

Constitution

Thoroughbred Racing SA Limited ACN 094 475 939

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Thoroughbred Racing SA Limited

ACN 094 475 939

Constitution

Part 1 - Preliminary

1. Name

The Company is Thoroughbred Racing SA Limited.

2. Nature of Company

The Company is a public company limited by guarantee.

3. Replaceable rules

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

4. Objects

The objects of the Company are:

- (a) to encourage thoroughbred horse racing;
- (b) to increase owners' returns from participation in thoroughbred horse racing in South Australia;
- (c) to be the controlling body for thoroughbred horse racing in South Australia and to regulate and control the conduct of thoroughbred horse racing and races in South Australia;
- (d) the preservation and fostering of the ideals and traditions of thoroughbred horse racing and thoroughbred horse breeding in South Australia;
- (e) to enhance and promote all other aspects of thoroughbred horse racing by providing an efficient and effective wagering environment;
- (f) to make thoroughbred horse racing more attractive in South Australia;
- (g) to oversee the financial position of all South Australian racing clubs and members;
- (h) to ensure that there exists a working relationship with all levels of government;
- (i) to effectively market South Australian thoroughbred horse racing.

5. 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 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 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 and stable hands;
- (l) to represent South Australia on the Australian Racing Board and other national racing forums;
- (m) to engage handicappers, racing stewards and racing managers;
- (n) to provide assistance to racing clubs in marketing, sponsorship matters, areas of 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;
- (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, 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 do all such acts, deeds, matters and things and to enter into and make such agreements are as incidental or conducive to the attainment of the objects of the Company; and
- (x) subject to this constitution, to exercise any powers authorised by the Corporations Act.

6. Limited liability

- 6.1 The liability of members is limited.
- 6.2 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.

However, no present member or past member need contribute more than \$2.00.

- 6.3 On a winding up, any surplus must be given to an institution:
 - (a) which has objects similar to the Company's objects; and
 - (b) which cannot distribute its income and assets to its members.

The members may decide the institution. If they do not do so, the Supreme Court of South Australia may decide the institution.

- 6.4 If the previous subclause cannot be given effect, on a winding up, any surplus must be given to a public university or charitable public institution.

7. No distribution to members

- 7.1 The Company's income and assets must be used solely to promote the Company's objects.
- 7.2 The Company must not pay or distribute any profits, income or assets to the members.
- 7.3 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

8. Existing members

The existing members of the Company are South Australian Jockey Club Incorporated and South Australian Racing Clubs' Council Incorporated.

9. Additional members

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.
-

10. Resignation

10.1 A member may resign membership by giving notice of resignation to the Company.

10.2 The company secretary must record the resignation in the register of members.

11. Termination

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

12. Annual general meeting

The Company must hold an annual general meeting no later than 31 October in each year.

13. Who may call meetings of members

13.1 The Directors may call a meeting of members, when and where the Directors decide.

13.2 The Directors must call a meeting of members when requested by the members specified in the Corporations Act.

13.3 The members specified in the Corporations Act may call a meeting of members.

14. How to call meetings of members

- 14.1 At least one month's notice must be given of a general meeting. However, unless prohibited by the Corporations 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 agree beforehand; and
 - (b) any other general meeting, if members with at least 95% of the votes that may be cast at the meeting agree beforehand.
- 14.2 Notice of a meeting must be given to members, Directors and the auditor.
- 14.3 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 resolution;
 - (d) contain a statement that the member has the right to appoint a proxy; and
 - (e) contain anything else required by the Corporations Act.
- 14.4 The business of the annual general meeting may include any of the following, even if not referred to in the notice of meeting:
- (a) the 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 total amount of the remuneration of the Directors;
 - (d) the appointment of the auditor.
- 14.5 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. Quorum

- 15.1 A quorum for a meeting of members is two members entitled to vote. The quorum must be present at the beginning of the meeting.

- 15.2 In determining whether a quorum is present, the chairman must count members, proxies, attorneys, and body corporate representatives entitled to vote.
- 15.3 If a quorum is not present within 30 minutes after the time appointed for the 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.
- 15.4 If a quorum is not present within 30 minutes after the time appointed for a meeting resumed after an adjournment, the meeting is dissolved.
-

16. Chairman

- 16.1 The chairman of Directors is entitled to chair all meetings of members.
- 16.2 If there is no chairman of Directors, or if the chairman is not present within 10 minutes after the time appointed for the meeting or is unable or unwilling to act, the deputy chairman of Directors may chair the meeting. If there is no deputy chairman, or if the deputy chairman 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.
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17. Regulation of meetings

The chairman may regulate the meeting of members in any way consistent with this constitution.

