

**AGREEMENT TO AMEND ARTICLES OF INCORPORATION**

**DATED AS OF MAY 7, 2009**

**By and Between**

**CAPTAIN'S COVE GROUP, L.L.C.**

**and**

**CAPTAIN'S COVE GOLF & YACHT CLUB, INC.**

## **AGREEMENT TO AMEND ARTICLES OF INCORPORATION**

This **AGREEMENT TO AMEND ARTICLES OF INCORPORATION** (this "**Agreement**"), dated as of May 7, 2009, by and between Captain's Cove Group, LLC, a Maryland limited liability company ("**Seller**") and Captain's Cove Golf & Yacht Club, Inc. ("**Buyer**").

### **RECITALS**

WHEREAS: Seller has previously assumed the rights of the original Declarant and is the owner of certain lots located in the Captain's Cove Subdivision in Accomack County, Virginia (the "**Subdivision**").

WHEREAS: As a result of ownership of said lots, pursuant to the Article 5, Section 4 of the Articles of Incorporation of Captain's Cove Golf and Yacht Club, Inc., Seller is designated a Class B member and entitled to three votes for each numbered residential lot.

WHEREAS: The Seller and Buyer have entered into or intend to enter into both an Agreement of Sale and a Stock Purchase Agreement concerning assets owned by Seller and/or Captains Cove Utility Group, Inc..

WHEREAS: as part of the consideration for these Agreements, Seller desires to participate in an amendment to the Articles of Incorporation which will eliminate Class B membership and reduce the votes for all numbered residential lots owned by Seller from three votes to one vote.

**NOW, THEREFORE**, in consideration of the mutual covenants of the parties as hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the parties hereto hereby agree as follows:

### **ARTICLE 1**

#### **AMENDMENT**

1.1 Amendment. Upon the terms and subject to the conditions set forth in this Agreement, and in reliance on the respective representations and warranties of the parties, the Seller agrees to vote in favor of an amendment to the Articles of Incorporation which will reduce the Class B membership voting rights to one (1) vote per lot owned in accordance with the provisions hereof.

**ARTICLE 2  
EXECUTION**

2.1 Timing. Provided that the United States Bankruptcy Court for the District of Maryland in the chapter 11 proceedings of the Seller approves the Agreement of Sale and Stock Purchase Agreement, the parties agree to execute a Consent to Amend simultaneously with those documents at closing.

2.2 Subsequent Actions. After execution of this Agreement, Buyer will prepare the documents necessary to amend Article 5, Section 4 of the Articles of Incorporation of Captain's Cove Golf and Yacht Club, Inc. and the declarations of restrictions, and both Buyer and Seller will comply with Section 13.1-886 of the Virginia Non-Stock Corporations Act and take all necessary steps to complete the amendment.

**ARTICLE 3  
MISCELLANEOUS**

3.1 Notices, Consents, etc. Any notices, consents or other communication required to be sent or given hereunder by any party shall in every case be in writing and shall be deemed properly served if (a) delivered personally, (b) sent by registered or certified mail, in all such cases with first class postage prepaid, return receipt requested, (c) delivered by a recognized overnight courier service, or (d) sent by facsimile transmission to the parties at the addresses as set forth below or at such other addresses as may be furnished in writing.

Buyer: **General Manager  
Captain's Cove Golf and Yacht Club, Inc.  
3370 Captain's Corridor  
Greenbackville, VA 23356**

**With a copy to:**

**Michael A. Inman, Esquire  
Inman & Strickler, P.L.C.  
575 Lynnhaven Parkway Ste 200  
Virginia Beach, VA 23452**

Seller: **Roger Young  
6014 South Point Road  
Berlin, MD 21811**

**With a copy to:**

**Mark R. Baumgartner, Esq.  
Pender & Coward, P.C.  
222 Central Park Ave., Suite 400  
Virginia Beach, VA 23462**

3.2 Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties hereto and delivered to the other.

3.3 Telecopy Execution and Delivery. A facsimile, telecopy or other reproduction of this Agreement may be executed by one or more parties hereto, and an executed copy of this Agreement may be delivered by one or more parties by facsimile or similar electronic transmission device pursuant to which the signature of or on behalf of such party can be seen, and such execution and delivery shall be considered valid, binding and effective for all purposes. At the request of any party, all parties agree to execute an original of this Agreement as well as any facsimile, telecopy or other reproduction hereof.

3.4 Expenses. Except as paid prior to the date hereof or otherwise specifically provided herein, each of the parties shall pay all costs and expenses incurred or to be incurred by it, him or her, as the case may be, in negotiating and preparing this Agreement and in closing and carrying out the transactions contemplated by this Agreement.

3.5 Construction. This Agreement shall be construed and enforced in accordance with, and all questions concerning the construction, validity, interpretation and performance of this Agreement shall be governed by, the laws of the Commonwealth of Virginia, without giving effect to provisions thereof regarding conflict of laws.

3.6 Jurisdiction. By this Agreement, each of the parties hereto submits to the jurisdiction of the Bankruptcy Court for any action to enforce or interpret this Agreement, so long as the chapter 11 bankruptcy case of any of Robert E. Warfield, Sr. and Margaret Warfield, Harold P. Glick or the Seller remains open.

3.7 Headings. The subject headings of Articles and Sections of this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.

3.8 Assignment. This Agreement is intended to bind and inure to the benefit of and be enforceable by the parties hereto and their respective successors and permitted assigns. This Agreement will not be assignable or delegable by either party without the prior written consent of the other party.

3.9 Entire Agreement. This Agreement sets forth the entire understanding of the parties with respect to the subject matter hereof, and shall not be modified or affected by any offer, proposal, statement or representation, oral or written, made by or for any party in

connection with the negotiation of the terms hereof, and may be modified only by instruments signed by all of the parties hereto.

3.10 Third Parties. Nothing herein expressed or implied is intended or shall be construed to confer upon or give to any person or entity, other than the parties to this Agreement and their respective permitted successors and assigns, any rights or remedies under or by reason of this Agreement.

3.11 Interpretative Matters. Unless the context otherwise requires, (a) all references to Articles, Sections or Schedules are to Articles, Sections or Schedules in this Agreement, and (b) words in the singular or plural include the singular and plural and pronouns stated in either the masculine, the feminine or neuter gender shall include the masculine, feminine and neuter and the term “including” shall mean by way of example and not by way of limitation.

3.12 No Strict Construction. The language used in this Agreement will be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction will be applied against any party hereto.

3.13 Time of the Essence. Time is of the essence in this Agreement.

**[END OF TEXT; SIGNATURES NEXT PAGE]**

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date first above written.

**SELLER:**

**CAPTAIN'S COVE GROUP, L.L.C.**

By:  
Name:  
Its:

**BUYER:**

**CAPTAIN'S COVE GOLF & YACHT CLUB, INC.**

By:  
Its: