

December 5, 1996

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Florida Secretary of State  
Division of Corporations  
Attn: Amendment Section  
Post Office Box 6327  
Tallahassee, Florida 32314

*Amend*

RE: USA Golf Properties, Incorporated - Document Number P94000081780 - FEI #59-3278634

Dear Sir or Madam:

Attached hereto for filing is the following:

Articles of Amendment to Articles of Incorporation of USA Golf Properties, Incorporated

This document contains pages 1 through 6.

Also attached hereto is our corporate check drawn payable to "Secretary of State" in the amount of \$87.50 in payment for the following:

Amendment Filing Fee:	\$35.00
Certified Copy of the Articles of Amendment:	\$52.50
	\$87.50

FILED  
96 DEC 09 PM 10:59  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

Please attend to this matter and provide us with our certified copy at your earliest convenience. Thank you.

Very truly yours,

*Anthony J. Luick*

Anthony J. Luick  
Director of Administration

Attachments

Name	
Expiry	12/19/96
Document	
Ex number	1024
Number	1024
Class	
Version	1024
Action	
Comment	1024
W.P. Verifier	1024

ARTICLES OF AMENDMENT  
TO  
ARTICLES OF INCORPORATION  
OF  
USA GOLF PROPERTIES, INC.

96 DEC -9 AM 10:52  
FILED  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

The undersigned President of USA Golf Properties, Inc., a Florida corporation, hereby certifies that the following Amendment to the Articles of Incorporation was approved by unanimous consent of the Directors on August 12, 1996, and was approved by consent of the majority of the Shareholders and a majority of each class of the Shareholders effective September 11, 1996. The number of votes cast by the shareholders was sufficient for approval.

**AMENDMENT**

Article III of the Articles of Incorporation is hereby amended and restated as follows:

**ARTICLE III**

A. The capital stock of the Company shall be as follows:

**Section 1.** The Company is authorized to issue two classes of shares, to be designated respectively Class A Common Stock ("Common Stock") and 11% Class A Cumulative Convertible Preferred Shares (the "Class A Preferred"). The total number of shares of Class A Preferred the Company shall have authority to issue is one million five hundred thousand (1,500,000) shares. The total number of shares of Common Stock the Company shall have authority to issue is two hundred million (200,000,000) shares. The par value of each share of Class A Preferred shall be ONE AND NO/100 DOLLAR (\$1.00). The Common Stock shall have no par value.

The Company shall from time to time in accordance with the laws of the State of Florida increase the authorized amount of its Common Stock if at any time the number of shares of Common Stock remaining unissued and available for issuance shall not be sufficient to permit conversion of the Class A Preferred.

**Section 2.** The shares of the Class A Preferred have the rights, preferences, privileges and restrictions granted or imposed in paragraph B below.

B. The relative rights, preferences, privileges and restrictions granted to or imposed upon the respective classes of the shares of capital stock or the holders thereof are as follows:

**Section 1.** **Dividends.**

The holders of the Class A Preferred shall be entitled to receive cash dividends at the rate of eleven percent (11%) per annum of the par value of each share (\$1.00), and no more, payable in preference and priority to any payment of any dividends on shares of Common Stock out of any funds legally available therefor, when and as declared by the Board of Directors. Such dividends shall accrue from day to day from the date of issuance whether or not earned and shall be cumulative if accrued and unpaid, so that if dividends have accrued in

respect to any dividend period or periods and shall not have been paid on or set apart for all of the shares of the Class A Preferred then outstanding, the deficiency shall be fully paid on or set apart for such shares before the Company makes any distributions to holders of the Common Stock. The date of issuance with respect to Class A Preferred issued in the Exchange Offer shall be deemed to be the date that the Class B Preferred tendered in exchange for such Class A Preferred was originally issued by the Company. Subject to declaration by the Board of Directors, such dividends shall be payable annually on December 21, commencing on December 31, 1996. In the event the Company shall have such accrued and unpaid dividends as to the Class A Preferred outstanding immediately prior to the conversion (as provided below), such amount shall vest in the holder of the Class A Preferred being converted and shall be converted into shares of Common Stock at their fair market value, as determined in good faith judgment by the Board of Directors, and such shares will be delivered to such holder at such conversion time, in lieu of a cash payment for such dividends.

In the event any shares of Class B Preferred remain outstanding after expiration of the Exchange Offer, accrued and unpaid dividends on the Class B Preferred must be paid (or provided for) before declaration or payment of any dividends on the Class A Preferred.

#### Section 2. Liquidation Preference

(a) In the event of any liquidation, dissolution or winding up of the Company, voluntary or involuntary, the holders of the Class A Preferred shall be entitled to receive, prior and in preference to any distribution of any assets or surplus funds of the Company to the holders of the Common Stock by reason of their ownership thereof (i) the amount of ONE DOLLAR (\$1.00) per share for each share of the Class A Preferred then held by such holders (the foregoing each appropriately adjusted for any stock dividends, stock splits, recapitalizations, consolidations, mergers, reorganizations or the like with respect to such shares) and (ii) an amount equal to all accrued but unpaid dividends on the Class A Preferred; the amount described in (i) and (ii) are referred to herein as the "preferential amounts". If, upon occurrence of such event, the assets and funds thus distributed among the holders of the Class A Preferred shall be insufficient to permit the payment to such holders of the full preferential amounts, then the entire assets and funds of the Company legally available for distribution shall be distributed ratably among the holders of the Class A Preferred in proportion to the respective amounts each such holder is entitled to receive.

In the event any shares of Class B Preferred remain outstanding after the expiration of the Exchange Offer, the preferential amounts on the Class B Preferred must be paid (or provided for) before payment of the preferential amounts on the Class A Preferred.

(b) All of the preferential amounts to be paid to the holders of the Class A Preferred under this section shall be paid or set apart for payment prior to payment or setting apart for payment of any amount for, or the distribution of any amounts to, the holders of any Common Stock in connection with such liquidation, dissolution or winding up. If the Company has assets remaining after payment to the holders of the Class A Preferred, holders of shares of the Common Stock shall be entitled to receive all remaining assets of the Company, pro rata, based upon the number of shares of Common Stock held by each holder at the record date for any distribution as compared with all shares of Common Stock outstanding.

(c) For purposes of this section, a liquidation, dissolution or winding up of the Company shall be deemed to be occasioned by, or to include, unless consent is obtained from the holders of sixty five percent (65%) of the shares of the Class A Preferred (voting together on the basis of one vote for each share of Class A Preferred held on the record date for such vote) electing not to treat such transaction in such manner, the Company's sale of all or substantially all of its assets or the acquisition of the Company by another entity by means of merger or consolidation resulting in the exchange of the outstanding shares of the Company for securities or consideration issued, or caused to be issued, by the acquiring corporation or its subsidiary (except

for a merger or consolidation after the consummation of which the shareholders of the Company own in excess of 51% of the voting rights and value of the surviving corporation or its parent corporation). Additionally, the proposed merger of the Company into Maryland Co. is exempt from the 65% voting requirement.

(d) For purposes of this section, if the distributions or consideration received by the shareholders of the Company is other than cash, its value will be deemed to be its fair market value as determined in good faith by the Board of Directors. In the case of publicly traded securities listed on an exchange, fair market value shall mean the average of the last closing sale price as reported by such exchange or by a consolidated transaction reporting system for the five-day period immediately preceding the date such sale, liquidation, dissolution, winding up, merger or consolidation is consummated. In the case of publicly traded securities not listed on an exchange, fair market value shall mean the average last closing bid price as reported by NASDAQ for the five-day period immediately preceding the date such sale, liquidation, dissolution, winding up, merger or consolidated was consummated.

### Section 3. Conversion.

The holders of the Class A Preferred shall have conversion rights as follows (the "Conversion Rights"):

(a) Each share of Class A Preferred shall be convertible at any time at the option of the holder thereof and shall convert automatically into shares of Common Stock of the Company upon the Closing of the IPO, without any action by the holders of such Class A Preferred or the Company or whether or not the certificates representing such Class A Preferred shares are surrendered to the Company; provided, however, that the Company shall not be obligated to issue certificates evidencing such shares of Common Stock issuable upon such conversion unless certificates evidencing such shares of Class A Preferred converted are either delivered to the Company or the holder notifies the Company that such certificates have been lost, stolen or destroyed and furnishes a bond or executes an agreement reasonably satisfactory to the Company to indemnify the Company from any loss incurred by it in connection therewith. Upon the conversion of the Class A Preferred, the holder of such shares of Class A Preferred shall surrender the certificates representing such shares at the principal office of the Company for the Common Stock. Thereupon, there shall be issued and delivered to such holder, promptly at such office and in its name as shown on such surrendered certificate or certificates, a certificate or certificates for the number of shares of Common Stock into which the shares of Class A Preferred surrendered were so convertible.

(b) Each share of Class A Preferred shall be converted into Common Stock on the basis of two (2) shares of Common Stock for each full twelve (12) month period beginning on the date of issuance of such share not to exceed six (6) shares for each share of Class A Preferred. Shares of Class A Preferred which have been outstanding for less than twelve (12) full months shall be converted into Common Stock on the basis of one (1) share of Common Stock for each share of such Class A Preferred. The date of issuance with respect to Class A Preferred issued in the Exchange Offer shall be deemed to be the date that the Class B Preferred tendered in exchange for such Class A Preferred was originally issued by the Company. In addition, any accrued and unpaid dividends on such shares of Class A Preferred will be converted into shares of Common Stock at their fair market value as determined in good faith judgment by the Board of Directors.

(c) No fractional shares of Common Stock shall be issued upon the conversion of the Class A Preferred. Instead, such fractional interests will be rounded up or eliminated. As a result, only whole shares of Common Stock will be issued. Therefore, if a holder has less than one-half (.50) shares of Common Stock upon conversion, the holder will receive no shares of Common Stock for such fractional interest. However, if a holder has one-half (.50) or more shares of Common Stock upon conversion, the holder thereof will receive one share of Common Stock for such fractional interest.

(d) In the event the Company at any time or from time to time subdivides or combines its outstanding Common Stock to a lesser or greater number of shares, then in each such case, the Conversion Rate shall be increased or decreased proportionately. Such adjustment shall become effective at the close of business the date immediately prior to the day upon which such corporate action becomes effective.

(e) If the Company shall pay or make a dividend or other distribution on shares of Common Stock in Common Stock, the Conversion Rate for the Class A Preferred in effect at the opening of business on the date following the date fixed for the determination of shareholders entitled to receive such dividend or other distribution shall be increased by multiplying such Conversion Rate by a fraction, the numerator of which shall be the sum of number of shares of Common Stock outstanding at the close of business on the date fixed for such determination and the total number of shares constituting such dividend or other distribution and the denominator of which shall be the number of shares of Common Stock outstanding at the close of business on the day following the date fixed for such determination. For purposes of this provision, the number of shares of Common Stock at any time outstanding shall not include shares held in the treasury of the Company. The Company will not pay any dividend or make any distribution on shares of Common Stock held in the treasury of the Company.

#### Section 4. Redemption.

The shares of Class A Preferred are not redeemable.

#### Section 5. Voting Rights.

Except as otherwise required by law or by the Company's Articles of Incorporation, the holder of each share of Class A Preferred issued and outstanding shall have one vote per share on all matters, other than elections of directors, as to which holders of the Class A Preferred shall, separately as a class, be entitled to vote. Holders of the Class A Preferred shall, as a class, be entitled by cumulative voting to elect two (2) members of the Board of Directors, and the holder of each share of Class A Preferred shall be entitled to one vote per share in any such election. Currently, Messrs. DeChellis and Bleil are the directors elected by the holders of the shares of Class B Preferred. Subsequent to the Exchange Offer, assuming approval of the proposed amendments of the Company's Articles of Incorporation, such directors will be deemed to be the directors elected by the holders of the shares of Class A Preferred and the holders of any Class B Preferred not tendered in the Exchange Offer shall not be entitled to vote separately as a class for the election of such two (2) directors. The votes of the Class A Preferred shall be counted together with all other shares of stock of the Company having general voting power and not separately as a class, except as may be otherwise provided herein. Holders of shares of Common Stock and Class A Preferred Stock, and any Class B Preferred not tendered in the Exchange Offer, shall be entitled to notice of any shareholders' meeting in accordance with the Bylaws of the Company.

