



Constitution of Victoria Racing Club Limited

Corporations Act 2001

A company limited by guarantee

Incorporated in Victoria

Constitution of Victoria Racing Club Limited

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1. General

1.1 Definitions

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

Act means the *Corporations Act 2001* (Cth)

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 Melbourne, Victoria.

By-Laws means the by-laws of the Company made in accordance with this Constitution, as amended from time to time.

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

Code of Conduct means any code of conduct approved by the Board from time to time for the purposes of establishing behavioural standards and expectations of persons involved in the activities of the Company, including Members, guests of Members, Directors and employees.

Company means Victoria Racing Club Limited.

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

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

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

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

Full Member means a person admitted to full membership of the Company.

Honorary Life Member means a person admitted to honorary life membership of the Company.

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

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

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

Office means the registered office of the Company.

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

Resolution means a resolution other than a special resolution.

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

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 a Member, as determined by the Board from time to time.

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

Voting Member means a Full Member or an Honorary Life Member, or any other such class of Member as the Board determines to have voting entitlements from time to time.

VRC Act means the *Victoria Racing Club Act 2006* (Vic).

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

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.

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- (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) Each Voting Member and Restricted 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 \$10.

4. Objects

The Company has been established for the encouragement of animal racing and other incidental, related purposes. Without detracting from animal racing as the Company's primary purpose, the Company may:

- (a) do anything approved under the VRC Act, including anything approved by the Crown Land Minister (as defined under the VRC Act); and
- (b) otherwise engage in activities that are not inconsistent with, and will directly or indirectly benefit, animal racing as the Company's primary purpose.

5. Actions Authorised 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 and shall be 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 shall keep the Register, which shall contain the full names and addresses of the Members, and other such particulars as the Board may prescribe from time to time.

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- (b) Every Member is required to communicate any change in his or her address to the Company 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.

6.2 Application for Membership

An application for membership must be:

- (a) made in a form, and include such information, as determined by the Board from time to time;
- (b) signed by the applicant;
- (c) signed by such number of Full Members nominating the applicant for membership as the Board determines from time to time; and
- (d) accompanied by a lodgement fee (if any) determined by the Board from time to time.

6.3 Admission of Members

- (a) The Board will hold 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) 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 Entrance 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) shall notify the applicant of the acceptance and request payment of the Entrance Fee (if any).
- (f) If the applicant does not pay the Entrance Fee within the time prescribed by the Board, the acceptance of the applicant's application for membership is cancelled, unless the Board decides otherwise.
- (g) Prior to a person's application for membership being considered by the Board, the Chief Executive may confer some rights of membership (as determined by the Chief Executive) on the person on a temporary basis. Such action will not result in the person becoming a member of the Company, confer rights extending beyond the time that the Board considers the person's application for membership or affect in any way the Board's consideration of the person's application for membership.

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6.4 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 shall be as determined by the Board from time to time.

7. Membership Fees

7.1 Entrance Fee

- (a) The Board may determine that an Entrance Fee is payable by an applicant for membership of the Company.
- (b) The Board may determine the amount of the Entrance Fee from time to time.
- (c) The Board may prescribe different amounts for, or defer or waive the requirement to pay, the Entrance 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 Members.
- (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 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, direct the Chief Executive to 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, 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 shall be effective from the date of receipt of the notice by the Chief Executive. That Member's name shall be removed from the Register.

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8.2 Misconduct of a Member

Without limiting clause 8.3, if the Board (or any delegate of the Board) considers that any Member:

- (i) has breached any of the provisions of this Constitution, the By-Laws or a Code of Conduct (or the subject of any condition in any of those documents, not being a breach, that gives the Board the power to take any of the actions referred to in this clause); or
- (ii) commits any act or omission which, in the opinion of the Board (or the delegate, if applicable), is unbecoming of a Member or prejudicial to the interests of the Company,

the Board (or the delegate) may:

- (iii) suspend or expel the Member from membership of the Company and, in the case of expulsion, remove the Member's name from the Register;
- (iv) impose such restrictions on the rights that the Member may enjoy while remaining a Member of the Company, as may be determined; or
- (v) reprimand the Member.

