

executed according to the requirements of the herein referred to Declaration of Covenants, Conditions and Restrictions,

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the undersigned parties agree as follows:

PARAGRAPH NO. 1 The first paragraph, beginning at the Sixth Sentence, bottom of Page 1 and continuing to the end of such paragraph at the top of Page 2, is amended to read as follows:

1. Reserves, Lots and Dwelling Units (sixth sentence) "Dwelling Unit(s)" as used herein shall mean a dwelling designed and constructed for the residential use of a single family and may include multiple structures such as a main house and a "Carriage House", as long as the total square footage of living area in the main, permanent dwelling unit, exclusive of garages, porches, and decks, is not less than 1,800 square feet, and with no maximum square footage requirements, as set forth in Paragraph 5 hereinbelow. "Carriage House," as used herein, shall mean a detached or attached house for guests designed and constructed of materials architecturally compatible with the main house, not exceeding nine hundred sixty (960) square feet if constructed prior to the construction of the main house.

PARAGRAPH NO. 5 (a) on the bottom of Page 5, and continuing on Page 6, is amended to read as follows:

5. Structures.

(a) No Dwelling Unit shall be constructed or permitted to remain on any Reserve or Lot, as the case may be, unless each such Dwelling Unit shall have a minimum of One Thousand, Eight Hundred (1800) square feet of living area and no maximum square footage requirement. (Chart set out on Page 4 is deleted hereby). However, a Carriage House shall be allowed to remain on a Reserve or Lot for up

to 4 years prior to the completion of construction of the main house, so long as such Carriage House has a maximum of Nine Hundred Sixty (960) square feet of living area. A Carriage House can not be leased or rented until the main house is complete.

PARAGRAPH NO. 5 (e) on Page 6 is amended to read as follows:

- (e) No part of any structure, except structures extending into the water, shall be located outside the building zone, as shown on Exhibit "B" attached hereto and incorporated herein for all purposes ("Building Zone"). However, as to the Lake Front Zone Limits (LFZ) indicated on Exhibit "B", such LFZ lines are hereby deleted in their entirety as currently shown thereon, and substituted for a LFZ lines to be surveyed to determine 30 feet back from an elevation line calculated by Lake Livingston being at 131.4 feet, which line shall become the LFZ of such tract or portion thereof. (Exhibit "B", Front Zone Limits (LFZ) is modified in accordance herewith.)

PARAGRAPH NO. 5 (i) on Page 6 is amended by the addition of the following sentence to the end of such paragraph to read as follows:

- (i) ...All fences, walls or other forms of boundary structures constructed on a Reserve or Lot must receive prior written approval of the Architectural Control Committee.

PARAGRAPH NO. 18 on Page 7 is amended by the addition of a sentence immediately after the first sentence to read as follows:

...However, due to there being no sanitary sewer lines located or contemplated within any Reserve or lot, this Paragraph specifically excludes reference to "Sanitary Sewer Easements" , including any representations to it contained in

Exhibit "B" attached hereto, making all representations related thereto null and void. ...

PARAGRAPH NO. 24 (b) on Page 9, is amended by the addition of a sentence at the end of the paragraph to read as follows:

24. Cutting of Trees and Vegetation.

- (b) ...However, notwithstanding the aforementioned restrictions, clearing of underbrush for up to the front One Hundred (100) feet of the Forest Preserve next the road adjoining a Reserve or Lot shall be permitted.

PARAGRAPH NO. 25 beginning on Page 9 and previously amended on December 16, 1997, and subsequently filed of record as Document 38, in Volume 271, Page 364 of the Official Public Records of San Jacinto County, Texas is further amended by amendment of the first sentence of the Paragraph to read as follows:

- 25. Driveways. More than one Driveway may be constructed on any Reserve through the Forest Preserve Zone if there are sufficient frontage property line feet to accommodate driveways being at least seventy-five (75) feet apart, measured from the outer edges of each, not center lines. In addition, except for Reserves 6, 7, 15 and 16, no driveway shall be located within thirty (30) feet of the side line of any Reserve, regardless of whether or not said Reserve has been re-subdivided into Lots...

PARAGRAPH NO. 30 (b) beginning on the bottom of Page 10 and continuing on top of Page of 11 is amended to read as follows:

30. Duration of Restrictions,

- (b) At the end of the term provided in Paragraph 30 (a) above, and at the end of each ten (10) year extension herein provided for, these restrictions shall be automatically extended and renewed for succeeding periods of ten (10) years each, unless, within six (6) months prior to the date such restrictions and covenants would otherwise be automatically extended, an instrument shall have been signed by the then record owners of sixty-six and two-thirds percent (66 2/3%) of all Lots and Reserves in the Subdivision and shall have been recorded in the Office of the County Clerk of San Jacinto County, Texas agreeing to change said restrictions, covenants and conditions in whole or in part.

PARAGRAPH NO. 30 (c) beginning on Page 11 is amended by the substitution of the first two sentences to read as follows:

- (c) Any or all of the restrictions, covenants and conditions herein contained may be amended or modified at any time, but the then record owners of sixty-six and two-thirds percent (66 2/3%) of all Lots and Reserves in the Subdivision. Such amendment or modification shall be effected by an instrument in writing executed by the then owners of sixty-six and two-thirds percent (66 2/3%) of all Lots or Reserves in the Subdivision, and filed for record in the office of the County Clerk of San Jacinto County, Texas. ...

Except as amended hereinabove, the Declaration of Covenants, Conditions and Restrictions for the Subdivision shall remain in full force and effect.

IN WITNESS WHEREOF, these presents have been executed as of the date first hereinabove written.

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**RESTRICTIONS
RESERVES AT CAPE ROYALE SUBDIVISION**

Vol. 247
Page 713-726

THE STATE OF TEXAS §
 § **18**
COUNTY OF SAN JACINTO §

WHEREAS, THE WOODLANDS CORPORATION, a Delaware corporation ("Developer"), with offices and principal place of business in The Woodlands, Montgomery County, Texas acting herein by and through its duly authorized officers, is the owner of all that certain real property situated in San Jacinto County, Texas, known as RESERVES AT CAPE ROYALE SUBDIVISION ("Subdivision"), according to the plat of said Reserves at Cape Royale Subdivision recorded in Volume 247, Page 176 of the Map Records of San Jacinto County, Texas ("Plat"), to which Plat and the record thereof reference is here made for a full and particular description of said real property.

Developer desires to create and carry out a uniform plan for improvement, development and sale of all of the Reserves and the Lots (as those terms are defined hereinbelow) in the Subdivision for the benefit of the present and future owners of said Reserves and Lots, and for the protection of property values in the Subdivision; and, to that purpose Developer hereby adopts, establishes and poses the following declarations, reservations, protective covenants, limitations, conditions and easements to apply uniformly to the use, improvement, occupancy and conveyance of all Reserves and Lots in the Subdivision; and each contract or deed which may be hereafter executed with regard to any of the Reserves or Lots in the Subdivision shall conclusively be held to have been executed, delivered and accepted subject to the following (regardless of whether or not the same are set out in said contract or deed):

SUBDIVISION RESTRICTIONS

1. Reserves, Lots and Dwelling Units. The term "Reserve(s)" as used herein shall mean and refer to the tracts of land in the Subdivision shown as Reserves 1 through 18 on the Plat that was recorded on December 20, 1996, by the Developer. Each Reserve in the Subdivision may be re-subdivided into the number of Lots set forth in this Paragraph 1 by its owner so long as such re-subdividing complies with these restrictions and with all applicable laws, rules and regulations, including, but not limited to, all laws, rules and regulations governing (i) onsite waste water treatment facilities and (ii) platting. The term "Lot(s)" as used herein shall mean and refer to the tracts of land in the Subdivision that are created when an owner re-subdivides a Reserve into Lots as provided in this Paragraph 1. Each owner of property in the Subdivision takes such property subject to the rights of each owner of a Reserve to re-subdivide as set forth in this Paragraph 1, and each such owner and the Developer is deemed to consent to same as long as such re-subdividing is done in accordance with these restrictions and all applicable laws, rules and regulations. No more than the number of "Dwelling Units" set forth in this Paragraph 1 shall be constructed on any Reserve, regardless of whether or not said Reserve has been re-subdivided into Lots. "Dwelling Unit(s)" as used herein shall mean a dwelling designed and constructed for the residential use of a single family and may include structures such as a main house and a "Carriage House", as long as the total square footage



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of living area, exclusive of garages, porches, and decks, is not less than or more than the maximum and minimum square footage as set forth in Paragraph 5 hereinbelow. "Carriage House", as used herein, shall mean a detached or attached house for guests designed and constructed of materials architecturally compatible with the main house, not exceeding eight hundred (800) square feet if constructed prior to the construction of the main house.

Each Reserve may be re-subdivided, so long as the maximum number of Lots for each Reserve does not exceed the following; and more than one (1) Dwelling Unit may be built on each Reserve, so long as the maximum number of Dwelling Units for each Reserve does not exceed the following:

RESERVE NO.	MAXIMUM NO. OF LOTS	MAXIMUM NO. OF DWELLING UNITS
1	3	3
2	3	3
3	4	4
4	2	2
5	2	2
6	3	3
7	3	3
8	3	3
9	4	4
10	4	4
11	3	3
12	5	5
13	3	3
14	3	3
15	3	3
16	3	3
17	3	3
18	3	3

Each owner of property in the Subdivision must give written notice to the Developer, the Association and the Council within thirty (30) days after such owner has (i) re-subdivided a Reserve or a Lot, as the case may be, or (ii) completed construction of a Dwelling Unit on property within the Subdivision.

2. Use. None of the Reserves, Lots, Dwelling Units or other improvements thereon shall be used for anything other than single-family, private residential purposes. No commercial activity shall be permitted on any Reserve or Lot, and no commercial activity shall be engaged in from any such Reserve or Lot, except that an owner may from time to time (i) subject to Paragraph 5(a) hereinbelow, rent a Dwelling Unit for residential purposes and (ii) maintain a home office for personal use.



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3. Association Membership.

