Constitution of Goulburn & District Racing Club Limited

Corporations Act 2001

A company limited by guarantee

Incorporated in New South Wales

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Constitution of Goulburn & District Racing Club Limited
ACN 003860928
A company limited by guarantee
Incorporated in New South Wales

1. General

1.1 Definitions

The following definitions apply in this Constitution unless the context otherwise requires.

Act means the Corporations Act 2001 (Cth).

Australian Rules of Racing has the same meaning as it has in the *Thoroughbred Racing Act 1996* of New South Wales.

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

Business Day means a weekday on which trading banks are open for business in Sydney, New South Wales.

Chair means a person appointed or elected to the office of Chair of the Company in accordance with this Constitution.

Chief Executive means a person appointed as the Chief Executive in accordance with this Constitution.

Club Rules means the club rules of the Company made in accordance with this Constitution, as amended from time to time.

Company means Goulburn & District Racing Club Limited Club ACN 003860928.

Code of Conduct means a code of conduct adopted in accordance with this Constitution, as amended from time to time.

Director means a person appointed to the office of director of the Company in accordance with this Constitution.

Elected Director means a Director elected or appointed pursuant to clause 10.3

Eligible Industry Body has the same meaning as it has in the *Thoroughbred Racing Act 1996* of New South Wales.

Joining Fee means the sum (if any) payable by a successful applicant for membership, as determined by the Board from time to time.

Greyhound Racing Act means the *Greyhound Racing Act 2009* of New South Wales.

GRNSW means Greyhound Racing New South Wales constituted under the Greyhound Racing Act.

Harness Racing Act means the *Harness Racing Act 2009* of New South Wales.

HRNSW means Harness Racing New South Wales constituted under the Harness Racing Act.

Independent Director means a Director appointed pursuant to clause 10.5~~10.5~~.

Life Member has the meaning set out in the Club Rules.

Local Government Area means the area for which the Goulburn Mulwaree Council, Upper Lachlan & Wingecarribee councils are responsible.

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

Member Present means, in connection with a meeting, the Voting Member present (by whatever means) at the venue or venues for the meeting in person, or by proxy, or by attorney.

Mentally Incapacitated Person means a person who is an involuntary patient or a forensic patient or a correctional patient within the meaning of the *Mental Health Act 2007* of New South Wales, or a protected person within the meaning of the *NSW Trustee and Guardian Act 2009* of New South Wales.

Non-Voting Member means a Member who is not a Voting Member.

Office means the registered office of the Company.

Ordinary Member has the meaning set out in the Club Rules.

Race Club has the same meaning as it has in the *Thoroughbred Racing Act 1996* of New South Wales.

Racing Association has the same meaning as it has in the *Thoroughbred Racing Act 1996* of New South Wales.

Racing NSW means Racing New South Wales established by the *Thoroughbred Racing Act 1996* of New South Wales.

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

Resolution means a resolution other than a special resolution.

Rules of Racing means the Rules of Racing (NSW) and the Australian Rules of Racing.

Seal means any common seal or duplicate common seal of the Company.

Secretary means any person appointed to perform the duties of secretary of the Company, and includes an assistant secretary or any person appointed to act as secretary temporarily.

Special Resolution means a resolution that has been passed by at least 75% of Members Present and entitled to vote on the resolution.

Subscription means the sum (if any) payable annually by instalments or otherwise, by a Member, as determined by the Board from time to time.

Vice-Chair means a person appointed or elected to the office of Vice-Chair of the Company in accordance with this Constitution.

Voting Member has the meaning set out in the Club Rules.

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules of interpretation apply unless the context requires otherwise.

(a) A gender includes all genders.

(b) The singular includes the plural and conversely.

(c) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.

(d) A reference to a person includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity.

(e) 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.

(f) A reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments issued under it.

(g) A reference to '$' or 'dollars' is to currency of the Commonwealth of Australia.

(h) 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.

(i) The words 'includes' and 'including' are not words of limitation, and do not and must not be taken as detracting from the generality of any provisions of this Constitution.

2. Replaceable Rules

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

3. Company Limited by Guarantee

(a) The Company is a company limited by guarantee.

(b) The liability of the Members is limited.

(c) Each Voting Member undertakes to contribute to the property of the Company if the Company is wound up while he or she is a Member or within one year after he or she ceases to be a Member, for payment of the Company's debts and liabilities contracted before he or she ceases to be a Member and of the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required, but not exceeding $1.

4. Objects

(a) The Company has been established to promote, carry and encourage the racing of thoroughbred horses and other incidental related purposes and to carry on any other activity which is calculated directly or indirectly to enhance or further the interests of thoroughbred horse racing.

(b) The Company may undertake such other activities not inconsistent with the objectives set out in clause 4(a) to enhance, promote or protect the interests of the Company.

5. Actions under the Law

Where the Act authorises or permits a company to do any matter or thing if so authorised or permitted by its constitution, the Company is taken by this clause to be authorised or permitted to do that matter or thing, despite any other provisions of this Constitution.

6. Membership

6.1 Register of Members

(a) The Chief Executive must keep the Register, which must contain the full names and addresses of the Members, and other such particulars as the Board may prescribe or as are required by any relevant law from time to time.

(b) Every Member is required to communicate any change in his or her address to the Company in writing and any such change of address must be entered in the Register. The latest address in the Register is deemed to be the Member's registered address.

6.2 Application for Membership

An application for membership must:

(a) be made in a form determined by the Board from time to time;

(b) be signed by the applicant; and

(c) be signed by at least one (1) Member nominating the applicant for membership, unless this requirement is waived by the Board in relation to any particular applicant.

6.3 Employees and persons holding licences under the Rules of Racing

(a) Employees of the Company may only be admitted as Non-Voting Members.

(b) Persons holding licences under the Rules of Racing (other than holders of owner/trainer permits) may only be admitted as Non-Voting Members.

6.4 Admission of Members

(a) The Board will hold a meeting to determine applications for membership at such time as the Directors see fit.

(b) All Directors must be provided with notice of a person's application for membership, prior to the Board determining that person's application for membership.

(c) An applicant for membership of the Company is to be admitted as a Member on the approval of the Board and upon payment by the applicant of the applicable Joining Fee (if any) and the first Subscription.

(d) The Board is not required to give any reason for rejecting or accepting an application for membership.

(e) When an applicant has been accepted for membership, the Chief Executive (or other person whom the Board may appoint) must notify the applicant of the acceptance and request payment of the Joining Fee (if any) and the first Subscription.

(f) If the applicant does not pay the applicable Joining Fee (if any) and the first Subscription within the time prescribed by the Board, the acceptance of the applicant's application for membership is cancelled, unless the Board decides otherwise.

6.5 Classes of Members

The Board may determine and admit different classes of Members, and subject to this Constitution, the qualification, rights, privileges and obligations of the respective classes of Members are as determined by the Board from time to time.

7. Membership Fees

7.1 Joining Fee

(a) The Board may determine that a Joining Fee is payable by an applicant for membership of the Company.

(b) The Board may determine the amount of the Joining Fee from time to time.

(c) The Board may prescribe different amounts, suspend or waive the payment of the Joining Fee in respect of any person or category of person applying to become a Member.

7.2 Annual Subscription

(a) The Board may determine that a Subscription is payable annually, by instalments or otherwise.

(b) The Board may determine the amount of the Subscription from time to time.

(c) The Board may prescribe different amounts, suspend or waive the payment of the Subscription in respect of any Member or applicant for membership of the Company.

7.3 Non-payment of Annual Subscription

(a) If a Member's Subscription remains unpaid after it becomes due, the Board may direct the Chief Executive to give notice to the Member of that fact.

(b) If the Subscription remains unpaid on the expiration of a period determined by the Board after the date of the notice, the Board may suspend or expel the Member from membership of the Company and, if applicable, remove the Member's name from the Register.

(c) A Member is not entitled to exercise any rights of membership until that Member has paid his or her Subscription in full or as otherwise determined by the Board, and a Member whose membership of the Company has been suspended is not entitled to exercise any rights of membership until that suspension has ended.

8. Cessation of Membership

8.1 Resignation of a Member

A Member may at any time, by giving notice in writing to the Chief Executive, resign as a Member. The resignation is effective from the date of receipt of the notice by the Chief Executive. That Member's name must be removed from the Register.

8.2 Misconduct of a Member

Without limiting clause 8.3, if any Member:

(a) is in breach of the provisions of this Constitution or a Club Rule or Code of Conduct; or

(b) is guilty of any act or omission which, in the opinion of the Board, is unbecoming of a Member or prejudicial to the interests of the Company,

the Board may suspend or expel the Member from membership of the Company and, if applicable, remove the Member's name from the Register.

8.3 Suspension or Expulsion

The Board must not suspend or expel a Member under clause 8.2, unless:

(a) reasonable notice has been given to the Member, stating the date, time and place at which the question of suspension or expulsion of that Member is to be considered by the Board, and the nature of the alleged breach or act or omission; and

(b) the Member has been provided with an opportunity to address the Board in respect of the alleged breach or act or omission.

8.4 Other Grounds for Cessation of Membership

A Member automatically ceases to be a Member if that Member:

(a) dies;

(b) becomes of unsound mind or a person whose estate is liable to be dealt with in any way under the laws relating to mental health; or

(c) becomes bankrupt.

8.5 Re-admission

A person who ceases to be a Member under clause 8.4(c) is entitled to reapply for membership of the Company once that person has discharged his or her bankruptcy, and may be re-admitted as a Member at the discretion of the Board.

9. Meetings

9.1 Power to Convene General Meetings

The Board may at any time convene a general meeting of the Company.

9.2 Convening of General Meetings by Members

The Board must call and arrange to hold a general meeting if required to do so under the Act.

9.3 Annual General Meetings

The Company must hold an annual general meeting before 31 December in each year, for the following purposes:

(a) to consider the financial statements and related reports for the preceding year;

(b) to discuss the general business of the Company; and

(c) to transact any other business which under this Constitution or the Act may be transacted at an annual general meeting.

9.4 Notices of Meetings

(a) A notice of a general meeting must:

a) specify the place, the day and the hour of meeting and must state the general nature of the business to be transacted at the meeting; and

b) contain any other information required by the Act.

(b) The non-receipt of a notice convening a general meeting by, or the accidental omission to give notice to, any person entitled to receive notice does not invalidate the proceedings at, or any resolution passed at, that meeting.

9.5 Quorum

(a) No business may be transacted at any general meeting unless a quorum of Voting Members is present at the time when the meeting proceeds to business.

(b) Except as otherwise provided for in this Constitution,

(c) 10 Voting Members present constitutes a quorum.

9.6 If Quorum Not Present

If a quorum is not present within 30 minutes after the time appointed for the general meeting:

(a) where the meeting was convened on the requisition of Voting Members, the proposed meeting is dissolved;

(b) in any other case:

a) the meeting stands adjourned to a day and at a time and place as the Board decides or, if no decision is made by the Board, to the same day in the next week at the same time and place; and

b) if at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting is dissolved.

9.7 Chair of Meetings

(a) Subject to clause 9.7(b), the Chair of the Board or, in the Chair's absence, the Vice-Chair must preside as chair at every general meeting.

(b) Where a general meeting is held and:

a) there is no Chair or Vice-Chair; or

b) the Chair or Vice-Chair is not present within 15 minutes after the time appointed for the meeting;

the Directors present must choose one of the Directors present to chair the meeting.

(c) In the absence of all Directors, a Member elected by the meeting must chair the meeting.

9.8 Adjournments

(a) The chair of the meeting may, with the consent of the meeting at which a quorum is present, and must if directed by the meeting, adjourn the meeting from time to time and from place to place.

(b) The chair of the meeting may adjourn the meeting for a period not exceeding one hour without the consent of the meeting.

(c) No business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(d) It is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

9.9 Conduct at a General Meeting

(a) Subject to the Act and any laws and Club Rules, the chair of the meeting may give necessary directions for the conduct of any meeting and the ruling of the chair of the meeting is final (including, but not limited to, rulings in respect of a right to vote or the appointment of a proxy and any declaration as to whether or not a resolution has been carried).

(b) Any question requiring a decision must be in the form of a motion which must be submitted in writing and be proposed and seconded before being discussed.

9.10 Voting at General Meetings

(a) Any resolution to be put to a vote at a general meeting is to be determined by a show of hands unless a poll is demanded.

(b) A declaration by the chair of the 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 is 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.

(c) A poll for a resolution may be demanded by:

a) the chair of the meeting; or

b) as otherwise provided for by the Act.

(d) A demand for a poll may be withdrawn.

9.11 Procedure for Poll

(a) Subject to the Act and any Club Rules, a poll must be taken in the manner and at the time the chair of the meeting directs.

(b) The result of the poll is a resolution of the meeting at which the poll was demanded.

(c) The demand for a poll does not prevent a meeting from continuing for the transaction of any business other than that on which a poll has been demanded.

9.12 Chair's Casting Vote

In the case of an equality of votes on a show of hands or on a poll, the chair of the meeting has a casting vote in addition to any deliberative vote to which the chair may be entitled as a Member.

9.13 Representation and Voting of Members

Subject to this Constitution:

(a) Members entitled to attend and vote at general meetings, may attend and vote in person or by proxy or attorney.

(b) on a show of hands, every Member Present having the right to vote at the meeting has one vote; and

(c) on a poll, every Member Present having the right to vote at the meeting has one vote.

9.14 Restriction on Voting Rights – Unpaid Amounts

A Voting Member is not entitled to vote at a general meeting unless all sums due and payable by the Voting Member in respect of membership in the Company have been paid.

9.15 Objections to Qualification to Vote

(a) An objection to a person's qualification to vote may be raised only at the meeting or adjourned meeting at which the vote objected to is tendered.

(b) Any objection must be referred to the chair of the meeting, whose decision is final.

(c) A vote allowed after an objection is valid for all purposes.

9.16 Proxies

(a) A Voting Member who is entitled to attend and cast a vote at a general meeting may appoint another person as the Member's proxy to attend and vote for the Voting Member at the meeting.

(b) An instrument appointing a proxy must:

a) be in writing;

b) signed by the Member entitled to attend and vote at the meeting, or signed by such a Member under power of attorney;

c) state the full name, registered address, and membership number of the Member entitled to attend and vote at the meeting; and

d) state the meeting at which the appointment may be used.

(c) The Board has 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 that complies with the requirements contained within this Constitution is valid.

(d) 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.

(e) 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.

9.17 Lodgement of Proxies

(a) 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 meeting) no less than 48 hours before the time for holding the meeting, at which the person named in the instrument proposes to vote.

(b) For an instrument appointing an attorney to act on behalf of a Member at all general meetings or at all meetings for a specified period to be effective, the following documents must be received by the Company at any time before commencement of the meeting or adjourned meeting at which the attorney proposes to vote:

a) the power of attorney or a certified copy of that power of attorney; and

b) any evidence that the Board requires to establish the validity and non-revocation of that power of attorney.

(c) For the avoidance of doubt, the Company receives these documents when they are received at any of the following:

a) the Office;

b) a fax number at the Office; or

c) a place, fax number or electronic address specified for the purpose in the notice of meeting.

9.18 Validity of Proxies

A vote exercised in accordance with the terms of an instrument of proxy or a power of attorney 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) or the power,

if no notice in writing of the death, unsoundness of mind, or revocation has been received by the Company at the Office before the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

10. Board

10.1 The Board of Directors

(a) The Board is to consist of:

a) not less than 5 and not more than 6 Elected Directors; and

b) 4 Independent Directors.

(b) The Directors may act as the Board despite a vacancy in their number. However, if their number is reduced below the minimum fixed for a quorum for a meeting of the Board, the continuing Directors may only act in the case of an emergency until such time as a replacement Director is appointed in accordance with clause 10.5(a).

(c) The Company may from time to time by resolution passed at a general meeting increase or reduce the number of Elected Directors, provided that their number does not exceed 6.

10.2 Board to manage Company

The management and control of the business and affairs of the Company are vested in the Board. The Board may exercise all powers of the Company which are not, by the Act or this Constitution, required to be exercised by the Company in general meeting.

10.3 Elected Directors

The election of Elected Directors shall take place in the following manner:

a) 2 Members shall be at liberty to nominate any other Member to serve as an Elected Director;

b) The nomination which shall be in writing and signed by the nominee, the proposer and the seconder shall be lodged with the Secretary by a date selected by the board at least 70 days before the annual general meeting at which the election of the elected members is to be declared. The nomination form shall allow candidates to provide a maximum of fifty (50) words by way of a biography to be included with ballot papers to be forwarded to the members:

c) If the number of candidates seeking election exceeds the number of vacancies the election of members of the committee shall be by ballot in the following manner :

i)The Auditor of the Company shall within seven(7) days of the closing of nominations , forward to each member an envelope marked “Ballot Paper” together with a list of members seeking election indicating thereon whom are retiring committeeman, listed in order first determined by the Auditor by lot. Any member wishing to vote shall strike out the name of any candidate for whom he does not wish to vote for. Retaining no more and no less than the required number. He shall then place the list marked “Ballot Paper”, seal and enclose the same in the envelope addressed to the auditor first having signed his name where indicated inside the envelope and return it to the club’s Auditor.

ii) All the envelopes must be returned to the Auditor at least thirty-five (35) days prior to the annual general meeting, when they will be opened by the auditor and/or such other person or persons appointed, as assistants, for that purpose by the auditor with the voter's name checked with the roll of members and the envelopes discarded.

iii) The envelope marked "Ballot Paper" received from members eligible to vote shall, at least thirty-two(32) days prior to the annual general meeting, be opened by the Auditor and his appointed assistants who shall count the number of votes cast for each candidate.

iv) No later the thirty (30) days prior to the annual general meeting:

1. The auditor must advise the successful candidates on a confidential basis that they have been successful and will be declared as an elected director at the annual general meeting.

2. The auditor must advise the unsuccessful candidates on a confidential basis that they have not been successful and will not be declared an elected director at the annual general meeting.

3. The successful candidates to be elected directors shall then immediately convene an informal meeting at which they will elect from their directors for the sole purpose of sitting on the selection panel referred to in Article 10.5a. With the exception of that meeting and the one selected director sitting on the selection panel, the successful candidates to be elected directors will perform no role, and will not take office, until the Annual General meeting at which their elections are declared.

4. The auditor must advise Racing NSW and the selection panel of the identity of the successful candidates to the elected directors.

5. in case there shall not be a sufficient number of candidates nominated the Board may fill up the remaining vacancy or vacancies.

(d) The Board (or such Directors as shall hold office at the relevant time) shall have the power at any time and from time to time to appoint any Member as a replacement Elected Director whenever the office of an Elected Director becomes vacant.

(e) The Board (or such Directors as shall hold office at the relevant time) shall have the power at any time and from time to time to appoint any Member as an Elected Director in addition to the existing Elected Directors but so that the total number of Elected Directors shall not at any time exceed the number fixed in accordance with this Constitution.

(f) Subject to clause,10.3(g) an Elected Director holds office for a term of 2 years unless the Elected Director vacates office before the expiry of that term.

(g) If a person is appointed to fill a casual vacancy in the office of an Elected Director, the person holds office as an Elected Director for the balance of the term of the person's predecessor as Elected Director unless the person vacates office as an Elected Director before the expiry of the balance of that term.

10.4 Elected Director Qualification

(a) A person is eligible to be appointed as an Elected Director only if the person is:

a) a Member, and

b) not otherwise ineligible to be elected as an Elected Director under clause 10.4(b).

(b) A person is not eligible to be elected as an Elected Director if the person:

a) is an employee of a Race Club or Racing Association, or

b) is a member of the governing body of another Race Club or eligible industry body, or

c) holds a license issued by Racing NSW or by a Racing Association to be a Trainer, Trainer Partnership (partner of), Jockey, Apprentice Jockey, Apprentice Jockey (Non-race ride), Approved Rider (Picnic Jockey), Approved Rider (Non-picnic ride), Bookmaker, Bookmaker Company (Director or Shareholder of) and Bookmaker's Clerk;

d) is registered by or with GRNSW under the *Greyhound Racing Act* or HRNSW under the *Harness Racing Act*, or

e) is currently, or during the previous 10 years has been, warned off, disqualified or named on the Forfeit List under the Rules of Racing, or

f) during the previous 10 years has been convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more, or convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or

g) is an undischarged bankrupt or is taking advantage of the laws in force for the time being relating to bankruptcy, or

h) is a Mentally Incapacitated Person.

10.5 Independent Directors

(a)

Independent Directors Selection Panel

Not less than twenty eight (28) days prior to the Annual General Meeting at which Elected Directors are to be elected, the Committee will convene a selection panel comprised of the following members for the purpose of electing Independent Directors:-

a) A representative from the current elected directors, chosen by the current elected directors.

b) A non-executive board member from Racing NSW

c) The President of the Goulburn Business Chamber or such other appropriately skilled or qualified person determined by Racing NSW in consultation with the Committee.

d) In the event that the representative referred to in 10.5(a) is no longer a member or is not able or not willing to be on the selection panel, the Board will select a replacement.

(b)

Independent Director Selection Process.

a) The Committee will:-

i. Not less than fifty six (56) days prior to the Annual General Meeting at which the Independent Directors will be appointed, the Club will invite candidates to apply for the position of the Independent Director and separately advertise locally for candidates for the position of Independent Director in not less than two different publications; and

ii. Require prospective candidates to return completed applications by no later than the date falling thirty five (35) days prior to the holding of the annual general meeting,

b) The selection panel convened in accordance with section 10.5 (a) will then interview the applicants and provide its recommendations for Independent Directors to Racing NSW no later than seven (7) days prior to the date that Racing NSW is to advise the Club of the appointment of the Independent Directors.

c) Racing NSW will advise the Club of the appointment of the Independent Directors no later than two (2) days prior to the date of the Annual General Meeting and the Independent directors will be declared at, and take office from that of, the Annual General Meeting.

d) In the event the number of Independent Directors is below the minimum number fixed by this constitution, the board must immediately reconvene the selection panel which must, as soon as practicable, select one or more replacement Independent Directors, to

be appointed by Racing NSW, as required to achieve the minimum number.

e) An Independent Director holds office for such term not exceeding two (2) years) as specified by Racing NSW unless the Independent Director vacates office before the expiry of that term.

f) If a person is appointed to fill a casual vacancy in the office of an Independent Director, the person holds office as an Independent Director for the balance of the term of the person's predecessor as Independent Director unless the person vacates office as an Independent Director before the expiry of the balance of that term.

10.6 Independent Director Qualification

(a) A person is eligible to be appointed as an Independent Director only if the person:

a) is appropriately skilled or qualified in law, commerce, construction, marketing, event management or hold other qualifications, business skills or experience that Racing NSW deems appropriate,

b) resides in the local government area and

c) agrees to immediately become a Member if appointed as an Independent Director.

10.7 Remuneration

(a) Subject to clause 10.7(b), no Director is entitled to be paid a fee for his or her service as Director.

(b) Director is entitled to be paid or reimbursed for all travel and other expenses properly incurred by him or her in connection with the performance of his or her duties or otherwise in connection with the business or affairs of the Company.

(c) Any amount paid under paragraph 10.7(b) must be approved by the Board.

10.8 Vacancies in the office of Director and removal from office

(a) In addition to the circumstances in which the office of an Elected Director may become vacant under the Act and this Constitution, the Elected Director is compulsorily removed if the:

a) Elected Director prejudices or is likely to prejudice any licence which is reasonably necessary for the Company to carry on business, including, but not limited to, any liquor, gaming or racing licence; or

b) Elected Director becomes a Mentally Incapacitated Person; or

c) Elected Director resigns the office by notice in writing to the Company; or

d) Elected Director's term of office expires and the Director is not reappointed to the office; or

e) Elected Director ceases to be a Member; or

f) Elected Director is not present personally at meetings of the Board for a continuous period of 3 months without leave of absence from the Board; or

g) Elected Director becomes an employee of another Race Club or Racing Association; or

h) Elected Director becomes a member of the governing body of another Race Club or Eligible Industry Body; or

i) Elected Director becomes the holder of a licence issued by Racing NSW or by a Racing Association; or

j) Elected Director dies; or

k) Director is registered by or with GRNSW under the *Greyhound Racing Act* or HRNSW under the *Harness Racing Act*; or

l) Elected Director is warned off, disqualified or named on the Forfeit List under the Rules of Racing; or

m) Elected Director is convicted in New South Wales of an offence that is punishable by imprisonment for 12 months or more, or convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or

n) Elected Director becomes bankrupt or insolvent or takes advantage of the laws in force for the time being relating to bankruptcy, or

o) Elected Director is removed from office under clause 10.8(b).

(b) The Company may at any time by resolution passed in general meeting remove any Elected Director from office.

(c) In addition to the circumstances in which the office of an Independent Director may become vacant under the Act and this Constitution, the Independent Director must vacate their office if they:

a) cease, for any reason, to be a Member, or

b) are absent without leave from any 3 consecutive meetings of the Board, or

c) tender their resignation

d) are removed by Racing NSW, notwithstanding anything in the Constitution or any agreement between the Company and the Independent Director.

(d) No proceedings of the Board shall be invalidated by reason of the fact that a Director takes part in a meeting or votes on a resolution of the Board whilst disqualified unless the other Directors knew of or could reasonably have known of the disqualification.

11. Powers and duties of Directors

11.1 Power to Make Club Rules

The Board has the power to make, amend and repeal Club Rules for the proper conduct and management of the Company, including but not limited to Club Rules which regulate and prescribe:

(a) the qualifications, rights, privileges and obligations of Members;

(b) the admission of Members and visitors to the premises of the Company or any part thereof;

(c) the time the premises of the Company or any part thereof may be accessed;

(d) the conduct of Members;

(e) the setting apart of any part or parts of the land owned or leased by the Company for any particular purpose;

(f) fines or penalties for the breach of any Club Rules or any provisions of the Constitution;

(g) the procedure at general meetings of the Company and meetings of the Directors;

(h) the procedure in which polls may be taken;

(i) all matters required or proper to be prescribed for the conduct of, or associated with, the admission of persons; and

(j) generally any matters whatsoever necessary or desirable for the purposes of giving effect to the objects of the Company.

11.2 Code of Conduct

The Board may adopt, amend and repeal a Code of Conduct in relation to the Company from time to time which must be adhered to by Directors, Members and employees of the Company.

11.3 Binding nature of Club Rules etc.

(a) All Club Rules and Codes of Conduct are binding upon all Members and Directors.

(b) The Board may adopt such means as it deems sufficient to bring to the notice of Members all Club Rules and Codes of Conduct made, their amendment or repeal.

(c) Club Rules and Codes of Conduct must be consistent with and must not repeal anything contained in this Constitution. In the event of any inconsistency between this Constitution and any By-Law, Club Rule or Code of Conduct, this Constitution prevails to the extent of that inconsistency.

(d) Any Club Rule may also be set aside by members, in whole or in part, by Special Resolution (unless otherwise provided by law).

11.4 Appointment of Attorneys

(a) The Board may appoint any person to be the attorney of the Company for the purposes, with the powers, authorities and discretions vested in or exercisable by the Board for any period and subject to any conditions, as the Board thinks fit.

(b) Any appointment under clause 11.4(a) may be made on terms for the protection and convenience of persons dealing with the attorney as the Board thinks fit and may also authorise the attorney to delegate all or any of the powers, authorities and discretions vested in the attorney.

11.5 Negotiable Instruments

All negotiable instruments of the Company may be executed by the persons and in the manner that the Board decides from time to time.

12. Proceedings of Directors

12.1 Proceedings

(a) The Directors may meet as often as they deem necessary.

(b) The quorum for a meeting of the Board is 50% of the number of Directors, plus 1.

(c) The Chief Executive may at any time and on the request of the Chair or any three Directors, must convene a meeting of the Board.

(d) Reasonable notice must be given to every Director of the place, date and time of every meeting of the Board. Where any Director is for the time being outside of Australia, notice need only be given to that Director if contact details have been provided to the Secretary by the Director.

(e) Questions arising at a meeting of the Board are decided by a majority of votes of Directors present and voting and any such decision is for all purposes taken to be a decision of the Board.

(f) In the case of an equality of votes, the chair of the meeting has a casting vote in addition to any deliberative vote.

12.2 Meetings by Technology

(a) For the purposes of the Act, each Director, on becoming a Director (or on the adoption of this Constitution), consents to the use of the following technology for calling or holding a meeting of Board:

a) video;

b) telephone;

c) electronic mail;

d) any other technology which permits each Director to communicate with every other Director; or

e) any combination of the technologies described in the above paragraphs.

(b) A Director may withdraw the consent given under clause 12.2(a) in accordance with the Act.

(c) If the Directors are not all in attendance at one place and are holding a meeting using technology and each Director can communicate with the other Directors:

a) the participating Directors are, for the purpose of every provision of this Constitution concerning meetings of Directors, be taken to be assembled together at a meeting and to be present at that meeting; and

b) all proceedings of those Directors conducted in that manner are as valid and effective as if conducted at a meeting at which all of them were present.

12.3 Chair and Vice Chair of Directors

(a) The Board may elect a Director to hold office as Chair and another Director to hold office as Vice-Chair.

(b) The Chair or in the Chair's absence, the Vice-Chair, is to chair any meeting of the Board.

(c) The Board may determine the period of time that a Director elected to the office of Chair or Vice-Chair may hold such office.

(d) If a meeting of the Board is held and:

a) neither a Chair nor a Vice-Chair has been elected as provided by clause 12.3(a); or

b) the Chair and Vice-Chair are not present at the time appointed for the holding of the meeting,

the Board may elect another Director to be chair of the meeting.

12.4 Disclosure of Interests

(a) A Director who has a material personal interest in a matter that relates to the affairs of the Company must give the Board notice of the interest in accordance with the Act.

(b) A contract or arrangement made by the Company with a Director or in which a Director is in any way directly or indirectly interested is not avoided merely because the Director is a party to or interested in it.

(c) A Director is not liable to account to the Company for any profit derived in respect of a matter in which the Director has a material interest, merely because of the Director's office or the fiduciary relationship it entails, if the Director has:

a) declared the Director's interest in the matter as soon as practicable after the relevant facts have come to the Director's knowledge; and

b) not contravened this Constitution or the Act in relation to the matter.

(d) A general notice giving details of the nature and the extent of the interest and the relation of the interest to the affairs of the Company is a sufficient declaration of the Director's interest, provided the extent of that interest is no greater at the time of first consideration of the relevant matter by the Board than was stated in the notice.

(e) A Director may not be present during deliberations or vote on a contract or matter in which the Director has a personal interest unless the Board, when considering the particular contract or matter, resolves that the interested Director may be present and may vote on that particular matter because the Board is satisfied that the interest ought not disqualify the Director from being present and voting on it.

(f) A Director must not hold any office of employment in the Company in addition to holding office as a Director.

13. Committees

(a) The Board may delegate any of their powers to a committee or committees consisting of such persons and of such numbers as the Board thinks fit.

(b) A committee to which the Board has delegated any powers must exercise the powers delegated in accordance with any directions of the Board. Any such delegated power exercised by a committee is taken to have been exercised by the Board.

(c) Clauses 12.1(a), 12.1(c) to 12.1(f) (inclusive), 12.2 to 12.3 (inclusive) apply to any committee as if each reference in those clauses to the Board or the Directors was a reference to the members of the committee and each reference to a meeting of the Board or the Directors was to a meeting of the committee.

(d) The number of members of the committee present at a meeting of the committee that is necessary to constitute a quorum is the number determined by the Board and, in the absence of any such determination by the Board, is two Members. Unless the Board determine otherwise, the quorum need only be present at the time when the meeting proceeds to business.

(e) Minutes of all the proceedings and decisions of every committee must be made, entered and signed in the same manner in all respects as minutes of proceedings of the Board are required by the Act to be made, entered and signed.

14. Written Resolutions

(a) If a document:

a) is sent to all those entitled to receive notice of a meeting at which a resolution could be put;

b) contains a statement that the signatories to it are in favour of that resolution;

c) the terms of the resolution are set out or identified in the document; and

d) 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.

(b) For the purposes of clause 14(a):

a) two or more separate documents containing statements in identical terms each of which is signed by one or more Directors will 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 fax which is received by the Company or an agent of the Company and is sent for or on behalf of a Director is taken to be a document signed by that Director not later than the time of receipt of the fax by the Company or its agent in legible form.

15. Defects in Appointments

(a) All acts done by any meeting of the Board, committee, or person acting as a Director are as valid as if each person was duly appointed and qualified to be a Director or a member of the committee.

(b) Clause 15(a) applies even if it is afterwards discovered that there was some defect in the appointment of a person to be a Director or a member of a committee or to act as a Director or that a person so appointed was disqualified.

16. Chief Executive

16.1 Chief Executive

(a) The Board may appoint a Chief Executive on such terms and conditions, as to remuneration and otherwise, as the Board decides.

(b) The Board may at any time terminate the appointment of the Chief Executive.

(c) The Chief Executive must not be appointed as a Director.

16.2 Delegation of Powers to Chief Executive

(a) The Board may, on the terms and conditions and with any restrictions as the Board thinks fit, confer on the Chief Executive any of the powers exercisable by the Board.

(b) Any powers so conferred may be concurrent with the powers of the Board.

(c) The Board may at any time withdraw or vary any of powers conferred on the Chief Executive.

16.3 Chief Executive to act as Secretary

Unless the Board appoints a Secretary, the Chief Executive will act as Secretary of the Company for the purposes of the Act.

17. Other Officers

(a) The Board may from time to time:

a) create any other position or positions in the Company with the powers and responsibilities as the Board may from time to time confer; and

b) appoint any person to any position or positions so created.

(b) Any person appointed to a position under clause 17(a) must not also be a Director.

(c) The Board may at any time terminate the appointment of a person holding a position created under clause 17(a) and may abolish the position.

18. Seals and executing documents

(a) The Company may have a common seal. If the company has a common seal, it may also have a duplicate common seal.

(b) A Seal shall be used only by the authority of the Board, or of a committee authorised by the Board to use the Seal. Every document to which the Seal is affixed shall be signed by:

a) 2 Directors; or

b) a Director and the Chief Executive (or another person appointed by the Directors to countersign that document or a class of documents in which that document is included).

(c) This clause does not limit the ways in which the Company may execute a document.

19. Inspection of Records

(a) The Board may authorise a Member to inspect books of the Company (to the extent, at the time and places and under the conditions the Board considers appropriate).

(b) A Member (other than a Director) does not have the right to inspect any document of the Company except as provided by the Act or authorised by the Board.

20. Application of Income and Property

(a) Subject to clause 20(b), the profits (if any) or other income and property of the Company must be applied solely towards the aims and purposes of the Company and no portion of it may be paid or transferred, directly or indirectly, to any Member whether by way of dividend, bonus or otherwise.

(b) Nothing in clause 20(a) prevents any payment in good faith by the Company of:

a) reasonable and proper remuneration to any Member or officer or employee of the Company (whether or not such a person is a Director) for any services actually rendered to the Company;

b) reasonable and proper rent for premises let or demised by any Member of the Company to the Company;

c) monies to any Director paid or reimbursed under clauses 10.7(b) and 10.7(c).

21. Winding Up

If, on the winding up or dissolution of the Company by any means and for any reason, there remains any property after the satisfaction of all the Company's debts and liabilities, the property must not be paid to or distributed among the Members of the Company, but must be given or transferred:

(a) to one or more institutions, associations or bodies selected by the Members at or before the dissolution of the Company, provided they are established for the encouragement of thoroughbred racing in NSW and their rules prohibit the distribution of its or their income and property among its or their Members; or

(b) if the Members do not make a selection pursuant to clause 21(a) for any reason, to one or more institutions, associations or bodies meeting the requirements of clause 21(a) selected by the Board and approved by Racing NSW or its successor; or

(c) if the Members do not make a selection pursuant to clause 21(a) for any reason or the Board does not make a selection (that is valid or at all) pursuant to clause 21(b) for any reason, to one or more institutions, associations or bodies as directed by Racing NSW or its successor.

22. Notices

22.1 Notices Generally

(a) Any Member who has not left at or sent to the Office a place of address or an electronic mail address (for registration in the register) at or to which all notices and documents of the Company may be served or sent is not entitled to receive any notice.

(b) A notice may be given by the Company to any Member by:

a) serving it on the Member personally;

b) sending it by post to the Member or leaving it at the Member's address as shown in the register or the address supplied by the Member to the Company for the giving of notices;

c) serving it in any manner contemplated in this clause 22.1(b) on a Member's attorney as specified by the Member in a notice given under clause 22.1(c);

d) fax to the fax number supplied by the Member to the Company for the giving of notices; or

e) transmitting it electronically to the electronic mail address given by the Member to the Company for giving notices.

(c) A Member may by written notice to the Chief Executive left at or sent to the Office require that all notices to be given by the Company or the Directors be served on the Member's attorney at an address specified in the notice.

(d) Notice to a Member whose address for notices is outside Australia may be sent by airmail, fax or electronic mail.

(e) Where a notice is sent by post, service of the notice is taken to be effected by properly addressing, prepaying and posting a letter containing the notice and to have been effected:

a) in the case of a notice of a meeting, on the day after the date of its posting; and

b) in any other case, at the time at which the letter would be delivered in the ordinary course of post.

(f) Where a notice is sent by fax or electronic transmission, service of the notice is taken to be effected by properly addressing and sending or transmitting the notice and to have been effected on the day it is sent.

22.2 Notices of General Meeting

(a) Notice of every general meeting must be given in the manner authorised by clauses 9.4(a) and 9.4(b);

a) to every Voting Member and to each Director; and

b) to the auditor of the Company (if any).

(b) No other person is entitled to receive notice of a general meeting.

23. 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:

a) make payments by way of premium in respect of any contract effecting insurance on behalf 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

b) 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:

a) 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

b) bind itself in any contract with a Director or former Director to give the access.

(e) In this clause 23:

a) officer means:

i. a Director or Secretary, Chief Executive or employee; or

ii. a person appointed as a trustee by, or acting as a trustee at the request of, the Company, and includes a former officer.

b) **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 or where applicable any other corporation.

c) to the relevant extent means:

i. to the extent the Company is not precluded by law from doing so;

ii. 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

iii. 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.

d) **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.