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6-15-13

**2013 AMENDED
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR NUGENT'S COVE SUBDIVISION, POLK COUNTY, TEXAS**

THE STATE OF TEXAS *

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF POLK *

WHEREAS, on the 26th day of June, 1967, WIGGINS LAND COMPANY, a Texas corporation executed certain restrictive covenants upon NUGENT'S COVE, a Subdivision of approximately 177.88 acres and being part of the John B. Winn Survey, said subdivision being called Nugent's Cove, Polk County, Texas (hereinafter referred to as the "Subdivision"), and said restrictive covenants were recorded in Volume 223, Page 555 of the Deed Records of Polk County. The plat map for Section 1 is recorded in Volume 3, Page 21 of the Plat Records. The plat map for Section 2 is recorded in Volume 3, Page 70 of the Plat Records; and

WHEREAS, on February 21, 1979, Articles of Incorporation for the Nugent's Cove Lot Owners Association, Inc., (hereinafter referred to as the "Association"), were filed with the Texas Secretary of State; and

WHEREAS, on March 3, 2012 an election, conducted pursuant to Chapter 211 of the Texas Property Code was held, at which election the following procedure was adopted for amending the deed restrictions for Nugent's Cove:

The members of the Nugent's Cove Lot Owners Association shall have the right at any time hereafter to amend the deed restrictions applicable to the **NUGENT'S COVE SUBDIVISION**, by a majority vote of the members of the Nugent's Cove Lot Owners Association voting in favor of such amendment to any or all of the restrictions, conditions, and covenants applicable to the **NUGENT'S COVE SUBDIVISION**, by the members of the association at a special or annual meeting at which a quorum is had, with each member of the Nugent's Cove Lot Owners Association being entitled to such votes as allowed by the Bylaws of the Nugent's Cove Lot Owners Association; and

WHEREAS, a "Certificate of Chapter 211 Election Results for the Nugent's Cove Subdivision, Polk County, Texas was filed on August 7, 2012 at Vol. 2012-1853, pages 525, et seq., Official Public Records of Polk County, Texas.

NOW, THEREFORE, the members of the Nugent's Cove Lot Owners Association, Inc., at its annual meeting, at which a quorum was represented, said annual meeting held on June 15, 2013, pursuant to the procedure adopted, pursuant to Chapter 211, Texas Property Code, by a majority vote of the members of the Association:

A. RESERVATIONS

1. Recorded Subdivision Map of the Property. The Plat dedicates for use as such, subject to the limitations as set forth therein, the streets and easements shown thereon, and the Plat further establishes certain restrictions applicable to the Property including, without limitation, certain minimum setback lines. All dedications, restrictions, and reservations shown on the Plat or any replat of the Subdivision duly recorded shall be incorporated herein and made a part hereof as is fully set forth herein, and shall be construed as being adopted in each contract, deed, or conveyance executed or to be executed by or on behalf of any Owner, conveying said Property or any part thereof whether specifically referred to therein or not.

2. Easements. All easement shown on the recorded Plat of the Subdivision or stated in said Plat (if any), are adopted as part of these restrictions; and in instances which surrounding terrain may necessitate location of lines outside the precise areas designated as easement areas, access may be had at all reasonable times thereto, for maintenance, repair, and/or replacement purposes, without the Owner of the Lot concerned being entitled to any compensation or redress by reason of the fact that such maintenance, repair, and/or replacement has proceeded. There is also reserved and dedicated hereby for the use of 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 on the map or Plat of the Subdivision. Those areas between property lines and building lines (as referenced in Section 3.03 herein) may be used for utility easement areas. The easements reserved and dedicated under the terms and provision hereof shall be for the general benefit of the Subdivision as herein defined, and any other land in the vicinity thereof annexed into the Subdivision, entering into and upon said property for the aforesaid purpose without the necessity of any further grant of such easement rights to such utility companies.

3. Title Subject to Easements. It is expressly agreed and understood that the title conveyed to any of the Property by contract deed or other conveyance shall be subject to any easement affection same for roadways or drainage, water, gas, sewer, storm sewer, electric light, electric power, telegraph or telephone purposes. The Owners of the respective Lots shall not be deemed to separately own pipes, wires, conduits, or other service lines installed by any public or private utility company running through their Lots which are utilized for or service other Lots, but each Owner shall have access to the aforesaid facilities as shall be necessary for the use, maintenance and enjoyment of his Lot.

4. Dedication. The streets and roads shown on said recorded plat are dedicated to the use of the public. The utility easements shown thereon are dedicated subject to the reservations hereinafter set forth.

