

Constitution

Thoroughbred Racing S.A. Limited

ACN 094 475 939

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Thoroughbred Racing S.A. Limited

ACN 094 475 939

Constitution

Part 1: Preliminary

1. Name

The name of the Company is **Thoroughbred Racing S.A. Limited**.

2. Nature of Company

The Company is a public company limited by guarantee.

3. Replaceable Rules

The replaceable rules in the Act do not apply to the Company.

4. Definitions

In this Constitution:

Act means the *Corporations Act 2001* (Cth).

Annual Budget means, for a financial year, the Company's plan and budget referred to in clause 49.

Annual General Meeting means a General Meeting of Members of the Company convened under 13 of this Constitution.

Associate has the meaning given to it in the Act.

Australian Rules of Racing means the "Australian Rules of Racing" made by Racing Australia as amended from time to time.

Board means the Directors, for the time being, of the Company.

Board Meeting means a meeting of Directors convened under clause 40.

Books has the meaning given to it in the Act.

Business Day means any day except a Saturday or Sunday or public holiday in South Australia.

Chairperson means a person appointed or elected to the office of Chairperson (or any similar title) of the Company in accordance with this Constitution.

Chief Executive Officer means a person appointed as the Chief Executive Officer of the Company in accordance with clause 47.1

Company means Thoroughbred Racing S.A. Limited (ABN 25 094 475 939).

Consumer and Business Services means the division of the South Australian Attorney-General's Department responsible for the regulation of the liquor, gaming and racing industries.

CRSA means Country Racing SA Incorporated (ABN 46 041 972 633).

Deputy Chairperson means a person appointed or elected to the office of Deputy Chairperson (or any similar title) of the Company in accordance with this Constitution.

Director means a director of the Company and includes Elected Directors and Appointed Directors.

Director Selection Panel means the panel established under clause 29.1.

DSP means the Director Selection Panel.

General Meeting means a meeting of the Members for the purpose of conducting the business of the Company and includes an Annual General Meeting and a Special General Meeting.

GRSA means Greyhound Racing SA Limited (ACN 094 569 525).

HRSA means Harness Racing SA Limited (ACN 094 559 930).

Incorporated Racing Club means a thoroughbred racing club, whether that club is located in South Australia or another Australian jurisdiction.

Industry Stakeholder Group means any body that represents the interests of thoroughbred horse racing trainers, breeders, owners, jockeys or bookmakers and, for the avoidance of doubt, includes any racing club in Australia.

Member means any person who is admitted to the membership of the Company and whose name is entered into the Register.

Minister means the South Australian Government's Minister for Recreation, Sport and Racing (or, if that ministerial title ceases to exist, such other South Australia Government minister that is responsible for thoroughbred racing).

Office means the registered office of the Company.

Officer has the meaning given to it in the Act.

Principal Racing Authority has the meaning given to it in the Australian Rules of Racing.

Racing Appeal Tribunal means the "Racing Appeal Tribunal" established by the "Joint Agreement" between the Company, GRSA, HRSA and RSA dated on or around 1 July 2002.

Racing Appeal Tribunal Rules means "The Racing Appeal Tribunal Rules 2002" established by the resolution of, and agreement between, the Company, GRSA, HRSA and RSA dated on or around 12 July 2002.

Racing Australia means Racing Australia Limited (ABN 89 105 994 330).

Register means the register of Members maintained by the Company in accordance with the Act.

Related Entity has the meaning given to it in the Act.

RSA means Racing SA Pty Limited (ACN 095 660 058).

SAJC means South Australian Jockey Club Inc (ABN 78 740 603 852).

Seal means the common seal of the Company.

Secretary means any person appointed by the Board under clause 48 to perform the duties of secretary of the Company as contemplated by the Act, and includes an assistant secretary or any person appointed to act as secretary temporarily.

Special General Meeting means a General Meeting of the Members of the Company other than an Annual General Meeting.

Special Resolution has the meaning given to it in the Act.

Strategic Plan means, for a financial year, the Company's five (5) year plan and budget, encompassing that financial year and the following four (4) financial years, referred to in clause 50.

5. Interpretation

5.1 In this Constitution, unless the context otherwise requires:

- (a) an expression has, in a provision of this Constitution which relates to a particular provision of the Act, the same meaning as in that provision of the Act;
- (b) a word importing the singular shall include the plural and vice versa;
- (c) a word importing a gender shall include each other gender;
- (d) where a word or phrase is given a defined meaning, any other part of speech or grammatical form of the word or phrase shall have a corresponding meaning;
- (e) a word denoting an individual (such as **person**) shall include a corporation, firm, authority, government body or agency, incorporated association, unincorporated association or instrumentality;
- (f) a reference to '\$', 'dollars' or 'money' is to currency of the Commonwealth of Australia;
- (g) a reference to a party's determination, consent, agreement, authorisation or approval shall mean its determination, consent, agreement, authorisation or approval in its absolute discretion;
- (h) a reference to any statute, proclamation, regulation, order, rules or similar instrument shall include all amendments and revisions made to it from time to time and any statute, proclamation, regulation, order, rules or similar instrument brought into operation in substitution of it or incorporating any of its provisions or made under it from time to time;
- (i) a reference to a clause, sub-clause, paragraph, or sub-paragraph is a reference to a clause, sub-clause, paragraph or sub-paragraph of this Constitution;
- (j) the meaning of general words or provisions shall not be limited by references to specific matters that follow them (for example, introduced by words such as **including, such as** or **in particular**) or are included elsewhere in this Constitution; and
- (k) the headings and index used in this Constitution are for convenience only and shall not affect the interpretation of this Constitution.

5.2 If any provision of this Constitution or any phrase contained in it is invalid or unenforceable, the phrase or provision is to be read down if possible, so as to be valid and enforceable, and otherwise shall be severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions of this Constitution.

6. Objects

6.1 The primary purpose of the Company is to encourage, develop, promote and manage the conduct of the racing of thoroughbred horses in South Australia and to do all things the Board considers to be conducive of doing so, including, but not limited to, pursuing the objectives of ensuring:

- (a) **excellence:** South Australian thoroughbred racing is, and is recognised throughout Australia and worldwide as, a centre of racing excellence (which attracts and develops the most talented administrators and racing participants);
- (b) **service to customers:** South Australian thoroughbred racing competes effectively in the leisure and entertainment markets by providing:
 - (1) excellent service to stakeholders;
 - (2) a source of entertainment for a wide audience; and
 - (3) an efficient and effective wagering product;
- (c) **integrity:** South Australian thoroughbred racing generally, and race meetings in particular, are managed and conducted to ensure the highest level of integrity, thereby continuously developing and enhancing the reputation of South Australian thoroughbred racing;
- (d) **equine and participant safety and welfare:** South Australian thoroughbred racing is managed to effectively foster and promote the safety and welfare of horses and people participating in racing in South Australia;
- (e) **efficiency:** South Australian thoroughbred racing is managed with optimal efficiency in order to best enable the meeting of the Company's objectives;
- (f) **participation:** South Australian thoroughbred racing is managed to encourage diversity and the broadest possible participation in all aspects, and at all levels, of the South Australian thoroughbred racing industry by the widest range of people;
- (g) **financial sustainability and success:** South Australian thoroughbred racing is managed to ensure the financial sustainability and success of the Company and its Members so as to ensure the Company and its Members can continue to encourage, develop, promote and manage the conduct of the racing of thoroughbred horses in South Australia;
- (h) **economic benefits:** the management of the Company's, and South Australian thoroughbred racing clubs', revenues, costs, assets and liabilities optimises the economic benefits delivered by South Australian thoroughbred racing to the Company's Members and to all stakeholders and participants of the South Australian thoroughbred racing industry, including:
 - (1) the owners of thoroughbred racehorses;
 - (2) the breeders of thoroughbred racehorses;
 - (3) other participants and stakeholders in South Australian thoroughbred racing;
 - (4) the communities in which South Australian thoroughbred racing operates; and
 - (5) the South Australian economy generally,

for the purpose of encouraging, developing, promoting and managing the conduct of the racing of thoroughbred horses in South Australia;

- (i) **social obligations:** South Australian thoroughbred racing is conducted and managed to ensure that it meets its social obligations to South Australia and the communities in which it operates, including but not limited to:
 - (1) promoting South Australian country thoroughbred racing;
 - (2) encouraging responsible wagering and gaming; and
 - (3) optimising employment in the South Australian thoroughbred racing industry; and
- (j) **independence:** the Company conducts its operations and exercises its powers and functions in a manner which ensures the public confidence in the Company's integrity and independence from any improper external commercial influence.

6.2 In pursuing, and without limiting or detracting from, its primary purpose under clause 6.1 the Company:

- (a) will:
 - (1) oversee and support all South Australian thoroughbred racing clubs and members; and
 - (2) ensure that there exists a working relationship between the Company and all levels of government; and
- (b) may, without limitation:
 - (1) accept any gift, loan or bequest, of any real or personal property, and apply that property to pursue and implement the Company's primary purpose;
 - (2) do anything else permitted by the law to pursue and implement the Company's primary purpose; and
 - (3) otherwise engage in any incidental or conducive activities that are not inconsistent with, and will directly or indirectly benefit, the Company's primary purpose.

7. Powers

The Company has the following powers:

- (a) to establish and enforce rules, codes and regulations for the conduct of thoroughbred horse racing in South Australia not inconsistent with the Australian Rules of Racing;
- (b) to make rules in relation to the conduct of jockeys and trainers;
- (c) to actively inform all participants and provide details of all such rules, codes and regulations relating to thoroughbred horse racing;

- (d) to impose and collect sanctions, levies, fines or charges for the breach of any rules, codes or regulations by participants;
- (e) to issue licences to relevant persons in the industry and to administer the registration of relevant persons including but not limited to jockeys, trainers and others but excluding bookmakers and associated persons;
- (f) to issue amend and withdraw permits to racing clubs to conduct thoroughbred horse race meetings in South Australia;
- (g) to allocate dates for thoroughbred horse race meetings to racing clubs;
- (h) to publish racing dates and places and the racing calendar and approved special race meetings;
- (i) to enter into an agreement with a racing club (which has as its principal objective the encouragement of horse racing) to manage the business, operations and affairs of the racing club;
- (j) with the agreement of the body the subject of the enquiry or investigation, to conduct an enquiry, audit or any investigation of any aspect of the financial affairs, operations or conduct of any racing club or Member;
- (k) to implement and supervise apprentice programs for jockeys, trackwork riders and stable hands;
- (l) to represent South Australia on the board of Racing Australia and other national racing forums;
- (m) to engage handicappers, racing stewards and racing managers;
- (n) to provide assistance to racing clubs in relation to matters regarding marketing, sponsorship, and television, radio and internet broadcasting;
- (o) to lend money to any racing club, Member or Industry Stakeholder Group on any terms and conditions deemed fit by the Directors, including taking security over assets of the borrower, for the purpose of encouraging, developing, promoting and managing the conduct of the racing of thoroughbred horses in South Australia provided the conditions deemed fit by the Directors are not more favourable than those that would be provided by the Company to any third party in an arms-length dealing;
- (p) to prepare and implement plans and strategies for the management of the financial affairs of the thoroughbred horse racing code and for the development, promotion and marketing of the code;
- (q) to promote venues for the conduct of thoroughbred horse racing in South Australia;
- (r) to enter into negotiations or arrangements with any government or authority, whether municipal, local or otherwise that may seem conducive to the Company's objects;
- (s) to enquire into and deal with any matter relating to thoroughbred horse racing and to refer any such matter to stewards or others for investigation and report;
- (t) to acquire, hold, develop, manage and dispose of property;
- (u) to act as a trustee of any trust;

- (v) to hold assets on trust for any participant in the thoroughbred horse racing industry in South Australia with the consent of that participant;
 - (w) to negotiate or make arrangements with RSA, GRSA and HRSA in relation to the Racing Appeal Tribunal and the Racing Appeal Tribunal Rules;
 - (x) to do all such acts, deeds, matters and things and to enter into and make such agreements as are incidental or conducive to the attainment of the objects of the Company; and
 - (y) subject to this Constitution, to exercise any powers authorised by the Act.
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8. Limited Liability of Members

- 8.1 The liability of Members is limited.
- 8.2 Subject to clause 8.3, if the Company is wound up, present Members and past Members, who were Members at any time during the 12 months immediately before commencement of the winding up, must contribute to the Company's property an amount sufficient:
- (a) to pay the Company's debts and liabilities and the costs, charges and expenses of the winding up; and
 - (b) to adjust the rights of the contributories among themselves.
- 8.3 Notwithstanding clause 8.2, no present Member or past Member need contribute more than \$2.00.
- 8.4 On a winding up:
- (a) any surplus must be given to an institution:
 - (1) which has objects similar to the Company's objects and that is carried on for the primary purpose of the encouragement, promotion, development and management of the racing of thoroughbred horses in South Australia; and
 - (2) which cannot distribute its income and assets to its Members; and
 - (b) the Members may decide the institution. If they do not do so, the Supreme Court of South Australia may decide the institution.
- 8.5 If clause 8.4 cannot be given effect, on a winding up, any surplus must be given to a public university or charitable public institution.
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9. No Distribution to Members

- 9.1 The Company's income and assets must be used solely to promote the Company's objects set out in clause 6.
- 9.2 The Company must not pay or distribute any profits, income or assets to the Members.
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- 9.3 This does not prevent the Company paying in good faith:
- (a) reasonable remuneration to a Member or other person for services rendered to the Company;
 - (b) for goods supplied to the Company in the ordinary course of business;
 - (c) reasonable interest on money lent by a Member to the Company, or reasonable rent for premises let by a Member to the Company;
 - (d) out-of-pocket expenses incurred by a Member on behalf of the Company.

