

Company No: [7890908]

Charity No: [1145297]

**THE COMPANIES ACT 2006
COMPANY LIMITED BY GUARANTEE
AND NOT HAVING A SHARE CAPITAL**

**ARTICLES OF ASSOCIATION
OF
THE RACING FOUNDATION**

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COMPANIES HOUSE

Companies Act 2006

Company limited by guarantee and not having a share capital

Articles of Association

of

The Racing Foundation (the "Charity")

(as amended by Special Resolutions passed on 1 October 2019 and 18 October 2021)

1. Object

1.1 The Object of the Charity is the advancement for the public benefit of any charitable purpose associated with the horseracing and thoroughbred breeding industry or with equine welfare, in each case by making grants for such charitable purpose or purposes.

1.2 For the avoidance of doubt these purposes shall include but not be limited to

- (a) The relief of poverty, sickness or injury amongst persons involved (or formerly involved with the horseracing and thorough bred breeding industry and their families and dependents, and, in particular, the promotion of the welfare of those who have suffered injuries by reason of participation in such industry;
- (b) The advancement of veterinary science in relation to horses;
- (c) The protection and rehabilitation of equines; and
- (d) The promotion of education and training connected with the horseracing and thoroughbred breeding industry and of standards in such education and training.

1.3 This Article 1 may be amended by special resolution but only with the prior written consent of the Commission.

2. Powers

The Charity has the following powers, which may be exercised only in promoting the Object:

- 2.1 to make awards of grants, bursaries, scholarships and other funding commitments and to make rules as to their value, methods of ascertainment and selection;
- 2.2 to provide advice or information;
- 2.3 to carry out and publish research;
- 2.4 to consult, advise, co-operate with or assist others;
- 2.5 to support, administer or establish other charities or other organisations;
- 2.6 to accept gifts and raise funds (but not by means of **Trading**);
- 2.7 to borrow money;
- 2.8 to give security for loans or other obligations (but only in accordance with the restrictions imposed by the **Charities Act**);
- 2.9 to acquire, hire or charge property and/or any interest in, or relating to, land of such kind and on such terms and to appoint such advisers, surveyors, managers and builders and other advisers and contractors on such terms as the Trustees shall determine;
- 2.10 subject to such consents or procedures as may be required by law, to let, license or dispose of any interest in property of any kind (but only in accordance with the restrictions imposed by the Charities Act);
- 2.11 to set aside funds for special purposes or as reserves against future expenditure;
- 2.12 to deposit or invest its funds in any manner as may be thought fit but only after obtaining such advice from a **Financial Expert** as the Trustees consider necessary and having regard to the suitability of investments and the need for diversification;
- 2.13 to delegate the management of investments to a Financial Expert, but only on terms that:
 - (a) the investment policy is set down **in writing** for the Financial Expert by the Trustees;
 - (b) the performance of the investments is reviewed regularly with the Trustees;
 - (c) the Trustees are entitled to cancel the delegation arrangement at any time;

- (d) the investment policy and the delegation arrangement are regularly reviewed by the Trustees;
- (e) all payments due to the Financial Expert are on a scale or at a level that is agreed in advance and are notified promptly to the Trustees; and
- (f) the Financial Expert does not do anything outside the powers of the Trustees;
- 2.14 to arrange for investments or other property of the Charity to be held in the name of a **Nominee Company** acting under the direction of the Trustees or of a Financial Expert acting under their instructions, and to pay any reasonable fee required;
- 2.15 to deposit documents and physical assets with any company registered or having a place of business in England or Wales as **Custodian**, and to pay any reasonable fee required;
- 2.16 to insure the property of the Charity (including, for the avoidance of doubt any property not owned by the Charity but under its control) against any foreseeable risk and to take out other insurance policies to protect the Charity when required;
- 2.17 subject to Article 8.3 to employ or otherwise contract for the services of agents, staff or advisers (upon such terms and conditions as may be thought fit) and, subject to Article 8, to remunerate any person, firm or company rendering services to the Charity and provide and contribute to pension and other death-in-service or other benefits for employees and former employees of the Charity and their dependants;
- 2.18 to acquire and take over to such an extent as may be thought fit (and permitted by law) the assets, liabilities and undertakings of any person or body whatsoever;
- 2.19 to provide goods, services or other assistance or support by way of grants, scholarships, donations, loans or otherwise and to make rules as to their value, methods of ascertainment and selection;
- 2.20 to act as trustee of charitable trusts jointly with one or more other trustees or, where it may legally do so, as sole trustee;
- 2.21 to enter into any funding or other arrangement with any government or any other authority;
- 2.22 to guarantee the performance of the contracts or obligations of any person or organisation and to give any warranties, indemnities, guarantees or undertakings on account of any covenants, promises, pledges, assurances or trusts that might be undertaken by the Charity or in connection with any agreement or arrangement whatsoever, whether or not the Charity is a party to the same;

