

**7528091**

**COMPANIES ACT 2014**

**CONSTITUTION**

**OF**

**AIRO RACING  
COMPANY LIMITED BY GUARANTEE**

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**MEMORANDUM OF ASSOCIATION**  
**OF**  
**AIRO RACING**  
**COMPANY LIMITED BY GUARANTEE**

- 1 The name of the company is: AIRO RACING COMPANY LIMITED BY GUARANTEE (“the Company”).
- 2 The Company is a company limited by guarantee, registered under Part 18 of the Companies Act 2014.
- 3 The objects for which the Company is established are:
  - 3.1 To encourage all racehorse owners having an interest in horse racing in Ireland to become members of the Company.
  - 3.2 To promote and represent in Ireland the interests of race horse owners.
  - 3.3 To co-operate and work with governmental, statutory and other bodies responsible for the conduct, regulation and promotion of horse racing in Ireland, including (without limitation) Horse Racing Ireland, the Irish Horse Racing Regulatory Board and its component bodies or committees, and (as applicable) the respective successors of such bodies and committees.
  - 3.4 To invite and collect the views and recommendations of racehorse owners as to the conduct, regulation and promotion of horse racing in Ireland, and submit such views and recommendations to all or any of the bodies referred to in Clause 3.3 above in such form and manner as may be considered fit.
  - 3.5 To promote the Company through horse racing related sponsorship, publications and annual awards, as well as the provision for members of race day and other benefits.
  - 3.6 To promote the availability for members as race horse owners of public liability insurance on reasonable terms covering race horse ownership in Ireland.
  - 3.7 To borrow or raise money in such manner and for such purposes as the Company shall consider fit.
  - 3.8 To cooperate or affiliate or amalgamate with other like organisations or bodies similar to or having like objects as the Company and upon such terms as may be considered fit.
  - 3.9 To carry on any other activity which may seem to the Company capable of being conveniently carried on in connection with the above objects, and to do all such lawful things as the Company considers to be conducive to the attainment of its objects.
  - 3.10 To engage managers, consultants, contractors, advisors and agents as may assist in the development and/or provision by the Company of its services, and to enter into such contracts and agreements as are necessary or advisable in connection with the foregoing;

- 3.11 To purchase, take on lease or licence or otherwise acquire real and chattel real property of all kinds and in particular lands, tenements and hereditaments of any tenure whether subject or not to any charges or encumbrances, and to hold or to sell, develop, let, alienate, mortgage, charge, or otherwise deal with all or any of such lands, tenements or hereditaments for such consideration and on such terms as may be considered expedient.
- 3.12 To improve, manage, develop, exchange, let on lease or otherwise, mortgage, charge, sell, dispose of, turn to account, grant rights and licences and privileges in respect of, or otherwise deal with all or any part of the property and rights of the Company.
- 3.13 To borrow money upon such terms as the Company may approve and to support or secure such borrowing, whether by personal covenant or by mortgaging or charging all or any part of the undertaking, property and assets (present and future) of the Company, or by both such methods.
- 3.14 To form, promote, finance or assist any other company or association, whether for the purpose of acquiring all or any of the undertaking, property and assets of the Company or for any other purpose which may be considered expedient.
- 3.15 To draw, make, accept, endorse, discount, negotiate, and issue cheques, bank drafts, bills of exchange, promissory notes and other negotiable or transferable instruments.
- 3.16 To make such provision for the education and training of employees and prospective employees of the Company and others as may seem to the Company to be advantageous to or calculated, whether directly or indirectly, to advance the interests of the Company or any member thereof.
- 3.17 To distribute in specie or otherwise as may be resolved any assets of the Company among its members.
- 4 The liability of the members of the Company is limited.
- 5 Every member of the Company undertakes to contribute to the assets of the company, if the Company is wound up while such person is a member or is wound up within one year after the date on which such person ceases to be a member, for:
  - (a) the payment of the debts and liabilities of the Company contracted before such person ceases to be a member, and the costs, charges and expenses of winding up; and
  - (b) the adjustment of the rights of contributories among themselves,such amount as may be required, not exceeding €1 (one euro).

**ARTICLES OF ASSOCIATION**  
**OF**  
**AIRO RACING**  
**COMPANY LIMITED BY GUARANTEE**

**1 Interpretation**

1.1 The optional provisions of the Companies Act 2014 (as defined by Section 1177(2) of the said Act) shall apply to the Company save to the extent that they are excluded or modified by this constitution, and such optional provisions (as so excluded or modified) together with the regulations contained in this constitution shall constitute the regulations of the Company (the "**Constitution**"). Sections 144(3)(a), 160(7), 183(1) (as amended by Section 1205 (a)), 188(2) (as amended by Section 1199(9)), 188(4), 188(6) (as amended by Section 1206(c)) and 1196 respectively of the Companies Act 2014 shall not apply to the Company. In the event of any conflict between these Articles and the provisions of the Companies Act 2014, these Articles shall (unless otherwise so required under the Companies Act 2014) prevail.

1.2 In this Constitution:

"**Act**" means the Companies Act 2014 and every statutory modification or re-enactment thereof for the time being in force;

"**Annual General Meeting**" means an annual general meeting of the Company;

"**Chairman**" means such person who stands appointed under or pursuant to this Constitution as the chairperson of the Board, and who in such capacity is also to act as the chairperson of any general meeting of the Company;

"**Club**" means a group of persons who together are constituted in law as the members of a horse racing club which is registered with HRI as the owner or (as the case may be) as having an ownership interest in one or more race horses in Ireland;

"**Club Agent**" means, in relation to a Club, such person who is for the time being registered with HRI as having the authority to act for, and is designated as 'Agent 1' of, such Club;

"**Company**" means the company incorporated in the Republic of Ireland known as '*AIRO Racing Company Limited by Guarantee*'.

"**Constitution**" has the meaning set out in Regulation 1.1;

"**Director**" means a director of the Company; and the "**Directors**" means the directors of the Company or any of them acting as the Board;

"**Extraordinary General Meeting**" means any general meeting of the Company which is not an Annual General Meeting, and which is specified as an extraordinary or special meeting;

"**Honorary Member**" means such person who has been admitted to membership pursuant to Regulation 2.4 as an honorary member of the Company;

**"Horse Racing Ireland"** means the body corporate having that name as constituted under and pursuant to the Irish Horseracing Industry Act 1994 (as amended), and shall include such body corporate as subsequently renamed and/or any successor to such body (whether by transfer, merger or amalgamation or otherwise); and **"HRI"** (as an abbreviated version where used herein of such name) shall be construed accordingly;

**"HRI Nominee"** means such person as is nominated by the Company to be its nominee for appointment to the board of HRI;

**"Ireland"** means, unless the context otherwise so requires, the island of Ireland comprising the Republic of Ireland and Northern Ireland;

**"Irish Horseracing Regulatory Board"** means the body corporate having that name as constituted under the Act under registration number 606527, and being a 'Racing Regulatory Body' as defined in Section 2(1) of the Irish Horseracing Industry Act 1994 (as amended), and shall include such body corporate as subsequently renamed and/or any successor to such body (whether by transfer, merger or amalgamation or otherwise);

**"Manager"** means the manager of the Company or any other person appointed to perform the duties of the manager of the Company;

**"Member"** means, unless the context otherwise requires, a person who or which is a member of the Company and so registered in the register of members of the Company; and **"membership"** shall, unless the context otherwise requires, be construed accordingly;

**"Member Voting Rights"** means the voting rights of a Member in respect of any resolution of the Company as determined under and pursuant to this Constitution;

**"Minister"** means the Minister for Agriculture, Food and the Marine (and shall include any other minister or body as is or becomes vested by law with the power of appointment of the ordinary members of HRI);

**"Officers"** means together the Chairman, the Vice Chairman and the Treasurer, and each an **"Officer"**;

**"ordinary resolution"** means a resolution passed by a simple majority of the votes cast by such Members as, being entitled to do so, vote in person at a general meeting of the Company;