- (a) Cape Royale Property Owners' Association, Inc. ("Association"). All purchasers of property in the Subdivision shall automatically become members of the Association, a Texas nonprofit corporation. Such membership is subject to the Association's Articles of Incorporation, Bylaws, rules and regulations, and other documents which refer to the administration of the Association's business and the obligations, rights, and privileges of its members (collectively, "Association Documents"). The term "lot" in the Association Documents, when used to describe a parcel of land in this Subdivision, shall mean and refer to a Reserve, a Lot, or a Dwelling Unit, as the case may be, with respect to such parcel. Subject to the provisions of the Association Documents, the owner of each Reserve or the owner of each Lot, as the case may be, shall be entitled to one (1) vote in the Association. In addition, the owner of each one of the second, third, fourth or fifth Dwelling Unit, as applicable, which is constructed on a Reserve, in accordance with the provisions of these restrictions, shall also be entitled to one (1) vote in the Association.
- (b) Reserves at Cape Royale Council ("Council"). All purchasers of property in the Subdivision shall automatically become members of the Council, a Texas nonprofit corporation. Subject to the Council's Articles of Incorporation, Bylaws, rules and regulations and other documents which refer to the administration of the Council's business and the obligations, rights and privileges of its members, the owner of each Reserve or the owner of each Lot created by subdivision of a Reserve shall be entitled to one (1) vote in the Council. In addition, the owner of each one of the second, third, fourth or fifth Dwelling Unit, as applicable, constructed on a Reserve, in accordance with the provisions of these restrictions, shall also be entitled to one (1) vote in the Council.

4. Architectural Control Committee for The Reserves at Cape Royale. An architectural control committee ("Architectural Control Committee") shall be appointed, from time to time, by Developer, whose purpose it shall be to review and approve or disapprove plans, to promote for all owners harmony of location, and harmony of external and structural appearance and materials with existing structures. The Architectural Control Committee shall have the right to designate a representative to act for it in all matters arising hereunder. Until such time as the Architectural Control Committee has been constituted and appointed, Developer, or its nominee or representative, shall carry out all functions of the Architectural Control Committee relating to these restrictions. After Developer has conveyed all of the Reserves in the Subdivision, or sooner at the sole election of Developer, the members of the Architectural Control Committee shall be selected by the Council. The Architectural Control Committee shall have the right to promulgate and adopt rules and regulations necessary to implement these covenants, including but not limited to, an outline of design and development guidelines governing construction on Lots or Reserves, as the case may be ("Rules and Regulations"). The Rules and Regulations may include submission requirements concerning the type of information, reports, plans, and specifications and the like which must be submitted with any application, payment of reasonable fees for processing or reviewing the application and the guidelines governing the development of each Lot or Reserves, as the case may be. The Architectural Control Committee shall make the Rules and Regulations available to owners of property in the Subdivision and the owners of property shall conduct their operations strictly in accordance therewith. The Architectural Control Committee shall have sole and full authority to modify and amend the Rules and Regulations from time to time without the consent of any owner of property in the Subdivision. Notwithstanding anything contained herein to the contrary, the Architectural Control Committee shall have the power and the authority, to be exercised in its reasonable discretion, to authorize variances and exceptions from the terms and provisions of any of the restrictive covenants and requirements set forth in this paragraph.

5. Structures.

- (a) No Dwelling Unit shall be constructed or permitted to remain on any Reserve or Lot, as the case may be, unless each such Dwelling Unit shall comply with the following minimum and maximum square feet of living area; provided, however, a Carriage House shall be allowed to remain on a Reserve or Lot prior to the construction of the



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main house so long as such Carriage House has a maximum of eight hundred (800) square feet of living area. A Carriage House can not be leased or rented until the main house is complete.

<u>RESERVE NO.</u>	<u>MINIMUM NUMBER OF SQUARE FEET</u>	<u>MAXIMUM NUMBER OF SQUARE FEET</u>
1	1200	5,000
2	1200	5,000
3	1200	5,000
4	1200	5,000
5	1200	5,000
6	1200	7,500
7	1800	7,500
8	1200	7,500
9	1200	5,000
10	1200	5,000
11	1200	5,000
12	1200	5,000
13	1200	7,500
14	1800	7,500
15	1800	7,500
16	1800	7,500
17	1200	5,000
18	1200	5,000

(b) No improvements shall be placed on any Reserve or Lot, as the case may be, until the building plans, specifications and plot plans showing the location of such improvements have been approved in writing by the Architectural Control Committee. Likewise, the alteration of any existing improvements which affects or changes the exterior design thereof, may not be made until the plans for such alterations have been approved in writing by the Architectural Control Committee. In the event the Architectural Control Committee disapproves of any such plans, specifications and/or plot plans, notice of such disapproval shall be delivered in person or by registered or certified letter addressed to the party submitting the same at an address which must be supplied with the submission. Approval by the Architectural Control Committee shall be granted or withheld based upon conformity of the improvement to both the general and specific intent of this instrument, adequacy of site dimensions, structural appearance, type of materials, conformity and harmony of external design and location with neighboring structures and sites and relation of finished grades and elevations to neighboring sites, and such other relevant considerations as the Architectural Control Committee may, in the exercise of its reasonable discretion, determine to be of significance in such determination. Any such notice shall set forth the elements disapproved and the reason or reasons therefor, but need not contain suggestions as to methods of curing any matters or things disapproved. The judgment of the Architectural Control Committee in this respect in the exercise of its sole and absolute discretion shall be final and conclusive. If said Architectural Control Committee fails to approve or disapprove said plans, specifications and/or plot plans within thirty (30) days after the same have been received by the Architectural Control Committee, the



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same will be deemed to have been approved. These requirements for approval by the Architectural Control Committee as herein set out cover not only the Dwelling Units to be constructed in the Subdivision, but all piers and other structures and improvements built in the water or on the land, and also apply to any retaining walls and any significant moving of soil in or out of the water.

- (c) All structures constructed on a Reserve or Lot, as the case may be, which extend into the waters of Lake Livingston, including, but not limited to, piers, boat house, and docks, must receive the prior written approval of the Architectural Control Committee and meet the following requirements:
- (i) Each Reserve that is adjacent to Lake Livingston shall have no more than the following structures extending into the water, regardless of whether or not such Reserve has been re-subdivided into Lots:

<u>RESERVE NO.</u>	<u>MAXIMUM NO. OF STRUCTURES EXTENDING INTO THE WATER.</u>
3	2
4	2
5	2
6	3
7	3
8	3
9	3
12	3
13	3
14	3
15	3
16	3
17	1
18	1

- (ii) Except on Reserve 9 and Reserve 12, no part of any structures extending into the water shall be closer than thirty (30) feet to any actual or projected side property line of a Reserve, regardless of whether or not said Reserve has been re-subdivided into Lots.
- (iii) All structures extending into the water from Reserve 9 shall be placed within a zone which is not closer than ten (10) feet and not more than two hundred (200) feet from the common property line of Reserve 8 and Reserve 9 as projected into the water, regardless of whether or not Reserve 9 has been re-subdivided into Lots.
- (iv) All structures extending into the water from Reserve 12 shall be placed within a zone which is not closer than ten (10) feet and not more than two hundred (200) feet from the common property line of Reserve 12 and Reserve 13 as projected into the water, regardless of whether or not Reserve 12 has been re-subdivided into Lots.
- (v) All structures extending into the water from Reserve 17 shall be placed so that said structures do not cause any interference with access to and from the Cape Royale Marina.



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- (vi) Any structures extending into the water from Reserve 18 shall not (i) extend northward of a line projected between a point at the northwestern property corner and a point located midway on the northern property line at the northern most point as more particularly shown on Exhibit "A", or (ii) cause any interference with access to and from the Cape Royale Marina.
 - (d) No residence may be occupied in the Subdivision until such time as electricity and central water and onsite waste water treatment facilities are available to serve the property on which such residence is to be constructed.
 - (e) No part of any structure, except structures extending into the water, shall be located outside the building zone, as shown on Exhibit "B" attached hereto and incorporated herein for all purposes ("Building Zone").
 - (f) No structure shall be occupied or used for residential or storage purposes (other than for the storage of building materials to be used in the construction and completion thereof) until the exterior thereof has been fully completed in accordance with the plans and specifications approved by the Architectural Control Committee.
 - (g) Each Dwelling Unit and Carriage House, once commenced, must be "dried in" within six (6) months from the date of commencement thereof. The term "dried in", as used herein, means that the exterior must have the appearance of being a complete house, including all necessary windows, doors, roof, paint and trim. If any such residence is not "dried in" within six (6) months after the date on which such residence is commenced, the owner of same hereby gives the Architectural Control Committee or its representative or agent the right and authority to enter upon the property upon which such structure is situated, disassemble such structure and store the building materials on the premises or elsewhere at the discretion of the Architectural Control Committee. The owner or occupant of any such property agrees, by the purchase or occupancy thereof, that the Architectural Control Committee shall not be liable in trespass or otherwise in entering upon said property and disassembling any such structure.
 - (h) No trailer, mobile home, tent, shack, camper, garage, barn or other outbuilding or structure of a temporary character shall, at any time, ever be used as a residence, temporary or permanent, nor shall any structure of a temporary character ever be used in any way or moved onto, stored or permitted to remain on any property within the Subdivision except during construction of permanent structures.
 - (i) No fence, wall or hedge shall be located outside of the Building Zone, provided however, a fence may be constructed along the common boundary between adjacent Reserves so long as said fence does not extend into (i) the Forest Preserve Zone that is adjacent to the platted street except those fences which are adjacent to and parallel with a driveway that has been constructed in accordance with Paragraph 5 hereinbelow or (ii) the Lake Front Zone. No fence or wall having a height greater than six (6) feet shall be constructed or permitted to remain in the Subdivision. Chain link fences are prohibited unless specifically approved by the Architectural Control Committee.
6. Signs. No "For Sale" sign, "For Rent" sign or any other advertising signs or structures may be displayed in the Subdivision without the approval of the Architectural Control Committee.
7. Nuisances. No noxious or offensive activity shall be carried on or maintained on any property in the Subdivision, nor shall anything be done or permitted to be done thereon which may be or become a nuisance in the neighborhood. No outside burning of wood, leaves, trash, garbage, or household refuse shall be permitted within the Subdivision.
8. Firearms and Fireworks. The use or discharge of firearms and fireworks in the Subdivision is expressly prohibited.