18. Adjournment

- 18.1 The chairman may adjourn a meeting of members to any day, time and place.
- 18.2 The chairman must adjourn a meeting of members if the members present with a majority of votes at the meeting agree or direct the chairman to do so. The chairman may adjourn the meeting to any day, time and place.
- 18.3 When a meeting is adjourned, new notice of the resumed meeting must be given if the meeting is adjourned for more than a month.
- 18.4 Only unfinished business is to be transacted at a meeting resumed after an adjournment.
-

19. How members make decisions at meetings

- 19.1 A meeting of members makes a decision by passing a 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 (unless this constitution or the law requires a special resolution).
- 19.2 A special resolution is passed if:
- (a) the notice of the meeting sets out an intention to propose the special resolution and states the resolution;
 - (b) it is passed by at least 75% of the votes cast by members entitled to vote on the resolution.
-

20. How voting is carried out

- 20.1 Unless a poll is properly requested, a resolution put to the vote at a meeting of members must be decided on a show of hands.
- 20.2 If a poll is properly requested, the result of the poll is the resolution of the meeting.
- 20.3 A declaration by the chairman that a resolution is passed, or passed by a particular majority, or lost, and an entry to that effect in the minutes, are sufficient evidence of that fact, unless proved incorrect.

21. Polls

- 21.1 A poll may be requested on any resolution.
- 21.2 A poll may be requested by:
- (a) a member entitled to vote on the resolution; or
 - (b) the chairman.
- 21.3 The poll may be requested:
- (a) before a vote is taken;
 - (b) before the voting results on a show of hands are declared; or
 - (c) immediately after the voting results on a show of hands are declared.
- 21.4 A request for a poll may be withdrawn.
- 21.5 A poll requested on a matter other than the election of a chairman or the question of an adjournment must be taken when and how the chairman directs.
- 21.6 A poll on the election of a chairman or the question of an adjournment must be taken immediately.
- 21.7 A request for a poll does not prevent the meeting dealing with other business.

22. How many votes a member has

- 22.1 At a general meeting:
- (a) on a show of hands, each member present has one vote; and
 - (b) on a poll, each member present has one vote.
- 22.2 The chairman does not have a casting vote.
- 22.3 The chairman or other person 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 meeting of members may only be made:
- (a) before the meeting, to the Directors; or
 - (b) at the meeting, to the chairman of the meeting.
- 23.2 The challenge must be decided by the Directors or the chairman (as the case may be). The Directors' decision or the chairman's decision is final.

24. Proxies, attorneys and representatives

- 24.1 A member, who is entitled to vote at a meeting of members, may vote on a show of hands and on a poll
- by its representative, or by one proxy or one attorney.
- 24.2 A member may appoint a proxy, attorney or representative for all or for particular meetings of members.
- 24.3 An appointment of a proxy, attorney or representative must be in a form approved by the Directors.
- 24.4 An appointment of a proxy is valid if it is signed by the member making the appointment and it contains the following information:
- (a) the member's name and address;
 - (b) the Company's name;
 - (c) the proxy's name or the name of the office held by the proxy;
 - (d) the meetings at which the appointment may be used.
- The Directors may decide to accept a proxy even if it contains only some of that information.
- 24.5 Unless otherwise specified in the appointment, the proxy, attorney or representative may:
- (a) agree to short notice for the meeting;
 - (b) even if the appointment directs how to vote on a particular resolution:
 - (1) vote on an amendment to the particular resolution, a motion not to put the particular resolution or any similar motion;
 - (2) vote on a procedural motion, including a motion to elect the chairman, to vacate the chair or adjourn the meeting;
 - (c) speak at the meeting;
 - (d) vote (but only to the extent allowed by the appointment);
 - (e) request or join in a request for a poll.
- 24.6 If a person represents two or more members, that person has only one vote on a show of hands.

- 24.7 A later appointment of a proxy or attorney revokes an earlier one if both appointments could not be validly exercised at the meeting.
- 24.8 An appointment may specify the way a proxy or attorney is to vote on a particular resolution. A proxy may vote only as directed.
- 24.9 An appointment of a proxy is effective only if the Company receives the appointment (and any authority under which the appointment was signed or certified copy of the authority) at least 48 hours before the meeting or resumed meeting, unless the Directors decide to reduce that time. The Company receives an appointment or authority when it is received at any of the following:
- (a) the Company's registered office;
 - (b) a fax number at the Company's registered office;
 - (c) a place, fax number or electronic address specified for the purpose in the notice of meeting.
- These requirements also apply to an appointment of an attorney.
- 24.10 Unless the Company receives written notice of the matter before the start or resumption of a meeting, a vote by a proxy, attorney or representative is valid even if:
- (a) the member is a body corporate, and is deregistered or becomes an externally-administered body corporate;
 - (b) the appointment of the proxy, attorney or representative is revoked; or
 - (c) the member revokes the authority under which the proxy was appointed by a third party.
- 24.11 A proxy or attorney may take part in a meeting of members even if the appointor or representative is present. However, if the appointor or representative votes on a resolution, the proxy or attorney must not vote.

