

Walker County  
Kari A. French  
Walker County Clerk



\*VG-1209-2019-43922\*

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Instrument Number: 43922

Real Property

COVENANT NONDISCRIMN

Recorded On: January 07, 2019 12:18 PM

Number of Pages: 13

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" Examined and Charged as Follows: "

Total Recording: \$70.00

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\*\*\*\*\* THIS PAGE IS PART OF THE INSTRUMENT \*\*\*\*\*

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

**File Information:**

Document Number: 43922  
Receipt Number: 20190107000214  
Recorded Date/Time: January 07, 2019 12:18 PM  
User: Lori R  
Station: Clerk Station

**Record and Return To:**

CITY OF HUNTSVILLE  
121 AVENUE M  
HUNTSVILLE TX 77340



STATE OF TEXAS  
COUNTY OF WALKER

I hereby certify that this Instrument was FILED In the File Number sequence on the date/time printed hereon, and was duly RECORDED in the Official Records of Walker County, Texas.

Kari A. French  
Walker County Clerk  
Walker County, TX

THE RESERVE AT TIMBERWILDE

PROTECTIVE COVENANTS

THE STATE OF TEXAS

COUNTY OF WALKER

KNOW ALL MEN BY THESE PRESENTS:

THAT CALIBER INVESTMENT CORPORATION, A TEXAS CORPORATION, (hereinafter called that "DECLARANT"), is the owner in fee simple of that certain tract of land which has been platted into that certain subdivision known as "THE RESERVE AT TIMBERWILDE", Section 2, situated within the P. D. Randolph Survey Abstract No. 469, Walker County, Texas, according to the plat recorded in Volume 6, Page 151, of the plat records of Walker County, Texas.

For the purpose of enhancing and protecting the value, and desirability of the lots or tracts constituting such subdivision, DECLARANT hereby declares that all the real property situated within the subdivision, and each part thereof, shall be held, sold, and conveyed only subject to the following reservations, easements, covenants, conditions, and restrictions ("Covenants"), which shall constitute covenants running with the land, and shall be binding on all parties having any right, title, or interest in any lot or tract constituting a part of said subdivision, or any portion thereof, their heirs, successors, and assigns, and shall inure to the benefit of each owner thereof:

1. Each contract, deed, deed of trust, or other instrument which may be hereafter executed with respect to any property situated within the subdivision shall be deemed and held to have been executed, delivered and accepted, subject to all the terms and provisions contained herein, regardless of whether or not any of such terms and provisions are set forth therein, or referred to therein.
2. The streets, roads, right of ways, utilities and appurtenances in such right of ways and easements and shown on said recorded plat are dedicated for the use of the public. These dedications are subject to the reservations hereinafter set forth.
  - a) The utility easements shown on the recorded plat are dedicated with the reservation that such utility easements are for the use and benefit of any public or private utility authorized to operate and/or operating in Walker County, Texas, as well as for the benefit of the DECLARANT and the property owners in the subdivision, to allow for the construction, repair, maintenance, and operation of a system or systems of electric light and power lines, telephone, data, gas lines, water lines, sanitary sewers, storm sewers, and any other utility or service which the DECLARANT may find necessary or proper. DECLARANT reserves the right to use or authorize the use of the utility easements for any utility or service DECLARANT deems necessary, for the use and benefit of DECLARANT or the property owners, but DECLARANT is not required to provide any utilities as a result of this reservation of right. The term "public utility" includes utility services provided by a municipality, county or other governmental agency.