Part 2: Membership

10. Additional Members

- 10.1 The Members may by resolution:
- (a) admit new Members and impose, revoke or vary any conditions relating to the admission of new Members;
 - (b) create categories of membership and specify any obligations, rights or privileges that are attached to the categories of membership; and
 - (c) impose, revoke or vary any rules relating to membership including, without limitation, disciplinary matters and termination of membership.

11. Resignation

- 11.1 A Member may resign its membership by giving notice of resignation to the Company.
- 11.2 The Secretary must record the resignation in the Register.

12. Termination

- 12.1 A Member's membership ceases if the Member is a body corporate, and a resolution is passed to wind it up (other than for reconstruction or amalgamation) or it becomes an externally-administered body corporate.

Part 3: Proceedings of Members

13. Annual General Meeting

- 13.1 The Company must hold its Annual General Meeting no later than 31 October in each year.
- 13.2 The ordinary business of the Annual General Meeting is:
- (a) the consideration and, if deemed appropriate, approval and confirmation of the minutes of the last Annual General Meeting;
 - (b) the consideration of the annual financial report, Directors' report and auditor's report;
 - (c) the fixing of the remuneration of the Board in accordance with clause 33;

- (d) the appointment of the auditor;
 - (e) consideration of the:
 - (1) Strategic Plan; and
 - (2) key performance indicators established by the Strategic Plan,generally and in accordance with clause 50.4;
 - (f) consideration of the Company's performance against the Annual Budget for the prior financial year; and
 - (g) consideration of the Annual Budget for the current financial year, generally and in accordance with clause 49.4.
- 13.3 The ordinary business of the Annual General Meeting must be considered at the Annual General Meeting, even if it is not referred to in the notice convening the meeting.
- 13.4 The Annual General Meeting may transact special business of which notice is given pursuant to clause 15.

14. Special General Meetings

- 14.1 The Board may, when it thinks fit, call a Special General Meeting for a time and place determined by the Board.
- 14.2 In accordance with the Act:
- (a) the Board must call a Special General Meeting when requested by the Members specified in the Act; and
 - (b) the Members may call a Special General Meeting in accordance with the Act.

15. Notices of General Meetings

- 15.1 At least one month's notice must be given of a General Meeting. However, unless prohibited by the Act, the Company may call on shorter notice:
- (a) an Annual General Meeting, if all the Members entitled to attend and vote at the Annual General Meeting consent in writing beforehand; and
 - (b) any other General Meeting, if Members with at least 95% of the votes that may be cast at the meeting consent in writing beforehand.
- 15.2 Notice of a General Meeting must be given to Members, Directors and the auditor.
- 15.3 A notice of a General Meeting must:
- (a) set out the place, date and time for the meeting;
 - (b) state the general nature of the meeting's business;
 - (c) if a Special Resolution is to be proposed at the meeting, set out an intention to propose the Special Resolution and state the Special Resolution to be proposed;

- (d) if the General Meeting is an Annual General Meeting, be accompanied by:
 - (1) the Company's annual report for the immediately preceding financial year; and
 - (2) the most recent copies of the Strategic Plan and Annual Budget for consideration by Members at the Annual General Meeting in accordance with clauses 13.2(e), 13.2(f), 13.2(g), 49.4 and 50.4; and
 - (e) contain anything else required by the Act.
- 15.4 Non-receipt of notice of a meeting, or failure to give proper notice of a meeting to a person entitled to receive it, does not invalidate anything done at the meeting if:
- (a) the failure was accidental;
 - (b) the person gives notice to the Company that the person waives proper notice or agrees to the thing done at the meeting; or
 - (c) the person attends the meeting and:
 - (1) does not object at the start of the meeting to the holding of the meeting; or
 - (2) if the notice omitted an item of business, does not object to the consideration of the business when it is presented to the meeting.
- 15.5 Subject to clause 13.3, the only business that can be transacted at a General Meeting is the business set out in the notice convening the meeting.
- 15.6 Any Member may put forward a proposition or motion for consideration at a General Meeting by giving written notice to the Board at least 45 days before the relevant General Meeting.

16. Quorum at General Meetings

- 16.1 A quorum for a General Meeting is one hundred percent (100%) of the Members entitled to vote. The quorum must be present at the beginning of the meeting.
- 16.2 If a quorum is not present within 30 minutes after the time appointed for the General Meeting:
- (a) if the meeting was called on the request of Members or by Members, the meeting is dissolved;
 - (b) any other meeting is adjourned to any day, time and place the Directors decide.
- 16.3 If a quorum is not present within 30 minutes after the time appointed for a General Meeting resumed after an adjournment, the meeting is dissolved.

17. Using Technology to Hold General Meetings

- 17.1 The Company may hold a General Meeting at two or more venues using any technology that gives the Members as a whole a reasonable opportunity to participate, including to hear and be heard.
- 17.2 Anyone using such technology is taken to be present in person at the General Meeting.

18. Chair of General Meetings

- 18.1 The Chairperson shall chair all General Meetings.
- 18.2 If there is no Chairperson, or if the Chairperson is not present within 10 minutes after the time appointed for the meeting or is unable or unwilling to act, the Deputy Chairperson may chair the meeting. If there is no Deputy Chairperson, or if the Deputy Chairperson is not present within 10 minutes after the time appointed for the meeting or is unable or unwilling to act, the Directors present must elect one of themselves to chair the meeting. If they do not do so, the Members present must elect a person to chair the meeting.

19. Regulation of General Meetings

Subject to this Constitution and the law, the chair of the meeting may give necessary directions for the conduct of any General Meeting and the ruling of the chair of the meeting shall be final unless overruled by a resolution of the General Meeting.

20. Adjournment

- 20.1 The Chairperson may adjourn a General Meeting to any day, time and place.
- 20.2 The Chairperson must adjourn a General Meeting if the Members present with a majority of votes at the meeting agree or direct the Chairperson to do so.
- 20.3 When a General Meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for more than a month.
- 20.4 Only unfinished business is to be transacted at a meeting resumed after an adjournment.

21. Decisions at General Meetings

- 21.1 At General Meetings, Members may make a decision by passing a resolution.
- 21.2 Unless this Constitution or the law requires a Special Resolution, a resolution is passed if more than 50% of the votes cast by the Members entitled to vote are in favour of the resolution.
- 21.3 A resolution put to the vote at a General Meeting must be decided on a show of hands.
- 21.4 A declaration by the chair of the General Meeting that a resolution has on a show of hands been carried or lost and an entry to that effect in the minutes of the meeting shall be taken as conclusive evidence of the fact without the need to show the number or proportion of the votes recorded in favour of or against the resolution.

22. How many Votes a Member has

- 22.1 At a General Meeting, on a show of hands, each Member present has one vote.
- 22.2 The chair of the General Meeting:
- (a) does not have a casting vote; and
 - (b) may disregard any vote by a Member who is not entitled to vote.