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9. Garbage and Trash Disposal. No property in the Subdivision shall be used or maintained as a dumping ground for garbage. Trash, garbage or other rubbish shall be kept only in slightly, sanitary containers. Each owner of property in the Subdivision shall be responsible for disposing of all of his or her trash, garbage and rubbish.

10. Unightly Storage. No unsightly storage shall be permitted on any Reserve or Lot.

11. Camping. No camping shall be permitted in the Subdivision at any time.

12. Animals. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any property in the Subdivision, except that an owner may keep dogs, cats, or other usual and common household pets, not to exceed a total of four (4) pets. No pets shall be kept, bred, or maintained for any commercial purpose. Dogs and cats shall at all times, whenever they are outside an enclosed structure, be confined on a leash by a responsible person. All animals shall have current rabies inoculation and wear a collar tag bearing the date and place of inoculation.

13. Parking. Contemporaneously with construction, a Dwelling Unit on any Reserve or Lot, the owner shall provide a parking area for all vehicles that are used for personal transportation. The parking area shall be within a garage, a carport or an open area approved by the Architectural Control Committee. All other vehicles, including, but not limited to, boats, boat trailers, vehicles used for commercial purposes, tractors, recreational vehicles, trailers (either with or without wheels), campers, and camper trailers shall be parked in a screened structure or other building approved by the Architectural Control Committee. Parking of vehicles on the streets which are shown on the Plat is prohibited, except for temporary situations.

14. Care of Property. The owner of each Lot or Reserves, as the case may be, shall keep the same clean and free of debris consistent with the property within the other subdivisions of Cape Royale at any particular time. Upon failure to do this, Developer or the Association may have the Lot or Reserves cleaned or cleared of debris and the cost or expense thereof shall be payable on demand by such owner to Developer or the Association, as the case may be.

15. Water. Each owner of property in the Subdivision covenants and agrees to pay the annual connection charge to connect the Dwelling Unit to the water system, and monthly service charge imposed by the municipal utility district or other governmental authority providing water in the Subdivision. A lien is hereby retained by Developer, for the benefit of the municipal utility district or other governmental authority providing water to the Subdivision, to secure payment of said charges.

16. Onsite Wastewater Treatment Facilities. Each owner of property in the Subdivision shall be responsible for the construction of an onsite wastewater treatment facility in compliance with all applicable laws, rules and regulations. No Dwelling Unit shall be occupied unless all plumbing fixtures, dishwashers and toilets are connected to said onsite wastewater treatment facility.

17. Underground Electric Connection Charge. At the time of connection of electric service, each owner of property in the Subdivision covenants and agrees to pay the underground connection charge imposed by the electric utility company for extension of underground electric service from the transformers or secondary pedestals to the residence.

18. Utility Easements. An easement is expressly reserved in, on, over, under and through those portions of the Subdivision as shown on the Plat for the purpose of installing, repairing and maintaining electric power, water, gas, telephone and similar utility facilities and services. There is also reserved and dedicated hereby for the use of the Developer and any public or private utility company an unobstructed aerial easement five (5) feet wide from a plane twenty (20) feet above the ground upward, located adjacent to and above all dedicated utility easements as shown and/or reserved on the Plat. The easements reserved and dedicated under the terms and provisions hereof and under the terms and provisions of the Plat shall be for the general benefit of the Subdivision as herein defined and other subdivisions in Cape Royale and shall also inure to the benefit and may be used by any public or private utility company entering into and upon said property for the purposes aforesaid, without the necessity of any further grant of such easement rights to such utility companies. Fences, walls and shrubbery hedges shall be permitted on any such easements except those easements used for underground electric and/or telephone systems, provided: (i) that such fences, walls

*Underground
to property*



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and hedges do not interfere in any way with the use of such easements by any public or private utilities then utilizing or thereafter designed to utilize the same, (ii) that the right of the owners of such fences, walls and hedges shall at all times be and remain subordinate and inferior in every way to the right of public and private utilities; and (iii) that such public or private utilities at any time may, without liability of any kind to the owner or owners thereof, remove any such fence, wall or hedge where the removal of the same is incidental to or necessary for the performance of public or private utility operations. No buildings or structures of any character may be erected or allowed to remain on any utility easement.