Part 4 – Directors Selection Panel

25. Directors Selection Panel

- 25.1 The Company will have a Directors Selection Panel.
- 25.2 The Directors Selection Panel will be comprised of three people to be appointed as follows:
- (a) one member appointed by South Australian Jockey Club Incorporated;
 - (b) one member appointed by South Australian Racing Clubs' Council Incorporated;
 - (c) one member appointed by agreement of the members appointed under clauses 25.2(a) and 25.2(b) from three (3) independent professional business people, one (1) of whom must be a senior human resources professional, nominated to the company secretary by the chairman for the time being of the Company and, in default of agreement, by the drawing of a lot between the three nominees; and
 - (d) once formed the Directors Selection Panel must elect a chairman of the panel.
- 25.3 A person who is or has been a director of the Company, a committee member or involved in the management of either a racing club or an Industry Stakeholder Group in the three years

before his or her nomination is not eligible to be appointed a member of the Directors Selection Panel under clause 25.2(c).

- 25.4 A quorum for a meeting of the Directors Selection Panel is three members. A quorum must be present at all times during the meeting.
- 25.5 The Directors Selection Panel may engage from time to time a consultant with expertise and experience in human resources to provide recommendations to the Directors Selection Panel in relation to the appointment of Directors.
- 25.6 After consulting with the consultant and any other person which the Directors Selection Panel considers to be appropriate, the Directors Selection Panel must appoint a person or persons to fill any vacancy or vacancies of Directors.
- 25.7 A decision of the Directors Selection Panel is made by a majority of votes cast.
- 25.8 If any of the bodies referred to in clause 25.2 fails to appoint a person to be a member of the Directors Selection Panel, then the members in general meeting must appoint a person so that the Directors Selection Panel always has three members.
- 25.9 Subject to Rules 25.10, 25.12 and 25.13 the Directors Selection Panel may regulate its affairs as it decides.
- 25.10 A member of the Directors Selection Panel ceases to be a member if the member:
- (a) dies;
 - (b) becomes bankrupt or makes any arrangement or composition with the creditors of that member;
 - (c) resigns;
 - (d) by reason of the Corporations Act or any other legislation, is prohibited from being a director of a company;
 - (e) becomes of unsound mind or a person whose person or estate is liable to be dealt with under the law relating to mental health;
 - (f) fails to attend any two consecutive meetings of the Directors Selection Panel without the leave of the Directors Selection Panel;
 - (g) the nomination of that person is withdrawn by the entity which nominated that person to the Directors Selection Panel; or
 - (h) in the case of the member appointed under clause 25.2(c), one of the other members of the Directors Selection Panel, by written notice to the company secretary before 28 February each year, requests his or her removal.
- 25.11 Nominations made by the chairman to the company secretary in accordance with Rule 25.2(c) must be given to the company secretary within one calendar month.
- 25.12 The Directors Selection Panel must make and maintain a record of decisions of Directors Selection Panel members' meetings.
- 25.13 The chairman of the meeting of the Directors Selection Panel must circulate the record of each decision made in accordance with Rule 25.12 to members of the Directors Selection Panel within a reasonable time after the meeting for approval and once approved must be signed by the chairman.

Part 5 - Directors

26. Number of directors

26.1 There must be seven directors.

27. Qualifications of directors

27.1 Of the Directors to be appointed under Rule 28:-

- (a) one must be a qualified legal practitioner;
- (b) one must be experienced in financial management;
- (c) It is preferable that all Directors including the Directors referred to in subparagraphs (a) and (b) above have had experience in marketing, and/or business management and/or information technology and/or been involved in the thoroughbred horse racing and/or breeding industries.

27.2 A person who is a committee member or involved in the management of either a racing club or an Industry Stakeholder Group or any staff of TRSA is not eligible to be appointed a director.

27.3 A person who is or becomes a licence holder or permit holder under the Australian Rules of Racing is not eligible to be or remain a director.

27.4 The appointment of a person as a director will not take effect unless and until the Independent Gambling Authority has approved that person as suitable to hold such a position.

27.5 If the appointment of a person as a director is not approved by the Independent Gambling Authority, the members must meet within fourteen (14) days and select another candidate in the place of that person.

28. Appointment of Directors

28.1 Subject to clause 29, the Directors of the Company will be appointed by the Directors Selection Panel.

28.2 The company secretary must externally advertise all director vacancies.

28.3 All applications received by the Company in response to an advertisement for a director vacancy will be directed to the company secretary.

28.4 The company secretary must forward a copy of all applications received by the Company under Rule 28.3 to:

- (a) The Directors Selection Panel;
- (b) The Chief Executive Officer of the South Australian Jockey Club Incorporated; and
- (c) The Executive Officer of the South Australian Racing Club' Council Incorporated.

28.5 Except in the case of a casual vacancy, all appointments after the Initial Appointments must be appointed by the Directors Selection Panel at least one month before the annual general meeting at which the term of the retiring Director expires, the appointment taking effect from the close of the annual general meeting.

- 28.6 Where a casual vacancy arises in the Directors, the Directors Selection Panel must:
- (a) appoint a person to fill the vacancy for the remainder of the term of the former director whose vacancy the appointee fills; and
 - (b) ensure that the appointee meets the appointment criteria of the former director.
-

29. Initial Appointment

On the adoption of this constitution, the Directors are:

- (a) Brian Thomas Morris
 - (b) Gregory Colin Boulton
 - (c) Peter David Pedler
 - (d) Andrew John Killey
 - (e) David Wayne Rasheed
 - (f) Eleanor Frances Nelson QC
 - (g) Philip Roy Bentley
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30. Term

- 30.1 At each annual general meeting held in the period of 2016 to 2018 (inclusive) the directors must retire in accordance with the following:
- (a) at least three of the directors must retire at the annual general meeting held in 2016;
 - (b) at least four of the directors must retire at the annual general meeting held in 2017; and
 - (c) at least two of the directors must retire at the annual general meeting held in 2018.
- 30.2 At each annual general meeting held in 2019 and thereafter the directors must retire in accordance with the following three year rotation:
- (a) at least three of the directors must retire at the first annual general meeting after the commencement of this Rule;
 - (b) at least two of the directors must retire at the second annual general meeting after the commencement of this Rule;
 - (c) at least two of the directors must retire at the third annual general meeting after the commencement of this Rule; and
 - (d) in each consecutive three year period commencing immediately after the third annual general meeting referred to in Rule 30.2 (c) the number of directors to retire at an annual general meeting will be determined by applying Rules 30.2 (a) to 30.2 (c) to that three year period as if the words “after the commencement of this Rule” were replaced with the words “held after the commencement of each consecutive three year period”.

- 30.3 Of the four directors appointed in 2017, two directors will be appointed for a term of one year and the remaining two directors will be appointed for a term of three years as determined by the Directors Selection Panel; after which time that director must retire.
- 30.4 The directors who must retire at each annual general meeting under Rules 30.1 and 30.2 will be the directors who have been longest in the office since last being appointed. Where directors were appointed on the same day, the director(s) to retire will be appointed by lot unless otherwise agreed.
- 30.5 Other than a director appointed to fill a casual vacancy, a directors term of office starts at the end of the annual general meeting at which they were appointed and ends at the end of the annual general meeting at which they retire.
- 30.6 A director who retires under Rule 30.1 or 30.2 or 30.3 may nominate for re-appointment.

31. Vacation of office

A director ceases to be a director if:

- (a) the Corporations Act so provides;
- (b) the director resigns by notice to the Company;
- (c) the director is absent, without the consent of the Directors, from two Directors' meetings over any 12 month period;
- (d) the director becomes mentally incapable and the director's estate or property has had a personal representative or trustee appointed to administer it.

32. Remuneration

- 32.1 The total remuneration of the Directors will be fixed by the members at the time of adoption of the constitution and will be fixed for two years.
- 32.2 Subject to clauses 32.1 and 32.4, the remuneration of the Directors will be fixed by the members.
- 32.3 The remuneration fixed by the members will be fixed for two years and thereafter be reviewed annually by not later than 31 January in each year with such review to take effect from 1 July next following. The members may recommend, following review, that the remuneration not be increased.
- 32.4 The Company must not increase the total amount of the Director's remuneration without the approval of the members.
- 32.5 The Company must pay travelling and other expenses that a director properly incurs on the Company's business.
- 32.6 A Director may be paid for services rendered to the Company in a professional or technical capacity, provided:
- (a) that the service has the prior approval of the Directors; and
 - (b) the amount payable is on reasonable commercial terms and approved by the Directors.

- 32.7 If the members fail to agree on the remuneration to be paid to Directors under Rules 32.2 and 32.3, the matter of such remuneration must be referred to the Directors Selection Panel which must then make such determination.

33. Director's interests

- 33.1 Subject to the Corporations Act, a director may:
- (a) hold an office or place of profit (except as auditor) in the Company, on any terms the Directors decide;
 - (b) hold an office or otherwise be interested in any related body corporate or other body corporate in which the Company is interested;
 - (c) retain benefits for doing so.
- 33.2 Subject to the Corporations Act:
- (a) a director who has a material personal interest in a matter that is being considered at a Directors' meeting:
 - (1) may be present while the matter is being considered at the meeting;
 - (2) may be counted in a quorum for a meeting considering the matter;
 - (3) may vote on the matter;
 - (b) a director (or a Spouse, parent or child of a director, or any entity in which a director or a Spouse, parent or child of a director has an interest) may contract or make an arrangement with the Company (or a related body corporate or a body corporate in which the Company is interested) in any matter in any capacity;
 - (c) a director may sign for the Company, or attest the affixing of the common seal to, any document in respect of that contract or arrangement;
 - (d) a director may retain benefits under that contract or arrangement;
 - (e) the Company cannot avoid that contract or arrangement because of the director's interest.

Part 6 - Proceedings of Directors

34. Circulating resolutions

- 34.1 The Directors may pass a resolution without a Directors' meeting being held, if all the directors 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.
- 34.2 Separate copies of a document may be used for signing by directors, if the wording of the resolution and statement is identical in each copy.
- 34.3 The resolution is passed when the last of the directors signs.

35. Meetings

- 35.1 The Directors may meet, adjourn and otherwise regulate their meetings as they decide.

- 35.2 A Directors' 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.
- 35.3 If a Directors' meeting is held by telephone link-up or other contemporaneous audio or audio visual communication, a director is taken to be present unless the director states to the chairman that the director is disconnecting his or her telephone or communication device.
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36. Calling meetings

- 36.1 Any director may call a Directors' meeting.
- 36.2 On the request of any director, the company secretary must call a Directors' meeting.
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37. Notice

- 37.1 Notice of a Directors' meeting must be given to each director.
- 37.2 The notice must:
- (a) specify the day, time and place of the meeting;
 - (b) state the business to be transacted;
 - (c) be given at least 48 hours before the meeting, unless all directors otherwise agree.
- 37.3 Non-receipt of notice of a meeting, or failure to give notice of a meeting to a director or an alternate, does not invalidate anything done at the meeting if:
- (a) the failure was accidental;
 - (b) the director gives notice to the Company that he or she waives the notice or agrees to the thing done at the meeting; or
 - (c) the director attends the meeting.
-

38. Quorum

- 38.1 The quorum for a Directors' meeting is four directors.
- 38.2 The quorum must be present at all times during the meeting.
- 38.3 If there are not enough directors in office to form a quorum, the remaining directors may act only:
- (a) to call a general meeting of the Company; or
 - (b) in an emergency.
-

39. Chairman and deputy chairman

- 39.1 At the first directors meeting following the annual general meeting the directors must elect a director as chairman who will hold office until their successor is elected.
- 39.2 At the first directors meeting following the annual general meeting the directors must elect a director as deputy chairman who will hold office until their successor is elected.
-

- 39.3 Each chairman and/or deputy chairman appointed under Rule 39.1 or 39.2 (as applicable) may hold that position only until the next annual general meeting held by the Company in accordance with Rule 12 and is then deemed to have retired from this position.
- 39.4 A chairman and/or deputy chairman that has retired in accordance with Rule 39.3 is eligible for re-election to the position of chairman and/or deputy chairman.
- 39.5 If the director who is chairman prior to the annual general meeting is not returned as a director at the annual general meeting the directors must elect an acting chairman until such time as the IGA approvals are received.
- 39.6 The directors may remove the chairman or deputy chairman.
- 39.7 The chairman is entitled to chair each Directors' meeting.
- 39.8 If there is no chairman, or if the chairman is not present within 10 minutes after the time appointed for the meeting or is unable or unwilling to act, the deputy chairman may chair the Directors' meeting. If there is no deputy chairman, or if the deputy chairman 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.
- 39.9 If the chairman is unable or unwilling to chair a part of the meeting, the deputy chairman may chair that part. If there is no deputy chairman, or the deputy chairman is unable or unwilling to act, the directors present must elect one of themselves to chair that part.
-

40. Decisions of Directors

- 40.1 Subject to the Corporations Act, each director has one vote.
- 40.2 A resolution of the Directors is passed by a majority of votes cast.
- 40.3 The chairman shall not have a casting vote, in addition to his or her personal deliberative vote.

Part 7 - Directors' powers

41. General powers

- 41.1 The business of the Company is managed by or under the direction of the Directors.
- 41.2 The Directors may exercise all the powers of the Company except any powers that the Corporations Act or this constitution requires the Company to exercise in general meeting.
- 41.3 The Directors must provide the annual plan (if any) and annual budget of the Company to the members for their information and comment 30 clear days prior to the Annual General Meeting of the Company and in any event prior to such annual plan and/or annual budget being approved and adopted by the Directors.
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42. Execution of documents

- 42.1 The Company may execute a document without a common seal if the document is signed by:
- (a) two directors of the Company; or
 - (b) a director and a company secretary of the Company.

- 42.2 If the Company has a common seal, it may execute a document if the seal is fixed to the document and the fixing of the seal is witnessed by:
- (a) two directors of the Company; or
 - (b) a director and a company secretary of the Company.
- 42.3 The Company may execute a document only if authorised by the Directors or by a committee of directors authorised by the Directors to do so.
- 42.4 The Directors may decide, generally or in a particular case, that a director or company secretary may sign certificates for securities of the Company by mechanical or other means.
- 42.5 This clause does not limit the ways in which the Company may execute a document (including a deed).
-

43. Negotiable instruments

The Directors may decide how negotiable instruments (including cheques) may be signed, drawn, accepted, endorsed or otherwise executed.

44. Committees and delegates

- 44.1 The Directors may delegate any of their powers (including this power to delegate) to a committee of directors or directors and members or to one director.
- 44.2 The Directors may revoke or vary that delegation.
- 44.3 A committee or delegate must exercise the powers delegated subject to any directions of the Directors. The effect of the committee or delegate exercising a power in this way is the same as if the Directors exercised it.
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45. Attorney and agent

- 45.1 The Directors 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 Directors decide.
- 45.2 The Directors may delegate any of their powers (including the power to delegate) to an attorney or agent.
- 45.3 The Directors may revoke or vary:
- (a) the appointment; or
 - (b) any power delegated to the attorney or agent.
-

Part 8 - Executive officers

46. Chief executive officer

- 46.1 The Directors may appoint a person as chief executive officer for any period and on any terms (including remuneration) as the Directors decide.
- 46.2 Subject to any agreement between the Company and the chief executive officer, the Directors may remove or dismiss the chief executive officer at any time, with or without cause.
-

- 46.3 The Directors may delegate any of their powers (including the power to delegate) to a chief executive officer.
- 46.4 The Directors may revoke or vary:
- (a) the appointment; or
 - (b) any power delegated to the chief executive officer.
- 46.5 A chief executive officer must exercise the powers delegated subject to any directions of the Directors. The effect of the chief executive officer exercising a power in this way is the same as if the Directors exercised it.
- 46.6 A chief executive officer may attend but not vote at meetings of the Directors.
-

47. Company secretary

- 47.1 The Directors may appoint one or more company secretaries, for any period and on any terms (including as to remuneration) the Directors decide.
- 47.2 Subject to any agreement between the Company and the company secretary, the Directors may remove or dismiss the company secretary at any time, with or without cause.
- 47.3 Unless the Directors otherwise decide, the company secretary is the public officer of the Company.
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48. Indemnity

- 48.1 To the extent permitted by the Corporations Act, the Company:
- (a) must indemnify each person who is or has been an Officer against any liability incurred as an Officer;
 - (b) may pay a premium for a contract insuring an Officer against that liability.
- 48.2 Subject to the Corporations Act, the Company may enter into an agreement or deed with an Officer under which the Company must do all or any of the following:
- (a) keep a set of the Company's books (including minute books) and allow the Officer and the Officer's advisers access to the books for any period agreed;
 - (b) indemnify the Officer against any liability incurred by the Officer as an Officer;
 - (c) keep the Officer insured for any period agreed in respect of any act or omission by the Officer while an Officer.
- 48.3 In this clause, **Officer** means an officer of the Company.

Part 9 – Auditor

49. Appointment of auditor

The Company must have an auditor as required by the Corporations Act.

Part 10 – Financial year

50. Financial year

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

Part 11 - Records

51. Register

The Company must keep a register of members in accordance with the Corporations Act.

52. Inspection

The Company must allow inspection of any register of members only as required by the Corporations Act.

53. Evidence of register

Unless proved incorrect, the register of members is sufficient evidence of the matters shown in the register.

54. Minute book

54.1 The Company must keep minute books in which it records within one month:

- (a) proceedings and resolutions of meetings of the members;
- (b) proceedings and resolutions of Directors' meetings (including meetings of a committee of Directors);
- (c) resolutions of the Directors' Selection Panel;
- (d) resolutions passed by members without a meeting;
- (e) resolutions passed by Directors without a meeting.

54.2 The Company must ensure that minutes of a meeting are signed within a reasonable time after the meeting by one of the following:

- (a) the chair of the meeting;
- (b) the chair of the next meeting.

54.3 The Company must ensure that minutes of the passing of a resolution without a meeting are signed by a Director within a reasonable time after the resolution is passed.

55. Evidence of minutes

A minute that is so recorded and signed is evidence of the proceeding, resolution or declaration to which it relates, unless the contrary is proved.

56. Financial records

56.1 The Company must keep the financial records required by the Corporations Act.

56.2 The financial records must be audited as required by the Corporations Act.

57. Inspection

Unless authorised by the Directors or the Company in general meeting or the Corporations Act, a member is not entitled to inspect the Company's books.

Part 12 – Racing Appeals Tribunal

58. Establishment of Tribunal

The Tribunal is to consist of:

- (a) a president and one or more deputy presidents appointed by the Directors under clause 59(a); and
 - (b) such other person or persons appointed by the Board under clause 60.
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59. Constitution of Tribunal for Appeals

For the purpose of hearing any appeal, the Tribunal is to be constituted by:

- (a) a president or a deputy president of the Tribunal; and
 - (b) where the president or in his or her absence or unavailability the deputy president considers that the assistance of a further person or persons is required, not more than two other persons selected by the president from those other persons appointed to the Tribunal by the Directors under clause 60.
-

60. Appointment of Members of Tribunal

The Directors may appoint a legal practitioner of not less than ten years standing to be the president or a deputy president of the Tribunal and two other persons having such qualifications as the Directors determine, as members of the Tribunal. A director is not eligible for appointment as a member of the Tribunal.

61. Term of Office of Tribunal Member

A member of the Tribunal may be appointed for such term of office, not exceeding three years, as the Directors determine and specify in the instrument of appointment and, on the expiration of that term of office, is eligible for reappointment.

62. Removal of Tribunal Member

The Directors may remove a member of the Tribunal from office for:

- (a) mental or physical incapacity to carry out satisfactorily the duties of the office;
 - (b) neglect of duty; or
-

- (c) dishonourable conduct.
-

63. Cessation of Tribunal Membership

A person ceases to be a member of the Tribunal if:

- (a) the person dies;
 - (b) the person's term of office expires;
 - (c) the person resigns by written notice addressed to the Board;
 - (d) the person becomes a Director; or
 - (e) the person is removed from office under clause 62.
-

64. Payment of Allowances

A member of the Tribunal is entitled to such allowances and expenses as the Directors determine.

65. Indemnity

To the extent permitted by law, the Company must indemnify each member of the Tribunal for an act or omission by the member or the Tribunal in good faith in the exercise or performance, or purported exercise or performance, of powers or functions under this constitution.

66. Appeals to Tribunal

The Tribunal has jurisdiction to hear and determine an appeal against:

- (a) a decision made under the rules of the Company:
 - (1) disqualifying or suspending a person from participating in thoroughbred horse racing in any particular capacity for a period of more than one week;
 - (2) imposing a fine greater than \$500.00 or such other amount prescribed by the Directors from time to time; or
 - (b) a decision made under the rules of the Company disqualifying or suspending a horse but only when made in conjunction with a decision referred to in clause 66 (a)(1).
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67. Appeal Tribunal Rules

67.1 The Directors may make vary and repeal Rules:

- (a) prescribing amounts required to be prescribed for the purposes of this clause 67;
 - (b) fixing time limits within which appeals to the Tribunal must be instituted; and
 - (c) prescribing any other matter relating to appeals or the procedures on appeals to the Tribunal, provided that applicable rules under the Australian Rules of Racing will, in the absence of any contrary rules made by the Directors from time to time, apply.
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67.2 The Tribunal may, if satisfied that it is just and reasonable in the circumstances to do so, dispense with a requirement of the rules.

68. Proceedings on Appeal

68.1 The Tribunal must give a party to an appeal reasonable notice of the time and place at which it intends to hear the appeal.

68.2 The appellant and anybody or person determined by the Tribunal to be directly affected by or interested in the subject matter of an appeal are parties to the appeal.

68.3 If a person to whom notice has been given pursuant to clause 68.1 does not attend at a time and place fixed by the Tribunal, the Tribunal may hear the appeal in that person's absence.

68.4 A party to an appeal is entitled to appear:

- (a) personally or by counsel;
- (b) by leave of the Tribunal – by some other representative.

68.5 The president or deputy president of the Tribunal may, if satisfied that an appeal has been instituted against any decision or order and that it is appropriate to do so, suspend the operation of the decision or order pending determination of the appeal.

68.6 An appeal may not be heard by the Tribunal unless the appellant has first lodged with the Tribunal, as a bond, the amount (if any) prescribed by the Directors by rules under clause 67.1.