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- b) The title conveyed to any lot or parcel in the subdivision shall not be held or construed to include the title to the roads, streets, water, gas, electricity, telephone, storm sewer, sanitary lines, poles, pipes, conduits, or other appurtenances, facilities, or common areas. The lot owners shall have the right of full use and enjoyment under the terms and conditions of these Covenants.
  - c) The right to dedicate and/or convey such easements, lines, utilities, appurtenances, or other facilities to any municipality, governmental agency, Public Service Corporation, or other party is hereby expressly reserved to the DECLARANT. Notwithstanding anything contained herein to the contrary, the authority of DECLARANT to dedicate and/or convey as set forth above is binding on each subsequent property owner.
  - d) Neither the DECLARANT, nor his heirs, successors, or assigns, using said utility easements, shall be liable for any damage done by any of such parties or any of their agents or employees to shrubbery, trees, flowers or other property of the Property Owner situated on the land covered by said utility easements.
  - e) This dedication to the use of the public is subject to acceptance by the appropriate entity of the public for which this dedication is intended. In the event that the appropriate public entity does not, for any reason whatsoever, accept the dedication and perform its function, The DECLARANT, acting by and for the subsequent property owners, reserves the right of self-help as otherwise set forth herein. The self-help provisions provided for the PROPERTY OWNERS subject to these Covenants, shall be construed, for all intents and purposes, as the DECLARANT acting as TENANTS IN COMMON with such property owners, by through and under the terms of these Covenants.
3. The provisions hereof, including the reservations, covenants, conditions, and restrictions herein set forth, shall run with the land and shall be binding upon the DECLARANT, and all persons or parties claiming under him for a period of twenty (20) years from the date hereof, at which time all such provisions shall be automatically extended for successive periods of ten (10) years each, unless prior to the expiration of any such period twenty (20) years or ten (10) years, the then Owners of seventy-five (75%) percent of the lots subject to these Covenants shall have executed and recorded an instrument changing the provisions hereof, in whole or in part.
4. In the event of any violation, or attempted violation of any of the provisions hereof, including any of the reservations, easements, covenants, conditions, or restrictions herein contained, enforcement shall be authorized by any proceeding at law or in equity against any person or persons violating or attempting to violate any of such provisions, including, but not limited to, a proceeding to restrain or prevent such violation or attempted violation by injunction, whether prohibitive in nature or mandatory in commanding compliance with such provisions; and it shall not be a prerequisite to the granting of any such injunctions to show inadequacy of legal remedy or irreparable harm. Likewise, any person entitled to enforce the provisions hereby may recover such damages as such person has sustained by reason of the violation or by reason of attempted violation of any of the provisions. In any proceeding at law or in equity any party who violates or attempts to violate any of the provisions hereof hereby agrees to pay to the opposite party reasonable attorney's fees

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for the services of the opposite party's attorney in the action or proceeding, such fees to be fixed by the Court. It shall be lawful for the DECLARANT, or for any person or persons owning property in the subdivision, to bring any proceeding at law or in equity against the person or persons violating or attempting to violate any of the provisions of this instrument. Failure by any person entitled to enforce the provisions hereof shall in no event be deemed a waiver of the right to do so thereafter.

5. Should any portion of this instrument for any reason be declared invalid, such decision shall not affect the validity of the remaining portion, which remaining portion shall remain in full force and effect as if this instrument had been executed with the invalid portion thereof eliminated.
6. No violation of the provisions herein contained, or any portion thereof, shall affect the liens created by any mortgage, deed of trust, or other instrument presently of record, or hereinafter placed of record, or otherwise affect the rights of any person holding under the same; and the liens created by any of such instruments may, nevertheless, be enforced in accordance with its terms; provided, however, that the provisions hereof shall be binding on any owner whose title is acquired by judicial or other foreclosure, by trustee's sale or by other means.
7. Each lot in the subdivision shall be used only as a single-family residence conforming to the following:
  - a) No building shall be erected, altered or permitted to remain on any lot within the subdivision other than one single family residential dwelling not to exceed two (2) stories in height and a private garage (or other covered car parking facility) for not more than three (3) automobiles; and one detached out-building.
  - b) The living area of each single family residential dwelling (exclusive of open or screened porches, terraces, driveways and garages or other covered parking facility and storage building) shall not be less than two thousand five hundred (2,500) square feet, for a one-story dwelling, and not less than three thousand (3,000) square feet, for a two-story dwelling. The exterior materials of all structures erected upon a lot within the subdivision shall be as follows:
    - i. The residential structure and any attached garage (or other covered attached parking facility) shall be of at least fifty-one (51%) percent brick, stone or its equivalent.
    - ii. A detached garage (or other covered detached parking facility) may be wood or brick, stone or its equivalent, or a combination of the same so that it generally matches the dwelling; and,
    - iii. Any out-building, must be of wood or brick, stone or equivalent, or a combination of the same so that it generally matches the dwelling.
  - c) Mailboxes shall be constructed no closer than 5 feet from the paved surface of a road or otherwise in accordance with United States Postal regulations or otherwise applicable codes. No mailbox shall be built along a roadway unless approved by the DECLARANT, the United States Post Office, or the County Commissioner.
  - d) For the purpose of vehicular and pedestrian safety no mailbox, wall, fence, planter, or hedge shall be erected or maintained that will impede the view along any street.