**"Indirect Owner"** means a person who or which is a partner in a Partnership or a member of a Syndicate or a member of a Club;

**"Owner"** means a person who or which is registered with HRI as being an owner or (as the case may be) as having an ownership interest in one or more race horses in Ireland;

**"Partnership"** means a group of persons (being Owners) who together are constituted in law as a partnership which is registered with HRI as the owner or (as the case may be) having an ownership interest in one or more race horses in Ireland;

**"Partnership Representative"** means, in relation to a Partnership, such person who is for the time being registered with HRI as having the authority to act for, and is designated as 'Partner 1' of, such Partnership;

**“Regulation”** means, save where the context otherwise requires, a regulation of this Constitution;

**“Representative”** means, as applicable, such person who is for the time being a Partnership Representative, a Syndicate Agent or a Club Agent;

**“Returning Officer”** means, in respect of any Extraordinary General Meeting for the election of the HRI Nominee, the person so appointed to act as returning officer pursuant to Regulation 34.4(i);

**“Secretary”** means the secretary of the Company or any other person appointed to perform the duties of the secretary of the Company, including a joint, assistant or deputy secretary;

**“Sole Owner”** means a person (other than a Partnership, Syndicate or Club) who or which is registered with HRI as being the sole owner of one or more race horses in Ireland;

**“special resolution”** means a resolution passed by not less than seventy five (75) per cent of the votes cast by such Members as, being entitled to do so, vote in person at a general meeting of the Company;

**“Subscription Charge”** means the membership fee levied on and to be paid by Members in respect of any financial year of the Company or other period of assessment as determined by the Board from time to time;

**“Syndicate”** means a group of persons who together are constituted in law as the members of a horse racing syndicate which is registered with HRI as the owner or (as the case may be) as having an ownership interest in one or more race horses in Ireland;

**“Syndicate Agent”** means, in relation to a Syndicate, such person who is for the time being registered with HRI as having the authority to act for, and is designated as the ‘nominated Agent’ of, such Syndicate;

**“Subscription Charge”** means the membership fee levied on and to be paid by Members in respect of any financial year of the Company or other period of assessment as determined by the Board from time to time;

**“Treasurer”** means such person who stands appointed under or pursuant to this Constitution as the treasurer of the Company; and

**“Vice Chairman”** means such person who stands appointed under or pursuant to this Constitution to act as chairperson of any meeting of the Board which the Chairman is unable to attend, and who in such capacity is also to act as the chairperson of any general meeting of the Company which the Chairman is unable to attend.

In this Constitution, where the context admits or requires:

- 1.3 Words denoting the singular number include the plural number and vice versa and words denoting a gender include each gender.
- 1.4 Words or expressions which are not defined in this Constitution but are defined in the Act have the same meaning as in the Act at the date of adoption of this Constitution.



- 1.5 Headings are inserted for convenience only and do not affect the construction of this Constitution.
- 1.6 Any reference to a "person" shall be construed as a reference to any individual, firm, company, corporation, undertaking, government, state or agency of a state or any association or partnership or club (whether or not having separate legal personality).
- 1.7 Powers of delegation shall not be restrictively construed but the widest interpretation shall be given to them and except where expressly provided by the terms of delegation, the delegation of a power shall not exclude the concurrent exercise of that power by any other body or person who is for the time being authorised to exercise it under this Constitution or under another delegation of the power.
- 1.8 References to "writing" mean the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, and "written" shall be construed accordingly.
- 1.9 Any reference to any statute, statutory provision or to any order or regulation shall (save as expressly provided in this Constitution) be construed as a reference to the statute, statutory provision, order or regulation as extended, modified, amended, replaced or re-enacted from time to time (whether before or after the date of adoption of this Constitution) and all statutory instruments, regulations and orders from time to time made thereunder or deriving validity therefrom (whether before or after the date of adoption of this Constitution).

## 2 **Membership**

- 2.1 The number of members with which the Company proposes to be registered is eight and the maximum number of persons who may be members of the Company shall be limited to 3,000 (three thousand) persons subject however to the power of the Directors to register an increase in the number of Members above the said limit.
- 2.2 The subscribers to the Constitution (numbering eight persons) shall be deemed to have agreed to become members of the Company, and, on its registration shall be entered as the first Members in the register of members of the Company.
- 2.3 Such other persons, being persons whom the Board admit to membership and whose names are entered in the register of members of the Company, shall be members of the Company. Any person who comes within any one of the following categories shall be eligible to apply for, and upon admittance by the Board, to become a member of the Company:
  - 2.3.1 any person who or which is a **Sole Owner** and so that upon the admittance of such person to membership the Secretary shall record the name of such person as a Sole Owner in the register of members of the Company;
  - 2.3.2 any person which is a **Partnership**, and so that upon the admittance of such person to membership the Secretary shall record the name of such Partnership in the register of members of the Company;
  - 2.3.3 any person which is a **Syndicate**, and so that upon the admittance of such person to membership the Secretary shall record the name of such Syndicate in the register of members of the Company;

- 2.3.4 any person which is a **Club**, and so that upon the admittance of such person to membership the Secretary shall record the name of such Club in the register of members of the Company; and
- 2.3.5 any person which is an **Indirect Owner**, and so that upon the admittance of such person to membership, the Secretary shall record the name of such person as an Indirect Owner in the register of members of the Company.
- 2.4 The Board may from time to time nominate a person (being an individual) for admittance as an honorary member of the Company in recognition of such person's contribution to horse racing in Ireland. In the event that any such nomination is so approved by ordinary resolution, the Board shall as soon as practicable thereafter admit the person so nominated into honorary membership; and so that upon such admittance the Secretary shall record the name of such person as an Honorary Member in the register of members of the Company.
- 2.5 The Board may adopt such supplementary rules and/or procedures in relation to becoming a Member as the Board considers appropriate.
- 2.6 It shall be a condition of acceptance into and continuation of membership that a Member (other than an Honorary Member) shall have paid to the Company by the due date for payment thereof the applicable Subscription Charge in respect of the financial year concerned. Unless otherwise so determined by the Board the due date in that regard shall be the first day of the first month of the financial year concerned.
- 2.7 All notices to be given by the Company under or pursuant to this Constitution to any Member which constitutes a Partnership or a Syndicate or a Club shall be required to be given, only, to (as applicable) the Partnership Representative for such Partnership or the Syndicate Agent for such Syndicate or to the Club Agent for such Club.

### **3 Membership Termination or Suspension**

- 3.1 Any Member may resign his or her or its membership by serving notice to that effect upon the Board at the registered office of the Company, such notice to expire no earlier than the date of service of the notice of resignation.
- 3.2 The Board shall be entitled by notice in writing to suspend and/or terminate the membership of a Member, with effect at such time and upon such terms as may be determined by the Board, in any of the following circumstances:
- 3.2.1 such Member shall have failed to pay to the Company either directly or through the auspices of HRI the annual Subscription Charge attributable to such Member by the due payment date therefor; or
- 3.2.2 such Member shall have failed to comply in any material respect with any provision of this Constitution, in each case as determined by the Board; or
- 3.2.4 the commencement of any bankruptcy, personal insolvency, winding up, receivership or other analogous insolvency event or proceedings affecting such Member; or
- 3.2.5 such Member is sentenced to a term of imprisonment following conviction of an indictable offence; or

3.2.6 the health of such Member (being an individual) is such that he or she can no longer be reasonably regarded as possessing an adequate decision making capacity; or

3.2.7 if any conduct or action of such Member is determined by and at a meeting of the Board to be or have been injurious to the standing, reputation or interests of the Company or is otherwise determined to render such Member unfit to continue as a Member.

Any such suspension or termination of membership as aforesaid shall (inter alia) result in the loss by the Member concerned of their Member Voting Rights and rights to attend and vote at meetings of the Company.

3.3 In the event that any Member has failed to pay (in full) to the Company the applicable Subscription Charge within six months from the due date for payment thereof by such Member then their membership shall, unless otherwise so determined by the Board, be deemed to have been terminated (and without the necessity for any notice as otherwise so required under Regulation 3.2.1) upon the expiry of such six month period. Any such termination of membership as aforesaid shall (inter alia) result in the loss by the Member concerned of their Member Voting Rights and rights to attend and vote at meetings of the Company.

