

**2016 AMENDED AND RESTATED BYLAWS
OF
PGA WEST FAIRWAYS ASSOCIATION**

**NOTICE
(Gov. Code §12956.1)**

If this document contains any restriction based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, genetic information, national origin, source of income as defined in subdivision (p) of section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to section 12956.2 of the Government Code. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1 - NAME; LOCATION AND APPLICABILITY	1
1.1 <i>Name</i>	1
1.2 <i>Principal Office</i>	1
1.3 <i>Application</i>	1
1.4 <i>Documents Being Replaced; Approvals</i>	1
1.5 <i>Definitions</i>	1
1.6 <i>References to Statutes</i>	1
1.7 <i>Membership Rights</i>	1
ARTICLE 2 - MEETINGS OF MEMBERS	2
2.1 <i>Place of Membership Meetings; Conduct</i>	2
2.2 <i>Annual Membership Meetings</i>	2
2.3 <i>Special Membership Meetings</i>	2
2.4 <i>Notice of Membership Meetings</i>	3
2.5 <i>Waiver of Notice of Membership Meetings</i>	3
2.6 <i>Voting Rights of Members</i>	4
2.7 <i>Quorum Requirement at Membership Meetings</i>	5
2.8 <i>Adjustment of Voting Power</i>	5
2.9 <i>Voting by Ballot Without a Membership Meeting</i>	5
ARTICLE 3 - DELEGATES.....	6
3.1 <i>Number</i>	6
3.2 <i>Qualifications for Appointment as a Delegate or Alternate</i>	6
3.3 <i>Term</i>	6
3.4 <i>Duties of the Delegates</i>	6
3.5 <i>Duties of the Alternate Delegates</i>	6
3.6 <i>Delegates Committee</i>	6
ARTICLE 4 - BOARD OF DIRECTORS	7
4.1 <i>Number and Qualification of Directors</i>	7
4.2 <i>Nomination Procedures</i>	7
4.3 <i>Qualifications of Candidates for Election to the Board</i>	7
4.4 <i>Board Election</i>	7
4.5 <i>Term of Office of Directors</i>	8
4.6 <i>Vacancies and Removal of Directors</i>	8
4.7 <i>Special Rights of Class C Member to Appoint Directors</i>	9
4.8 <i>Resignation of Directors</i>	9
4.9 <i>Return of Association Materials</i>	9
4.10 <i>Filling Vacancies on the Board</i>	9
4.11 <i>No Compensation of Directors</i>	10
ARTICLE 5 - POWERS AND DUTIES OF THE BOARD OF DIRECTORS	10
5.1 <i>Powers of Board of Directors</i>	10
5.2 <i>Limitations on Board's Powers</i>	11
5.3 <i>Financial Documentation; Preparation, Reporting and Review Responsibilities of the Board</i>	13

5.4	<i>Notice and Hearing Procedures for Disciplinary Actions Against Owners</i>	14
	ARTICLE 6 - MEETINGS OF DIRECTORS.....	16
6.1	<i>Regular Board Meetings</i>	16
6.2	<i>Special Board Meetings</i>	16
6.3	<i>Board Meeting Notice to Board Members</i>	16
6.4	<i>Organizational Board Meetings</i>	17
6.5	<i>Emergency Board Meetings</i>	17
6.6	<i>Executive Sessions of the Board</i>	17
6.7	<i>Quorum at Board Meetings</i>	18
6.8	<i>Adjournment of Board Meetings</i>	18
6.9	<i>Owner Attendance at Board Meetings; Notice</i>	18
6.10	<i>Board Meeting Minutes; Availability to Owners</i>	19
	ARTICLE 7 - OFFICERS	19
7.1	<i>Enumeration of Officers</i>	19
7.2	<i>Appointment and Term</i>	19
7.3	<i>Duties of Officers</i>	19
7.4	<i>Delegation of Officers' Duties</i>	21
7.5	<i>Resignation and Removal of Officers</i>	21
7.6	<i>Return of Association Materials by Officers</i>	21
7.7	<i>No Compensation of Officers</i>	21
7.8	<i>Limitation of Officers' Powers</i>	22
	ARTICLE 8 - BOOKS AND RECORDS; INSPECTION RIGHTS.....	22
8.1	<i>Member Inspection of Association Records</i>	22
8.2	<i>Member Inspection of Membership Register</i>	22
8.3	<i>Denial of Inspection Request for Membership Register</i>	22
8.4	<i>Director Inspection of All Association Records</i>	22
8.5	<i>Inspection by Company</i>	23
8.6	<i>Removal of Records</i>	23
	ARTICLE 9 - NONLIABILITY AND INDEMNIFICATION.....	23
9.1	<i>Limitation on Liability of Association's Directors and Officers</i>	23
9.2	<i>Indemnification by Association of Directors, Officers, Employees and Other Agents</i>	24
9.3	<i>Approval of Indemnity by Association</i>	24
9.4	<i>Advancement of Expenses</i>	24
9.5	<i>Insurance</i>	24
	ARTICLE 10 - AMENDMENTS.....	25

2016 AMENDED AND RESTATED BYLAWS
OF
PGA WEST FAIRWAYS ASSOCIATION

ARTICLE 1 - NAME; LOCATION AND APPLICABILITY

1.1 **Name.** The name of the corporation is PGA WEST Fairways Association ("Association"). The Association has been formed pursuant to the California Nonprofit Mutual Benefit Corporation Law (Corp. Code §§ 7110-8970) as a nonprofit mutual benefit corporation.

1.2 **Principal Office.** The principal office of the Association is located in the County of Riverside, California. The Board shall have the full power and authority to change the principal office of the Association from one location to another in the County of Riverside, California. Any such change shall be adopted by a resolution of the Board and noted in the meeting minutes.

1.3 **Application.** These Restated Bylaws are applicable to the Association and all Owners, residents, tenants, employees, and other persons who use the facilities of PGA WEST Fairways.

1.4 **Documents Being Replaced; Approvals.** These Restated Bylaws amend and restate, in their entirety, the Bylaws of PGA WEST Fairways Association, approved December 16, 1998 ("1998 Bylaws"). In accordance with Article XII of the 1998 Bylaws, these Restated Bylaws have received the approval of at least a majority of the Voting Power of the Class A and Class B membership.