B. DEFINITIONS

1. Association. "Association" shall mean and refer to the Nugent's Cove Lot Owners Association, Inc., (also known as "Nugents Cove Lot Owners Association, Inc.") a non profit corporation organized under the laws of Texas, its successors and assigns.
2. Board of Directors. "Board of Directors" shall refer to the board of directors elected by the members of the Association.
3. Common Area. "Common Area" and/or "Common Facilities" shall mean all real property (including improvements thereon) owned or to be owned by the Association for the common use and enjoyment of the Members, and which is to be under the sole governing authority of the Association, regardless of whether such common area was previously designated as a Lot on any recorded plat or replat.
4. County Clerk. "County Clerk" shall mean the County Clerk of Polk County, Texas.
5. Declarations and/or Restrictions. "Declarations" and/or "Restrictions" shall mean the declarations and restrictions filed of record with the County Clerk for the Subdivision, including but not limited to the Restrictions filed at Volume 223, Page 555 of the Deed Records of Polk County.
6. Dedicatory Instrument. "Dedicatory Instrument" shall mean each instrument governing the establishment, maintenance, and operation of the Nugent's Cove Lot Owners Association, Inc., and includes a declaration or similar instrument subjecting real property to restrictive covenants, certificate of formation, bylaws, or similar instruments governing the administration or operation of a property owners association, to properly adopted rules and regulations of the property owners' association, or to all lawful amendments to the covenants, bylaws, instruments, rules, or regulations, including but not limited to those identified above under "Declaration". Dedicatory Instrument further shall mean the Articles of Incorporation (now known as Certificate of Formation), Bylaws, and other rules, regulations, and resolutions filed of record with the County Clerk.
7. Directors. "Directors" shall mean and refer to any duly elected or appointed member of the Board of Directors.

8. **Electronic ballot.** "Electronic ballot" means a ballot: (a) given by: (1) e-mail; (2) facsimile; or (3) posting on an Internet website; (b) for which the identity of the property owner submitting the ballot can be confirmed; and (c) for which the property owner may receive a receipt of the electronic transmission and receipt of the owner's ballot. (Source: Section 209.00592 (d), Texas Property Code).

9. **Lot.** "Lot" shall mean any residential lot in the Subdivision, and identified in the documents filed of record, identified herein, and on record with the County Clerk, excluding lots which may comprise Common Areas which are owned or may be owned by the Association.

10. **Maintenance Charge.** "Maintenance Charge" shall mean the periodic charge collected by the Association, (also known as maintenance fee) for each Lot in the Subdivision for the purpose of maintaining and improving the Subdivision.

11. **Maintenance Fund.** "Maintenance Fund" shall mean the amounts collected from time to time by the Association, upon payment of Maintenance Charges by the Owners.

12. **Member.** "Member" or "Members" shall mean and refer to all those Owners who are members of the Association as provided for in the Restrictions and/or in the Bylaws.

13. **Owner.** "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

14. **Plats.** "Plats" shall mean the plat of the subdivision recorded in the County Clerk's office, being the plat map for Section 1 is recorded in Volume 3, Page 21 of the Plat Records. The plat map for Section 2 is recorded in Volume 3, Page 70 of the Plat Records.

15. **Record Date.** "Record Date" shall be the business date preceding the date on which notice of the meeting is mailed. the date that the notice of any annual or special meeting is mailed.

16. **Regular Assessment.** "Regular Assessment" and/or "Annual Charge" shall mean the annual amount that each owner of property within a residential subdivision is required to pay to the Association, which is designated for use by the Association for the benefit of the property owners of the Subdivision, as provided by the Restrictions, and include maintenance charges and maintenance fees.

17. **Special Assessment.** "Special Assessment" shall mean any fee and/or due, other than a regular assessment, that each Member is required to pay to the Association, as established by the Members at an annual or special meeting of the members of the Association at which a quorum is present and at which at least thirty (30) days notice is given of the intent to

establish a Special Assessment and which action of the Members authorizes the Association to charge for:

- (a) Defraying, in whole or in part, the cost, whether incurred before or after the assessment, of any construction or reconstruction, repair, or replacement of a capital improvement in the Common Areas owned by the Association, including the necessary fixtures and personal property related to such Common Areas, to the extent such expense is not sufficiently provided for with Regular Assessment funds;
- (b) Maintenance and improvement of Common Areas owned by the Association; and/or
- (c) Such other purposes of the property owners' association as stated in the Association's Certificate of Formation or the dedicatory instrument for the Subdivision.

18. Subdivision. "Subdivision" shall mean the Nugent's Cove Subdivision, Sections 1 and 2, Polk County, Texas, as shown on the respective Plats on file with the County Clerk's office, filed at Volume 3, Page 21 and Volume 3, Page 70 of the Plat Records of Polk County, Texas, and any replat of all or a portion thereof.