23. Challenging a Right to Vote

- 23.1 A challenge to a right to vote at a General Meeting may only be made:
- (a) before the meeting, to the Board; or
 - (b) at the meeting, to the chair of the meeting.
- 23.2 The challenge must be decided by the chair of the meeting whose decision is final.

24. Proxies

- 24.1 A Member who is entitled to attend and cast a vote at a General Meeting may appoint another Member as the Member's proxy to attend and vote for the Member at the meeting.
- 24.2 An instrument appointing a proxy must:
- (a) be in writing;
 - (b) be signed by the Member entitled to attend and vote at the meeting; and
 - (c) state the meeting at which the appointment may be used.
- 24.3 The Board shall have the power to prescribe the form of an instrument appointing a proxy from time to time. In the absence of a prescribed form of proxy, any instrument appointing a proxy which complies with the requirements contained within this Constitution is valid.
- 24.4 An instrument appointing a proxy may specify the manner in which the proxy is to vote in respect of a particular resolution, and where an instrument of proxy so provides, the proxy is not entitled to vote on the resolution except as specified in the instrument.
- 24.5 In the absence of any direction contained in the instrument appointing a proxy specifying the manner in which the proxy is to vote in respect of a particular resolution, the proxy may vote as the proxy thinks fit on any motion or resolution.
- 24.6 For an instrument appointing a proxy to be valid, the instrument appointing the proxy must be received by the Company (at the Office or at such other place as is specified for that purpose in the notice convening the General Meeting) no less than 48 hours before the time for holding the General Meeting at which the person named in the instrument proposes to vote.
- 24.7 A vote exercised in accordance with the terms of an instrument of proxy is valid despite:
- (a) the previous death or unsoundness of mind of the appointing Member; or
 - (b) the revocation of the instrument (or of the authority under which the instrument was executed),
- if no notice in writing of the death, unsoundness of mind or revocation has been received by the Company at the Office (or such other place as described in clause 24.6) before the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.
- 24.8 No instrument appointing a proxy shall be treated as invalid merely because it does not contain:

- (a) the address of the appointor or of a proxy;
- (b) the proxy's name or the name of the office held by the proxy; or
- (c) in relation to any or all resolutions, an indication of the manner in which the proxy is to vote.

24.9 Where the instrument does not specify the name of a proxy, the instrument shall be taken to be given in favour of the chair of the General Meeting.

25. Direct Voting

25.1 The Board may determine that at any General Meeting, a Member who is entitled to attend and vote on a resolution at that meeting is entitled to a direct vote in respect of that resolution.

25.2 In this clause 25, a “**direct vote**” includes a vote delivered to the Company by post, or other electronic means approved by the Board, and “**direct voting**” means the process associated with the making of a direct vote.

25.3 The Board may prescribe rules to govern direct voting from time to time including specifications as to the form, method and timing of giving the direct vote in order for the vote to be valid, and the treatment of direct votes.

25.4 A direct vote on a resolution at a General Meeting in accordance with clause 25 is of no effect and will be disregarded, if:

- (a) at the time of the resolution, the person who cast the direct vote:
 - (1) is not entitled to vote on the resolution; or
 - (2) would not be entitled to vote on the resolution if the person were present at the meeting at which the resolution is considered;
- (b) had the vote been cast in person at the meeting at which the resolution is considered:
 - (1) the vote would not be valid; or
 - (2) the Company would be obliged to disregard the vote;
- (c) subject to any rules prescribed by the Board, the person who cast the direct vote is present in person at the meeting at the time the resolution is considered; or
- (d) if the direct vote was cast otherwise than in accordance with any regulations, rules and procedures prescribed by the Board under clauses 25.1, 25.2 or 25.3.

26. Circulating Resolutions

26.1 The Company may pass a resolution, without a general meeting being held, if all the Members entitled to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document.

26.2 Separate copies of a document may be used for signing by Members, if the wording of the resolution and statement is identical in each copy.

26.3 The resolution is passed when the last Member signs.

Part 4: Board of Directors

27. Composition of Board

27.1 The Company will have no more than seven (7) Directors and, to the extent reasonably practicable, the Company will have seven (7) Directors.

28. Director Eligibility

28.1 A person is not eligible for appointment as a Director if that person:

(a) is, or has been in the twelve (12) months immediately prior to that person's purported appointment:

- (1) a committee member of;
- (2) involved in the management of; or
- (3) employed by,

an:

- (4) Incorporated Racing Club;
- (5) Industry Stakeholder Group; or
- (6) Principal Racing Authority (other than the Company),

(b) is a "licensed person" under the Australian Rules of Racing;

(c) has previously been found guilty or liable by a competent court, tribunal, racing authority or regulatory body, or admitted guilt or liability, in respect of any breach of directors' duties or fiduciary duties, misleading or deceptive conduct or conduct involving dishonesty or a lack of good faith;

(d) has one or more prior criminal convictions;

(e) has previously been expelled or suspended from membership of any club that is registered under applicable law as a corporation or incorporated association;

(f) has a material personal interest that would, in the Members' view, prejudice his or her ability to act independently on an ongoing basis;

(g) is the subject of circumstances that would cause that person to vacate office under clause 31.2 if that person were an existing Director;

- (h) has not provided the Company with all information reasonably requested and consents to the Company undertaking such enquiries to be necessary to determine that the individual meets the eligibility criteria in this clause 28.1;
- (i) has not provided a declaration that he or she meets those criteria and requirements; and
- (j) is under 18 years of age; and
- (k) does not have an appropriate understanding of the duties and obligations imposed on the Board and an appropriate level of financial literacy.

28.2 The DSP may determine that a person is eligible for election, despite the application of clause 28.1, if the DSP unanimously resolve that there are mitigating circumstances and the relevant matter should be disregarded.

29. Appointment of Directors by Director Selection Panel

29.1 The Company shall establish and maintain a five (5) person Director Selection Panel (**DSP**).

29.2 The aim of the DSP is to assist the Company by ensuring the Board is comprised of persons with an appropriate composition of skills and experience and who act in the best interests of the Company as a whole.

29.3 The role of the DSP is to:

- (a) identify and review the Board's skills mix (and any gaps in the skills of the Board);
- (b) review potential candidates for any position as a Director;
- (c) consider:
 - (1) nominations under clause 30.4; and
 - (2) applications provided to it under clause 31.5;
- (d) provide recommendations to the Minister concerning the suitability of candidates referred to in clauses 29.3(b) and 29.3(c);
- (e) report to Members and the Minister in accordance with clause 29.12(b);
- (f) appoint persons as Directors of the Company in accordance with clause 29.15; and
- (g) fill casual vacancies in accordance with clause 32.

29.4 Subject to clause 29.5 and clause 29.6, the DSP shall be comprised of:

- (a) one (1) person appointed by SAJC from time to time;
- (b) one (1) person appointed by CRSA from time to time; and
- (c) three (3) persons, each of which are endorsed by the Minister from time to time.

