



Racing Integrity Unit

Submission on the Messara Report

19 October 2018

The Messara Report and Recommendations on the Integrity function in New Zealand Racing

The Messara Report made the following recommendation on integrity: -

Initiate a special review of the structure and efficacy of the Racing Integrity Unit (RIU) and allied integrity bodies, to be conducted by an independent qualified person.

The RIU supports this recommendation and will work with the person appointed to carry out the review as soon as possible.

In a brief review of the integrity function the report also noted that:

- A sound integrity system and strong animal welfare protocols are fundamental to the sustainability of racing and wagering and the wider community's support for the industry. Any loss of confidence in the system by participants or the public can have dire consequences for the industry.

The RIU supports this comment.

- In so far as the RIU is concerned the Chair of (Wagering NZ) should not continue as Chair of the RIU and that position be filled by an independent person selected by the three Codes.

The RIU supports this suggestion.

- The report expressed serious concerns whether it was appropriate for Stewards to have cross code responsibilities and whether this affects their ability to apply a significant level of on-going surveillance to any one code.

The RIU does not support this view for the reasons explained in Section 5.

- A robust process to establish traceability from birth and the rehoming of the entire thoroughbred herd is a foundation stone of thoroughbred's ongoing welfare programme.

The RIU supports this suggestion.

The Racing Integrity Unit provided background information on its operations as part of the submissions from the New Zealand Racing Board to Mr Messara.

Mr Messara did not request a meeting with the RIU or other integrity agencies (JCA, Racing Laboratory). It was therefore considered necessary to provide a briefing paper as part of the submissions on the Messara Report.

Racing Integrity Unit Submissions

The RIU welcomes the review of the integrity Structure applying to the New Zealand Racing Industry. Its submissions are limited to the recommendations and commentary on the Integrity system in New Zealand included in the report and an explanation of the RIU operations. The submission covers the following:

1. Executive summary.
2. The Establishment of the RIU and its position within the integrity frame work in New Zealand.
3. Racing Integrity Unit operations.
4. Review of integrity operations and improvements in efficiency from 2011 to 2018.
5. Response to the comments on cross coding in the Messara Report.
6. Cost of RIU operations compared to the previous code model and integrity costs in Racing Western Australia.

1. Executive summary

The RIU was established to provide an integrity operation independent of the three racing codes with a clear delineation between the agencies responsible for rule making (the Codes), investigation and prosecution (the RIU) and the judiciary (JCA).

As an independent tri-code operation the RIU focuses on integrity avoiding the perception of conflicts of interests that applied when the codes were in control of the integrity function. While the JCA is a Statutory Body recognised under the Racing Act the RIU is a private company. With the review of the structure of the New Zealand Racing Industry whether the RIU should also become a statutory body or there be one statutory body to govern both the RIU and JCA is a matter for consideration.

In the decade since the establishment of the RIU the world of integrity has changed radically. The expansion and internationalisation of betting has brought challenges such as race fixing to New Zealand. New drugs easily accessible via the internet has required significant changes to drug testing regimes (eg. out of competition testing).

Associated with these challenges has been a greater emphasis on health and safety and animal welfare. All these demands have added to the integrity responsibilities being faced by the racing industry and the RIU.

The RIU being a tri-code operation has been well placed to meet these challenges. The economies of scale and specialised skills it is able to bring to the table has meant that developments such as Betting analysis, Intelligence data bases and injury data bases have been able to be developed in house and on a single cost basis.

The RIU's use of cross coding is limited to outside stewarding roles. All harness and thoroughbred meeting have at least two specialist stewards operating from that code. This ensures efficiency of operation without affecting the standard of stewarding

The review of existing protocols and policies have resulted in a number of efficiencies and savings. The size of the RIU operation has also enabled it to apply economies of scale with major investigations and projects, such as the scanning of all Greyhounds to be able to be accommodated within the resources of the RIU and not requiring outside agencies.

Importantly, major investigations are seen to be carried out independent of the Codes which is important from the position of public perception.

The benefits of the RIU are further illustrated by its financial performance, both in holding its core operating costs at below 2011 levels and in operating well under comparative overseas integrity operations.

2. The Establishment of the RIU and its Position within the Integrity Frame Work in New Zealand.

The RIU was established in February 2011. The decision to establish an independent integrity operation was based on the belief that an independent integrity unit, covering the three codes would bring with it economies of scale, cross code integration and a consistency of approach that would bring benefits to the whole industry.

Furthermore, it was considered that an independent integrity unit would provide transparency and a clear delineation between the agencies responsible for rule making (the Codes), investigation and prosecution (the RIU) and the judiciary (JCA).

Racing in New Zealand has separated the rule makers (the 3 racing codes), the prosecutors/law enforcers (the RIU) and the judiciary for hearing the charges (the Judicial Control Authority (JCA)) as independent bodies. This separation of function is the same as society's separation of Parliament/Police/Judiciary. It was the major reason for setting up the RIU. It was considered difficult for Stewards to enforce the rules when they may have to investigate members of the board of the controlling body who not only set the rules but were their employer as well.

There was also a view that the codes were not proactive enough in integrity issues and an independent body would bring a greater focus. This was a perception and whether correct or not was backed up by research commissioned in 2008 by the New Zealand Racing Board (NZRB) which showed a poor rating by the public in their perception of integrity in horse racing. In the first six months of operation the RIU had 16 positive swabs compared with 14 positives across all three codes in each of the previous 2 years.

Racing Integrity Unit Structure

The RIU was established as a limited liability company under the Companies Act. There are four shareholders each with 25% shareholding.

New Zealand Racing Board, NZRB (a Statutory Body under the Racing Act 2003)
New Zealand Thoroughbred Racing Incorporated, NZTR (an incorporated society)
Harness Racing New Zealand Incorporated, HRNZ (an Incorporated Society)
The New Zealand Greyhound Racing Association, GRNZ (an Incorporated Society)

Roles, Responsibilities and Relationships between the shareholders and the RIU.

Each of the four shareholders have the right to nominate a Director for the RIU Board. Under the RIU constitution all three codes and the NZRB must approve of the Director nominated by the code/NZRB. This rather cumbersome process has caused difficulties.

The NZRB develops policies and has high level functions relating to racing in NZ. Each code is responsible for their Rules of Racing and the functions of their code.

Under its constitution (copy attached as an Appendix) the RIU must each year by 1 June provide a budget and Business Plan to the NZRB for approval (see Clause 18) The Budget and Business plan covers specifically the next financial year but also the following two year period.

The NZRB then consult with the three racing codes before approving the budget and Business Plan or referring it back to the RIU for further review.

Funding Model

The RIU is funded by the NZRB. Its budget and Business Plan is approved by the NZRB each year. The NZRB by legislation is able to operate a number of gaming machine sites. The income from those sites is approximately \$24.8 Million. The NZRB utilises this surplus to amongst other things fund the RIU and other integrity functions in the industry (eg. The Racing Laboratory \$1.7 million, and the JCA \$1.3 million).

RIU Relationship with the Racing Laboratory

The Racing Laboratory is a privately-owned company that has an agreement through the NZRB to provide drug testing services to the New Zealand Racing Industry. The contract with the NZRB makes up over 90% of the Racing Laboratory's income.

The RIU has a close working relationship with the Racing Laboratory.

Judicial Control Authority

The Judicial Control Authority (JCA) was established in 1995. This organisation is a statutory Body whose role is to operate as the independent judiciary in the racing industry. The JCA appoint judicial committees to hear all judicial matters, including race day, pertaining to the three racing codes.

The primary logic behind the establishment of the JCA was to remove the judicial function in racing from the codes

The Racing Act 2003 recognises the Judicial Control Authority (JCA). Its functions as set out in the Act includes race day and non-race day hearings. On race day, in the case of thoroughbred and harness meetings the JCA determine the result of the charge (in Australia this role is carried out by the Stewards). In New Zealand the Stewards role therefore is to investigate the racing incident determine whether to lay the charge and then prosecute.

In hearing non-race day charges the JCA Judicial Committee act similar to the RAD Board system in Australia. The one significant difference being the JCA is independent of the three racing codes.

In addition, the JCA also appoint Appeals Tribunals to hear any appeals against the decisions of the Judicial Committees. In this case they act similarly to the Victorian Civil and Administrative Tribunals (VCAT). JCA Appeal Tribunals are usually Chaired by retired judges of the High Court of NZ.

Under New Zealand law persons who object to the JCA Appeal Tribunal decisions can take their case to the High Court of New Zealand for a judicial review, and if they fail there to the Court of Appeal.

The RIU since its establishment in 2011 has been taken to the High Court twice and the Court of Appeal once on racing matters. They were all related to drug positives. In all the cases the RIU was successful in defending its charges and the JCA decision.

New Zealand Integrity Structure

A matter for consideration is whether the RIU should have its independent structure consolidated by being recognised as a Statutory Body under the Racing Act, like the JCA or continue as a private arrangement between the three codes and any governing body. A further option that could be considered is one Statutory Body being responsible for the governance of both the JCA and RIU.

3. Racing Integrity Unit Operations

The diverse geographical spread of New Zealand with 62 race tracks spread over two islands has meant the RIU operates from a number of sites with staff spread throughout the country. There is no central hub for operations as applies in many States in Australia.

The main management and administration office is in Auckland. However, there are also offices in Hamilton, Christchurch and Dunedin and many staff work remotely from their homes.

To meet the challenges of this spread of staff the RIU has adopted a technology-based platform for its administration and operations. This maximises efficiency and minimises the number of back of house staff the organisation requires. A flat organisational structure and the use of contract services has also been applied to minimise costs.

Staffing RIU

The RIU employs 33 full time and 85 part time staff. Of these 25 are Stewards, 5 Investigators, 1 Betting Analyst, there are only 2 Management/Administration staff, and 85 Drug Testing (all part time work race day only). The RIU contract 42 Veterinary firms throughout NZ to carry out race day Veterinary services.

Operations and Administration

The aim has been to bring a consistency to processes (eg. swabbing, code rules, etc) across the 3 codes and up skill Stewards so that, if required they can work across all codes albeit in a support role at meetings where it is not their specialist code. This has brought efficiencies, and improved career opportunities to staff.

When the RIU was established there were no administration protocols or policies in place, all codes had taken different approaches to the management of their integrity operations, none had adopted a full technology platform there were significant manual processes applying in their administration.

As noted above, administration staff have been kept to a minimum by utilising technology and having all field staff responsible for their own administration. Staff have a "tool kit" of lap top, vehicle, mobile phone (with app applications and emails). This allows them to work remotely from any site as long as it has internet access. All staff communication is by these methods and the NZRB buying power has been used to minimize capital and operating costs. For example, vehicles are purchased at the NZRB rate.

By adopting google apps and use of cloud technology RIU staff have direct access to shared documents and a how to fix it section is available so staff can work through any problems. The administration manager also has software that allows them to work on a remote computer and so can solve most technical issues staff encounter in the field. In determining the approach to take in terms of technology and administration the RIU considered how private companies with field staff managed their operations to maximize efficiencies.

Integrity Services Provided by the RIU

These services are set out in an Integrity Services Agreement the RIU has with each of the three racing codes. A copy of the current agreement is attached. The details of the services are set out in Schedule 1 of the agreement.

The major functions carried out by the RIU include:

- Control of all race days and trials
- Select and control collection and chain of custody of all drug tests (human and animal).
- Development of Intelligence Data base.
- Provision of information to punters and public on race day matters through Steward's reports, twitter, media reports interviews etc,
- Health and Safety responsibilities on race day.
- Animal Welfare. Initially developed and now responsible for the maintenance of injury data bases for all three codes.
- Betting analysis. There is direct real time access to NZRB betting platforms and international arrangements for overseas requirements.
- Non-race day investigations of all matters relating to the Rules of Racing.
- Advising the racing codes on licensing matters.
- Advising the codes on Rule changes.
- Working with the Racing Laboratory on drug protocols and research.
- Liaison with overseas racing jurisdictions on integrity matters.
- Support for code education programmes for apprentices and harness cadets.

Interaction between Race day and non-race day functions

There is a close working relationship between the Stewards, whose primary function is race day and the Investigators who often attend race meetings, oversee the swabbing process and in addition carry out the majority of non- race day investigations.

The senior management team is made up of the General Manager, General Manager Stewards, the Chief Stewards for the three-racing codes and the Manager of Quality Assurance (manages the investigators and Betting analyst). The Management team meet weekly via a telephone conference.

The General Manager, Manager of Stewards and Manager of Integrity Assurance attend all Board meetings.

Shared Services Provided by the NZRB – Finance, HR and IT

As part of the setup of the RIU it was agreed the NZRB would provide services to the RIU as a means of maximising efficiencies. The services the NZRB provide include the provision of a storage facility in Hamilton, all accounting, payroll, and IT (Citrix and Freedom). A fee of \$49,500 is charged for the services.

4. Review of Integrity Operations and Improvements in Efficiency from 2011 to 2018.

Upon its establishment, the RIU, as a priority undertook a review of all operational processes and protocols. After completing this review, it was agreed with the Codes that the RIU should take over the responsibility for employing race day typists, drug testing staff on race day and race day Veterinary services (85 casual staff and 42 Veterinary practices).

This ensured that the RIU now had control over the chain of custody for drug testing from collection through to the delivery to the racing laboratory. It has meant a consistency of approach and training for staff. The RIU adopted the drug testing model used in Queensland with two swabbing staff and one or two Veterinarians depending on the status of the race meeting. The application of this model produced savings for the industry of \$120,000 per annum.

In taking over these staff and contractors (Veterinarians) the RIU applied the same technological philosophy with all communication by email, TXT or mobile phone.

RIU Expansion of other Core Activities and Productivity to 2017/18

- **Drug Testing Animals** – Expansion of Out of Competition Testing – Introduction of Cobalt Testing – focus on targeted testing – ensuring the Racing Laboratory has the required equipment.

Total drug testing has increased by 13,466 samples (21.1%) since 2011. More significantly the number of positive tests have increased by 32.7% under the RIU.

	Pre RIU 6.5 Years Aug. 2005 to 2010	RIU 6.5 Years 2011 to 31 July 2017	% Change
TCO2	19,576	18,590	-5.1
Swabs	44,107	58,539	32.7
Total	63,683	77,129	21.1
Positives incl. TCO2	89	121	36
TCO2	12	12	0

- **Animal welfare** – RIU developed injury data bases for all three codes. These have been migrated onto the code IT systems. The RIU maintains the updating of these databases. - The RIU contributes to code Animal Welfare Committees – Has established a relationship with Ministry of Primary Industry and the SPCA – Oversaw the Hansen Greyhound Inquiry for the NZRB – Carries out stable and kennel visits on a regular basis keeping a data base of all visits.

Annual Stable and kennel visits have increased from 285 in 2013 to 851 in 2017 and 940 (230%) in 2018.

- **Health and Safety** – The RIU takes a lead role in race day safety – race day H and S check lists and reports provided on all race track incidents –

Since 2015 eight major race day incidents have been reported to Worksafe.

- **Investigations** – This section was restructured in 2013 – MOU’s have been signed with NZ Police, and MPI. – major investigations have been undertaken. Membership of International betting Task force established by the Hong Kong JC.

- **Development of intelligence data base** – A significant development with the investigations restructure – the data base has been developed with the support of the NZ Police using staff who are involved in the national Police data base.

- **Human Testing and Support of industry participants.** A substantial increase in the number of positives led to a refocus to provide rehabilitation for drug and alcohol testing of participants. A trial using the Salvation Army rehabilitation services for drug alcohol and gambling addiction was introduced 2017/18.

Human Testing –Increase in testing from 316 to over 512 tests (65%) since 2013.

- **Race day Operations** – More detail is now included in race day Steward’s reports and follow up of race day investigations – greater emphasis on the application of the whip rules in the equine codes and reporting of injuries in greyhound Racing.

- **Other race day integrity Staff** – The RIU has been involved in a number of projects reviewing the employment of other race day integrity staff such as starters, judges, and Clerks of the Course. The studies carried out by the RIU highlighted the need for succession planning, training, and the review of protocols to improve efficiencies.

The three codes agreed to the RIU taking over the employment of the Judges in the northern region and reviewing the clearance to pay protocols.

5. Response to the Comments on Cross Coding

The report raised a concern over the application of cross coding by the RIU.

- The report expressed serious concerns whether it was appropriate for Stewards to have cross code responsibilities and whether this affects their ability to apply a significant level of on-going surveillance to any one code.

The Report seems to have misconstrued the application of cross coding by the RIU. It is correct that when the RIU was established the initial philosophy was that all stewards should be trained in all three codes and be proficient in working at any codes race meeting.

However, that has been shown to be ineffective and the practical application of such a philosophy was soon identified as being an unrealistic goal.

The approach developed by the RIU has been to identify each Steward's specialty. That is the code they are most proficient in and this is the code they will primarily operate on. In Thoroughbred and Harness there are at least three Stewards attending each race meeting.

Two of these operate primarily within the Stewards Room and are responsible for reading the races and bringing any charges against riders/drivers. They are the key operatives on the day and are always Stewards with a specialty for that code.

The third or at times fourth steward operates primarily outside in the stables and mounting yard and is responsible for overseeing those areas checking the gear and the horse's brands. It is only in the outside areas where a cross coding Steward would operate and largely Cross coding for outside Stewards applies in regions where there is limited racing and it would be extremely costly to fly in specialist stewards and in Greyhound Racing again only outside Stewards.

It must be emphasised that the key steward roles carried out in the Steward's room are always specialists for the code concerned. It is only the outside role which at times is filled by a steward who could be considered to be cross coding. Applying this model does not impact on the effectiveness of the stewards on race day and brings with it significant efficiencies.

An example of the efficiency of this model is in the Otago/Southland region. There are 53 Greyhound, 73 harness and 37 Thoroughbred meetings in that region. Prior to the establishment of the RIU there had been a single Harness and Thoroughbred Steward in the region. When there were Harness or Thoroughbred meetings 2 Stewards had to be flown or drives down to provide a panel and for Greyhounds 1 Steward flies or drives down.

The thoroughbred steward based in that region was then often flown up to work at meetings in Canterbury but in total the Thoroughbred Steward likely only worked approximately 65 meetings a year and the Harness Steward approximately 70 meetings a year.

Under the RIU model only one specialist Steward has to be flown down for Harness or Thoroughbred meetings and none for Greyhound meetings, save for situations where someone is on leave or sick. The Specialists based in Otago/Southland work as an outside Steward in the other codes as required. This results in a much greater work efficiency without in any way effecting the quality of Stewarding on the day.

The improvement in efficiency is illustrated by the number of race days worked for Stewards in the region in 2016/17 compared to the work load pre RIU.

Otago/Southland Stewarding Operations

Thoroughbred Steward – Pre RIU 65 race days – 2016/17 114 race days.

Harness Steward – Pre – RIU 70 race days – 2016/17 138 race days.

Greyhound Steward – Pre-RIU 50 Race days – 2016/17 125 Race days.

6. Comparison of RIU costs with the previous code based model and Western Australia

Overview of RIU Costs 2016/17

The Financial Operating Costs of the RIU have been divided between the core activities it took over when established in February 2011 and the additional roles it has had allocated to it over the past 7 years.

RIU Operating Costs	2016/17	
	\$	
RIU Core Operating Cost	4,018,388	Note 1
Additional costs/projects from 2011/12		Note 2
1. Directors Fees	70,000	
2. Betting Analyst + 3 Cadets	279,000	
Costs Transferred from Clubs and Codes		Note3
1. Vets. and Swab Staff	1,466,261	
2. Race day Typists	114,550	
Total Operating Costs 2016/17	5,948,199	
One of Cost 2016/17		
Greyhound Inquiry Cost	136,306	Note 4
Total RIU Costs 2016/17	6,084,505	

Note 1 - Core Operating Costs

The RIU commenced operations on 1 February 2011 operating for 6 months of the 2010/11 financial year. The operating costs incurred in the first full year of RIU operations 2011/12 (\$4,089,000) have been taken as the measure of core RIU operating costs.

The cost of core integrity operations at the time the RIU was established (\$4,089,000) has been compared with the reduction in the operating costs for the three Codes over the period 2009/10, (the last full year of the codes being responsible for integrity), to 2011/12 (the first full year the codes were not responsible for integrity).

Code Operating Costs over the Period of the Establishment of the RIU

Source: Annual Reports NZTR, HRNZ, GRNZ

	NZTR	HRNZ	GRNZ
	\$000's	\$000's	\$000's
2009/10	7,937	5,965	5,328
2010/11	7,771	5,722	6,261
2011/12	6,393	4,360	5,260
Reduction	1,544	1,605	1,001
Total reduction		4,150	

For HRNZ and NZTR 2009/10, the last year the codes were wholly responsible for integrity is taken as the base line. This has been compared with 2011/12 the first full year they did not incur any integrity costs. The reduction in the two codes operating costs total \$3,149,000.

In greyhound racing the code had a 10% increase in licences in 2010/11, so that year is the more relevant base line for Greyhound Racing. The cost reduction for the code from 2010/11 and 2011/12 was \$1,001,000.

Therefore, as a result of the establishment of the RIU there was an overall reduction in costs for the three codes of \$4,150,000

The total reduction in costs across the three codes of \$4,150,000 was entirely due to the removal of integrity costs. There were no other changes in Code operations in that period. The fact that the figure of \$4,150,000 is greater than the RIU's operating costs in 2011/12 of \$4,098,000 confirms the contention that the core cost of integrity when the RIU was established was in the range of \$4,100,000 to \$4,150,000 and the RIU commenced operations under that range.

In the five years from 2011/12 to 2016/17 the RIU has continued to operate its core activities under what it was costing the codes by up to \$130,000 (see note 1, \$4,018,000). At the same time the RIU has significantly expanded its core activities as detailed below:

- **Drug Testing Animals** – Expansion of Out of Competition Testing – Introduction of Cobalt Testing – focus on targeted testing – ensuring the Racing Laboratory has the required equipment.
- **Animal welfare** – RIU contributes to code Animal Welfare Committees – additional work with the SPCA – Oversaw the Greyhound Inquiry.
- **Health and Safety** – The RIU takes a lead role in race day safety – race day H and S check lists and reports provided on all race track incidents –
- **Relationships – Established MOU's with Government Agencies (NZ Police and MPI and support organisations such as the Salvation Army** – Membership of International betting Task force established by the Hong Kong JC.
- **Investigations** – Staff restructured processes updated

- **Development of intelligence data base** – Fundamental to an integrity operation.
- **Human Testing** – Substantial increase in the number of positives in the past two years has led to a **refocus to provide rehabilitation for drug and alcohol testing of participants.**
- **Race day Operations** – More detail is now included in race day Steward's reports and follow up of race day investigations – greater emphasis on the application of the whip rules in the equine codes and reporting of injuries in greyhound Racing.

Note 2 – Explanation of additional Staff and costs since 2011/12.

There were no RIU Directors fees paid in 2011/12. These were first paid in the 2012/13 year.

In terms of additional staff, the RIU Board over the period has approved the appointment of a Betting Analyst and three cadet Stewards (there had been no cadets employed for a number of years by the individual codes) for future succession planning. The three cadets graduated to being full stewards, one resigned in 2017/18 and has been replaced by a new cadet. Costs in the table are based on the 2016/17 financial year.

Note 3 – Costs Transferred from Clubs and Codes.

The RIU took over the employment of race day veterinarians and swabbing officials from Clubs during 2012/13. In addition, it took over the employment and payment of race day typists from NZTR, in the case of Thoroughbred Racing and the Clubs in terms of Harness Racing.

This is a transfer of costs within the Industry, while RIU costs increased Club and Code costs reduced in equal measure. In the case of race day Veterinarians, on lower key Thoroughbred race days the RIU reduced the number of veterinarians required to attend race days from two to one saving the industry \$120,000.

Note 4 – Greyhound Inquiry Costs.

In 2016/17 the NZRB and the Codes agreed that the RIU provide support, oversee and meet the costs associated with the Greyhound Inquiry carried out by Hon. Rodney Hansen QC. This was a one-off cost.

In summary the RIU has, through efficiencies and reviewing of costs has been able to reduce the cost of its core operations while at the same time expanding these operations, to the degree that after 5 years of operation its core costs (\$4,018,000) were still well below the costs incurred by the codes (\$4,150,000) for a lesser level of service when they were responsible for the integrity function.

Comparison of the New Zealand Integrity Function with Western Australia

Racing and Wagering Western Australia (RWWA) operates in Western Australia on a combined three code basis. The integrity operation forms part of RWWA whereas in New Zealand the RIU, JCA and the Codes are separate organisations.

- The scale of the respective operations (NZ and WA) are comparable with NZ approximately 20% larger in Race tracks and Race days than WA.

Race days	WA	NZ	
Greyhounds	306	450	
Harness	269	270	
Thoroughbred	288	315	
Total	863	1035	19.90%
Trials	250	300	20%
Race Tracks	54	66	22%

	Staffing	WA	NZ
Management/admin.		3	2
Stewards	Full-time	25	25
	Part-time	15	1
Investigators	Full-time	3	5
	Part-time	0	1
Betting, Form Analysts	Full-time	2	1
	Part-time	0	0
Total	Full-time	33	33
	Part-time	15	2

Comparative Cost of Integrity

		2016/17 WA	2016/17 NZ	
Base Operations*		6,960,000	4,725,309	
Starters/Clerk of Scales		400,000	0	NZ costs met by Clubs
Race Day Vets.		0	1,047,632	WA cost met by Clubs
Board/Rent/Insurance		0	175,258	WA is part of RWWA
Greyhound Inquiry		0	136,306	One off
RIU	Costs	7,360,000	6,084,505	
Racing Laboratory		1,400,000	1,700,000	
Racing Appeals/JCA		240,000	1,358,772	
Total Integrity Costs		9,000,000	9,143,277	
Adjusted Comparative Costs for All Integrity		8,600,000	7,959,339	
*WA includes Licensing				

- The source of the information on WA is from the 2017 RWWA Annual Report and information provided by the General Manager Racing Integrity.
- While servicing fewer race meetings and Trials the RIU equivalent of the integrity operation in WA employs more full-time core operational staff than in NZ, 33 compared with 30 and has 15 part-timers compared with 3 in NZ.
- This flows through into the cost of integrity, the RIU operational costs are significantly less than the WA equivalent (32% less).

Integrity Costs Outside RIU Operations

- Outside of RIU operations the WA costs of integrity are less than NZ. The Racing Laboratory in WA is the State Government Laboratory (equivalent to the ESR in NZ). Given that the WA laboratory undertakes 9,251 tests compared with 11,256 in NZ plus the 1,200 tests sent to the Wellington Lab for cobalt at \$50 per test the Laboratory costs are equivalent.
- The major variation is the JCA costs compared to the WA Appeal hearing costs. The difference can be explained in the structure of the hearing process. WA could be described as very much “old school”, that is the way integrity used to operate in Victoria and NSW. The Stewards not only prosecute and judge all race day hearings they also act as prosecutor and judge on all non-race day matters (eg. Drug positives). It is only when matters are appealed that an independent panel hear the case and that panel is appointed by RWWA, it is not a totally independent operation like the JCA.
- The JCA by comparison is a Rolls Royce version of the racing judicial function. Being a totally independent organisation (set up by statute) and hearing all racing matters including all race day charges. The costs between WA and NZ in this area reflect the two extremes. As noted in other papers the transfer of the JCA race day function to the RIU would likely reduce JCA operating costs by at least \$500,000.

Appendix

CONSTITUTION

OF

RACING INTEGRITY UNIT LIMITED

UNDER THE COMPANIES ACT 1993

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Constitution of RACING INTEGRITY UNIT LIMITED
under the Companies Act 1993

PART I: PRELIMINARY

1. DEFINITIONS AND INTERPRETATION

1.1 **Definitions:** In this Constitution, unless the context otherwise requires, the following words and expressions have the meanings given to them in this clause:

“Accounting Standards” means approved financial reporting standards as defined in the Financial Reporting Act 1993;

“Act” means the Companies Act 1993;

“Amalgamation” means the completed act of the Company and one or more other companies amalgamating pursuant to Part XIII of the Act and continuing as one company, which may be one of the amalgamating companies or may be a new company;

“Annual Meeting” means a meeting of Shareholders held pursuant to section 120 of the Act;

“Appointments Panel” means a panel comprising the chairperson for the time being of NZRB and the Racing Codes or his or her nominee as notified in writing to the Company;

“Board” means the Directors numbering not less than the required quorum acting as the board of directors of the Company;

“Budget” means the operating budget of the Company for the Racing Year to which it relates, including:

- (a) the profit and loss account and balance sheet of the Company;
- (b) a detailed commentary providing explanation of significant items and material variances from the previous Racing Year;
- (c) a detailed commentary outlining the measurable parameters that are planned to meet the Company’s obligations under the services schedule in the Services Agreements; and
- (d) the integrity benefits to be derived by New Zealand racing from any increased spending;

“Business Plan” means the three year programme current from time to time for carrying on and exercising the functions, powers and duties of the Company during the relevant Racing Year and the two subsequent Racing Years to which it relates, including:

- (a) the objectives of the Company;

- (b) the nature and scope of the activities to be undertaken by the Company;
- (c) the performance targets and other measures by which its performance may be judged in relation to its activities;
- (d) a three year forecast financial performance of the Company which aligns in its first forecast year with the relevant Budget;
- (e) staffing requirements;
- (f) any proposed amendments to this Constitution and the Services Agreements; and
- (g) a statement of accounting policies;

“Class” and **“Class of Shares”** means a class of Shares having attached to them identical rights, privileges, limitations and conditions;

“Chairperson” means the chairperson of the Board, elected or appointed under clause 13.2;

“Company” means Racing Integrity Unit Limited;

“Constitution” means this constitution of the Company and all amendments to it from time to time;

“Director” means a person appointed and continuing in office for the time being, in accordance with this Constitution, as a director of the Company;

“Distribution” has the meaning given to that term in the Act;

“Encumber” means to mortgage, pledge, charge, assign as security or otherwise encumber;

“Interest Group”, in relation to any action or proposal affecting rights attached to Shares, means a group of Shareholders:

- (h) whose affected rights are identical; and
- (i) whose rights are affected by the action or proposal in the same way; and
- (j) who comprise the holders of one or more Classes of Shares.

For the purposes of this definition:

- (k) one or more Interest Groups may exist in relation to any action or proposal; and

- (l) if:
- (i) action is taken in relation to some holders of Shares in a Class and not others; or
 - (ii) a proposal expressly distinguishes between some holders of Shares in a Class and other holders of Shares of that Class,
- holders of Shares in the same Class may fall into two or more Interest Groups;

"Interests Register" means a register kept by the Company at its registered office as required by section 189(1)(c) of the Act;

"Judicial Control Authority" means the Judicial Control Authority continued by section 37 of the Racing Act 2003;

"Major Transaction" has the meaning given to that term in the Act;

"month" means calendar month;

"NZRB" means the New Zealand Racing Board established under section 7 of the Racing Act 2003;

"Operations Manager" means a person who is appointed under clause 21.1 as an employee of the Company, with the responsibility for the operational management of the Company (together with any other employee);

"Ordinary Resolution" means a resolution that is approved by a simple majority of the votes of those Shareholders entitled to vote and voting on the question;

"Racecourse" has the meaning given to that term in the Racing Act 2003;

"Racing Club" has the meaning given to that term in the Racing Act 2003;

"Racing Code" means each of New Zealand Thoroughbred Racing Incorporated, Harness Racing New Zealand Incorporated and the New Zealand Greyhound Racing Association (Incorporated);

"Racing Year" means the period of 12 months beginning on 1 August and ending on 31 July;

"Recognised Industry Organisation" has the meaning given to that term in the Racing Act 2003;

“Rules of Racing” means the relevant rules made by a Racing Code for the purposes of section 29 of the Racing Act 2003, as amended from time to time;

“Services Agreements” means the integrity services agreements to be entered into between the Company, each Racing Code and NZRB relating to the provision of integrity services by the Company to each Racing Code;

“Share” means a share in the Company;

“Shareholder” means each of NZRB and the Racing Codes;

“Solvency Test” has the meaning given to that term in the Act;

“Special Meeting” means any meeting (other than an Annual Meeting) of Shareholders entitled to vote on an issue called at any time in accordance with section 121 of the Act;

“Special Resolution” means a resolution of Shareholders approved unanimously by the Shareholders;

“Transfer” means to sell, assign, transfer, convey, grant an option over or otherwise dispose of a legal or beneficial interest; and

“Working Day” means a day of the week other than:

- (m) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, the Sovereign’s Birthday, Labour Day and Waitangi Day;
- (n) a day in the period commencing with the 25th day of December in any year and ending with the 2nd day of January in the following year;
- (o) if the first day of January in any year falls on a Friday, the following Monday; and
- (p) if the first day of January in any year falls on a Saturday or Sunday, the following Monday and Tuesday.

1.2 **Interpretation:** In this Constitution, unless the context otherwise requires:

- (a) headings are inserted for convenience only and shall be ignored in construing this Constitution;
- (b) the singular includes the plural and *vice versa*;
- (c) one gender includes the other genders;

- (d) a reference to a “**person**” includes an individual, partnership, firm, company, corporation, association, trust, estate, state or agency of a state, government or government department or agency, municipal or local authority and any other entity, whether or not incorporated and whether or not having separate legal personality;
- (e) “**written**” and “**in writing**” includes any means of reproducing words, figures or symbols:
 - (i) in a tangible and visible form in any medium; or
 - (ii) in a visible form in any medium by electronic means that enables them to be stored in permanent form and be retrieved and read;
- (f) “**signature**” includes, in relation to a document in electronic form, an electronic signature created by a method which identifies the signatory and indicates the signatory’s approval of the information contained in the document; and
- (g) a reference to a clause is to that clause in this Constitution unless stated otherwise.

1.3 **Other definitions have meaning set out in the Act and the Racing Act 2003:** Subject to clause 1.1, expressions contained in this Constitution bear the same meaning as specified in the Act or the Racing Act 2003 (as applicable) as amended from time to time.

1.4 **Constitution subject to changes in the Act:** If the Act changes in a way that would, but for this clause, cause section 31 of the Act to apply to any clause, then that clause shall be deemed to be amended in the same manner as the change in the Act so that the Constitution does not contravene or become inconsistent with the Act.

1.5 **Use of electronic means:** Where a legal requirement under the Act is reproduced in this Constitution, that legal requirement may be met, for the purposes of this Constitution, by using electronic means in accordance with the Electronic Transactions Act 2002 in the same manner as is required by the Electronic Transactions Act 2002 to meet that legal requirement under the Act. In this clause, the term “**legal requirement**” has the meaning given to it by the Electronic Transactions Act 2002.

1.6 **Receipt of electronic communications:** For the purposes of section 11 of the Electronic Transactions Act 2002, a document under this Constitution which is sent in electronic form and via an electronic communication is taken to be received:

- (a) on the Working Day it is sent or the next Working Day if sent outside normal business hours, provided that the electronic communication was correctly addressed to the address provided by the addressee for the receipt of electronic communications and no error message was received by the information systems used by the sender to send the electronic communication; or
- (b) such other time as the sender and the recipient may agree.

To avoid doubt, any document so sent may be in any widely used electronic form.

2. OBJECTIVES AND FUNCTIONS

2.1 **Strategic objectives:** The strategic objectives of the Company are to:

- (a) improve the integrity of New Zealand racing to a level regarded as the best in the world; and
- (b) serve New Zealand racing in a professional, consistent, independent, uninhibited, proactive, efficient and transparent manner.

2.2 **Operational objectives:** Without limiting clause 3 in any way, the operational objective of the Company is to provide to New Zealand racing a centralised integrity function that is:

- (a) professional and effective, by providing consistency in the laying of charges and the undertaking of prosecutions throughout New Zealand and across the Racing Codes, with a high level of competency and prosecutorial skills based on 'best practice' procedures;
- (b) credible, by having independence and transparency of actions and processes;
- (c) an excellent employer that provides training and career pathways for staff; and
- (d) an efficient organisation in the direction and use of its staff and resources.

2.3 **Functions:** Without limiting clause 3 in any way, the functions of the Company are to:

- (a) exercise and perform through its staff the functions, powers and duties of stipendiary stewards, racecourse inspectors and investigators under the Rules of Racing;
- (b) provide integrity functions and services pursuant to the Services Agreements;
- (c) initiate, develop and undertake (where applicable) measures that the Company considers will improve the integrity of New Zealand racing in accordance with the Rules of Racing;
- (d) maintain the real and perceived independence of the Company's structure and operations;
- (e) maintain alignment of the Company's operations with the relevant Business Plan and Budget;
- (f) employ or engage persons to act as stipendiary stewards, racecourse inspectors and investigators and submit from time to time a schedule of those persons to the Racing Codes for appointment under the Rules of Racing;
- (g) employ or engage persons in any other role that the Company considers will improve the integrity of New Zealand racing in accordance with the Rules of Racing;
- (h) ensure that the staff of the Company are empowered and resourced to exercise and perform their functions, powers and duties under the Rules of Racing and the Services Agreements;
- (i) provide training and development to the staff of the Company to ensure that their functions, powers and duties under the Rules of Racing and the Services Agreements can be exercised and performed in a competent and professional manner;
- (j) consult with the Racing Codes in planning the programme of out-of-competition animal and human drug and alcohol testing, and the race day swab selection processes;
- (k) consult with the Racing Codes in planning the frequency and nature of stable and kennel inspections;
- (l) ensure that the staff of the Company are provided with human resources support structures and processes and broader developmental training;
- (m) recommend to a Racing Code any changes to its Rules of Racing that the Company considers beneficial to the fair and proper conduct of New Zealand racing;
- (n) recommend to NZRB any changes to the racing betting rules made under section 52 of the Racing Act 2003 that the Company considers will improve the integrity of New Zealand racing;

- (o) liaise with, and provide advice and recommendations to, NZRB, the Racing Codes, the Judicial Control Authority and New Zealand Racing Laboratory Services Limited;
- (p) liaise with integrity bodies of other racing jurisdictions;
- (q) liaise with the New Zealand Police, New Zealand Customs and any other enforcement agency and with the Department of Internal Affairs;
- (r) liaise with veterinary and human drug and alcohol testing experts; and
- (s) communicate to NZRB, the Racing Codes and other Recognised Industry Organisations any emerging issues, global trends and other matters relating to integrity in racing.

3. **CAPACITY AND POWERS**

- 3.1 **Rights, powers and duties:** The Company, the Board, each Director and each Shareholder has the rights, powers, duties and obligations set out in the Act except to the extent that they are negated or modified, in accordance with the Act, by this Constitution.
- 3.2 **Full capacity:** Subject to this Constitution, the Act, any other enactment and the general law, the Company has, both within and outside New Zealand, full capacity, rights, powers and privileges to carry on or undertake any business or activity, do any act or enter into any transaction.

PART II: SHARES AND DISTRIBUTIONS

4. **ISSUE OF SHARES**

The Board may, after first obtaining the approval of the Shareholders by a Special Resolution to do so, issue additional Shares (and rights or options to acquire Shares) of any Class (including redeemable Shares) at any time to any person and in such numbers and on such terms as the Board thinks fit.

5. **TRANSFER OF SHARES**

No Shareholder may Encumber or Transfer any of its Shares without the consent of all other Shareholders.

6. **DISTRIBUTIONS**

The Board may, after first obtaining the approval of the Shareholders by a Special Resolution to do so and if it is satisfied on reasonable grounds that the Company will satisfy the Solvency Test immediately after the Distribution, authorise a Distribution by the Company to Shareholders of any amount and to any Shareholders as it thinks fit.

PART III: SHAREHOLDERS' RIGHTS AND OBLIGATIONS

7. **SHAREHOLDERS' RIGHTS**

The Company must not take action that affects the rights attached to Shares unless that action has been approved by a Special Resolution of each Interest Group.

8. EXERCISE OF POWERS RESERVED TO SHAREHOLDERS

8.1 **Powers reserved to Shareholders:** Powers reserved to Shareholders by the Act or by this Constitution may be exercised:

- (a) at an Annual Meeting or a Special Meeting; or
- (b) by a resolution in lieu of a meeting pursuant to clause 9.2.

8.2 **How powers may be exercised:** Unless otherwise specified in the Act or this Constitution, a power reserved to Shareholders may be exercised by an Ordinary Resolution.

8.3 **Powers exercised by Special Resolution:** When Shareholders exercise a power to approve any of the following, that power may only be exercised by a Special Resolution:

- (a) an alteration to or revocation of this Constitution or the adoption of a new Constitution;
- (b) a Major Transaction;
- (c) an Amalgamation; or
- (d) the liquidation of the Company.

Any decision made by Special Resolution pursuant to this clause may be rescinded only by a Special Resolution, provided that a resolution to put the Company into liquidation cannot be rescinded.

8.4 **Management review by Shareholders:** A Shareholder may question, discuss and comment on the management of the Company at a meeting of Shareholders. A meeting of Shareholders may pass a resolution relating to the management of the Company. The proceedings of any meeting of Shareholders at which a resolution under this clause 8.4 is passed shall be in accordance with clause 9. Notwithstanding section 128 of the Act or any other clause of this Constitution, a resolution relating to the management of the Company passed at a meeting of Shareholders (in accordance with this clause 8.4) is not binding on the Board.

8.5 **Shareholder proposals:** A Shareholder, in accordance with the First Schedule to the Act, may give written notice to the Board of a matter the Shareholder proposes to raise for discussion or resolution at the next meeting of Shareholders at which the Shareholder is entitled to vote.

9. MEETINGS OF SHAREHOLDERS

9.1 **Resolution instead of Annual Meeting:** It shall not be necessary for the Company to hold an Annual Meeting if everything required to be done at that meeting (by resolution or otherwise) is done by Special Resolution in accordance with sections 122(2) and 122(3) of the Act.

9.2 **Resolution in lieu of Special Meeting:** A resolution in writing signed by all the Shareholders is as valid as if it had been passed at a Special Meeting.

9.3 **Quorum:** A quorum for a meeting of Shareholders is present if all the Shareholders are present. No business may be transacted at a meeting of Shareholders if a quorum is not present.

- 9.4 **Representatives:** A body corporate which is a Shareholder may appoint a representative to attend a meeting of Shareholders on its behalf by notice in writing signed by the chairperson of the Shareholder, and the notice must state whether the appointment is for a particular meeting or a specified term. No representation is effective in relation to a meeting unless a copy of the notice of appointment is produced before the start of the meeting.

PART IV: THE BOARD

10. APPOINTMENT AND REMOVAL OF DIRECTORS

- 10.1 **Number of Directors:** Subject to clause 10.11, the number of Directors shall be four.
- 10.2 **Existing Directors:** For the purposes of clause 10.3, each Director named in the application for registration of the Company under the Act or appointed prior to the adoption of this Constitution is deemed to have been appointed by the Appointments Panel by notice in accordance with clause 10.3.
- 10.3 **Entitlement to appoint and remove Directors:** The members of the Appointments Panel shall be entitled to unanimously appoint up to four Directors, and a majority of the members of the Appointments Panel shall be entitled to remove any Director so appointed.
- 10.4 **Appointment and removal by notice:** Subject to clause 10.2, a person may be appointed a Director by a notice in writing signed by each member of the Appointments Panel entitled by clause 10.3 to appoint that person as a Director and who has not resigned or been removed or disqualified from office under this Constitution. A Director may be removed from office at any time by a notice in writing signed by each member of the Appointments Panel entitled by clause 10.3 to remove that person as a Director.
- 10.5 **Time notice is effective:** A notice given under clause 10.4 takes effect upon receipt of it at the registered office of the Company (including the receipt of a facsimile or electronic copy) unless the notice specifies a later time at which the notice will take effect.
- 10.6 **Restriction on appointment and removal:** Directors cannot be appointed or removed by an Ordinary Resolution or by Shareholders or any other person not entitled to do so pursuant to clause 10.3.
- 10.7 **Period of office:** A Director shall hold office for a term not exceeding 3 years, and is eligible for reappointment on expiry of that term. A Director appointed in the place of a Director who dies, resigns or is removed from office shall only hold office for the remainder of the term for which the replaced Director would have held office if the vacancy in office had not occurred, and is eligible for reappointment on expiry of that term. A Director holds office until his or her resignation, disqualification or removal in accordance with this Constitution. Unless a Director whose term of office has expired sooner resigns or is sooner disqualified or removed, the Director must continue to hold office until:
- (a) he or she is reappointed as a Director, or a successor Director is appointed in his or her place, in accordance with clause 10.3; or
 - (b) the date specified in writing by the Appointments Panel.
- 10.8 **Qualifications for Directors:** Only a natural person who is not disqualified by clause 10.9 and who has knowledge, experience and expertise relevant to the objectives, functions, powers and duties of the Company as set out in this Constitution may be appointed and hold office as a Director.

10.9 **Disqualification and removal:** Without limiting clause 10.4 in any way, a person will be disqualified from being appointed or holding office as a Director if he or she:

- (a) is removed under clause 10.4; or
- (b) resigns in writing under clause 10.10 and is not reappointed in accordance with this Constitution; or
- (c) is or becomes disqualified from being a director pursuant to section 151 of the Act; or
- (d) dies; or
- (e) is or becomes, in the sole opinion of the Appointments Panel, unable or unwilling to perform any duties of office; or
- (f) is, in the sole opinion of the Appointments Panel, negligent in the performance of any duties of office; or
- (g) acts in any manner which, in the sole opinion of the Appointments Panel, is against the interests of, or may bring into disrepute, the Company, NZRB, or a Recognised Industry Organisation or any of their respective objectives, functions or operations; or
- (h) has been or is disqualified under the Rules of Racing (or their equivalent) of any Racing Code (or its equivalent) in New Zealand or overseas; or
- (i) has been or is convicted of any serious racing offence under the Rules of Racing, or a corrupt practice under the former Rules of Racing or any crime or has been or is excluded from entering a racecourse pursuant to the Rules of Racing made under section 34 of the Racing Act 2003 or has committed or commits fraud or theft or has made or makes any false representation (whether written or oral) as to his or her qualifications, experience, expertise or any other relevant matter.

10.10 **Resignation:** A Director may resign office by signing a written notice of resignation and delivering it to the Company. The notice takes effect upon the later of the receipt of it at the registered office of the Company (including receipt of a facsimile or electronic copy) and any later time specified in the notice.

10.11 **Continuing Directors:** The continuing Directors will continue to comprise the Board notwithstanding any vacancy in the number of Directors. If their number is reduced below the number fixed by or pursuant to this Constitution as the number of Directors, the continuing Directors will comprise the Board only for the purpose of summoning a Special Meeting.

11. INDEMNITY AND INSURANCE

11.1 **Types of proceedings that may be indemnified against:** The Board shall cause the Company to indemnify a Director or employee of the Company or a related company for costs incurred by him or her in any proceeding:

- (a) that relates to liability for any act or omission in his or her capacity as a Director or employee; and
- (b) in which judgment is given in his or her favour or in which he or she is acquitted or which is discontinued.

11.2 **Types of liability that may be indemnified against:** The Board shall cause the Company to indemnify a Director or an employee of the Company or a related company in respect of:

- (a) liability to any person other than the Company or a related company for any act or omission in his or her capacity as a Director or employee; or
- (b) costs incurred by the Director or employee in defending or settling any claim or proceeding relating to any liability under paragraph (a) above;

not being:

- (c) criminal liability; or
- (d) liability for the breach of section 131 of the Act; or
- (e) liability for breach of any fiduciary duty owed to the Company or related company.

11.3 **Insurance of Directors and employees:** The Board may, subject to section 162 of the Act, cause the Company to effect insurance for Directors and employees of the Company or a related company in respect of:

- (a) liability, not being criminal liability, for any act or omission in his or her capacity as a Director or employee; or
- (b) costs incurred by such Directors or employees in defending or settling any claim or proceeding relating to any such liability; or
- (c) costs incurred by a Director or employee in defending any criminal proceedings that have been brought against the Director or employee in relation to any act or omission in his or her capacity as a Director or employee and in which he or she is acquitted.

11.4 **Directors to sign certificate:** The Directors who vote in favour of authorising the effecting of insurance under clause 11.3 must sign a certificate stating that, in their opinion, the cost of effecting the insurance is fair to the Company.

11.5 **Entry in the Interests Register:** The Board must ensure that particulars of any indemnity given to, or insurance effected for, any Director or employee of the Company or related company are forthwith entered in the Interests Register.

11.6 **Definitions:** For the purpose of this clause 11, “**Director**” includes a former Director and “**employee**” includes a former employee.

12. **POWERS AND DUTIES OF THE BOARD**

12.1 **Management by Board:** Subject to clause 12.2 and any restrictions in the Act or this Constitution, the business and affairs of the Company must be managed by or under the direction or supervision of the Board.

12.2 **Powers of Board:** The Board has, and may exercise, all the powers necessary for managing, and for directing and supervising the management of, the business and affairs of the Company except to the extent that this Constitution or the Act expressly requires those powers to be exercised by the Shareholders or any other person.

- 12.3 **Delegation by Board:** The Board may delegate to a committee of Directors, a Director, an employee of the Company or any other person any one or more of its powers, other than the powers referred to in the second schedule to the Act.
- 12.4 **Board's responsibility for delegation:** The Board is responsible for the exercise of a power by any delegate (where that power is delegated under clause 12.3) as if the power had been exercised by the Board, unless the Board:
- (a) believed on reasonable grounds at all times before the exercise of the power that the delegate would exercise the power in conformity with the duties imposed on the Directors by the Act and this Constitution; and
 - (b) has monitored, by means of reasonable methods properly used, the exercise of the power by the delegate.
- 12.5 **Proceedings of committees:** The proceedings of meetings of any committee formed pursuant to clause 12.3 shall be in accordance with the provisions of clause 13, with such consequential amendments as may be necessary and any other rules that may be imposed on it by the Board.
- 12.6 **Directors to act in good faith:** A Director, when exercising powers or performing duties, must act in good faith and in what the Director believes to be the best interests of the Company.
- 12.7 **Exercise of powers in relation to employees:** Nothing in clause 12.6 limits the power of a Director to make provision for the benefit of employees of the Company in connection with the Company ceasing to carry on the whole or part of its business.
- 12.8 **Major Transactions:** The Board may not procure or permit the Company to enter into a Major Transaction unless the transaction is:
- (a) approved by a Special Resolution; or
 - (b) made contingent on approval by a Special Resolution.
- 12.9 **Additional powers and duties:** Without limiting the matters set out in this clause 12 and the Act, the Board has the following additional powers and duties:
- (a) to determine any matter referred to the Board under the Services Agreements;
 - (b) to enhance the knowledge, experience and expertise of the Directors in respect of the integrity functions of New Zealand racing, and New Zealand racing generally, through observation or by attendance at relevant conferences and race gatherings;
 - (c) to maintain, at the Board's discretion, open and transparent relationships between the Company and the media, the public and participants in New Zealand racing and, in particular, NZRB and the Racing Codes;
 - (d) to employ or engage the Operations Manager;
 - (e) to ensure that the Operations Manager prepares a Business Plan and Budget for each Racing Year to which they relate, and to approve and recommend each Business Plan and Budget provided to NZRB;
 - (f) to define, with the assistance of the Operations Manager and staff of the Company, the desired culture and values of the Company;

- (g) to adopt and, if necessary, revise operating policies and procedures and codes of conduct for the Company and its staff;
- (h) to prescribe disciplinary procedures that may be followed for breaches of the Company's policies, procedures and codes of conduct;
- (i) to initiate investigations into and, if necessary, remedial action in respect of:
 - (i) any dispute or unresolved issue relating to the quality of any services provided by the Company or any of its staff;
 - (ii) any allegations of influence being exerted over the actions and decisions of staff of the Company or any attempts by any person to circumvent the authority of the Board; or
 - (iii) any conduct of staff if, in the opinion of the Board, there is a reasonable cause to suspect a failure to adhere to the Company's policies, procedures or codes of conduct or other act of impropriety or lack of duty of care in the conduct of duties and, if proven, to impose prescribed disciplinary procedures;
- (j) to initiate or conduct audits of operational practices, procedures or processes and recommend correctional action with the objective of ensuring attainment of 'best practice' principles; and
- (k) to ensure that financial, legal, health and safety and reputational risks to the Company and its staff are recognised and mitigated to the best practical extent.

13. PROCEEDINGS OF THE BOARD

- 13.1 **Third Schedule:** The provisions of the third schedule to the Act are deleted and replaced by this clause 13.
- 13.2 **Chairperson:** The members of the Appointments Panel may unanimously elect one of the Directors as Chairperson. The Director elected as Chairperson holds that office until he or she ceases to be a Director or the members of the Appointments Panel unanimously elect a Chairperson in his or her place. If no Chairperson is elected, or if at a meeting of the Board the Chairperson is not present within five minutes after the time appointed for the commencement of the meeting, the Directors present may choose one of their number to be chairperson of the meeting with all the powers and functions of the Chairperson for the purposes of that meeting.
- 13.3 **Convening a meeting:** A Director or, if requested by a Director to do so, an employee of the Company may convene a meeting of the Board by giving notice in accordance with clause 13.5.
- 13.4 **Frequency of meetings:** A meeting of the Board must be held at least quarterly in each Racing Year.
- 13.5 **Notice of meeting:** Not less than two Working Days' notice of a meeting of the Board must be given to every Director who is in New Zealand. Notice of a meeting may be given by any means, including by telephone. Notice given by a letter addressed to a Director at his or her last known residential address will be deemed to have been given on the Working Day following the day the letter is posted. The notice must include the date, time and place of the meeting and the matters to be discussed. To avoid doubt, the notice may be sent via an electronic communication in accordance with clause 1.6 if the Director has provided the Company with an address for the receipt of electronic communications. Notwithstanding any other provision in this clause 13.5, the Operations Manager may request that the Chairperson convene a meeting of the Board on such shorter notice as he or she considers necessary to ensure prompt guidance by the Board to the Company on any serious and/or urgent matter relating to the integrity of New Zealand racing or the conduct of staff of the Company.

- 13.6 **Irregularity in notice:** The giving of a notice of a meeting or an irregularity in the notice is waived if all Directors entitled to receive notice of the meeting attend the meeting without protest as to the irregularity or if all Directors entitled to receive notice of the meeting agree to the waiver.
- 13.7 **Method of holding meetings:** A meeting of the Board may be held either:
- (a) by a number of Directors sufficient to form a quorum, being assembled together at the place, date, and time appointed for the meeting; or
 - (b) by means of audio, or audio and visual communication, by which all the Directors participating in the meeting and constituting a quorum can simultaneously hear each other throughout the meeting.
- 13.8 **Acknowledgement of presence of meeting by conference:** Where a meeting of the Board is held pursuant to clause 13.7(b), at the commencement of the meeting each Director participating must acknowledge his or her presence to all the Directors participating. A Director may not leave the meeting by disconnecting his or her means of communication unless he or she has previously obtained the express consent of the Chairperson.
- 13.9 **Quorum:** Subject to clause 13.14, a quorum for a meeting of the Board is any three Directors. No business may be transacted at a meeting of the Board if a quorum is not present.
- 13.10 **Voting:** Every Director has one vote.
- 13.11 **Chairperson not entitled to casting vote:** The Chairperson does not have a casting vote.
- 13.12 **Resolution passed by majority of votes:** A resolution of the Board is passed if it is agreed to by all Directors present without dissent or if a majority of the votes cast on it by the Directors are in favour of it.
- 13.13 **Absence of vote counts for the resolution:** A Director present at a meeting of the Board is presumed to have agreed to, and to have voted in favour of, a resolution of the Board, unless he or she expressly dissents from (or votes against) the resolution at the meeting.
- 13.14 **Disclosure of interest and bar on voting:** At the beginning of each meeting of the Board, the agenda for that meeting shall be reviewed and each Director who is interested in, or has a potential conflict in respect of, an agenda item (or any transaction referred to in an agenda item):
- (a) must declare that interest or conflict to the Board and absent himself or herself during discussion of that item or transaction;
 - (b) may not vote on that item or transaction (and, if the Director does or purports to do so, the Director's vote will not be counted); and
 - (c) shall not be counted for the purposes of a quorum for that part of the meeting.
- 13.15 **Minutes:** The Board must ensure that full and accurate minutes are kept of all proceedings at meetings of the Board. Minutes of proceedings of the Board which have been signed correct by the Chairperson are prima facie evidence of the proceedings.
- 13.16 **Unanimous resolution:** A resolution in writing, signed or assented to by all Directors, is as valid and effective as if it had been passed at a meeting of the Board duly convened and held. Any such resolution may consist of several documents (including facsimile, electronic or other similar means of communication) in like form each signed or assented to by one or more Directors. A copy of any such resolution must be entered in the minute book of Board proceedings. A resolution in writing cannot be

passed if one or more of the Directors is interested in, or has a potential conflict in respect of, the matters dealt with in the resolution.

13.17 **Other proceedings:** Except as provided in this clause 13, the Board may regulate its own procedure.

14. INTERESTED DIRECTORS

14.1 **Authority to remunerate Directors:** The Board may authorise:

(a) the payment of remuneration (or the provision of other benefits) by the Company to a Director for his or her services as a Director (or in any other capacity) as detailed in the Business Plan and the Budget; and

(b) the entering into of a contract to do any of the things set out in paragraph (a) of this clause 14.1, if the Board is satisfied that to do so is fair to the Company.

14.2 **Separate authorisation unnecessary:** The payment of remuneration (or the giving of any other benefit) to a Director in accordance with a contract authorised pursuant to clause 14.1 need not be separately authorised by the Board.

14.3 **Entry in Interests Register:** The Board must ensure that, forthwith after authorising any payment or contract under clause 14.1, particulars are entered in the Interests Register.

14.4 **Directors to sign certificate:** The Directors who vote in favour of authorising a payment or contract under clause 14.1 must sign a certificate stating that, in their opinion, the making of the payment or the entering into of the contract is fair to the Company. Grounds for that opinion must also be stated in the certificate.

14.5 **Transactions with Company valid:** Other than as provided in clause 14.6 to 14.8, a Director is not disqualified by virtue of his or her office from entering into any transaction with the Company. Any such transaction will be valid and enforceable to the same extent as if he or she were not a Director and not in a fiduciary relationship with the Company. No such Director shall be liable to account to the Company for any profit realised by the transaction by reason of the Director holding that office or of the fiduciary relationship thereby established.

14.6 **Notice of interest to be given:** A Director must, forthwith after becoming aware of the fact that he or she is interested in a transaction or proposed transaction with the Company, cause to be entered in the Interests Register and, if the Company has more than one Director, disclose to the Board:

(a) if the monetary value of the Director's interest is able to be quantified, the nature and monetary value of that interest; or

(b) if the monetary value of the Director's interest cannot be quantified, the nature and extent of that interest.

14.7 **Disclosure not required:** A Director is not required to comply with clause 14.6 if:

(a) the transaction or proposed transaction is between the Director and the Company; and

(b) the transaction or proposed transaction is or is to be entered into in the ordinary course of the Company's business and on usual terms and conditions.

14.8 **General notice of interest may be given:** For the purposes of clause 14.6, a general notice entered in the Interests Register and, if the Company has more than one Director, disclosed to the Board to the

effect that a Director is a shareholder, director, officer or trustee of another named company or other person and is to be regarded as interested in any transaction which may, after the date of the entry or disclosure, be entered into with that company or person is a sufficient disclosure of interest in relation to that transaction.

- 14.9 **Disclosure of interests in racing:** For the purposes of clauses 13.14, 13.16 and this clause 14, each Director must, forthwith after becoming aware of the fact, cause to be entered in the Interests Register the nature and extent of his or her interest (direct or indirect) as a breeder, owner or licensed participant in respect of any New Zealand-registered racing animals. On updating the Interests Register, the Company must promptly provide a copy of the updated Interests Register to the Appointments Panel.

PART V: ADMINISTRATION AND MISCELLANEOUS

15. AUTHORITY TO BIND

- 15.1 **Method of contracting:** A contract or other enforceable obligation may be entered into by the Company as follows:

- (a) an obligation which, if entered into by a natural person, would, by law, be required to be by deed, may be entered into on behalf of the Company in writing signed under the name of the Company by:
 - (i) two or more Directors of the Company;
 - (ii) one or more attorneys appointed by the Company in accordance with clause 15.3;
- (b) an obligation which, if entered into by a natural person, is by law, required to be in writing, may be entered into on behalf of the Company in writing by a person acting under the Company's express or implied authority; and
- (c) an obligation which, if entered into by a natural person, is not, by law, required to be in writing, may be entered into on behalf of the Company in writing or orally by a person acting under the Company's express or implied authority.

- 15.2 **Resolution of authority proof of authority:** A copy of a resolution of the Board authorising a person to enter into a contract or other enforceable obligation on behalf of the Company shall be proof of such authority notwithstanding that the authority may have been subsequently revoked.

- 15.3 **Attorneys:** The Company may, by an instrument in writing executed in accordance with clause 15.1(a), appoint a person as its attorney either generally or in relation to a specified matter or matters. An act of the attorney in accordance with the instrument binds the Company.

16. BANK ACCOUNTS

- 16.1 **Opening bank accounts:** The Company may open any bank accounts that are necessary for the exercise of its functions, powers and duties.

- 16.2 **Payments:** All moneys received by, or on behalf of, the Company must, as soon as practicable after receipt, be paid into a bank account of the Company.

- 16.3 **Authority to operate:** Any bank account of the Company must be operated by cheque or other instrument signed by a Director or an officer of the Company or an agent of the Company who is authorised by the Board to do so, and must be countersigned by another Director or officer of the Company or an agent of the Company who is authorised by the Board to do so.

17. FUNDING, INVESTMENT AND BORROWINGS

17.1 **NZRB to fund Company:** NZRB shall provide such funding as is required for carrying on and exercising the functions, powers and duties of the Company in accordance with the current Business Plan and the current Budget approved by NZRB and adopted by the Board.

17.2 **Other sources of funding:** Other sources of funding for the Company include:

- (a) any moneys that may be paid to the Company by a Racing Code or other Recognised Industry Organisation;
- (b) any moneys lawfully contributed or donated to the Company or otherwise lawfully payable to it;
- (c) any moneys received by the Company as a consequence of proceedings brought in any civil or criminal court of New Zealand or hearings of, or appeals to, the Judicial Control Authority;
- (d) any moneys received by the Company by way of fees, rent or otherwise for any real or personal property vested in or controlled by the Company or for the performance or exercise of any of its functions or powers;
- (e) any moneys received by the Company from the sale or other disposal of any of its real or personal property; and
- (f) all accumulations of income derived from such moneys,

but will not consist of any fines or penalties imposed on and paid by New Zealand racing participants.

17.3 **Investment:** Without limiting the terms of any trust or endowment, any moneys held by, or on behalf of, the Company that is not immediately required for expenditure may be invested:

- (a) in accordance with the provisions of the Trustee Act 1956 that relate to the investment of trust funds; or
- (b) in any other manner that the Board, with the prior written approval of NZRB, may determine.

17.4 **Borrowings:** The Board may, with the prior written approval of NZRB, borrow moneys by way of overdraft, mortgage, debentures, bonds, finance lease or otherwise, and may mortgage or charge any of its real or personal property, whether present or future, in any manner it thinks fit.

18. BUSINESS PLAN AND BUDGET

18.1 **Current Business Plan and Budget:** The Company must carry on and exercise its functions, powers and duties in accordance with the current Business Plan and the current Budget approved by NZRB and adopted by the Board.

18.2 **New Business Plan:** The Company must, at least two months before the beginning of each Racing Year, prepare and submit a draft Business Plan for that Racing Year and the two subsequent Racing Years to NZRB for its consideration and approval.

18.3 **Approval of new Business Plan by NZRB:** NZRB must, in consultation with the Racing Codes and within two months of the date of receipt of the draft Business Plan from the Company in accordance with clause 18.2, either:

- (a) approve in writing the draft Business Plan; or
- (b) set out in writing the reasons why it has not approved the draft Business Plan, together with any amendments or conditions it considers appropriate for it to grant approval.

Without limiting the generality of this clause 18.3, NZRB may decline to approve the draft Business Plan if it considers that the draft Business Plan is inconsistent with:

- (c) the Company's objectives and functions as set out in this Constitution; or
- (d) NZRB's objectives and functions as set out in sections 7 to 9 of the Racing Act 2003; or
- (e) NZRB's Statement of Intent.

- 18.4 **Revised Business Plan:** The Company must, within 10 Working Days of the date of receipt of NZRB's response under clause 18.3(b), submit a draft Business Plan for that Racing Year and the two subsequent Racing Years that has been revised to address the matters raised in that response to NZRB for its consideration and approval. Clause 18.3 shall then apply to such revised Business Plan except that the period of one month shall be reduced to a period of 10 Working Days. This clause and clause 18.3 shall then continue to apply until such time as NZRB approves in writing the draft Business Plan.
- 18.5 **Adoption of new Business Plan by Board:** On receipt of NZRB's approval of the draft Business Plan, the Board will adopt the Business Plan without amendment before the beginning of the first Racing Year to which it relates.
- 18.6 **New Budget:** The Company must, at least two months before the beginning of each Racing Year, prepare and submit a draft Budget for that Racing Year to NZRB for its consideration and approval.
- 18.7 **Approval of new Budget by NZRB:** NZRB must, in consultation with the Racing Codes and within one month of the date of receipt of the draft Budget from the Company in accordance with clause 18.7, either:
- (a) approve in writing the draft Budget; or
 - (b) set out in writing the reasons why it has not approved the draft Budget, together with any amendments or conditions it considers appropriate for it to grant approval.
- 18.8 **Revised Budget:** The Company must, within 10 Working Days of the date of receipt of NZRB's response under clause 18.7(b), submit a draft Budget for that Racing Year that has been revised to address the matters raised in that response to NZRB for its consideration and approval. Clause 18.7 shall then apply to such revised Budget except that the period of one month shall be reduced to a period of 10 Working Days. This clause and clause 18.7 shall then continue to apply until such time as NZRB approves in writing the draft Budget.
- 18.9 **Adoption of new Budget by Board:** On receipt of NZRB's approval of the draft Budget, the Board will adopt the Budget without amendment before the beginning of the Racing Year to which it relates.
- 18.10 **Continuation of current Business Plan or Budget:** If NZRB does not approve the draft Business Plan in accordance with clause 18.3 and/or the draft Budget in accordance with clause 18.7, the Company must continue to act in accordance with the then current Business Plan and/or Budget (as the case may be) until a new Business Plan and/or Budget (as the case may be) is approved by NZRB and adopted by the Board in accordance with this clause 18.
- 18.11 **Revised Business Plan or Budget:** Nothing in this clause 18 prevents:
- (a) the Company from submitting a revised Business Plan and/or a revised Budget to NZRB for its consideration and approval after the beginning of the Racing Year to which it relates; or

- (b) NZRB from approving that revised Business Plan and/or Budget; or
- (c) the Board adopting that revised Business Plan and/or Budget without amendment following receipt of approval from NZRB.

19. ACCOUNTS AND RECORDS

19.1 **Keeping records and accounts:** The Company must ensure that its records and accounting books are:

- (a) kept in accordance with the Companies Act;
- (b) audited yearly by the Company's auditors; and
- (c) consistent with the Accounting Standards.

19.2 **Specific accounts:** Without limiting the generality of clause 19.1, the Company must:

- (a) keep full and correct accounts of all moneys received and expended by it; and
- (b) at the end of each Racing Year, prepare full and true statements and accounts of all its income and expenditure in that Racing Year, together with a balance sheet as at the last day of that Racing Year.

19.3 **Access:** A Shareholder and any accountant, agent, adviser, consultant or employee of that Shareholder has access, during normal business hours, to the books, accounts and financial records of the Company and the facilities of the Company to audit or value the Company or for any other reasonable purpose.

19.4 **Notice requesting access:** Any person seeking access under clause 19.3 must give the Company notice requesting access at least two Working Days before the date on which access is sought.

19.5 **Copying of books and records:** Any person referred to in clause 19.3 may copy anything it has access to using the Company's facilities.

20. FINANCIAL AND OTHER REPORTING

As soon as practicable after each Racing Year, the Company must give to the Minister responsible for the Racing Act 2003, each Racing Code and NZRB an annual report of its proceedings and operations for that Racing Year, together with a copy of its audited accounts.

21. OPERATIONS MANAGER

21.1 **Appointment:** The Board may from time to time appoint a person whom the Board considers has the requisite knowledge, experience and expertise for the day-to-day operational management of the Company to the office of Operations Manager on such terms as are determined by the Board.

21.2 **Powers and duties:** Without limiting the powers and duties of the Operations Manager in relation to the day-to-day operational management of the Company, the Operations Manager has the following specific powers and duties:

- (a) to determine, on behalf of the Company and the relevant Racing Code, whether the Company should undertake a non-race day inquiry; and
- (b) to determine, on behalf of the Company and the relevant Racing Code, whether the Company should lodge an information with the Judicial Control Authority or proceed with an appeal (in each case, in RIU's name on behalf of the relevant Racing Code) resulting from or arising out of a non-race day inquiry undertaken by the Company,

and the Operations Manager may engage such independent advice as it considers necessary or desirable in exercising its powers and performing its duties.

22. EMPLOYEES AND CONTRACTORS

The Company may enter into and maintain employment agreements with employees and contracts for service with contractors on such terms and conditions that it considers necessary to carry on and exercise its functions, powers and duties as set out in this Constitution.

23. LIQUIDATION

A liquidator of the Company may be appointed by a Special Resolution