3.4 The suspension or termination of any membership pursuant to Regulation 3.2.7 shall only take effect if and when the following have been satisfied:

3.3.1 the Member concerned is given not less than seven days' prior notice of the meeting referred to in Regulation 3.2.5, such notice to include an invitation to such Member to attend at such meeting and/or to make a submission to the Board relating to such suspension or termination at or before such meeting;

3.3.2 the decision to suspend or terminate such membership is approved by not less two thirds in number of the Directors present at such meeting.

3.5 The termination or suspension of any person's membership where has been effected pursuant to Regulation 3.2.5 may at the next Annual General Meeting following such termination or suspension be addressed at such meeting as part of the review referred to in Section 186 (c) of the Act, and in such manner and on such terms as the chairperson of such meeting shall so permit.

#### **4 Member Voting Rights**

4.1 Each Member shall be entitled to such voting rights as determined in accordance with the following provisions of this Regulation 4:

4.1.1 each Member who or which is a Sole Owner shall have and may exercise one vote at any general meeting and/or upon any resolution of the Company;

4.1.2 each Member which is a Partnership shall have and may exercise one vote at any general meeting and/or upon any resolution of the Company; and so that the meeting attendance and Member Voting Rights of such Member shall be exercisable only by the Partnership Representative for the time being of such Partnership;

- 4.1.3 each Member which is a Syndicate shall have and may exercise one vote at any general meeting and/or Member Voting Rights of such Member shall be exercisable only by the Syndicate Agent for the time being of such Syndicate;
- 4.1.4 each Member which is a Club shall have and may exercise one vote at any general meeting and/or upon any resolution of the Company; and so that the meeting attendance and Member Voting Rights of such Member shall be exercisable only by the Club Agent for the time being of such Club;
- 4.1.5 each Member who or which is an Indirect Member shall have and may exercise one vote at any general meeting and/or upon any resolution of the Company.
- 4.2 Honorary Members shall not have any Member Voting Rights but shall be entitled to attend at any general meeting of the Company.
- 4.3 In the event that any Member has failed to pay (in full) to the Company the applicable Subscription Charge within two months from the due date for payment thereof by such Member then their membership shall, unless otherwise so determined by the Board, be deemed to have been suspended until such payment is made (and without the necessity for any notice as otherwise so required under Regulation 3.2.1) upon the expiry of such two month period. Any such suspension of membership as aforesaid shall (inter alia) result in the loss by the Member concerned of their Member Voting Rights and rights to attend and vote at general meetings of the Company.
- 4.4 Each Member which is a Partnership or a Syndicate or a Club shall keep the Company duly informed as to the identity and contact details of its respective Partnership Representative, Syndicate Agent and Club Agent for the time being and of any change(s) thereto.

## **5 Registered Person**

The Board shall only be empowered to authorise any person as being a person entitled to bind the Company if so approved by special resolution of the Company.

## **6 Powers of Attorney**

The Company may empower any person, either generally or in respect of any specified matters, as its attorney, to execute deeds or do any other matter on its behalf in any place whether inside or outside Ireland. A deed signed by such attorney on behalf of the Company shall bind the Company and have the same effect as if it were under its common seal.

## **7 Common Seal**

- 7.1 The Company shall have a common seal that shall state the Company's name, engraved in legible characters.
- 7.2 The Company's seal shall be used only by the authority of its Directors, or of a committee of its Directors authorised by the Board in that behalf. Any instrument to which the Company's seal shall be affixed shall be:
- 7.2.1 signed by a Director and be countersigned by the Secretary or by a second Director or by some other person appointed for the purpose by the Board; or

7.2.2 signed by a person (including a Director) appointed for the purpose by the Board or a committee of Directors authorised by the Board in that behalf.

7.3 Any instrument to which the common seal is affixed shall not be signed by the same person acting both as Director and Secretary.

Section 43(2) and section 43(3) of the Act are hereby dis-applied.

## **8 Official Seal for use Abroad**

The Company shall not have for use in any place outside Ireland any official seal unless so approved by a special resolution.

## **9 Debentures**

The Company shall not issue any debt or other securities nor any interests therein.

## **10 Secretary**

10.1 The Board shall have power at any time to appoint any person they regard as suitable to be the secretary of the Company, and to whom is (or is to be) entrusted with responsibility for the administration of its corporate governance and company filings. Such appointment shall be upon such terms as the Board considers fit, and so that the Board shall also have power and to remove and replace such person as secretary at any time.

10.2 The Secretary shall be entitled to attend each meeting of the Board and to take and prepare the Minutes of each such meeting, but shall absent himself/herself from the meeting at the request of the Chairman in relation to any matter concerning his or her position as Secretary.

## **11 Officers**

11.1 The Company shall have three officers, being the Chairman, the Vice Chairman and the Treasurer.

11.2 Each Officer shall require to be an individual who is a Member or a Representative of a Member having the right to vote at general meetings of the Company.

11.3 The first Officers shall be those persons determined in writing by the subscribers to the Constitution or a majority of them, and so that any such persons as so determined shall be deemed elected on the date of such determination.

11.4 The Chairman shall be vested with the function and powers of chairperson at meetings of the Board and at general meetings of the Company.

11.5 The Vice Chairman shall be vested with the function and powers of acting as chairperson at any meeting of the Board or at any general meeting of the Company which the Chairman is unable to attend.

11.6 The Treasurer shall be vested with the function and powers of acting as the treasurer of the Company and accordingly as to oversight of and reporting to the Board on the financial accounts and affairs of the Company.

- 11.7 Each Officer shall hold their respective office for a period commencing with effect from the date of his or her election (or deemed election) as such Officer to the conclusion of the third Annual General Meeting which occurs subsequent to such commencement date.
- 11.8 Each Officer shall as of right be a Director and shall hold office as a Director co-terminus with their position as an Officer.
- 11.9 In order for a person (being an individual) to be eligible for election at an Annual General Meeting to the position of Chairman or Vice Chairman or Treasurer as aforesaid, such person shall (save where appointed pursuant to Regulation 11.3):
- 11.9.1 be a Member (or as applicable the Representative of such Member) having the right to vote at general meetings of the Company.
- 11.9.2 have been a Director for not less than two years or thereabouts immediately prior to such Annual General Meeting;
- 11.9.3 have been nominated in writing for such position by two other Members having the right to vote at general meetings of the Company (as proposer and seconder respectively);
- 11.9.4 have given his or her consent in writing to such nomination; and
- 11.9.5 have deposited or caused to be deposited such nomination together with such consent as aforesaid at the registered office of the Company (marked for the attention of the Secretary) not less than seven and not more than twenty one days prior to such annual general meeting.
- 11.10 Each person whose term of office as an Officer is due to expire at the conclusion of the Annual General Meeting referred to in Regulation 11.9 shall be eligible on their own nomination (as deposited in accordance with Regulation 11.9.5) for re-election as an Officer at such Annual General Meeting, and accordingly added to the list of eligible candidates for such election.
- 11.11 In the event that the number of eligible candidates so nominated pursuant to Regulations 11.9 and 11.10 for any position of Officer as is available for election at the Annual General Meeting referred to in Regulation 11.9, such election shall be conducted by secret ballot with the names of all eligible candidates (and as applicable their proposer/seconder) included on the ballot paper for such election. In the event that arising from the conduct of such ballot there is a tie in votes cast for any position of Officer as between two (or more as the case may be) eligible candidates, the candidate elected to such position shall be determined by lot. A declaration at such Annual General Meeting by the Chairman as to the candidate so determined and accordingly elected shall be conclusive and binding on all concerned.
- 11.12 In the event there is no more than one eligible candidate nominated pursuant to Regulations 11.9 and 11.10 for the available position of Officer at the Annual General Meeting referred to in Regulation 11.9, no election shall be required in that regard and the eligible candidate so nominated shall be deemed to be elected at such Annual General Meeting. A declaration at such Annual General Meeting by the Chairman to that effect shall be conclusive and binding on all concerned.