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- e) No fence, wall, or hedge shall be more than six (6) feet high. There shall be no barbed wire, poultry wire, hog wire or other agricultural type or wire fences.
  - f) The boundary line between adjoining owners may be used by such adjoining owners for their mutual benefit in providing for a fence. Neither party shall have a right of adverse possession for minor encroachments due to a yard fence and either party may remove and replace an encroaching fence, to a like and similar fashion, to the boundary line at any time provided that a registered public surveyor has established the boundary by recent survey. The party installing a fence shall remain responsible for the maintenance and repair of a fence to the extent that there is not an agreement by the parties as to joint use and maintenance. To the extent that a fence is placed on a property line or within one foot of the property line, the adjoining property owner shall have the enjoyment and benefit of the fence and may repair or remove any dangerous or malfunctioning condition, weeds, shrubs or other unsightly condition of the fence from the portion of the fence facing such adjoining owners. Fences shall generally be decorative and in harmony with the residential structure. No fence may be erected unless approved in writing by the DECLARANT.
8. The digging of dirt or the removal of any dirt from any lot is expressly prohibited, except as necessary in conjunction with the landscaping of or construction on such lot. No trees shall be cut or removed except to provide room for construction of improvements, or to remove dead or unsightly trees. Generally the removal of trees from the property shall be done according to the landscape and clearing plans as approved by DECLARANT, and as stipulated in Article 10 of these covenants.
9. No building shall be located on any lot nearer than the minimum building setback lines, as designated on the plat.
10. For the purpose of architectural harmony and control, no building or other improvement of any kind, or character, shall be created or placed, or the erection or placing thereof, or any addition made thereto, or exterior alteration made thereon after original construction, on any property in the subdivision until each building plan or other improvement plan has been first approved in writing by DECLARANT. If a Property Owner's plan(s) are not approved or disapproved by DECLARANT within thirty (30) days after the same has been properly submitted to DECLARANT, the plans shall be deemed to have been approved. However, the approval or disapproval or failure to act does not alter the provisions of these covenants, relieve, or authorize any Property Owner to construct any improvements except in strict compliance with all the terms and provisions contained in this instrument.
- a) Each application made to DECLARANT shall be accompanied by two complete sets of construction plans and documents, one set shall be retained by the DECLARANT and the other returned having been stamped approved or disapproved, with a memorandum of deficiencies.
  - b) Approval shall be granted or withheld based on matters of compliance with the provisions of this instrument, quality of materials, certification of the builder (according to any ongoing builder certification program), harmony of external design with existing and proposed structures, location with respect to topography and finished grade elevation, location and dimensions of all

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- proposed, fences, mailboxes, walls, driveways, and all other matters relevant to the architectural standard and approval.
- c) Prior to DECLARANT commencing its review and approval process, Owner shall submit the following:
- i. A complete set of specifications.
  - ii. A floor plan and front, side, and rear elevations.
  - iii. A site plan detailing:
    - (a) The driveway configuration, and materials to be used
    - (b) The location of the on site waste disposal system and it's drainage area and or dispersal area
    - (c) A clearing, landscape, and drainage plan
    - (d) The type and location of any fencing.
  - iv. Copies of any requested permits and/or inspections obtained or required for all proposed construction to be done.
  - v. Evidence of financial capacity and qualifications of builder.
  - vi. Any and all fees requisite by these deed restrictions, or other permitted rules, policies, or procedures now or hereinafter instituted.
- d) The authority to grant or withhold architectural control approval is vested in the DECLARANT; except, however, that such authority of the DECLARANT may be delegated to an Architectural Control Committee. The Architectural Control Committee will consist of three (3) members. Each member of the Architectural Control Committee (herein referred to as ACC) must be an Owner of property in Timberwilde.
- e) DECLARANT may amend the plan approval procedure and requirements as deemed necessary and proper, without the necessity of amending these restrictions, including the imposition of a reasonable fee for the cost of architectural review.
- f) To promote and ensure compliance with the deed restrictions and the quality of construction, DECLARANT may require that a builder meet a program of qualifications established by the DECLARANT. DECLARANT may require Owner to make a deposit as a compliance, administrative and inspection deposit of no more than One Percent (1%) of the cost of construction. Upon satisfactory completion of all improvements 75% (Seventy Five) percent of such deposit shall be refunded to Owner. The balance of any deposit may be retained by DECLARANT as the administrative fee portion of such deposit and to ensure compliance with these covenants or repair damages to the roads or other appurtenances of the subdivision caused by an Owner's construction.
- g) All construction shall meet applicable codes and ordinances. The Southern Building Code, or its substitute, adopted by the City of Huntsville, shall apply when not in conflict with applicable ordinances. The DECLARANT, its agents, or assigns, may from time to time, at any reasonable hour, enter and inspect any part of the Subdivision to ascertain compliance with this document. If the work in progress is deemed to be out of compliance with the deed restrictions, approvals, plans or specifications, the Owner shall be notified and the work brought into compliance without delay. Owner shall cooperate and shall compel their builder to fully comply with the intent, letter, and purposes of these covenants.