8.3 Suspension or Expulsion

The Board (or delegate) shall 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 (or the delegate, if applicable), 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 the delegate) in respect of the alleged breach or act or omission.

8.4 Other Grounds for Cessation of Membership

A Member shall automatically cease 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;
- (c) is convicted of any indictable offence; or
- (d) becomes bankrupt,

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 or Company Secretary becoming aware of the circumstances under paragraphs (a) to (d) of this clause.

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8.5 Readmission

A person who ceases to be a Member under clause 8.4(b), (c) or (d) is entitled to reapply for membership of the Company 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.

9. Meetings

9.1 Power to Convene General Meetings

- (a) The Board may at any time convene a general meeting of the Company.
- (b) The Board shall convene a general meeting of the Company when required to by the Act.

9.2 Annual General Meetings

The Company shall 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 elect Directors in accordance with this Constitution;
- (c) to discuss the general business of the Company; and
- (d) to transact any other business which under this Constitution or the Act ought to be transacted at an annual general meeting.

9.3 Notices of Meetings

- (a) 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; and
 - (ii) 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 shall not invalidate the proceedings at, or any resolution passed at, that meeting.

9.4 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, 20 Members Present shall constitute a quorum.

9.5 If Quorum Not Present

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

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- (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.

9.6 Chair of Meetings

- (a) Subject to paragraph (b), the Chairman of the Board or, in the Chairman's absence, the Vice-Chairman shall preside as chair at every general meeting.
- (b) Where a general meeting is held and:
 - (i) there is no Chairman or Vice-Chairman; or
 - (ii) the Chairman or Vice-Chairman 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 meeting shall chair the meeting.

9.7 Adjournments

- (a) The chair of the 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 meeting other than the business left unfinished at the meeting from which the adjournment took place.
- (c) When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original general meeting.
- (d) Except as provided by paragraph (c), it is not necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

9.8 Conduct at a General Meeting

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

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9.9 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 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.
- (c) A poll for a resolution may be demanded by :
 - (i) the chair of the meeting; or
 - (ii) as otherwise provided for by the Act.
- (d) A demand for a poll may be withdrawn.

9.10 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 meeting directs.
- (b) The result of the poll shall be a resolution of the meeting at which the poll was demanded.
- (c) The demand for a poll shall not prevent a meeting from continuing for the transaction of any business other than that on which a poll has been demanded.

9.11 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.

9.12 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.

9.13 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.

9.14 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.

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- (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.

9.15 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, 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.

9.16 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:
 - (i) the power of attorney or a certified copy of that power of attorney; and
 - (ii) any evidence that the Board requires to establish the validity and non-revocation of that power of attorney.

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- (c) For the avoidance of doubt, the Company receives these documents when they are received at any of the following:
 - (i) the Office; or
 - (ii) a place or electronic address specified for the purpose in the notice of meeting.

9.17 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 (or otherwise as described in paragraph 9.16(c)(ii)) before the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

9.18 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 meeting.

10. Board

10.1 The Board of Directors

The Board is to comprise:

- (a) the Chief Executive of the Company, who shall be appointed by virtue of his or her office and, to avoid doubt, is not subject to vacation of office under clause 10.3(b), retirement under clause 10.4, or election or re-election otherwise under this clause 10; and
- (b) not less than 7 and not more than 11 Directors (including the Chief Executive).

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10.2 Election and Removal of Directors by Company Resolution

Without limiting clause 10.5, the Company may at any time by resolution passed in general meeting:

- (a) elect any person as a Director, provided that the number of Directors does not exceed the maximum number determined under clause 10.1(b) or
- (b) remove any Director from office.

10.3 Appointment of Directors by Board Resolution

- (a) The Directors may at any time resolve to appoint any person as a Director either to fill a casual vacancy or as an addition to the Board, provided that the number of Directors does not exceed the maximum number determined under clause 10.1(b).
- (b) Any Director appointed to the Board under paragraph (a) holds office only until the conclusion of the next annual general meeting following his or her appointment and will be eligible for election in accordance with this Constitution (including the eligibility requirements under clause 10.6).