- 11.13 In the event that a vacancy occurs for whatever reason in an Officer position before the next Annual General Meeting, the Board may appoint any one of their number to such Officer position to hold office until the next such Annual General Meeting.

## 12 **Directors**

- 12.1 The Company shall have not less than eight and not more than fifteen Directors, save as otherwise provided for under and or pursuant to Regulation 12.2.
- 12.2 The Company may from time to time by ordinary resolution increase or reduce the number of Directors.
- 12.3 Each Director shall require to be an individual who is a Member or a Representative of a Member having the right to vote at general meetings of the Company.
- 12.4 The first Directors shall be those persons determined in writing by the subscribers to the Constitution or a majority of them.
- 12.5 The majority of the Board shall each require to be persons resident in Ireland.
- 12.6 The Board shall comprise the following:
- 12.6.1 each person (up to three in number) who holds office as a Director pursuant to Regulation 11.8;
  - 12.6.2 each person (up to nine in number) who holds office as a Director pursuant to Regulation 12.10 and Regulation 12.11;
  - 12.6.3 each person (up to three in number) who holds office as a Director pursuant to Regulation 12.12; and
  - 12.6.4 each person who holds office as a Director pursuant to Regulation 12.13.
- 12.7 Each Director (other than an Officer) shall hold their office as Director for such period or term of office running from the date of election (or deemed election) as such Director to such date as is determined under and pursuant to Regulation 13.
- 12.8 In order for a person (being an individual) to be eligible for election at an Annual General Meeting to the position of Director, such person shall (save where appointed pursuant to Regulation 12.4):
- 12.8.1 be a Member (or as applicable the Representative of such Member) having the right to vote at general meetings of the Company;
  - 12.8.2 have been nominated in writing for such position by two other Members having the right to vote at general meetings of the Company (as proposer and seconder respectively);
  - 12.8.3 have given his or her consent in writing to such nomination; and

- 12.8.4 have deposited or caused to be deposited such nomination together with such consent as aforesaid at the registered office of the Company (marked for the attention of the Secretary) not less than seven and not more than twenty one days prior to such annual general meeting.
- 12.9 Each person whose term of office as Director is due to expire at the conclusion of the Annual General Meeting referred to in Regulation 12.8 shall be eligible on their own nomination (as deposited in accordance with Regulation 12.8.4) for re-election as a Director at such Annual General Meeting and accordingly added to the list of eligible candidates for such election.
- 12.10 In the event of there being more eligible candidates as so nominated pursuant to Regulations 12.8 and 12.9 for the positions of Directors available for election at the Annual General Meeting referred to in Regulation 12.8, such election shall be conducted by secret ballot with the names of all eligible candidates (and as applicable their proposer and seconder) included on the ballot paper for such election. In the event that arising from such ballot there is a tie in votes cast for any position(s) of Director up for election as between two (or more as the case may be) eligible candidates, the candidate(s) elected shall be determined by lot. A declaration at such Annual General Meeting by the Chairman as to the candidate(s) so determined and accordingly elected shall be conclusive and binding on all concerned.
- 12.11 In the event the number of eligible candidates nominated pursuant to Regulations 12.8 and 12.9 is less than or equal to the available position(s) of Director at the Annual General Meeting referred to in Regulation 12.8, no election shall be required in that regard and the eligible candidates so nominated shall be deemed to be elected at such Annual General Meeting. A declaration at such Annual General Meeting by the Chairman to that effect shall be conclusive and binding on all concerned.
- 12.12 The Board may after on the same day after the holding of any Annual General Meeting of the Company co-opt and accordingly appoint to the Board up to three Members having the right to vote as Directors. The Member(s) so co-opted shall hold office for the same period or term as applicable under Regulation 12.7 as if such person had been elected (or deemed elected) at such Annual General Meeting.
- 12.13 In the event that a vacancy occurs for whatever reason on the Board before the next occurring Annual General Meeting of the Company, the Board may at any time co-opt and accordingly appoint as a Director any Member having the right to vote at general meetings of the Company to hold office until the next such Annual General Meeting.
- 12.14 The provisions of Section 143 (3) are hereby dis-applied.
- 13 Rotation of Directors**
- 13.1 Each Director shall be required to retire from office as a director in the terms hereinafter provided.
- 13.2 At the first Annual General Meeting all Directors for the time being (other than and after excluding any continuing Officers as well as any Director who is continuing on the Board of HRI as a nominee of the Company or its predecessor) shall retire from office as Directors.



- 13.3 At the second and every subsequent Annual General Meeting one third of the Directors for the time being (other than and after excluding any continuing Officers as well as any Director who is continuing on the Board of HRI as a nominee of the Company) shall retire from office as Directors; and if the number of Directors for the time being as aforesaid is not a multiple of 3, then the number nearest one third shall retire from office.
- 13.4 Each Director who is on the Board of HRI as a nominee of the Company or its predecessor shall retire as a Director at the conclusion of the Annual General Meeting which next follows the expiry of such Director's term of office as such nominee.

#### 14 **Removal of Directors**

In accordance with section 146 of the Act the Company may by ordinary resolution remove a Director before the expiration of his or her period of office notwithstanding any agreement between the Company and that Director. The Company may by ordinary resolution appoint another person in place of a Director so removed from office, but so that the total number of Directors shall not at any time exceed the maximum number provided for in this Constitution.

#### 15 **Vacation of Office**

The office of Director shall be vacated if (as so determined by the Board):

- 15.1 The Director is adjudicated bankrupt or being a bankrupt has not obtained a certificate of discharge in the relevant jurisdiction; or
- 15.2 The Directors becomes or is deemed to be subject to a disqualification order within the meaning of the Act; or
- 15.3 The Director resigns his or her office by notice in writing to the Company or if he or she resigns his or her office by spoken declaration at any Board meeting and such resignation is accepted by resolution of that meeting, in which case such resignation shall take effect at the conclusion of such meeting; or
- 15.4 The health of the Director is such that he or she can no longer be reasonably regarded as possessing an adequate decision making capacity; or
- 15.5 A declaration of restriction is made in relation to the Director; or
- 15.6 The Director is sentenced to a term of imprisonment (including a term that is suspended) following conviction of an indictable offence; or
- 15.7 The Director is for more than six months absent, without the permission of the directors, from meetings of the Board held during that period; or
- 15.8 If such Director is absent without reasonable cause from three consecutive meetings of the Board.

The application of section 148(2) of the Act shall be modified accordingly.

## **16 Directors Expenses**

- 16.1 The Directors shall not receive any fees for the performance of any of their duties as Directors, other than remuneration for the performance of executive duties approved from time to time by the Board.
- 16.2 The Directors shall be entitled to be paid and reimbursed for their reasonable expenses incurred in discharging their duties as Directors, including all travelling, hotel and other expenses reasonably and properly incurred by them in attending and returning from meetings of the Board or any committee of the Directors, or general meetings of the Company, or otherwise in connection with the business of the Company, subject to the production of all necessary vouchers and receipts.
- 16.3 The application of section 1197 of the Act shall be modified accordingly.

## **17 General Power of Management and Delegation**

- 17.1 The business of the Company shall be managed by the Board , who may pay all expenses incurred in promoting and registering the Company and may exercise all such powers of the Company as are not, by the Act or by this Constitution, required to be exercised by the Company in general meeting, but subject to:
  - 17.1.1 any regulations contained in this Constitution;
  - 17.1.2 the provisions of the Act; and
  - 17.1.3 such directions, not being inconsistent with the foregoing regulations or provisions, as the Company in general meeting may (by special resolution) give.
- 17.2 The exercise by the Board of the power to borrow shall, save for any short term overdraft not exceeding €5,000 (five thousand euro), be exercisable only with the prior approval (by ordinary resolution) of the Company in general meeting.
- 17.3 The Directors may delegate any of their powers to such person or persons as they think fit, including committees. Any such committee shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the Directors.
- 17.4 Notwithstanding section 159 of the Act, the Directors may not appoint one or more of themselves to the office of manager or managing director (by whatever name called) of the Company.