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- h) DECLARANT reserves the right to grant variances for deviations from the above, but any such variance shall not be deemed a waiver of any such provision.
  - i) No approval, requirement, certification, inspection, or other action on the part of DECLARANT shall constitute a warranty, guarantee, representation, or statement of suitability, habitability, or merchantability by DECLARANT. DECLARANT SHALL NOT BE LIABLE TO ANY PARTY FOR ANY ACTION OR OMISSION BY DECLARANT ARISING FROM DECLARANT'S ROLE AS SET OUT IN THESE COVENANTS.
  - j) Following the completion of construction, an as built survey shall be delivered to DECLARANT.
11. When a lake, water course, drainage way, or other feature that carries runoff or drains storm water exists upon any lot the Owner shall, to the greatest extent practical, not increase or decrease the flow or velocity in, on, or along such feature without the prior approval of the DECLARANT, and/or any appropriate governing body. No Owner may build within an area designated or determined to lie in the one hundred (100) year flood plain without first obtaining approval from the Walker County Flood Plain Administration, the Federal Emergency Management Agency or the appropriate regulatory agency. Should a lake, drainage way, creek, stream, watercourse, or other water carrying phenomena exist upon a property, it shall be the duty of the Owner to determine the location of any one hundred (100) year flood plain and submit proof to DECLARANT and/or any other controlling authority that the Owners planned improvement is one (1) foot above the one hundred (100) year flood plain elevation or at least twenty (20) feet from the high bank of a drainage way, creek, stream, watercourse, or other water carrying phenomena, whichever is greater. The determination of the existence of the one hundred (100) year flood plain upon a lot shall create a private easement in favor of the DECLARANT, and the upstream and downstream owner, equal to the width of the one hundred (100) year flood plain. The easement may be entered by the Declarant, the upstream or downstream owners to cure any increases or decreases in the flow or velocity of the water that becomes a threat to the upstream or downstream owners. Altering, including but not limited to clearing of trees and underbrush, a watercourse, drainage way, or other feature that carries runoff or drain storm water shall be subject to approval of DECLARANT.
12. The landscaping adjacent to any structure shall generally provide for permanent vegetative cover within 50' of all sides of the structure and provide adequate erosion protection. The establishment of gardens, planters, grass, sod or other approved landscape features shall be completed prior to 30 days after occupancy and before any return of a deposit held for compliance with the approved construction, plans and specifications.
13. No septic tank, grease trap, field lines, or any single home waste water disposal system shall be installed on any lot within the subdivision unless the builder or the owner of the improvements on said lot shall first provide DECLARANT written evidence that the plans, drawings and specifications pertaining to the installation of such septic tank, grease traps and field lines, and/or drawings and specifications pertaining to the installation of such a waste water treatment system, meet all

requirements of appropriate governmental authorities and the DECLARANT. No outside toilets shall be permitted upon any lot within the subdivision, except as required by governmental regulations during periods of construction, nor shall any type of device for disposal of sewage be permitted which will result in raw, untreated or unsanitary sewage being emitted upon any portion of the property situated within the subdivision or into any stream, creek or other body of water. Drainage of a septic tank to roads, streets, or any drainage area either directly or indirectly is strictly prohibited.

14. Driveways shall be entirely paved of concrete, asphalt (or a combination of the foregoing materials). Drainage structures, where required, under private driveways, shall have a net drainage opening area of sufficient size to permit the free flow of water without backwater. The openings of drainage structures shall be finished to allow for mowing and to prevent erosion or undermining.
15. No lot in the subdivision may be re-platted, subdivided nor combined without the express written consent of the DECLARANT. DECLARANT reserves the right to re-plat, combine or divide any lot without the necessity of joining of any property owner(s). The rights contained in this paragraph shall remain vested in DECLARANT unless expressly conveyed in a written instrument filed in the Official Records of Walker County, Texas.
16. No garage or other covered parking facility shall be placed on any lot within the subdivision, which faces or opens toward the street.
17. All buildings constructed upon any lot within the subdivision must be "dried-in" within six (6) months from the date construction commences and completed within one (1) year from the date construction commences. The DECLARANT or the ACC may demand certificate of commencement and affidavit of completion. As used herein, the term "dried-in" means that the outside exterior of the building must have the appearance of a completed building. No building material of any kind or character shall be placed or stored upon any parcel greater than 30 days before construction of a building or improvements are commenced. All building material shall be placed within the building setback lines. At the completion of such building or improvements, such material must be immediately removed from the premises. No stumps, trees, underbrush or any refuse of any kind or scrap material from improvements being erected on any other parcel, shall be placed or stored on streets or easements. Exposed openings resulting from any excavation made on any parcel shall be back filled and the disturbed ground shall be leveled.
18. No structure of a temporary character, or any modular home, trailer, mobile home, manufactured housing, basement, tent, shack, garage, barn, or other out-building shall be used, on any lot within the subdivision at any time, as a residence.
19. No rubbish, trash, garbage, manure, debris, or other waste material shall be kept or permitted on any lot within the subdivision except in sanitary containers located in appropriate areas concealed from public view. No burning of trash or other materials shall be permitted. No act may be performed which is likely to pollute the air or



water in any part of the subdivision. The Owner shall not violate any ordinance designed to eliminate pollution at that time in force whether it be State, County, City or Federal. During the clearing of the lot, burning may be allowed on the lot with prior approval of DECLARANT. DECLARANT may withhold approval to burn on the lot for any reason whatsoever. DECLARANT may require a deposit to be paid prior to any clearing or burning.

20. No business shall be conducted on or from any lot within the subdivision, with the exception of the business of the DECLARANT, in developing and selling lots or a home business, provided it does not exhibit any outward appearance of a business enterprise, including, but not limited to, increasing traffic beyond normal residential traffic.
21. All lots in the subdivision shall be kept at all times in a neat, sanitary, healthful, and attractive condition. No Owner or occupant of any lot shall in any event use a lot within the subdivision for storage of materials and/or equipment except for normal residential requirements. In the event of default, on the part of the Owner or occupant of any lot in observing the above requirement (such default continuing after ten (10) days written notice thereof) the DECLARANT may, without liability to the Owner or occupant, in trespass or otherwise, enter upon (or authorize one or more others to enter upon) said lot and restore it to a neat, sanitary, healthful and attractive condition, and may collect from the Owner or occupant of such lot the reasonable cost of such work and associated materials. Such fee, if unpaid, shall become a lien upon the property in the same manner described in paragraph 33.
22. No noxious or offensive activity shall be carried in or on any lot within the subdivision. Any owner, upon notification of such fact, will cure such noxious or offensive activity within thirty (30) days. Failure to cure is a grant to DECLARANT, the right to cure such activity and to impose and collect a reasonable fee to recover the cost of curing such activity. Such fee, if unpaid, shall become a lien upon the property in the same manner described in paragraph 33.
23. Except as otherwise stated herein household pets may be kept on any lot. No animal shall be no raised, kept, maintained, or bred for commercial purposes. All pets must remain within the property of Owner unless under the control of the Owner upon a leash or other device capable of restraining and controlling the animal. A horse or horses may be kept upon a lot provided that the lot is three acres (3) or more. An additional horse may be kept for each acre in excess of three acres but in no event shall there be more than 3 horses kept on any lot. A stable and other appropriate facilities must be built as part of an approved out-building or other improvements for the keeping each horse in a neat, clean and healthful manner. Animals which are dangerous, noisy, disease-prone, nomadic, migratory, endangered, venomous, non-native game animals, farm animals or predatory animals are prohibited. However, small animals (less than 80 pounds at maturity), kept temporarily for a 4-H, FFA, or other educational institution-sanctioned program for the raising of project animals may be allowed, so long as no odors, noise, noxious, offensive, threatening or dangerous activity occurs as a result of such projects. Upon completion of the project

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all such animals shall be immediately removed from the premises and any facility developed for such shall be immediately removed.