1.5 **Definitions.** Unless otherwise specified in these Restated Bylaws, the definitions set forth in the 2016 Amended and Restated Declaration of Restrictions for PGA WEST Fairways apply to these Restated Bylaws.

1.6 **References to Statutes.** Statutes that are shown in brackets at the beginning of a section or paragraph in these Restated Bylaws show that the respective section or paragraph is based on the particular statute referred to in the brackets. Unless otherwise noted, all references are to statutes of the State of California. Any issues not addressed expressly by the Governing Documents of the Association shall be controlled by relevant provisions of the Applicable Law and by judicial interpretations of it.

1.7 **Membership Rights.** The qualifications for membership are set forth in the Restated Declaration and are hereby incorporated by reference.

ARTICLE 2 - MEETINGS OF MEMBERS

2.1 ***Place of Membership Meetings; Conduct.*** [Corp. Code §§ 7510(a) & 7511]

2.1.1 All meetings of the Members shall be held at a place designated by the Board. This meeting place shall be within the facilities of PGA WEST or as close to it as reasonably possible. If no meeting place is designated, the meetings shall be held at the principal office of the Association. No meeting of the Members shall, unless unusual conditions exist, be held outside of Riverside County, California.

2.1.2 [Civ. Code § 5000] Meetings of Members shall be conducted in accordance with a recognized system of parliamentary procedure or such other parliamentary procedures as the Board may adopt by resolution.

2.1.3 At the Board's discretion, Members may, by Electronic Transmission or electronic video screen, participate and vote at a meeting of Members subject to the requirements of Corporations Code section 7510.

2.2 ***Annual Membership Meetings.*** [Corp. Code §§ 7510(a) & (b)]

2.2.1 The annual meeting of the Members shall be held on a date and time established by the Board.

2.2.2 The actions to be taken at any annual meeting may be taken by ballot without holding an annual meeting, at the discretion of the Board.

2.3 ***Special Membership Meetings.*** [Corp. Code §§ 7151(e), 7510(e) & 7511(a)]

2.3.1 Special meetings of the Members may be called for any lawful purpose by a majority of a quorum of the Board, the President of the Association, or by a written request signed by Members representing at least five percent of the Voting Power.

2.3.2 If the special meeting is requested by the Members, it shall be held not less than thirty-five or more than ninety days after receipt of the request by an Officer of the Association.

2.3.3 Only that business stated in the meeting notice shall be transacted at the special meeting. The actions to be taken at any special meeting may be taken by ballot without holding a special meeting, at the discretion of the Board.

2.4 **Notice of Membership Meetings.** [Corp. Code §§ 7511(a) & (b)] The Secretary of the Association shall give written notice of any Members' meeting to each Member in accordance with the following:

- 2.4.1 [Corp. Code § 7511(b)] Except as otherwise provided in this Article, the notice shall be given at least ten but not more than ninety days before the meeting, by first class mail, by personal delivery or Electronic Transmission.
- 2.4.2 [Corp. Code § 7511(b)] The notice shall be addressed to the Member at the address appearing on the books of the Association, or the address supplied by the Member to the Association for this purpose.
- 2.4.3 [Corp. Code § 7511(a)] The notice shall state the place, date, and time of the meeting and the means, if any, by which a Member may participate by Electronic Transmission or electronic video screen. If Directors are to be elected at the meeting, the ballot shall include the names of all those who are nominees at the time the notice is given. The notice or ballot shall also state those matters that the Board, at the time the notice is given, intends to present for action by the Members.
- 2.4.4 [Corp. Code § 7510(e)] In the case of a special meeting which is called by Members, the notice shall be given within twenty days after receipt of the request for the meeting. If that twenty day requirement is not satisfied, the Members who called the meeting may give the notice.
- 2.4.5 [Corp. Code § 7511(b)] An affidavit of the mailing or other means of giving any notice of any Members' meeting may be executed by the Secretary, and if so executed, shall be filed with the corporate records or made a part of the minutes of the meeting. Such affidavit shall constitute prima facie evidence of the giving of notice.

2.5 **Waiver of Notice of Membership Meetings.** [Corp. Code § 7511(e)]

- 2.5.1 Attendance by a Member at a meeting or submission of a ballot by a Member shall constitute a waiver of notice of that meeting, except when the Member objects at the beginning of the meeting to the transaction of any business due to the inadequacy or illegality of the notice.
- 2.5.2 If a matter is required to be described in a meeting notice and the notice does not include that matter, attendance at the meeting is not a waiver of any right to object at the meeting to the consideration of that matter.

2.6 ***Voting Rights of Members.*** Members shall have the power to exercise their voting rights subject to the following provisions:

- 2.6.1 Each Lot or Unit shall be assigned one vote, unless otherwise specified in in the Voting and Approval Matrix attached to the Declaration. In an election of Directors, each Lot or Unit shall be assigned one vote for each position on the Board to be filled at the election. Any Class B Member shall have three votes for each Lot or Unit owned by the Class B Member beginning when voting rights commence for the Lot or Unit until such time as the Class B voting rights expire according to the terms of the Declaration.
- 2.6.2 Fractional votes shall not be allowed, except in the Residence Club and any Time-Share Projects. When there is more than one Owner of a Lot or Unit (co-owners), all of the co-owners shall be Members, but only one of them shall be entitled to cast the single vote attributable to the Lot or Unit. Co-owners may designate in writing one of the co-owners to vote. If no such designation is made or if it is revoked, the co-owners shall decide among themselves, by majority vote, how that Lot's vote is to be cast. Unless the Board receives a written objection in advance from a co-owner, it shall be conclusively presumed that the voting co-owner is acting with the consent of his or her co-owners. No vote shall be cast for the Lot or Unit on a particular matter if a majority of the co-owners present in person or by ballot, do not agree on a vote.
- 2.6.3 [Corp. Code § 5034] The Voting and Approval Matrix attached to the Declaration summarizes the approval requirements for many actions of the Members. In the event of a conflict between the Matrix and the terms of these Bylaws or the Declaration, the terms of the Bylaws or the Declaration shall prevail. If no percentage of the Voting Power is specified in the Governing Documents or by California law for a particular action or decision by the membership, the approval by a majority of the votes cast shall be required.
- 2.6.4 [Corp. Code § 7611] The Board may fix, in advance, a record date or dates for the purpose of determining the Members who are entitled to exercise voting rights.
- 2.6.5 A Member's voting rights may be suspended by the Board after Notice and Hearing.
- 2.6.6 Voting by proxy is not allowed.

