



maintaining the integrity of the sport of horseracing

**The Constitution of
The National Horseracing Authority
of Southern Africa**

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CHAPTER 1: DEFINITIONS

1. DEFINITIONS

- 1.1 In this Constitution, unless the context otherwise requires, words in capital letters as listed below shall have the following meanings:
- 1.1.1 ANNUAL GENERAL MEETING or AGM - the Annual meeting of MEMBERS of the NHA as provided for in clause 13;
- 1.1.2 APPEAL BOARD - an appeal board constituted and appointed under clause 21;
- 1.1.3 APPRENTICE – a person who is REGISTERED or licensed as such in terms of the RULES;
- 1.1.4 ASSISTANT TRAINER – a PERSON who has been granted a licence as such in terms of the RULES, and save where the context otherwise indicates, includes a stable manager;
- 1.1.5 AUDIT COMMITTEE – means the audit committee of the NATIONAL BOARD established in terms of clause 19.7.2;
- 1.1.6 BOARD - an APPEAL BOARD or INQUIRY REVIEW BOARD or INQUIRY BOARD or PROHIBITED SUBSTANCE INQUIRY BOARD or the LICENSING BOARD;
- 1.1.7 BOARD APPOINTEE/S – has the meaning given thereto in clause 15.2.1;
- 1.1.8 CHIEF EXECUTIVE - the chief executive officer of the NHA appointed by the NATIONAL BOARD or any person whom the CHIEF EXECUTIVE duly appoints to act for him/her;
- 1.1.9 COLOURS - the registration of the right to race a horse in terms of the RULES;
- 1.1.10 DEFAULTER – an individual who has been determined to be in arrears and/or default and who has been declared to be a defaulter in terms of RULE 97;
- 1.1.11 DIRECTOR - a person appointed as such in terms of clause 16;
- 1.1.12 EXCLUDED POSITION/S – has the meaning give thereto in clause 16.8;
- 1.1.13 GENERAL MEETING - an ANNUAL GENERAL MEETING or SPECIAL GENERAL MEETING of MEMBERS of the NATIONAL HORSERACING AUTHORITY as provided for in clauses 13 and 14, as applicable;
- 1.1.14 GENERAL PANEL – a panel of persons, consisting of MEMBERS of the NHA and/or other suitably qualified individuals appointed or co-opted by the NATIONAL BOARD from time to time (who need not be MEMBERS of the NHA), from which an INQUIRY BOARD, APPEAL BOARD, PROHIBITED SUBSTANCE INQUIRY BOARD or INQUIRY REVIEW BOARD may be constituted, taking into account the specific subject matter and the requirements of the matter under consideration;
- 1.1.15 INQUIRY – an inquiry into or investigation of and the adjudication upon any breach or contravention of the CONSTITUTION and/or the RULES by an INQUIRY BOARD;
- 1.1.16 INQUIRY BOARD - an inquiry board constituted and appointed under clause 22;
- 1.1.17 INQUIRY REVIEW BOARD - an inquiry review board constituted and appointed

under clause 24;

- 1.1.18 JOCKEY – a person who is licensed as such in terms of the Rules and APPRENTICE JOCKEY is a person who is registered or licensed as such in terms of RULE 17.7;
- 1.1.19 LEGAL PANEL – a panel of persons comprising suitably qualified legal practitioners appointed or co-opted by the NATIONAL BOARD from time to time (who need not be MEMBERS of the NHA) from which an INQUIRY BOARD, APPEAL BOARD and INQUIRY REVIEW BOARD may be constituted, taking into account the specific subject matter and the requirements of the matter under consideration;
- 1.1.20 LICENCE - any licence granted under the RULES and LICENCED shall have a corresponding meaning;
- 1.1.21 LICENSING BOARD - the licensing board constituted and appointed under clause 25;
- 1.1.22 MEMBER - a member of the NHA as provided for in Chapter 3 of this Constitution;
- 1.1.23 MONTH - a calendar month;
- 1.1.24 NATIONAL BOARD - a properly constituted body of the DIRECTORS;
- 1.1.25 NHA - The National Horseracing Authority of Southern Africa;
- 1.1.26 NHA LEGAL OFFICER – means the natural person employed or contracted by the NHA as its internal legal advisor from time to time;
- 1.1.27 OBJECTION BOARD - an objection board constituted, and whose members are appointed, in terms of the RULES;
- 1.1.28 OFFICIAL PUBLICATION - an electronic or other publication authorised by the NHA under clause 6.5;
- 1.1.29 OFFICIAL - any LICENSED official, official, officer, person, employee or member of staff of the NHA;
- 1.1.30 OWNER –a PERSON registered as such in terms of the RULES and shall include the individual, partnership, syndicate, close corporation or company, the owner of the racing career of a horse or the lessee of a horse;
- 1.1.31 PERSON - an individual who is subject to and/or bound by this Constitution and/or the RULES;
- 1.1.32 PERSONAL FINANCIAL INTEREST – means, in relation to any person, a direct material interest of that person, of a financial or economic nature, or to which a material monetary interest may be attributed but does not include any interest held by any person in a unit trust or collective investment scheme in terms of the Collective Investment Schemes Act, 2002 (Act 45 of 2002), unless that person has direct control over the investment decisions of that fund or investment;
- 1.1.33 PRIVILEGE - any authority, LICENCE, permission, permit or registration required by and granted in terms of this Constitution and the RULES;
- 1.1.34 PROHIBITED SUBSTANCE INQUIRY BOARD – a prohibited substance inquiry board constituted and appointed under clause 23;
- 1.1.35 QUALIFYING PRIVILEGES - the PRIVILEGES of colour holder, breeder, trainer, and jockey (but excluding assistant trainer, stable employee and apprentice jockey);

- 1.1.36 RACING JURISDICTIONS - one of the jurisdictions provided for in clause 9;
- 1.1.37 RACING OPERATOR - any club, company or other organisation or entity which holds or organises race meetings under this Constitution or the RULES;
- 1.1.38 RACING OPERATOR APPOINTEE/S – has the meaning given thereto in clause 15.2.2;
- 1.1.39 RACING OPERATOR REPRESENTATIVE - any person who is either employed by or holds office in (including but not limited to director, alternate director or steward) a RACING OPERATOR;
- 1.1.40 RACING YEAR - the period from 1 August in one year to the 31 July in the next year;
- 1.1.41 REGISTRATIONS – the recordal by the NHA of anything which the NATIONAL BOARD requires recorded or which is required to be recorded in terms of the CONSTITUTION or RULES. REGISTER and REGISTERED shall have a corresponding meaning;
- 1.1.42 RELATED or INTER-RELATED PERSON – has the meaning ascribed thereto in section 2 of the Companies Act No, 71 of 2008, as amended;
- 1.1.43 REMUNERATION COMMITTEE – means the remuneration committee of the NATIONAL BOARD established in terms of clause 19.7.3;
- 1.1.44 ROA – means the Racehorse Owners Association;
- 1.1.45 RULES - mean the rules of the NHA made under clause 19.3.1;
- 1.1.46 RULES COMMITTEE – means the rules committee of the NATIONAL BOARD, established in terms of clause 19.7.4;
- 1.1.47 RULES COMMITTEE CHARTER – means the charter of the RULES COMMITTEE to be adopted by the NATIONAL BOARD which charter outlines the purpose, authority, responsibilities, composition and procedures of the RULES COMMITTEE;
- 1.1.48 SANTA – the South African National Trainers Association;
- 1.1.49 SANTA APPOINTEE – has the meaning given thereto in clause 15.2.3;
- 1.1.50 SOUTHERN AFRICA - includes the Republic of South Africa as it was constituted on 31 May 1961, Zimbabwe and any other country over which the NHA has been or in respect of which it might in the future be granted jurisdiction;
- 1.1.51 SPECIAL GENERAL MEETING - a meeting of MEMBERS of the NHA as provided for in clause 14;
- 1.1.52 SPOUSE - a husband or wife, or a person with whom another person has a committed and serious relationship akin to a marriage based on objective criteria of mutual dependency and a shared and common household, irrespective of the gender of either party to such a relationship;
- 1.1.53 STABLE EMPLOYEE – a PERSON who has been REGISTERED as such in terms of the RULES;
- 1.1.54 STIPENDIARY STEWARD - a stipendiary steward licensed in terms of RULE 6.1;
- 1.1.55 STUD BOOK – means "The General Stud Book of Southern Africa" published under that name by the NHA;

- 1.1.56 STUD BOOK COMMITTEE – means the Stud Book committee of the NATIONAL BOARD established in terms of clause 19.3.2;
- 1.1.57 TBA - Thoroughbred Breeders’ Association of Southern Africa;
- 1.1.58 TRAINER – a PERSON who has been granted a licence as such in terms of the RULES and, save where the context otherwise indicates, includes a TRAINING PARTNERSHIP and an ASSISTANT TRAINER; and
- 1.1.59 TRAINING PARTNERSHIP – has the meaning given thereto in the RULES.
- 1.2 Any reference to colour holder, breeder, trainer, owner, assistant trainer, jockey and licensed official shall be interpreted as defined in the RULES.
- 1.3 Wherever in this Constitution, unless the context otherwise requires, the masculine is used with reference to persons it shall include the feminine and/ or the neuter and where the singular is used it shall include the plural and vice versa.

CHAPTER 2: INCORPORATION, OBJECTS AND POWERS

2. NAME

The name of the body shall be “THE NATIONAL HORSERACING AUTHORITY OF SOUTHERN AFRICA”.

3. HEAD OFFICE

The Head Office of the NHA shall be at such place as the NATIONAL BOARD may from time to time decide.

4. INCORPORATION AND LIABILITY

- 4.1 The NHA shall be a body corporate capable of suing and being sued in its own name.
- 4.2 The liability of any MEMBER shall be limited to the amount of any entrance fee or subscription due or any moneys otherwise owing to the NHA at any time by such MEMBER.
- 4.3 All summonses, notices or other documents required to be served upon or delivered to the NHA shall be served or delivered at its Head Office.

5. OBJECTS

The objects of the NHA shall be:

- 5.1 to promote and maintain honourable practices and to eliminate malpractice which may arise in thoroughbred horse racing in SOUTHERN AFRICA;
- 5.2 to regulate the sport of thoroughbred horse racing in SOUTHERN AFRICA;
- 5.3 to maintain and publish the STUD BOOK;
- 5.4 to foster, through its regulatory function, the promotion of thoroughbred horse racing in SOUTHERN AFRICA;
- 5.5 to encourage and improve, through its regulatory function, the breed of the thoroughbred race horse in SOUTHERN AFRICA;
- 5.6 to promote and foster co-operation and goodwill with recognised thoroughbred racing

authorities, governments and other relevant stakeholders;

- 5.7 to render services of whatever nature to racing or other sporting authorities whether within SOUTHERN AFRICA or elsewhere and to render services to persons or bodies serving, associated or connected to such authorities.

6. POWER TO CARRY OUT OBJECTS

The capacity, authority and responsibility of the NHA to achieve its objects and to exercise the powers contemplated in this clause 6 shall vest in the NATIONAL BOARD, including, without limitation, the power:

- 6.1 to make and promulgate, add to, repeal and alter the RULES for the carrying out and implementation of all its objects and the administration of the NHA, including without limitation, for the purposes referred to in clause 19.3.1;
- 6.2 to determine when any RULES shall or shall be deemed to have become effective;
- 6.3 to impose penalties for any breach or contravention of this Constitution or the RULES, including, without limitation, the imposition of a warning off;
- 6.4 to cancel the membership of any MEMBER in terms of clause 12.4;
- 6.5 to print, publish and circulate, whether electronically or otherwise, or to assist and subsidise, at its discretion, the printing, publishing and/or circulation of:
- 6.5.1 an OFFICIAL PUBLICATION and/or the NHA WEBSITE;
- 6.5.2 publications devoted to horse racing in SOUTHERN AFRICA;
- 6.5.3 all publications necessary for the maintenance of the STUD BOOK; and
- 6.5.4 such other registers, books and publications as may from time to time be considered of advantage by the NHA;
- 6.6 to appoint, remunerate, discipline and dismiss OFFICIALS;
- 6.7 to contribute to any provident funds, pension, insurance or other schemes to provide benefits for such OFFICIALS and/or their dependants;
- 6.8 to indemnify any DIRECTORS, BOARDS, members of any BOARDS or OFFICIALS against all losses, costs and damages which they or any of them may incur in the *bona fide* exercise of the powers and duties conferred and imposed upon them;
- 6.9 to open banking accounts in the name of the NHA, accept deposits and make payments in connection with the business of the NHA;
- 6.10 to purchase, hire or otherwise acquire such land, houses, buildings, furniture, fixtures and fittings, equipment or any other property, and to improve, lease, sell or otherwise deal those assets;
- 6.11 to make such donations, grants or loans of money to associations and other organisations and persons connected with racing, or to OFFICIALS of the NHA, or otherwise assist with the aforementioned;
- 6.12 to promote and assist in the promotion of, and to contribute to, any benevolent or other fund having as its objects the rendering of assistance to TRAINERS, JOCKEYS, APPRENTICES and others in or associated with horse racing in SOUTHERN AFRICA

and to frame and amend rules and regulations for the management of those funds which are controlled by the NHA;

- 6.13 to invest any moneys of the NHA in any interest bearing products offered by licensed banks in South Africa and/or in unit trust funds providing daily or freely realisable liquidity;
- 6.14 to borrow or raise or secure the payment of money, and, as security for money so borrowed or raised, to mortgage, pledge, encumber or charge the whole or any part of the property, assets or revenue of the NHA and to give the lenders powers of sale and other usual and necessary powers;
- 6.15 to institute, conduct, defend, compound, settle or abandon any legal proceedings by or against the NHA, DIRECTORS, BOARDS, committees or OFFICIALS, or otherwise concerning the affairs of the NHA, with power also to refer any such claim or demand to arbitration or mediation;
- 6.16 to enter into reciprocal agreements with recognised Horse Racing Authorities in other countries including without limitation, for the mutual enforcement of sentences passed on offenders;
- 6.17 to manage, insure, sell, lease, mortgage, dispose of, give in exchange, work, develop, build on, improve, or in any way otherwise deal with all or part of its property and assets;
- 6.18 to apply for, purchase or by any other means acquire, protect, prolong and renew any patents, patent rights, licences, trademarks, concessions or other rights and to deal with and alienate them as provided in clause 6.17;
- 6.19 to form and have an interest in any company or companies for any purpose which serves to, directly or indirectly, advance, promote or align with the objects and purpose of the NHA;
- 6.20 to enter into contracts outside the Republic and to execute any contracts, deeds and documents in any foreign country;
- 6.21 generally, without limitation, to do anything it may consider necessary or proper for the attainment of its objects;
- 6.22 to remunerate employees, consultants, advisors, investigators and the like, including members of APPEAL BOARDS, INQUIRY BOARDS and/or INQUIRY REVIEW BOARDS;
- 6.23 to determine the remuneration, if any, to be paid to DIRECTORS;
- 6.24 to ensure that the training of APPRENTICES, whether through the Academy System or other facilities, takes place in accordance with standards as determined from time to time by the NHA; and
- 6.25 to enter into service level agreements with the RACING OPERATORS,

provided that any action or exercise of power by the NATIONAL BOARD shall serve to directly or indirectly, advance, promote or align with, the objects and purpose of the NHA.

CHAPTER 3: MEMBERSHIP

7. MEMBERS DUTIES AND OBLIGATIONS

All MEMBERS shall be subject to and bound by this Constitution and the RULES of the NHA.

8. CATEGORIES AND RIGHTS OF MEMBERS

There shall be the following categories of MEMBERS:

8.1 Ordinary member - a MEMBER of the NHA who was a MEMBER at the date of the adoption of this Constitution and any other person who may become a MEMBER in the manner provided in clause 10.

8.2 Honorary member - a person who, upon a proposal by the NATIONAL BOARD, the majority of MEMBERS present at any GENERAL MEETING of the NHA elect as an honorary member, and who shall have the same rights as an ordinary MEMBER.

9. RACING JURISDICTIONS

This Constitution shall apply to the following RACING JURISDICTIONS:

9.1 the Republic of South Africa; and

9.2 the Republic of Zimbabwe, for as long as the NHA is contractually responsible to regulate horseracing in that country.

10. ADMISSION TO MEMBERSHIP AND VOTING

10.1 No person:

10.1.1 whose estate is or has been sequestrated and who has not been rehabilitated; or

10.1.2 who, or whose SPOUSE, has been listed as a DEFAULTER as provided for in the RULES and whose name has not been removed from the list of DEFAULTERS; or

10.1.3 who, or whose SPOUSE, is or has been warned off in SOUTHERN AFRICA, or in any other part of the world by an authority recognised by the NHA,

shall be eligible to become a MEMBER.

10.2 Subject to the provisions of this Constitution, any person who holds a QUALIFYING PRIVILEGE shall automatically become a MEMBER without being proposed or seconded or submitting an application for membership provided that such person has not:

10.2.1 resigned as a MEMBER; or

10.2.2 had his/her membership of the NHA cancelled or terminated in terms of this Constitution or any prior Constitution.

10.3 Persons who do not qualify for membership in terms of clause 10.2 and who wish to become MEMBERS shall:

10.3.1 be proposed and seconded by two MEMBERS who shall have been MEMBERS for not less than three completed RACING YEARS; and

10.3.2 submit a duly completed application for membership to the CHIEF EXECUTIVE in the form prescribed by the NATIONAL BOARD from time to time.

- 10.4 No MEMBER may propose and/or second more than five candidates for membership of the NHA in any one RACING YEAR.
- 10.5 Any duly completed application for membership of the NHA received by the CHIEF EXECUTIVE shall be forwarded to the NATIONAL BOARD for its consideration. The NATIONAL BOARD may approve or reject any application for membership in its sole discretion without holding a hearing or giving reasons.
- 10.6 Where the NATIONAL BOARD has taken a decision to approve or reject an application for membership:
- 10.6.1 should the candidate's application have been successful then the CHIEF EXECUTIVE shall notify him/her and call upon him/her to pay any entrance fee and/or annual subscription;
- 10.6.2 should the candidate's application have been unsuccessful then the CHIEF EXECUTIVE shall notify him/her of that fact.
- 10.7 Should a person become a MEMBER on or after 1 February in any year, his first annual subscription, if any, shall be equal to one half of the normal annual subscription for such MEMBERS during that RACING YEAR.
- 10.8 No new MEMBER shall be entitled to the privileges of membership including, but not limited to, attending and voting at GENERAL MEETINGS, until any entrance fee and/or annual subscription have been paid. If any such entrance fee and/or annual subscription has not been paid to the NHA within a period of two MONTHS from date of notification by the CHIEF EXECUTIVE, such person's membership shall be deemed to have been cancelled.
- 10.9 VOTING
- 10.9.1 Each syndicate and juristic person shall nominate a natural person to represent it and such person who, in the case of a syndicate, shall be a member of that syndicate, and the juristic person or syndicate shall hold the QUALIFYING PRIVILEGE and thus be entitled to become a MEMBER in respect of that syndicate or juristic person.
- 10.9.2 Although each partnership shall nominate one of its partners to represent it, every partner of a partnership which holds a QUALIFYING PRIVILEGE, shall be entitled to become a MEMBER and thereby to exercise a vote. The partnership, whether it holds a QUALIFYING PRIVILEGE or not, shall not be entitled to a vote.
- 10.9.3 Where a natural person holds a QUALIFYING PRIVILEGE in his/her own right and is also a nominee or representative of a juristic person or syndicate (as contemplated in clause 10.9.1) such person shall be entitled to exercise (i) a vote in his/her personal capacity (by virtue of holding a QUALIFYING PRIVILEGE) and (ii) a vote/s on behalf of any jurisdiction person/s or syndicate/s of which he/she is a nominee or representative.
- 10.9.4 Whenever any natural person has more than one QUALIFYING PRIVILEGE the CHIEF EXECUTIVE shall ensure that only one vote is exercised by such person.
- 10.9.5 If any partnership, syndicate or juristic person has not registered the name and details as required by the CHIEF EXECUTIVE of the person contemplated in clause 10.9.1 or the partners contemplated in clause 10.9.2, with the NHA then such syndicate or juristic person or partnership as the case may be, shall not be entitled to have a person represent it as a MEMBER and it shall be deemed that no QUALIFYING PRIVILEGE exists in respect of any such syndicate or juristic person or partnership until such details are registered.

- 10.9.6 No QUALIFYING PRIVILEGE shall exist in respect of any QUALIFYING PRIVILEGE which has not been renewed in terms of the RULES or which has lapsed for any other reason, and in such circumstances the membership of any person who became a MEMBER by virtue of holding a QUALIFYING PRIVILEGE shall be deemed to have been cancelled when such QUALIFYING PRIVILEGE has lapsed.
- 10.9.7 Notwithstanding the provisions of this Constitution, only persons having a QUALIFYING PRIVILEGE or being a MEMBER by virtue of the provisions of clause 8 or clause 10.3, shall be entitled to attend and/or vote at a GENERAL MEETING. However, any person shall be entitled to attend a GENERAL MEETING at the invitation of the chairperson presiding over the meeting in question.

11. ENTRANCE FEES AND ANNUAL SUBSCRIPTIONS

The NATIONAL BOARD shall from time to time determine the amount of any entrance fee and/or any annual subscription payable by each category of MEMBERS. Any such annual subscription shall be payable in respect of each RACING YEAR.

12. TERMINATION AND DISQUALIFICATION OF MEMBERSHIP

- 12.1 Should any MEMBER's annual subscription in respect of any RACING YEAR subsequent to the RACING YEAR during which he/she became a member not be paid by not later than fourteen days prior to the commencement of the RACING YEAR:
- 12.1.1 the CHIEF EXECUTIVE shall send a notice to the MEMBER, by registered post and/or facsimile and/or e-mail to his/her last recorded address, drawing the MEMBER'S attention to the provisions of this clause; and
- 12.1.2 should the MEMBER not pay his/her annual subscription before 1 September of the RACING YEAR, then such MEMBER's membership shall be deemed to have been terminated with effect from the commencement of the RACING YEAR concerned.
- 12.2 The NATIONAL BOARD may, on such terms as it deems fit, reinstate any former MEMBER whose membership has been terminated in terms of this clause 12.1.
- 12.3 Any MEMBER:
- 12.3.1 whose estate is or has been sequestrated and who has not been rehabilitated; or
- 12.3.2 who, or whose SPOUSE, has been listed as a defaulter as provided for in the RULES and whose name has not been removed from the list of defaulters; or
- 12.3.3 who, or whose SPOUSE, is or has been warned off in SOUTHERN AFRICA, or in any other part of the world by an authority recognised by the NHA;
- shall be disqualified and his/her membership shall be automatically terminated.
- 12.4 The NATIONAL BOARD, after affording a MEMBER a hearing and giving reasons, may cancel the membership of that MEMBER if it is of the opinion that the MEMBER is or has been guilty of improper or dishonest conduct, has abused his/her position or status as a MEMBER, is unfit to be a MEMBER or has, in any way brought the NHA into disrepute.
- 12.5 Subject to the provisions of clauses 12.1, 12.3 and 12.4 above, should any MEMBER who became a member by virtue of having a QUALIFYING PRIVILEGE cease to hold a QUALIFYING PRIVILEGE, then such person's membership shall automatically lapse when the QUALIFYING PRIVILEGE lapses, without prejudice to the right of such person to be proposed for membership in accordance with the provisions of clause 10.3 above; provided that a natural person who has held colours for a continuous period of at least 10

RACING YEARS may, if he/she pays the subscription levied on MEMBERS who do not hold a QUALIFYING PRIVILEGE remain a MEMBER, for as long as he/she is eligible and pays the subscription levied on MEMBERS who do not hold a QUALIFYING PRIVILEGE.

- 12.6 Any MEMBER may resign as a MEMBER and such resignation shall become effective upon receipt by the CHIEF EXECUTIVE of a written notification of resignation signed by the MEMBER concerned.

CHAPTER 4: MEETING OF MEMBERS

13. ANNUAL GENERAL MEETING

- 13.1 An ANNUAL GENERAL MEETING of MEMBERS shall be held on or after 20 November of each year, provided that such ANNUAL GENERAL MEETING shall take place not later than 20 January of the following year.
- 13.2 Preliminary notice of an ANNUAL GENERAL MEETING of MEMBERS shall be emailed to all MEMBERS and RACING OPERATORS and published on the NHA WEBSITE not less than 60 days prior to such meeting (save in the case of a SPECIAL GENERAL MEETING requisitioned by the MEMBERS).
- 13.3 Any MEMBER or the RACING OPERATORS acting jointly, may propose items for inclusion on the agenda provided such proposal/s reach the CHIEF EXECUTIVE not less than 30 days before the date of the meeting as specified in the preliminary notice. No MEMBER, nor the RACING OPERATORS, shall propose an item for inclusion on the agenda which is not of general interest and importance to the general body of MEMBERS. The chairperson of the NATIONAL BOARD, acting reasonably and in good faith, shall have the right to exclude any proposed item from the agenda, should he/she, after consultation with the NATIONAL BOARD, be of the view that such item is not of interest or importance to the general body of MEMBERS.
- 13.4 The NHA may conduct an ANNUAL GENERAL MEETING or SPECIAL GENERAL MEETING entirely by electronic communication or provide for participation in a meeting by electronic communication, provided the electronic communication employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other and without an intermediary, and to participate reasonably effectively in the meeting.
- 13.5 Any notice of any ANNUAL GENERAL MEETING or SPECIAL GENERAL MEETING at which it will be possible for MEMBERS to participate by way of electronic communication shall inform the MEMBERS of the ability to so participate and shall provide any necessary information to enable the MEMBERS or their proxies to access the available medium or means of electronic communication, provided that such access shall be at the expense of the MEMBER or proxy concerned.
- 13.6 NOTICE OF THE MEETING
- 13.6.1 The formal notice of the meeting shall:
- 13.6.1.1 be emailed to all MEMBERS and the RACING OPERATORS, and published on the NHA WEBSITE not less than 21 days prior to the meeting; and
- 13.6.1.2 specify, *inter alia*, the object/s of such meeting, the resolutions to be considered at such meeting, any other business to be discussed and/or deliberated at the meeting, and instructions for obtaining a copy of the relevant documents contemplated in clause 13.6.3.

- 13.6.2 Copies of all documents relevant to the proceedings, including those set out in clause 13.6.3 shall be published on the NHA's official website on the same date as the notice of the meeting is published in terms of clause 13.6.1.1.
- 13.6.3 The objects and business of the meeting shall include, *inter alia*, consideration of:
- 13.6.3.1 the minutes of the previous ANNUAL GENERAL MEETING and any subsequent SPECIAL GENERAL MEETING;
- 13.6.3.2 the audited annual accounts for the previous financial year;
- 13.6.3.3 the chairperson's annual report for the previous financial year;
- 13.6.3.4 the appointment or re-appointment of the auditors for the NHA.
- 13.7 QUORUM
- 13.7.1 The quorum requirement for (i) a GENERAL MEETING to begin is that not less than 20 MEMBERS entitled to vote at such meeting are present in person or by proxy at the start of such meeting; and (ii) for a matter to be decided at each such meeting is that not less than 20 MEMBERS entitled to vote at such meeting are present in person or by proxy at the time that the relevant matter is called on the agenda.
- 13.7.2 If within half an hour of the time appointed for any GENERAL MEETING of MEMBERS a quorum is not present, the meeting shall stand adjourned to the same day in the next week at the same place and time. If at such an adjourned meeting a quorum is not present, then those MEMBERS present in person or by proxy shall be a quorum and may transact the business for which the meeting was called.
- 13.8 The chairperson of the NATIONAL BOARD shall preside at the meeting. If he/she is not present within ten minutes after the time appointed for such meeting, the MEMBERS present shall elect a chairperson from the DIRECTORS who are present in person. If no DIRECTOR is present the MEMBERS shall elect a chairperson from their number.
- 13.9 Votes may be cast by proxy if completed in the form prescribed by the NATIONAL BOARD, signed by the grantor and made in favour of the chairperson presiding at the meeting or in favour of another MEMBER entitled to vote at that meeting. No MEMBER may accept or vote in respect of more than twenty proxies from other MEMBERS, with the exception of proxies granted in favour of the chairperson presiding at the meeting, to whom this limitation shall not apply. The proxy shall only be valid for the meeting concerned or any adjournment thereof and, where practicable, shall state the manner in which the holder is to vote on the respective resolutions before that meeting, unless the grantor elects to grant the proxy holder a complete discretion as to how to vote. Proxy forms shall be lodged with the CHIEF EXECUTIVE not later than 72 hours before the meeting or any adjournment thereof as specified in the proxy form. For the avoidance of doubt, the proxy holder shall exercise the voting rights attaching to the proxy strictly in accordance with the instructions, directions or wishes of the grantor, save that where the grantor has expressly conferred discretion upon the proxy holder in respect of any resolution or matter, the proxy holder shall be entitled to exercise such voting rights in such manner as the proxy holder, in its sole discretion, may determine.
- 13.10 Every matter, other than that referred to in clause 31.1 and unless otherwise specifically stated herein, moved at a meeting shall be decided by a majority of those personally present and entitled to vote and there shall be included in the count all proxy votes properly received and in favour of a proxy holder being present at the meeting. In the event of an equality of votes, the chairperson shall have a casting vote in addition to his/her deliberative vote.

13.11 The declaration by the chairperson that a resolution has been carried or lost, shall be conclusive evidence of that fact and shall be final and binding on all MEMBERS, save in the case of manifest error.

14. SPECIAL GENERAL MEETINGS

14.1 The NATIONAL BOARD may call a SPECIAL GENERAL MEETING of MEMBERS at any time and place, and it shall call such a meeting upon receipt of a written requisition signed by not less than 50 MEMBERS.

14.2 Any SPECIAL GENERAL MEETING requisitioned by the MEMBERS in accordance with clause 14.1 shall be convened within 45 days of delivery of the written requisition to the NHA, which period shall include the 21 day notice period referred to in clause 13.6.1.1. The notice convening the meeting shall specify the objects and business of the meeting, including to the extent applicable, any resolutions to be considered and voted upon at such meeting and a copy of the relevant requisition. The provisions of clause 13, except clauses 13.1, 13.3 and 13.6.3, shall apply to all SPECIAL GENERAL MEETINGS.

CHAPTER 5: BOARD DIRECTORS

15. NOMINATIONS COMMITTEE

15.1 A NOMINATIONS COMMITTEE, consisting of 5 members, will be established to nominate and appoint DIRECTORS. All decisions shall be taken by a simple majority vote of the members of the NOMINATIONS COMMITTEE.

15.2 The NOMINATIONS COMMITTEE will be made up of the following persons:

15.2.1 2 (two) persons appointed by the NATIONAL BOARD who are non-executive DIRECTORS ("BOARD APPOINTEES" and each a "BOARD APPOINTEE"), provided that at least 1 (one) BOARD APPOINTEE must be an OWNER;

15.2.2 1 (one) person appointed by each RACING OPERATOR (the "RACING OPERATOR APPOINTEES" and each a "RACING OPERATOR APPOINTEE") as follows;

15.2.2.1 1 (one) person jointly appointed by Race Coast KwaZulu-Natal Proprietary Limited and Race Coast Western Cape Proprietary Limited, the first of whom shall be Gregory Mark Bortz; and

15.2.2.2 1 (one) person appointed by 4Racing Proprietary Limited, the first of whom shall be Bradley Ralph;

15.2.3 1 (one) person appointed by SANTA (on behalf of the TRAINERS) who is a licensed TRAINER in terms of the RULES (the "SANTA APPOINTEE"), the first of whom shall be Anthony Rivalland,

and in each case, such entitlement to appoint a person to the NOMINATIONS COMMITTEE includes the right to replace any person previously appointed by that person to be a member of the NOMINATIONS COMMITTEE.

15.3 The persons referred to in clauses 15.2.2 and 15.2.3 shall not be DIRECTORS.

15.4 A person shall be ineligible to serve on, or disqualified from serving on, the NOMINATIONS COMMITTEE and/or the NATIONAL BOARD in the following circumstances:

15.4.1 if a court has prohibited such person from being a director, or declared such person to be a

delinquent in terms of the Companies Act, No. 71 of 2008, or the Close Corporations Act, No. 69 of 1984, or such person has been removed from an office of trust on the grounds of misconduct involving dishonesty;

- 15.4.2 if such person commits an act of insolvency as defined in the Insolvency Act, No. 24 of 1936, or any other applicable Act;
 - 15.4.3 if that person's individual estate is sequestrated, whether provisionally or finally, or it surrenders its estate or it has an administration order made against it;
 - 15.4.4 if such person has been convicted of a crime, whether in the Republic of South Africa or elsewhere, of a serious nature or convicted of any offense involving any act of theft, fraud or dishonesty; and
 - 15.4.5 if such person is prohibited in terms of any public regulation to be a director of a company.
- 15.5 The members of the NOMINATIONS COMMITTEE shall serve for an indefinite term until such member: (i) resigns from the NOMINATIONS COMMITTEE; (ii) is removed by the person/s having the authority to appoint them; or (iii) in the case of a BOARD APPOINTEE, ceases to be a DIRECTOR.
- 15.6 In the event that a BOARD APPOINTEE, whose term as a DIRECTOR has ended, wishes to make himself/herself available for re-election to the NATIONAL BOARD, he/she shall resign his/her position as a member of the NOMINATIONS COMMITTEE and shall only be eligible to be appointed to the NOMINATIONS COMMITTEE in accordance with clause 15.2.1, after one year has elapsed since the date of his/her re-election to the NATIONAL BOARD. The vacancy of the NOMINATIONS COMMITTEE will be filled by the appointment of another DIRECTOR as applicable, provided that at least one of the BOARD APPOINTEES must be an OWNER.
- 15.7 If a person serving on the NOMINATIONS COMMITTEE, other than a BOARD APPOINTEE, is appointed to serve as a DIRECTOR, such person shall vacate his/her position as a member of the NOMINATIONS COMMITTEE with effect from the date he/she takes up office as a DIRECTOR.
- 15.8 The quorum required for any meeting of the NOMINATIONS COMMITTEE shall be 3 (three) members present in person or by electronic means. No meeting of the NOMINATIONS COMMITTEE may proceed unless a quorum is present. If a quorum is not present within 30 minutes of the time scheduled for the meeting, the meeting shall stand adjourned to the same day in the following week at the same time and place (or such other time and place as the chairperson may determine), at which adjourned meeting the members then present shall constitute a quorum. Save as provided herein, the NOMINATIONS COMMITTEE shall otherwise regulate its meetings as it deems fit.
- 15.9 If the appointment of a DIRECTOR being considered by the NOMINATIONS COMMITTEE results in a deadlock, being an equal number of votes for and against such nomination (with any abstention not counted as a vote), the nomination shall not succeed. In such circumstances, the nomination may only be reconsidered at a further meeting of the Nominations Committee and shall be approved only if supported by at least 80% of its members.

16. APPOINTMENT OF DIRECTORS

- 16.1 There shall be a minimum of 7 (seven) and a maximum of 9 (nine) DIRECTORS, 8 of whom shall be appointed by the NOMINATIONS COMMITTEE in the manner set out below:
 - 16.1.1 a minimum of 4 (four) and a maximum of 6 (six) persons who are MEMBERS in good standing, subject to the exclusions set out in clause 16.8;
 - 16.1.2 2 (two) independent persons who for a period of at least 3 years prior to their appointment did not hold any Excluded Position, were not licenced or employed by the

NHA (save for the CHIEF EXECUTIVE) in any capacity, did not breed horses and/or did not hold any office or interest in any thoroughbred business.

- 16.2 In order to ensure representation of the management of the NHA on the NATIONAL BOARD, the CHIEF EXECUTIVE shall be a DIRECTOR.
- 16.3 No person who has been employed by the NHA in any capacity, may be appointed as a DIRECTOR until a period of 3 (three) years has lapsed from the date upon which any such person ceased to hold any such position of employment (save for the Chief Executive).
- 16.4 In deciding which persons to appoint as DIRECTORS, the NOMINATIONS COMMITTEE shall have regard to the following:
- 16.4.1 the skills, expertise and qualifications required by the DIRECTORS to perform their functions effectively and efficiently;
- 16.4.2 the NOMINATIONS COMMITTEE shall take into consideration any position or office held by a prospective nominee, in any other origination or entity, in assessing the suitability of such nominee to serve the best interests of the NHA in an impartial manner;
- 16.4.3 the NOMINATIONS COMMITTEE shall be entitled, in its sole discretion, to consult with the current chairperson of the NATIONAL BOARD regarding the appointments to be made; and
- 16.4.4 the NOMINATIONS COMMITTEE shall be entitled, in its sole discretion and should it decide that it might be necessary or appropriate, to call for applications or proposals in regard to persons to be appointed as DIRECTORS from time to time.
- 16.5 A person appointed as a DIRECTOR shall serve for a three-year term, whereafter he/she shall resign at the close of the applicable ANNUAL GENERAL MEETING, but such person shall be eligible to be re-appointed should the NOMINATIONS COMMITTEE so decide.
- 16.6 Subject to the interim arrangements set out in clause 16.9 below, any person appointed as a DIRECTOR will take up office at the close of the ANNUAL GENERAL MEETING following his/her appointment, subject to the right of the NOMINATIONS COMMITTEE to make an earlier appointment in the event of a vacancy arising on the NATIONAL BOARD. In such latter instance the period between the interim appointment and the next ANNUAL GENERAL MEETING will be deemed to comprise the first year of the three year term of appointment.
- 16.7 A DIRECTOR shall not have the power to appoint another person to act as an alternate director in his/her place.
- 16.8 No person may be appointed or re-appointed as a DIRECTOR if he/she:
- 16.8.1 is ineligible or disqualified to serve as a DIRECTOR in terms of clause 15.4;
- 16.8.2 has reached the age of 75 years; and/or
- 16.8.3 is: (i) an employee of the NHA, excluding the CHIEF EXECUTIVE; and/or (ii) is a TRAINER, ASSISTANT TRAINER, STABLE EMPLOYEE, JOCKEY, APPRENTICE JOCKEY, RACING OPERATOR; and/or (iii) his/her SPOUSE holds any PRIVILEGE other than that of colour holder or breeder; and/or (iv) he/she holds any office in, or is employed on a full-time basis by, any of the RACING OPERATORS (provided that membership of, or office within, the ROA, or any comparable representative body of OWNERS, shall not constitute an EXCLUDED

POSITION, and persons who hold such membership or office may serve on the NATIONAL BOARD),

(the "EXCLUDED POSITIONS" and each an "EXCLUDED POSITION").

16.9 INTERIM ARRANGEMENTS

16.9.1 To ensure continuity and to cater for the smooth implementation of this amended Constitution, the following interim provisions will apply in regard to the appointment of the DIRECTORS following the adoption of this amended Constitution:

16.9.1.1 all the DIRECTORS appointed in terms of the prior Constitution (excluding the CHIEF EXECUTIVE) shall resign immediately after the close of the SPECIAL GENERAL MEETING called to pass the necessary resolution/s to amend the Constitution as herein provided;

16.9.1.2 to the extent that any DIRECTOR required to resign in terms of clause 16.9.1.1, fails or refuses to tender their resignation, such DIRECTOR shall be deemed to have automatically resigned and/or vacated his/her office with effect from the close of the SPECIAL GENERAL MEETING called to pass the necessary resolutions to amend the Constitution as herein provided;

16.9.1.3 all such DIRECTORS who have resigned and/or vacated office in terms of clauses 16.9.1.1 and/or 16.9.1.2 and are not disqualified by the provisions of this amended Constitution, will be eligible for re-appointment by the NOMINATIONS COMMITTEE, subject to the exclusions in clause 16.8;

16.9.1.4 save for in respect of the members of the NOMINATIONS COMMITTEE appointed by the NATIONAL BOARD, all members of the NOMINATIONS COMMITTEE in office immediately prior to the SPECIAL GENERAL MEETING called to pass the necessary resolutions to amend the Constitution as herein provided shall be deemed to have automatically resigned and/or vacated his/her office with effect from the close of the SPECIAL GENERAL MEETING;

16.9.1.5 immediately following the close of the SPECIAL GENERAL MEETING: (i) the NOMINATIONS COMMITTEE shall be reconstituted in accordance with the provisions of clause 15.2, save that the BOARD APPOINTEES shall be appointed by the newly constituted NATIONAL BOARD as soon as reasonably practicable following its re-constitution; and (ii) a meeting of the NOMINATIONS COMMITTEE shall be convened for the purpose of appointing the DIRECTORS.

16.10 RETIREMENT

16.10.1 A DIRECTOR shall resign from his/her position as a DIRECTOR at the close of the AGM following his/her 75th birthday.

16.10.2 At the close of each AGM, those DIRECTORS, who have completed their term of appointment shall resign, but shall be eligible, subject to clause 16.8, for re-appointment.

16.11 INELIGIBILITY AND RESIGNATION

Any DIRECTOR shall be deemed to have vacated his/her office if:

16.11.1 he/she ceases to be a MEMBER (save for the independent DIRECTORS appointed in terms of clause 16.1.2); or

16.11.2 he/she becomes ineligible to hold office for any reason, including as contemplated in

clause 15.4; or

- 16.11.3 he/she resigns; or
- 16.11.4 he/she fails to attend three consecutive meetings of the NATIONAL BOARD without leave of absence having been granted by the NATIONAL BOARD unless the NATIONAL BOARD decides otherwise; or
- 16.11.5 he/she is informed in writing that two thirds of the remaining DIRECTORS requires him/her to resign as a DIRECTOR with effect from the date specified in such written notice, subject to clause 19.3.9; or
- 16.11.6 he/she is removed from and/or vacated office in terms of clause 16.9.1.2.

17. MEETINGS AND PROCEEDINGS

- 17.1 A quorum for meetings of the NATIONAL BOARD shall be 5 (five) DIRECTORS.
- 17.2 The NATIONAL BOARD shall meet (at least four times per year but may meet more regularly should this be necessary) for the regular dispatch of business and may adjourn or otherwise regulate its meetings as it deems fit. The NATIONAL BOARD may act notwithstanding any vacancy provided the number of DIRECTORS does not fall below the number required for a quorum. If the number of DIRECTORS falls below the required quorum, the NATIONAL BOARD shall not be entitled to act, except to refer the matter to the NOMINATIONS COMMITTEE for the appointment of additional DIRECTORS to restore the quorum or to call a MEMBER requisitioned SPECIAL GENERAL MEETING as contemplated in clause 14.1.
- 17.3 A resolution in writing signed by a majority of the DIRECTORS for the time being shall be as valid and effectual as if it had been passed at a meeting of the NATIONAL BOARD, provided that each DIRECTOR has received notice on the matter to be decided.
- 17.4 The DIRECTORS of the NATIONAL BOARD shall annually elect one of the DIRECTORS to be chairperson of the NHA and the NATIONAL BOARD. The chairperson shall hold office from the date of his/her election until the close of the next ANNUAL GENERAL MEETING, and he/she shall, subject to any restrictions imposed by this Constitution, be eligible for re-appointment.
- 17.5 Notwithstanding anything to the contrary contained in this Constitution, a DIRECTOR shall be entitled to hold office as chairperson for a period of three years in aggregate where after he/she shall not be eligible to hold such office until a further period of three years has expired.
- 17.6 The chairperson of a meeting of the NATIONAL BOARD shall have a casting vote in addition to his/her deliberative vote.
- 17.7 The DIRECTORS, except for the CHIEF EXECUTIVE, will be remunerated by the NHA on the basis of a fixed fee per NATIONAL BOARD meeting attended, to a maximum of six meetings per year. No additional remuneration will be payable in respect of services rendered by any DIRECTOR in relation to any sub-committees of the NATIONAL BOARD, notwithstanding that DIRECTORS may be required to serve on such sub-committees.
- 17.8 If any DIRECTOR has a PERSONAL FINANCIAL INTEREST in respect of a matter to be considered by the NATIONAL BOARD, or knows that a RELATED or INTER-RELATED PERSON has a PERSONAL FINANCIAL INTEREST in the matter, the DIRECTOR:

- 17.8.1 must disclose the interest and its general nature to the NATIONAL BOARD before the matter is considered at the meeting;
 - 17.8.2 must disclose to the NATIONAL BOARD any material information relating to the matter, and known to the DIRECTOR;
 - 17.8.3 may disclose any observations or pertinent insights relating to the matter if requested to do so by the other DIRECTORS;
 - 17.8.4 if present at the meeting, must leave the meeting immediately after making any disclosure contemplated in clause 17.8.1 or 17.8.2;
 - 17.8.5 may not take part in the consideration of the matter, except to the extent contemplated in clause 17.8.1 or 17.8.2;
 - 17.8.6 whilst absent from the meeting in terms of clause 17.8.4:
 - 17.8.6.1 is to be regarded as being present at the meeting for the purpose of determining whether sufficient DIRECTORS are present to constitute the meeting;
 - 17.8.6.2 is not to be regarded as being present at the meeting for the purpose of determining whether a resolution has sufficient support to be adopted; and
 - 17.8.6.3 must not execute any document on behalf of the NHA in relation to the matter unless specifically requested or directed to do so by the NATIONAL BOARD.
18. STAKEHOLDER RIGHTS
- 18.1 Each RACING OPERATOR shall be provided, in advance, with the dates of all formal meetings of the NATIONAL BOARD and be entitled to request to attend any such meeting of the NATIONAL BOARD in order to make representations to the NATIONAL BOARD on matters directly related to, or affecting, the RACING OPERATOR/S including the budget, and the RACING OPERATOR/S shall advise the CHIEF EXECUTIVE in advance of any matters they wish to raise at the meeting.
 - 18.2 The TBA shall be provided, in advance, with the dates of all formal meetings of the NATIONAL BOARD addressing matters related to, and directly affecting, breeders and be entitled to request to attend any such meeting of the NATIONAL BOARD in order to make representations to the NATIONAL BOARD on matters directly related to, or affecting, the breeders, and the TBA shall advise the CHIEF EXECUTIVE in advance of any matters they wish to raise at the meeting.
 - 18.3 Upon receipt of a request from a RACING OPERATOR and/or the TBA in terms of clause 18.1 and/or 18.2, the NATIONAL BOARD shall allocate time at the commencement of the meeting for engagement with the RACING OPERATOR/S and/or the TBA, as applicable (each an "ENGAGEMENT SESSION"), provided that –
 - 18.3.1 no more than 2 (two) representatives per RACING OPERATOR and no more than 1 (one) representative of the TBA may attend any such ENGAGEMENT SESSION;
 - 18.3.2 neither the RACING OPERATORS nor the TBA shall be entitled to receive copies of the agenda of any NATIONAL BOARD meeting; and
 - 18.3.3 the representatives of the RACING OPERATOR and TBA shall be present at the meeting only during their respective ENAGEGEMENT SESSIONS and shall withdraw from the meeting prior to the NATIONAL BOARD's deliberations or voting on any other business.

CHAPTER 6: REGULATION, ADMINISTRATION AND MANAGEMENT

19. DUTIES AND POWERS OF THE NATIONAL BOARD

19.1 The NATIONAL BOARD shall:

19.1.1 exercise all the powers provided for in clauses 6.1 to 6.25 on behalf of the NHA;

19.1.2 manage and conduct all the affairs of the NHA;

19.1.3 exercise and execute all the disciplinary powers of the NHA;

19.1.4 administer and conduct all the financial affairs of the NHA.

19.2 A DIRECTOR must:

19.2.1 not use the position of DIRECTOR, or any information obtained while acting in the capacity of DIRECTOR to gain an advantage for himself/herself or any person other than the NHA; or

19.2.2 not knowingly cause harm to the NHA;

19.2.3 exercise the powers and perform the functions of DIRECTOR:

19.2.3.1 in good faith and for a proper purpose;

19.2.3.2 in the best interests of the NHA; and

19.2.3.3 with the degree of care, skill and diligence that may reasonably be expected of a person: (i) carrying out the same functions in relation to the NHA as those carried out by that DIRECTOR; and (ii) having the general knowledge, skill and experience of that DIRECTOR.

19.3 Without limitation, the NATIONAL BOARD shall have the power:

19.3.1 to make and promulgate, add to, repeal and alter RULES:

19.3.1.1 for the carrying out, administration and implementation of this Constitution;

19.3.1.2 determining how the objects of the NHA are to be achieved;

19.3.1.3 regulating the sport of horse racing and the breeding of thoroughbred racehorses including, without limitation, regulating the conduct, procedure and running of race meetings, and the hearing and determination of objections;

19.3.1.4 determining the procedure for inquiries, investigations, hearings or meetings of or before the NATIONAL BOARD, APPEAL BOARDS, INQUIRY BOARDS, INQUIRY REVIEW BOARDS and the LICENSING BOARD, subject to the provisions of this Constitution;

19.3.1.5 determining the procedure for the establishment of LEGAL and GENERAL PANELS, subject to the provisions of this Constitution;

19.3.1.6 prescribing the imposition of penalties for non-compliance with or contravention of particular RULES, including, without limitation, the imposition of a warning off;

19.3.1.7 circumscribing the powers of OBJECTION BOARDS, APPEAL BOARDS, INQUIRY BOARDS, INQUIRY REVIEW BOARDS and the LICENSING BOARD and determining the manner in which the powers and duties of APPEAL

- BOARDS, INQUIRY BOARDS, INQUIRY REVIEW BOARDS and the LICENSING BOARD shall be exercised;
- 19.3.1.8 delegating its powers in terms of clause 19.4; and
- 19.3.1.9 determining when the RULES shall become or be deemed to become effective;
- 19.3.2 appoint such committees of the NATIONAL BOARD as it deems fit and delegate to any such committee any authority of the NATIONAL BOARD as set out in this Constitution, provided that the NATIONAL BOARD shall ensure that an AUDIT COMMITTEE, a REMUNERATION COMMITTEE and a RULES COMMITTEE are established and constituted in accordance with the provisions of clause 19.7, and a STUD BOOK COMMITTEE is established and constituted as the NATIONAL BOARD deems fit;
- 19.3.3 in terms of clause 20, to and appoint persons to the GENERAL PANEL and the LEGAL PANEL;
- 19.3.4 in terms of clause 25, to constitute and appoint the LICENSING BOARD;
- 19.3.5 to grant, subject to such terms and conditions as it may impose, or to refuse a race course LICENCE to a RACING OPERATOR. If such a LICENCE is granted it shall be restricted to one or more specified race courses;
- 19.3.6 to grant, subject to such terms and conditions as it may impose, or to refuse a LICENCE for a race course;
- 19.3.7 to revoke or suspend the LICENCE of any licensed RACING OPERATOR or race course: (i) if any information in the application for such licence was false in any material respect or was subject to any material omission; (ii) if the RACING OPERATOR's race course licence granted in terms of provincial gambling legislation is revoked or suspended by a provincial regulator; or (iii) if the RACING OPERATOR is convicted of an offence in terms of legislation in force for the time being in the Province in which the race course is situated;
- 19.3.8 of its own accord or on the application of any party who alleges that there has been a gross irregularity or illegality in any APPEAL BOARD or INQUIRY REVIEW BOARD proceedings, to review those proceedings and, where it is found that there has been a gross irregularity or illegality, to set aside the decision of such APPEAL BOARD or INQUIRY REVIEW BOARD and require the appeal or review to be heard *de novo*;
- 19.3.9 after holding an inquiry or hearing, to declare any person ineligible or unfit to hold the office of DIRECTOR or RACING OPERATOR REPRESENTATIVE;
- 19.3.10 to inquire into and investigate, directly or by delegation, any matter relating to horse racing, the running and conduct of horse races including objections and the breeding of thoroughbred horses in SOUTHERN AFRICA, and to pass such decision as it may consider expedient; provided that inquiries, investigations and adjudications into and upon breaches or contraventions of this Constitution or the RULES by any PERSON, shall be conducted, undertaken and made by INQUIRY BOARDS;
- 19.3.11 to interpret the meaning, effect and intent of any of the RULES and clauses of this Constitution;
- 19.3.12 to determine in such manner as it considers just, any matter relating to the achievement of the objects of the NHA which is not provided for in this Constitution or the RULES;
- 19.3.13 at any time, to publish or cause or authorise the publication in the OFFICIAL

PUBLICATION, electronically or otherwise and/or in any newspaper or official programme (Race Card):

- 19.3.13.1 in respect of any conviction for any breach or contravention of this Constitution or RULES, the identity of the PERSONS concerned, the facts relating to any decisions made, the decisions and the penalties imposed, and any other information as it may in its sole discretion deem fit;
- 19.3.13.2 the decisions of the LICENSING BOARD;
- 19.3.14 to determine from time to time any fees and charges payable to the NHA and to reduce or increase such fees and charges in its discretion;
- 19.3.15 to determine, from time to time, the period of the financial year of the NHA.
- 19.4 Except for the powers or functions described in clauses 12.4, 19.3.1, 19.3.3, 19.3.7, 19.3.8 and 19.3.9 and save as otherwise provided in this Constitution, the NATIONAL BOARD shall have the power to delegate any of its powers or functions to any person or persons (with or without the power of sub-delegation and/or with or without conditions as it may in its discretion deem fit), and to vary or withdraw or increase or decrease the powers or functions delegated at any time.
- 19.5 DIRECTORS shall have free access to all race courses, or public areas on such courses and to the parade ring where any race meeting is held under this Constitution and the RULES and shall have free access to training establishments regulated under this Constitution and the RULES.
- 19.6 The CHIEF EXECUTIVE and such persons as are nominated by him/her shall in the course of their duties and for the purpose of carrying out the objects of the NHA have free and unrestricted access to any part of any race course LICENCED by the NHA, and/or any training establishment in or on which horses registered with the NHA are trained and/or trainers LICENCED by the NHA to train horses and/or spelling farms registered with the NHA and/or breeding establishment at which horses registered with the NHA for breeding purposes are situated.
- 19.7 The NATIONAL BOARD shall be responsible for the governance of the NHA and for this purpose shall, *inter alia*, ensure that:
 - 19.7.1 the financial accounts of the NHA are prepared and audited by a firm of Registered Accountants and Auditors by not later than six months from the financial year end of the NHA. The audited accounts, annual financial reports and any reports or findings of the AUDIT COMMITTEE shall be published on the NHA's official website by not later than 30 days from finalisation thereof;
 - 19.7.2 an AUDIT COMMITTEE is appointed by the NATIONAL BOARD to advise the NATIONAL BOARD on matters relating to the audited accounts, the financial controls, the risks facing the NHA, the NHA's budget and such other matters as may be delegated and/or referred to it by the NATIONAL BOARD, and the AUDIT COMMITTEE shall comprise the chairperson of the NATIONAL BOARD and two other DIRECTORS who possess the necessary qualifications and expertise to effectively discharge the functions, duties and responsibilities of the AUDIT COMMITTEE;
 - 19.7.3 a REMUNERATION COMMITTEE is appointed by the NATIONAL BOARD to determine, on at least an annual basis, the type and amount of the remuneration to be provided to NHA employees and, subject to the provisions of this Constitution, to be provided to DIRECTORS, and the REMUNERATION COMMITTEE shall be constituted as follows:

- 19.7.3.1 the chairperson of the NATIONAL BOARD; and
- 19.7.3.2 two other DIRECTORS appointed by the NATIONAL BOARD, one of whom shall be the chairperson of the REMUNERATION COMMITTEE, provided that the CHIEF EXECUTIVE shall not be eligible for appointment to the REMUNERATION COMMITTEE but shall be entitled to attend meetings of the REMUNERATION COMMITTEE; and
- 19.7.4 a RULES COMMITTEE is appointed by the NATIONAL BOARD which shall facilitate, promote and ensure effective collaboration between the NHA and all stakeholders by serving as an advisory forum to the NATIONAL BOARD on matters relating to the RULES. The RULES COMMITTEE shall be regulated by the Constitution and the RULES COMMITTEE CHARTER which shall be adopted by the NATIONAL BOARD by not later than 60 days from the date of adoption of this Constitution. The RULES COMMITTEE shall meet not less than twice per year and shall be constituted as follows:
- 19.7.4.1 no more than 2 (two) members of the NHA executive management;
- 19.7.4.2 no more than 2 (two) non-executive members of the NATIONAL BOARD, at least 1 (one) of whom must be a qualified attorney or advocate;
- 19.7.4.3 one legal representative from the NHA, who shall act in an advisory capacity and shall have no voting rights;
- 19.7.4.4 1 (one) representative from the ROA;
- 19.7.4.5 2 (two) representatives appointed by SANTA, 1 (one) of which must be a member of the board of SANTA, of which only 1 (one) representative will have a voting right;
- 19.7.4.6 1 (one) representative jointly appointed by the recognised jockey associations of South Africa (comprising the Coastal Jockeys Association and the South African Jockeys Association);
- 19.7.4.7 2 (two) representatives nominated by the majority of the RACING OPERATORS, of which only 1 (one) shall have a voting right;
- 19.7.4.8 a person who must be a qualified attorney or advocate, jointly nominated by the RACING OPERATORS, SANTA, the ROA and the recognised jockey associations of South Africa (comprising the Coastal Jockeys Association and the South African Jockeys Association). This representative shall act in an advisory capacity and shall not have voting rights; and
- 19.7.4.9 a person appointed by the NOMINATIONS COMMITTEE, who shall serve as the chairperson of the RULES COMMITTEE. The chairperson shall not be a DIRECTOR and shall have at least 5 years' experience practicing as an attorney or an advocate, or a retired judge. The chairperson shall not have a vote, save in the event of an equality of votes in which case the chairperson shall have a casting vote.
- 19.8 All decisions of the NATIONAL BOARD shall be final and binding.

CHAPTER 7: APPEAL, ADJUDICATION AND LICENSING

20. PANEL SELECTION AND CONSTITUTION OF BOARDS

- 20.1 The NATIONAL BOARD shall appoint appropriately qualified persons to serve on the GENERAL PANEL and the LEGAL PANELS (which shall include the power to co-opt additional members from time to time, as and when deemed appropriate) from which members of the various BOARDS shall be appointed, subject always to the provisions of this Constitution. The RACING OPERATORS shall receive notice of, and be entitled to attend, the meeting/s of the NATIONAL BOARD held for the purpose of considering and/or appointing persons to the GENERAL PANEL and the LEGAL PANEL, which notice shall include the list of nominees.
- 20.2 The RACING OPERATORS shall be entitled to nominate persons for inclusion on the GENERAL PANEL and/or LEGAL PANEL, propose additional candidates for consideration by the NATIONAL BOARD, provide written or oral representations relating to the list of nominees circulated by the NATIONAL BOARD and engage meaningfully with the NATIONAL BOARD at the meeting at which such appointments are considered, provided that the final decision on all appointments to such panels shall rest solely with the NATIONAL BOARD.
- 20.3 All BOARDS shall be constituted and appointments thereto made by the NHA LEGAL OFFICER, or, to the extent that such position is vacant, by the CHIEF EXECUTIVE.

21. APPEALS

- 21.1 Appeals against decisions made or penalties imposed by:
- 21.1.1 an INQUIRY BOARD; or
- 21.1.2 the LICENSING BOARD;
- shall be competent except where otherwise determined in the RULES, and shall be made to the APPEAL BOARD only.
- 21.2 An APPEAL BOARD shall comprise of only 3 (three) persons and consist of such persons (including any person who is not a MEMBER or PRIVILEGE holder) as are appointed or mandated by the NHA LEGAL OFFICER from the members of the LEGAL PANEL and the GENERAL PANEL provided that:
- 21.2.1 there shall be: (i) one person appointed from the LEGAL PANEL; (ii) one person appointed from the GENERAL PANEL; and (iii) one further person appointed from the LEGAL PANEL and/or GENERAL PANEL; and
- 21.2.2 in respect of any matter considered by an APPEAL BOARD, no person who served on the INQUIRY BOARD or LICENSING BOARD in relation to that matter shall be entitled to serve on the APPEAL BOARD in relation to that same matter.
- 21.3 In the event that the NHA LEGAL OFFICER is unable to constitute an APPEAL BOARD in accordance with clause 21.2 due to members of the LEGAL PANEL and/or the GENERAL PANEL being unavailable or unsuitably qualified to sit on the APPEAL BOARD, the NHA LEGAL OFFICER shall be entitled to co-opt any person who is not a MEMBER, PRIVILEGE holder or OFFICIAL to sit on such APPEAL BOARD where he/she considers, acting reasonably, that such person or persons is suitably qualified to do so.
- 21.4 An APPEAL BOARD, on hearing an appeal, shall have one or more of the following powers - to allow the appeal; to dismiss the appeal; to substitute any finding or decision as

it deems fit or substitute such penalty as it deems fit, including any increased penalty; to make such order as in its opinion the circumstances may require including an order to remit the matter for the hearing of further evidence or an order for the hearing of an inquiry de novo; to hear further evidence or receive any documents on such terms and conditions as it in its discretion may decide; to direct the INQUIRY BOARD or the LICENSING BOARD to determine a matter on an alternative charge or basis; at any time to order a PERSON to pay all or a portion of the actual costs and other expenses reasonably incurred by the NHA in connection with an appeal or any postponement thereof, in addition to any other penalty, if it is of the opinion that such order is warranted; to determine the amount of such costs and other expenses; to make such rulings as it in its sole discretion shall determine.

- 21.5 The APPEAL BOARD shall appoint one of its members, who were appointed from the LEGAL PANEL, to act as chairperson, who shall have a casting vote in addition to his/her deliberative vote. Provided that two members of the APPEAL BOARD hearing an appeal are present continuously throughout the hearing of such appeal, the absence of a member of the APPEAL BOARD (save for the chairperson of the APPEAL BOARD) on any occasion during the hearing of an appeal shall not affect the validity of such proceedings. Any member of the APPEAL BOARD who has absented himself/herself from any part of the hearing of an appeal shall not be permitted to take any further part in that appeal.
- 21.6 All APPEAL BOARDS shall act in conformity with and apply this Constitution and the RULES and all decisions, penalties, rulings, determinations or findings of an APPEAL BOARD shall be final and binding on all PERSONS concerned.
- 21.7 No person who holds a QUALIFYING PRIVILEGE other than a colour holder or breeder shall be eligible to serve as a member of an APPEAL BOARD.
- 21.8 Neither the CHIEF EXECUTIVE nor any member of the NATIONAL BOARD nor any employee of the NHA shall be permitted to serve on any APPEAL BOARD.
22. INQUIRIES
- 22.1 All inquiries, investigations and adjudications into and upon breaches or contraventions of this Constitution or the RULES by any person, shall be conducted, undertaken and made by an INQUIRY BOARD.
- 22.2 Notwithstanding the provisions of clause 22.1 and the proviso in clause 19.3.10, nothing shall preclude the hearing of an objection in which a person or persons, other than an INQUIRY BOARD, inquire/s either directly or indirectly into a contravention of the RULES, during the course of any objection proceedings under the RULES.
- 22.3 An INQUIRY BOARD shall consist of such person or persons (including any person who is not a MEMBER, PRIVILEGE holder or OFFICIAL) as are appointed or mandated in the sole discretion of the NHA LEGAL OFFICER, provided that an INQUIRY BOARD:
- 22.3.1 shall consist of at least one person and a maximum of three persons from the GENERAL PANEL and/or the LEGAL PANEL;
- 22.3.2 may be constituted specifically for a particular case or matter or generally for such race meetings or such periods as the NHA LEGAL OFFICER may determine,
- 22.3.3 shall have jurisdiction, in all RACING JURISDICTIONS or in such RACING JURISDICTIONS as may be specified by the NHA LEGAL OFFICER; and
- 22.3.4 no member of the NATIONAL BOARD may serve on an INQUIRY BOARD, and no employee of the NHA may serve on an INQUIRY BOARD in any matter where the person who is the subject of the INQUIRY has elected to have legal representation. For

the avoidance of doubt, nothing in this clause shall prevent a STIPENDIARY STEWARD from conducting inquiries in the ordinary course of his/her duties.

- 22.4 An INQUIRY BOARD shall have the powers:
- 22.4.1 to inquire into, investigate, and adjudicate upon any alleged breach or contravention of this Constitution or any of the RULES;
- 22.4.2 in cases of a breach or contravention of this Constitution or any of the RULES, to impose on a PERSON, any one or more of the following penalties - a reprimand; a caution; a warning; a fine; a suspension from acting or riding for any period specified by it; a suspension from attending race meetings; a suspension, cancellation or withdrawal of any PRIVILEGE or other registration; a disqualification; a warning off; to order a PERSON to pay all or a portion of the actual costs and expenses incurred by the NHA in connection with the inquiry, or in the case of minor offenses, such rehabilitative measures that the INQUIRY BOARD deems appropriate in the circumstances, in addition to any other penalty; and
- 22.4.3 in its sole discretion but subject to the prior written consent of the NHA LEGAL OFFICER, to co-opt at the commencement of any inquiry or at any other time, any person or persons (including any person who is not a MEMBER, PRIVILEGE holder or OFFICIAL) to sit on such INQUIRY BOARD where it considers, acting reasonably, that such person or persons will be able to assist in the inquiry.
- 22.5 If an INQUIRY BOARD consists of more than one member, the INQUIRY BOARD shall appoint one of its members to act as chairperson.
- 22.6 All INQUIRY BOARDS shall act in conformity with and apply this Constitution and the RULES.
- 22.7 Notwithstanding anything to the contrary contained in this Constitution, the CHIEF EXECUTIVE shall not be eligible to serve as a member of any INQUIRY BOARD, APPEAL BOARD or INQUIRY REVIEW BOARD.
23. PROHIBITED SUBSTANCE INQUIRY BOARD
- 23.1 A PROHIBITED SUBSTANCE INQUIRY BOARD shall be convened to inquire into, investigate and adjudicate any alleged breach or contravention of Rule 73 and/or Rule 74 of the Rules.
- 23.2 The PROHIBITED SUBSTANCE INQUIRY BOARD shall be appointed by the NHA LEGAL OFFICER and shall consist of three members only, comprising:
- 23.2.1 two persons appointed from the LEGAL PANEL, one of whom shall act as the chairperson; and
- 23.2.2 one person who is a qualified veterinary surgeon who is external and/or independent from the NHA,
- provided that no person who is a MEMBER or employee of the NHA shall be permitted to sit on a PROHIBITED SUBSTANCE INQUIRY BOARD.
- 23.3 All PERSONS, including the NHA, shall have an automatic right to have legal representation, by an admitted attorney or advocate or both, at such inquiry.
- 23.4 There shall be no appeal against any penalty, decision or finding of the PROHIBITED SUBSTANCE INQUIRY BOARD.

- 23.5 The PROHIBITED SUBSTANCE INQUIRY BOARD shall act in conformity with and apply this Constitution and the RULES.
24. REVIEWS OF INQUIRIES
- 24.1 An INQUIRY REVIEW BOARD shall be constituted and/or appointed by the NHA LEGAL OFFICER and shall consist of three persons only (including any person who is not a MEMBER, or PRIVILEGE holder) appointed from the members of the GENERAL PANEL and LEGAL PANEL, provided that:
- 24.1.1 two persons shall be suitably qualified legal practitioners appointed from the LEGAL PANEL, one of whom shall be the chairperson of the INQUIRY REVIEW BOARD;
- 24.1.2 in respect of any matter considered by an INQUIRY REVIEW BOARD, no person who served on the INQUIRY BOARD in relation to that matter shall be entitled to serve on the INQUIRY REVIEW BOARD in relation to such matter; and
- 24.1.3 no member of the NATIONAL BOARD (including the CHIEF EXECUTIVE) nor any employee of the NHA may serve on an INQUIRY REVIEW BOARD.
- 24.2 Save where a person has signed an acknowledgment of guilt or elects to lodge an appeal against a finding, decision or penalty imposed by an INQUIRY BOARD, the INQUIRY REVIEW BOARD shall, on written request from the PERSON affected by any finding, decision or penalty imposed by an INQUIRY BOARD delivered within seven days of the date on which such PERSON is notified of the finding, decision or penalty concerned, review, without a hearing, such finding, decision or penalty to ensure that it is appropriate and that the penalty is not excessive, given the nature of the offence and the NHA's penalty guidelines.
- 24.3 The INQUIRY REVIEW BOARD may confirm, vary or set aside any finding, decision or penalty of an INQUIRY BOARD provided that no finding, decision or penalty may be varied in a manner which has the effect of increasing the penalty or prejudicing the PERSON concerned. However, should the INQUIRY REVIEW BOARD find that there has been a gross irregularity or illegality in such proceedings or that the finding, decision or penalty of an INQUIRY BOARD was clearly wrong, it shall have the power to set aside the decision of such INQUIRY BOARD and/or remit the matter for a hearing de novo.
- 24.4 The INQUIRY REVIEW BOARD shall act in conformity with and apply this Constitution and the RULES.
25. LICENSING
- 25.1 The LICENSING BOARD shall have the power to, and may, in its absolute discretion, grant, refuse to grant, renew, or refuse to renew, any PRIVILEGE provided for in this Constitution or the RULES, excluding the PRIVILEGES referred to in clauses 19.3.5 and 19.3.6.
- 25.2 The LICENSING BOARD shall consist of three persons (who shall be MEMBERS, PRIVILEGE holders and/or OFFICIALS) appointed in the sole discretion of the NATIONAL BOARD, provided that the CHIEF EXECUTIVE shall serve on the LICENSING BOARD.
- 25.3 The LICENSING BOARD shall appoint one of its members to act as chairperson, who shall have a casting vote in addition to his/her deliberative vote. Provided that two members of the LICENSING BOARD are present continuously throughout any hearing, the absence of a member of the LICENSING BOARD on any occasion shall not affect the validity of such proceedings. Any member of the LICENSING BOARD who has absented himself/herself from any part of the hearing shall not be permitted to take any further part

in those proceedings.

- 25.4 The LICENSING BOARD shall act in conformity with and apply this Constitution and the RULES.

CHAPTER 8: GENERAL

26. PROHIBITIONS

No person shall adjudicate upon any investigation, appeal, inquiry, objection or similar hearing, if he/she has or had an interest in the result of the matter or has or had previously adjudicated upon the matter.

27. LIMITATION ON USE OF INCOME

The income of the NHA, from whatever source it may be derived, shall be used solely for the carrying out of the objects for which the NHA was established, and no part thereof may be distributed or paid to any person except in terms hereof. The provisions of this clause, however, shall not preclude the NHA from investing such moneys as are not immediately required for its purposes.

28. DISSOLUTION OR WINDING UP

The NHA shall not be dissolved or wound up unless by a resolution passed at a SPECIAL GENERAL MEETING called for that purpose. Should the NHA be wound up, all its assets shall be sold and the proceeds, together with all moneys on hand, after paying its debts, shall be transferred:

- 28.1 to any other association or institution having similar objects, provided that such association or institution shall have been granted an exemption from Income Tax by the Department of Inland Revenue and is a private, non-state controlled entity;
- 28.2 failing which the proceeds will be transferred to the RACING OPERATORS in the proportion in which they contributed to the funds of the NHA.

29. INDEMNIFICATION

All DIRECTORS (including members of the NOMINATIONS COMMITTEE) and OFFICIALS of the NHA shall be indemnified against all losses, costs and damages which they or any of them may be put to in the *bona fide* exercise by them of the powers and duties conferred and imposed upon them under this Constitution.

30. FIXED TIMES

When the last day for any action under this Constitution falls on a Sunday or a recognised Public Holiday it shall be done on the next business day.

31. AMENDMENT OF CONSTITUTION

- 31.1 No alteration, amendment or addition shall be made to this Constitution, nor shall the NHA be dissolved or wound up save by a special resolution carried by a majority of not less than two thirds of the votes, both given by proxy and by MEMBERS present and entitled to vote at a SPECIAL GENERAL MEETING called for such purpose.
- 31.2 Any additions, alterations or repeal made as provided for in clause 31.1 shall be published in the OFFICIAL PUBLICATION as soon as practicable and, from the date that they are expressed to come into force either by a SPECIAL GENERAL MEETING of MEMBERS of the NHA, or by the NATIONAL BOARD, as the case may be, shall apply to, and be

binding on, RACING OPERATORS and all persons and bodies to whom this Constitution and the RULES of the NHA apply.

- 31.3 Notwithstanding anything contained in this Constitution, the NATIONAL BOARD may make any consequential adjustments, additions or alterations to the RULES which may have become necessary as a result of any alterations to this Constitution. Any such adjustments, additions or alterations made by the NATIONAL BOARD shall be published in the OFFICIAL PUBLICATION as soon as practicable.

32. REPEAL AND CONTINUATION

- 32.1 Any authority constituted or person appointed, or power conferred, or anything done in pursuance of any powers conferred by or by virtue of any clause, RULE or regulation of the NHA repealed or substituted by this Constitution shall be deemed to have been constituted, appointed, conferred, or done in pursuance of powers conferred by or by virtue of the provisions of this Constitution.
- 32.2 Any application, objection, inquiry, appeal or other proceeding commenced prior to the adoption of this Constitution which may not have been concluded before the adoption of this Constitution or which, having been so concluded is thereafter re-opened shall be continued in all respects as if this Constitution had not been adopted.
- 32.3 The RULES which were in force on the date of the adopting of this Constitution shall continue to be of full force and effect and shall be deemed to have been passed in terms of this Constitution, provided that in the event of there being any conflict between such RULES and this Constitution the provisions of the latter shall prevail.

33. VALIDITY OF ACTS

- 33.1 All acts done in good faith by the NATIONAL BOARD and any BOARD shall, notwithstanding that it be thereafter discovered that there was some defect in the composition, election or appointment of such body, be as valid as if such body had been duly constituted, elected or appointed.
- 33.2 All acts done in good faith by any DIRECTOR or member of any BOARD shall, notwithstanding that it be thereafter discovered that there was some defect in the election or appointment of such DIRECTOR or member of such BOARD, be as valid as if every such person had been duly elected or appointed.