## **18 Manager**

- 18.1 The Board shall have power at any time to appoint any person they regard as suitable to be the manager of the Company, and to whom is (or is to be) entrusted the management of the day to day operational and financial affairs of the Company upon such terms as the Board considers fit, and to remove or replace such person at any time.
- 18.2 The Manager shall be entitled to attend (but not vote at) each meeting of the Board and to report thereat on the day to day operational and financial affairs of the Company; but shall

absent himself/herself from the meeting at the request of the chairperson of the Board in relation to any matter concerning his/her position or performance as Manager.

## **19 Meetings of Directors and Committees**

- 19.1 The Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit, subject only to the requirement to meet not less than four times per calendar year.
- 19.2 Any meeting of the Board shall be convened upon not less than seven days' notice to all Directors by the Secretary acting either on the instructions of the Chairman or Vice Chairman Board or on the requisition in writing (addressed to the Secretary) of not less than three Directors (if such Directors have supplied to the Secretary sufficient particulars of the business required to be transacted or discussed at such meeting).
- 19.3 Where the Board consider that a certain matter requires urgent consideration, the Secretary may convene such a meeting at shorter notice (being not less than 24 hours) to discuss (only) such matter. It shall not be necessary to give notice of a meeting of the Board to any Director who, being resident in the State, is for the time being absent from the State.
- 19.4 The quorum required for any meeting of the Board shall be not less than five (5) Directors present in person. If a quorum is not so constituted within half an hour after the time appointed for holding same, the meeting shall be adjourned to a date not earlier than fourteen days from the date on which the meeting was adjourned; if at the adjourned meeting a quorum is not present within half an hour after the time appointed for holding same, then those present shall be a quorum.
- 19.5 Every Director shall, at a meeting of the Board or upon any resolution of the Directors, have and be entitled to exercise one vote.
- 19.6 Where any vote is required at a meeting of the Board in connection with any resolution tabled at the meeting, such resolution shall not be deemed to have been passed or adopted unless on a show of hands or a poll all Directors present at the meeting have consented to such resolution; or alternatively on a show of hands or a poll a majority of such Directors present at the meeting have voted in favour of such resolution. The chairperson of the meeting shall not have any second or casting vote upon any resolution of the Board.
- 19.7 The continuing Directors may act notwithstanding any vacancy in their number but, if and so long as their number is reduced below the number fixed by or pursuant to this Constitution as the necessary quorum of Directors, the continuing Directors or Director may act for the purpose of increasing the number of Directors to that number or of summoning a general meeting of the Company but for no other purpose.
- 19.8 In accordance with Regulation 11.4 the Chairman shall be chairperson of each meeting of the Board. If the Chairman is unable to attend any such meeting then the Vice Chairman in accordance with Regulation 11.5 shall act as chairperson of such meeting. If at any meeting of the Board no such chairperson is present within fifteen minutes after the time appointed for holding such meeting, the Directors present shall elect one of their number to be chairperson of the meeting.

- 19.9 The Directors may establish one or more committees consisting in whole or in part of members of the Board, invited Members as well as the Manager.
- 19.10 A committee established under Regulation 19.9 may elect a chairperson of its meetings; if no such chairperson is elected, or if at any meeting the chairperson is not present within fifteen minutes after the time appointed for holding it, the members of the committee present may choose one of their number to be chairperson of the meeting.
- 19.11 A committee may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they see fit.
- 19.12 Questions arising at any meeting of a committee shall be determined by a majority of votes of the members of the committee present with each member present having one vote each; and where there is an equality of votes, the chairperson shall have a second or casting vote.
- 19.13 The application of section 160 of the Act shall be modified accordingly.

## **20 Written Resolutions of Directors**

- 20.1 A resolution in writing signed by all the Directors shall be as valid as if it had been passed at a meeting of the Board duly convened and held
- 20.2 A resolution referred to in Regulation 20.1 may be signed by electronic signature, advanced electronic signature or otherwise as approved by the Board.
- 20.3 Subject to Regulation 20.4, where one or more of the Directors (other than a majority of them) would not, by reason of:
- 20.3.1 any Act or any other enactment;
- 20.3.2 the Constitution; or
- 20.3.3 a rule of law,
- be permitted to vote on a resolution such as is referred to in Regulation 20.1, if it were sought to pass the resolution at a meeting of the Board duly convened and held, then such a resolution, notwithstanding anything in Regulation 20.1, shall be valid for the purposes of that regulation if the resolution is signed by those of the Directors who would have been permitted to vote on it had it been sought to pass it at such a meeting.
- 20.4 In a case falling within Regulation 20.3, the resolution shall state the name of each Director who did not sign it and the basis on which he or she did not sign it.
- 20.5 For the avoidance of doubt, nothing in the preceding regulations dealing with a resolution that is signed by other than all of the Directors shall be read as making available, in the case of an equality of votes, a second or casting vote to the one of their number who would, or might have been, if a meeting had been held to transact the business concerned, chairperson of that meeting.

20.6 The resolution referred to in Regulation 20.1 may consist of several documents in like form each signed by one or more Directors and for all purposes shall take effect from the time that it is signed by the last Director.

20.7 The application of section 161 of the Act shall be modified accordingly.

## **21 Meetings of Directors by Conference**

21.1 A meeting of the Board or of a committee of the Board may consist of a conference between some or all of the Directors or, as the case may be, members of the committee who are not all in one place, but each of whom is able (directly or by means of telephonic, video or other electronic communication) to speak to each of the others and to be heard by each of the others and:

21.1.1 a Director or member of a committee taking part in such a conference shall be deemed to be present in person at the meeting and shall be entitled to vote and be counted in a quorum accordingly; and

21.1.2 such a meeting shall be deemed to take place in such location as the Board, or members of the committee, decide and failing that where the chairperson of the meeting is located.

21.2 The application of section 161 of the Act shall be modified accordingly.

## **22 Duty of Director to Disclose Interest in Contracts**

22.1 In accordance with section 231 of the Act, it shall be the duty of a Director who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the Company, to declare the nature of his or her interest to the Company.

22.2 A Director may not vote in respect of any contract, appointment or arrangement in which he or she is interested or any matter arising therefrom and he or she shall not be counted in the quorum present at the meeting.

## **23 Alternate Directors**

23.1 No Director of the Company may appoint any other Director or any other person to be an alternate Director as respects him or her.

23.2 Section 165 of the Act accordingly is hereby dis-applied.

## **24 Minutes of Proceedings of Directors**

24.1 The Company shall cause minutes to be entered in books kept for that purpose of:

24.1.1 All appointments of Directors made by the Board;

24.1.2 The names of the Directors present at each meeting of the Board and of any committee of the Board; and

24.1.3 All resolutions and proceedings at all meetings of the Board and of committees of the Board.

## **25 Annual General Meetings**

- 25.1 Subject to Regulation 25.5 the Company shall in each year hold its Annual General Meeting in addition to any other general meetings in that year and shall specify the meeting as such in the notices calling it and not more than fifteen months shall elapse between the date of one annual general meeting of the Company and that of the next.
- 25.2 All Members shall be entitled to attend and vote at an Annual General Meeting save as otherwise provided under this Constitution.
- 25.3 So long as the Company holds its first Annual General Meeting within eighteen months after the date of its incorporation, it need not hold such meeting in the year of its incorporation or in the following year.
- 25.4 The business of the Annual General Meeting shall be as provided for in Section 186 of the Act, and shall include the election and re-election of Officers and Directors but exclude the declaration of any dividend as referred to in the said Section.
- 25.5 The business of the Annual General Meeting shall also include consideration of any notice of motion signed by not less than two Members having the right to attend and vote at general meetings of the Company (as proposer and seconder respectively) which relates to the business or affairs of the Company for the financial year to be addressed at such Annual General Meeting. Such notice of motion shall require to have been deposited at the registered officer of the Company (marked for the attention of the Secretary) not later than fourteen days prior to the date of such Annual General Meeting.
- 25.6 The agenda for the Annual General Meeting shall be posted on the Company's web site (and accordingly available to Members) not less than seven days in advance of such Annual General Meeting.
- 25.7 All Members shall be entitled to attend and vote at an Annual General Meeting save as otherwise provided under this Constitution.
- 25.8 Each Annual General Meeting shall be chaired by the Chairman or (if he or she is unable to attend) by the Vice Chairman. If neither the Chairman nor the Vice Chairman is in attendance at an Annual General Meeting, then after half an hour has elapsed from the designated start time the Members present having the right to attend and vote may elect one of their number by majority vote to be the chairperson of such Annual General Meeting

## **26 Extraordinary General Meetings**

- 26.1 The Board may, whenever they think fit, convene an Extraordinary General Meeting.
- 26.2 The Board shall, upon a requisition of such Members as referred to in Section 178(3) of the Act (as varied by Section 1203 (b) of the Act), forthwith proceed duly to convene an Extraordinary General Meeting.