- 2.23 subject to the provisions of the **Companies Act**, but without prejudice to any indemnity to which the person concerned may otherwise be entitled to indemnify every Trustee or other officer of the Charity (other than any person engaged by the Charity as auditor) to the extent permitted by the Companies Act and to pay for **indemnity insurance** for the Trustees;
- 2.24 to pay out the funds of the Charity the costs of and incidental to the formation and registration of the Charity;
- 2.25 to do anything else within the law which promotes or helps to promote the Object.

3. The Trustees

- 3.1 Those persons notified to Companies House as the first directors are the first Trustees, who shall serve as Trustees for a term of three months.
- 3.2 Subsequent Trustees shall be appointed by the Members for a term of up to three years.
- 3.3 There shall be no maximum limit to the number of terms a Trustee may serve. However, unless the Members agree unanimously, a Trustee may only serve a maximum of two terms before stepping down for a period.
- 3.4 The Trustees shall consist of at least two and not more than eight persons who are over the age of 18, are not (save in the case of the first Trustees) employees or officers of any of the Members, and support the Object.
- 3.5 A person may not act as a Trustee unless he/she has signed a written declaration of willingness to act as a charity trustee of the Charity.
- 3.6 Subject to Article 3.3, a retiring Trustee who is eligible under Articles 3.4 and 3.5 may be reappointed.
- 3.7 A Trustee's term of office as such automatically terminates if he/she:
 - (a) Is disqualified under the Charities Act from acting as a charity trustee;
 - (b) Is incapable, whether mentally or physically, of managing his/her own affairs;
 - (c) Is absent without the permission of the Trustees (given in advance or retrospectively) from three consecutive meetings of the Trustees and is asked by a majority of the other Trustees to resign;
 - (d) (save in the case of the first Trustees) becomes an employee or officer of one of the Members;

- (e) resigns by written notice to the Trustees (but only if at least three Trustees will remain in office); or
 - (f) is removed by the Members pursuant to the Companies Act.
- 3.8 A technical defect in the appointment of a Trustee of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.

4. Trustees' proceedings

- 4.1 The minimum number of meetings of the Trustees to be held each year may be fixed by the Trustees from time to time.
- 4.2 A quorum at a meeting of the Trustees may be fixed by the Trustees and unless so fixed at any other number shall be two Trustees.
- 4.3 A meeting of the Trustees may be held either in person or by suitable **Electronic Means** agreed by the Trustees in which all participants may communicate with all the other participants but at least one meeting in each year must be held in person.
- 4.4 The **Chairman** or (if the Chairman is unable or unwilling to do so) some other Trustee chosen by the Trustees present presides at each meeting.
- 4.5 Subject to Article 3, the Chairman shall be elected from among the Trustees for a term not exceeding 3 years and a retiring Chairman may be re-elected by the Trustees for a further term of office. Unless otherwise determined by the Trustees, the Chairman's term of office shall be coterminous with his term of office as a Trustee. There shall be no limit to the number of times a Chairman may be re-elected.
- 4.6 Save as may be provided for in any internal regulations of the Charity formulated by the Trustees, any issue may be determined by a simple majority of the votes cast at a meeting, but a resolution in writing agreed by all the Trustees (other than any **Conflicted Trustee** who has not been authorised to vote) is as valid as a resolution passed at a meeting. For this purpose the resolution may be contained in more than one document.
- 4.7 Every Trustee has one vote on each issue but, in case of equality of votes, the Chairman of the meeting has a second or casting vote.
- 4.8 A procedural defect of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.