2.7 **Quorum Requirement at Membership Meetings.**

- 2.7.1 At any membership meeting, Members may be considered present by appearing in person or by ballot.
- 2.7.2 For Board elections or removal votes by the Members, the presence of Members entitled to cast votes equal to at least fifteen percent of the Voting Power shall constitute a quorum.
- 2.7.3 There shall be no minimum quorum requirement for membership meetings for any action other than the election or removal of Directors unless required by Applicable Law.

2.8 **Adjustment of Voting Power.** For purposes of approving an action by the membership, the Voting Power of the Association shall be reduced by an amount equal to the number of any Lots and Units for which membership voting rights are suspended as provided in the Governing Documents.

2.9 **Voting by Ballot Without a Membership Meeting.** [Civ. Code § 5115; Corp. Code § 7513] Any action that may be taken at an annual or special meeting of the Members may be taken without a meeting provided the following ballot requirements are satisfied:

- 2.9.1 The Association shall distribute a ballot in any manner allowed by Applicable Law to every Member entitled to vote on the matter.
- 2.9.2 The ballot shall comply with any Applicable Law and any applicable Rules. If allowed by Applicable Law, Owners may vote electronically.
- 2.9.3 The proposed action shall be considered approved if the number of approvals equals or exceeds the number of votes that would be required for approval at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.
- 2.9.4 Once a written ballot is submitted to the Association, the Member submitting the ballot may not revoke it.
- 2.9.5 Any deadline stated for return of the ballots may be extended for successive reasonable periods with the approval of the inspectors of election.

ARTICLE 3 - DELEGATES

3.1 **Number.** Each Special Benefits Area (“SBA”) and Sub-Association shall have a Homeowner Delegate and an Alternate Homeowner Delegate appointed by the Board unless the Sub-Association Documents specify another method for appointing or electing the Delegate. A Declarant Delegate and Alternate Declarant Delegate shall be appointed by the Declarant and a Class C Delegate and Alternate Class C Delegate shall also be appointed by the Class C Members.

3.2 **Qualifications for Appointment as a Delegate or Alternate.** Candidates for appointment as a Homeowner Delegate must be Members in good standing. Good standing shall mean that as of the date specified in advance by the Board (1) all assessments, fees, charges or monetary penalties due the Association must be no more than thirty days delinquent, (2) the membership rights of the Member must not be suspended for any violations of the Association's Governing Documents, and (3) the candidate is not a plaintiff in any litigation filed against the Association or any Director or a defendant in any litigation filed by the Association.

3.3 **Term.** Homeowner Delegates and Alternate Homeowner Delegates shall serve for terms of one year unless sooner removed by the Board. The Board may remove and replace Homeowner Delegates at any time without cause unless the Sub-Association Documents specify otherwise.

3.4 **Duties of the Delegates.**

3.4.1 All Delegates shall furnish written confirmation to the Board of their official address to be used by the Association for the purpose of providing notice to Delegates of Association matters.

3.4.2 All Delegates shall comply with any Code of Conduct required by the Board.

3.4.3 The Delegates shall act as a liaison between the SBA or Sub-Association Members and the Board. The Delegate for each SBA and Sub-Association may provide written or oral reports to the Board and communicate with SBA or Sub-Association Members for purposes of acting as a liaison.

3.4.4 The Delegates shall have such powers and duties as may be prescribed by the Board.

3.5 **Duties of the Alternate Delegates.** The Alternate Delegate of each SBA or Sub-Association shall perform all of the functions and shall have all of the duties of the Delegate in the absence or disability of the Delegate.

3.6 **Delegates Committee.** The Board may appoint a committee or committees of Delegates to serve at the pleasure of the Board to perform any tasks assigned to the Delegates Committee by the Board.

ARTICLE 4 - BOARD OF DIRECTORS

4.1 **Number and Qualification of Directors.** The affairs of the Association shall be managed and its duties and obligations performed by an elected Board of Directors, consisting of five persons. Members of the Board elected by the membership must be Members of the Association. No more than one Owner of any Lot or Unit may serve on the Board at the same time.

4.2 **Nomination Procedures.** [Civ. Code § 5105] The Board of Directors shall establish reasonable nomination procedures for election to the Board, including procedures for self-nomination. The Election Rules may provide whether and to what extent nominations must be received before the secret ballots are prepared and mailed to Members. Nominations shall not be accepted from the floor at the annual meeting and write-in votes on the ballot shall not be allowed.

4.3 **Qualifications of Candidates for Election to the Board.** Candidates for election to the Board must be Members in good standing. Good standing shall mean that as of the date specified in advance by the Board for the preparation of the ballot (1) all assessments, fees, charges or monetary penalties due the Association must be no more than thirty days delinquent, (2) the membership rights of the Member must not be suspended for any violations of the Association's Governing Documents, and (3) the candidate is not a plaintiff in any litigation filed against the Association or any Director or a defendant in any litigation filed by the Association. In addition, newly elected Directors shall comply with any Code of Conduct established by the Board. Candidates may not be convicted felons.

4.4 **Board Election.** [Civ. Code § 5000 et seq.; Corp. Code § 7615] The Members shall fill, by election, all positions of Directors whose terms are due to expire annually in accordance with the following:

- 4.4.1 The election may be held at an annual or special meeting of Members called for that purpose or held by secret ballot without a meeting.
- 4.4.2 Voting for Directors shall be by secret ballot. However, if the number of candidates equals or is less than the number of positions to be filled at the election, Members may elect the Directors by acclamation.
- 4.4.3 At an election, each Lot and Unit shall be assigned one vote for each Board position to be filled at the election unless voting rights for the Lot or Unit have been suspended. Cumulative voting is not allowed.
- 4.4.4 The candidates receiving the highest number of votes shall be elected. In the event of a tie vote between candidates for the last position on the Board, the winner of the tie shall be determined by a game of chance.

4.5 **Term of Office of Directors.** [Corp. Code § 7220(b)] The terms of office of all members of the Board shall be staggered two year terms, with two terms expiring in even-numbered years, and three terms expiring in odd-numbered years. There shall be no limit to the number of consecutive terms to which a Director may be reelected. Each Director shall hold office until the election of his or her successor or until the Director's death, resignation or removal.