C. RESTRICTIONS AND COVENANTS

1. Applicability. Each Contract, Deed, and/or Deed of Trust which may be hereafter executed with respect to any property in the Subdivision shall be deemed and held to have been executed, delivered, and accepted subject to all of the provisions of this instrument, including, without limitation, the Reservations, Restrictions and Covenants herein set forth, regardless of whether or not any of such provisions are set forth in said Contract, Deed or Deed of Trust, and whether or not referred to in any such instrument. These restrictions, conditions, covenants and assessments are, and shall be, deemed and considered covenants running with the herein above described lots, and the same shall be binding upon the lot owners and their heirs, executors, and administrators and assigns.

 2. Single Family Residential Construction and Use.

(a) No building shall be erected, altered, or permitted to remain on any Lot other than one detached single-family dwelling used for residential purposes only, with private off-street parking facilities for not less than two (2) cars.

(b) The term "residential purposes" as used herein shall be held and construed to exclude hospitals, clinics, nursing homes, duplex houses, apartment houses, boarding houses, hotels and all other commercial uses as all such uses of said property are hereby expressly prohibited. Rental or lease of the lot and the residence thereon for any period of time less than 180 days shall be prohibited. Any rental or lease shall provide, in writing, that the renter or lessee has received a copy of the Deed Restrictions and agrees to be bound by same and comply with all Deed Restrictions.

(c) Lot owners that maintain rental property in the Subdivision shall be responsible for advising the renter(s) of the rules and regulations as set forth in the Deed Restrictions and the Bylaws of the Association. Violation of rules and regulations shall be corrected by the Owner. In the event that the Owner fails to comply with his responsibility to do so, the Association Board of Directors is empowered to take any corrective action that it deems necessary to bring the Owner and/or renter into compliance of said rules and regulations. Rental or lease of the lot and residence shall not relieve the property owner from compliance with these Deed Restrictions.

(d) Notwithstanding any provision contained herein to the contrary, an Owner may use a portion of his residence as a personal office for a profession or occupation, provided:

(1) The public is not invited, permitted, or allowed to enter the residence or any structure or improvement constructed on any Lot for the purpose of conducting business therein;

(2) There is no increase in traffic in the community affiliated in any respect with the personal office;

(3) There are no signs advertising such profession or occupation;

(4) There are no on-site employees;

(5) There shall be no illegal activities or conditions (noise, odors, appearances, etc.) arising as a result of the existence of the personal business;

(6) That the outward appearance of the residence not evidence in any manner the profession or occupation conducted within;

(7) That such use complies in all respects with the laws of the State of Texas, local ordinances, and the laws, rules and regulations on any regulatory body or governmental agency having authority and jurisdiction over such matters, and that such use conforms to all public policy considerations;

(8) There will be no overnight parking on roadways;

(9) There will be no new commercial property in the Nugent's Cove Subdivision. Existing business places as of the date of this instrument may remain as currently constituted, but Owners may not physically expand their business ventures either on the existing Lot or onto any other Lot in the Subdivision. No new businesses may be created as of the effective date of this instrument.

(10) Any exception for business or commercial purposes shall contain an agreement upon the part of the lot owner that no business shall be offensive or an eyesore such as a chicken processing plant, or junkyard, etc. or any business that will devalue property in the vicinity thereof.

(e) The term "single family residential purposes" shall also be defined as:

(1) One (1) person; or

(2) Two (2) or more persons related by blood, marriage, or adoption, which may include parents, their children (including foster children and wards), their dependent siblings, their dependent parents, their dependent grandparents, and their domestic servants, or:

(3) No more than two (2) unrelated persons living together as a single housekeeping unit and their children (including foster children and wards), their dependent siblings, their dependent parents, their dependent grandparents, and their domestic servants.


3. Location of Improvements Upon the Lot. No buildings or other improvements (excepting perimeter fences and walls) shall be located on any Lot nearer to the front line or nearer to the street line than the minimum building setback shown on the Subdivision Plat or any replat; however, in no instance shall a building be located nearer to the front property line than twenty (20) feet. The main residential structure shall be located not less than ten (10) feet from the rear property line. No residence or other structure (e.g., a detached garage) shall be located nearer than five (5) feet to an interior lot line. For purposes of this covenant, eaves, steps, and open porches shall be considered as part of the residential structure. Perimeter fences or walls may be located to the property line of the Lot with the exception that any fence or wall approaching the intersection of streets shall not be constructed in such a way as to obstruct the view of approaching traffic.

4. Construction Requirements.

(a) Minimum Square Footage Within Improvements. The living area of the main residential structure (exclusive of porches, garages, and servants quarters) shall be not less than seven hundred fifty (750) square feet in the case of a mobile home, or one thousand (1,000) square feet in the case of a permanent structure. All mobile homes must be equipped with appropriate commercial skirting materials. The minimum square footage requirements contained herein shall not apply to previous existing permanent residences located in the Subdivision, so long as such residences were not in violation of the restrictive covenants in effect at the time of enactment of these Restrictions.