5. Trustees' powers

- 5.1 The Trustees shall have the control of the Charity and its property and funds.
- 5.2 Subject to the provisions of these Articles and the Companies Act, the Trustees may regulate their proceedings as they think fit. A Trustee may call a meeting of the Trustees.
- 5.3 The Trustees have the following powers in the administration of the Charity in their capacity as Trustees:
- (a) to appoint a Chairman and other honorary officers from among their number;
 - (b) to delegate any of their functions to committees;
 - (c) to make standing orders, rules and/or regulations consistent with the Articles and the Companies Act to govern proceedings at meetings of the Members, Trustees or any committee; and any other aspect of the administration of the Charity;
 - (d) to establish procedures to assist the resolution of disputes or differences within the Charity;
 - (e) to exercise in their capacity as Trustees any powers of the Charity which are not reserved to the Members.

6. Secretary

The Charity may, but is not required to, have a Secretary. Any such Secretary will be appointed by the Trustees for such term, at such remuneration and upon such conditions as the Trustees may think fit and any Secretary so appointed may be removed by the Trustees. A Secretary may be, but does not have to be, a Trustee.

7. Committees

- 7.1 The Trustees may establish a committee or committees comprising such persons as they shall think fit provided that each committee must include at least one Trustee.
- 7.2 The proceedings and powers of committees established by the Trustees shall be governed by such rules as the Trustees may from time to time prescribe.
- 7.3 No meeting of any committee shall be quorate unless at least one Trustee is present and no resolution of any committee shall be passed unless the Trustee present or, if more than one are present, the majority of the Trustees present vote in favour of the resolution.

7.4 All proceedings of committees must be reported promptly to the Trustees.

8. **Benefits and Conflicts**

8.1 The property and funds of the Charity must be used only for promoting the Object and do not belong to the Members but:

- (a) Members who are not Trustees or **Connected Persons** may be employed by or enter into contracts with the Charity and receive reasonable payment for goods or services supplied; and,

Subject to compliance with Article 8.4:

- (b) Members, Trustees and Connected Persons may be paid interest at a reasonable rate on money lent to the Charity;
- (c) Members, Trustees and Connected Persons may be paid a reasonable rent or hiring fee for property let or hired to the Charity; and

8.2 A Trustee must not receive any payment of money or other **material benefit** (whether directly or indirectly) from the Charity except:

- (a) as mentioned in Articles 8.1 or 8.3;
- (b) reimbursement of reasonable out-of-pocket expenses (including hotel and travel costs) actually incurred in running the Charity;
- (c) the benefit of indemnity insurance as permitted by the Charities Act;
- (d) an indemnity in respect of any liabilities properly incurred in running the Charity (including the costs of a successful defence to criminal proceedings);
- (e) in exceptional cases, other payments or benefits (but only with the written consent of the Commission in advance and where required by the Companies Act the approval or affirmation of the Members).

8.3 No Trustee or Connected Person may be employed by the Charity except in accordance with 8.2(e) but any Trustee or Connected Person may enter into a contract with the Charity, as permitted by the Charities Act, to supply goods or services in return for a payment or other material benefit but only if:

- (a) the goods or services are actually required by the Charity, and the Trustees decide that it is in the best interests of the Charity to enter into such a contract;

- (b) the nature and level of the remuneration is no more than is reasonable in relation to the value of the goods or services and is set in accordance with the procedure in Article 6.4; and
- (c) no more than half of the Trustees are subject to such a contract in any financial year.

