

**NHWGA / NHGA Unification Agreement – 9/29/2021**

This agreement is a unification of the NHGA and the NHWGA to become one organization for all golfers, known as The (New Hampshire Golf Association), hereinafter referred to as the NHGA.

The NHGA shall operate in accordance with the following core principles:

- i. An organization for all. The NHGA will offer golfers of all ages, and abilities both casual and competitive playing opportunities, the ability to keep and maintain a USGA handicap, and access to all core services offered by the NHGA.
- ii. Programming will be financially sustainable.
- iii. The NHGA will be run by professional staff, governed by men and women who are passionate about the game of golf, and supported with the assistance of valued volunteers.

This agreement (the “Agreement”) sets forth the terms and conditions of the unification by and among New Hampshire Women’s Golf Association, a New Hampshire nonprofit corporation recognized as exempt from federal income tax under Section 501(c)(7) of the Internal Revenue Code (“NHWGA”), and New Hampshire Golf Association, a New Hampshire nonprofit corporation recognized as exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code (“NHGA”, together with NHWGA, the “Parties”), for (1) the transfer of certain assets of NHWGA to the NHGA , (2) the dissolution of the NHWGA as a separate legal entity, and (3) the future operation of certain currently existing NHWGA programs by the NHGA as set forth herein. Upon execution of the Operational Agreement, the NHGA will implement the Mission Statement and Bylaws included as addendum A

This Agreement is entered into as of the last date signed below (the “Execution Date”). The closing of the transactions contemplated by this Agreement (the “Closing”) shall take place on December 31, 2021, or on such other date as may be agreed upon by the parties in writing (the “Closing Date”). The Closing shall only occur if all of the conditions precedent and other matters required to be completed as of the date of Closing have been satisfied or have been duly waived in writing. **I. Plan of Unification:**

A. **Summary of Transactions:** The mechanism for the unification of operations between the NHWGA and the NHGA will be as follows:

- NHGA, including all of its tangible and intangible assets, will be the surviving corporate entity operating under its current name: the NHGA. Subject to the closing conditions and satisfaction of all of the obligations of the parties set forth herein, through this transaction, the NHGA shall acquire the tangible and intangible assets of the NHWGA.
- The mission of the NHGA shall be as written and agreed upon (See Addendum A, Article 2.)
- The bylaws of the NHGA shall be as written and agreed upon (See Addendum A.)
- The NHGA shall endeavor in good faith to continue all of the current and existing operations, tournaments, and activities currently undertaken by the NHGA and the NHWGA (based on

2021 schedules of events), subject to the natural evolution of activities over time, as directed by the Board of Directors of the NHGA.

- Upon Closing, the NHWGA shall contribute approximately \$150,000 to the NHGA to be used to cover expenses related to the unification of the entities including but not limited to additional staffing, infrastructure, website and related expenses.
- Cost Allocation. Any additional liabilities, costs or expenses of a Consolidating Corporation incurred on or before the Effective Date (each, a “Pre-closing Liability”) shall be satisfied from the assets or reserves of that Consolidating Corporation prior to the Effective Date.
- Remaining NHWGA Assets shall become the assets of the NHGA upon NHWGA dissolution. The NHGA shall utilize assets received from the NHWGA for purposes that are consistent with and aligned with the mission of the NHGA as directed by its Board.
- Subject to the satisfaction of the conditions set forth in Section I.B.1.a, after closing, NHWGA shall commence the process of winding up its business affairs and shall proceed to effect the dissolution of NHWGA as a corporate entity. NHWGA shall use its best efforts to complete the dissolution of NHWGA on or before March 31, 2022. **B. Closing Conditions.**

1. **Parties’ Conditions Precedent to Closing.** The obligations of either of the Parties to consummate the transactions contemplated by this Agreement are subject to the satisfaction, on or prior to the Closing Date, of all conditions set forth in this section.

- a. The board of directors of both the NHWGA and NHGA shall each have approved the principal terms of this Agreement (including, without limitation, the discontinuation of the NHWGA as a legal entity).
- b. Between the Execution Date and the Closing Date, there shall not have been commenced or threatened by a third party against any party to this Agreement any suit, action, arbitration, legal or administrative proceeding, or governmental investigation (1) involving any challenge to, or seeking damages or other relief in connection with, any of the transactions contemplated by this Agreement, or (2) that may have the effect of preventing, delaying, making illegal, imposing limitations or conditions on, or otherwise interfering with any of the transactions contemplated by this Agreement.
- c. NHWGA and NHGA shall have received from the New Hampshire Attorney General (the “AG”) a written waiver of objections to the transfer and disposition of its assets as described in this Agreement (the “Waiver of Objections”). Both parties acknowledge and agree that if requested by the AG in connection with the NHWGA and NHGA's request for the Waiver of Objections, both the NHWGA and NHGA will provide a copy of this Agreement to the AG. The Parties further agree that, following the Execution Date, they will provide to NHWGA, NHGA, and/or the AG such documents and information as may

be needed for the AG to make a determination as regards NHWGA and NHGA's request for the Waiver of Objections.

