

SPACE ABOVE RESERVED FOR RECORDING DATA

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After recording, please return to:

Coulter & Sierra, LLC  
2800 Century Parkway, Suite 275  
Atlanta, GA 30345  
Attn.: KMK

STATE OF GEORGIA  
COUNTY OF PAULDING

Cross Reference:      Deed Book:      2014  
Page:                      922

**SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR BALLENTINE POINTE**

THIS SECOND AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR BALLENTINE POINTE (“Second Amendment”) is made this \_\_\_\_\_ day of \_\_\_\_\_ 2020, by BALLENTINE POINTE HOMEOWNERS ASSOCIATION, INC., a Georgia nonprofit corporation (“Association”).

**W I T N E S S E T H:**

**WHEREAS**, Legacy Communities of Ballentine Point, LLC, a Florida limited liability company, as Declarant, executed that certain Declaration of Covenants, Conditions and Restrictions for Ballentine Pointe, which was recorded on October 31, 2005, in Deed Book 2014, Page 922 *et seq.*, of the Paulding County, Georgia land records (hereinafter as may be amended and/or supplemented from time to time, the “Declaration”); and

**WHEREAS**, the Association is a nonprofit corporation organized under the Georgia Nonprofit Corporation Code to be the Association named in the Declaration to have the power and authority set forth therein; and

**WHEREAS**, pursuant to Paragraph 19(b) of the Declaration, the Declaration may be amended by the affirmative vote, written consent, or any combination of affirmative vote and written consent of the Owners holding sixty-seven (67%) percent of the total votes; and

**WHEREAS**, further pursuant to Paragraph 19(b) of the Declaration, material amendments to the Declaration must be approved by Eligible Mortgage Holders who represent at least fifty-one (51%) percent of the votes that are subject to Mortgages held by Eligible Mortgage Holders; and

**WHEREAS**, Owners holding at least sixty-seven (67%) percent of the total votes desire to amend the Declaration as hereinafter provided; and

**WHEREAS**, attached hereto as Exhibit "A" and incorporated herein by reference is the sworn statement of the Secretary of the Association, which sworn statement certifies that the written consent of the required number of Owners was lawfully obtained.

**WHEREAS**, this Second Amendment does not alter, modify, change or rescind any right, title, interest or privilege held by any Eligible Mortgage Holder; provided, however, if a court of competent jurisdiction determines that any provision of this Second Amendment does so without such Eligible Mortgage Holder's consent, then such provision of this Amendment shall not be binding on the Eligible Mortgage Holder so involved, unless it consents hereto; and if such consent is not forthcoming, then the relevant provision of the Declaration prior to this Second Amendment shall control with respect to the affected Eligible Mortgage Holder.

**NOW, THEREFORE**, the undersigned hereby adopt this Second Amendment, hereby declaring that all the property now or hereafter subject to the Declaration shall be held, conveyed, encumbered, used, occupied and improved subject to the Declaration, amended as follows:

1.

**Paragraph 3 of the Declaration is hereby amended by deleting that Paragraph in its entirety and substituting the following new Paragraph 3 therefor:**

3. LOCATION, PROPERTY DESCRIPTION AND PLATS; SUBMISSION TO GEORGIA PROPERTY OWNERS' ASSOCIATION ACT; CONFLICT

The Property subject to this Declaration is located in Land Lot 692 and 749 of the 2<sup>nd</sup> District, 3<sup>rd</sup> Section of Paulding County, Georgia, being more particularly described in Exhibit "A" attached to this Declaration, which exhibit is specifically incorporated herein by this reference. A plat relating to the Property has been filed on a plat located in Plat Book 44, Pages 95-97, Paulding County, Georgia records. The plat of survey is incorporated herein by reference as fully as if the same were set forth in their entirety herein.

The Property now or hereafter subject to the Declaration shall be held, conveyed, encumbered, used, occupied and improved subject to the Georgia Property Owners' Association Act, O.C.G.A. 44-3-220, *et seq.* (the "Act") as the Act may be amended from time to time. In the event of a conflict between the provisions of this Declaration and the provisions of the Act, then to the extent that the provisions of the Act cannot be waived by agreement, the Act shall control.

2.

**Paragraph 21 of the Declaration is hereby amended by deleting that Paragraph in its entirety and substituting the following new Paragraph 21 therefor:**

The covenants and conditions of this Declaration shall run with and bind the property perpetually to the extent provided in the Act.

3.

**Unless otherwise defined herein, the words used in this Second Amendment shall have the same meaning as set forth in the Declaration.**

4.

**This Second Amendment shall be effective only upon being recorded in the records of the Clerk of Superior Court of Paulding County, Georgia.**

5.

**Except as herein modified, the Declaration shall remain in full force and effect.**

[SIGNATURES ON THE FOLLOWING PAGE]

**IN WITNESS WHEREOF**, the Association has caused this Second Amendment to be executed under seal the day and year first above written.

**ASSOCIATION:**      **BALLENTINE POINTE HOMEOWNERS ASSOCIATION, INC.**, a Georgia nonprofit corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: President

Attest: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Secretary

Signed, sealed, and delivered  
in the presence of:

\_\_\_\_\_  
WITNESS

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

[AFFIX NOTARY SEAL]

EXHIBIT "A"  
Sworn Statement of the Secretary of  
Ballentine Pointe Homeowners Association, Inc.

STATE OF GEORGIA  
COUNTY OF PAULDING

Re: Ballentine Pointe Homeowners Association, Inc.

Personally, appeared before me, the undersigned deponent who, being duly sworn, deposed and said on oath that:

1. Deponent is the Secretary of Ballentine Pointe Homeowners Association, Inc.
2. Deponent is duly qualified and authorized to make this Affidavit and knows the facts contained herein are of his or her own personal knowledge.
3. The foregoing Second Amendment to Declaration of Covenants, Conditions and Restrictions for Ballentine Pointe was approved by Owners holding at least sixty-seven (67%) percent of the total votes.
4. Deponent makes this Affidavit pursuant to Official Code of Georgia Annotated Section 44-2-20 and Paragraph 19(b) of the Declaration.

This the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Sworn to and Subscribed before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires:

[AFFIX NOTARY SEAL]