4.6 **Vacancies and Removal of Directors.** [Corp. Code § 7221] Vacancies may be declared, or Directors may be removed as follows:

4.6.1 The Board may declare vacant the office of a Director on the occurrence of any of the following events:

- (a) The Director is declared of unsound mind by a final order of a court.
- (b) The Director is convicted of a felony.
- (c) The Director has failed to attend three consecutive regular meetings of the Board or sixty percent of the regular or special meetings held within any twelve month period.
- (d) The Director ceases to be an Association Member.
- (e) The Director is more than ninety days delinquent in the payment of any assessments, fees, charges or monetary penalties due the Association.
- (f) The Director files a lawsuit against the Association or any Director.
- (g) The Director fails to comply with a duly approved action of the Board.
- (h) The Director receives any type of monetary gain, or other gain such as services, products, gifts or gratuities of a significant value, which have been provided in relation to the Director's service on the Board, and which are not disclosed. Disclosure must take place at an open meeting of the Board and be recorded in the minutes. Compensation for services duly approved by the Board and unrelated to duties as a Director or Officer of the Association, or reimbursement of expenses associated with service to the Community do not constitute unethical or detrimental behavior and are permissible.

- (i) The Director takes any action considered to be grossly detrimental to the general safety, health and welfare of the Community and its Members.
- (j) The Director addresses fellow Directors, Members, Association agents or vendors, or residents of the Community with abusive language in such a manner that causes distress and emotional harm. Abusive language is any language which causes humiliation or intimidation, or inflicts ridicule, coercion, threats or mental abuse, or other language of a punitive nature, or language which is prejudicial or grossly profane.

4.6.2 [Corp. Code § 7222] One or more Directors may be removed prior to the expiration of their terms, without cause, by a vote of the Members. Any removal without cause shall be approved by the vote of Members representing a majority of the votes cast as long as ballots are received from at least fifteen percent of the Voting Power of the Members.

4.6.3 [Corp. Code § 7222(f)] By a majority vote, the Board may remove any Director who was appointed by the Board to fill a vacancy on the Board.

4.7 Special Rights of Class C Member to Appoint Directors. Notwithstanding any other provisions in these Bylaws, the following shall apply until the termination of the Class C membership rights as provided in the Declaration:

4.7.1 The Class C Member may appoint a majority of the Directors.

4.7.2 The Directors appointed by the Class C Member may only be removed and replaced by the Class C Member.

4.8 Resignation of Directors. [Corp. Code § 7224] Any Director may resign at any time by giving written notice to the Board, the President, or the Secretary, or by giving verbal notice at an open Board meeting or an executive session. Such resignation shall take effect on the date of receipt of such notice, or at any time later specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

4.9 Return of Association Materials. Upon resignation, removal or expiration of the Directors' terms, Directors shall return to the Association those Association materials in their possession.

4.10 Filling Vacancies on the Board. [Corp. Code §§ 7220(b) & 7224]

4.10.1 The remaining Directors shall appoint a new Director to fill any vacancy on the Board caused by the death, removal or

resignation of a Director unless the vacancy is created by the removal of a Director by the Members.

4.10.2 The Members shall vote to fill any vacancy on the Board created by the removal of a Director by the Members.

4.10.3 A successor Director shall serve for the unexpired term of the Director he or she replaced. If the Board accepts the resignation of a Director which is scheduled to take effect at a future date, the Board may appoint a successor to take office when the resignation becomes effective, and the resigning Director may participate in the appointment of a successor.

4.11 **No Compensation of Directors.** No Director shall receive any compensation from the Association for any service he or she may render to the Association; provided, however, that a Director may be reimbursed for actual out-of-pocket expenses incurred by the Director in the performance of his or her duties. Any expenses for travel outside of Riverside County must have prior approval of the Board.

ARTICLE 5 - POWERS AND DUTIES OF THE BOARD OF DIRECTORS.

5.1 **Powers of Board of Directors** [Civ. Code §§ 4800 & 4805; Corp. Code § 7140] The Board shall exercise for the Association all powers and duties vested in or delegated to the Board or the Association by the Governing Documents, and the California Corporations Code governing nonprofit mutual benefit corporations and the Davis-Stirling Common Interest Development Act and Applicable Law. Said powers and duties shall include, but not be limited to, the following:

5.1.1 [Civ. Code § 4340 et seq.] Formulating Rules for the use and operation of the Lots, Units, Common Area, common facilities, and facilities owned or controlled by the Association.

5.1.2 [Civ. Code § 5105] Formulating Rules to regulate membership meetings, elections, appointment of inspector(s) of election, and voting procedures.

5.1.3 Enforcing the applicable provisions of the Governing Documents and any other instruments governing the ownership, management, and control of PGA WEST Fairways.

5.1.4 [Civ. Code § 5110; Corp. Code § 7614] Appointing inspectors of election for any membership vote.

5.1.5 Initiating and executing disciplinary proceedings against Members for violations of provisions of the Governing Documents after Notice and Hearing.

- 5.1.6 Paying taxes and assessments that are, or could become, a lien on all or a portion of the Common Area.
- 5.1.7 Fixing and establishing the fiscal year for the Association, including the power to modify the fiscal year.
- 5.1.8 Contracting for casualty, liability, and other insurance on behalf of the Association.
- 5.1.9 Subject to the limitations set forth in Section 5.2 herein, contracting for goods and services for the Common Area, and operation of the Association, and borrowing money, incurring indebtedness and executing promissory notes or other evidences of debt for the Association.
- 5.1.10 [Corp. Code § 7212] Creating committees pursuant to resolution adopted by a majority of the Board; provided that if a committee will exercise any power or authority of the Board, it shall consist of two or more Directors, and only Directors. No Directors need serve on any committee which does not exercise any power or authority of the Board (e.g., finance committees).
- 5.1.11 [Corp. Code § 7210] Delegating its authority, duties, and responsibilities to its Officers, employees, committees, or agents, including an Association manager. The term of any agreement with a manager shall not exceed one year, renewable by agreement of the parties for successive one year periods, and shall provide for termination by either party for cause with no more than thirty days' written notice, or without cause and without payment of a termination fee or penalty upon no more than ninety days' written notice.
- 5.1.12 [Civ. Code § 5510] Authorizing the withdrawal of monies from the Association's reserve accounts, upon the signatures of two Directors.
- 5.1.13 Filling vacancies on the Board, except for a vacancy created by the removal of a Director by the Members.
- 5.1.14 Providing any Owner with any documents required by any Applicable Law to be provided to an Owner.