10.4 Retirement of Directors

- (a) A Director may not hold office for a continuous period in excess of three years, or past the third annual general meeting following the Director's most recent election, whichever is the longer, without submitting himself or herself for re-election.
- (b) At least one Director shall retire from office at every annual general meeting, and each retiring Director will be eligible for election or re-election in accordance with this Constitution (including the eligibility requirements under clause 10.6). If no Director would otherwise vacate office or retire at an annual general meeting by reason of clause 10.3(b) or clause 10.4(a) (and there is no other Director retiring at that annual general meeting), the Director to retire is any Director who opts to do so, failing which it is the Director who has been longest in office since his or her most recent election or appointment. As between Directors whose last election or appointment to office took effect on the same day, the Director to retire must be determined by lot unless the Directors concerned agree otherwise among themselves.
- (c) A Director vacating office or retiring in accordance with clause 10.3(b) or this clause 10.4:
 - (i) shall be eligible for election or re-election without nomination under clause 10.5(b), provided that he or she meets the criteria for eligibility under this Constitution and, prior to the closing of nominations, has given the Company Secretary a notice that he or she seeks election or re-election; and
 - (ii) 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.

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10.5 Election Process for Directors

- (a) Nominations for and elections of Directors shall be conducted pursuant to the provisions of this Constitution and any applicable By-Laws.
- (b) Nominations for election as a 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 Full Members nominating the candidate who, at the time of nomination, have been Full Members for a continuous period of at least two years; and
 - (iv) received by the Company Secretary by a date nominated by the Board.

Any Director who is to vacate office or retire in accordance with clause 10.3(b) or clause 10.4, and has complied with clause 10.4(c)(i), will be taken to be validly nominated for the purposes of paragraphs (c) and (d) below.

- (c) In relation to any general meeting of the Company, if the number of candidates validly nominated for election or re-election as a 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.
- (d) In relation to any general meeting of the Company, if the number of candidates validly nominated for election or re-election as a Director as at the close of nominations is greater than the number of vacancies on the Board, an election of Directors shall be conducted by ballot in accordance with the By-Laws.
- (e) The election or re-election of a person to the office of Director in accordance with paragraph (c) or paragraph (d) takes effect at the conclusion of the relevant general meeting.

10.6 Director Qualification

No person is eligible for election, re-election or appointment as a Director, unless that person:

- (a) is a Full Member and, at the time of their nomination, has been a Full Member for a continuous period of at least two years;
- (b) owes no subscriptions or other amounts to the Company, 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 Company when they fall due in the future;
- (c) 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;

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- (d) has no prior criminal conviction in respect of an indictable offence;
- (e) has not previously been expelled or suspended from membership of any club that is registered under applicable law as a corporation or incorporated association;
- (f) has not previously been expelled or suspended from membership of the Company or the subject of one of the actions referred to in clauses 8.2(iv) or 8.2(v);
- (g) does not have a material personal interest that would, in the Board's view, prejudice his or her ability to act independently on an ongoing basis;
- (h) is not the subject of circumstances that would cause that person to vacate office under clause 10.8 if that person were an existing Director; and
- (i) provides the Company with all information reasonably requested, consents to the Company undertaking such enquiries to determine that the individual meets these eligibility criteria and all applicable regulatory requirements and provides a declaration that he or she meets those criteria and requirements.

The Board may determine that a person is eligible for election, despite the application of paragraph (c), (d) or (e) above, if the Board is of the view that there are mitigating circumstances and the relevant matter should be disregarded.

10.7 Remuneration

- (a) Subject to paragraphs (b) and (c), no Director is entitled to be paid a fee for his or her service as Director.
- (b) A Director shall be 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) A Director may be engaged by the Company 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.
- (d) Any amount paid under paragraph (b) or (c) must be approved by the Board.

10.8 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:

- (a) 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:
 - (i) Venue Operator's Licence under the *Gambling Regulation Act 2003* (Vic);
 - (ii) Liquor Licence under the *Liquor Control Reform Act 1998* (Vic); and
 - (iii) Racing Licence under the *Racing Act 1958* (Vic).
- (b) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;

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- (c) 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;
- (d) is convicted of any indictable offence;
- (e) is expelled or suspended from membership of any club that is registered under applicable law as a corporation or incorporated association;
- (f) is expelled or suspended from membership of the Company or is found, under a process contained in the By-Laws, to have breached in a material manner a provision of this Constitution, the By-Laws or a Code of Conduct;
- (g) was previously the subject of an event described under paragraphs (c), (d) or (e) above and that fact, not having been disclosed earlier, becomes known to the Company;
- (h) resigns by notice in writing to the Company; or
- (i) ceases to be a Member.