8.4 Subject to Article 8.5, any Trustee who becomes a Conflicted Trustee in relation to any matter must:

- (a) declare the nature and extent of his/her interest before discussion begins on the matter;
- (b) withdraw from the meeting for that item after providing any information requested by the Trustees;
- (c) not be counted in the quorum for that part of the meeting; and
- (d) be absent during the vote and have no vote on the matter.

8.5 When any Trustee is a Conflicted Trustee, the Trustees who are not Conflicted Trustees, if they form a quorum without counting the Conflicted Trustee and are satisfied that it is in the best interests of the Charity to do so, may by resolution passed in the absence of the Conflicted Trustee authorise the Conflicted Trustee, notwithstanding any conflict of interest or duty which has arisen or may arise for the Conflicted Trustee, to:

- (a) continue to participate in discussions leading to the making of a decision and/or to vote, or
- (b) disclose to a third party information confidential to the Charity, or
- (c) take any other action not otherwise authorised which does not involve the receipt by the Conflicted Trustee or a Connected Person of any payment or material benefit from the Charity, or
- (d) refrain from taking any step required to remove the conflict.

8.6 This provision may be amended by **Special Resolution** but, where the result would be to permit any material benefit to a Trustee or Connected Person, only with the prior written consent of the Commission.

9. Records and Accounts

9.1 The Trustees must comply with the requirements of the Companies Act and of the Charities Act as to keeping records, the audit or independent examination of accounts

and the preparation and transmission to the Registrar of Companies and the Commission of information required by law including:

- (a) annual returns;
 - (b) annual reports; and
 - (c) annual statements of account.
- 9.2 The Trustees must also keep records of:
- (f) all proceedings at meetings of the Trustees;
 - (g) all resolutions in writing;
 - (h) all reports of committees; and
 - (i) all professional advice obtained.

- 9.3 Accounting records relating to the Charity must be made available for inspection by any Trustee at any time during normal office hours.
- 9.4 A copy of the Charity's *constitution* and latest available statement of account must be supplied on request to any Trustee. Copies of the latest accounts must also be supplied in accordance with the Charities Act to any other person who makes a written request and pays the Charity's reasonable costs.

10. Membership

- 10.1 The Charity must maintain a register of Members as required by the Companies Act.
- 10.2 If any Member is a corporate body, it must act through a named representative whose contact details are notified to the Charity.
- 10.3 The subscribers to the Memorandum are the first Members.
- 10.4 Membership is terminated if the Member concerned:
- (a) gives written notice of resignation to the Charity; or
 - (b) dies or (in the case of an organisation) ceases to exist.

- 10.5 Membership is not transferable, but a Member which is a corporate body may, in its written notice of resignation, indicate its wish for a **Successor Member** to be admitted in its place. Following service of such notice, and, subject to other Members' unanimous approval, the Successor Member shall become a Member by giving

notice to the Trustees of its, his or her consent to Membership and shall be admitted and the resignation of its predecessor noted.

10.6 Where there are no existing Members, the Trustees may appoint new Members.

11. General Meetings

11.1 Members are entitled to attend **general meetings** in person or by proxy (but only if the appointment of a proxy is in writing and notified to the Charity before the commencement of the meeting).

11.2 General meetings are called on at least 14 **clear days'** written notice indicating the business to be discussed and (if a Special Resolution is to be proposed) at least 28 clear days' written notice setting out the terms of the proposed Special Resolution. Subject to the provisions of the Companies Act, a general meeting may be called by shorter notice, if it is so agreed by a majority in number of Members having a right to attend and vote, being a majority together holding not less than 90 % of the total voting rights at the meetings of all the Members.

11.3 There is a quorum at a general meeting if the number of Members present in person or by proxy is at least two.

11.4 The chairman at a general meeting is elected by the Members present in person or by proxy in his/her capacity as a Member and not as proxy for another Member.

11.5 Except where otherwise provided by the Articles or the Companies Act, every issue is decided by **Ordinary Resolution**.

11.6 Every Member present in person or by proxy has one vote on each issue.

11.7 Except where otherwise provided by the Articles or the Companies Act, a Written Resolution (whether an Ordinary or a Special Resolution) is as valid as an equivalent resolution passed at a general meeting. For this purpose the Written Resolution may be set out in more than one document.

11.8 The Charity may (but need not) hold an AGM in any year.

11.9 Members must annually:

- (a) receive the accounts of the Charity for the previous financial year;
- (b) receive a written report on the Charity's activities;
- (c) appoint reporting accountants or auditors for the Charity;

11.10 Members may also from time to time

- (a) confer on any individual (with his/her consent) the honorary title of Patron, President or Vice-President of the Charity; and
- (b) discuss and determine any issues of policy or deal with any other business put before them by the Trustees.

11.11 A general meeting may be called by the Trustees at any time and must be called within 21 days of a written request from one or more Trustees, at least 10% of the Membership or (where no general meeting has been held within the last year) at least 5% of the Membership.

11.12 A technical defect in the appointment of a Member of which the Members are unaware at the time does not invalidate a decision taken at a general meeting or a Written Resolution.

12. Limited Liability

The liability of Members is limited.

13. Guarantee

Every Member promises, if the Charity is dissolved while he/she remains a Member or within one year after he/she ceases to be a member, to pay up to £1 towards:

- 13.1 payment of those debts and liabilities of the Charity incurred before he/she ceased to be a Member;
- 13.2 payment of the costs, charges and expenses of winding up; and
- 13.3 the adjustment of rights of contributors among themselves.

14. Communications

14.1 Notices and other documents to be served on Members or Trustees under the Articles or the Companies Act may be served:

- (a) by hand;
- (b) by post; or
- (c) by suitable Electronic Means.

14.2 Any notice given in accordance with these Articles is to be treated for all purposes as having been received:

- (a) 24 hours after being sent by Electronic Means or delivered by hand to the relevant address;

- (b) two clear days after being sent by first class post to that address (if that address is in the UK);
- (c) three clear days after being sent by second class or overseas post to that address;
- (d) immediately on being handed to the recipient personally; or, if earlier,
- (e) as soon as the recipient acknowledges actual receipt.

14.3 A technical defect in service of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.

15. Dissolution

15.1 If the Charity is dissolved, the assets (if any) remaining after providing for all its liabilities must be applied in one or more of the following ways:

- (a) by transfer to one or more other bodies established for exclusively charitable purposes within, the same as or similar to the Object;
- (b) directly for the Object or for charitable purposes which are within or similar to the Object;
- (c) in such other manner consistent with charitable status as the Commission approves in writing in advance.

15.2 A final report and statement of account must be sent to the Commission.

15.3 This provision may be amended by Special Resolution but only with the prior written consent of the Commission.

16. Interpretation

16.1 The Articles are to be interpreted without reference to the model articles under the Companies Act, which do not apply to the Charity.

16.2 In the Articles, unless the context indicates another meaning:

- 'AGM'** means an annual general meeting of the Charity;
- 'the Articles'** means the Charity's Articles of Association and **'Article'** refers to a particular Article;
- 'Chairman'** means the chairman of the Trustees;
- 'charitable purposes'** means purposes that are exclusively charitable under the

laws of England and Wales and 'charitable' shall be construed accordingly;

'the Charities Act'	means the Charities Acts 1992 to 2006;
'charity'	(in particular for the purpose of article 1.1) has the meaning given to it by the Charities Act; by the Charities and Trustee Investment (Scotland) Act 2005; or by the Charities Act (Northern Ireland) 2008, so as to enable grants to be made by the Charity to bodies established in accordance with these Acts in any constituent country of the United Kingdom of Great Britain and Northern Ireland, and 'charities' shall be construed accordingly;
'the Charity'	means the company governed by the Articles;
'charity trustee'	has the meaning prescribed by the Charities Act;
'clear day'	does not include the day on which notice is given or the day of the meeting or other event;
'the Commission'	means the Charity Commission for England and Wales or any body which replaces it;
'the Companies Act'	means the Companies Act 2006;
'Conflicted Trustee'	means a Trustee in respect of whom a conflict of interest arises or may reasonably arise because the Conflicted Trustee or a Connected Person is receiving or stands to receive a benefit (other than payment of a premium for indemnity insurance) from the Charity, or has some separate interest or duty in a matter to be decided, or in relation to information which is confidential to the Charity;
'Connected Person'	means, in relation to a Trustee, a person with whom the Trustee shares a common interest such that he/she may reasonably be regarded as benefiting directly or indirectly from any material benefit received by that person, being either a member of the Trustee's family or household or a person or body who is a business associate of the Trustee, and (for the avoidance of doubt) does not include a company with which the Trustee's only connection is an interest consisting of no more than 1% of the voting rights;

'constitution'	means the Memorandum and the Articles and any Special Resolutions relating to them;
'Custodian'	means a person or body who undertakes safe custody of assets or of documents or records relating to them;
'Electronic Means'	refers to communications addressed to specified individuals by telephone, fax or email or, in relation to meetings, by telephone conference call or video conference;
'Financial Expert'	means an individual, company or firm who is authorised to give investment advice under the Financial Services and Markets Act 2000;
'financial year'	means the Charity's financial year;
'firm'	includes a limited liability partnership;
'general meeting'	A meeting of the Members of the Charity;
'indemnity insurance'	means insurance against personal liability incurred by any Trustee or other officer (other than any person engaged by the Charity as auditor) for an act or omission which is or is alleged to be a breach of trust or breach of duty, unless the act or omission amounts to a criminal offence or the Trustee concerned knew that, or was reckless whether, the act or omission was a breach of trust or breach of duty;
'material benefit'	means a benefit, direct or indirect, which may not be financial but has a monetary value;
'Member' and 'Membership'	refer to company Membership of the Charity;
'Memorandum'	means the Charity's Memorandum of Association;
'Nominee Company'	means a corporate body registered or having an established place of business in England and Wales which holds title to property for another;
'the Object'	means the Object of the Charity as defined in Article 1 of the Articles;

'Ordinary Resolution'	means a resolution agreed by a simple majority of the Members present and voting at a general meeting or in the case of a Written Resolution by Members who together hold a simple majority of the voting power. Where applicable, 'Members' in this definition means a class of Members;
'Secretary'	means a company secretary;
'Special Resolution'	means a resolution of which at least 14 days' notice has been given agreed by a 75% majority of the Members present and voting at a general meeting or in the case of a Written Resolution by Members who together hold 75% of the voting power. Where applicable, 'Members' in this definition means a class of Members;
'subsidiary'	has the meaning given to it in section 1159 of the Companies Act;
'Successor Member'	A person nominated by an existing Member in accordance with Article 10.5;
'Trading'	means carrying on a trade or business which is for the purpose of raising funds or for the purpose of actually carrying out the Object, whether or not the income of the Charity from that trade or business is exempt from tax by reason of any legislation or concession from time to time in force;
'Trustee'	means a director of the Charity and 'Trustees' means the directors but where a Trustee is a corporate body 'Trustee' includes where appropriate the named representative of the Trustee;
'written' or 'in writing'	refers to a legible document on paper or a document sent by Electronic Means which is capable of being printed out on paper;
'Written Resolution'	refers to an Ordinary or a Special Resolution which is in writing;
'year'	means calendar year.

16.3 In these Articles, unless the context indicates another meaning:

- (a) expressions not otherwise defined which are defined in the Companies Act have the same meaning;
- (b) references to an Act of Parliament are to that Act as amended or re-enacted from time to time and to any subordinate legislation made under it; and
- (c) use of the singular includes the plural and vice versa.

Company No: [C 290406]

Charity No: [1145297]

Companies Act 2006

Company limited by guarantee and not having a share capital

Memorandum of Association

of

The Racing Foundation

Each subscriber to this Memorandum of Association wishes to form a company under the Companies Act 2006 and agrees to become a member of the company.

Name of each subscriber

Authentication by each subscriber

British Horseracing Authority Limited
Horsemen Limited
The Racecourse Association Limited

Dated: 22 December 2011