5.2 Limitations on Board's Powers. Notwithstanding the provisions of Section 5.1, the Board shall be prohibited from taking any of the following actions, except with the vote or written assent of a majority of the Voting Power:

- 5.2.1 Entering into a contract with a third person under which the third person will furnish goods or services for the Common Area or

the Association for a term longer than one year with the following exceptions:

- (a) A contract with a public utility if the rates charged are regulated by the Public Utilities Commission, provided that the term shall not exceed the shortest term for which the utility will contract at the regulated rate.
- (b) Prepaid casualty and liability insurance of not more than three years' duration, provided that the policy provides for pro rata or short rate cancellation by the insured.
- (c) Lease agreements for laundry room fixtures and equipment not exceeding five years in duration.
- (d) Agreements for Telecommunication Services and equipment not exceeding five years in duration.
- (e) Agreements for the sale or lease of burglar alarm and fire alarm equipment, installation, and services not exceeding five years in duration.
- (f) A contract for a term not exceeding three years that is terminable by the Association after no longer than one year without cause, penalty, or other obligation upon thirty days' written notice of termination to the other party.
- (g) Permits, easements, licenses or rights-of-way in, on and over the Common Area as may be determined by the Board to be in the best interests of the Association; provided that no such permit, easement, license or right-of-way may be granted if it would unreasonably interfere with any exclusive easement, or with any Owner's use, occupancy, or enjoyment of the Owner's Lot without the approval of the affected Owner.

5.2.2 Incurring aggregate expenditures for Capital Improvements to the Common Area in any fiscal year in excess of five percent of the Budgeted Gross Expenses of the Association for that fiscal year. This provision applies to Capital Improvements only and does not apply to repairs and replacements.

5.2.3 Selling during any fiscal year real or personal property of the Association having an aggregate fair market value in excess of five percent of the Budgeted Gross Expenses of the Association for that fiscal year. This provision does not apply to the sale of any Lot or Unit owned by the Association.

- 5.2.4 Borrowing money, incurring indebtedness and executing promissory notes or other evidences of debt for the Association in excess of five percent of the Budgeted Gross Expenses of the Association for that fiscal year.

5.3 *Financial Documentation; Preparation, Reporting and Review Responsibilities of the Board.* With regard to the preparation, reporting and review of the Association's financial documentation, the Board shall have the following responsibilities:

- 5.3.1 [Civ. Code § 5300 et seq.] Preparing an Annual Budget Report and Annual Policy Statement for each fiscal year, and distributing a copy thereof to each Owner not less than thirty and not more than ninety days prior to the beginning of the fiscal year.

In lieu of the distribution of the Annual Budget Report and Annual Policy Statement, the Board may elect to distribute a summary to each Owner with a written notice that a full copy is available at the business office of the Association or designated location and that copies will be provided upon written request and at the expense of the Association. The Association shall provide the copy of the Annual Budget Report and Annual Policy Statement for the current fiscal year to the Owner within five working days of the receipt of the Owner's written request.

- 5.3.2 [Civ. Code § 5305; Corp. Code § 8321] Preparing and distributing an annual report, within one hundred twenty days after the close of each fiscal year, consisting of the following:

- (a) A balance sheet as of the end of the fiscal year.
- (b) An operating (income) statement for the fiscal year.
- (c) A statement of cash flows for the fiscal year.
- (d) For any fiscal year in which the gross income to the Association exceeds \$75,000.00, a copy of the review of the annual report prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy.

- 5.3.3 [Civ. Code §§ 5310 & 5730] Preparing and distributing to the Owners, any written notice regarding assessments and foreclosure described in any Applicable Law.

- 5.3.4 [Civ. Code § 5550] Causing to be conducted, at least once every three years, a study of the reserve account requirements

of PGA WEST Fairways. The Board shall review this study annually and shall consider and implement necessary adjustments to the Board's analysis of the reserve account requirements as a result of that review.

As used herein, the term "reserve account requirements" means the estimated funds which the Board has determined are required to be available at a specified point in time to repair, replace, or restore those major components which the Association is obligated to maintain.

- 5.3.5 [Civ. Code § 5500] Reviewing the following on at least a quarterly basis:
- (a) A current reconciliation of the operating and reserve accounts of the Association.
 - (b) The actual reserve revenues and expenses for the current year compared to the budget for the current year.
 - (c) An income and expense statement for the operating and reserve accounts of the Association.
 - (d) The most current account statements prepared by the financial institution where the Association has its operating and reserve accounts.

5.4 Notice and Hearing Procedures for Disciplinary Actions Against Owners. [Civ. Code § 5855; Corp. Code § 7341] In connection with the general power of enforcement, the Association may discipline Owners for violation of any of the provisions of the Governing Documents by one or more of the following: (1) suspending the Member's membership rights, including the Member's voting rights, the right to be a candidate for the Board, the right to use any Telecommunication Services provided through the Association, the right to use any access devices to gain entry to the Community, and right to use any Common Area recreational facilities, and (2) imposing monetary penalties (fines), subject to the following Notice and Hearing procedures:

- 5.4.1 The accused Owner shall be given at least ten days' prior written notice of the intention of the Board to meet and consider imposition of a suspension, monetary fine, notice of noncompliance or any combination of these, with respect to any alleged violation.
- 5.4.2 In any matter relating to the disciplining of a Member, the Board shall meet in executive session if requested by that Member, or upon the Board's own decision. The Member subject to discipline shall be given an opportunity to be heard, orally or in

writing, at the Member's discretion during that portion of the executive session.