24. No sign, of any kind, shall be displayed to public view on any lot within the subdivision, except customary name and address signs and lawn signs of not more than three (3) square feet in size advertising a property for sale or rent.
25. Nothing shall be done or kept on any lot that increases the rate of insurance on any other owner. An Owner shall not permit anything to be done or kept on his lot which would result in the cancellation of insurance on any residence, or which would be in violation of any law.
26. No boat, motor home, trailer, camper, truck or other machinery or equipment shall be stored or maintained on any lot within the subdivision unless the same be kept at least one hundred (100) feet from any front road or street lot line or twenty (20') feet from an adjoining property, and kept from view of the street. Any boat, motor home, trailer, camper, truck, or other machinery shall be stored behind each lot owner's house out of sight from view of the street. Any unlicensed, inoperative, surplus, or otherwise unusable boat, motor home, trailer, camper, truck or other machinery or equipment shall be considered as unhealthful, dangerous, unattractive, obnoxious or offensive and construed in the broadest sense of the words, and none of the foregoing shall be permitted to be kept on any lot within the subdivision.
27. Nothing contained in this instrument shall prevent DECLARANT from maintaining a sales office or offices upon any lot or lots within the subdivision
28. No property located within the subdivision shall be used or permitted for hunting. No Owner shall use or allow to be used any firearm, bow and arrow or other device on their property in such a manner that could likely result in the damage or harm to a neighbor or the general public. DECLARANT shall have the right, but not the obligation, to enjoin any owner violating this provision and to seek other such damages that may occur as a result of the threat to health and safety in the neighborhood.
29. No oil drilling, oil development operations, oil refining, mining or mining operations of any kind shall occur upon the surface of any lot.
30. Each owner of a lot within the subdivision shall, at their sole cost and expense, repair any building, or other improvement of any character on their lot, keeping the same in a condition comparable to the condition of such building or other improvement at the time of their initial construction.
31. If all or any portion of a building, or other improvement, be damaged or destroyed by fire or other casualty, it shall be the duty of the Owner thereof, with all due diligence, to rebuild, repair or reconstruct the same in a manner which will substantially restore it to its appearance and condition immediately prior to the casualty. Reconstruction shall be undertaken within 90 days after the damage occurs and shall be completed within twelve (12) months after the damage occurs. Notwithstanding, anything



contained in this paragraph to the contrary, the owner of the lot upon which a building or other improvement has been so damaged or destroyed shall not be required to so rebuild, repair, or reconstruct provided the building or other improvement which has been so damaged or destroyed is removed from the lot within 90 days of such damage or destruction and provided, further, the lot remains in a sanitary, healthful, and attractive condition.

32. Each lot in the subdivision shall be, and is hereby, made subject to an annual maintenance charge, known as the "Maintenance Fund". Each such maintenance charge shall (except as otherwise hereinafter provided) be paid by the owner of each lot annually, in advance, with the first payment being due and payable on the date each owner acquires title to a lot (and being only for the remaining portion of the calendar year in which he acquires such title); thereafter, the same shall be due and payable on or before January 1<sup>st</sup>, of each year beginning the January 1<sup>st</sup> next after each Owner acquired title to his lot. The amount of each maintenance charge shall be \$100.00 per lot. The maintenance charge may be increased by 1.) A majority vote of the property owners subject to these restrictive covenants, or 2.) The two-thirds (2/3<sup>rd</sup>) majority vote of the Board of Directors, elected by the property owners, of the organization created to act as successor to DECLARANT. The Board of Directors as successor to DECLARANT may not the increase maintenance charge by more than Ten percent (10%) at any one time. By a majority vote of the property owners the maintenance charge may be set according to that vote. The maintenance charge shall not apply to lots owned by the DECLARANT.

Notwithstanding any provision herein to the contrary, the DECLARANT may declare a need for self-help for the benefit of the Property Owners, as Tenants in Common, in the event that the applicable public entity has not accepted the roads, utilities and other appurtenances related to such facilities for public maintenance by acceptance of the dedications made by these Covenants. Then, DECLARANT may assess the actual cost of maintenance to each lot owner on a per lot basis irrespective of the quantity of road frontage, when and as needed to provide for safe, attractive and well maintained roads and right of ways.