- 29.5 A person who is, or has been in the three (3) years prior to their purported appointment, a Director of the Company, is not eligible to be appointed as a member of the DSP.
- 29.6 An appointee's appointment under clause 29.4 is capable of revocation by the relevant appointor at any time.
- 29.7 The DSP must have a chair, who is to be nominated by the DSP by a simple majority decision.
- 29.8 A quorum at a meeting of the DSP is three (3) persons, one (1) of which must be an appointee of SAJC or CRSA under clause 29.4. No business may be transacted at a meeting of the DSP unless a quorum is present.
- 29.9 A resolution of the DSP is passed by a simple majority of votes cast.
- 29.10 Each member of the DSP shall have one vote.
- 29.11 Subject to this clause 29 and all applicable laws, the DSP may (acting reasonably) decide its own procedures from time to time.
- 29.12 Where the DSP is reviewing candidates for election under this clause 29, it
- (a) should have regard to which:
 - (1) personal and professional skills (including, but not limited to, financial literacy and corporate governance knowledge and experience);
 - (2) diversity (including, but not limited to gender, ethnicity and age); and
 - (3) experience,it considers will enhance the Board's composition; and
 - (b) will report (via the chair of the DSP, in writing) to:
 - (1) the Minister; and
 - (2) the Members,explaining the process followed, listing the proposed individuals, setting out its recommendations and explaining its rationale.
- 29.13 When making its recommendation of one or more candidates to the Minister under clause 29.12(b)(1), the DSP shall:
- (a) have regard to the number of positions on the Board that require filling; and
 - (b) only recommend a number of candidates equal to the number of positions on the Board that require filling.
- 29.14 The Minister, having considered the recommendations of the DSP under clause 29 and provided to him or her under clause 29.12(b)(1):
- (a) may elect to endorse each person recommended by the DSP; and

- (b) must communicate any endorsement (or lack thereof) to the DSP.
- 29.15 The DSP may, by resolution, appoint any person (subject to clause 28) as a Director, provided that:
- (a) the selected person:
- (1) has been:
- (A) endorsed by the Minister in accordance with clause 29.14;
- (B) approved by Consumer and Business Services as suitable to hold that office; and
- (2) consents to the appointment in writing; and
- (b) the number of Directors does not exceed the maximum number determined under clause 27.
- 29.16 If Consumer and Business Services does not approve the selected person as required by clause 29.15(a)(1)(B), the DSP must meet within fourteen (14) days after receiving a negative response from Consumer and Business Services and select another candidate in the place of that person. For the avoidance of doubt, this clause 29 will apply to that selection and appointment.
- 29.17 Without limiting this clause 29, the endorsement of the Minister and approval of Consumer and Business Services must be obtained in relation to a candidate selected by the DSP under clause 29.16.

30. Term and Tenure

- 30.1 Subject to clause 32.3, each Director shall be appointed for a three (3) year term, unless the Director vacates the office before the expiry of the term.
- 30.2 Subject to this Constitution, a Director's term of office commences upon the later of:
- (a) the passage of the resolution of the DSP occurring in accordance with clause 29.15; and
- (b) the person consenting in accordance with clause 29.15(a)(2).
- 30.3 At the end of a Director's three (3) year term, the Director must retire.
- 30.4 Subject to clause 30.5, a Director who retires under clause 30.3 is eligible to nominate for re-appointment.
- 30.5 Subject to clause 32.3, a person who has served as a Director for a period of three (3) consecutive terms (i.e. nine (9) consecutive years) is not eligible to be elected as a Director until the next Annual General Meeting which is held at least three (3) years after the date of conclusion of their last term as a Director.

31. Vacation of office

- 31.1 The Members may at any time, by resolution passed in General Meeting, remove any Director from office.
- 31.2 In addition to the circumstances in which the office of a Director may become vacant under the Act and this Constitution, the office of a Director becomes vacant if the Director:
- (a) is the subject of circumstances that would cause that person to be ineligible for appointment under clause 28.1 (subject to clause 28.2) if that person was not an existing Director;
 - (b) dies;
 - (c) suffers from mental or physical incapacity;
 - (d) resigns by notice in writing to the Company;
 - (e) is absent without the consent of the Board from meetings of the Board held during a consecutive six (6) month period;
 - (f) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
 - (g) is found guilty or liable by a competent court, tribunal, racing authority or regulatory body, or admitted guilt or liability, in respect of any breach of directors' duties or fiduciary duties, misleading or deceptive conduct or conduct involving dishonesty or a lack of good faith;
 - (h) is convicted of any offence leading to imprisonment;
 - (i) is expelled or suspended from membership of any club that is registered under applicable law as a corporation or incorporated association;
 - (j) was previously the subject of an event described under clauses 31.2(g), 31.2(h) or 31.2(i) and that fact, not having been disclosed earlier, becomes known to the Company; or
 - (k) would otherwise be prohibited from being a director of a corporation under the Act.
- 31.3 The Secretary must externally advertise all Director vacancies.
- 31.4 All applications received by the Company in response to an advertisement for a Director vacancy will be directed to the Secretary.
- 31.5 The Secretary must forward a copy of all applications received by the Company under clause 31.4 to the DSP.

32. Casual Vacancies filled by DSP

- 32.1 The DSP may, subject to clause 32.2, at any time resolve to appoint any person as a Director to fill a casual vacancy, provided that the selected person consents to the appointment.

- 32.2 When making an appointment under clause 32.1, the DSP must:
- (a) prior to the appointment, obtain:
 - (1) the Minister's endorsement of that person; and
 - (2) approval of Consumer and Business Services; and
 - (b) have regard to:
 - (1) its aim under clause 29.2; and
 - (2) the factors listed in clause 29.12(a).
- 32.3 Notwithstanding clause 30.1, any Director appointed to the Board to fill a casual vacancy under this clause 32 holds office for the balance of the relevant three (3) year term (attributable to the Director whose office was vacated), at which time he or she will be eligible to be appointed again in accordance with this Constitution.
- 32.4 Any portion of a three (3) year term served filling a casual vacancy pursuant to this clause 32 shall count as if a full three (3) year term had been served by that Director for the purposes of a person's maximum tenure under clause 30.5.

33. Director Remuneration

- 33.1 The Board will be paid the aggregate remuneration that the Members determine by resolution.
- 33.2 Each Director's remuneration, which shall be a portion of the aggregate remuneration determined under clause 33.1, shall be as determined by the Members.
- 33.3 If requested by the relevant Director(s), the Company must pay the reasonable travelling and other expenses that are properly incurred by the Directors:
- (a) in attending Board Meetings or any meetings of committees;
 - (b) in attending any General Meetings of the Company; and
 - (c) in connection with the Company's business.
- 33.4 A Director may be paid for services rendered to the Company in a professional or technical capacity, only if:
- (a) the provision of the service has been unanimously approved by a resolution of the Board; and
 - (b) the amount payable is on reasonable commercial terms and has been unanimously approved by a resolution of the Board.

Part 5: Powers of the Board

34. General Powers

- 34.1 The business of the Company is managed by or under the direction of the Board.

- 34.2 The Board may exercise all the powers of the Company except any powers that the Act or this Constitution requires the Company to exercise in General Meeting.
-

35. The Seal and Execution of Documents

- 35.1 Subject to clause 36, the Company may only execute a document if authorised by the Board to do so.
- 35.2 The Company may execute a document without using its Seal if the document is signed by:
- (a) two Directors of the Company; or
 - (b) a Director and a Secretary of the Company.
- 35.3 This clause 35 does not limit the ways in which the Company may execute a document (including a deed).
-

36. Negotiable Instruments

Notwithstanding clause 35, the Board may decide how negotiable instruments (including cheques) may be signed, drawn, accepted, endorsed or otherwise executed.

37. Board may Delegate to Committees

- 37.1 Any of the powers of the Board (other than powers which must by law be dealt with by Directors as a board) may be delegated by the Board to a committee consisting of such persons as the Board thinks fit. Any such delegation may be made upon such terms and conditions and subject to such restrictions as the Board thinks fit. The Board may at any time withdraw or vary any such powers.
- 37.2 A committee to which any powers have been delegated by the Board must exercise the powers in accordance with any directions given by the Board.
- 37.3 Unless the Board has determined which member of a committee is to be chairperson of meetings of the committee, the members of a committee may elect one of their number as chairperson. If a meeting of a committee is held and:
- (a) a chairperson has not been determined by the Board or elected by the members of the committee; or
 - (b) the chairperson is not present within ten (10) minutes after the time appointed for the holding of the meeting or is unable or unwilling to act,
- the members involved may elect by a simple majority one of their number to be chairperson of the meeting.
- 37.4 A committee may meet and adjourn as it thinks fit.
- 37.5 Questions arising at a meeting of a committee are to be determined by a majority of votes of the members involved and voting.
-

38. Board may Appoint an Attorney or Agent

- 38.1 The Board may appoint any person to be the attorney or agent of the Company for any purpose, for any period and on any terms (including as to remuneration) the Board decides.
- 38.2 The Board may delegate any of its powers (including the power to delegate) to an attorney or agent.
- 38.3 The Board may revoke or vary:
- (a) the appointment of an attorney or agent; or
 - (b) any power delegated to an attorney or agent.

Part 6: Proceedings of Directors

39. Proceedings Generally

- 39.1 Subject to this Constitution and all applicable laws, the Board may (acting reasonably) decide its own procedure from time to time.
-

40. Board Meetings

- 40.1 The Board shall meet at least every three (3) months but may meet more often if it deems necessary or appropriate.
- 40.2 On the request of any Director, the Secretary must call a Board Meeting.
- 40.3 Notice of a Board Meeting must:
- (a) be given to each Director;
 - (b) specify the day, time and place of the meeting;
 - (c) state the business to be transacted (noting that each Board Meeting must include a review of the progress to date against the Annual Budget for that financial year in accordance with clause 49.3); and
 - (d) be given a reasonable time before the Board Meeting.
-

41. Board Meetings by Technology

- 41.1 A Board Meeting may be held using any technology consented to by all the Directors. The consent may be a standing one. A Director may only withdraw consent within a reasonable period before the meeting.
-

42. Quorum

- 42.1 At a Board Meeting:
- (a) the number of Directors whose presence is necessary to constitute a quorum is at least fifty-one percent (51%) of the Directors entitled to vote; and

- (b) no business may be conducted unless a quorum is present.
-

43. Chairperson and Deputy Chairperson

43.1 At the first Board Meeting following an Annual General Meeting the Board must elect:

- (a) a Director as Chairperson; and
(b) a Director as Deputy Chairperson,

who will each hold office until the Board Meeting following the next Annual General Meeting, at which they shall be eligible for re-election subject to clause 43.5.

43.2 The decisions made under clause 43.1 shall be by simple majority of the Board, and each Director shall be entitled to one vote (and the Chairperson shall not have a casting vote).

43.3 Following each Annual General Meeting, the existing Chairperson shall act as Chairperson until the election referred to in clause 43.1 has taken place and a new Chairperson and Deputy Chairperson are elected. The new Chairperson and Deputy Chairperson will commence their roles immediately following that election. Until the election referred to in clause 43.1 has taken place and a new Chairperson and Deputy Chairperson are elected:

- (a) the existing Chairperson shall act as Chairperson;
(b) if the existing Chairperson vacated office as a Director at the Annual General Meeting, the existing Deputy Chairperson shall act as Chairperson; or
(c) if both the existing Chairperson and the existing Deputy Chairperson each vacated office as a Director at the Annual General Meeting, a Director shall be appointed by the Directors present at that Annual General Meeting to act as Chairperson until the election referred to in clause 43.1 has taken place.

43.4 The Chairperson or, in the Chairperson's absence, the Deputy Chairperson, is to chair any Board Meeting.

43.5 No Director may hold the office of Chairperson or Deputy Chairperson for longer than eight (8) consecutive years.

43.6 Where a Board Meeting is held and:

- (a) neither a Chairperson nor a Deputy Chairperson has been elected as provided by clause 43.1; or
(b) the Chairperson and Deputy Chairperson are not present at the time appointed for the holding of the meeting,

the Board shall elect by simple majority another Director to be chair of the meeting.

44. Decisions of Directors

44.1 Subject to the Act, each Director has one vote.

44.2 A resolution of the Board is passed by a majority of votes cast.

- 44.3 The Chairperson shall not have a casting vote, in addition to his or her personal deliberative vote.

45. Circulating Resolutions

45.1 If a document:

- (a) is sent to all those entitled to receive notice of a Board Meetings at which a resolution could be put;
- (b) contains the terms of a resolution and a statement that the signatories to it are in favour of that resolution; and
- (c) has been signed by a majority of the Directors entitled to vote on that resolution,

a resolution in those terms is passed on the day on which and at the time at which the document was signed by a majority of Directors and the document has effect as a minute of the resolution.

45.2 For the purposes of clause 45.1:

- (a) two or more separate documents containing statements in identical terms each of which is signed by one or more Directors shall together be taken to constitute one document containing a statement in those terms signed by those Directors at the time at which the last of those documents to be signed was signed by a Director; and
- (b) a document which is received by the Company or an agent of the Company by email or other electronic means and is sent for or on behalf of a Director shall be taken to be a document signed by that Director not later than the time of receipt of the document (according to the relevant time displayed on the email, or other document, in the absence of manifest tampering or malfunction) by the Company or its agent in legible form.

