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Attorneys at Law

A Professional Association

Condominium, Homeowner,  
Cooperative, Master and  
Community Associations  
Civil Litigation  
Construction Litigation

April 8, 2014

Florida Secretary of State  
Division of Corporations  
P.O. Box 6327  
Tallahassee, FL 32314

Re: Amendments to Articles of Incorporation  
The Pointe Association, Inc.

Dear Sir or Madam:

Please file the enclosed original Amendments to Articles of Incorporation for the above-referenced corporation. Also enclosed is a check from the Association in the amount of \$43.75 for the filing fee and certified copy fee. Please return a **certified copy** to the undersigned at your earliest convenience.

Thank you for your assistance in this matter.

Very truly yours,

THE LAW OFFICES OF KEVIN T. WELLS, P.A.

Kevin T. Wells, Esq.

KTW/elp  
Enclosures

Prepared by and return to:  
Kevin T. Wells, Esq.  
The Law Offices of Kevin T. Wells, P.A.  
1800 Second Street, Suite 808  
Sarasota, Florida 34236  
(941) 366-9191 (Telephone)  
(941) 366-9292 (Facsimile)

**AMENDMENTS TO  
ARTICLES OF INCORPORATION**

**THE POINTE ASSOCIATION, INC.  
A Florida Not For Profit Corporation**

We hereby certify that the attached amendments to the Articles of Incorporation of **THE POINTE ASSOCIATION, INC.** ("the Association"), a Florida corporation not-for-profit, were adopted by the affirmative vote of not less than seventy-five percent (75%) of the entire membership of the Board of Directors of the Association and not less than seventy-five percent (75%) of the votes of the entire membership of the Association as required by Article IX of the Articles of Incorporation, at the membership meeting of the Association held on March 19, 2014. The Association further certifies that the amendments were proposed and adopted as required by the governing documents and by Florida law.

DATED this 2ND day of APRIL, 2014.

Signed, sealed and delivered:  
in the presence of:

sign [Signature]

print GALIK JAN

sign [Signature]

print Steve Conkins

Signed, sealed and delivered:  
in the presence of:

sign [Signature]

print GALIK JAN

sign [Signature]

print Steve Conkins

**THE POINTE ASSOCIATION, INC.**

By: [Signature]  
Chalk Fry, President

Attest: [Signature]  
Philip Mongeau, Secretary

(Corporate Seal)

STATE OF FLORIDA  
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this 2<sup>ND</sup> day of April, 2014, by Chalk Fry as President of The Pointe Association, Inc., a Florida not for profit corporation, on behalf of the corporation. He is personally known to me or has produced FLORIDA DRIVER LICENSE as identification.

NOTARY PUBLIC

sign

print



JACEK J. GATKIEWICZ  
MY COMMISSION # EE 856440  
EXPIRES: January 23, 2017  
Bonded Thru Budget Notary Services

J. GATKIEWICZ  
State of Florida at Large (Seal)

My Commission Expires: 01.23.17

STATE OF FLORIDA  
COUNTY OF SARASOTA

The foregoing instrument was acknowledged before me this 2<sup>ND</sup> day of April, 2014, by Philip Mongeau as Secretary of The Pointe Association, Inc., a Florida not for profit corporation, on behalf of the corporation. He is personally known to me or has produced CANADIAN PASSPORT as identification.

NOTARY PUBLIC

sign

print



JACEK J. GATKIEWICZ  
MY COMMISSION # EE 856440  
EXPIRES: January 23, 2017  
Bonded Thru Budget Notary Services

J. GATKIEWICZ  
State of Florida at Large (Seal)

My Commission Expires: 01.23.17

Amendment  
to  
**THE POINTE ASSOCIATION, INC.**  
**ARTICLES OF INCORPORATION**

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Amendment  
to  
**ARTICLES OF INCORPORATION  
OF  
THE POINTE ASSOCIATION, INC.**

The Members of **THE POINTE ASSOCIATION, INC.** (herein, the "Association"), adopt these amendments to the Articles of Incorporation. The Members have previously associated themselves together for the purpose of forming a corporation not for profit, under Chapter 617, Florida Statutes, as amended from time to time. The original Articles of Incorporation were filed with the Office of Secretary of State on September 2, 1975. The original Declaration of Condominium for **THE POINTE ON MIDNIGHT PASS, A CONDOMINIUM** was recorded at Official Records Book 1090, Page 745 *et seq.* of the Public Records of Sarasota County, Florida.

**ARTICLE 1  
Corporate Name and Principal Address**

The name of the corporation shall be **THE POINTE ASSOCIATION, INC.**, a Florida Not For Profit Corporation and for convenience, the corporation shall be referred to as "the Association". The street address of the principal address of the Association shall be 4370 S. Tamiami Trail, Suite 102, Sarasota, Florida 34231 unless and until changed by the Association's Board of Directors.

**ARTICLE 2  
Purpose**

**2.1 Purpose.** The purpose for which the Association is organized, is to provide an entity pursuant to Chapter 718, Florida Statutes, as amended from time to time, known as the Condominium Act, for the operation of **THE POINTE ON MIDNIGHT PASS, A CONDOMINIUM** (herein, "the Condominium").

**2.2 Distribution of Income.** The Association shall make no distribution of income to its members, directors or officers.

**ARTICLE 3  
Powers**

The powers of the Association shall include and be governed by the following provisions:

**3.1 Common Law and Statutory Powers.** The Association shall have all of the common law and statutory powers of a corporation not for profit not in conflict with the terms of these Articles of Incorporation, the Declaration of Condominium, the Bylaws, Chapter 617,

Florida Statutes (herein, the "Florida Not For Profit Corporation Act") or Chapter 718, Florida Statutes (herein, the "Condominium Act"), all as subsequently amended from time to time.

**3.2 Specific Powers.** The Association shall have all of the powers and duties set forth in the Condominium Act, except as limited by these Articles of Incorporation and the Declaration of Condominium, and all of the powers and duties reasonably necessary to operate the Condominium pursuant to the Declaration, as it may be amended from time to time, including, but not limited to, the following:

(1) To make and collect Assessments and charges against Members as Unit Owners to defray the costs, expenses and losses of the Association.

(2) To use the proceeds of Assessments in the exercise of its power and duties.

(3) To maintain, repair, replace and operate the Condominium Property.

(4) To purchase ~~of~~ insurance upon the Condominium Property and insurance for the protection of the Association and its Members as Unit Owners.

(5) To construct improvements and make repairs after casualty, and to further improve the Condominium Property.

(6) To make and amend reasonable regulations respecting the use of the property in the Condominium; provided, however, that all such regulations and their amendments shall be approved by not less than sixty percent (60%) of the votes of the entire membership of the Association before such shall become effective.

(7) To approve or disapprove the transfer, lease, mortgage and ownership of Units as provided by the Declaration of Condominium and the Bylaws.

(8) To enforce by legal means the provisions of the Condominium Act, the Declaration of Condominium, these Articles, the Bylaws of the Association and the regulations.

(9) To contract for the management and maintenance of the Condominium and to delegate to such contractor all powers and duties of the Association except such as are specifically required by the Declaration of Condominium or by the Condominium Act to have approval of the Board of Directors or the membership of the Association.

(10) To contract for the management or operation of portions of the Common Elements susceptible to separate management or operation, and to lease such portions.

(11) To employ personnel to perform the services required for proper operation of the Condominium.

**3.3 Purchase of Unit.** The Association shall not have the power to purchase a Unit of the Condominium except at sales in foreclosure of liens for Assessments for Common



Expenses, at which sales the Association shall bid no more than the amount secured by its lien. This provision shall not be changed without unanimous approval of the Members and the joinder of all record owners of mortgages upon the Condominium.

**3.4 Assets Held In Trust.** All funds and the titles of all properties acquired by the Association and their proceeds shall be held in trust for the Members in accordance with the provisions of the Declaration of Condominium, these Articles of Incorporation, and the Bylaws.

**3.5 Limitation on Powers.** The powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the Condominium Act, the Declaration of Condominium, these Articles of Incorporation and the Bylaws.

**3.6 Emergency Powers.** In the event of an emergency as defined herein, the Board of Directors may exercise the emergency powers described herein, and any other powers authorized by the provisions of Section 718.1265, Florida Statutes, and Sections 617.0207 and 617.0303, Florida Statutes, all as amended from time to time. For purposes of this Article 3.6 only, an emergency exists during a period of time that the Condominium, or the immediate geographic area in which the Condominium is located, is subject to: a state of emergency declared by civil or law enforcement authorities; a hurricane watch or warning as issued by a governmental authority; a partial or complete evacuation order issued by civil or law enforcement authorities; the declaration of a federal or state "disaster area" status; or catastrophe, whether natural or manmade, which seriously damages, or threatens to seriously damage the physical existence of the Condominium. During an emergency as defined herein, the Board of Directors may exercise the following emergency powers:

(1) Conduct Board meetings and membership meetings with notice given as is practicable. Such notice may be given in any practicable manner, including publication, telephone, radio, United States mail, email, the Internet, public service announcements, and conspicuous posting on the Condominium Property or any other means the Board deems reasonable under the circumstances. Notice of Board decisions may be communicated as provided in this Article. The Directors in attendance at such a Board meeting (if more than one (1) Director) shall constitute a quorum.

(2) Cancel and reschedule any Association Board, membership or committee meeting.

(3) Name as interim assistant officers persons who are not Directors, which assistant officers shall have the same authority as the executive officers to whom they are assistants during the state of emergency to accommodate the incapacity or unavailability of any officer of the Association.

(4) Relocate the Association's principal office or designate alternative principal offices.

(5) Enter into agreements with local counties and municipalities to assist counties and municipalities with debris removal.

(6) Implement a disaster plan before or immediately following the event for which a state of emergency is declared which may include, but is not limited to, electricity, water, sewer, security systems, or air conditioners.

(7) Based upon advice of emergency management officials or upon the advice of licensed professionals retained by the Board, determine any portion of the Condominium Property unavailable for entry or occupancy by Unit Owners, family members, tenants, guests, agents, or invitees to protect the health, safety, or welfare of such persons.

(8) Require the evacuation of the Condominium Property in the event of a mandatory evacuation order in the locale in which the Condominium is located. Should any Unit Owner or other occupant of the Condominium fail or refuse to evacuate the Condominium Property where the Board has required evacuation, the Association shall be immune from any and all liability and/or injury to persons or property arising from such failure or refusal.

(9) Based upon advice of emergency management officials or upon the advice of licensed professionals retained by the Board, determine whether the Condominium Property can be safely inhabited or occupied. However, such determination is not conclusive as to any determination of habitability pursuant to the Declaration.

(10) Mitigate further damage, including taking action to contract for the removal of debris and to prevent or mitigate the spread of mold, mildew or fungus by removing and disposing of wet drywall, insulation, carpet, carpet pad, baseboards, air ducts, cabinetry, any and all personal property or belongings of the resident or Owner, including but not limited to furniture, clothes, mattresses, and all other fixtures on or within the Condominium Property, even if the Unit Owner is obligated by the Declaration or law to insure or replace those fixtures and to remove personal property from a Unit.

(11) Contract, on behalf of any Unit Owner or Owners, for items or services for which the Owners are otherwise individually responsible for, but which are necessary to prevent further damage to the Condominium Property. In such event, the Unit Owner or Owners on whose behalf the Board has contracted are responsible for reimbursing the Association for the actual costs of the items or services, and the Association may use its assessment and claim of lien authority provided by Section 718.116, Florida Statutes and in the Declaration of Condominium to enforce collection of the charges. Without limitation, such items or services may include the drying of Units, the boarding or other enclosure of broken or damaged windows, sliding glass doors, exterior doors, and the replacement of damaged air conditioners or air handlers to provide climate control in the Units or other portions of the Condominium Property.

(12) Regardless of any provision to the contrary and even if such authority does not specifically appear in the Declaration of Condominium, Articles of Incorporation, or Association Bylaws, the Association's Board of Directors may levy one or more special assessments without a vote of the Owners.

