

**THIRD AMENDMENT TO DECLARATION OF
COVENANTS AND RESTRICTIONS WINTERMERE POINTE**

THIS THIRD AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS WINTERMERE POINTE ("Third Amendment") is made and entered into this 18 day of October, 2017, by Wintermere Pointe Homeowners Association, Inc. (the "Association")

WITNESSETH

WHEREAS, HUBERT R. EARLEY caused for that certain Declaration of Covenants and Restrictions Wintermere Pointe to be recorded on October 6, 1998 in Official Records Book 5584, Page 4848, Public Records of Orange County, Florida ("Declaration"); as amended and supplemented by that certain Amendment and Supplemental Declaration of Covenants and Restrictions Wintermere Pointe recorded on April 19, 2001 in Official Records Book 6237, Page 5905, Public Records of Orange County, Florida ("First Amendment"); as amended by that certain Amendment to Declaration of Covenants and Restrictions of Covenants and Restrictions Wintermere Pointe, recorded on June 20, 2002 in Official Records Book 6549, Page 8618, Public Records of Orange County, Florida ("Second Amendment");

WHEREAS, Article VII, Section 1 of the Declaration provides that the Declaration may be amended with the consent of at least two-thirds (2/3) of the Owners;

WHEREAS, the Class B membership has ceased;

WHEREAS, the Association desires to amend the Declaration as more fully set forth below.

NOW THEREFORE, in consideration of the mutual covenants and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed as follows:

1. **Recitals.** The above-mentioned Recitals are hereby incorporated and made a part of this Amendment as if more fully set forth herein.
2. **Amendment.** The Declarant having full authority to make such amendments, modifies the Declaration as follows (additions are indicated by underlining; deletions are indicated by strikeouts):
 - a. Article III, Section 2 shall be amended as follows:

SECTION 2. Private Roads and Surface Water Management System

The Common Property to be operated and maintained by the Association will include all private roads within the Subject Property and the Surface Water Management System. The Association shall at all times comply with any and all requirements applicable to the private roads within the Subject Property and the Surface Water Management System imposed by the City of Winter Garden, Orange County, the St. Johns River Water Management District, or any other applicable governmental authorities. Such requirements of governmental authorities include specifically the City of Winter Garden Resolution 97-11 providing general policies for gated residential developments with private streets. Commencing three (3) years after the issuance of a certificate of completion for the first Living Unit in the Subject Property, the Association shall consult annually with a registered civil engineer for the purpose of determining the level of maintenance and any needed repairs for the private roads in the Subject Property and the Surface Water Management System. Subject to such consultation with an engineer, the Association shall cause all remedial work to be conducted for the private roads and the Surface Water Management System within sixty (60)

days after the date on which the engineer determines the needed repairs; such remedial work shall include resurfacing of the private roads every fifteen (15) years unless the registered civil engineer inspecting the improvements determines through the annual inspection that repaving is not necessary. The Association shall establish and collect reserve funds for maintenance, repair and any replacement of the private roads and Surface Water Management System in accordance with the foregoing provisions. Such reserve funds shall be established and collected through the assessments to be levied and collected in accordance with the provisions of this Declaration and shall be held in an account separate from other Association funds. The Association shall hold the City of Winter Garden harmless from any loss, cost or damage (including attorney's fees or any fees for professional services) for any alteration of the private roads due to utility maintenance. No Owner will receive any discount or reduction of ad valorem real property taxes because the City of Winter Garden or other governmental authority does not maintain the private roads or Surface Water Management System.

For as long as there is a gated entry into the Subject Property, the Association shall maintain such gate as a siren operated gate meeting any and all requirements of the applicable governmental authorities for fire and police emergency services. Further, any such gate at the entry into the Subject Property shall ~~remain open during daylight hours~~ be closed or otherwise operated at the discretion of the Board of Directors.

b. Article V, Section 3 shall be amended as follows:

SECTION 3. Amount of Assessments. The first purchaser of each Lot within the Subject Property upon which a Living Unit has been constructed, at the time of closing of the acquisition of such Lot with a Living Unit by such first purchaser, shall pay to the Developer an initial capital assessment in such amount as may be determined by the Developer; the funds derived from the initial capital assessments shall be used at the discretion of the Developer for any purpose, including but not limited to, future and existing capital improvements, operating expenses, support costs and start-up costs. Upon the closing of the first sale of each Lot, and on the first day of each fiscal year thereafter, an annual assessment shall be assessed against each Lot and paid to the Association, and which may be collected by the Association in two equal parts on January 1 and July 1 of the calendar year. The annual assessment shall be in addition to the initial capital assessment and shall be prorated in the year in which the first sale of the Lot occurs to the actual date of closing. After the closing of the first sale of each Lot and collection of the initial capital assessment as provided above, a resale assessment shall be assessed against each Lot and shall be paid to the Association by each Owner at the time said Owner closes on its purchase of a Lot; the resale assessment shall be a recurring fee to be paid to the Association at the time of each transfer of title to a Lot. The amounts of the annual and resale assessments shall be determined from time to time by the Developer, and subsequently by the Association after the Developer no longer is entitled to select a majority of the members of the Board of Directors.

