

Handout 1.

Northern California Racing Sustainability Act of 2019

Horseracing was made legal by the voters of California in 1933. Since that time, the fair racing network has been a staple of the California Horseracing industry. Today, five fairs in Northern California have host live racing meets and more than 20 fairs throughout the state operate satellite wagering facilities. Without a doubt, the State of California has the single largest investment in horse racing than any other enterprise.

The purpose of the Northern California Racing Sustainability Act of 2019 is to make a number of modest changes to horseracing law that recognize the role fairs play in the industry and to update statute to reflect modern times. Those changes include:

1. **Adding the 'Network of California Fairs' back to Section 19401 of the Business and Profession Code.** This language was deleted years ago when Governor Schwarzenegger eliminated license fees for the industry. The fact is, even without license fees, horseracing and pari-mutuel wagering supports the network of fairs and it needs to be recognized in statute.
2. **Require 2 board members from each of the racing zones be appointed to the California Horse Racing Board (CHRB).** The CHRB is a 7 member board appointed by the Governor. At this time, there are no representatives from the Northern Zone on the Board. Changing statute to require representation from each of the zones will ensure all elements of horse racing have a voice in decisions made by the Board.
3. **Block the summer dates as Northern California Fair Racing Dates.** Fair race meets run in conjunction with the fair. Fair boards need consistency in knowing when those race dates will occur because of the need to negotiate other vendor contracts, such as carnivals and concessions.
4. **Eliminate the cap on imported races.** Today, satellite wagering facilities compete with other forms of gambling. However, statute caps the number of races a facility can import from out of state at 50, along with a number of exceptions. Satellites need the flexibility to offer customer more dates. Eliminating the cap is a common sense change that will benefit the consumer and the satellite.

Support: California Authority of Racing Fairs

Contact: Louie Brown, 916-233-9602

CODE TEXT

BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 8. SPECIAL BUSINESS REGULATIONS [18400 - 22948.25]

(Division 8 added by Stats. 1941, Ch. 44.)

CHAPTER 4. Horse Racing [19400 - 19668]

(Chapter 4 repealed and added by Stats. 1959, Ch. 1828.)

ARTICLE 9. Wagering [19590 - 19604]

(Article 9 added by Stats. 1959, Ch. 1828.)

19601.4.

(a) Notwithstanding any other provision of law, a fair, combination of fairs, or an association conducting racing at a fair, may, after approval from the board, deduct an additional 1 percent from the total amount handled daily in its conventional and exotic pools. The additional 1 percent shall be deposited into the Inclosure Facilities Improvement Fund, which is hereby created as a special fund in the State Treasury, the moneys of which are available upon appropriation by the Legislature in the annual Budget Act. Any moneys deducted from the handle pursuant to this section shall be used solely for the purpose of facilities maintenance and improvements at a fair's racetrack inclosure for those fairs that contribute to, or for those fairs where an association conducting racing at that fair contributes to, the Inclosure Facilities Improvement Fund.

(b) The secretary shall appoint a committee of not more than five and no fewer than three individuals with expertise in financing, constructing, and managing horse racing facilities, to advise in the administration of the funds. The secretary shall have oversight over the committee. The secretary shall adhere to the same oversight responsibilities as outlined in Section 19620 when administering the funds contributed and disbursed pursuant to this section.

(c) The secretary shall include in the annual expenditure plan required pursuant to Section 19621 any allocations made pursuant to this section.

(d) For purposes of this section, "secretary" means the Secretary of Food and Agriculture.

(Added by Stats. 2007, Ch. 613, Sec. 7. Effective January 1, 2008.)

Handout 3.

| | | | | | | |
|--|------|------------|------------|------------|-------------|--------------------|
| | | | | | | |
| OTP Summer, State Fair, Humboldt, OTP Fall & Fresno Meets | | | | | | 2017 |
| 2019 Purse Projection | | | | | | Over/Under |
| | | | | | | All Breeds |
| | | | | | | End of Meet |
| Racing Fair Host Meet | Appy | Arabian | Mule | QH | TB | |
| | | | | | | |
| OTP Summer | | \$7,976 | \$2,210 | \$513 | (\$73,297) | (\$62,598) |
| State Fair | | (\$8,503) | \$4,878 | (\$3,646) | \$40,082 | \$32,811 |
| Humboldt | | (\$9,843) | (\$12,343) | \$248 | (\$70,389) | (\$92,327) |
| OTP Fall Meet | | \$104 | (\$16,411) | (\$6,550) | (\$148,806) | (\$171,663) |
| Fresno | | \$70 | (\$3,129) | (\$2,622) | (\$50,025) | (\$55,706) |
| 2017 Current Over/Under | | (\$10,195) | (\$24,795) | (\$12,057) | (\$302,435) | (\$349,482) |
| 2016 Overpayment | | (\$34,584) | (\$58,370) | (\$30,190) | (\$239,646) | (\$362,790) |
| 2016 and 2017 Overpayment | | (\$44,486) | (\$82,732) | (\$42,115) | (\$539,431) | (\$708,764) |
| 2017 Fairs Payment | | | | | \$117,923 | (\$590,841) |
| | | | | | | |
| Total Over/Under Payment | | | | | | (\$590,841) |
| 2018 purse underpayment | | | | | | \$27,303 |
| Fair payment to overpayment 2018 | | | | | | \$117,000 |
| Rebate to HCF for purse overpayment | | | | | | (\$37,414) |
| Current Purse Overpayment | | | | | | (\$483,952) |
| | | | | | | |
| Current difference in puses with GGF | | | | | | \$503,000 |
| Don't raise AWL, Starters and MSW save | | | | | | (\$155,000) |
| Eliminate 50k stakes | | | | | | (\$50,000) |
| CMC eliminated | | | | | | (\$37,000) |
| Commissions Increase | | | | | \$37,000 | |
| Only raise 2-16 Claiming and Mds 2k | | | | | | (\$166,000) |
| 27k underpayment | | | | | | (\$27,000) |
| Additional Purse money from Stabling Agreement | | | | | | (\$91,095) |
| | | | | | | (\$23,095) |

Handout 4.

California Department of Food and Agriculture and the California Authority of Racing Fairs Scope of Work

Background:

To allow the California Authority of Racing Fairs (CARF) use of 1% Racing Handle Monies for Race Track Safety and Maintenance Program (RTSMP). The goal of this agreement is for CDFA to return handle monies collected in prior years back to CARF, and for CARF to utilize those monies for the following purposes, within the context of horse racing at participating fairs:

- 1) For the purposes of improving a fair enclosure
- 2) For the purposes of racetrack maintenance
- 3) For the purposes of improving safety at fairs, or other similar activities

The purpose of the activities is for health and safety repair projects at racing fairs, which include fire and life safety improvement projects, California Code of Regulations compliance projects, and ongoing or deferred maintenance projects. These projects will benefit and protect horses, riders/jockeys, and members of the viewing/public.

Legal Authority

Sections 19606.1 of the Business and Professions Code (B&P) provides for a license fee payable by fairs that conduct live races. The B&P section continuously appropriates the fee to the Fairs & Exposition Fund maintained by CDFA.

Section 19614(d)(e) identifies a 1 percent (1%) license fee and use of those monies. This fee consists of 1% of the aggregate contributions to pari-mutuel betting pools (also known as “the handle”).

Section 19630 allows CDFA to distribute funds for the construction or operation of recreational and cultural facilities of general public interest.

Involved Parties

California Authority of Racing Fairs
1776 Tribute Road, Suite 150
Sacramento, CA 95815
Larry Swartzlander, Executive Director
larry@calfairs.net
916-799-7084

California Department of Food and Agriculture (CDFA)
Fairs & Expositions Branch (F&E)
1220 N Street
Sacramento, CA 95814
John Quiroz; Chief
John.quiroz@cdfa.ca.gov
916-900-5025

Term of Agreement

April 1, 2019, or upon DGS approval (if needed), whichever is later, through October 31, 2020.

**California Department of Food and Agriculture and the
California Authority of Racing Fairs
Scope of Work**

Budget

Not to exceed \$147,000. 7.5% of total amount may be charged for administrative expenses.

Race Track Safety and Maintenance Program

CARF has developed a "Race Track Safety and Maintenance Program" (RTSMP). The goal of the RTSMP is to maintain the safest possible race track surface and race related activities for live horse racing events at participating fair facilities (i.e., CARF membership tracks) to ensure racehorse, rider and public safety. The RTSMP was created to ensure the safety of California racetracks. Track safety allows for horseracing activities to continue in a safe manner at participating California fair facilities and ensure the economic aspects of horseracing activities benefit local, regional and statewide communities. The current CARF RTSMP currently support four fairs: Alameda County Fair, California State Fair, the Humboldt County Fair and the Big Fresno Fair. CARF has purchased and maintains specialized equipment to provide all participating fairs the opportunity to improve racetrack conditions for live horse racing events. In addition, CARF provides track preparation and transportation services for this project.

The Expenditure Plan shall be submitted to CDFA before any RTSMP activities shall begin. CDFA shall confirm projects meet the goals of the agreement as identified above. No work shall begin until CDFA provides written agreement and concurrence of the Expenditure Plan.

CARF's Shall

- Submit annual copies of the RTSMP (Expenditure Plan) that identifies expenditures by fair location, purpose of the expenditure, public and/or racetrack benefits of the expenditure, and any other relevant information to clearly define proposed use of the handle monies.
- Provide annually a Final Report to CDFA of all RTSMP expenditures that identifies expenditures by fair location and any other relevant information to clearly define use of the handle monies.
- Ensure the handle monies are spent per the RTSMP and the three items listed above (Background).
- Provide quarterly invoices to CDFA; including a Status Report of all projects underway. Status reports shall identify any delays or problems encountered, significant budgetary changes to the project, or extensions to this agreement that may be needed.
- Retain financial records, project records, and supporting documents related to this agreement for 3 years from the date final payment was issued or until any litigation related to this agreement is resolved, whichever is later. All records must be made available to CDFA upon request.
- Ensure all records related to this component of the Agreement are available to CDFA for review and/or copy, and/or audit during the 3-year term identified above.

**California Department of Food and Agriculture and the
California Authority of Racing Fairs
Scope of Work**

- Conduct an annual audit of the funds by an independent third party to ensure compliance with the law and approved accounting standards and policies. The Audit shall be filed with the CDFA and presented to the CARF board.
- Utilize the Department of General Services (DGS) or the California Construction Authority (CCA, formerly California Fair Finance Authority) for construction projects that require engineering, architectural, planning, permitting and professional project management activities.
- Ensure all construction projects have Plans and Specifications approved by CCA or Department of General Services (DGS) for code compliance. Additional approvals may be required by the Office of the State Fire Marshal (CalFire) and the Division of the State Architect (DSA).
- Additional approvals may be required by other state, county, and local governing authorities having jurisdiction, including, but not limited to, the Regional Water Quality Control Board (RWQCB), local Air Quality Management Board/District, and local County Health Departments.

CDFA's Shall

- Account for handle monies received from CARF or Southern California racetracks that are CARF members, and remit payment to CARF upon receipt and approval of invoice showing expenditures as they relate to the RTSMP Expenditure Plan.
- Review and approve annual RTSMP Expenditure Plan and approve of expenditures as invoiced quarterly.
- Attend CARF meetings, as scheduled (no voting rights)

Deliverables

Submission of proposed RTSMP expenditures (Expenditure Plan): May-June 2019

Submission of quarterly reports (Status Reports): Quarterly, effective September 30, 2019

Submission of final report (Final Report): No later than 30 days after agreement ends (November 30, 2020)

Invoicing (every quarter)

Invoices shall be mailed or emailed to:

CDFA/F&E
1220 N Street
Sacramento, CA 95814
Attention: John Quiroz
John.quiroz@cdfa.ca.gov

Invoices shall provide sufficient detail regarding expenditures during the quarter being invoiced. Construction costs shall be identified separately as well as the 7.5% CARF administrative fee.

**California Department of Food and Agriculture and the
California Authority of Racing Fairs
Scope of Work**

Quarterly periods identified as:

July – September 2019
October – December 2019
January – March 2020
April – June 2020
July – September 2020
November 30, 2020 (Final Report due)

Final Invoices are due no later than 30 days following the expiration date of the Agreement term or after all project activities are complete, whichever comes first.

DRAFT

**California Department of Food and Agriculture and the
California Authority of Racing Fairs
Scope of Work**

Attachment B

The Current CARF RTSMP supports four fairs: Alameda County Fair, California State Fair (Cal Expo), Humboldt County Fair, and the Big Fresno Fair. The key to the TSMP is identifying and addressing safety issues that impact the horses, jockeys, racetrack support staff, and general/viewing public.

CARF's recommendations for use of the monies are as follows:

| | |
|--|-------------------------|
| Adding sand/sawdust to the racing tracks at the 4 fairgrounds: | \$ 5,000 - \$15,000+/- |
| Transportation of equipment between the 4 fairgrounds: | \$10,000 - \$ 15,000+/- |
| General racetrack maintenance: | \$ 90,000-105,000+/- |
| Administrative Fees (not to exceed 7.5%): | <u>\$ 11,025</u> |
| Total not to exceed: | \$147,000 |



CONSULTING SERVICES AGREEMENT

This Agreement is made between the Blue Sky Consulting Group ("Contractor") and CHC 2020 Group, LLC ("Client"), this 11th day of February 2019. In consideration of Contractor's retention by the Client to perform professional services, the parties agree as follows:

DUTIES, TERM, COMPENSATION

1. **Professional Services.** Contractor agrees to render professional services as an independent contractor to the Client for the period commencing on the date of this Agreement and concluding on or before May 30, 2019, unless this Agreement is extended in writing with mutual consent. This period is called the "Professional Services Period."
2. **Staffing.** All work on the project will be performed under the direction of the Contractor. Should additional staffing resources or expertise be required to complete the project, the Contractor reserves the right to use qualified subcontractors at its discretion.
3. **Duties.** Contractor's services shall consist of providing assistance to the Client by conducting an analysis of the revenue that would be generated at the state level by a tax of varying levels on sports wagering in California and the impact of such a tax on horseracing revenues currently received by the state, as detailed in the attached Scope of Work, dated February 15, 2019. The results of this analysis will be presented to the Client via a written report.

Sacramento
5714 Folsom Blvd, #127
Sacramento, CA 95819
916.487.6100

Oakland
1939 Harrison Street, Suite 211
Oakland, CA 94612
510.654.6100

During the Professional Services Period, Contractor shall perform all the duties described herein to the best of its ability, although Contractor is not required to devote all productive time and energies exclusively to these activities.

4. **Compensation & Expenses.** Contractor shall be compensated on an hourly basis for time spent in performance of the duties described in Section 3 at the rate of \$325 per hour for Tim Gage, \$295 per hour for Matthew Newman, \$275 per hour for Shawn Blosser and \$155 to \$185 per hour for other staff, depending upon their level of experience. Total compensation for this project shall not exceed \$52,500, plus reasonable expenses, such as the purchase of necessary data and reports, travel if needed, and telecommunications expenses. Project costs shall not exceed this amount unless prior authorization is provided by the Client. If directed to cease work on the project, Contractor shall do so immediately. Contractor shall invoice the Client monthly and shall be paid within thirty (30) days of receipt by the Client, absent any unresolved billing issues.

OTHER OBLIGATIONS BETWEEN PARTIES

5. **Independent Contractor Legal Relationship.** Contractor's relationship with the Client is solely that of an independent contractor and not in any way as an employee or agent. Contractor is responsible for direct payment of any federal or state taxes on the compensation paid under this Agreement, as well as for any such payments with respect to Contractor's employees or subcontractors. Contractor is not authorized to bind the Client or make any representations on its behalf in any matter.
6. **Acknowledgement of Ineligibility for Benefits.** Contractor shall not be entitled to, and shall not seek, any benefits made available to the Client's employees, including, but not limited to: group health insurance (including dental, vision, and

any other enhancements from time to time), disability insurance, group term life insurance, participation in any retirement plan for the Client's employees, a salary reduction plan for certain child care and medical care costs, continuing education reimbursements, or training programs.

7. **Ownership of Property and Work Product.** All documents, records, apparatus, equipment and other physical or intellectual property, furnished to Contractor by the Client, shall be and remain the sole property of the Client. Contractor shall return any such property in Contractor's possession, custody or control to the Client upon the termination of this Agreement if requested to do so by the Client. Any confidential materials provided by the Client will be kept confidential by the Contractor unless prior written authorization to release confidential materials is provided. Contractor hereby agrees not to publicly release or publish any work product developed in the course of this project without the prior authorization by the client. The provisions of this Section 7 shall survive any termination or expiration of this Agreement.

8. **Impartial Analysis.** The Client hereby agrees that the Contractor and its subcontractors are being engaged to provide an impartial, unbiased analysis of the issues described in Section 3. The Client understands that the Contractor is not registered to lobby on behalf of clients and is not being engaged for the purpose of lobbying. The Client further agrees to pay for services provided regardless of the results or findings of the analysis as long as the analysis meets reasonable standards for quality, analytical rigor, and accuracy.

GENERAL

9. **No Assignment.** The services to be rendered pursuant to this Agreement are personal in nature, and Contractor may not assign any rights and obligations under this Agreement without written consent of the Client.

10. **Governing Law.** The services to be rendered shall be governed by the laws of the State of California. Each article shall be independent and separable from all other articles, and the invalidity of an article shall not affect the enforceability of any of the other articles.

11. **Entire Agreement.** This Agreement contains the entire agreement between the Client and Contractor relating to the subject matter hereof, and supersedes all prior and contemporaneous negotiations, correspondence, understandings and agreements between the parties relating to the subject matter hereof. This Agreement may be modified or amended only by mutual written consent of the parties.

12. **Notice.** Any notice to the Client required or permitted under this Agreement shall be given in writing at the Client's office. Any such notice to Contractor shall be given in a like manner and, if mailed, shall be addressed to Contractor at the last known business address then shown in Client's files. Notices by personal services are deemed given on the date of delivery; notices by mail are deemed given on the third business day after mailing.

CONTRACTOR:

Blue Sky Consulting Group:

By: _____

Print Name: _____

Title: _____

Date: _____

ACCEPTED FOR

CHC 2020 Group, LLC:

By:  _____

Print Name: Joel Rubinstein

Title: President & COO - DART

Date: 2/15/19



CHC 2020 Group

Scope of Services

Work to be performed: Consultant will conduct an analysis of the revenue that would be generated at the state level by a tax of varying levels on sports wagering in California and the impact of such a tax on horseracing revenues and prepare a report, suitable for public dissemination, that explains the results of our analysis.

1. Tasks

- A. Review the available literature regarding the potential sports wagering market in California, including reports regarding the experience of other states with applicability to California.
- B. Develop estimates of the sports wagering market in California, including estimates based on authorization of sports wagering in:
 - i. Brick and mortar locations only (casinos and racetracks)
 - ii. Brick and mortar locations and online (both with and without mobile device access)
- C. Develop estimates of sports wagering revenue to the state based on various levels of customer takeout to be determined in consultation with the client.
- D. Develop estimates of sports wagering revenue to horse racing entities in total, including estimates based on authorization of sports wagering in:
 - i. Brick and mortar locations only (casinos and racetracks)
 - ii. Brick and mortar locations and online (both with and without mobile device access)
- E. Prepare an estimate of the extent of cannibalization of racetrack revenue as a result of the authorization of sports wagering in California, including estimates based on authorization of sports wagering in:
 - i. Brick and mortar locations only (casinos and racetracks)

- ii. Brick and mortar locations and online (both with and without mobile device access)
- F. Prepare a report, suitable for public dissemination, that explains in clear and concise language, the results of our analysis, including the above estimates and the methodology used to derive them.

2. Deliverables

- A. Participation in planning calls with the client as necessary.
- B. A report, suitable for public dissemination, that describes the above estimates and the methodology used to derive them.

Operating Agreement

CHC 2020 Group, LLC, a California Limited Liability Company

THIS OPERATING AGREEMENT of **CHC 2020 Group, LLC** (the "Company") is entered into as of the date set forth on the signature page of this Agreement by each of the Members listed on Exhibit A of this Agreement.

A. The Members have formed the Company as a California limited liability company under the California Revised Uniform Limited Liability Company Act. The purpose of the Company is to conduct any lawful business for which limited liability companies may be organized under the laws of the state of California and more specifically promote the California Horseracing Industry as the only currently legal form of sports wagering in California. The Members hereby adopt and approve the articles of organization of the Company filed with the California Secretary of State.

B. The Members enter into this Agreement to provide for the governance of the Company and the conduct of its business, and to specify their relative rights and obligations.

ARTICLE 1: DEFINITIONS

Capitalized terms used in this Agreement have the meanings specified in this Article 1 or elsewhere in this Agreement and if not so specified, have the meanings set forth in the California Revised Uniform Limited Liability Company Act.

"Agreement" means this Operating Agreement of the Company, as may be amended from time to time.

"Capital Account" means, with respect to any Member, an account consisting of such Member's Capital Contribution, (1) increased by such Member's allocated share of income and gain, (2) decreased by such Member's share of losses and deductions, (3) decreased by any distributions made by the Company to such Member, and (4) otherwise adjusted as required in accordance with applicable tax laws.

"Capital Contribution" means, with respect to any Member, the total value of (1) cash and the fair market value of property other than cash and (2) services that are contributed and/ or agreed to be contributed to the Company by such Member, as listed on Exhibit A, as may be updated from time to time according to the terms of this Agreement.

"Exhibit" means a document attached to this Agreement labeled as "Exhibit A," "Exhibit B," and so forth, as such document may be amended, updated, or replaced from time to time according to the terms of this Agreement.

"Manager" means each Person who has authority to manage the business and affairs of the Company pursuant to this Agreement; such Persons are listed on Exhibit B, as may be updated from time to time according to the terms of this Agreement. A Manager may be, but is not required to be, a Member.

"Member" means each Person who acquires Membership Interest pursuant to this Agreement. The Members are listed on Exhibit A, as may be updated from time to time according to the terms of this Agreement. Each Member has the rights and obligations specified in this Agreement.

"Membership Interest" means the entire ownership interest of a Member in the Company at any particular time, including the right to any and all benefits to which a Member may be entitled as provided in this Agreement and under the California Revised Uniform Limited Liability Company Act, together with the obligations of the Member to comply with all of the terms and provisions of this Agreement.

"Ownership Interest" means the Percentage Interest or Units, as applicable, based on the manner in which relative ownership of the Company is divided.

"Percentage Interest" means the percentage of ownership in the Company that, with respect to each Member, entitles the Member to a Membership Interest and is expressed as either:

- A. If ownership in the Company is expressed in terms of percentage, the percentage set forth opposite the name of each Member on Exhibit A, as may be adjusted from time to time pursuant to this Agreement; or

B. If ownership in the Company is expressed in Units, the ratio, expressed as a percentage, of:

- (1) the number of Units owned by the Member (expressed as "MU" in the equation below) divided by
- (2) the total number of Units owned by all of the Members of the Company (expressed as "TU" in the equation below).

$$\text{Percentage Interest} = \frac{MU}{TU}$$

"Person" means an individual (natural person), partnership, limited partnership, trust, estate, association, corporation, limited liability company, or other entity, whether domestic or foreign.

"Units" mean, if ownership in the Company is expressed in Units, units of ownership in the Company, that, with respect to each Member, entitles the Member to a Membership Interest which, if applicable, is expressed as the number of Units set forth opposite the name of each Member on Exhibit A, as may be adjusted from time to time pursuant to this Agreement.

ARTICLE 2: CAPITAL CONTRIBUTIONS, ADDITIONAL MEMBERS, CAPITAL ACCOUNTS AND LIMITED LIABILITY

2.1 Initial Capital Contributions. The names of all Members and each of their respective addresses, initial Capital Contributions, and Ownership Interests must be set forth on Exhibit A. Each Member has made or agrees to make the initial Capital Contribution set forth next to such Member's name on Exhibit A to become a Member of the Company.

2.2 Subsequent Capital Contributions. Members are not obligated to make additional Capital Contributions unless unanimously agreed by all the Members. If subsequent Capital Contributions are unanimously agreed by all the Members in a consent in writing, the Members may make such additional Capital Contributions on a pro rata basis in accordance with each Member's respective Percentage Interest or as otherwise unanimously agreed by the Members.

2.3 Additional Members.

A. With the exception of a transfer of interest (1) governed by Article 7 of this Agreement or (2) otherwise expressly authorized by this Agreement, additional Persons may become Members of the Company and be issued additional Ownership Interests only if approved by and on terms determined by a unanimous written agreement signed by all of the existing Members.

B. Before a Person may be admitted as a Member of the Company, that Person must sign and deliver to the Company the documents and instruments, in the form and containing the information required by the Company, that the Managers deem necessary or desirable. Membership Interests of new Members will be allocated according to the terms of this Agreement.

2.4 Capital Accounts. Individual Capital Accounts must be maintained for each Member, unless (a) there is only one Member of the Company and (b) the Company is exempt according to applicable tax laws. Capital Accounts must be maintained in accordance with all applicable tax laws.

2.5 Interest. No interest will be paid by the Company or otherwise on Capital Contributions or on the balance of a Member's Capital Account.

2.6 Limited Liability; No Authority. A Member will not be bound by, or be personally liable for, the expenses, liabilities, debts, contracts, or obligations of the Company, except as otherwise provided in this Agreement or as required by the California Revised Uniform Limited Liability Company Act. Unless expressly provided in this Agreement, no Member, acting alone, has any authority to undertake or assume any obligation, debt, or responsibility, or otherwise act on behalf of, the Company or any other Member.

ARTICLE 3: ALLOCATIONS AND DISTRIBUTIONS

3.1 Allocations. Unless otherwise agreed to by the unanimous consent of the Members any income, gain, loss, deduction, or credit of the Company will be allocated for accounting and tax purposes on a pro rata basis in proportion to the respective Percentage Interest held by each Member and in compliance with applicable tax laws.

3.2 Distributions. The Company will have the right to make distributions of cash and property to the Members on a pro rata basis in proportion to the respective Percentage Interest held by each Member. The timing and amount of distributions will be determined by the Managers in accordance with the California Revised Uniform Limited Liability Company Act.

3.3 Limitations on Distributions. The Company must not make a distribution to a Member if, after giving effect to the distribution:

A. The Company would be unable to pay its debts as they become due in the usual course of business; or

B. The fair value of the Company's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the Company were to be dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of Members, if any, whose preferential rights are superior to those of the Members receiving the distribution.

ARTICLE 4: MANAGEMENT

4.1 Management.

A. **Generally.** Subject to the terms of this Agreement and the California Revised Uniform Limited Liability Company Act, the business and affairs of the Company will be managed by the Board of Managers, as further described below. The Members initially nominate and elect the Person(s) set forth on Exhibit B to serve as the Manager(s) of the Company. The Managers will act under the direction of the Members and may be elected or removed at any time, for any reason or no reason, by the Members holding a majority of the Voting Interest of the Company. Exhibit B must be amended to reflect any changes in Managers.

B. **Approval and Action.** Unless greater or other authorization is required pursuant to this Agreement or under the California Revised Uniform Limited Liability Company Act for the Company to engage in an activity or transaction, all activities or transactions must be approved by a majority of Managers, to constitute the act of the Company or serve to bind the Company, but if the Managers cannot reach a majority vote, the dispute will be submitted to the Members to be resolved by the affirmative vote of the Members holding at least a majority of the Voting Interest of the Company. With such approval, the signature of any Managers authorized to sign on behalf of the Company is sufficient to bind the Company with respect to the matter or matters so approved. Without such approval, no Managers acting alone may bind the Company to any agreement with or obligation to any third party or represent or claim to have the ability to so bind the Company.

C. Certain Decisions Requiring Greater Authorization. Notwithstanding clause B above, the following matters require unanimous approval of the Members in a consent in writing to constitute an act of the Company:

- (i) A material change in the purposes or the nature of the Company's business;
- (ii) With the exception of a transfer of interest governed by Article 7 of this Agreement, the admission of a new Member or a change in any Member's Membership Interest, Ownership Interest, Percentage Interest, or Voting Interest in any manner other than in accordance with this Agreement;
- (iii) A merger or conversion under the California Revised Uniform Limited Liability Company Act;
- (iv) Any other act outside the ordinary course of the Company's activities;
- (v) The sale, lease, exchange, or other disposition of all, or substantially all, of the Company's property, with or without goodwill, outside the ordinary course of the Company's activities; and
- (vi) The amendment of this Agreement.

4.2 Meetings of Managers. Regular meetings of the Managers are not required but may be held at such time and place as the Managers deem necessary or desirable for the reasonable management of the Company. Meetings may take place in person, by conference call, or by any other means permitted under the California Revised Uniform Limited Liability Company Act. In addition, Company actions requiring a vote may be carried out without a meeting if all of the Managers consent in writing to approve the action.

4.3 Officers. The Managers are authorized to appoint one or more officers from time to time. The officers will have the titles, the authority, exercise the powers, and perform the duties that the Managers determine from time to time. Each officer will continue to perform and hold office until such time as (a) the officer's successor is chosen and appointed by the Managers; or (b) the officer is dismissed or terminated by the Managers, which termination will be subject to applicable law and, if an effective employment agreement exists between the officer and the Company, the employment agreement. Subject to applicable law and the employment agreement (if any), each officer will serve at the direction of Managers, and may be terminated, at any time and for any reason, by the Managers. The initial Officers are Josh Rubinstein as Chief Executive Officer and Joe Hasson as Treasurer.

ARTICLE 5: ACCOUNTS AND ACCOUNTING

5.1 **Accounts.** The Company must maintain complete accounting records of the Company's business, including a full and accurate record of each Company transaction. The records must be kept at the Company's principal executive office and must be open to inspection and copying by Members during normal business hours upon reasonable notice by the Members wishing to inspect or copy the records or their authorized representatives, for purposes reasonably related to the Membership Interest of such Members. The costs of inspection and copying will be borne by the respective Member.

5.2 **Records.** The Managers will keep or cause the Company to keep the following business records.

- (i) An up to date list of the Members, each of their respective full legal names, last known business or residence address, Capital Contributions, the amount and terms of any agreed upon future Capital Contributions, and Ownership Interests, and Voting Interests;
- (ii) A copy of the Company's federal, state, and local tax information and income tax returns and reports, if any, for the six most recent taxable years;
- (iii) A copy of the articles of organization of the Company, as may be amended from time to time ("Articles of Organization"); and
- (iv) An original signed copy, which may include counterpart signatures, of this Agreement, and any amendments to this Agreement, signed by all then-current Members.

5.3 Income Tax Returns. Within 45 days after the end of each taxable year, the Company will use its best efforts to send each of the Members all information necessary for the Members to complete their federal and state tax information, returns, and reports and a copy of the Company's federal, state, and local tax information or income tax returns and reports for such year.

5.4 Subchapter S Election. The Company may, upon unanimous consent of the Members, elect to be treated for income tax purposes as an S Corporation. This designation may be changed as permitted under the Internal Revenue Code Section 1362(d) and applicable Regulations.

5.5 Tax Matters Member. Anytime the Company is required to designate or select a tax matters partner pursuant to Section 6231(a)(7) of the Internal Revenue Code and any regulations issued by the Internal Revenue Service, the Members must designate one of the Members as the tax matters partner of the Company and keep such designation in effect at all times.

5.6 Banking. All funds of the Company must be deposited in one or more bank accounts in the name of the Company with one or more recognized financial institutions. The Chief Executive Officer and Treasurer are authorized to establish such accounts and complete, sign, and deliver any banking resolutions reasonably required by the respective financial institutions in order to establish an account.

ARTICLE 6: MEMBERSHIP - VOTING AND MEETINGS

6.1 Members and Voting Rights. The Members have the right and power to vote on all matters with respect to which the Articles of Organization, this Agreement, or the California Revised Uniform Limited Liability Company Act requires or permits. Unless otherwise stated in this Agreement (for example, in Section 4.l(c)) or required under the California Revised Uniform Limited Liability Company Act, the vote of the Members holding at least a majority of the Voting Interest of the Company is required to approve or carry out an action.