19. Utility Lines and Facilities. Each owner of property within the Subdivision shall be responsible for maintaining that owner's property in such a manner as to prevent damage to public or private utility lines or facilities located in, on, or under his property. Such maintenance shall include, but not by way of limitation, bulkheading. In the event of a violation or breach of this covenant herein contained which violation or breach continues after fifteen (15) days written notice to the owner of any property involved setting forth the nature of such violation or breach and the specific action to be taken to remedy such violation or breach, the Developer, its successors or assigns, the Association and/or any municipal utility district owning, operating or maintaining such utility lines or facilities, and their agents, shall have the right at reasonable times to enter upon the land on which such violation or breach exists and to take the actions specified in the notice to the owner to remedy, abate and remove, at the expense of the owner thereof, such conditions as may be reasonably necessary to protect the public or private utility lines; and the said party shall not thereby be deemed to have committed in any manner of trespass for such entry, abatement or removal. The cost of such remedy or abatement shall be paid to the Developer, the Association or the municipal utility district incurring the expense upon demand and if not paid within thirty (30) days thereof, shall become a lien upon the property affected in the same manner as a lien securing the maintenance charge; provided, however, that any such lien shall be subordinate and inferior to any voluntary lien, including any renewal and/or extension thereof, created on any property in the Subdivision by an owner thereof for the purpose of obtaining a construction or permanent loan or both such loans for the purpose of improving such property. The rights and remedies provided for in this paragraph are in addition to, and not in lieu of, all other rights and remedies to enforce these restrictions available at law or in equity.

20. Park and Recreational Areas. All property owners, members of their families and their guests, shall have the right of ingress and egress to the lake through the park areas, if any, as shown on any plat within Cape Royale, including the Reserves. Such right shall extend to and include the owners of property within the Subdivision as well as to all other owners of property within other subdivisions of Cape Royale. All parks, lakes and other recreational improvements shall be available for use by such property owners, their families and guests at their own risk. When seventy-five percent (75%) of the lots in all other subdivisions within Cape Royale and seventy-five percent (75%) of the Reserves in the Subdivision have been sold or sooner, at the election of the Developer, Developer may transfer title to all park and other community areas to the Association or other civic organization active in the area, after which the operation of and maintenance and payment of taxes on such park and other community area shall be the responsibility of such transferee.

21. Easements in Favor of the Trinity River Authority of Texas. The property included in the Subdivision is subject to certain easements in favor of The Trinity River Authority of Texas (referred to herein as "Authority"), and the use of the land area contained in said easements is further subject to the approval by Authority as set out in that certain conveyance from Mitchell & Mitchell Land Development Co. to The Trinity River Authority of Texas dated January 10, 1968, recorded in Volume 107, Page 506, of the Deed Records of San Jacinto County, Texas, to which instrument and the record thereof reference is hereby made for all purposes. No improvements, including but not limited to docks, decks, and other structures which extend into the water may be placed in said easement without the prior approval of the Architectural Control Committee and the Authority.

22. Oil, Gas and Mineral Development. Subject to all outstanding mineral rights and interests existing on the date this instrument is recorded, no oil or gas drilling, oil or gas development operations, oil or gas refining or treatment, quarrying or mining operations of any kind shall be permitted upon any property in the Subdivision, nor shall oil or gas wells, or tunnels, mineral excavations or shafts be permitted on any property at any time while these restrictions remain in full force and effect. Subject to all outstanding mineral rights and interests existing on the date of this instrument, no derricks or other structure designed for use in boring or drilling for oil or gas shall be



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erected, maintained or permitted on any property in the Subdivision at any time while these restrictions remain in force and effect.

23. Drainage. No improvement shall be constructed on a Reserve or Lot, as the case may be, which would impede the natural drainage of the property. Drainage structures under private driveways shall always have a net drainage opening area of sufficient size to permit the free flow of water without backwater.

24. Cutting of Trees and Vegetation.

- (a) Within Building Zone. No growing trees six inches (6") or more in diameter measured at a point twelve inches (12") from the ground may be cut from any property that is in the Building Zone without the prior written approval of the Architectural Control Committee, except for clearing of the building pad for a dwelling unit.
- (b) Within Forest Preserves Zone. All existing natural vegetation shall be retained within the forest preserve zone, as shown on Exhibit "B" attached hereto and incorporated herein ("Forest Preserve Zone"). No clearing, excavation, paving, construction or storage of materials, buildings or other improvements shall be conducted upon or placed within the Forest Preserve Zone except for construction of (i) driveways which must be constructed in compliance with Paragraph 25 hereinbelow, (ii) fences which must be constructed in compliance with Paragraph 5(i) hereinabove, (iii) utilities which must be constructed within a ten (10) foot strip of land running adjacent to and parallel with the driveway, and (iv) drainage, access and utility facilities within easements described on Exhibit "B".
- (c) Within Lake Front Zone. No growing trees ten (10) inches or more in diameter measured at a point twelve (12) inches from the ground may be cut from any property within the lake front zone as shown on Exhibit "B" ("Lake Front Zone"), except for construction of utility facilities within easements described on Exhibit "B", without the prior written approval of the Architectural Control Committee.
- (d) Nothing contained in this Paragraph 24 shall prohibit the removal of dead and diseased trees.

25. Driveways. No more than one (1) driveway shall be constructed on any Reserve through the Forest Preserve Zone and except for Reserves 6, 7, 15, and 16, no driveway shall be located within thirty (30) feet of the side property line of any Reserve, regardless of whether or not said Reserve has been re-subdivided into Lots. No driveway clearing shall be greater than twenty-five (25) feet in width. Nothing in this paragraph shall be construed to prevent the construction of more than one (1) driveway within the Building Zone. Driveways on Reserves 6, 7, 15, and 16 shall be located approximately in the center of the property line that is adjacent to the platted road.

26. Association Maintenance Charge. From and after the sale of a Reserve by the Developer and until such time as (i) more than one Dwelling Unit is constructed on the Reserve or (ii) the Reserve is re-subdivided into Lots as provided in Paragraph 1 hereinabove, each such Reserve is hereby subjected to an annual maintenance charge of Two Hundred Sixty and 22/100 (\$260.22) per year. From and after the date more than one Dwelling Unit is constructed on the Reserve or the Reserve is re-subdivided into Lots, as the case may be, each such Dwelling Unit or, if a Dwelling Unit has not been constructed on such Lot, each such Lot is hereby subjected to the annual maintenance charge that is being charged to all other owners of property in the Subdivision at that time. The payment of the annual maintenance charge shall be secured by an assessment lien upon said assessed Reserve or Lot, as the case may be. Said maintenance charge is to be paid annually in advance as directed by the Association. The Board of Directors of the Association shall have the right, in its sole discretion, to increase from time to time the annual maintenance charge by a percentage increase equal to the percentage increase in the Consumer Price Index - All Items, 1967 equals 100 (as defined by the U. S. Department of Labor, Bureau of Labor Statistics) for the year preceding the year for which the assessment is being made; should the U. S. Department of Labor, Bureau of Labor Statistics cease to publish the Consumer Price Index - All Items, the Board of Directors of the Association shall select another index which in its judgment reflect the then broad range of economic



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factors represented in the said Consumer Price Index - All Items. Funds arising from such maintenance charge may be applied, so far as sufficient, toward the payment of maintenance or improvement expenses incurred for any or all of the following purposes: lighting, streets, street signs, sidewalks, paths, parks, parkways, esplanades, areas between curbs and sidewalks, swimming pools, clubhouse facilities, ramps, boat landings, boat basins, and other similar recreational facilities, collecting and disposing of garbage, ashes, rubbish, and the like, employing policemen and watchmen, providing fire protection, caring for vacant property, collecting of maintenance charges, enforcement of restrictions, and doing any other things necessary or desirable in the opinion of the Board of Directors of the Association to keep the property neat and in good order, or which it considers of general benefit to the owners or occupants of all subdivisions within Cape Royale. The judgment of the Association in the expenditure of said funds shall be final so long as such judgment is exercised in good faith. Any and all liens securing said annual maintenance charge are hereby declared to be expressly subordinate and inferior to any voluntary lien, including any renewal and/or extension thereof, created on any property in the Subdivision by an owner thereof to secure the payment of monies advanced or to be advanced on account of the purchase price and/or for the purpose of obtaining a construction or permanent loan or both such loans for the purpose of improving such property. Said subordination of liens shall continue and be in full force and effect for so long as such purchase money, construction or permanent loan is outstanding.

27. Special Assessment for Street Maintenance. From and after the sale of a Reserve by the Developer and upon affirmative vote of at least two-thirds (2/3) of the members of the Council, the Board of Directors of the Council shall have the right to levy a special assessment on the owner of such Reserve or, in the event the Reserve has been re-subdivided into Lot(s), on the owner of such Lot(s), or, in the event more than one (1) Dwelling Unit has been built on the Reserve, on the owner of such Dwelling Unit(s). Funds arising from such special assessments shall be applied toward the expenses incurred to maintain, rebuild, or repair the streets within the Subdivision that are shown on the Plat, including, but not limited to, administrative costs and insurance. The payment of the special assessment shall be secured by an assessment lien upon said assessed Reserve or Lot, as the case may be. Any and all liens securing the payment of the special assessment are hereby declared to be expressly subordinate and inferior to any voluntary lien, including any renewal and/or extension thereof, created on any property in the Subdivision by an owner thereof to secure the payment of monies advanced or to be advanced on account of the purchase price and/or for the purpose of obtaining a construction or permanent loan or both such loans for the purpose of improving such property. Said subordination of liens shall continue and be in full force and effect for so long as such purchase money, construction or permanent loan is outstanding.

28. Covenants Running with the Land. All of the restrictions, covenants and conditions herein provided for and adopted shall apply to all property in the Subdivision, and shall be covenants running with the land. The Developer, the Association, and the Council, as applicable, shall have the right to enforce the observance and performance of the restrictions and covenants contained and provided for herein, and in order to prevent a breach or to enforce the observance or performance of same, shall have the right, in addition to all legal remedies or remedies elsewhere provided herein, to an injunction either prohibitive or mandatory. The owner of any property in the Subdivision affected shall likewise have the right either to prevent a breach of any such restrictions or covenants or to enforce the performance thereof. Acquiescence in any violation shall not be deemed a waiver of the right to enforce against the violator or others the conditions so violated or any other conditions.

29. Partial Invalidity. Invalidation of any of these covenants, restrictions or conditions by court judgment or otherwise, shall not affect, in any way, the validity of any of the other covenants, restrictions or conditions, all of which shall remain in full force and effect.

30. Duration of Restrictions.

- (a) The restrictions, covenants and conditions herein provided for and adopted shall remain in full force and effect until December 31, 2025, subject to modification or amendment as hereinafter provided.
- (b) At the end of the term provided in Paragraph 30 (a) above, and at the end of each ten (10) year extension herein provided for, these restrictions shall be automatically extended and renewed for succeeding periods of ten (10) years each, unless, within



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SAN JACINTO COUNTY, TEXAS
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By: H. M. ...
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six (6) months prior to the date such restrictions and covenants would otherwise be automatically extended, an instrument shall have been signed by the then record owners of seventy-five percent (75%) of all Lots and Reserves in the Subdivision and shall have been recorded in the Office of the County Clerk of San Jacinto County, Texas, agreeing to change said restrictions, covenants and conditions in whole or in part.

(c) Any or all of the restrictions, covenants and conditions herein contained may be amended or modified at any time, by the then record owners of seventy-five percent (75%) of all Lots and Reserves in the Subdivision. Such amendment or modification shall be effected by an instrument in writing executed by the then owners of seventy-five percent (75%) of all Lots or Reserves in the Subdivision, and filed for record in the office of the County Clerk of San Jacinto County, Texas. Notwithstanding anything contained herein to the contrary, (i) no amendment or modification shall affect the rights given to Developer without the consent of Developer and (ii) no amendment or modification shall lower the amount of the annual maintenance charge payable to the Association without the written consent of the Board of Directors of the Association.

(d) Developer shall have and hereby reserves the right, in its sole discretion, at any time and from time to time, without the consent or joinder of any other party to add to the land then comprising the Subdivision. The annexation of such land shall be accomplished by an instrument in writing duly signed, acknowledged and filed for record in the office of the County Clerk of San Jacinto County, Texas. Each owner, by virtue of acceptance of an instrument conveying an interest in property subject to these restrictions, acknowledges and agrees to the provisions of this Paragraph 30(d) permitting the annexation of property to the Subdivision. Developer shall have no obligation to impose these restrictions on any other land now owned or hereafter acquired by Developer, and nothing contained herein shall be deemed to create or give rise to any legal or equitable right, servitude, easement or other interest in or to any other land now owned or hereafter acquired by Developer unless and until such lands are expressly made subject to these restrictions by virtue of the recordation of an instrument, as specified above.

(e) Developer shall have and hereby reserves the right at any time and from time to time, without the consent or joinder of any other party, to amend this instrument by an instrument in writing duly signed, acknowledged and filed for record in the office of the County Clerk of San Jacinto County, Texas, for the purpose of correcting any typographical or grammatical error, ambiguity, or inconsistency, appearing herein, provided that any such amendment shall be consistent with and in furtherance of the general plan and scheme of the development as evidenced by the restrictions, covenants and conditions herein contained, and shall not impair or affect the vested property or the rights of any property owner or his mortgagee.

30. Headings. All paragraph headings used herein are for convenience only and shall have no efficacy in construing any of the restrictions, covenants or conditions herein contained.

31. Further Development. Notice is hereby given to each purchaser of property in the Subdivision that Developer may in the future add an additional section or sections to Cape Royale.



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SAN JACINTO COUNTY, TEXAS
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By: *[Signature]*
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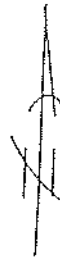
CAPE ROYALE
MARINA

NO STRUCTURE
ALLOWED

ONE BOAT STRUCTURE
ALLOWED IN THIS AREA

NO STRUCTURE MAY
ENCROACH BEYOND
THIS LINE

TRACT
18
5.273 ACRES



SCALE : 1"=200'

THE RESERVES AT CAPE ROYALE

EXHIBIT "A"



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I hereby certify
Joyce Hogue
COUNTY CLERK
SAN JACINTO COUNTY, TEXAS
Date: 1-3-97
By: *Angela Steele*
DEPUTY CLERK

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IN WITNESS WHEREOF, these presents have been executed this the 31st day of December, 1996.

OWNER

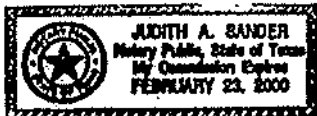
THE WOODLANDS CORPORATION

By: William A. Ross, Jr.
Name: William A. Ross, Jr.
Title: Vice President-Resort Properties

Obligator	
Legal	akw
Financial	

STATE OF TEXAS §
COUNTY OF MONTGOMERY §

This instrument was acknowledged before me on December 31, 1996, by William A. Ross, Jr., Vice President-Resort Properties of THE WOODLANDS CORPORATION, a laware corporation, on behalf of said corporation.



Judith A. Sander
Notary Public, State of Texas

Mailing Address:

The Woodlands Corporation
Attn: Tom Jaeger
P. O. Box 4000
The Woodlands, TX 77381



A TRUE COPY
I hereby certify
Joyce Hogue
COUNTY CLERK
SAN JACINTO COUNTY, TEXAS
Date: 1-3-97
By: Angela Steele
DEPUTY CLERK

