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#### AMENDMENT TO THE

## DECLARATION AND BYLAWS

## CREATING AND ESTABLISHING A PLAN FOR

#### CONDOMINIUM OWNERSHIP

# UNDER CHAPTER 5311 OF THE REVISED CODE OF OHIO

**FOR** 

**BLUE WATER CONDOMINIUM** 

PLEASE CROSS MARGINAL REFERENCE WITH THE DECLARATION AND BY-LAWS CREATING AND ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP UNDER CHAPTER 5311 OF THE REVISED CODE OF OHIO FOR BLUE WATER CONDOMINIUM RECORDED AT VOLUME 313, PAGE 0364 ET SEQ. OF THE OTTAWA COUNTY RECORDS.

# AMENDMENT TO THE DECLARATION AND BY-LAWS CREATING AND ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP UNDER CHAPTER 5311 OF THE REVISED CODE OF OHIO FOR BLUE WATER CONDOMINIUM

WHEREAS, the Declaration of Condominium Ownership for Blue Water Condominium (the "Declaration") and the By-Laws of Blue Water Condominium Association (the "Bylaws"), attached to and made a part of the Declaration, were recorded at Ottawa County Records Volume 313, Page 0364 et seq., and

WHEREAS, the Blue Water Condominium Association (the "Association") is a corporation consisting of all Unit Owners in Blue Water and as such is the representative of all Unit Owners, and

WHEREAS, Article XIX of said Declaration authorizes amendments to the Declaration, and

WHEREAS, Unit Owners representing not less than 75% of the Association's voting power have executed instruments in writing setting forth specifically the matter to be modified (the "Amendment"), and

WHEREAS, the Association has in its records the signed, written consents to the Amendment signed by Unit Owners representing 84.90% of the Association's voting power as of December 8, 2008, and

WHEREAS, the Association has in its records the power of attorney signed by Unit Owners representing 84.90% of the Association's voting power authorizing the Association's officers to execute Amendment B on their behalf, and

WHEREAS, attached hereto as Exhibit A is a certification of the Association's President and Secretary that Amendment B was duly adopted in accordance with the Declaration provisions, and

WHEREAS, the proceedings necessary to amend the Declaration as required by Chapter 5311 of the Ohio Revised Code and the Declaration have in all respects been complied with.

NOW THEREFORE, the Declaration of Condominium Ownership for Blue Water Condominium is hereby amended by the following:

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# **AMENDMENT A**

[Intentionally Left Blank - Amendment Proposal Did Not Pass]

#### **AMENDMENT B**

MODIFY DECLARATION ARTICLE VII, SECTION 2 entitled, "Common Expenses." Said modification, to be made on Pages 10-11 of the Declaration, as recorded at Ottawa County Records, Volume 313, Page 364 et seq. (new language is underlined):

Section 2. Common Expenses. The cost and expense maintenance, repairs, replacement, restoration and reconstruction of the Boat Slips and Marina Facilities shall be borne exclusively by the Boat Slip Users, including the Declarant to the extent Boat Slip Interests have not been assigned to Unit Owners. Such cost and expense shall be assessed to the Unit Owners as a Special Charge, in accordance with Article VII hereof. Each Unit Owner shall be assessed that percentage of the total cost and expense of maintaining, repairing, replacing, restoring and reconstructing the Boat Slips and Marina Facilities, less insurance proceeds, if any, equal to a fraction, the numerator of which shall be the number of Boat slips assigned to such Unit Owner on the books and records of the Association, and the denominator of which shall be the total number of Boat Slips in the Marina. (Such percentage hereinafter referred to as the "Marina Percentage"). Based on the relative size of the Boat Slips, the "Marina Percentage" for the thirtyfive (35) feet Boat Slips shall be adjusted by a factor of 117%, as a basis for assessment. The decision to expend money shall be determined by a majority vote of all owners of Boat Slips.

Any conflict between this provision and any other provisions of the Declaration and Bylaws shall be interpreted in favor of this amendment regarding the process for determining Assessments for the 35 foot Boat Slips. Upon the recording of this amendment, only Unit Owners of record at the time of such filing shall have standing to contest the validity of the amendment, whether on procedural, substantive or any other grounds, provided further that any such challenge shall be brought in the court of common pleas within one year of the recording of the amendment.

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IN WITNESS WHEREOF, the said Blue Water Condominium Association has caused the execution of this instrument this day of day of day, 2009. BLUE WATER CONDOMINIUM ASSOCIATION STATE OF OHIO SS COUNTY OF BEFORE ME, a Notary Public, in and for said County, personally appeared the above named Blue Water Condominium Association, by its President and its Secretary, who acknowledged that they did sign the foregoing instrument, on Page 4 of 5, and that

the same is the free act and deed of said corporation and the free act and deed of each of them personally and as such officers.

IN WITNESS WHEREOF, I have hereunto set my hand and official port clinton, Ohio, this //d day of \_\_\_\_\_\_, 2009.

THERESA BEHRENDS Notary Public, State of Ohio My Commission Expires May 16, 2009

This instrument prepared by: KAMAN & CUSIMANO, Attorneys at Law 2000 Terminal Tower 50 Public Square Cleveland, Ohio 44113 (216) 696-0650

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## **EXHIBIT A**

# CERTIFICATION OF PRESIDENT AND SECRETARY

The undersigned, being the duly elected and qualified President and Secretary of the Blue Water Condominium Association, hereby certifies that the Amendment was duly adopted in accordance with the Declaration provisions.

	WARREN WILL, President
	Secretary  GERARD PAPP, Secretary
STATE OF OHIO	an .
COUNTY OF	SS O ZO
above named WARREN WILL AND	c, in and for said County, personally appeared the GERARD PAPP who acknowledges that they and at the same is their free act and deed.
IN TESTIMONY WHEREOF,  Port Clerton, Ohio, this	I have hereunto set my hand and official seab for day of, 2009.

THERESA BEHRENDS Notary Public, State of Ohio My Commission Expires May 16, 2009

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