68.7 The amount lodged as a bond by an appellant is not to be refunded unless:

- (a) the Tribunal allows the appeal in whole or in part; or
- (b) the appellant satisfies the Tribunal that the appeal was generally instituted on reasonable grounds and not for the purpose of delaying the operation of the decision or order under appeal.

68.8 An appeal to the Tribunal must be heard in public unless the Tribunal, for good reason, determines otherwise.

68.9 Except as otherwise determined by the Tribunal, an appeal is to be conducted by way of rehearing on the evidence at the original hearing, but the Tribunal may receive fresh evidence given orally or, if the Tribunal so determines, by statutory declaration.

68.10 The Tribunal must afford each party to an appeal a reasonable opportunity to make submissions to the Tribunal and to call or give evidence and examine or cross examine witnesses.

68.11 Otherwise, the Tribunal may conduct an appeal in such manner as it thinks fit.

69. Principles on which a decision is made

The Tribunal must act according to equity and good conscience and the substantial merits of the case without regard to technicalities and legal forms. The Tribunal is not bound by the rules of evidence and may inform itself on any matter in such manner as it thinks fit.

70. Orders that may be made by Tribunal

The Tribunal may, on the hearing of an appeal, do one or more of the following, according to the nature of the case:

- (a) affirm, vary or quash the decision or order appealed against, or substitute, and make in addition, any decision or order that should have been made in the first instance;
- (b) remit the subject matter of the appeal to the person or body that heard the original proceedings for further hearing or consideration or for rehearing;
- (c) make any further or other order as the case requires.

71. Costs

Each party to an appeal must at its own costs, except where the Tribunal considers that would be unjust, in which case the Tribunal may make such order as to costs as it thinks fit.

72. Decisions of Tribunal final and binding

Any decision of the Tribunal on an appeal is final and binding on the persons and bodies affected.

Part 13 - Notices and interpretation

73. In writing

Notice must be in writing and in English, and may be given by an authorised representative of the sender.

74. Notice to members

74.1 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 of members or the alternative address (if any) nominated by the member;
- (c) by sending it to the fax number or electronic address (if any) nominated by the member.

74.2 A notice to a member is sufficient, even if the member (whether or not a joint member) is dead, mentally incapacitated, an infant, bankrupt or an externally-administered body corporate, and the Company has notice of that event.

75. Notice to directors

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;

- (c) if a notice calling a meeting - by sending it to the fax or electronic address (if any) nominated by the director, only if all the directors have consented to the use of that technology;
- (d) if any other notice - by sending it to the fax or electronic address (if any) nominated by the director.

76. Notice to the Company

A person may give notice to the Company:

- (a) by leaving it at the Company's registered office;
- (b) by sending it by post to the Company's registered office;
- (c) by sending it to the fax or electronic address (if any) of the Company's registered office.

77. Addresses outside Australia

A notice sent by post to or from a place outside Australia must be sent by air mail.

78. Time of service

- 78.1 A notice sent by post within Australia is taken to be given three Business Days after posting.
- 78.2 A notice sent by post to or from a place outside Australia is taken to be given seven Business Days after posting.
- 78.3 A notice sent by fax, or other electronic means, is taken to be given on the Business Day after it is sent (if the sender's transmission report shows that the whole notice was sent to the correct facsimile number).

79. Interpretation

In this constitution, unless the context otherwise requires:

- (a) subject to the next clause, a word or phrase has the same meaning as it has in the Corporations Act;
- (b) singular includes plural and plural includes singular;
- (c) words of one gender include any other gender;
- (d) reference to legislation includes any amendment to it, any legislation substituted for it, and any statutory instruments issued under it and in force;
- (e) reference to a person includes a corporation, a firm and any other entity;
- (f) headings do not affect interpretation;
- (g) the Company must not exercise any power in contravention of the Corporations Act.

80. Definitions

In this constitution:

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

Company means Thoroughbred Racing SA Limited;

Corporations Act means the Corporations Act 2001 (Commonwealth);

Directors means the directors of the Company;

Independent Gambling Authority means the Independent Gambling Authority established under the Independent Gambling Authority Act 1995;

Industry Stakeholder Group means any body incorporated in South Australia that represents the interests of any South Australian based thoroughbred horse racing trainers, breeders, owners, jockeys or bookmakers;

Spouse of a person means:

- (a) that person's husband, wife, widow or widower (whether or not remarried);
- (b) anyone else who, although not legally married to that person, in the Directors' opinion, lives or lived with that person on a genuine domestic basis as the husband or wife of that person.

Tribunal means the Racing Appeals Tribunal established pursuant to Part 12 of this constitution.

Amended: 29th October 2015