- 5.4.3 Notwithstanding the foregoing, under circumstances involving conduct or a condition of the Lot or Unit that constitutes (1) an immediate and unreasonable infringement of, or threat to, the health, safety or quiet enjoyment of neighboring Owners; (2) a traffic or fire hazard; or (3) a threat of material damage to, or contamination, or destruction of, the Common Area or other Lots or Units, the Board or its agents may undertake immediate corrective action and conduct a hearing as soon thereafter as reasonably possible, if either (1) requested by the offending Owner within five days following the Association's notification, or (2) on its own initiative.
- 5.4.4 The amount of any monetary penalties shall be established from time to time by the Board, and a schedule thereof shall be distributed to the Members by personal delivery or first class mail. Distribution of additional schedules is not required unless there are any changes to an existing schedule.
- 5.4.5 If the Board imposes discipline on a Member, the Board shall provide notification of the disciplinary action by either personal delivery or first-class mail to the Member within fifteen days following the action.
- 5.4.6 Any Owner's membership privileges may be suspended (1) for any violation of the Governing Documents, and (2) during any period of time that the Owner is delinquent in the payment of any assessments, fees, charges, or monetary penalties (fines). Suspension of membership privileges shall include suspension of the right of a Member to vote at meetings of the Association, the right to be a candidate for the Board, the right to use any Telecommunication Services provided through the Association, the right to use any access devices to gain entry to the Community, and the right to use any Common Area recreational facilities. Any such suspension shall not include suspension of the right of a sitting Board member to continue serving as a Board member. However, a Director may be removed if the Director is more than ninety days delinquent in the payment of any assessments, fees, charges or monetary penalties due the Association.
- 5.4.7 Any disciplinary actions against an Owner may occur before or concurrently with any dispute resolution procedure required by any Applicable Law.

- 5.4.8 Except as provided in the Restated Declaration relating to foreclosure for failure to pay assessments, or as a result of the judgment of a court or a decision arising out of arbitration, the Association shall in no way abridge the right of any Owner to the full use and enjoyment of his or her Lot or Unit.

ARTICLE 6 - MEETINGS OF DIRECTORS

- 6.1 **Regular Board Meetings.** [Corp. Code § 7211(a)(2)]
- 6.1.1 Regular meetings of the Board of Directors shall be held at least every six months at a time and place fixed by resolution of the Board.
- 6.1.2 The meeting place shall ordinarily be within the facilities of PGA WEST or the Association's management company office unless, in the judgment of the Board, a larger meeting room is required than exists within the facilities of PGA WEST or the Association's management company office. Any larger meeting room selected by the Board shall be as close as possible to the facilities of PGA WEST.
- 6.2 **Special Board Meetings.** [Corp. Code §§ 7211(a)(1) & (2)]
- 6.2.1 Special meetings of the Board shall be held when called by written notice signed by the President of the Association or by any two Directors other than the President.
- 6.2.2 The meeting notice shall specify the time and place of the meeting and the nature of any special business to be considered.
- 6.3 **Board Meeting Notice to Board Members.** [Corp. Code § 7211(a)(2)]
- 6.3.1 Regular meetings of the Board may be held without notice to Board members if the time and place of the meetings are fixed by the Board.
- 6.3.2 Regular meetings, if the time and place are not fixed by the Board, and special meetings of the Board shall be held upon four days' notice by first-class mail or forty-eight hours' notice delivered personally or by telephone, including a voice messaging system or by Electronic Transmission to Board members.
- 6.3.3 Notice need not be given to any Director who has signed a waiver of notice or a written consent to holding of the meeting.

6.4 **Organizational Board Meetings.** At the first regular meeting after the annual meeting or as soon thereafter as reasonably practicable, the Board shall elect the Officers of the Association and conduct any other business of the Association as the Board, in its discretion, shall determine is necessary.

6.5 **Emergency Board Meetings.** [Civ. Code § 4923]

6.5.1 An emergency meeting of the Board, either in open session or executive session, may be called by the President or by any two Board members if there are circumstances that could not have been reasonably foreseen which require immediate attention and possible action by the Board and which of necessity make it impracticable to provide notice as required herein.

6.5.2 Electronic Transmissions may be used as a method of conducting an emergency meeting if all Board members agree in writing or Electronic Transmission to conducting the emergency meeting by Electronic Transmission. The consent of each Board member must be filed with the minutes of the emergency meeting. If all the Board members consent to conducting the emergency meeting by Electronic Transmission, a decision by a majority of the Directors voting on the item of business shall be the act of the Board as long as a quorum of the Board votes.

6.6 **Executive Sessions of the Board.** [Civ. Code § 4935]

6.6.1 The Board may, with the approval of a majority of a quorum of the Board, meet in executive session with its legal counsel, or meet to discuss and vote upon (1) litigation in which the Association is or may become involved, (2) matters that relate to the formation of contracts with third parties, (3) personnel matters, (4) Member disciplinary matters, (5) orders of business of a similar nature, and (6) to meet with a Member, upon the Member's request, regarding the Member's payment of assessments.

6.6.2 An executive session which does not follow an open meeting may be called and noticed to the Board members in the same manner as a special meeting or as an emergency meeting if required by the circumstances.

6.6.3 Any matter discussed in executive session shall be generally noted in the Board minutes of the next meeting of the Board of Directors which is not an executive session.

6.7 **Quorum at Board Meetings.** [Corp. Code §§ 7211(a)(7) & (8)]

- 6.7.1 A majority of the number of the Directors then in office, so long as there is more than one such Director, shall constitute a quorum.
- 6.7.2 If a quorum is present, the decision by a majority of the Directors present shall be the act of the Board.
- 6.7.3 Board members shall be considered present and may participate in a Board meeting through use of a conference telephone or electronic video screen as long as all Board members participating in the meeting are able to hear one another. Board members shall be considered present and may participate in a meeting through Electronic Transmission, other than conference telephone and electronic video screen, as long as each Board member participating in the meeting can communicate with all the other Board members in attendance concurrently.

6.8 **Adjournment of Board Meetings.** [Corp. Code § 7211(a)(4)] A majority of the Directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than twenty-four hours, notice of the adjournment shall be given, prior to the time of the adjourned meeting, to the Directors who were not present at the time of the adjournment.

6.9 **Owner Attendance at Board Meetings; Notice.** [Civ. Code §§ 4920 & 4925]

- 6.9.1 Any Member of the Association may attend meetings of the Board except when the Board adjourns to executive session. Members who are not on the Board may speak at any meeting, except executive sessions, subject to reasonable limitations established by the Board of Directors.
- 6.9.2 Notice of the time and place of a Board meeting, except for emergency meetings and executive sessions, shall be communicated to Members not less than four days prior to the meeting.
- 6.9.3 Notice of the time and place of executive session Board meetings, except for emergency meetings, shall be communicated to Members not less than two days prior to the meeting.
- 6.9.4 Notice shall be given to the Members by any means allowed by Applicable Law. Any Member may request and receive the

notice by mail or Electronic Transmission, at the address requested by the Member.

6.10 **Board Meeting Minutes; Availability to Owners.** [Civ. Code §§ 4950 & 5200; Corp. Code § 8320]

- 6.10.1 The Board shall keep accurate written minutes of its meetings, and shall retain them in the permanent records of the Association.
- 6.10.2 The minutes, minutes proposed for adoption that are marked to indicate draft status, or a summary of the minutes, of any Board meeting, other than executive session, shall be available to Members within thirty days after the meeting.
- 6.10.3 The minutes, proposed minutes, or summary minutes shall be distributed to any Member upon request and upon reimbursement for the costs in making that distribution. Members shall be notified in writing at the time that the budget is distributed, or at the time of any general mailing to the entire membership, of their right to have copies of the minutes of meetings of the Board, and how and where those minutes may be obtained.

ARTICLE 7 - OFFICERS

7.1 **Enumeration of Officers.** [Corp. Code § 7213(a)] The Officers of this Association shall be a President, a Vice-President, a Secretary, and a Treasurer. The Board may appoint such additional Officers as it may, in its sole discretion, determine necessary or desirable. Any number of offices may be held by the same person except for the offices of (1) President and Treasurer, and (2) President and Secretary. The President, Vice President, and Secretary must be Board members.

7.2 **Appointment and Term.** The Officers shall be elected annually by the Board. Each shall hold office until the next annual meeting unless he or she shall sooner resign, or be removed, or otherwise become disqualified to serve. Any vacancies shall be filled by the Board. Each Officer shall hold his or her office at the pleasure of the Board.

7.3 **Duties of Officers.** Unless otherwise delegated by the Board, the duties of each Officer shall be as follows:

- 7.3.1 The President shall:
 - (a) Preside over all meetings of the Members and of the Board.

- (b) Sign as President all deeds, contracts, and other written instruments that have been approved by the Board, unless the Board, by duly adopted resolution, authorizes the signature of a lesser Officer, or other person or entity.
- (c) Call meetings of the Board in accordance with any rules and notice requirements imposed by the Board and the Governing Documents.
- (d) Have, subject to the approval of the Board, general supervision, direction, and control of the affairs of the Association.
- (e) Discharge any other duties required of him or her by the Board.

7.3.2 The Vice-President shall:

- (a) Act in the place and in the stead of the President in the event of the President's absence, inability, or refusal to act.
- (b) Exercise and discharge any other duties required of the Vice President by the Board.

7.3.3 The Secretary shall:

- (a) Keep a written record of all Member and Board meetings.
- (b) Serve all required notices of meetings of the Board and the Members.
- (c) Keep current records showing the names and addresses of all Members.
- (d) Sign as Secretary all deeds, contracts, and other written instruments that have been approved by the Board, if the instruments require a second Association signature and the Board has not passed a resolution authorizing another Officer to sign in the place and stead of the Secretary.

7.3.4 The Treasurer shall:

- (a) Receive and deposit all of the funds of the Association in any bank or banks selected by the Board.

- (b) Be responsible for and supervise the maintenance of books and records to account for Association funds and other Association assets.
- (c) Disburse and withdraw Association funds in the manner specified by the Board.
- (d) Prepare and distribute the financial statements for the Association required by the Governing Documents.

7.4 ***Delegation of Officers' Duties.*** With Board approval, an Officer may delegate his or her powers and duties to any committee, employee or agent of the Association, including, but not limited to, an Association manager.

7.5 ***Resignation and Removal of Officers.***

- 7.5.1 The Board may remove any Officer from office either with or without cause.
- 7.5.2 An Officer may resign at any time by giving written or verbal notice to the Board, the President or the Secretary or by giving verbal notice at an open Board meeting or executive session. The resignation shall take effect on the date of receipt of the notice or at any later time specified in the notice. Unless otherwise specified in the notice, acceptance of the resignation by the Board shall not be necessary to make it effective.

7.6 ***Return of Association Materials by Officers.*** All books, records, papers and other materials provided by or from the Association to Directors or Officers remain property of the Association. Upon resignation, removal or expiration of the Officers' terms, Officers shall return to the Association those Association materials in their possession.

7.7 ***No Compensation of Officers.***

- 7.7.1 An Officer, other than a Treasurer who is not also a Director, shall not receive any compensation for any service he or she may render to the Association; provided, however, that any Officer may be reimbursed for actual out-of-pocket expenses incurred by the Officer in the performance of his or her duties.
- 7.7.2 A Treasurer who is not also a Director may be compensated for services to the Association and reimbursed for actual out-of-pocket expenses incurred in the performance of his or her duties.
- 7.7.3 Any expenses for travel outside of Riverside County must have prior approval of the Board.

7.8 **Limitation of Officers' Powers.** No Officer may enter into any contract or incur any debt or other obligation for the Association without authorization of the Board of Directors.

ARTICLE 8 - BOOKS AND RECORDS; INSPECTION RIGHTS

8.1 **Member Inspection of Association Records.** [Civ. Code § 5200 et seq.]

8.1.1 "Association Records" and "Enhanced Association Records," defined in Civil Code section 5200 and any successor statutes shall be open to inspection and copying upon the written demand on the Association by any Member for a purpose reasonably related to such Member's interests as a Member in accordance with the terms and conditions of Civil Code section 5215 and any successor statutes.

8.1.2 Members may not inspect the minutes of executive meetings, information related to disciplinary matters, individual Lot or Unit files (except their personal Lot or Unit file), or any other records except those specifically allowed herein or as allowed by the Board or by Applicable Law.

8.1.3 The Association may withhold or redact information if the release of the information is reasonably likely to lead to fraud in connection with the Association or identity theft or the information is privileged by Applicable Law, all as more specifically set forth in Civil Code section 5215 and any successor statutes.