(13) Without Unit Owners' approval, borrow money and pledge Association assets as collateral to fund emergency repairs and carry out the duties of the Association when operating

funds are insufficient. This paragraph does not limit the general authority of the Association to borrow money, subject to such restrictions as are contained in the Declaration of Condominium, Articles of Incorporation, or Association Bylaws.

(14) Corporate action taken in good faith to meet the emergency needs of the Association or its Unit Owners shall bind the Association; have the rebuttable presumption of being reasonable and necessary; and may not be used to impose liability on a Director, officer, or employee. An officer, Director, or employee acting in good faith and in accordance with this Article is only liable for willful misconduct.

The special powers authorized above in this Article 3.6 shall be limited to the time period reasonably necessary to protect the health, safety, and welfare of the Association and the Unit Owners and the Unit Owners' family members, tenants, guests, agents, or invitees and shall be reasonably necessary to mitigate further damage and make emergency repairs to the Condominium Property.

## **ARTICLE 4**

### **Members**

**4.1 Members.** The Members of the Association shall consist of all of the record owners of ~~apartments~~ Units in the Condominium; and after termination of the Condominium shall consist of those who are Members at the time of such termination, and their successors and assigns.

**4.2 Change of Membership.** After receiving written approval of the Association Board of Directors required by the Declaration of Condominium, change of membership in the Association shall be established by recording in the Public Records of Sarasota County, Florida, a Deed or other instrument establishing a record title to a Unit in the Condominium and the delivery to the Association of a copy of such instrument. In the sole discretion of the Association's Board of Directors, the Owner may be required to provide the Association a certified copy of the recorded instrument. The Owner designated by such instrument thus becomes a Member of the Association, and the membership of the prior Owner is terminated.

**4.3 Limitation on Transfer of Shares of Assets.** The share of a Member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to the member's Unit.

**4.4 Voting.** The Owner of each Unit shall be entitled to one (1) vote, as a Member of the Association. The exact number of votes to be cast by Owners of a Condominium Unit and the manner of exercising voting rights, shall be determined by the Bylaws of the Association.

## **ARTICLE 5**

### **Board of Directors**

The affairs of the Association shall be managed by a Board consisting of the number of Directors stated in the Bylaws, but not less than three (3) Directors, and in the absence of such determination, shall consist of three (3) Directors. Directors of the Association shall be elected at

the annual meeting of the Members, in the manner determined by the Bylaws. Directors may be removed and vacancies on the Board of Directors shall be filled in the manner provided by the Bylaws and the Condominium Act.

## **ARTICLE 6**

### **Officers**

The affairs of the Association shall be administered by the officers designated in the Bylaws. The officers shall be elected by the Board of Directors at its first meeting following the annual meeting of the Members of the Association, and shall serve at the pleasure of the Board of Directors.

## **ARTICLE 7**

### **Indemnification**

**7.1 Indemnity.** The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or contemplated action, suit or proceedings, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a Director, officer or committee member of the Association, against expenses (including trial and appellate attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit or proceedings, unless: (a) a court of competent jurisdiction determines, after all available appeals have been exhausted or not pursued by the proposed indemnitee, that he or she did not act in good faith, nor in a manner he or she reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, that he or she had reasonable cause to believe his or her conduct was unlawful, and (b) such court further specifically determines that indemnification should be denied. The termination of any action, suit or proceedings by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful. It is the intent of the Members, by the adoption of this provision, to provide the most comprehensive indemnification possible to their officers, Directors and committee members as permitted by Florida law.

**7.2 Expenses.** To the extent that a Director, officer, or committee member of the Association has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Article 7.1 above, or in defense of any claim, issue or matter therein, he or she shall be indemnified against expenses (including trial and appellate attorneys' fees) actually and reasonably incurred by him or her in connection therewith.

**7.3 Advances.** Expenses incurred in defending a civil or criminal action, suit or proceeding shall be paid by the Association in advance of the final disposition of such action, suit or proceedings upon receipt of any undertaking by or on behalf of the affected Director, officer, or committee member to repay such amount unless it shall ultimately be determined that he or she is

entitled to be indemnified by the Association as authorized in this Article 7, or as otherwise permitted by law.

