



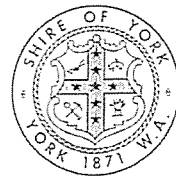
MEMORANDUM OF UNDERSTANDING

Between

YORK RACING INC.

And

THE SHIRE OF YORK




SHIRE OF YORK	
CCP. 10	
GRACHE	✓
8-11148809	
REFERRED TO COUNCIL	
DATE	INITIALS

- 1 TITLE – CO TENANCY: To be in the name of York Racing Inc. and the Shire of York only.
- 2 Constitution jointly agreed by both parties.
- 3 York Racing Inc. to be in charge of all racing operations.
- 4 York Racing and the Shire of York to establish a five person Board of management. York Racing Inc. representative to be Chairperson and the Treasurer. Shire of York representatives to be the Shire President and the CEO.
- 5 If any portion of land on the Title is leased or sold for non-equine purposes or to non-equine interests, the Shire of York to rate the properties accordingly.
- 6 Revenue raised by the lease/sale of land to be received by York Racing and used for upgrading works and infrastructure of York Racing Inc.
- 7 Any development on the racecourse will comply with the standard building and planning approvals as per the Building code of Australia and the Shire of York Town Planning Scheme.
- 8 York Racing Inc. will progress with the delisting of "Heritage" status to the State Heritage Board.
- 9 Any events held at the racecourse to be with the appropriate approval from local authorities. All bars to be operated by York Racing Inc. as the licensee and Special Facilities Licence. Any profit from licensed bars to be credited to York Racing Inc. Insurance cover for events held at the race course other than race meetings, to be the responsibility of the "hirer".
- 10 Revenue raised from functions/events to be retained by York Racing Inc.
- 11 Shire of York to consider "in kind assistance" at request. For example, preparation for York Show and/or special events. Wherever possible such requests to be submitted to the Shire prior to the 15<sup>th</sup> April for funding in the following financial year.
- 12 Audited financials of York Racing Inc. to be provided to the Shire of York and the Board by no later than December of that year.
- 13 York Racing Inc. will manage and operate the racecourse and facilities in the interests of horse racing for as long as it is accredited by Racing Wagering WA/Governing Body. Land and improvements cannot be sold or leased

without the approval of both parties and the consent of the minister for lands and all proceeds must be used for racecourse facilities.

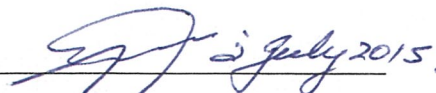
- 14 York Racing to be responsible for all general maintenance and general operations at the racecourse.
- 15 York Racing Inc. and the Racing Wagering Western Australia to be responsible for all insurance cover as to public liability, property and other insurance required to cover racing events. The Shire of York will not be responsible for any insurance cover for York Racing Inc.
- 16 Copies of Insurance Policies to be provided to the Shire of York each year.
- 17 On formalisation of the land title change, the Shire of York has agreed to write off outstanding rates, including accrued interest, and to meet the costs of land rates in future years.
- 18 York Racing Inc. to be responsible for any operating charges for waste collection ESL levy for operating expenses. York Racing Inc. remain financially responsible for the payment of annual Emergency Service Charges (ESL) including all other services charges; and where the Shire of York will only contribute the Rates portion as shown on the annual Rate Notice. Motion Number 130615
- 19 York Racing Inc. will complete and maintain an inventory of existing plant and equipment, which shall remain in the ownership of York Racing Inc.
- 20 York Racing Inc. and the Shire of York shall form a positive and progressive partnership which will create, foster and promote social and economic benefits for residents of the town of York, of the Avon Valley region and of the wider community.

Signed:   
Patrick Flynn  
Chairman  
York Racing Inc.

Date: 1.7.2015

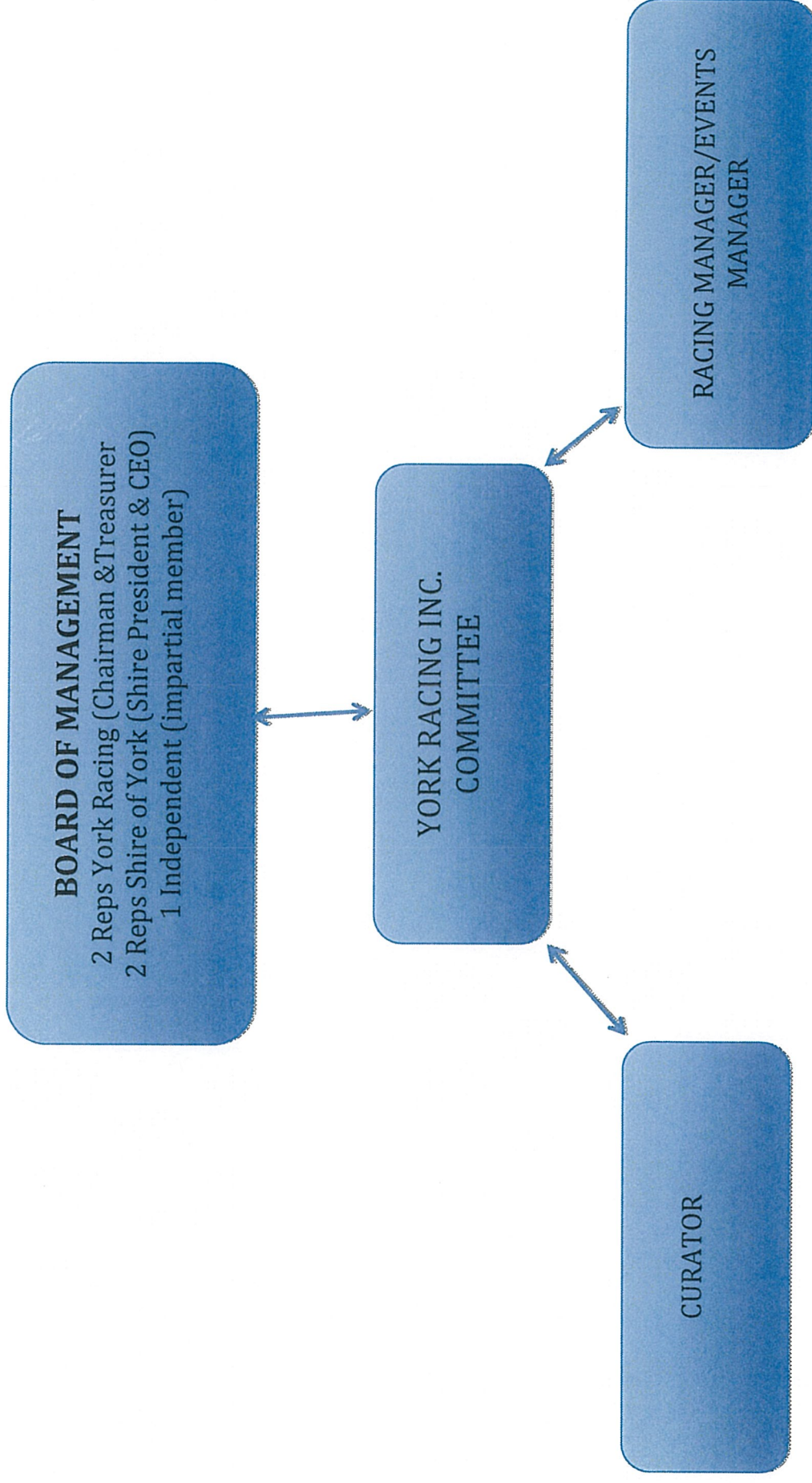
Signed:   
James Best  
Commissioner  
Shire of York

02 July 2015 Date:

Signed:   
Graeme Simpson  
Acting CEO  
Shire of York

Date: \_\_\_\_\_

# PROPOSED YORK RACING INC. AND SHIRE OF YORK STRUCTURE POST ESTABLISHED BOARD



Memorandum of  
Understanding  
(MOU)  
between

YORK  
RACING INC.  
(York Racing)

A  
n  
d

THE SHIRE OF  
YORK (Shire)

1 **Co-ownership of land**

The land of the York Racecourse (**Racecourse Land**) is to be held in the names of York Racing and the Shire as beneficial owners of an estate in fee simple as tenants in common in equal shares.

2 **Co-operative arrangement, not a partnership**

The relationship between York Racing and the Shire is intended to be a co-operative arrangement to manage the ownership of the Racecourse Land, and is not intended to be a partnership, and none of the incidents of partnership including joint or several liability for debts or pledging credit or in any other way whatsoever, shall apply.

3 **Responsibility for racing operations**

York Racing is to be solely responsible for all racing operations to the extent that they do not detrimentally affect the capital value of the Racecourse Land.

4 **Making decisions**

Subject to clause 3 (Responsibility for racing operations), decisions relating to the use and management of the Racecourse Land are to be made by the parties from time to time through discussion and negotiation, applying the provisions and principles of this MOU. If the parties cannot reach agreement on any proposal then the proposal will be negated.

**5 Sale, leasing, letting or licensing**

If any portion of the Racecourse Land is sold, leased, let or subjected to a licence or any other right or interest whatsoever, for non-equine purposes, there shall be no obstacle to the Shire levying rates or service charges in regard to that portion.

**6 Use of revenues**

Any revenue raised by the sale, or under any lease, letting or licence of any portion of the Racecourse Land is to be received by York Racing and is to be used exclusively to pay or contribute to the cost of any upgrading or improvement works or other infrastructure on the Racecourse Land.