#### Section 6. Notices of Record Date.

In the event that the Company shall propose at any time:

(i) to declare any dividend or distribution upon its Common Stock, whether in Cash, property, stock, or other securities, whether or not a regular cash dividend and whether or not out of earnings or earned surplus;

(ii) to offer for subscription pro rata to the holders of any class or series of its stock any additional shares of stock of any class or series or other rights;



(iii) to effect any reclassification or recapitalization of its Common Stock outstanding involving a change in the Common Stock; or

(iv) to merge or consolidate with or into any other corporation, or sell, lease or convey all or substantially all of its property or business, or to liquidate, dissolve or wind up; then, in connection with each such event, the Company shall send to the holders of the Class A Preferred:

(a) at least ten (10) days prior written notice of the date on which a record shall be taken for such dividend, distribution or subscription rights (and specifying the date on which the holders of Common Stock shall be entitled thereto) or for determining rights to vote in respect of the matters referred to in (iii) and (iv) above; and

(b) in the case of the matters referred to in (iii) and (iv) above, at least ten (10) days prior written notice of the date when the same shall take place (and specifying the date on which the holders of Common Stock shall be entitled to exchange their Common Stock for securities or other property deliverable upon occurrence of such event).

Each such written notice shall be given by first class mail, postage prepaid, addressed to the holders of Class A Preferred at the address for each such holder as shown on the books of the Company.

#### Section 7. Other.

In addition to any other rights provided by law, so long as any shares of Class A Preferred shall be outstanding, the Company shall not, without first obtaining the affirmative or written consent of the holders of not less than a majority of such outstanding shares of Class A Preferred voting as a class:

(a) amend or repeal any provision of, or add any provision to, the Company's Articles of Incorporation or Bylaws if such action would adversely alter or change the preferences, rights, privileges or powers of, or the restrictions provided for the benefit of the Class A Preferred;

(b) authorize or issue shares of any class or series having any preference or priority as to dividends or assets superior to or on a parity with any such preference or priority of the Class A Preferred;

(c) reclassify any Common Stock or other shares into shares having any preference or priority as to dividends or assets superior to or on a parity with any such preference or priority of the Class A Preferred;

(d) effect any recapitalization;

(e) liquidate, sell, convey or otherwise dispose of all or substantially all of the property or business of the Company (other than pursuant to a banking transaction in the ordinary course of business);

(f) apply any of its assets to the redemption, retirement, purchase or acquisition directly or indirectly, through subsidiaries or otherwise, of any Common Stock, except for any repurchases from employees, consultants, officers or directors pursuant to termination of the employment or consulting relationship of such persons or such other repurchases as may be approved by a disinterested majority of the Company's Board of Directors; and

(g) amend or repeal any of the clauses (a), (b), (c), (d), (e) or (f) above.

In the event any shares of Class A Preferred shall be redeemed or converted, the shares so converted or redeemed shall be canceled and shall not be issuable by the Company and the Articles of Incorporation of the Company shall be amended to affect the corresponding reduction in the Company's capital stock.

In all other respects, the Articles of Incorporation shall remain as they were prior to this Amendment being adopted.

IN WITNESS WHEREOF, I hereby set my hand and seal this 5 day of December, 1996.



Richard C. Harkins, President

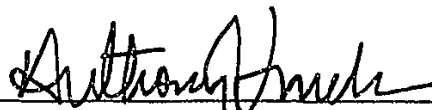
(CORPORATE SEAL)

STATE OF FLORIDA)  
COUNTY OF ORANGE)

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of December, 1996 by Richard C. Harkins, as President of USA Golf Properties, Inc., a Florida corporation, on behalf of the corporation, who is personally known to me and who did take an oath.



ANTHONY J. LUICK  
My Comm Exp. 6/05/99  
Bonded By Service Ins  
No. CC469056  
☒ Personally Known ☐ Other I.D.



Notary Public, State of Florida

Anthony J. Luick

Typed Name of Notary Public

My Commission Expires: 6/5/99