- 26.3 The requisition referred to in Regulation 26.2 shall state the business to be transacted at any such Extraordinary General Meeting. Such requisition shall be signed by each Member named in such requisition, and deposited at the registered office of the Company (marked for the attention of the Secretary).
- 26.4 If the Directors do not within twenty one days after the date of the deposit of any such requisition as aforesaid proceed to convene a meeting to be held within two months after such date, the requisitionists may proceed to convene such meeting in accordance with and subject to the provisions of Section 178 (as amended by Section 1203) of the Act.
- 26.5 An Extraordinary General Meeting, convened under Regulation 26.4 shall be convened in the same manner as nearly as possible as that in which general meetings of the Company are (or are to be) convened by the Board.
- 26.6 The business of an Extraordinary General Meeting shall solely be the consideration of the matter(s) referred to in the notice of the meeting.
- 26.7 All Members shall be entitled to attend and vote at an Extraordinary General Meeting save as otherwise provided under this Constitution.
- 26.8 Each Extraordinary General Meeting shall be chaired by the Chairman or (if he or she is unable to attend) by the Vice Chairman. If neither the Chairman nor the Vice Chairman is in attendance at such Extraordinary General Meeting, then after half an hour has elapsed from the designated start time the Members present having the right to attend and vote may elect one of their number by majority vote to be the chairperson of such Extraordinary General Meeting

## **27 Persons entitled to Notice of General Meetings**

- 27.1 Notice of every general meeting of the Company shall be given to:
- 27.1.1 each Member;
  - 27.1.2 the Directors (including Officers);
  - 27.1.3 the Secretary; and
  - 27.1.4 the Manager.
- 27.2 Unless the Company is entitled to and has availed itself of the audit exemption under Sections 360 or 365 of the Act (and, where relevant, Section 399 has been complied with in that regard), the statutory auditors of the Company shall be entitled to:
- 27.2.1 attend any general meeting of the Company;
  - 27.2.2 receive all notices of, and other communications relating to, any general meeting which any Member is entitled to receive; and
  - 27.2.3 be heard at any general meeting which they attend on any part of the business of the meeting which concerns them as statutory auditors.

## **28 Notice of General Meetings**

- 28.1 A meeting of the Company, other than an adjourned meeting, shall be called:
- 28.1.1 in the case of the Annual General Meeting or an Extraordinary General Meeting for the passing of a special resolution, by not less than twenty eight days' notice;
  - 28.1.2 in the case of any other Extraordinary General Meeting, by not less than fourteen days' notice.
- 28.2 A meeting of the Company shall, notwithstanding that it is called by shorter notice than that specified in Regulation 28.1 be deemed to have been duly called if it is so agreed by:
- 28.2.1 all the Members entitled to attend and vote at the meeting; and
  - 28.2.2 unless no statutory auditors of the Company stand appointed in consequence of the Company availing itself of the audit exemption under sections 360 or 365 of the Act (and, where relevant, section 399 has been complied with in that regard), the statutory auditors of the Company.
- 28.3 A resolution may be proposed and passed as a special resolution at a meeting of the Company of which less than 28 days' notice has been given if it is so agreed by a majority in number of the Members having the right to attend and vote at any such meeting, being a majority together representing not less than 90 per cent of the total Member Voting Rights at that meeting of all the Members.
- 28.4 Where notice of a meeting of the Company is given by posting it by ordinary prepaid post to the registered address of a Member, then, for the purposes of any issue as to whether the correct period of notice for that meeting has been given, the giving of the notice shall be deemed to have been effected on the expiration of twenty four hours following posting.
- 28.5 In determining whether the correct period of notice has been given by a notice of a meeting of the Company, neither the day on which the notice is served nor the day of the meeting for which it is given shall be counted.
- 28.6 The notice of a meeting of the Company shall specify:
- 28.6.1 the place, the date and the time of the meeting;
  - 28.6.2 the general nature of the business to be transacted at the meeting;
  - 28.6.3 in the case of a proposed special resolution, the text or substance of that proposed special resolution; and
  - 28.6.4 a statement that Member entitled to attend and vote is entitled to appoint a proxy to attend, speak and vote instead of him or her, and to use for such purpose the proxy form set out in Regulation 31.
- 28.7 The accidental omission to give notice of a meeting of the Company to, or the non-receipt of notice of a meeting of the Company by any person entitled to receive notice shall not invalidate the proceedings at the meeting.



## 29 **Quorum**

- 29.1 No business shall be transacted at any general meeting of the Company unless a quorum of Members is present at the time when the meeting proceeds to business.
- 29.2 Ten Members present in person or by their Representative having the right to attend and vote at a general meeting of the Company shall be a quorum.
- 29.3 If within fifteen minutes after the time appointed for a general meeting of the Company a quorum is not present, then:
- 29.3.1 where the meeting has been convened upon the requisition of Members, the meeting shall be dissolved;
- 29.3.2 in any other case:
- (a) the meeting shall stand adjourned to the same day in the next week, at the same time and place or to such other day and at such other time and place as the directors may determine; and
  - (b) if at the adjourned meeting a quorum is not present within half an hour after the time appointed for the meeting, the Members present having the right to attend and vote at general meetings of the Company shall be a quorum.

## 30 **Proxies**

Under and pursuant to Regulation 1.1 no Member may appoint any person to be such Member's proxy so as to be entitled to attend instead of such Member at any general meeting of the Company or to vote instead of such Member upon any resolution of the Company.

## 31 **Representation of Bodies Corporate at Meetings**

The entitlement of a body corporate, if it is a Member, to appoint an authorised representative as referred to in Section 185 of the Act, and any evidence as may be required as to the authority of such authorised representative shall be determined in accordance with the said Section.

## 32 **Proceedings at Meetings**

- 32.1 In accordance with Regulation 11.4 the Chairman shall be chairperson of each meeting of the Board. If the Chairman is unable to attend any such meeting then the Vice Chairman in accordance with Regulation 11.5 shall act as chairperson of such meeting.
- 32.2 If at any general meeting of the Company no such chairperson as referred to in Regulation 32.1 is present within fifteen minutes after the time appointed for holding such meeting, the Members present and having the right to vote shall choose one of their number present by majority vote to be chairperson of the meeting.
- 32.3 The chairperson may, with the consent of any meeting at which a quorum is present, and shall if so directed by the meeting, adjourn the meeting from time to time and from place to place.

- 32.4 No business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.
- 32.5 When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting but, subject to that, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
- 32.6 Where a matter is being decided (whether on a show of hands or on a poll) at a general meeting or upon a resolution of the Company, every Member (or as applicable it's Representative) present in person having the right to attend and vote at such meeting shall have one vote.
- 32.7 No Member shall be entitled to vote at any general meeting of the Company unless all moneys then due and owing by such Member to the Company (including without limitation in respect of the Subscription Charge payable by such Member) has been paid.
- 32.8 The entitlement to demand a poll at any general meeting shall be determined and exercised in accordance with Section 189 (as amended by Section 1207) of the Act.
- 32.9 Where any vote is taken at a general meeting of the Company in connection with any resolution tabled at the meeting, such resolution shall not be deemed to have been passed or adopted unless on a show of hands or a poll all persons present at the meeting who are entitled to vote have consented to such resolution; or alternatively on a show of hands or a poll such persons present at the meeting who are entitled to exercise collectively (in the case of a special resolution) not less than a three quarters majority of the Member Voting Rights exercisable at the meeting or to exercise (in the case of an ordinary resolution) not less than a simple majority of the Member Voting Rights exercisable at the meeting, have voted in favour of such resolution.
- 32.10 In accordance with Section 187(8) of the Act, the chairperson of the meeting shall have, in the case of equality of votes, a second or casting vote upon any resolution of the Company.
- 32.11 The Company shall, as soon as may be after their holding or passing, cause minutes of all proceedings of general meetings of the Company and the terms of all resolutions of it, to be entered in books kept for that purpose. All such books kept by the Company in pursuance of this Regulation 32 shall be kept at the same place.

### **33 Unanimous Written Resolutions**

- 33.1 The provisions of Section 193 (as amended by Section 1208) of the Act shall be applicable to the passing of a unanimous written resolution of the Company.
- 33.2 A resolution referred to in Regulation 33.1 may be signed by electronic signature or advanced electronic signature.

### **34 HRI Nominee**

- 34.1 The person who as of the date of incorporation of the Company is and stands appointed as an ordinary member of HRI, having been so appointed as such ordinary member by the Minister in respect of the category of interest referred to in paragraph 8(1)(d) of the Schedule to the Irish Horse Racing Industry Act 1994 (as substituted by section 4 of the Horse Racing

Ireland Act 2016), being the interest representative of racehorse owners, shall be deemed to be the nominee of the Company to HRI.

- 34.2 Upon the current nominee of the Company to HRI ceasing for any reason to be an ordinary member of HRI, the Board shall (as soon as becoming aware of such cessation) promptly commence the procedure set out in Regulation 34.4 with a view to the determination of a successor nominee of the Company as an ordinary member of HRI (herein the “**Nominee**”).
- 34.3 The procedure referred to in Regulation 34.4 shall be undertaken in such a manner as enables the Company to make the nomination of its Nominee to the Minister by such date (if any) as is specified by the Minister for the receipt by him or her of such nomination from the Company.
- 34.4 The following procedure shall be adopted for the determination of a successor nominee of the Company as an ordinary member of HRI.
- 34.4.1 the Board shall issue a notice to all persons eligible to be a Nominee inviting such persons (if they so wish) and by a specified date (which shall not be longer than 30 days from the date of such notice) to submit to the Company an application to be the Nominee in such form as the Board may require;
- 34.4.2 any person making an application under Regulation 34.4.1 shall require to be proposed and seconded in writing by two Directors as so recorded with such application;
- 34.4.3 the persons eligible to be a Nominee shall be restricted to the Directors holding office on the date of issue of the notice referred to in Regulation 34.4.1;
- 34.4.4 the person referred to in Regulation 34.2 who has ceased to be an ordinary member of HRI shall, subject to being a Director and not having served more than one term as an ordinary member of HRI, be eligible for nomination to be the Nominee;
- 34.4.5 a Director may not propose or second more than one candidate, and may not propose himself or herself, to be the Nominee;
- 34.4.6 as soon as practicable following the specified date referred to in Regulation 34.4.1, the Board shall by notice to the Members convene an Extraordinary General Meeting for the purpose of electing the Nominee (herein the “**HRI EGM**”);
- 34.4.7 the notice period for the HRI EGM shall not be less than thirty days prior to the date specified for holding of such meeting, or such lesser period (not being less than fourteen days) if so determined by the Board in order to ensure compliance with the requirements of Regulation 34.3 (and so that Regulation 28.1 shall be varied and construed accordingly);
- 34.4.8 if there is more than one eligible candidate to be the Nominee, there shall be included with the notice referred to in Regulation 34.4.6 a ballot paper which lists the names of the candidates to be the Nominee, the names of each such candidate’s proposer and seconder, if any candidate so wishes a one A4 page information sheet by way of an election manifesto for such candidate, and an envelope addressed to the Returning Officer;

- 34.4.9 a returning officer shall be appointed by the Board and vested with the responsibility of overseeing the vote by Members in connection with the HRI EGM, and shall act as an independent party in relation thereto (and so that no Member shall be or act as the returning officer);
- 34.4.10 each Member shall exercise their vote by completing and signing the ballot paper referred to in Regulation 34.4.8 and (using the pre-addressed envelope provided) forwarding the ballot paper to the Returning Officer;
- 34.4.11 by submitting to the Returning Officer a ballot paper in respect of the HRI AGM, the Member (or as applicable their Representative) acknowledges that the personal data of such Member (or as applicable of such Representative) held by the Company will be made available by the Company to the Returning Officer for the legitimate purpose of verifying the identity and signature particulars of the Member contained in such ballot paper;
- 34.4.12 any ballot paper in respect of the HRI EGM received by the Returning Officer after 12 noon on the day before the date fixed for the HRI EGM shall be excluded from the vote at the meeting;
- 34.4.13 in the event that the Returning Officer is unable to verify the identity and signature particulars on any ballot paper in respect of the HRI EGM, such ballot paper shall be excluded from the vote at the meeting;
- 34.4.14 in the event that any ballot paper received in respect of the HRI EGM is determined by the Returning Officer to be a spoilt paper, such ballot paper shall be excluded from the vote at the meeting;
- 34.4.15 following the commencement of the HRI EGM, the chairperson of the HRI EGM shall call upon the Returning Officer to present his report to the meeting, to include particulars of number of votes cast by Members, the number of votes which have been dis-allowed, and the candidate who has received the highest number of valid votes cast and (if so requested by any other candidate) the valid votes cast in favour of such candidate;
- 34.4.16 if there is a tie as between two or more candidates receiving the highest number of valid votes cast, then the Directors present at the meeting shall each have a second vote as may be cast in favour of their tied candidate of choice; if after such vote there still remains a tie, the Chairman if present at the meeting or (if the Chairman is one of the tied candidates concerned) the Vice Chairman if present at the meeting or (if the Vice Chairman is also one of the tied candidates concerned) any Director (not being a tied candidate) nominated for such purpose by the Directors present shall have a deciding vote to be cast in favour of their tied candidate of choice;
- 34.4.17 the valid (and added votes as applicable) so reported and cast as aforesaid shall be deemed to have been given and cast at the HRI EGM;
- 34.4.18 the candidate who has pursuant to the foregoing provisions received the highest number of valid votes (and added votes as applicable) shall be deemed to have been elected as the Nominee and so that the chairperson of the HRI AGM shall make a declaration

to such effect at the meeting, which declaration shall be conclusive and binding on all Members and the Company;

34.4.19 in the event that there is only one eligible candidate to be the Nominee, the chairperson of the HRI AGM shall make a declaration at the meeting that such candidate, being the only candidate for Nominee, shall be deemed to have been duly elected at such HRI EGM as the Nominee, which declaration shall be conclusive and binding on all Members and the Company.

### **35 Service of Notices on Members**

35.1 Any notice to be given, served, sent or delivered pursuant to this Constitution shall be in writing.

35.2 A notice or document to be given, served, sent or delivered in pursuance of this Constitution may be given to, served on, sent or delivered to any Member:

35.2.1 by hand delivering it to the Member or where such Member is a body corporate, to any officer of that body corporate;

35.2.2 by leaving it at the registered address of the Member;

35.2.3 by sending it by post in a pre-paid letter addressed to the member at the registered address of the member;

35.2.4 by sending it by courier in a pre-paid letter addressed to the member at the registered address of the member; or

35.2.5 by sending it by means of electronic mail or other means of electronic communication approved by the Directors to the address of the Member notified to the Company by such Member for such purpose (or if not so notified, then to the address of the Member last known to the Company).