- d. All representations and warranties of NHWGA and NHGA contained in this Agreement shall be true and correct in all material respects on and as of the Execution Date. On or before the Closing Date, NHWGA and NHGA shall have performed and complied with all covenants and agreements required to be performed and complied with by NHWGA and NHGA under this Agreement.
  - e. NHWGA shall have purchased a “tail” directors and officers insurance policy naming the NHGA as additional insured, sufficient to provide each of the Parties with coverage against any claims arising out of or in connection with the activities of NHWGA and NHGA prior to the date of NHWGA’s dissolution. The premium cost of this insurance will be split evenly between NHWGA and NHGA.
  - f. Neither the consummation nor the performance of any of the transactions contemplated by this Agreement will, directly or indirectly (with or without notice or lapse of time), contravene or conflict with or result in any violation of or cause the either party to suffer any adverse consequence under any applicable statutes, laws, ordinances, rules, or regulations of any governmental authority or any order, writ, injunction, or decree of any federal, state, local, or foreign court, department, agency, or instrumentality.
  - g. All proceedings to be taken and all documents to be executed and delivered by NHWGA and NHGA in connection with the consummation of the transactions contemplated by this Agreement shall be reasonably satisfactory as to form and substance to both Parties and their respective counsel.
  - h. **Contracts and Commitments.** Existing contracts for each Consolidating Corporation have been provided and will be honored as written.
- C. **Representations and Warranties of the Parties.** Each of the party represents and warrants to the other party that:
- 1. **Organization and Authority.** It is a nonprofit corporation duly incorporated, validly existing, and in good standing under the laws of New Hampshire and is duly qualified to own its property and carry on its business as now conducted. It has all requisite power and authority to enter into and perform its obligations under this Agreement.
  - 2. **Authorization.** This Agreement has been duly authorized, executed, and delivered by such party. This Agreement constitutes the legal, valid, and binding obligation of such party enforceable against such party in accordance with its terms.
- D. **Termination.** This Agreement may be terminated, and the transactions contemplated hereby may be abandoned at any time up to and including the date of Closing as follows:

1. by the mutual written agreement of the Parties.
2. by either of the Parties upon thirty (30) days' prior written notice to the other if the other is in material breach of its obligations hereunder and such breach has not been cured by the breaching party within thirty (30) days after receiving such notice.

E. **Conditions Precedent:** Consummation of the Consolidation is expressly conditioned on the satisfaction of each of the following:

1. Charitable Trust Approval. The Consolidation shall have been approved by the New Hampshire Director of Charitable Trusts.
2. Secretary of State Approval. The Consolidation shall have been approved by the New Hampshire Secretary of State.

II. **Organization:** When the unification of the NHGA and the NHWGA becomes effective, the NHGA will be the legal entity and NHWGA will be dissolved. As the Allied Golf Association of the United States Golf Association for New Hampshire (AGA), the NHGA will continue to administer core services as laid out in the AGA agreement.

III. **Board of Directors and Officers:** The NHGA Board currently has 12 elected Directors. The NHGA Board shall expand its Board to 15 elected Directors and it is the intention to have the NHGA Nominating Committee fill the three vacant seats with persons capable of assisting with the transition of NHWGA events into the NHGA and interested in advancing the game of golf for everyone in NH. The nominees will serve as directors of the NHGA with terms of office that become effective as of the Closing Date.

IV. **Establishment of Transition Committee to oversee historical NHWGA events:** After unification, the NHGA will create a committee dedicated to the integration of the historical NHWGA events into the NHGA and will incorporate such Committee alongside all other NHGA committees.

WHEREFORE, the NHGA and the NHWGA hereby indicate their intent to submit the within agreement for approval of the respective governing bodies.

NH Women's Golf Association

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(NAME, Title, Duly Authorized)

NH Golf Association

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(Name Title, Duly Authorized)

**CERTIFICATION OF APPROVAL OF GOVERNING BODIES**

**NHWGA**

The undersigned secretary of the NH Women’s Golf Association hereby certifies that, having been properly notified of said meeting according to the NHWGA Bylaws, a quorum of the \_\_\_\_\_ (board/membership/governing body) \_\_\_\_\_ of the New Hampshire Women’s Golf Association met on (DATE) to consider the within Unification Agreement. By a (majority /supermajority /unanimous) vote of the (board /membership/ governing body) the within Unification Agreement was adopted and approved by the NH Women’s Golf Association.

\_\_\_\_\_

\_\_\_\_\_  
(NAME), Secretary

Date

**NHGA**

The undersigned secretary of the NH Golf Association hereby certifies that, having been properly notified of said meeting according to the NHGA Bylaws, a quorum of the membership of the New Hampshire Golf Association met on (DATE) to consider the within Unification Agreement. By a twothirds vote of the membership the within Unification Agreement was adopted and approved by the NH Golf Association.

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\_\_\_\_\_  
(NAME), Secretary

Date

**Addendum A – Bylaws**

See attached Bylaw document.