8.2 **Member Inspection of Membership Register.** Subject to Section 8.3 and any Applicable Law, Members may obtain copies of the membership register within ten days upon a written demand to the Association and payment of a reasonable charge for copying and mailing costs. The demand shall state the purpose for which the list is requested.

8.3 **Denial of Inspection Request for Membership Register.** [Corp. Code § 8338] In accordance with section 8338 of the Corporations Code, the membership register is a corporate asset. The Association may deny a Member access to the membership register, including copies thereof, where the Association reasonably believes that the information will be used for a purpose not reasonably related to the Member's interest as a Member, or where the Association provides a reasonable alternative method of achieving the purpose identified in the written demand from the Member in accordance with section 8330(c) of the Corporations Code.

8.4 **Director Inspection of All Association Records.** [Corp. Code § 8334] Subject to any limitations imposed by Applicable Law, every Director shall have the right

to inspect all Association records and the physical properties owned or controlled by the Association at any reasonable time as provided by section 8334 of the Corporations Code.

8.5 Inspection by Company. Company shall have the right at any reasonable time to inspect the books, records, contracts or other documents impacting the Common Expenses of the Association or the Special Benefits Expenses of any Special Benefits Area as long as Company or any Participating Builder is subsidizing the Association in any manner including without limitation, the payment of any portion of Assessments levied against all other Members, direct payment of Common Expenses or Special Benefits Expenses, or by providing maintenance or other services that would otherwise be provided by the Association.

8.6 Removal of Records. No Member or Director may remove the Association's copies of the Governing Documents, books and records of account, minutes, the membership register, or other records or documents from the Association's office or designated depository without the prior consent of the Board.

ARTICLE 9 - NONLIABILITY AND INDEMNIFICATION

9.1 Limitation on Liability of Association's Directors and Officers. [Civ. Code § 5800; Corp. Code § 7237] It is the intent of this Article to provide the Association's volunteer Directors, Officers and other agents with protection from liability to the fullest extent permitted by any Applicable Law, and to the extent any of these provisions are inconsistent with Applicable Law, or more restrictive than Applicable Law, the Applicable Law shall prevail. No Directors, Officers, committee members, or agents of the Association (collectively and individually referred to as the "Released Party") shall be responsible to any Owner, any member of an Owner's family, any of the Owner's tenants, guests, servants, employees, licensees, invitees, or any other person for:

9.1.1 Any error or omission in the discharge of their duties and responsibilities or for their failure to provide any service required by the Governing Documents, provided that such Released Party has, upon the basis of such information as may be possessed by the Released Party, acted in good faith, in a manner that such person believes to be in the best interests of the Association and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. Without limiting the generality of the foregoing, this standard of care and limitation of liability shall extend to such matters as the establishment of the Association's annual financial budget, the decision whether to purchase insurance, the funding of Association reserve accounts, repair and maintenance of Common Areas, and enforcement of the Governing Documents.

- 9.1.2 Any loss or damage suffered by reason of theft or otherwise of any article, vehicle or other item of personal property which may be stored by such Owner or other person within any Lot, Unit or the Common Area or for any injury to or death of any person or loss or damage to the property of any person caused by fire, explosion, the elements or any other Owner or person within PGA WEST Fairways, or by any other cause, unless the same is attributable to his or her own willful or wanton act or gross negligence.

9.2 **Indemnification by Association of Directors, Officers, Employees and Other Agents.** [Corp. Code § 7237] To the fullest extent permitted by Applicable Law, the Association shall indemnify its Directors, Officers, committee members, employees, and other agents described in Corporations Code section 7237, including persons formerly occupying any such positions, against all expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred by them in connection with any "proceeding" as that term is used in Corporations Code section 7237 and including an action by or in the right of the Association, by reason of the fact that such person is or was a person described by that section. "Expenses," as used in this Section, shall have the same meaning as in Corporations Code section 7237(a).

9.3 **Approval of Indemnity by Association.** [Corp. Code § 7237] On written request to the Board by any person seeking indemnification hereunder, the Board shall promptly determine in accordance with Corporations Code section 7237(e), whether the applicable standard of conduct set forth in Corporations Code section 7237(b) or section 7237(c) has been met, and if it has, the Board shall authorize indemnification. If the Board cannot authorize indemnification because the number of Directors who are parties to the proceeding with respect to which indemnification is sought prevents the formation of a quorum of Directors who are not parties to the proceeding, the Board shall promptly call a meeting of Members. At that meeting, the Members shall determine under Corporations Code section 7237(e) whether the applicable standard of conduct set forth in Corporations Code section 7237(b) or section 7237(c) has been met, and if it has, the Members shall authorize indemnification.

9.4 **Advancement of Expenses.** [Corp. Code § 7237] To the fullest extent permitted by any Applicable Law and except as is otherwise determined by the Board in a specific instance, expenses incurred by a Director, Officer, employee or agent seeking indemnification under this Article in defending any proceeding covered by this Article shall be advanced by the Association before final disposition of the proceeding, on receipt by the Association of an undertaking by or on behalf of that person that the advance will be repaid unless it is ultimately determined that the person is entitled to be indemnified by the Association for those expenses.

9.5 **Insurance.** The Association shall have the power to purchase and maintain insurance on behalf of its Directors, Officers, committee members, employees or other agents against other liability asserted against or incurred by any Director,

Officer, committee member, employee or agent in such capacity or arising out of the Director's, Officer's, committee member's, employee's or agent's status as such.

ARTICLE 10 - AMENDMENTS

These Restated Bylaws may be amended with the approval of a majority of the Voting Power casting ballots as follows:

(a) For as long as the Class B membership continues to exist, the approval of a majority of the Class A Voting Power casting ballots as well as the approval of a majority of the Class B Voting Power casting ballots; or

(b) After the Class B membership has been converted to Class A membership, the approval of a majority of the total Voting Power casting ballots as well as the approval of a majority of the total Voting Power of Members other than the Declarant casting ballots.

CERTIFICATE OF SECRETARY

OF

**PGA WEST FAIRWAYS ASSOCIATION
a California Nonprofit Mutual Benefit Corporation**

I, the undersigned, do hereby certify that I am the duly elected Secretary of the PGA WEST Fairways Association, a California corporation. The foregoing Amended and Restated Bylaws of said Association constitute the fully amended and restated Bylaws as approved by the membership of the Association.

DATED: _____, 20 ____.

Secretary