(b) The ditches and culverts in front of each lot shall be kept open. Culverts for driveways on lots shall be mandatory (unless otherwise approved by the Board of Directors) and shall be a minimum of eighteen feet (18') in length. Each culvert will be a minimum of twelve inches in diameter, galvanized, corrugated steel and an eighteen (18) gauge minimum. Other types of culverts will be permitted if they are commonly used by Polk County Any culvert installed inadequately may be removed by the Association and replaced at the expense of the lot owner.

(c) No building material of any kind or character shall be placed or stored upon any tract until the owner is ready to commence construction and then such material shall be placed within the property lines of the tract or parcel of land upon which the improvements are to be erected, and shall not be placed in the streets. *— 25*

 (d) Fences. Fences shall be permitted to extend to the side lot lines and back lot lines and to no less than fifteen (15) feet of the front lot lines, but without impairment of the easements reserved and granted in these restrictions. . All fences that face a street must be of wood or steel construction. ~~No~~ barbwire fencing facing a street is allowed. Any animals or birds must be fenced behind the residence, no closer to the street than 75 feet except for corner lots which may be fenced for animals up to 40' from side lot line.

5. Composite Building Site

(a) An owner of two (2) or more adjoining Lots, or portions thereof, may consolidate or re-divide such Lots or portions into one (1) or more building sites with the privilege of placing or constructing improvements on such resulting sites, in which case the side setback lines shall be measured from the resulting outer-side property lines rather than from the individual Lot lines previously indicated on the Subdivision Plat. Any such resulting building site must have a frontage at the building setback lines of not less than the minimum frontage of the Lots on the same street.

(b) Existing lots must be rid of non-running vehicles, vehicles without current State registrations, unused appliances, scrap lumber, tires, and other trash. Vehicles that are being "restored" must be covered.

(c) Businesses having dumpsters shall assure that they are emptied regularly to keep them from being overloaded. Trash shall not be permitted to accumulate on the ground around said dumpsters.

6. Prohibition of Specific Activities. No activity, whether for profit or not, shall be performed on any Lot which is not related to single-family residential purposes. No noxious or offensive activity of any sort shall be permitted, nor shall anything be done on any Lot which may be or become an annoyance or nuisance to the neighborhood. Activities expressly prohibited, without limitation, include the following:

(a) Hunting

(b) The use or discharge of firearms, firecrackers, or any of a variety of fireworks within the boundaries of Nugent's Cove Subdivision. Exceptions are: Firecrackers and fireworks are allowed July 4 and New Year's Eve. Discharge of firearms to protect life and property from real or perceived dangers is permitted.

(c) Any other activities which may be offensive by reason of odor, fumes, dust, smoke, noise, visual consideration, vibration, poison to humans or animals, pollution of ground, air, or senses, or which are hazardous by reason of possible fire, explosion, or other dangerous conditions.

7. Storage of Vehicles and/or Equipment. No motor vehicle or non-motorized vehicle, camper, boat or other marine craft, aircraft, or item of machinery or equipment may be parked or stored on any right-of-way or Common Area. No vehicle, boat trailer or other similar item may be parked in any manner which obstructs or blocks a public road or walk.

8. No noxious or offensive trade or activity shall be carried on upon this property nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood such as allowing junk automobiles or excessive garbage and trash accumulation on the property.

9. Maintenance of Lots and Improvements.

(a) The Owners of all Lots under their ownership, and occupants thereof, shall at all times keep all weeds and grass thereon cut in a sanitary, healthful, and attractive manner and shall in no event use any Lot for storage of materials or equipment except that necessary for normal residential requirements, or incidental to the construction of improvements thereon as herein permitted. Refrigerators and other large appliances shall not be placed outdoors. -0.7

(b) No Lot shall be used as a dumping ground for rubbish or trash, nor for storage of items or materials (except during construction of a building), and all lots shall be kept clean and free of any boxes, rubbish, trash or other debris and inoperative cars, vans, or buses. Trash, garbage, solid waste, or other waste material shall be kept in clean, sanitary, and covered containers awaiting a regular scheduled collection and disposal.

(c) No burning of household garbage is permitted at any time on any Lot. Burning of grass and tree clippings, paper, or other clean combustibles shall be done in accordance with the established ordinances of Polk County, and shall be restricted accordingly at such times as the County may deem hazardous.

(d) Building materials used in the construction of improvements erected upon any Lot may be stored upon said Lot during the time of construction so long as the construction progresses in a timely fashion. Upon completion of the construction, said materials shall be removed from the Lot or shall be stored away from public view.