35.3 Any notice served, given, sent or delivered in accordance with this Regulation 36 shall be deemed, in the absence of any agreement to the contrary between the Company (or, as the case may be, the officer of it) and any Member, to have been served, given sent or delivered:

35.3.1 In the case of hand delivery, at the time of delivery (or, if delivery is refused, when tendered);

35.3.2 in the case of it being so left, at the time that it is left;

35.3.3 in the case of it being posted or couriered, 48 hours after despatch;

35.3.4 in the case of it being sent by electronic means, twelve hours after despatch.

35.4 Every Member shall be bound by a notice served, given, sent or delivered as aforesaid notwithstanding that the Company may have notice of the bankruptcy, insolvency, liquidation or disability of such Member.

- 35.5 Notwithstanding anything contained in this Constitution, the Company shall not be obliged to take account of or make any investigation as to the existence of any suspension or curtailment of postal services within or in relation to all or any part of any jurisdiction or other area other than Ireland.
- 35.6 The signature (whether electronic signature, advanced electronic signature or otherwise) to any notice to be given by the Company may be written (in electronic form or otherwise) or printed.
- 35.7 In this Regulation 35 "registered address" in relation to a Member, means the address of the Member as entered in the register of members; and in relation to a Representative, means the address of such Representative as held by HRI in relation to the Member concerned.
- 35.8 Section 218 of the Act does not apply.

### **36 Fiduciary Duties of Directors**

For the purposes of Section 228(1) of the Act, the reasonable use by a Director for his or her own benefit, or anyone else's benefit, of any of the Company's property where such use is directly or indirectly connected with the business objectives of the Company shall be permitted.

### **37 Indemnity for Officers and Directors**

- 37.1 Subject to the provisions of the Act, the Company may indemnify any officer of the Company (to include all Officers and Director) against any liability incurred by him or her in defending proceedings, whether civil or criminal, in which judgment is given in his or her favour or in which he or she is acquitted, or in connection with any proceedings or application referred to in, or under, Sections 233 or 234 of the Act in which relief is granted to him or her by the court.
- 37.2 Every officer of the Company (to include all Officers and Director) shall be entitled to be indemnified out of the assets of the Company against all losses or liabilities which he or she may sustain or incur in or about the execution of the duties of his or her office or otherwise in relation thereto and no such officer shall be liable for any loss, damage or misfortune which may happen to or be incurred by the Company in the execution of the duties of his or her office or in relation thereto. This Regulation 38.2 shall only have effect in so far as its provisions are not void under Section 235 of the Act.

### **38 Financial**

- 38.1 The financial year (as defined in section 288 of the Act) of the Company shall end on 31<sup>st</sup> December in each year save and unless otherwise so determined by the Board. The Directors shall prepare financial statements of the Company for each financial year.
- 38.2 Auditors shall be appointed and their duties regulated in accordance with Chapter 18 Sections 380-393 and Part II of the Act.
- 38.3 The Board may set aside out of the surplus of income over expenditure (if any) as may occur or any asset as may be received (including cash) in respect of any financial year such sum or sums as the Board considers proper as a reserve or reserves which shall, at the discretion of the Board, be applicable for any purpose to which such surplus or asset (and whether immediately or over time) may be properly applied relating to the activities of the Company.

## **39 Amalgamation and Dissolution**

- 39.1 An Extraordinary General meeting shall have power by a resolution passed by the holders present at such meeting of not less than three quarters of the Member Voting Rights exercisable at the meeting to either amalgamate with any other person having similar objects to the Company or to determine upon the dissolution of the Company.
- 39.2 If pursuant to Regulation 40.1 the amalgamation of the Company shall be so determined, then the Board shall thereafter take such steps as are required to promptly commence the amalgamation of the Company and in such manner as the Board considers fit.
- 39.3 If pursuant to Regulation 40.1 the dissolution of the Company shall be so determined, then the Board shall thereafter take such steps as are required to promptly commence the liquidation of the Company and in such manner as the Board considers fit.

## **40 Winding Up**

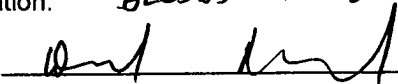
- 40.1 If the Company is wound up the liquidator shall be empowered, after providing for and (as applicable) discharging all liabilities (actual or contingent) of the Company and subject otherwise as may be required by the Act, divide amongst the Members in specie or in kind the whole or any part of the assets of the Company (whether they shall consist of property of the same kind or not).
- 40.2 Such division of assets shall be made by the liquidator on a proportionate basis amongst the Members according to the Member Voting Rights exercisable by them, and shall be confined to those Members in being having the right to vote at general meetings of the Company as of the date of the resolution to wind up the Company and who or which have paid in full to the Company and up to such date their required Subscription Charge. The liquidator may for such purpose set such value as he or she deems fair upon any non-cash assets (if any) to be so divided.
- 40.3 The liquidator shall also be empowered, subject otherwise as may be required by the Act, to vest the whole or any part of such assets as referred to in Regulation 40.1 in trustees upon trusts for the benefit of the Members entitled thereto as the liquidator shall think fit.

We, the several persons whose names and addresses are subscribed, wish to be formed into a company in pursuance of this constitution.

**Names, Addresses and Descriptions of Subscribers**

**David Hyland**, Oak Hill, Mountrath, Portlaoise, County Laois

Occupation: BLOODSTOCK OWNER AND BREEDER

Signed: 

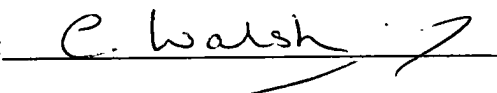
**William Bourke**, Ballhack, Fairyhouse, Dublin 15

Occupation: FARMER.

Signed: 

**Caren Walsh**, The Moate, Firmount, Clane, County Kildare

Occupation: BLOODSTOCK OWNER and BREEDER.

Signed: 

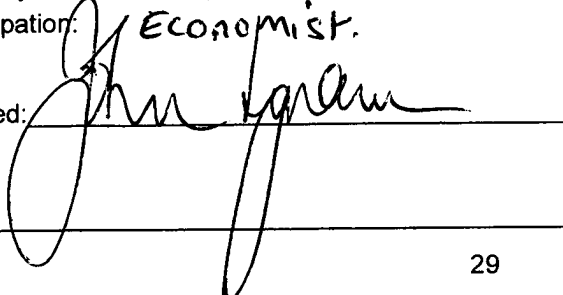
**Sandra Fox**, Ardrums House Stud, Summerhill, County Meath

Occupation: BLOODSTOCK BREEDER.

Signed: 

**John Lynam**, 27 St Stephens Green, Dublin 2

Occupation: ECONOMIST.

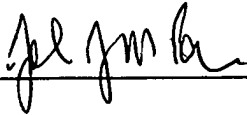
Signed: 



**Names, Addresses and Descriptions of Subscribers**

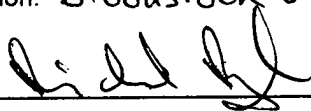
**John Power**, Stonepark, Bruff, County Limerick

Occupation: SOLICITOR

Signed: 

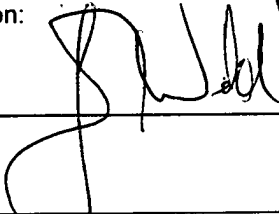
**Richard Pugh**, Grangeclare West, Kilmeague, Naas, County Kildare

Occupation: BLOODSTOCK OWNER and BREEDER

Signed: 

**John Weld**, River Downs, Barretstown, Newbridge, County Kildare

Occupation: VETERINARY SURGEON

Signed: 

**SIGNATURES IN WRITING OF THE ABOVE SUBSCRIBERS, ATTESTED BY  
WITNESS AS PROVIDED FOR BELOW.**  
Dated the 12<sup>th</sup> day of February 2020

**WITNESS TO THE ABOVE SIGNATURES**

**AIDEN BURNS**  
MANAGER  
27 STONEYFORD GREEN  
AULEEK  
County MEATH