46. Conflicts of Interest

46.1 If a Director, or any Associate or Related Entity of a Director:

- (a) has a material personal interest in a matter that relates to the affairs of the Company;
- (b) has in any way, whether directly or indirectly, a material interest in any potential, proposed or actual contract or arrangement with the Company; or
- (c) holds any office or position or possesses any interest in any enterprise or property which might give rise, whether directly or indirectly, to any perception of a material conflict with the Director's duties or interests as a Director,

the Director must, as soon as is practicable, declare:

- (d) at a meeting of the Board;
- (e) if all of the Directors have the same conflict of interest, to the Members at the next General Meeting; or

- (f) at an earlier time if reasonable to do so,
that fact and the nature and extent of the interest, position, property or material conflict.
- 46.2 A Director who is required to give a notice pursuant to clause 46.1 may satisfy the particular requirement by giving to the Board a standing notice which gives details of the nature and extent of the interest, position, property or conflict (whether or not the matter relates to the affairs of the Company at the time the notice is given).
- 46.3 The disclosure of a conflict of interest by a Director must be recorded in the minutes of the Board Meeting (or circular resolution) or General Meeting, as the case may be.
- 46.4 Each Director who has given, or is required to give, notice under clause 46.1 or 46.2 must not, except as provided under clause 46.7:
- (a) be present at the Board Meeting while the matter is being discussed, or
 - (b) vote on the matter (at a Board Meeting or by way of circular resolution).
- 46.5 A Director must not be counted in the quorum present at any Board Meeting at any time that the Director is not entitled to be present or to vote at a Board Meeting.
- 46.6 A Director may not participate in the execution of any instrument by or on behalf of the Company and whether through signing or sealing the instrument or otherwise in respect of any matter in respect of which the Director is not entitled to be present or to vote at a meeting of the Board.
- 46.7 Notwithstanding clause 46.4, a Director may still be present at the meeting and vote if:
- (a) their interest arises because they are a Member of the Company, and the other Members have the same interest;
 - (b) their interest relates to an insurance contract that insures, or would insure, the director against liabilities that the director incurs as a director of the company;
 - (c) their interest relates to a payment by the company under clause 54, or any contract relating to an indemnity that is allowed under the Act;
 - (d) the Australian Securities and Investments Commission makes an order allowing the Director to vote on the matter, or
 - (e) the Directors who do not have a material personal interest in the matter pass a resolution that:
 - (1) identifies the Director, the nature and extent of that Director's interest in the matter requiring disclosure and how it relates to the affairs of the Company, and
 - (2) provides that those Directors are satisfied that the matter requiring disclosure should not disqualify the Director from being present or voting.
- 46.8 If a contract or arrangement required to be disclosed in accordance with clause 46.1 is not so disclosed, then:

- (a) any such contract or arrangement may be avoided by the Company; and
- (b) the relevant Director is liable to account to the Company for any profit arising from any such contract or arrangement.

Part 7: Officers

47. Chief Executive Officer

- 47.1 The Board may appoint a person as Chief Executive Officer for any period and on any terms (including remuneration) as the Board decides.
- 47.2 Subject to any agreement between the Company and the Chief Executive Officer, the Board may remove or dismiss the Chief Executive Officer at any time, with or without cause.
- 47.3 The Board may:
 - (a) delegate to the Chief Executive Officer any of the powers exercisable by it, on such terms and conditions and with such restrictions as it thinks fit;
 - (b) may at any time withdraw or vary any of the powers delegated under clause 47.3(a); and
 - (c) authorise the Chief Executive Officer to subdelegate any powers delegated to it under clause 47.3(a) to an officer of the Company upon such terms and conditions, and subject to such limits, as the Board thinks fit.
- 47.4 The Chief Executive Officer must exercise the powers delegated subject to any directions of the Board. The effect of the Chief Executive Officer exercising a power in this way is the same as if the Board exercised it.
- 47.5 The Chief Executive Officer may attend but not vote at meetings of the Board.

48. Secretary

- 48.1 The Board may appoint one or more Secretary, for any period and on any terms (including as to remuneration) the Board decides.
- 48.2 Subject to any agreement between the Company and the Secretary, the Board may remove or dismiss the Secretary at any time, with or without cause.
- 48.3 Unless the Board otherwise decides, the Secretary will be the public officer of the Company.

Part 8: Annual Budget and Strategic Plan

49. Annual Budget

- 49.1 Each financial year the Board must develop a budget for that financial year, in accordance with generally accepted accounting principles, which must be included in the Strategic Plan for that financial year and set out information relevant to, among other relevant matters, the Company's:
 - (a) expected revenue from any material revenue sources; and

(b) anticipated expenses attributable to any material expense categories,

including but not limited to any identified sources of revenue or categories of expense identified in the Company's annual report for the prior financial year.

49.2 When developing the Annual Budget each year, the Board shall:

(a) at a reasonable time prior to the commencement of each financial year, provide a draft of the Annual Budget to Members for comment and feedback;

(b) consider any comment and feedback;

(c) without being required to follow or adopt any comments and feedback if the Board does not consider it reasonable to do so, finalise the Annual Budget prior to the commencement of the financial year; and

(d) provide a copy to Members, after the Annual Budget has been finalised in accordance with clause 49.2(c).

49.3 At all Board Meetings, the Board shall review progress to date against the Annual Budget for that financial year.

49.4 At the Annual General Meeting, the Members shall review progress to date against the Annual Budget for that financial year.

50. Strategic Plan

50.1 In pursuit of the Company's objects under clause 4, each financial year the Board must develop and operate under a strategic plan for that financial year and the following four (4) financial years.

50.2 The Strategic Plan is to be updated each financial year.

50.3 Each Strategic Plan shall, without limitation, address the following matters:

(a) Annual Budget for that financial year;

(b) a rolling five (5) year budget which encompasses the Annual Budget in clause 50.3(a) and the subsequent four (4) years;

(c) the number of:

(1) metropolitan;

(2) provincial/country; and

(3) non-TAB,

race meetings each year, for the five-year period covered by the Strategic Plan;

(d) the number of:

(1) metropolitan;

(2) provincial/country; and

(3) non-TAB,

paces each year, for the five-year period covered by the Strategic Plan;

(e) information relevant to:

(1) any government funding to be received by the Company;

(2) changes, or potential changes, to taxes or tax rates which may affect the Company;

(3) capital expenditure or infrastructure developments to be undertaken, or proposed to be undertaken, by the Company during the five (5) year period covered by the Strategic Plan; and

(4) prizemoney contributions made by the Company;

(f) establishing key performance indicators for the coming financial year;

(g) reviewing and considering the prior financial year's results against the key performance indicators which were established in the prior year's Strategic Plan; and

(h) any other information relevant to the Company's:

(1) pursuit of each of the specific objects outlined in clause 6; and

(2) achievement of the budgets referred to in this clause 50.3,

for the five-year period covered by each Strategic Plan.

50.4 At the Annual General Meeting, the Members shall review progress to date against the:

(a) Strategic Plan; and

(b) key performance indicators in the Strategic Plan,

for that financial year.

Part 9: Racing Appeal Tribunal

51. Company shall maintain a Tribunal

51.1 The Company shall at all times maintain a properly constituted racing appeals tribunal, which is either:

(a) established jointly with GRSA, HRSA and RSA; or

(b) if not established jointly with GRSA, HRSA, and RSA: established by the Company and adopting a composition and rules similar to and consistent with the Racing Appeal Tribunal and Racing Appeal Tribunal Rules.