(e) The exterior appearance of improvements on Lot (paint, woodwork, gutters, roofs, awning, etc.) shall be maintained in an attractive manner. No structure or appurtenances thereto shall be permitted to decay and fall into disrepair through negligence. Decks or other such additions to said improvements shall be constructed of appropriate materials so as to provide a neat, clean and attractive appearance.

(f) All fences, walls, or other non-attached structures shall be maintained to avoid cracks, holes, and deterioration, beyond that of normal weathering.

(g) All bulkheads, piers, docks, and other associated structures on land or over water, shall be maintained so they remain neat, attractive, and structurally functional. No condition shall be allowed to develop which would render any such structure to become a safety or health hazard.

(h) All septic tanks and associated leach fields, and any other approved sanitary devices, shall be maintained so they remain functional and neat in appearance as applicable. All such sanitary installations must be and remain in compliance with the regulations of the Trinity River Authority at all times.

(i) Grass and weeds may not exceed twelve inches in height. The Lot Owner is responsible for mowing easements, and keeping culverts and drainage ditches free of debris. Burning in ditches is prohibited. Blocking or damaging culverts to render them inoperative is prohibited. Culverts must meet size requirements determined by Polk County specifications.

(j) All of the rules and regulations set forth in these Restrictions shall be enforced and governed solely by the Board of Directors of the Association. After thirty (30) days notice, a fine will be assessed of twenty-five (\$25) dollars for each month in violation.

9. Animal Husbandry.

No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats, or other common household pets may be kept, provided that they are not kept, bred, or maintained for commercial purposes. All permitted animals shall be kept either indoors, or in a fenced or walled area, or on a leash or chain suitable to keep them under control at all times. No resident of any Lot shall permit any dog or other domestic pet under his ownership and control to leave such resident's Lot unless leashed and accompanied by a member of said resident's household. All permitted animals shall have a current rabies vaccination as evidenced by a current veterinarian certificate and tag. Violators will be subject to a fine.

10. Unoccupied Residential and/or Support Structures or Unimproved Lots.

(a) Any structures or improvements, whether or not originally intended for residential occupancy, including but not limited to houses, garages, equipment shelters, carports, utility buildings, etc., but currently unoccupied or not under the regular control of the Owner, shall be maintained by the Owner as if they were occupied or under control during the time of vacancy. If vacancies occur and the said structures fall into disrepair, they will be deemed "attractive nuisances", and as such a potential danger to the community, and the Owner will be required to dismantle and remove said structures from the Property. If such action is not taken by the Owner within sixty (60) days of notification by the Association, the Association will cause this action to be taken and the cost therefore shall be reimbursed to the Association by the Owner or it will be listed as a lien against the property.

(b) Property which is damaged by fire, storm, vandalism, or any other act of destruction must be repaired or removed from the Lot within sixty days of such occurrence. If a delay is encountered, the Lot Owner must notify the Board of Directors to obtain an extension of time.

(c) The Board of Directors of the Association is the governing body, and is empowered to implement the clean-up and maintenance of property within the Subdivision by whatever means it deems necessary.

11. Subdividing of Lot. No lot may be subdivided without the consent of the Association. No lot or any part of a lot shall be used for a street, access road or public thoroughfare without the prior written consent of the Association.

12. Timber. No merchantable timber upon any lot shall be cut or mutilated before said lot is paid for in full, except that a reasonable sized site for a house place may be cleared.

13. Liability of Owners to Owners' Families and Guests. All lot owners shall be liable for any injury to themselves or any of their family or guests while in or on any of the roads, lakes or playground or property of said subdivision or Association, and the Association shall not be liable for any such injury.

14. Transport Vehicles. Trucks with tonnage in excess of one (1) ton shall not be permitted to park on the streets or common areas overnight, and no vehicle of any size which normally transports inflammatory or explosive cargo may be kept in the Subdivision at any time.

15. Drilling and other Activities. Any property owner shall have the right to drill a water well provided that such property owner comply with all federal, state and local requirements.

16. No Temporary Dwellings.

Subject to the remaining provisions of this paragraph, no shack or any outbuilding (other than a private boathouse, garage, or storage building complying with these restrictions) shall be erected or placed on any lot, and no boathouse, garage or storage building erected on any lot shall at any time be used as a dwelling, temporarily or permanently.

17. Plumbing and Sanitation.

No outside toilet or privy shall be erected or maintained on any lot hereunder. The materials installed in, and the means and method of assembly of, all sanitary plumbing, and septic systems, shall conform with the requirements of the health department of the State of Texas and the local authorities having jurisdiction.

D. NUGENT'S COVE LOT OWNERS ASSOCIATION, INC.

1. Property Owners Association. The Nugent's Cove Lot Owners Association, Inc., and, where specified, its Board of Directors, shall be the sole entity having jurisdiction over the administrative matters concerning the Subdivision, for the purposes of calling meetings, levying assessments, determining repairs and improvements to Common Areas, filing liens, removing such liens, imposing controls, and all other such activities as specified in these Restrictions. The Association shall be a Property Owners Association as defined by the Texas Property Code. The Board of Directors of the Association shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, and reservations now or hereafter imposed by these restrictions, and said lawsuit to be brought in the name of the Association, upon a vote by the majority of the Board of the Directors of the Association at the duly called meeting of the Board at which a quorum of Directors is present, against any lot owner who is delinquent in payment of the maintenance fees, as delinquent is defined in these restrictions, and Bylaws of the Association, as well for enforcement of any other deed restriction violation.

2. Membership. Every person or entity who is a record Owner of a lot or lots in the Subdivision shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely for the purpose of security for the performance of an obligation. Members are entitled to one (1) vote each on matters before the Association, regardless of how many lots they own. When more than one person holds an interest in any lot, the single vote for such membership as indicated above shall be exercised as determined among themselves.

3. Non-Profit Corporation. The Association has been organized as a Non-Profit Corporation, and shall be governed by the Articles of Incorporation of said Association; all duties, obligations, benefits, liens, and rights hereunder in favor of said Association shall vest in said Corporation.

4. Bylaws. The Association may adopt (and subsequently amend or modify) whatever Rules (“Rules and Regulations”) or Bylaws it may choose for governing the Association; provided, however, that the same are not in conflict with the terms and provision hereof, as they may be amended from time to time. Upon the filing of Bylaws, any Resolutions, and/or any Rules and Regulations with the County Clerk of Polk County, Texas, such Bylaws, Resolutions, Rules and Regulations shall be dedicatory instruments as defined by the Texas Property Code.

5. Member’s Right to Enjoyment. Every Member of the Association shall have a beneficial interest of use, and enjoyment in and to the Common Area, and such right shall be appurtenant to and shall pass with the title to every assessed lot, subject to the rules and regulations set forth by the Association. Any lot owner who has not paid the annual maintenance fees applicable to the lots he/she owns, once such maintenance fees are payable as provided by these restrictions and the Bylaws, shall be considered in default. Except as may otherwise be provided for by Chapter 209 of the Texas Property Code, any lot owner delinquent in payment of any maintenance fees or other fees due on the record date of any meeting, as determined by the Bylaws of the Association, shall not be entitled to vote at any meeting of the members, whether annual or special, and shall not be entitled to hold any directorship of office of the Association.

6. Any lot owner who brings a lawsuit against the Association alleging a violation of any duty of the Association to enforce the deed restrictions, or alleging that the Association, or any director, officer and/or agent of the Association, shall be liable to the Association for any legal fees and costs incurred in defending such lawsuit.

7. Notwithstanding any provision to the contrary, nothing herein or in the plats above referenced shall be deemed, interpreted or construed as imposing any obligation or obligations whatever upon the Association, and the Association shall not be liable under any provisions hereof or thereof for any charge, assessment, breach, act or omission to act.

8. Delegation of Use Privileges. Any member of the Association may use the Common Area and related facilities, with the understanding that they shall abide by the posted Rules and Regulations for use of the Common Area.

9. Transfer of Ownership. Owners who sell their Lots(s) must notify the Association in writing within thirty (30) days of the sale of their Lot(s). Such sellers must provide the Association with the name and address of the new Owner(s).

E. MAINTENANCE ASSESSMENTS

I. Maintenance Fees.

(a) The owners of lots purchased in said Subdivision shall pay a Maintenance Fee in the sum of Twenty-five and no/100 (\$25.00) Dollars per lot, on the 15th day of January of each year, beginning on the 1st day of January, 2014, to the Association to be used for the upkeep of the roads, parks and common facilities in said Subdivision as set out in the plat of said Subdivision. Said Maintenance Fee shall be secured by a lien against said lot, and failure to pay said assessment shall constitute a foreclosure lien against said lot. This lien is in the form of an assessment to run with the ownership of said lots. The Maintenance Fee shall be deemed delinquent if not paid by April 10th of the year in which such maintenance fees are due.

(b) The amount of the annual maintenance fee may be adjusted as shall be determined by a majority vote of the members, represented in person or by proxy, of the Association at the annual meeting of the Association, at which a quorum of the members, represented in person or by proxy, is obtained. Notice shall be given to all lot owners of said annual meeting and of the proposed annual maintenance fee to be determined for the next fiscal year. In the event the proposed maintenance fee fails to obtain the necessary votes at the annual meeting, then the maintenance fee for the next fiscal year shall remain at the same amount as then currently set, but in no event to be less than Twenty-five and no/100 (\$25.00) Dollars per year. Said assessments shall be in the form of a covenant to run with the ownership of the said lots. It is expressly provided that the Vendor's Liens retained by Developer and assigned to the Association shall remain in full force and effect.