6.2 Meetings of Members. Annual, regular, or special meetings of the Members are not required but may be held at such time and place as the Members deem necessary or desirable for the reasonable management of the Company. Meetings may be called by any Member or Members, holding 10% or more of the Percentage Interests, for the purpose of addressing any matters on which the Members may vote. A written notice setting forth the date, time, and location of a meeting must be sent at least ten (10) days but no more than sixty (60) days before the date of the meeting to each Member entitled to vote at the meeting. A Member may waive notice of a meeting by sending a signed waiver to the Company's principal executive office or as otherwise provided in the California Revised Uniform Limited Liability Company Act. In any instance in

which the approval of the Members is required under this Agreement, such approval may be obtained in any manner permitted by the California Revised Uniform Limited Liability Company Act, including by conference call or similar communications equipment. Any action that could be taken at a meeting may be approved by a consent in writing that describes the action to be taken and is signed by Members holding the minimum Voting Interest required to approve the action. If any action is taken without a meeting and without unanimous written consent of the Members, notice of such action must be sent to each Member that did not consent to the action.

ARTICLE 7: WITHDRAWAL AND TRANSFERS OF MEMBERSHIP INTERESTS

7.1 Withdrawal. Members may withdraw from the Company prior to the dissolution and winding up of the Company (a) by transferring or assigning all of their respective Membership Interests pursuant to Section 7.2 below, or (b) if all of the Members unanimously agree in a written consent. Subject to the provisions of Article 3, a Member that withdraws pursuant to this Section 7.1 will be entitled to a distribution from the Company in an amount equal to such Member's Capital Account, which must be paid by the Company to such Member within ninety (90) days of the withdrawal date unless otherwise agreed in writing.

7.2 Restrictions on Transfer; Admission of Transferee. A Member may not transfer any Membership Interests, whether now owned or later acquired, unless Members holding all of the Percentage Interests not subject to transfer consent to such transfer. A person may acquire Membership Interests directly from the Company upon the written consent of all Members. A Person that acquires Membership Interests in accordance with this Section 7.2 will be admitted as a Member of the Company only after the requirements of Section 2.3(b) are complied with in full.

ARTICLE 8: DISSOLUTION

8.1 Dissolution. The Company will be dissolved upon the first to occur of the following events:

- (i) The vote of the Members holding at least a majority of the Voting Interest of the Company to dissolve the Company;

- (ii) Entry of a decree of judicial dissolution under Section 17707.01 of the California Revised Uniform Limited Liability Company Act;
- (iii) The sale or transfer of all or substantially all of the Company's assets;
- (iv) A merger or consolidation of the Company with one or more entities in which the Company is not the surviving entity; or
- (v) The Company has no members during 90 consecutive days, except on the death of a natural person who is the sole member of the Company, the status of the member, including Membership Interest, may pass to the heirs, successors, and assigns of the member by will or applicable law.

8.2 No Automatic Dissolution Upon Certain Events. Unless otherwise set forth in this Agreement or required by applicable law, the death, incapacity, disassociation, bankruptcy, or withdrawal of a Member will not automatically cause a dissolution of the Company.

ARTICLE 9: INDEMNIFICATION

9.1 Indemnification. The Company has the power to defend, indemnify, and hold harmless any Person who was or is a party, or who is threatened to be made a party, to any Proceeding (as that term is defined below) by reason of the fact that such Person was or is a Member, Manager, officer, employee, representative, or other agent of the Company, or was or is serving at the request of the Company as a director, Manager, Governor, officer, employee, representative or other agent of another limited liability company, corporation, partnership, joint venture, trust, or other enterprise (each such Person is referred to as a "Company Agent"), against Expenses (as that term is defined below), judgments, fines, settlements, and other amounts (collectively, "Damages") to the maximum extent now or hereafter permitted under California law. "Proceeding," as used in this Article 9, means any threatened, pending, or completed action, proceeding, individual claim or matter within a proceeding, whether civil, criminal, administrative, or investigative. "Expenses," as used in this Article 9, includes, without limitation, court costs, reasonable attorney and expert fees, and any expenses incurred relating to establishing a right to indemnification, if any, under this Article 9.

9.2 Mandatory. The Company must defend, indemnify and hold harmless a Company Agent in connection with a Proceeding in which such Company Agent is involved if, and to the extent, California law requires that a limited liability company indemnify a Company Agent in connection with a Proceeding.

9.3 Expenses Paid by the Company Prior to Final Disposition. Expenses of each Company Agent indemnified or held harmless under this Agreement that are actually and reasonably incurred in connection with the defense or settlement of a Proceeding may be paid by the Company in advance of the final disposition of a Proceeding if authorized by a vote of the Members that are not seeking indemnification holding a majority of the Voting Interests (excluding the Voting Interest of the Company Agent seeking indemnification) or a majority of the Managers that are not seeking indemnification, as the case may be. Before the Company makes any such payment of Expenses, the Company Agent seeking indemnification must deliver a written undertaking to the Company stating that such Company Agent will repay the applicable Expenses to the Company unless it is ultimately determined that the Company Agent is entitled or required to be indemnified and held harmless by the Company (as set forth in Sections 9.1 or 9.2 above or as otherwise required by applicable law).

ARTICLE 10: GENERAL PROVISIONS

10.1 Notice. (a) Any notices (including requests, demands, or other communications) to be sent by one party to another party in connection with this Agreement must be in writing and delivered personally, by reputable overnight courier, or by certified mail (or equivalent service offered by the postal service from time to time) to the following addresses or as otherwise notified in accordance with this Section: (i) if to the Company, notices must be sent to the Company's principal executive office; and (ii) if to a Member, notices must be sent to the Member's last known address for notice on record. (b) Any party to this Agreement may change its notice address by sending written notice of such change to the Company in the manner specified above. Notice will be deemed to have been duly given as follows: (i) upon delivery, if delivered personally or by reputable overnight carrier or (ii) five days after the date of posting if sent by certified mail.