11. Powers and Duties of Directors

11.1 General Power of the Board

The management and control of the business and affairs of the Company shall be 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.

11.2 Power to Make By-Laws

- (a) The Board shall have the power to make, amend and repeal By-Laws for the proper conduct and management of the Company, 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 Company or any part thereof;
 - (iii) the conduct of Members and their guests;
 - (iv) fines or penalties for the breach of any By-Laws or any provisions of this Constitution;
 - (v) the procedure at general meetings of the Company and meetings of the Directors;
 - (vi) the procedure by which polls may be taken;
 - (vii) all matters required or proper to be prescribed for the conduct of, or associated with, the admission of persons as Members and election of Directors; and

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- (viii) generally any matters whatsoever necessary or desirable for the purposes of giving effect to the objects of the Company.
- (b) All By-Laws shall be binding upon all Members.
- (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 VRC Act. Any By-Law may be set aside, in whole or in part, by Special Resolution.

11.3 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 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.

11.4 Negotiable Instruments

All negotiable instruments of the Company shall 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 shall meet as often as they deem necessary.
- (b) The Chief Executive may at any time, and must, on the request of the Chairman or any three Directors, convene a meeting of the Board.
- (c) 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 Company Secretary by the Director.

12.2 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 meeting of the Board:
 - (i) video;
 - (ii) telephone;
 - (iii) email;

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- (iv) any other technology which permits each Director to communicate with every other Director; or
- (v) any combination of the technologies described in the above paragraphs.

A Director may withdraw the consent given under this clause in accordance with the Act.

- (b) Where 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:
 - (i) the participating Directors shall, 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
 - (ii) all proceedings of those Directors conducted in that manner shall be as valid and effective as if conducted at a meeting at which all of them were present.

12.3 Quorum at Meetings

At a meeting of the Board the number of Directors whose presence is necessary to constitute a quorum is five Directors entitled to vote.

12.4 Chair of Directors

- (a) The Board shall elect a Director to hold office as Chairman, another Director to hold office as Vice-Chairman and a third Director to hold office as Honorary Treasurer.
- (b) The Chairman or, in the Chairman's absence, the Vice-Chairman, is to chair any meeting of the Board.
- (c) The Board shall determine the period of time that a Director elected to the office of Chairman, Vice-Chairman or Honorary Treasurer may hold such office.
- (d) No Director may hold the office of Chairman, Vice-Chairman or Honorary Treasurer for longer than 8 consecutive years.
- (e) The time that a Director has held the office of Chairman, Vice-Chairman or Honorary Treasurer of the committee of the Victoria Racing Club prior to incorporation of the Company shall be included in any calculation of the time for which a Director has held the office of Chairman, Vice-Chairman or Honorary Treasurer for the purposes of paragraph (d).
- (f) The Chief Executive is not eligible for nomination or appointment as Chairman, Vice-Chairman or Honorary Treasurer.
- (g) Where a meeting of the Board is held and:
 - (i) neither a Chairman nor a Vice-Chairman has been elected as provided by paragraph (a); or

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- (ii) the Chairman and Vice-Chairman 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.

12.5 Proceedings at Meetings

- (a) Questions arising at a meeting of the Board 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) In the case of an equality of votes, the chair of the meeting shall have a casting vote in addition to any deliberative vote.

12.6 Disclosure of Interests

- (a) A contract or arrangement made by the Company with a Director or in which a Director is in any way directly or indirectly interested shall not be avoided merely because the Director is a party to or interested in it.
- (b) 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:
 - (i) declared the Director's interest in the matter as soon as practicable after the relevant facts have come to the Director's knowledge; and
 - (ii) not contravened this Constitution or the Act in relation to the matter.
- (c) 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.
- (d) A Director may not vote in respect of a matter in which that Director has a material interest.
- (e) A Director may hold any office of employment or profit in the Company (other than auditor) in addition to holding office as a Director.

13. Committees

- (a) The Board may delegate any of its 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 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.
- (c) Clauses 12.1, 12.2, 12.4 and 12.5 shall 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.