33. The Maintenance Fund charges collected shall be paid into the Maintenance Fund to be held and used exclusively for the benefit, directly or indirectly, of the subdivision; and such Maintenance Fund may be expended by the DECLARANT for any purpose or purposes which, in the sole judgment of the DECLARANT, will tend to maintain the property values in the subdivision, including, but not by way of limitation; providing for the maintenance and repair of the streets and roads (notwithstanding the fact said streets and roads are dedicated to the use of the public); enforcement of the provisions of this instrument; and , for the maintenance, operation, repair, benefit, and welfare or any recreational facilities which might be hereafter established in TIMBERWILDE. The use of the maintenance fund for any of these purposes is permissive and not mandatory, and the decision of the DECLARANT with respect thereto shall be final, so long as made in good faith. In order to secure the payment of the maintenance charge hereby levied, a Vendor's Lien shall be and is hereby reserved in the deed from the DECLARANT to the purchaser of each lot or portion thereof, which lien shall be enforceable through appropriate judicial

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proceedings by the DECLARANT. Said lien shall be deemed subordinate to the lien or liens of any bank, insurance company, savings and loan institution, or any other person which hereafter lends money for the purchase of any property within the subdivision, and/or for construction (including improvement) and/or permanent financing of improvements on any such property. Such maintenance charges which are not paid promptly when due, shall bear interest from and after the due date at the rate of ten (10%) percent per annum, and the DECLARANT shall be entitled to collect reasonable collection charges, including attorney's fees, with respect to any maintenance charge which is not paid promptly when due. Such interest, collection charges, and attorney's fees shall be secured in like manner as the maintenance charge.

34. The DECLARANT, may at any time hereafter, cause a non-profit corporation to be organized under the laws of the State of Texas for the purpose of exercising all or any of the duties and prerogatives of the DECLARANT hereunder (including the matters relating to the maintenance charge and fund); or the DECLARANT, may at any time hereafter, delegate to a preexisting non-profit corporation organized under the laws of the State of Texas, subject to said corporation's acceptance, approval and consent, the duties and prerogatives of DECLARANT hereunder (including matters relating to the maintenance charge and fund). Any such delegation of authority and duties shall serve to automatically release DECLARANT from further obligation or liability, if any, with respect thereto and vest such duties and prerogatives in such non-profit corporation. Any such delegation shall be evidenced by an instrument, placed of record in the Official Public Records of Walker County, Texas, and joined in by the DECLARANT and the aforesaid non-profit corporation but not, however, requiring the joinder of any other person in order to be fully binding, whether such other person be an owner of property in the subdivision, a lien holder, mortgagee, Deed of Trust beneficiary, or any other person.
35. As used herein, the term "DECLARANT" means CALIBER INVESTMENT CORPORATION, its successors or assigns.
36. All of the provisions contained in this instrument shall be covenants running with the land thereby affected. The provisions of this instrument shall be binding upon and inure to the benefit of the owners of the land affected and the DECLARANT and their respective heirs, executors, administrators, successors and assigns.
38. The pronouns used in this instrument are in the masculine gender but shall be construed as feminine or neuter as the occasion may require.



EXECUTED this 18<sup>th</sup> day of October, A.D. 2018.

CALIBER INVESTMENT CORPORATION

W. Ben Bius  
BY: W. BEN BIUS, PRESIDENT

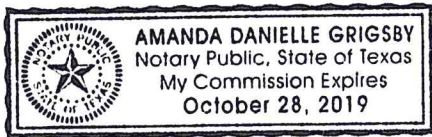
ATTEST:

SECRETARY

THE STATE OF TEXAS COUNTY OF WALKER

BEFORE ME, the undersigned authority, on this day personally appeared W. BEN BIUS, PRESIDENT of CALIBER INVESTMENT CORPORATION, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein, stated and as the act and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL of office on this the 18<sup>th</sup> day of October, 2018.



Amanda Grigsby  
NOTARY PUBLIC, STATE OF TEXAS

Amanda Grigsby  
NOTARY'S PRINTED NAME  
MY COMMISSION EXPIRES 10/28/2019