**7.4 Miscellaneous.** The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any bylaw, agreement, vote of Members or otherwise, and shall continue as to a person who has ceased to be a Director, officer, or committee member and shall inure to the benefit of the heirs and personal representatives of such person. Anything to the contrary notwithstanding, the provisions of this Article 7 may not be amended without the written approval of all persons whose interests would be adversely affected by such amendment.

**7.5 Insurance.** The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a Director, officer, or committee member against any liability asserted against him or her and incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Association would have the power to indemnify him or her against such liability under the provisions of this Article.

## **ARTICLE 8**

### **Bylaws**

The Bylaws of the Association may be amended in the manner provided by the Bylaws.

## **ARTICLE 9**

### **Amendments**

Amendments to the Articles of Incorporation shall be proposed and adopted in the following manner:

**9.1 Notice and Approval.** Notice of the subject matter of a proposed amendment shall be included in or with the notice of any membership meeting at which a proposed amendment is considered. An amendment may be proposed either by the Board of Directors or by at least twenty percent (20%) of the Members of the Association. Except as elsewhere provided such approvals must be by not less than sixty percent (60%) of the votes of the entire membership of the Association.

**9.2 Limitation on Amendments.** No amendment shall make any changes in the qualifications for membership, nor the voting rights of Members, nor any change in Article 3.3 of these Articles of Incorporation, without approval in writing of all Members and the joinder of all record owners of mortgages upon the Condominium. No amendment shall be made that is in conflict with the Condominium Act or the Declaration of the Condominium.

**9.3 Certification.** A copy of each amendment to the Articles of Incorporation and a Certificate of Amendment executed by the appropriate officers of the Association shall be filed

with the Secretary of the State of Florida, and shall be effective upon being recorded in the Public Records of Sarasota County, Florida.

**ARTICLE 10**  
**Term**

The term of the Association shall be perpetual.

**ARTICLE 11**  
**Subscribers**

The names and addresses of the original subscribers of these Articles of Incorporation are as follows:

<b>NAME</b>	<b>POST OFFICE ADDRESS</b>
ROBERT Z. MORRIS	101 Oakley St. Evansville, Indiana 47707
EDWARD F. FREDERKING	101 Oakley St. Evansville, Indiana 47707
SANFORD B. SALZMAN	335 Morningside Drive Sarasota, Florida 33577

**ARTICLE 12.**  
**Registered Office and Agent**

The registered office of the Association, until otherwise determined by the Board of Directors, shall be 4370 S. Tamiami Trail, Suite 102, Sarasota, Florida 34231, and the registered agent of the Association at that office, until otherwise determined by the Board of Directors, shall be Casey Condo Management.

**ARTICLE 13.**  
**Miscellaneous**

The following miscellaneous provisions shall apply to these Articles of Incorporation and the Condominium Documents.

**13.1 Conflicts.** The term "Condominium Documents," as used in these Articles of

Incorporation and elsewhere shall include the Declaration of Condominium, Articles of Incorporation, Bylaws, the Regulations of the Association, the Plats, Surveys, Plot Plans, and graphic descriptions of improvements of record, and all other exhibits to the original Declaration of Condominium. In the event of a conflict between the language in the Declaration of Condominium and the graphic descriptions of record, the graphic description of record shall control. In the event of a conflict between language in any of the other Condominium Documents, the following priorities shall control:

- (i) Declaration of Condominium;
- (ii) Articles of Incorporation;
- (iii) Bylaws; and
- (iv) Rules and Regulations

**13.2 Gender.** The use of the term "he," "she," "his," "hers," "their," "theirs" and all other similar pronouns should be construed to include all genders and encompass the plural as well as the singular.

**13.3 Severability.** In the event that any provisions of these Articles of Incorporation are deemed invalid, the remaining provisions shall be deemed in full force and effect.

**13.4 Definitions.** The terms used in these Articles of Incorporation shall have the same definitions and meanings as those set forth in the Declaration of Condominium and the Condominium Act, unless herein provided to the contrary, or unless the context specifically shall otherwise require.