Part 10: Administration

52. Financial Year

52.1 The financial year of the Company is the 12-month period beginning on 1 July each year.

53. Books and Minutes

53.1 Subject to the Act, the Company may prepare and store their Books electronically.

53.2 The Company must enter the following documents into its Books as soon as practicable (but no later than one month) after the relevant meeting having occurred or resolution considered:

- (a) proceedings and resolutions of meetings of the Members;
- (b) proceedings and resolutions of Board Meetings;
- (c) proceedings and resolutions of meetings of committees;
- (d) proceedings and resolutions of the DSP;
- (e) resolutions passed by Members without a meeting;
- (f) resolutions passed by Board without a meeting.

53.3 The Company must ensure that minutes of a General Meeting or a Board Meeting are signed within a reasonable time of the meeting by the chair of the meeting. Such minutes shall be signed in "wet ink", as a hard copy, prior to any electronic storage of those minutes occurring.

53.4 A Member is not entitled to inspect the Books, unless authorised by:

- (a) the Board;
 - (b) the Company in General Meeting; or
 - (c) the Act.
-

54. Indemnity and Insurance

(a) The Company is to indemnify each officer of the Company out of the assets of the Company to the relevant extent against any liability incurred by the officer in or arising out of the conduct of the business of the Company or in or arising out of the discharge of the duties of the officer.

(b) Where the Board considers it appropriate, the Company may execute a documentary indemnity in any form in favour of any officer of the Company;

(c) Where the Board considers it appropriate, the Company may:

- (1) make payments by way of premium in respect of any contract effecting insurance on behalf of or in respect of an officer of the Company against any liability incurred by the officer in or arising out of the conduct of the

business of the Company or in or arising out of the discharge of the duties of the officer; and

- (2) bind itself in any contract or deed with any officer of the Company to make the payments.
- (d) Where the Board considers it appropriate, the Company may give a former Director access to certain papers, including documents provided or available to the Board and other papers referred to in those documents; and
- (e) In this clause 54:
- (1) **officer** means:
 - (A) a Director or Secretary, Chief Executive Officer or employee; or
 - (B) a person appointed as a trustee by, or acting as a trustee at the request of, the Company,and includes a former officer.
 - (2) **duties of the officer** includes, in any particular case where the Board considers it appropriate, duties arising by reason of the appointment, nomination or secondment in any capacity of an officer by the Company.
 - (3) **to the relevant extent** means:
 - (A) to the extent the Company is not precluded by law from doing so;
 - (B) to the extent and for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including, but without limitation, an insurer under any insurance policy); and
 - (C) where the liability is incurred in or arising out of the conduct of the business of another corporation or in the discharge of the duties of the officer in relation to another corporation, to the extent and for the amount that the officer is not entitled to be indemnified and is not actually indemnified out of the assets of that corporation.
 - (4) **liability** means all costs, charges, losses, damages, expenses, penalties and liabilities of any kind including, in particular, legal costs incurred in defending any proceedings (whether criminal, civil, administrative or judicial) or appearing before any court, tribunal, government authority or other body.

55. Notices

55.1 Notices must be in writing and may be given by an authorised representative of the sender.

- 55.2 The Company may give notice to a Member:
- (a) personally;
 - (b) by sending it by post to the address of the Member in the Register;
 - (c) by sending it to the email address nominated by the Member from time to time.
- 55.3 The Company may give notice to a Director:
- (a) personally;
 - (b) by sending it by post to the Director's usual residential or business address or any other address nominated by them; or
 - (c) by sending it to the email address nominated by the Director from time to time.
- 55.4 A notice sent by post within Australia is taken to be given six (6) Business Days after posting.
- 55.5 A notice sent by post to or from a place outside Australia is taken to be given seven (7) Business Days after posting.
- 55.6 Where a notice is sent by email or other electronic transmission, service of the notice shall be taken to be effected by properly addressing and sending the notice and to have been effected on the day it is sent.

56. Transitional Provisions

- 56.1 For the purpose of determining when the term or tenure ends for each Director in office on the day on which this Constitution is adopted:
- (a) time served in the Director's current term will be counted as if this Constitution had been in place at the commencement of that Director's current term;
 - (b) notwithstanding clause 30.5, subject to this Constitution (other than clause 30.5) any person who is a Director at the time this Constitution is adopted may serve as a Director for a further three (3) consecutive years even if that Director has already served for a period of up to nine (9) consecutive years at the time this Constitution was adopted; and
 - (c) notwithstanding clause 56.1(b), where, at the time this Constitution is adopted, a Director has served for:
 - (1) a period of twelve (12) or more consecutive years, that Director must vacate their office in accordance with clause 56.1(d); and
 - (2) a period of nine (9), but less than twelve (12), consecutive years, that Director may serve as a Director for a further number of years such that their tenure may not exceed twelve (12) consecutive years. A Director to which this clause 56.1(c)(2) applies must vacate their office at the relevant Annual General Meeting.
 - (d) notwithstanding any other provision of this Constitution (including clause 27.1), a Director to which clause 56.1(c)(1) applies must:

- (1) if this Constitution is not adopted at an Annual General Meeting:
 - (A) vacate their office no later than six (6) months following the next Annual General Meeting to occur following the adoption of this Constitution (and they shall not be eligible for re-election); and
 - (B) notwithstanding clause 43.1, if the Director occupies the position of Chairperson or Deputy Chairperson, step down as Chairperson or Deputy Chairperson, as the case may be, at the conclusion of the next Annual General Meeting to occur following the adoption of this Constitution and another Director (to which clause 56.1(c)(1) does not apply) shall be appointed by the Directors, at a Board Meeting to be convened immediately following the conclusion of that Annual General Meeting, to the role of Chairperson and / or Deputy Chairperson, as the case may be, until the first Board Meeting to occur after the next Annual General Meeting, at which time the election referred to in clause 43.1 will take place; and
- (2) if this Constitution is adopted at an Annual General Meeting:
 - (A) vacate their office no later than six (6) months following the adoption of this Constitution (and they shall not be eligible for re-election); and
 - (B) if the Director occupies the position of Chairperson or Deputy Chairperson, immediately step down as Chairperson or Deputy Chairperson, as the case may be, upon adoption of this Constitution and another Director (to which clause 56.1(c)(1) does not apply) shall be appointed by the Directors present at the Annual General Meeting at that time to act as Chairperson and / or Deputy Chairperson, as the case may be, until the election referred to in clause 43.1 has taken place.

56.2 For the avoidance of doubt, notwithstanding clause 27, this clause 56 may result in the Company having more than seven (7) and up to nine (9) Directors for the period of time commencing on the adoption of this Constitution and ending when the Director(s) to which clause 56.1(c)(1) applies vacate their office(s).

Constitution Version Control

Date	Clauses amended	Description of change	General Meeting Date
28/09/2020	All	Constitution replaced in its entirety	28/09/2020