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- (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 shall 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:
 - (i) is sent to all those entitled to receive notice of a meeting 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 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 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 Company or an agent of the Company by any electronic means and is sent for or on behalf of a Director shall be taken to be a document signed by that Director not later than the time of receipt of the document (according to the relevant time displayed on the email or other document, in the absence of manifest tampering or malfunction) by the Company or its agent in legible form.

15. Defects in Appointments

- (a) All acts done by any meeting of the Board, a committee, or a 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) Paragraph (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.

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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, subject to applicable laws and the terms of the Chief Executive's employment agreement.

16.2 Delegation of Powers to Chief Executive

- (a) The Board may, on such terms and conditions and with such 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 Company Secretary in Absence of Appointment

For any period during which there is a vacancy in the role of Company Secretary, the Chief Executive will act as Company Secretary for the purposes of the Act and effect the necessary notifications required by law.

17. Other Officers, Delegations

- (a) The Board may from time to time:
 - (i) create any other position or positions in the Company with the powers and responsibilities as the Board may from time to time confer; and
 - (ii) appoint any person, whether or not a Director, to any position or positions created under paragraph (a)(i).
- (b) The Board may at any time terminate the appointment of a person holding a position created under paragraph (a)(i) and may abolish the position.
- (c) 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 or Company Secretary under this Constitution may be delegated in writing:
 - (i) in the Board's case, by direct 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.

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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:
 - (i) 2 Directors (other than the Chief Executive); or
 - (ii) a Director and the Company Secretary (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. In addition to forms of execution contemplated by the Act or this clause 18, the Board may approve methods of executing documents from time to time under applicable policies or by delegation in individual cases.

19. Inspection of Records

- (a) Subject to the Act, 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 paragraph (b), the profits (if any) or other income and property of the Company shall be applied solely towards the aims and purposes of the Company and no portion of it shall be paid or transferred, directly or indirectly, to any Member whether by way of dividend, bonus or otherwise.
- (b) Nothing in paragraph (a) shall prevent any payment in good faith by the Company of:
 - (i) 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;
 - (ii) reasonable and proper rent for premises let or demised by any Member of the Company to the Company;
 - (iii) moneys to any Director paid or reimbursed under clause 10.7; or
 - (iv) moneys to any Director, being a solicitor, accountant or other person engaged in any profession, for all usual professional or other charges for work done by that person or that person's firm or employer for the Company.

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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 shall not be paid to or distributed among the Members of the Company, but shall 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, established for the encouragement of animal racing and whose 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 paragraph (a) for any reason, to one or more institutions, associations or bodies meeting the requirements of paragraph (a) selected by the Board.

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 email address (for registration in the register) at or to which all notices and documents of the Company may be served or sent shall not be entitled to receive any notice.
- (b) A notice may be given by the Company 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 Company for the giving of notices;
 - (iii) serving it in any manner contemplated in this paragraph (b) on a Member's attorney as specified by the Member in a notice given under paragraph (c); or
 - (iv) 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 Company Secretary 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 shall be sent by post or email.
- (e) 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:
 - (i) in the case of a notice of a meeting, on the day after the date of its posting; and

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- (ii) 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 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.

22.2 Notices of General Meeting

- (a) Notice of every general meeting shall be given:
 - (i) in the manner authorised by clause 9.3;
 - (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

23.1 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:
 - (i) 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
 - (ii) 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:
 - (i) 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
 - (ii) bind itself in any contract with a Director or former Director to give the access.
- (e) In this clause:
 - (i) **officer** means:
 - (A) a Director or Secretary, Chief Executive or employee; or

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- (B) a person appointed as a trustee by, or acting as a trustee at the request of, the Company,

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 Company or where applicable any other corporation.
- (iii) **to the relevant extent** means:
 - (A) to the extent the Company is not precluded by law from doing so;
 - (B) to the extent and for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including, but without limitation, an insurer under any insurance policy); and
 - (C) where the liability is incurred in or arising out of the conduct of the business of another corporation or in the discharge of the duties of the officer in relation to another corporation, to the extent and for the amount that the officer is not entitled to be indemnified and is not actually indemnified out of the assets of that corporation.
- (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.