c. Article V, Section 6 shall be amended as follows:

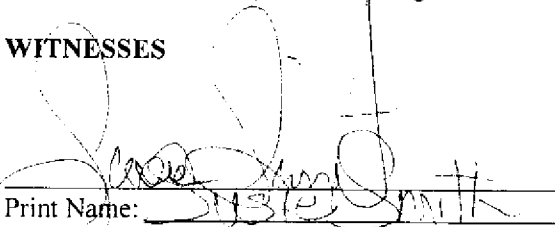
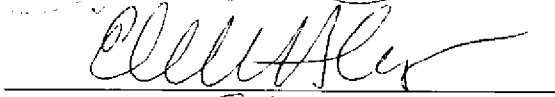
SECTION 6. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be ~~subordinate to the lien of any superior to all other liens except for a purchase money~~ first mortgage in favor of an institutional lender recorded prior to the filing of the claim of lien in the public records and which secured indebtedness which is amortized in monthly or quarter-annual payments over a period of not less than ten (10) years. Sale or transfer of any Lot shall not affect the assessment lien. ~~However, the sale or transfer of any Lot pursuant to mortgage foreclosure, or any proceeding in lieu thereof, of any first mortgage recorded prior to the filing of the claim of lien in the public records shall extinguish the lien for such assessments as to payments which became due prior to such sale or transfer. The Association can recover from a new owner all delinquent amounts due in connection with the parcel or lot notwithstanding how his or her title to property has been acquired, including by purchase at a foreclosure~~

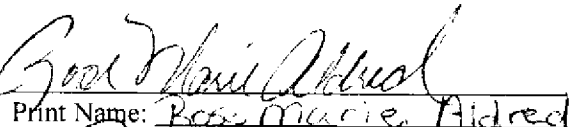
sale or by deed in lieu of foreclosure, and shall include late fees, administrative fees, interest, attorneys' fees and costs incurred in the collection of delinquent amounts charged on the Lot. Notwithstanding the foregoing, with respect to purchase money mortgages in favor of an institutional lender which secure an indebtedness amortized in monthly or quarter-annual payments over a period of not less than ten (10) years, or its successor or assignees who acquire title to a parcel or lot by foreclosure or by deed in lieu of foreclosure, such lender's liability with respect to unpaid assessments or other amounts that became due prior to the lender's acquisition of title shall be limited to the lesser of (1) the Lot's unpaid assessments which accrued or came due during the twelve (12) months immediately preceding the deed in lieu of foreclosure or certificate of sale and for which payment in full has not yet been received by the Association, or (2) one percent of the original mortgage debt. The foregoing liability shall be governed by Fla. Stat. § 720.3085, as amended from time to time. The limitations on lender liability apply only if the lender filed suit against the Owner and initially joined the Association as a defendant in the lender's foreclosure action when such action was first filed with a court, gave written notice to the Association that the mortgage held by such lender is in default prior to commencement of the foreclosure lawsuit, and any other requirement established by Chapter 720, Fla. Stat., as amended from time to time. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

3. **Effect of this Amendment.** Except as modified by, all other terms and provisions of the Declaration shall remain applicable, unchanged, and in full force and effect.

IN WITNESS WHEREOF, the undersigned has caused this THIRD AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS WINTERMERE POINTE to be executed as of the date set forth adjacent to its signature below.

WITNESSES



Print Name: Stacie Smith

Print Name: Elena Henley

Wintermere Pointe Homeowners Association, Inc.

Print Name: Rose Marie Alford
As Its: President

STATE OF FLORIDA)
COUNTY OF ORANGE)

This instrument was acknowledged before me on this the 18th day of October, 2017 by Rose Marie Alford as President of the Board of Directors of Wintermere Pointe Homeowners Association, Inc.. Said officer is personally known to me or has produced his as identification.

My Commission Expires: 5-17/19


Notary Public in and for the State of Florida
Print Name Tamara Bowerman