(c) The maintenance fund shall, to the extent available, be applied to the payment of maintenance expenses and/or construction costs incurred for any or all of the following purposes, as determined by the Board of said Association:

- (1) lighting, constructing, improving, and maintaining streets, sidewalks, paths, parkways, esplanades, or swimming pools, if any;
- (2) improvements of any area between curbs and sidewalks;
- (3) collecting and disposing of garbage, ashes, rubbish and similar material as well as the maintenance of vacant lots;
- (4) the construction of clubhouse facilities, ramps, boat landings, boat basins and other similar recreation facilities on areas so reserved by developer;
- (5) payment of legal fees and court costs of the Association;
- (6) payment to contractors for bookkeeping and tax work; and
- (7) doing any other thing necessary or desirable in the opinion of the Board of said Association to keep the property neat and in good order or which is considered of general benefit to the owners or occupants of the Subdivision including any expenses incurred in enforcing any provisions of the

restrictions, including any amendments thereto, on file in the County Clerk's office of Polk County, Texas.

(d) If lot owners sell any portion of their land, they are to notify the Association, within ten (10) days of the sale, of the name and address of the buyer so that the aforesaid assessments may be collected from the new owner.

1. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of improvement of the streets and services, for promoting the health, welfare, recreation, and safety of the Lot Owners within the Property, for maintenance of the Common Area for use by the Lot Owners, and for professional fees. The use of the annual assessments for these purposes, as well as the accumulation of a reserve fund, is permissive and not mandatory. The expenditure of these funds shall be under the authority of the Board of Directors of the Association, and it is understood that the judgment of the Board as to said expenditures shall be final and conclusive so long as said judgment is exercised in good faith. Accounting of these funds shall be maintained as a part of the accounting records of the Association, and are subject to audit under the same conditions, as hereinafter indicated.

2. Uniform Rate of Assessment. Annual assessments shall be fixed at a uniform rate for all Lots within the Subdivision.

3. Start Dates and Due Dates for Annual Assessments. The Annual Assessments provided for herein shall commence as to all Lots on **January 1, 2014**. The Board of Directors shall fix the Annual Assessment against each Lot at least forty-five (45) days in advance of each annual assessment period; however, the failure by the Board of Directors to fix an annual assessment for any year shall not be deemed a waiver with respect to any of the provisions of this declaration these Restrictions, or release of the liability of any Member to pay assessments, or any installment thereof, for that year or any subsequent year. In the event of such failure, each Owner shall continue to pay the Annual Assessment for the previous year until a new annual assessment is established. The new annual assessment established by the Board of Directors shall be applied retroactively to the commencement of the then current assessment year, and the deficit (difference) shall be paid within forty-five (45) days after receipt of a statement therefore. Written notice of the Annual Assessment shall be sent to every Owner subject thereto, to the Owner's address of record.

4. Special Assessments. In addition to the Maintenance Fee assessment set forth in these 2013 Restated and Amended Restrictions, the owners of lots purchased in said Subdivision shall be subject to a "Special Assessment" for road repairs, in such amount as may be established by the Association at a special or annual meeting of the members, at which a quorum is present and at which notice for an election for the assessment of said Special Assessment is given at least thirty (30) days in advance of such meeting. Should the special assessment be approved by a majority vote of the members, represented in person or by proxy, of the Property Owners Association at the annual meeting of the Property Owners Association, then the Special Assessment shall become effective on the date noticed, with the proceeds from such special assessment being ear-marked for the specific purpose set forth in the notice of such election. Said Special Assessment shall be secured by a lien against said lot, the same lien as provided for by restrictions. The failure to pay said any Special Assessment shall constitute authorize the Association to bring a lawsuit to judicially foreclosure lien against said lot. This lien is in the form of an assessment to run with the ownership of said lots. The Special Assessment shall be deemed delinquent if not paid within thirty (30) days of the date set forth in the notice as being the date the Special Assessment is due.

5. Remedies for Non-Payment of Assessments. Any assessments which are not paid when due shall be deemed delinquent. If the assessment is not paid by April 10 of that current billing year, the assessment shall bear interest from the date of delinquency (due date) at the rate of ten percent (10) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or enforce a lien against the property. Interest, cost, and reasonable attorney's fees relating to such action shall be added to the amount of the assessment. Each such Owner, by his acceptance of a deed to a Lot or Lots hereby vests in the Association or its agents the right and power to bring all actions against the Owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens. No Owner may waive or otherwise escape liability for the assessment provided for herein, by non-use of the Common Area streets and walkways, or by abandonment of his/her Lots(s).

