYER has made an inspection of the Property and is satisfied with the physical condition. The Property is sold "AS IS" and Seller makes no representation or warranty that the Property is fit for any particular purpose. SELLER has further advised BUYER to have this Agreement, and all other documents relating to the Property reviewed by an attorney of BUYER's choice.

11. **Modification.** This Agreement cannot be changed orally, and no agreement shall be effective to waive, change, modify or discharge it in whole or in part unless such agreement is in writing and is signed by the parties against whom enforcement of any waiver, change, modification or discharge is sought.

12. **Right to Terminate.** In the event that BUYER fails to comply with the terms of this Agreement, BUYER shall be in default and SELLER may, at its option (i) enforce specific performance or seek such other relief at law or in equity to which SELLER may be entitled, or (ii) terminate this Agreement and retain the Earnest Money deposited in accordance with Section 3, above, as liquidated damages. If SELLER fails to comply with the terms of this Agreement, BUYER may terminate this Agreement and receive back the Earnest Money deposited in connection herewith as liquidated damages, thereby releasing both parties from this Agreement.

13. **Arbitration.** All allegations, claims, disputes and other matters in controversy between SELLER and BUYER arising out of or relating to this Agreement, the breach hereof, or otherwise related to the Property shall be decided by arbitration in accordance with the construction industry arbitration rules promulgated by the American Arbitration Association ("AAA"), as in effect on the date of any demand for arbitration hereunder. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based on such allegation, dispute, claim or controversy would be barred by any applicable statute of limitations or similar statute. The award rendered by the arbitrator shall be final and binding upon all parties and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

14. **Miscellaneous.**

(a) It is acknowledged and stipulated that this instrument constitutes the entire Agreement between the parties hereto and that all prior agreements and undertakings, both written and verbal, are merged herein. SELLER and BUYER are not bound by any prior representations, promises or assurances whatsoever or by whomsoever made other than those specifically set forth herein. This Agreement shall not be changed or modified except by agreement in writing executed by the BUYER and SELLER. No salesperson, employee, or agent of the SELLER has authority to modify the terms of this Agreement, or make any representation or agreement not contained in this Agreement, and anything to the contrary shall not be binding upon SELLER.

(b) Except as otherwise specified herein, it is agreed and stipulated that time is of the essence in the performance of all obligations of BUYER and SELLER hereunder for which a time of performance is specified.

(c) This Agreement is governed by the laws of the State of Texas and is to be performed in Galveston County, Texas.

15. **Supplemental Provisions.** (BUYER AND SELLER MUST INITIAL ANY ADDITIONS OR STATE "NONE" AND INITIAL)

16. **Closing Date.** The BUYER and SELLER agree to work toward a closing date of _____, 20__.

17. **Build Timeline and Construction Commencement Rebate.** By signature below, BUYER acknowledges that there is a Twenty-Four (24) Month build timeline on the Lots being conveyed from the original developer inventory in Evia. BUYER agrees to commence construction on the Lot(s) within twenty-four (24) months of the conveyance of the Lot from the Developer to BUYER. BUYER is encouraged to commence construction within the timeline specified in this Paragraph 17 and SELLER shall offer BUYER and/or its heirs, successors or assigns, Two and One-Half Percent (2.5%) of the Total Lot Price in Paragraph 2, if BUYER commences construction within said twenty-four (24) month period. The amount will be payable to BUYER by SELLER within thirty (30) days after receipt of notification from BUYER of the commencement of construction upon the Lot. This Build Timeline shall be a covenant running with the land. For purposes of this Paragraph 17, the term "commence construction" shall mean the date upon which a building permit has been issued and a slab or other foundation is constructed and substantive ongoing construction takes place upon the Lot by BUYER, or BUYER's successors or assigns.

18. **IN ACCORDANCE WITH SECTION 61.025, TEXAS NATURAL RESOURCES CODE, THE FOLLOWING STATEMENT IS INCLUDED AS PART OF THE CONTRACT:** The real property described in this Agreement is located seaward of the Gulf Intracoastal Waterway to its southernmost point and then seaward of the longitudinal line also known as 97 degrees, 12', 19" which runs southerly to the international boundary from the intersection of the centerline of the Gulf Intracoastal Waterway and the Brownsville Ship Channel. If the property is in close proximity to a beach fronting the Gulf of Mexico, BUYER is hereby advised that the public has acquired a right of use or easement to or over the area of any public beach by prescription, dedication, or presumption, or has retained a right by virtue of continuous right in the public since time immemorial, as recognized in law and custom.

The extreme seaward boundary of natural vegetation that's spreads continuously inland customarily marks the landward boundary of the public easement. If there is no clearly marked natural vegetation line, the landward boundary of the easement is as provided by Sections 61.016 and 61.017, Natural resources Code.

State law prohibits any obstruction, barrier, restraint, or interference with the use of the public easement, including the placement of structures seaward of the landward boundary of the easement. STRUCTURES ERECTED SEAWARD OF THE VEGETATION LINE (OR OTHER APPLICABLE EASEMENT BOUNDARY) OR THAT BECOME SEAWARD OF THE VEGETATION LINE AS A RESULT OF NATURAL PROCESSES ARE SUBJECT TO A LAWSUIT BY THE STATE OF TEXAS TO REMOVE THE STRUCTURES.

The BUYER is hereby notified that the BUYER should: (1) determine the rate of shoreline erosion in the vicinity of the property; and (2) seek the advice of an attorney or other qualified person before executing this s Agreement or instrument of conveyance as to the relevance of these statutes and facts to the value of the property the BUYER is hereby purchasing or contracting to purchase.

19. **SUBDIVISION INFORMATION:** "Subdivision Information" means: (i) the restrictions applying to the subdivision, (ii) the bylaws and rules of the Owners' Association, and (iii) a resale certificate, all of which were provided by the Owners' Association in compliance with Section 207.003 of the Texas Property Code no more than three months before the date of their delivery to Buyer (Check only one box):

A. Within 7 days after the effective date of the contract, Seller shall at Seller's expense deliver the Subdivision Information to Buyer. If Buyer does not receive the Subdivision Information, Buyer may terminate the contract at any time prior to closing and the earnest money will be refunded to Buyer. If Seller delivers the Subdivision Information, Buyer may terminate the contract for any reason within 7 days after Buyer receives the Subdivision Information or prior to closing, whichever first occurs, and the earnest money will be refunded to Buyer.

B. Buyer has received and approved the Subdivision Information before signing the contract.

C. Buyer does not require delivery of the Subdivision Information. If Seller becomes aware of any material changes in the Subdivision Information, Seller shall immediately give notice to Buyer. Buyer may terminate the contract prior to closing by giving

written notice to Seller if: (i) any of the Subdivision Information provided was not true; or (ii) any material adverse change in the Subdivision Information occurs prior to closing, and the earnest money will be refunded to Buyer.

2. TRANSFER FEES: Buyer shall pay any Owners' Association transfer fee not to exceed \$250 and Seller agrees to pay any excess.

By signature below, BUYER acknowledges that BUYER has read and understands each and every part of this Agreement.

EXECUTED in multiple copies effective the _____ day of _____, 20____.

BUYER:

By: _____

Address: _____

Telephone: _____

Email: _____

CO-BUYER (if any):

By: _____

Address: _____

Telephone: _____

Email: _____

SELLER: EVIA PARTNERS, LTD., a Texas limited partnership

By: Sullivan Interests, Inc., a Texas corporation, its general partner

By: _____

Title: _____

SALES REPRESENTATIVE:
