

APPENDIX – NEW CONSTITUTION

DRAFT

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Constitution

South Australian Jockey Club

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1. General

1.1 Definitions

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

Act means the *Associations Incorporation Act 1985* (SA).

Annual General Meeting means a general meeting of Members of the Club convened under clause 8.1.

Appointed Director means a Director referred to in clause 9.1(b)(ii) and appointed by the Board under clause 9.

Associate has the meaning given to it in the *Corporations Act 2001* (Cth).

Australian Rules of Racing means the Australian Rules of Racing made by Racing Australia Limited (ABN 89 105 994 330), as amended from time to time.

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

Board Meeting means a meeting of Directors convened under clause 11.

Business Day means a weekday on which trading banks are open for business in Adelaide, South Australia.

By-Laws means the by-laws of the Club (as amended from time to time) made in accordance with clause 10.2.

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

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

Chief Executive Officer means a person appointed as the Chief Executive Officer of the Club in accordance with clause 14 and includes a person acting in that position.

Code of Conduct means the code of conduct adopted in accordance with clause 11.12 of this Constitution, as amended from time to time.

Committee has the meaning given to it in clause 12.1(a).

Constitution means this constitution of the Club.

Director means a member of the Board and includes Elected Directors and Appointed Directors.

DSP has the meaning given to it in clause 9.7.

Elected Director means a Director referred to in clause 9.1(b)(i) and elected by Members under clause 9.

Entrenched Provision has the meaning given to it in clause 24.2.

Fund means the SAJC Investment Fund referred to in clause 23(a) of this Constitution and includes all income, money and property which constitutes that fund from time to time.

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

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

Local Rules of Racing means the 'Local Rules of Racing' made by RSA, as amended from time to time.

Mediator has the meaning to that term in clause 19(f).

Member means any person who is admitted to the membership of the Club and whose name is entered into the Register and includes any category of members.

Member Present means, in connection with a General Meeting, a Voting Member present at the venue for the General Meeting in person or by proxy.

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

Morphettville Racecourse means the thoroughbred racing course located at 79 Morphett Road, Morphettville, South Australia 5043.

Office means the registered office of the Club.

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

RSA means Racing SA Ltd (ABN 25 094 475 939).

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

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

Special Resolution means a special resolution as defined in the Act.

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

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

Voting Member means a Member who is entitled to vote at a General Meeting in accordance with clause 8.14.

Year means the period of 12 months commencing on 1 August in one calendar year and ending on 31 July in the following calendar year.

1.2 Interpretation

In this Constitution, the following rules of interpretation apply unless the context requires otherwise:

- (a) a word importing a gender shall include each other gender;
- (b) a word importing the singular shall include the plural and vice versa;
- (c) where a word or phrase is given a defined meaning, any other part of speech or grammatical form of the word or phrase shall have a corresponding meaning;

- (d) a word denoting an individual (such as **person**) shall include a corporation, firm, authority, government body or agency, unincorporated association or instrumentality;
- (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 statute, proclamation, regulation, order or similar instrument shall include all amendments and revisions made to it from time to time and any statute, proclamation, regulation, order or similar instrument brought into operation in substitution of it or incorporating any of its provisions or made under it from time to time;
- (g) a reference to a party's determination, consent, agreement, authorisation or approval shall mean its determination, consent, agreement, authorisation or approval in its absolute discretion;
- (h) the headings and index used in this Constitution are for convenience only and shall not affect the interpretation of this Constitution;
- (i) a reference to '\$', 'dollars' or 'money' is to currency of the Commonwealth of Australia;
- (j) 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; and
- (k) the meaning of general words or provisions shall not be limited by references to specific matters that follow them (for example, introduced by words such as **including, such as** or **in particular**) or are included elsewhere in this Agreement.

1.3 Severance

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

1.4 Model Rules

Model rules under the Act are expressly displaced by this Constitution.

2. Name

The name of the Club is **South Australian Jockey Club Incorporated**.

3. Objects

- (a) The principal object of the Club is the encouragement of thoroughbred racing (**Principal Object**).
- (b) In support of the Principal Object, the secondary objects of the Club are the promotion and provision of entertainment, sport, amusement, recreation, and social events in order to carry on the Principal Object (**Secondary Objects**).
- (c) The Club may undertake such other activities, which are not inconsistent with the Principal Object or the Secondary Objects, to directly or indirectly enhance, promote or protect the interests of the Club and or thoroughbred racing.

4. Powers

4.1 General

The Club may:

- (a) acquire, hold, deal with and dispose of any real or personal property (including shares);
- (b) administer any property on trust;
- (c) open and operate bank accounts;
- (d) invest and deal with its money in such manner as the Club shall determine from time to time including in investments that are authorised for a trustee to make pursuant to the *Trustee Act 1936* (SA);
- (e) borrow money, with or without security;
- (f) give security for the discharge of liabilities incurred by the Club;
- (g) support and subscribe to any charitable body or public body associated with thoroughbred horse racing;
- (h) affiliate, amalgamate, hold shares in, co-operate with or enter into reciprocal arrangements with another club or body having objects similar to those of the Club provided that such other club or body has objects and powers not inconsistent with the objects and powers of the Club stated in clauses 3 and 4;
- (i) appoint officers and employees on terms and conditions determined by the Board;
- (j) enter into any contract or arrangement which it considers necessary or desirable;
- (k) exercise such other powers as are reasonably necessary for, or in connection with or incidental to the performance exercise or discharge of its functions or objects.

4.2 Actions Authorised Under the Law

Where the law authorises or permits a Club to do any matter or thing if so authorised or permitted by its constitution, the Club is and shall be taken by this clause to be authorised or permitted to do that matter or thing.

5. Membership

5.1 Members bound by Constitution and By-Laws

Subject to all applicable laws, this Constitution and the By-Laws have effect as a contract:

- (a) between the Club and each Member;
- (b) between the Club and each of its officers; and
- (c) between a Member and each other Member,

under which each person agrees to observe and comply with the Constitution and By-Laws so far as they apply to that person.

5.2 Register of Members

- (a) The Chief Executive Officer shall keep the Register, which shall contain the following details:
 - (i) the full name and address of each Member;
 - (ii) the date of admission of each Member;
 - (iii) whether the Member has been granted voting rights;
 - (iv) the class of membership to which the Member belongs; and
 - (v) any other particulars the Board may prescribe from time to time in the By-Laws; and
 - (vi) for each former Member, the date of ceasing to be a Member.
- (b) Every Member is required to communicate any change in his or her address to the Club in writing no later than 28 days after the date of the change, and any such change of address shall be entered in the Register. The latest address in the Register is deemed to be the Member's registered address.
- (c) Subject to the Act, confidentiality considerations and privacy laws, the register may be used to further the Objects, in such manner as the Board considers appropriate.

5.3 Application for Membership

An application for membership must be:

- (a) in writing;
- (b) made in a form determined by the Board from time to time;
- (c) signed by the applicant;
- (d) signed by such number of Members nominating the applicant for membership as the Board determines from time to time (if any);
- (e) accompanied by a lodgement fee (if any) determined by the Board from time to time; and
- (f) received by the Chief Executive Officer.

5.4 Admission of Members by Board

- (a) The Board will hold Board Meetings to determine applications for membership at such times 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) The Board must:
 - (i) decide by a majority to accept or reject an application; and
 - (ii) advise the applicant of its decision made under clause 5.4(c)(i).
- (d) An applicant for membership of the Club is to be admitted as a Member on the approval of the Board and upon payment by the applicant of the Joining Fee (if any) and the first Subscription (if any).
- (e) The Board is not required to give any reason for rejecting or accepting an application for membership.

- (f) When an applicant has been accepted for membership, the Chief Executive Officer (or other person whom the Board may appoint) shall notify the applicant of the acceptance and request payment of the Joining Fee (if any).
- (g) If the applicant does not pay the Joining Fee (if any) within the time prescribed by the Board, the acceptance of the applicant's application for membership is cancelled, unless the Board decides otherwise.
- (h) An applicant whose application is rejected by a majority of the Board is entitled to make a personal representation to the Board in support of her or his nomination. Having heard that representation the Board may in its absolute discretion confirm or reverse its original decision to reject the nomination and is not obliged to give reasons for such decision.

5.5 Classes of Members

Subject to this Constitution, the Board may determine and admit different classes of Members and the qualification, rights, Joining Fee and Subscriptions payable, terms and conditions, privileges and obligations of the respective classes of Members shall be as determined by the Board from time to time in the By-Laws.

5.6 No Liability

Except as otherwise provided by law, a Member is not liable to contribute to the payment of the debts and liabilities of the Club or the costs, charges and expenses in winding up of the Club.

5.7 Rights of Membership are Personal

Subject to clause 8.16, the rights and privileges of every Member are not transferable by any manner to another person.

6. Membership Fees

6.1 Joining Fee

- (a) The Board may determine that a Joining Fee is payable by an applicant for membership of the Club.
- (b) The Board may determine the amount of the Joining Fee from time to time.
- (c) The Board may prescribe different amounts for, or defer or waive the requirement to pay, the Joining Fee in respect of any person or category of person applying to become a Member.

6.2 Subscriptions

- (a) The Board may determine that a Subscription is payable by Members annually or at such other times determined by the Board.
- (b) The Board may determine the amount of the Subscription from time to time.
- (c) The Board may prescribe different amounts for, or defer or waive the requirement to pay, the Subscription in respect of any Member or applicant for membership of the Club.

6.3 Non-payment of Annual Subscription

- (a) If a Member's Subscription remains unpaid for a period of 1 month after it becomes due and payable, the Board may direct the Chief Executive Officer to give notice to the Member of that fact.
- (b) If the Subscription remains unpaid for a period of 1 month after the date of the notice referred to in clause 6.3(a) (**Expiration Period**), the Board may suspend or expel the Member from membership of the Club and, if applicable, direct the Chief Executive Officer to remove the Member's name from the Register.
- (c) A Member is not entitled to exercise any rights of membership after the Expiration Period until that Member has paid that portion of his or her Subscription which is due and payable in full, and a Member whose membership of the Club has been suspended is not entitled to exercise any rights of membership until that suspension has ended.

7. Cessation of Membership

7.1 Resignation of a Member

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

7.2 Misconduct of a Member

Without limiting clause 7.3, if any Member:

- (a) is in breach of the provisions of this Constitution or any By-Laws (or the subject of any condition in either document, not being a breach, that gives the Board the power to suspend or expel a Member); 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 Club,

the Board may suspend or expel the Member from membership of the Club and, in the case of expulsion, remove the Member's name from the Register.

7.3 Suspension or Expulsion

The Board shall not suspend or expel a Member under clause 7.2 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 (or any Committee to which it has delegated its disciplinary powers), 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 (or Committee, as the case may be) in respect of the alleged breach or act or omission.

7.4 Other Grounds for Cessation of Membership

- (a) A Member shall automatically cease to be a Member if that Member:
 - (i) dies;
 - (ii) is found by a Court or authority of competent jurisdiction to be :
 - (A) of unsound mind; or

- (B) a person whose estate is liable to be dealt with in any way under laws relating to mental health;
- (iii) is convicted of any offence leading to imprisonment;
- (iv) becomes bankrupt;
- (v) becomes a disqualified person under the Local Rules of Racing or the Australian Rules of Racing; or
- (vi) is disqualified from competing in any sport under the rules of administration of that sport,

provided that any vote or other thing done by that Member under this Constitution or the By-Laws occurring prior to removal of the Member from the Register will be deemed valid. The Member's name will be removed from the Register promptly upon the Chief Executive Officer or Secretary becoming aware of the circumstances under this clause 7.4.

7.5 Readmission

A person who ceases to be a Member under clause 7.4(a)(ii), 7.4(a)(iii) or 7.4(a)(iv) is entitled to reapply for membership of the Club once the relevant incapacity, imprisonment or bankruptcy ends or is overturned by a competent authority or court, and may be readmitted as a Member at the discretion of the Board.

8. Meetings of Members

8.1 Annual General Meetings

- (a) The Club shall hold an Annual General Meeting before 30 November in each year.
- (b) The ordinary business of an Annual General Meeting is:
 - (i) to consider and, if deemed appropriate, approve and confirm the minutes of the previous Annual General Meeting and of any General Meetings held since the previous Annual General Meeting;
 - (ii) to consider the financial statements and related reports for the preceding year;
 - (iii) to elect Directors in accordance with this Constitution;
 - (iv) to discuss the general business of the Club; and
 - (v) to transact any other business which under this Constitution or the Act ought to be transacted at an Annual General Meeting.
- (c) The Annual General Meeting may transact special business of which notice is given.

8.2 Special General Meetings

- (a) The Board may, when it thinks fit, call a Special General Meeting.
- (b) The Board must, on the written requisition of not less than fifty (50) members, call a Special General Meeting.
- (c) The requisition for a Special General Meeting under clause 8.2(b):
 - (i) must state the purpose of the meeting;
 - (ii) must contain the resolutions to be put forward at the meeting (if any);

- (iii) must be signed by all of the Members making the requisition with the full name of each Member printed clearly adjacent to each signature;
 - (iv) must be delivered to the Chief Executive Officer;
 - (v) may consist of several documents in like form, signed by one or more of the Members making the requisition; and
 - (vi) must make clear that each person signing the requisition has read, or had the opportunity to read, the information referred to in clauses 8.2(c)(i) and 8.2(c)(ii).
- (d) If the Board does not call a Special General Meeting to be held within 21 days after the delivery of the requisition to the Chief Executive Officer (**Expiry Date**), the Members making the requisition may call a Special General Meeting to be held not later than 2 months after the Expiry Date.
- (e) A Special General Meeting called by Members must be called in the same way as nearly as possible as one which is called by the Board.
- (f) All reasonable expenses which are validly incurred in calling a Special General Meeting must be refunded by the Club to the persons or members incurring those expenses.

8.3 Notices of General Meetings

- (a) Notice of General Meetings shall be given to:
- (i) every Member;
 - (ii) each Director; and
 - (iii) the auditor of the Club (if any).
- (b) Other than the persons specified in clause 8.3(a), no other person is entitled to receive notice of a General Meeting.
- (c) A notice of a General Meeting shall:
- (i) specify the place, the day and the hour of the meeting and shall state the general nature of the business to be transacted at the meeting;
 - (ii) shall:
 - (A) if a Special Resolution is proposed, be given at least 21 days before the General Meeting; and
 - (B) in any other case, be given at least 14 days before the General Meeting; and
 - (iii) contain any other information required by the Act.
- (d) Notice of adjourned General Meetings need not be given.
- (e) 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 shall not invalidate the proceedings at, or any resolution passed at, that meeting.

8.4 Business of General Meetings

- (a) The only business that can be transacted at a General Meeting is the business set out in the notice convening the meeting.
- (b) Any Member may put forward a proposition or motion for consideration at a General Meeting by giving written notice to the Board at least 28 days before the relevant General Meeting.

- (c) A proposition or motion under clause 8.4(b) must be included in the relevant notice of General Meeting unless the Board has resolved, acting reasonably, that the proposition or motion is either frivolous, unlawful, defamatory or otherwise inappropriate.

8.5 Quorum

- (a) No business shall 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, twenty (20) Members Present, attending in person, shall constitute a quorum.

8.6 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 shall be dissolved; and
- (b) in any other case:
 - (i) 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
 - (ii) if at the adjourned meeting a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting shall be dissolved.

8.7 Chair of Meetings

- (a) Subject to clause 8.7(b), the Chairperson or, in the Chairperson's absence, the Vice-Chairperson shall preside as chair at every General Meeting.
- (b) Where a General Meeting is held and:
 - (i) there is no Chairperson or Vice-Chairperson; or
 - (ii) the Chairperson or Vice-Chairperson is not present within 15 minutes after the time appointed for the meeting,the Directors present shall choose one of the Directors present to chair the meeting.
- (c) In the absence of all Directors, a Member elected by the General Meeting shall chair the meeting.

8.8 Adjournments

- (a) The chair of the General Meeting may, with the consent of the meeting at which a quorum is present, and shall if directed by the meeting, adjourn the meeting from time to time and from place to place.
- (b) No business shall be transacted at any adjourned General Meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) When a General Meeting is adjourned for 30 days or more, notice of the adjourned General Meeting shall be given as in the case of an original General Meeting.

- (d) Except as provided by clause 8.8(c), it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned General Meeting.

8.9 Conduct at a General Meeting

- (a) Subject to any By-Laws and the Act, the chair of the meeting may give necessary directions for the conduct of any General Meeting and the ruling of the chair of the meeting shall be final unless overruled by a resolution of the General Meeting.
- (b) Any question requiring a decision shall be in the form of a motion which shall be submitted in writing prior to the meeting and be proposed and seconded before being discussed.

8.10 Voting at General Meetings

- (a) Subject to this Constitution and all applicable laws, a decision of Members at a General Meeting shall be by simple majority.
- (b) 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.
- (c) A declaration by the chair of the General Meeting that a resolution has on a show of hands been carried or lost and an entry to that effect in the minutes of the meeting shall be taken as conclusive evidence of the fact without the need to show the number or proportion of the votes recorded in favour of or against the resolution.
- (d) A poll for a resolution may be demanded by:
 - (i) the chair of the General Meeting; or
 - (ii) as otherwise provided for by the Act.
- (e) A demand for a poll may be withdrawn.

8.11 Procedure for Poll

- (a) Subject to any By-Laws, a poll shall be taken in the manner and at the time the chair of the General Meeting directs.
- (b) The result of the poll shall be a resolution of the General Meeting at which the poll was demanded.
- (c) The demand for a poll shall not prevent a General Meeting from continuing for the transaction of any business other than that on which a poll has been demanded.

8.12 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 General Meeting has a casting vote in addition to any deliberative vote to which the chair may be entitled as a Member.

8.13 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;
- (b) on a show of hands, every Member Present having the right to vote at the General Meeting has one vote; and

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

8.14 Voting Rights

A Member is not entitled to vote at a General Meeting unless:

- (a) they are part of a class of Members which the Board has determined to have voting entitlements from time to time;
- (b) all sums due and payable by the Member in respect of membership in the Club have been paid at the time the relevant notice regarding a General Meeting is sent under clause 8.3; and
- (c) the Member has been a Member of the Club for at least 12 months.

8.15 Objections to Qualification to Vote

- (a) An objection to a person's qualification to vote may be raised only at the General Meeting or adjourned General Meeting at which the vote objected to is tendered.
- (b) Any objection shall be referred to the chair of the meeting, whose decision shall be final.
- (c) A vote allowed after an objection shall be valid for all purposes.

8.16 Proxies

- (a) A Voting Member who is entitled to attend and cast a vote at a General Meeting may appoint another Member as the Member's proxy to attend and vote for the Voting Member at the meeting.
- (b) An instrument appointing a proxy must:
 - (i) be in writing;
 - (ii) signed by the Member entitled to attend and vote at the meeting, or signed by such a Member under power of attorney;
 - (iii) state the full name or office held, registered address, and membership number of the Member entitled to attend and vote at the meeting; and
 - (iv) state the meeting at which the appointment may be used.
- (c) The Board shall have the power to prescribe the form of an instrument appointing a proxy from time to time. In the absence of a prescribed form of proxy, any instrument appointing a proxy which complies with the requirements contained within this Constitution is valid.
- (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.

8.17 Lodgement of Proxies

For an instrument appointing a proxy to be valid, the instrument appointing the proxy must be received by the Club (at the Office or at such other place as is specified for that

purpose in the notice convening the General Meeting) no less than 48 hours before the time for holding the General Meeting at which the person named in the instrument proposes to vote.

8.18 Validity of Proxies

A vote exercised in accordance with the terms of an instrument of proxy is valid despite:

- (a) the:
 - (i) previous death; or
 - (ii) unsoundness of mind (as found by a Court or authority of competent jurisdiction),of the appointing Member; or
- (b) the revocation of the instrument (or of the authority under which the instrument was executed),

if no notice in writing of the death, unsoundness of mind or revocation has been received by the Club at the Office (or such other place as described in clause 8.17) before the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

8.19 Where Proxy is Incomplete

- (a) No instrument appointing a proxy shall be treated as invalid merely because it does not contain:
 - (i) the address of the appointor or of a proxy;
 - (ii) the proxy's name or the name of the office held by the proxy; or
 - (iii) in relation to any or all resolutions, an indication of the manner in which the proxy is to vote.
- (b) Where the instrument does not specify the name of a proxy, the instrument shall be taken to be given in favour of the chair of the General Meeting.

8.20 Direct Voting

- (a) The Directors may determine that at any General Meeting, a Member who is entitled to attend and vote on a resolution at that meeting is entitled to a direct vote in respect of that resolution.
- (b) In this clause 8, a “**direct vote**” includes a vote delivered to the Club by post or electronic means approved by Directors, and “**direct voting**” means the process associated with the making of a direct vote.
- (c) The Directors may prescribe rules to govern direct voting including specifications as to the form, method and timing of giving the direct vote in order for the vote to be valid, and the treatment of direct votes.

8.21 Treatment of Direct Votes

A direct vote on a resolution at a General Meeting in accordance with clause 8.20 is of no effect and will be disregarded, if:

- (a) at the time of the resolution, the person who cast the direct vote:
 - (i) is not entitled to vote on the resolution; or

- (ii) would not be entitled to vote on the resolution if the person were present at the meeting at which the resolution is considered;
- (b) had the vote been cast in person at the meeting at which the resolution is considered:
 - (i) the vote would not be valid; or
 - (ii) the Club would be obliged to disregard the vote;
- (c) subject to any rules prescribed by the Directors, the person who cast the direct vote is present in person at the meeting at the time the resolution is considered; or
- (d) if the direct vote was cast otherwise than in accordance with any regulations, rules and procedures prescribed by the Directors under clause 8.20.

9. Board of Directors

9.1 Composition of Board

- (a) The Board shall have no more than nine (9) Directors in aggregate.
- (b) The Board shall consist of:
 - (i) between five (5) and seven (7) Elected Directors, who must all be Members and who shall be elected to the Board under clauses 9.3 and 9.5; and
 - (ii) in addition to the Elected Directors, not more than two (2) Appointed Directors, who need not be Members and who may be appointed to the Board under clause 9.6.

9.2 Eligibility

- (a) Subject to clause 9.2(b), no person is eligible for election or appointment as a Director, unless that person:
 - (i) has been a Member for at least 12 months;
 - (ii) owes no Subscriptions or other amounts to the Club, in any capacity, that have become overdue, and is not, in the view of the Board, an unacceptable risk of failing to consistently meet his or her debts to the Club when they fall due in the future;
 - (iii) has not previously been found guilty or liable by a competent court, tribunal, racing authority or regulatory body, or admitted guilt or liability, in respect of any breach of directors' duties or fiduciary duties, misleading or deceptive conduct or conduct involving dishonesty or a lack of good faith;
 - (iv) has no prior criminal convictions leading to imprisonment;
 - (v) has not previously been expelled or suspended from membership of any club that is registered under applicable law as a corporation or incorporated association;
 - (vi) has a material personal interest that would, in the Board's view, prejudice his or her ability to act independently on an ongoing basis;
 - (vii) is not the subject of circumstances that would cause that person to vacate office under clause 9.8 if that person were an existing Director;
 - (viii) is not, or has not, within the last 12 months, been:

- (A) a stipendiary steward;
 - (B) a person who holds a licence or permit pursuant to the Australian Rules of Racing;
 - (C) a person who holds a licence or permit pursuant to the Local Rules of Racing;
 - (D) employed by:
 - (1) the Club;
 - (2) RSA; or
 - (3) any incorporated racing club which is itself a member of Country Racing SA Incorporated (ABN 46 041 972 633);
 - (ix) has any necessary legal approvals including those which may be required:
 - (A) under the *Liquor Licensing Act 1997 (SA)*;
 - (B) under the *Gaming Machines Act 1992 (SA)*; or
 - (C) by Consumer and Business Services SA;
 - (x) provides the Club with all information reasonably requested and consents to the Club undertaking such enquiries to are necessary to determine that the individual meets the eligibility criteria in this clause 9.2;
 - (xi) provides a declaration that he or she meets those criteria and requirements; and
 - (xii) is at least 18 years of age; and
 - (xiii) has an appropriate understanding of the duties and obligations imposed on the Board and an appropriate level of financial literacy.
- (b) The Board may determine that a person is eligible for election or appointment, despite the application of paragraph 9.2(a) above, if the Board is of the unanimous view that there are mitigating circumstances and the relevant matter should be disregarded.

9.3 Election and Removal of Directors by Members' Resolution

Subject to clause 9.1, the Club may at any time by resolution passed in General Meeting:

- (a) elect any person as an Elected Director, provided that the number of Elected Directors does not exceed the maximum number determined under clause 9.1; or
- (b) remove any Director (whether that person is an Elected Director or an Appointed Director) from office, provided that the number of Elected Directors does not fall below the minimum required by clause 9.1(b)(i).

9.4 Elected Directors: Nomination Process for Elected Directors

- (a) Nominations for and elections of Elected Directors shall be conducted pursuant to the provisions of this Constitution and any applicable By-Laws.
- (b) Nominations for election as an Elected Director must be:
 - (i) in accordance with the nomination form determined by the Board from time to time;
 - (ii) signed by the candidate;
 - (iii) signed by two Members nominating the candidate; and

- (iv) received by the Chief Executive Officer by a date nominated by the Board.
- (c) A nomination may be withdrawn by the candidate at any time before the beginning of the relevant General Meeting.

9.5 Elected Directors: Election Process for Directors at General Meetings

- (a) In relation to any General Meeting of the Club:
 - (i) if the number of candidates validly nominated for election or re-election as an Elected Director as at the close of nominations is equal to or less than the number of vacancies on the Board, the candidates validly nominated shall be declared elected or re-elected (as the case may be) at the relevant General Meeting; and
 - (ii) if the number of candidates validly nominated for election or re-election as an Elected Director as at the close of nominations is greater than the number of vacancies on the Board, an election of Elected Directors shall be conducted by ballot in accordance with the By-Laws.
- (b) The election or re-election of a person to the office of Elected Director in accordance with this clause 9.5 takes effect at the conclusion of the relevant General Meeting.

9.6 Appointed Directors: Appointment of Directors by Unanimous Board Resolution

- (a) The Directors may, at any time, resolve by unanimous decision to appoint any person as an Appointed Director either:
 - (i) to fill a casual vacancy in accordance with clause 9.11(a); or
 - (ii) as an addition to the Board,provided that:
 - (iii) the selected person consents to the appointment; and
 - (iv) the number of Appointed Directors does not exceed the maximum number determined under clause 9.1.
- (b) Without limiting clause 9.6(a), in appointing Appointed Directors from time to time, the Board:
 - (i) must have regard to the recommendation(s) (if any) of the DSP (if any); and
 - (ii) should have regard to which personal and professional skills (including, but not limited to, financial literacy and corporate governance knowledge and experience), diversity (including, but not limited to gender, ethnicity and age) and experience the Directors consider will enhance the Board's composition.

9.7 DSP

As part of the By-Laws, the Board may from time-to-time, nominate, appoint and/or maintain, individuals to form a director selection panel (**DSP**). The role of the DSP is to:

- (a) assist the Club by ensuring the Board is comprised of persons with an appropriate composition of skills and experience and who act in the best interests of the Club as a whole;

- (b) identify and review the Board's composition of skills (and any gaps or potential deficiencies in that regard);
- (c) review potential candidates for the position as an Appointed Director; and
- (d) provide recommendations to the Board concerning the suitability of any candidates referred to in, or which are subject to, clause 9.6.

9.8 Allowance

- (a) A Director is entitled to be allocated an allowance for his or her service as Director. The allowance for:
 - (i) Elected Directors shall be determined by the Members at General Meetings from time to time; and
 - (ii) Appointed Directors shall be determined by the Board from time to time, however an allowance allocated to an Appointed Director cannot be greater than the amount(s) allocated to Elected Directors (if any).
- (b) In addition to allowances allocated under clause 9.8(a) (if any), a Director shall be entitled to be allocated 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 Club, provided that such payments or reimbursements are approved by the Board.
- (c) In addition to allowances allocated under clause 9.8(a) (if any), subject to clause 9.2(a)(viii) and clause 9.2(b), a Director may be engaged by the Club in any other capacity and may be appointed on such terms as to remuneration, tenure of office and otherwise as may be agreed by the Board.

9.9 Term and Tenure

- (a) Subject to clause 9.11(b), each:
 - (i) Elected Director shall be elected for a three (3) year term;
 - (ii) Appointed Director appointed under clause 9.6(a)(i) shall be appointed for a period determined in accordance with clause 9.11; and
 - (iii) Appointed Director appointed under clause 9.6(a)(ii) shall be appointed for a three (3) year term, less the amount of time between the date of their appointment and the most recent Annual General Meeting preceding their appointment,
unless the Director vacates the office before the expiry of the term.
- (b) Subject to clause 25.2, no person who has served as an Elected Director or Appointed Director for either a period of nine (9) consecutive years or three (3) consecutive terms (where any term is less than 3 years) shall be eligible for election as a Director until the next Annual General Meeting which is held at least 12 months after the date of conclusion of their last term as a Director.
- (c) A Director vacating office or retiring in accordance with this clause 9.9 shall hold office as a Director (subject to election or re-election) until the conclusion of the Annual General Meeting at which he or she vacates office or retires.

9.10 Vacation of Office

In addition to the circumstances in which the office of a Director may become vacant under the Act and this Constitution, the office of a Director becomes vacant if the Director:

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- (a) dies;
- (b) suffers from mental or physical incapacity;
- (c) resigns by notice in writing to the Club;
- (d) is absent without the consent of the Board from meetings of the Board held during a consecutive six (6) month period;
- (e) prejudices or is likely to prejudice any licence or permit which is reasonably necessary for the Club to carry on business, including, but not limited to, any:
 - (i) licence or permit under the *Gaming Machines Act 1992 (SA)*;
 - (ii) liquor licence or permit under the *Liquor Licensing Act 1997 (SA)*.
- (f) is found by a Court or authority of competent jurisdiction to be:
 - (i) of unsound mind; or
 - (ii) a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
- (g) is found guilty or liable by a competent court, tribunal, racing authority or regulatory body, or admitted guilt or liability, in respect of any breach of directors' duties or fiduciary duties, misleading or deceptive conduct or conduct involving dishonesty or a lack of good faith;
- (h) is convicted of any offence leading to imprisonment;
- (i) is expelled or suspended from membership of any club that is registered under applicable law as a corporation or incorporated association;
- (j) was previously the subject of an event described under clauses 9.10(g), 9.10(h) or 9.10(i) and that fact, not having been disclosed earlier, becomes known to the Club;
- (k) is, or would be, prohibited from being a director of a corporation under the *Corporations Act 2001 (Cth)*; or
- (l) if the Director is an Elected Director, ceases to be a Member.

9.11 Casual Vacancies

- (a) The Directors may, at any time resolve to appoint any person as a Director to fill a casual vacancy (whether the vacated office was an Elected Director or Appointed Director), provided that the selected person consents to the appointment.
- (b) Notwithstanding clause 9.9(a), any Director appointed to the Board under this clause 9.11 holds office for the balance of the relevant three (3) year term (attributable to the Director whose office was vacated), at which time he or she will be eligible for election or appointment in accordance with this Constitution.

10. Powers and Duties of the Board

10.1 General Power of the Board

- (a) The management and control of the business and affairs of the Club shall be vested in the Board.
- (b) The Board constitutes the 'committee' for the purposes of the Act.

- (c) The Board may exercise all powers of the Club which are not, by the Act or this Constitution, required to be exercised by the Club in General Meeting.

10.2 By-Laws

- (a) The Board shall have the power to make, amend and repeal By-Laws for the proper conduct and management of the Club, including but not limited to By-Laws which regulate and prescribe:
 - (i) the qualifications, rights, privileges and obligations of Members;
 - (ii) the admission of Members and their guests to the premises of the Club or any part thereof;
 - (iii) the conduct of Members and their guests;
 - (iv) the conduct of Directors and Committee members (including the "Code of Conduct" under clause 11.12);
 - (v) fines or penalties for the breach of any By-Laws or any provisions of this Constitution;
 - (vi) the procedure at:
 - (A) General Meetings of the Club; and
 - (B) Board Meetings of the Directors;
 - (vii) the procedure by which polls may be taken;
 - (viii) all matters required, or properly to be prescribed, for the conduct of, or associated with, the admission of persons as Members and election or appointment of Directors; and
 - (ix) generally any matters whatsoever necessary or desirable for the purposes of giving effect to the objects of the Club.
- (b) All By-Laws shall be binding upon:
 - (i) all Members;
 - (ii) subject to clause 12.5, all Committee members; and
 - (iii) the Board.
- (c) The Board shall adopt such means as it deems sufficient to bring to the notice of Members all By-Laws made, their amendment or repeal.
- (d) No By-Laws shall be inconsistent with, or shall affect or repeal, anything contained in this Constitution or the Act.
- (e) Any By-Law may be set aside, in whole or in part, by Special Resolution.

10.3 Appointment of Attorneys

- (a) The Board may appoint any person to be the attorney of the Club 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 paragraph (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.

10.4 Negotiable Instruments

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

11. Proceedings of Directors

11.1 Proceedings

Subject to this Constitution and the law, the Board may decide its own procedure.

11.2 Meetings

- (a) The Directors shall meet at least six (6) times per year but may meet as often as they deem necessary.
- (b) The Chief Executive Officer may at any time, and must, on the request of any Director, convene a Board Meeting.
- (c) One week's notice must be given to every Director of the place, date and time of every Board Meeting.

11.3 Meetings by Technology

- (a) For the purposes of the Act, each Director, on becoming a Director (and on the adoption of this Constitution or any update or replacement of it), consents to the use of the following technology for calling or holding a Board Meeting:
 - (i) video conference;
 - (ii) teleconference;
 - (iii) any other technology which permits each Director to communicate with every other Director in real time; or
 - (iv) any combination of the technologies described in clauses 11.3(a)(i), 11.3(a)(ii) and 11.3(a)(iii).
- (b) A Director may withdraw the consent given under this clause 11.3.
- (c) Where the Directors are not all in attendance at one place and are holding a Board Meeting using technology and each Director can communicate with the other Directors:
 - (i) the participating Directors shall, for the purpose of every provision of this Constitution concerning Board Meetings, be taken to be assembled together at a meeting and to be present at that meeting; and
 - (ii) all proceedings of those Directors conducted in that manner shall be as valid and effective as if conducted at a Board Meeting at which all of them were present.

11.4 Quorum at Meetings

At a Board Meeting:

- (a) the number of Directors whose presence is necessary to constitute a quorum is at least fifty-one per cent (51%) of the Directors entitled to vote; and
- (b) no business may be conducted unless a quorum is present.

11.5 Chairperson and Vice-Chairperson

- (a) At the start of the first Board Meeting following each Annual General Meeting, the Board shall elect:
- (i) an Elected Director to hold office as Chairperson; and
 - (ii) another Director to hold office as Vice-Chairperson,
- who shall hold office for until the first Board Meeting following the next Annual General Meeting, at which they shall be eligible for re-election subject to clause 11.5(e).
- (b) The decisions made under clause 11.5(a) shall be by simple majority of the Board, and each Director shall be entitled to one vote.
- (c) Following each Annual General Meeting, the existing Chairperson shall act as Chairperson until the election referred to in clause 11.5(a) has taken place and a new Chairperson and Vice-Chairperson are elected. The new Chairperson and Vice-Chairperson will commence their roles immediately following that election.
- (d) The Chairperson or, in the Chairperson's absence, the Vice-Chairperson, is to chair any Board Meeting.
- (e) No Director may hold the office of Chairperson or Vice-Chairperson for longer than 8 consecutive years.
- (f) Where a Board Meeting is held and:
- (i) neither a Chairperson nor a Vice-Chairperson has been elected as provided by paragraph (a); or
 - (ii) the Chairperson and Vice-Chairperson are not present at the time appointed for the holding of the meeting,

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

11.6 Decisions at Meetings

- (a) Questions arising at a Board Meeting shall be decided by a majority of votes of Directors present and voting and any such decision shall for all purposes be taken to be a decision of the Board.
- (b) Each Director is entitled to one vote on a matter arising for a decision by the Board.
- (c) In the case of an equality of votes, the chair of the Board Meeting shall have a casting vote in addition to any deliberative vote.

11.7 Circulating Resolutions

- (a) If a document:
- (i) is sent to all those entitled to receive notice of a Board Meetings at which a resolution could be put;
 - (ii) contains the terms of a resolution and a statement that the signatories to it are in favour of that resolution; and
 - (iii) has been signed by all 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 paragraph (a):
 - (i) two or more separate documents containing statements in identical terms each of which is signed by one or more Directors shall together be taken to constitute one document containing a statement in those terms signed by those Directors at the time at which the last of those documents to be signed was signed by a Director; and
 - (ii) a document which is received by the Club or an agent of the Club by email or other electronic means and is sent for or on behalf of a Director shall be taken to be a document signed by that Director not later than the time of receipt of the document (according to the relevant time displayed on the email, or other document, in the absence of manifest tampering or malfunction) by the Club or its agent in legible form.

11.8 Conflict of Interest

- (a) The Directors must comply with sections 31 and 32 of the Act regarding disclosure of interests and voting on contracts in which a Director has an interest.
- (b) A Director shall declare his or her interest in any contractual, selection, disciplinary, or financial matter in which a conflict of interest arises or may arise and shall, unless otherwise determined by the Board, absent themselves from discussions of such matters and shall not be entitled to vote in respect of such matters. If the Director casts a vote, the vote shall not be counted.
- (c) In the event of any uncertainty as to whether it is necessary for a Director to absent themselves from discussions and refrain from voting, the issue should be immediately determined by vote of the Board. If this is not possible, the matter shall be adjourned or deferred.

11.9 Disclosure of Interests

- (a) The nature of the interest of a Director must be declared at the meeting of the Board at which the relevant matter is first taken into consideration, if the interest then exists. In any other case, the interest should be revealed to the Board at the next meeting of the Board. If a Director becomes interested in a matter after it is made or entered into, the declaration of the interest must be made at the first meeting of the Board held after the Director becomes interested.
- (b) All disclosed interests must also be disclosed to each Annual General Meeting in accordance with the Act.

11.10 General Disclosure

A general notice stating that a Director is a member of, or associated with, any entity and that he or she is 'interested' in all transactions with that entity is sufficient declaration under clause 11.9. After the distribution of the general notice, it is not necessary for the Director to give a special notice regarding any particular transaction with that firm or company.

11.11 Recording Disclosures

Any declaration made, any disclosure or any general notice given by a Director in accordance with clauses 11.8, 11.9 and/or 11.10 must be recorded in the minutes of the relevant Meeting.

11.12 Board Code of Conduct

- (a) As part of the By-Laws promulgated by the Board in accordance with clause 10.2, the Board shall adopt and keep in force, and may from time to time amend, a “Code of Conduct” by which all:
 - (i) Directors; and
 - (ii) members of Committees (whether those persons are Directors or Members of the Club or not),for the time being are, and shall be, bound.
- (b) A copy of the Code of Conduct, as amended and in force from time to time, shall be provided by the Chief Executive Officer to each Director and Committee member upon election or appointment to the Board or Committee and at any subsequent time when that document is amended.

12. Committees

12.1 Establishment of Committees

- (a) The Board may establish committees to advise the Club on any matter relating to the Club (**Committees**).
- (b) The Board may delegate any of its powers to Committees consisting of such member or members of the Board and other individuals as the Board thinks fit. Any Committee shall exercise its delegate powers pursuant to any restrictions imposed on it by the Board. Committee proceedings are regulated by the By-Laws relating to the proceedings of the Board.
- (c) A Committee to which the Board has delegated any powers shall exercise the powers delegated in accordance with any directions of the Board. Any such delegated power exercised by a Committee shall be taken to have been exercised by the Board.

12.2 Composition and Role of Committee

- (a) Unless inconsistent with this Constitution, the Board may:
 - (i) appoint and remove Committee members, or make provision for the appointment and removal of Committee members; and
 - (ii) determine the remuneration (if any) of any Committee members.
- (b) Unless inconsistent with this Constitution, the Board may determine the functions of any Committee.
- (c) The membership of Committees is not restricted to Directors or Members.
- (d) Each Committee must contain at least one Director among its members.

12.3 Committee Decisions

- (a) If the Board establishes a Committee for a particular matter then the Board must obtain the opinion of that Committee before the Board makes any decision on that matter.
- (b) The opinion or decisions of a Committee are recommendations only and do not bind the Board in any way.

12.4 Committee Rules

The Board may make and amend rules for each Committee.

12.5 Committee members to be bound by this Constitution

Any Committee member who is not a Member or a Director must sign an acknowledgement and undertaking, in a form approved by the Board from time to time, which provides that the Committee member shall be bound by the terms of this Constitution (and any By-Laws), as it relates to that Committee member.

13. Defects in Appointments

- (a) All acts done by any Board Meeting, a Committee, or a person acting as a Director or Committee member are as valid as if each person was duly appointed and qualified to be a Director or a member of the Committee.
- (b) Clause 13(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.

14. Chief Executive Officer, Other Officers and Delegations

14.1 Chief Executive Officer

- (a) Subject to the approval of the Consumer and Business Services being obtained, the Board may appoint a Chief Executive Officer 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 Officer, subject to applicable laws and the terms of the Chief Executive Officer's employment agreement.
- (c) The Board must ensure that the terms on which the Chief Executive Officer is engaged from time to time are appropriate and that a review of the Chief Executive Officer's performance is undertaken at least once annually.

14.2 Chief Executive Officer to act as Secretary and Public Officer

The Chief Executive Officer shall act as Secretary and public officer of the club for the purposes of the Act and effect the necessary notifications required by law.

14.3 Delegation of Powers to Chief Executive Officer

- (a) The Directors may delegate to the Chief Executive Officer the power (subject to such reservations on the power as are decided by the Directors) to conduct the day-to-day management and control of the business and affairs of the Club. The delegation will include the power and responsibility to:
 - (i) develop business plans, budgets, strategies, policies, processes and codes of conduct for consideration by the Directors and to implement them to the extent approved by the Directors;
 - (ii) manage the financial and other reporting mechanisms of the Club;
 - (iii) approve and incur expenditure subject to specified expenditure limits;

- (iv) sub-delegate his or her powers and responsibilities to employees or internal management committees of the Club;
 - (v) prepare agendas for Board and General Meetings;
 - (vi) attend all Board and General Meetings;
 - (vii) report regularly on the activities of, and issues relating to, the Club;
 - (viii) employ such personnel as are deemed necessary or appropriate from time to time; and
 - (ix) have any other powers and responsibilities which the Directors consider appropriate to delegate to the Chief Executive Officer.
- (b) The Chief Executive Officer is entitled, subject to a determination otherwise by the Directors, to attend all meetings of the Club, all meetings of the Directors and any Committees and may speak on any matter, but does not have a vote.

14.4 Delegations

- (a) Where the context permits and subject to any provision to the contrary under the Act or any other law, any function or power ascribed to the Board, Chief Executive Officer or Secretary (if any) under this Constitution may be delegated in writing:
- (i) in the Board's case, by Board resolution: and
 - (ii) otherwise, in accordance with and subject to resolutions of the Board and delegation and authority policies determined by the Board from time to time.

15. Common Seal and Executing Documents

- (a) The Club may have a common seal. If the Club 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:
- (i) two (2) Directors; or
 - (ii) a Director and the Chief Executive Officer (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 15 does not limit the ways in which the Club may execute a document.

16. Inspection of Records

- (a) Subject to the Act, the Board may authorise a Member to inspect books of the Club (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 Club except as provided by the Act or authorised by the Board.

17. Accounts and Auditor

- (a) In accordance with the Act, the Club must:
 - (i) cause proper accounts to be kept of its financial affairs;
 - (ii) for each financial year:
 - (A) prepare a statement of accounts that present fairly the results of the activities of the Club; and
 - (B) cause the accounts and statements of accounts of the Club to be audited by a properly qualified auditor.
- (b) A properly qualified auditor shall be appointed by the Directors and the remuneration of such auditor fixed and duties regulated in accordance with the Act.
- (c) The auditor may be removed by:
 - (i) Directors; or
 - (ii) Members at a General Meeting.
- (d) The following people may not be appointed as an auditor:
 - (i) an officer of the Club, including a Director or Committee member (and any partners, employers or employees of officers); or
 - (ii) an employee of the Club, including the Chief Executive Officer (and any partners, employers or employees of employees).
- (e) The auditor has a right of access at all reasonable times to the accounting records and other records of the Club and is entitled to require from any officer of the Club such information and explanations as he or she desires for the purpose of an audit.
- (f) The auditor must provide the Board with reports that comply with the Act with sufficient time for the Board to lay such material before the Members as and when required (including for the Annual General Meeting).
- (g) The reasonable fees and expenses of the auditor are payable by the Club.

18. Winding Up

- (a) The Club may be wound up in a manner provided for in the Act.
- (b) If the Club is wound up, the assets remaining after paying all liabilities must not be paid or distributed among the members, former members or Associates of members or former members but must be transferred to an institution or institutions:
 - (i) having similar purposes to those of the Club;
 - (ii) which prohibits or prohibit the distributions of its or their income among members to an extent at least as great as is imposed on the Club by this Constitution, or
 - (iii) which a General Meeting of Members by Special Resolution decides or in the absence of such a resolution, as RSA decides.

19. Dispute Resolution

- (a) The dispute resolution procedure set out in this clause 19 applies to disputes arising under or in relation to this Constitution between any Member(s), Director(s), Committee member(s) and/or the Board (or any combination of those people).
- (b) In this clause 19, 'Member' includes any former Member who was a Member not more than six months before the dispute was notified to the Chief Executive Officer in accordance with clause 19(e)(i) and who is involved in the dispute.
- (c) In this clause 19, 'Committee member' includes any former Committee member who was a Committee member not more than six months before the dispute was notified to the Chief Executive Officer in accordance with clause 19(e)(i) and who is involved in the dispute.
- (d) The parties to a dispute to which this clause 19 applies must meet and discuss the matter in dispute and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all of the parties.
- (e) If the parties are unable to resolve the dispute at the meeting referred to in clause 19(d), or if a party fails to attend that meeting, then the parties must:
 - (i) within 10 days, notify the Chief Executive Officer in writing as to the existence of the dispute; and
 - (ii) subsequently, attend a meeting with the Chief Executive Officer to try and resolve the dispute.
- (f) If the parties are unable to resolve the dispute at the meeting with the Chief Executive Officer pursuant to clause 19(e), or if a party fails to attend that meeting, then the parties must, within 10 days, arrange to hold a meeting in the presence of a registered mediator (**Mediator**).
- (g) The Mediator must be:
 - (i) a person chosen by agreement between the parties; or
 - (ii) in the absence of agreement:
 - (A) in the case of a dispute which does not involve the Board or a Director, a person appointed by the Board; or
 - (B) in the case of a dispute which involves the Board or a Director, a person who is a mediator appointed by the President of the Law Society of South Australia.
- (h) Subject to clause 19(i), a Member, or a Committee member, of the Club can be a Mediator.
- (i) The Mediator must not be a person who:
 - (i) has a personal interest in the dispute; or
 - (ii) is biased in favour of or against any party.
- (j) The parties to the dispute must, in good faith, attempt to settle the dispute by mediation.
- (k) The Mediator, in conducting the mediation, must:
 - (i) give the parties to the mediation process every opportunity to be heard;
 - (ii) allow due consideration by all parties of any written statement submitted by any party; and

- (iii) ensure that natural justice is accorded to the parties to the dispute throughout the mediation process, including with regard to costs.
- (l) The Mediator must not determine the dispute.
- (m) The Mediation must be confidential and without prejudice.
- (n) If the mediation process does not result in the dispute being resolved, the parties may seek to resolve the dispute by other means, including instituting legal proceedings.
- (o) Nothing in this clause 19 prevents a party to the dispute instituting proceedings to seek injunctive or other urgent declaratory relief in respect of the dispute.

20. Notices

- (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 Club may be served or sent shall not be entitled to receive any notice.
- (b) A notice may be given by the Club to any Member by:
 - (i) serving it on the Member personally;
 - (ii) 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 Club for the giving of notices; or
 - (iii) transmitting it electronically to the electronic mail address given by the Member to the Club for giving notices.
- (c) Notice to a Member whose address for notices is outside Australia shall be sent by airmail or electronic mail.
- (d) Where a notice is sent by post, service of the notice shall be taken to be effected by properly addressing, prepaying and posting a letter containing the notice and to have been effected six (6) Business Days after the date of posting.
- (e) Where a notice is sent by email or other electronic transmission, service of the notice shall be taken to be effected by properly addressing and sending or transmitting the notice and to have been effected on the day it is sent.
- (f) If the result under this clause 20 is that a notice would be taken to have been effected on a day that is not a Business Day, then it will be taken to have been effected on the next Business Day.

21. Indemnity and Insurance

- (a) The Club is to indemnify each officer of the Club out of the assets of the Club to the relevant extent against any liability incurred by the officer in or arising out of the conduct of the business of the Club or in or arising out of the discharge of the duties of the officer.
- (b) Where the Board considers it appropriate, the Club may execute a documentary indemnity in any form in favour of any officer of the Club;
- (c) Where the Board considers it appropriate, the Club may:

- (i) make payments by way of premium in respect of any contract effecting insurance on behalf of or in respect of an officer of the Club against any liability incurred by the officer in or arising out of the conduct of the business of the Club or in or arising out of the discharge of the duties of the officer; and
 - (ii) bind itself in any contract or deed with any officer of the Club to make the payments.
- (d) Where the Board considers it appropriate, the Club may give a former Director access to certain papers, including documents provided or available to the Board and other papers referred to in those documents; and
- (e) In this clause 21:
- (i) **officer** means:
 - (A) a Director or Secretary, Chief Executive Officer or employee; or
 - (B) a person appointed as a trustee by, or acting as a trustee at the request of, the Club,and includes a former officer.
 - (ii) **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 Club.
 - (iii) to the relevant extent means:
 - (A) to the extent the Club is not precluded by law from doing so;
 - (B) to the extent and for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including, but without limitation, an insurer under any insurance policy); and
 - (C) where the liability is incurred in or arising out of the conduct of the business of another corporation or in the discharge of the duties of the officer in relation to another corporation, to the extent and for the amount that the officer is not entitled to be indemnified and is not actually indemnified out of the assets of that corporation.
 - (iv) **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.

22. Application of Income and Property

- (a) The income and property of the Club shall be applied solely towards the promotion of the Objects.
- (b) Except as prescribed in this Constitution or the Act:
 - (i) no portion of the income or property of the Club may be distributed directly or indirectly to or among the Members, former Members, or associates of Members or former Members of the Club; and

- (ii) no remuneration or other benefit in money or money's worth shall be paid or given by the Club to any Member who holds any office of the Club.
- (c) Nothing in clause 22(b) shall prevent payment to any Member for:
 - (i) any services actually rendered to the Club whether as an employee, Director or otherwise; or
 - (ii) goods supplied to the Club in the ordinary and usual course of operation;
 - (iii) interest on money borrowed from any Member;
 - (iv) rent for premises demised or let by any Member to the Club; or
 - (v) any out-of-pocket expenses incurred by the Member on behalf of the Club,

provided that any such payments shall not exceed the amount ordinarily payable between ordinary commercial parties dealing at arm's length in a similar transaction and there is no conflict of interest in making the payment.

23. The SAJC Investment Fund

- (a) There is and shall continue in existence a fund called the "SAJC Investment Fund" constituted by:
 - (i) the proceeds received by the Club from the sale of Cheltenham Racecourse;
 - (ii) income from the investment of the funds referred to in clause 23(a)(i); and
 - (iii) any property received by the Club and designated by the Board to be part of the Fund.
- (b) Subject to clause 23(c): the administration of the Fund, including any investment or payment from time to time, is and shall be as determined by the Board.
- (c) Notwithstanding clause 23(b) the Board must not pay from the Fund, or transfer, assign or pledge any part of the Fund, no matter how it is comprised, except for the following purposes (which must not be inconsistent with clause 3):
 - (i) the management of the Fund;
 - (ii) the maintenance, development or improvement of facilities at Morphettville Racecourse or of any other property owned by the Club;
 - (iii) prizemoney for events conducted at thoroughbred race meetings at:
 - (A) Morphettville Racecourse; or
 - (B) any other course in South Australia authorised by the Board;
 - (iv) the payment of premiums for professional indemnity insurance for the Board in connection with management of the Fund;
 - (v) any purpose:
 - (A) which is proposed by the Board; and
 - (B) of which the Board has given each Member:
 - (1) notice of the proposal (including by email, in accordance with clause 20(b)(iii)), which must

- contain reasonable particulars regarding the proposal; and
- (2) 21 days to respond to, or provide comments or feedback in relation to, the notice referred to in clause 23(c)(v)(B)(1); and
- (C) has been unanimously approved by the Board, following the Board's compliance with clause 23(c)(v)(B); or
- (vi) any other purpose authorised by a Special Resolution at a General Meeting called and conducted in accordance with clause 24.2 ('Process to vary, amend or repeal an Entrenched Provision').

24. Amending this Constitution

24.1 Special Resolution Required

Subject to clause 24.2, a Special Resolution of a General Meeting is required to amend this Constitution.

24.2 Process to vary, amend or repeal an Entrenched Provision

- (a) Clause 22 ('Application of Income and Property'), clause 23 ('The SAJC Investment Fund') and this clause 24.2 ('Process to vary, amend or repeal an Entrenched Provision') are the "**Entrenched Provisions**" and each separately an "**Entrenched Provision**".
- (b) Notwithstanding clause 24.1 ('Special Resolution Required') an Entrenched Provision can only be varied, amended or repealed by way of Special Resolution passed at a General Meeting held pursuant to this Constitution and in accordance with clause 24.2(c).
- (c) Notwithstanding clause 24.1 ('Special Resolution Required'), in addition to the other quorum requirements set out in this Constitution, the quorum for a General Meeting held for the purpose of varying, amending or repealing an Entrenched Provision shall be a number of Members, attending in person or by proxy, equal to fifteen percent (15%) of the Members entitled to vote under this clause 24 ('Amending this Constitution') at the date of the General Meeting.
- (d) Only Voting Members, shall be entitled to vote on a resolution to vary, amend or repeal an Entrenched Provision. For the avoidance of doubt, persons who have been Members of the Club for less than 12 months are not entitled to vote on a resolution to vary, amend or repeal an Entrenched Provision.

25. Transitional Provisions

25.1 Continuing Membership

Each Member that is a Member of the Club on the day on which this Constitution is adopted will automatically be admitted to membership as a Member.

25.2 Directors

- (a) For the purpose of determining when the term ends for each Director in office on the day on which this Constitution is adopted, time served in the Director's current term will be counted as if this Constitution had been in place at the commencement of that Director's current term.

- (b) Notwithstanding clause 9.9(b), subject to this Constitution (other than clause 9.9(b)) any person who is a Director at the time this Constitution is adopted may serve as an Elected Director or Appointed Director for a further three (3) consecutive years even if that Director has already served for a period of six (6) or more consecutive years at the time this Constitution was adopted.

25.3 By-Laws deemed applicable

All rules, by-laws, policies and By-Laws of the Club in force at the date of the adoption of this Constitution are to be deemed to be By-Laws and continue to apply unless they are inconsistent with, or have been replaced by, this Constitution.

Constitution of South Australian Jockey Club Incorporated

Constitution Version Control

Date	Clauses amended	Description of change	General Meeting Date
xx/xx/20xx	Entire Constitution	Constitution replaced in its entirety	Xx/xx/20xx