6. Owner's Obligations and Vendor's Liens.

(a) The Owners of the several Lots within the Property, by acceptance of a deed or deeds or other conveyance therefore hereby covenant and agree, whether or not it shall be expressed in any such deed or other conveyance, to pay to the Association annual assessments or charges to be fixed, established and collected from time to time, as necessarily and duly established by the Board of Directors.



9. Exempt Property. All properties dedicated to and accepted by a local public authority, the Common Area and all properties owned by the Association are exempt from assessments.

F. GENERAL PROVISIONS

1. Enforcement of Deed Restrictions.

(a) Subject to the provisions of subsection (d) of this paragraph, if any person or entity, as defined hereinafter, whether or not lawfully in possession of any real property hereunder, shall either (1) violate or attempt to violate any restriction or provision herein or (2) suffer to be violated (with respect to the real property in which such person or entity has rights other than the rights granted by this sentence) any restriction or provision herein, it shall be lawful for the Nugent's Cove Lot Owners Association, Inc. and/or any person or entity, as defined hereinafter, possessing rights with respect to any real property hereunder, to prosecute any proceedings at law or in equity against any such person or entity violating, attempting to violate and/or suffering to be violated any restriction or provision herein to (1) prevent such violation, (2) recover damages of other dues for such violation, and (3) recover court costs and reasonable attorney's fees incurred in such proceedings. "Person or entity", as used in the immediately preceding sentence hereof, shall include, but shall not be limited to, all owners and purchasers of any real property hereunder, as well as all heirs, devisees, assignees, legal representatives and other persons or entities who acquire any of the rights (with respect to the real property hereunder) of the owner or purchaser of any real property hereunder.

(b) The Association has the right, but not the exclusive duty, to take action to enforce any violation of these deed restrictions.

(c) Neither the Directors nor officers of the Association, shall have any liability or responsibility at law nor in equity on account of the enforcement of, or on account of the failure to enforce, these restrictions. An exercise of discretionary authority by the Association concerning a restrictive covenant is presumed reasonable unless the court determines by a preponderance of the evidence that the exercise of discretionary authority was arbitrary, capricious, or discriminatory.

(d) Notwithstanding any other provisions hereof, the Association shall not be liable or subject to any proceeding at law or in equity on account of any violation or attempted violation of any restriction or provision herein which occurs during such time as there is in force a contract to purchase the property where such violation or attempted violation takes place.

2. Duration and Amendment. The provisions hereof, including the Reservations, Restrictions and Covenants and assessments herein set shall be deemed and considered covenants running with the herein above described lots and shall be binding upon the lot owners and their heirs, executors, and administrators and assigns, and all persons or parties claiming under it until December 31, 2026, at which time said covenants shall be automatically extended for successive periods of ten (10) years. The members of the Nugent's Cove Lot Owners Association shall have the right at any time hereafter to amend the deed restrictions applicable to the Nugent's Cove Subdivision, by a majority vote of the members of the Nugent's Cove Lot Owners Association voting in favor of such amendment to any or all of the restrictions, conditions, and covenants applicable to the Nugent's Cove Subdivision, by the members of the association at a special or annual meeting at which a quorum is had, with each member of the Nugent's Cove Lot Owners Association being entitled to such votes as allowed by the Bylaws of the Nugent's Cove Lot Owners Association.

3. Partial Invalidity and Severability.

(a) It is understood that no act or omission upon the part of any party hereto or any person hereafter acquiring an interest in said property by, through, or under same shall ever be construed as a waiver of the operation or enforcement of these covenants and restrictions, and easements.

(b) In the event any portion of the provisions hereof shall become or be held invalid, whether by reason of abandonment, waiver, estoppel, judicial decision or otherwise, such partial invalidity shall not affect, alter or impair any other provision hereof, which was not thereby held invalid; and such provisions, including Restrictions, Reservations and Covenants shall remain in full force and effect, binding in accordance with their terms.

4. Liberal Interpretation. The provisions of these Restrictions shall be liberally construed as a whole to effectuate the purpose of these Restrictions.

5. Successors and Assigns. The provisions hereof shall be binding upon and inure to the benefit of the Owners and the Association, and their respective heirs, executors, administrators, successors and assigns.

These restrictions are effective upon filing in the County Clerk of Polk County, Texas

Executed on this ____ day of June, 2013.

NUGENT'S COVE LOT OWNERS
ASSOCIATION, INC.

ARTHUR M. BAUER, President

THE STATE OF TEXAS *
COUNTY OF POLK *

ACKNOWLEDGED by ARTHUR M. BAUER, President, President, Nugent's Cove Lot
Owners Association, Inc., on this ____ day of June, 2013.

NOTARY PUBLIC, STATE OF TEXAS

After filing return to:
Travis E. Kitchens, Jr.
Lawyer
P. O. Box 1629
Onalaska, Texas 77360