10.2 Entire Agreement; Amendment. This Agreement along with the Articles of Organization (together, the "Organizational Documents"), constitute the entire agreement among the Members and replace and supersede all prior written and oral understandings and agreements with respect to the subject matter of this Agreement, except as otherwise required by the California Revised Uniform Limited Liability Company Act. There are no representations, agreements, arrangements, or undertakings, oral or written, between or among the Members relating to the subject matter of this Agreement that are not fully expressed in the Organizational

Documents. This Agreement may not be modified or amended in any respect, except in a writing signed by all of the Members, except as otherwise required or permitted by the California Revised Uniform Limited Liability Company Act.

10.3 Governing Law; Severability. This Agreement will be construed and enforced in accordance with the laws of the state of California. If any provision of this Agreement is held to be unenforceable by a court of competent jurisdiction for any reason whatsoever, (i) the validity, legality, and enforceability of the remaining provisions of this Agreement (including without limitation, all portions of any provisions containing any such unenforceable provision that are not themselves unenforceable) will not in any way be affected or impaired thereby, and (ii) to the fullest extent possible, the unenforceable provision will be deemed modified and replaced by a provision that approximates the intent and economic effect of the unenforceable provision and the Agreement will be deemed amended accordingly.

10.4 Further Action. Each Member agrees to perform all further acts and execute, acknowledge, and deliver any documents which may be reasonably necessary, appropriate, or desirable to carry out the provisions of this Agreement.

10.5 No Third Party Beneficiary. This Agreement is made solely for the benefit of the parties to this Agreement and their respective permitted successors and assigns, and no other Person or entity will have or acquire any right by virtue of this Agreement. This Agreement will be binding on and inure to the benefit of the parties and their heirs, personal representatives, and permitted successors and assigns.

10.6 Incorporation by Reference. The recitals and each appendix, exhibit, schedule, and other document attached to or referred to in this Agreement are hereby incorporated into this Agreement by reference.

10.7 Counterparts. This Agreement may be executed in any number of counterparts with the same effect as if all of the Members signed the same copy. All counterparts will be construed together and will constitute one agreement.

[Remainder Intentionally Left Blank.]

IN WITNESS WHEREOF, the parties have executed or caused to be executed this Operating Agreement and do each hereby represent and warrant that their respective signatory, whose signature appears below, has been and is, on the date of this Agreement, duly authorized to execute this Agreement.

Dated:_____

DEL MAR THOROUGHBRED CLUB

By:_____

Printed Name: Josh Rubenstein

Title:_____

THOROUGHBRED OWNERS OF CALIFORNIA

By:_____

Printed Name: Greg Avioli

Title:_____

CALIFORNIA AUTHORITY OF RACING FAIRS

By:_____

Printed Name: Larry Swartzlander

Title:_____

CALIFORNIA THOROUGHBRED BREEDERS ASSOCIATION

By:_____

Printed Name: Doug Burge

Title:_____

LOS ALAMITOS QUARTER HORSE ASSOCIATION

By:_____

Printed Name: Dr. Edward Allred

Title:_____

EXHIBIT A
MEMBERS

The Members of the Company and their respective addresses, Voting Rights, and Ownership Interests are set forth below. The Members agree to keep this Exhibit A current and updated in accordance with the terms of this Agreement, including, but not limited to, Sections 2.1, 2.3, 2.4, 7.1, 7.2, and 10.1.

| Members / Address | Capital Contribution | Ownership Interest | Voting Rights |
|---|-----------------------------|---------------------------|----------------------|
| DEL MAR THOROUGHBRED CLUB Josh Rubinstein, CEO 2260 Jimmy Durante Blvd., P.O. Box 700 Del Mar California | \$15,000 | 20% | 15 |
| THOROUGHBRED OWNERS OF CALIFORNIA Greg Avioli, CEO 285 Huntington Dr. Arcadia, CA 91007 | \$15,000 | 20% | 15 |
| CALIFORNIA AUTHORITY OF RACING FAIRS Larry A. Swartzlander, Executive Director 1776 Tribute Road, Suite 205 Sacramento, CA 95815 | \$15,000 | 20% | 15 |
| CALIFORNIA THOROUGHBRED BREEDERS ASSOCIATION Doug Burge, 201 Colorado Pl. Arcadia, CA 91007 | \$15,000 | 20% | 15 |
| LOS ALAMITOS QUARTER HORSE ASSOCIATION Dr. Edward Allred, 4961 Katella Ave. Cypress, CA 90630 | \$15,000 | 20% | 15 |

EXHIBIT B
MANAGERS

Manager(s) of the Company are set forth below.

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| DEL MAR THOROUGHBRED CLUB Josh Rubinstein, Manager & CEO 2260 Jimmy Durante Blvd., P.O. Box 700 Del Mar California |
| THOROUGHBRED OWNERS OF CALIFORNIA Greg Avioli, Manager 285 Huntington Dr. Arcadia, CA 91007 |
| CALIFORNIA AUTHORITY OF RACING FAIRS Larry A. Swartzlander, Manager 1776 Tribute Road, Suite 205 Sacramento, CA 95815 |
| CALIFORNIA THOROUGHBRED BREEDERS ASSOCIATION Doug Burge, Manager 201 Colorado Pl. Arcadia, CA 91007 |
| LOS ALAMITOS QUARTER HORSE ASSOCIATION Dr. Edward Allred, Manager 4961 Katella Ave. Cypress, CA 90630 |