**7 Compliance with all Acts, schemes, Regulations, local laws, policies and guidelines**

York Racing is to ensure that any development or work or any use whatsoever on the Racecourse Land complies with all planning, building and health laws, policies and guidelines of, or applied by, the Shire, and is to ensure that any approval, permit, consent, certificate or the like required under any such law, policy or guideline is obtained before any development, work or use is commenced or carried out.

**8 Conduct of events**

Any event held on the Racecourse Land must obtain in advance any required approval, permit, consent or licence. Any bar or other liquor facility is to be operated by York Racing as the licensee under any special facilities licence or any other licence or permit under the liquor control legislation. Any profit from such bars or outlets is to be credited to York Racing and is not subject to the requirement as to use of revenues in clause 6.

**9 Insurance**

York Racing is to maintain all appropriate insurance cover necessarily or reasonably required in connection with the operation of a racecourse. Any person or body leasing or hiring or otherwise occupying any portion of the Racecourse Land for any purpose is to maintain appropriate insurance, and York Racing in arranging any leasing, letting, licensing, hiring, or other use, must ensure that proper arrangements are made for insurance cover in respect of the resulting or intended use.

10 **'In-kind assistance' by the Shire**

While not recognising or accepting any obligation to grant any request, the Shire will consider any reasonable request for 'in-kind assistance', such as preparation for the Race meetings, and/or other special events. Wherever possible, any request for such assistance is to be submitted to the Shire prior to 15 April in any year for funding in the following financial year. It is acknowledged that requests for in-kind assistance less than \$1,000 in any financial year can be considered by the CEO under delegation whilst all other requests will be presented to Council for consideration.

11 **Financials and auditing**

A copy of audited financial records for York Racing for each financial year is to be provided by York Racing to the Shire no later than the December next following the end of that financial year.

12 **Management and operation in the interest of horse racing**

York Racing will manage and operate the racecourse, and facilities on and associated with the racecourse, in the interest of horse racing, provided that York Racing remains accredited by the WA agency or body responsible for the control of Racing and Gaming. Land and improvements cannot be sold or leased, or possession given, and nor can any interest in the land be disposed of without the approval of both parties and without complying with all statutory requirements and limitations on a local government's power to dispose of land or any interest in land. Furthermore, all proceeds of any transaction must be used as provided in clause 6 above.

13 **Insurance**

- (1) Further to the provisions relating to insurance in clause 10 above, York Racing with or without the participation or assistance of the body responsible from time to time for gaming/wagering at the racecourse, is to be responsible for all insurance cover relevant to the use of the Racecourse Land, being insurance as to public risk, property insurance, and all insurance required to provide comprehensive insurance cover in respect to the conduct of racing or other events on the Racecourse Land.
- (2) The Shire will not be responsible for any insurance cover relating to the Racecourse Land or any improvements or facilities on the Racecourse Land, or in relation to the use of the Racecourse Land.
- (3) A copy of each insurance policy and proof of renewal is to be provided by York Racing to the Chief Executive Officer of the Shire within 28 days of renewal.



14      **Writing off outstanding rates**

Save for the provision for rates and service charges in clause 5, the Shire has agreed, upon the formalisation of the transfer of an undivided half share of the Racecourse Land to the Shire, to write off all outstanding rates, including accrued interest in respect of the Racecourse Land, and so far as future rates are concerned, the Shire has agreed to bear the costs and expenses which otherwise would have been levied as rates and will keep York Racing indemnified against the same so long as York Racing complies with its obligations recognised in this MOU. If there is default in performance by York Racing under any obligation referred to in this MOU, the Shire may, and is entitled to waive the indemnity for rates effective from the date of any default by York Racing in the performance of any obligation recognised herein.

15      **Responsibility for waste collection charges and ESL levy and other services charges**

Notwithstanding any indemnity applied by the Shire in respect of rates, York Racing is to be and remain responsible for any charge, levy or fee for waste collection, emergency services levy and any other fee, charge or levy whatsoever for services provided for the Racecourse Land.

16      **Inventory of plant and equipment**

York Racing is to complete and maintain an inventory of existing plant and equipment, relating to the use of the Racecourse Land, and is to provide to the Shire a copy of the inventory within six months of the signing of this MOU on behalf of York Racing, and is to provide a copy of any updating or modification of the inventory within six months of the completion of the modification or updating.

17      **Positive and progressive relationship**

York Racing and the Shire are to maintain a positive and progressive relationship in the management of the Racecourse Land in the interest of creating, fostering and promoting social and economic benefits for residents of the Town of York, of the Avon Valley Region, and of the wider community.

28      **Procedures and principles**

In addition to the matters set out above, any other procedures and principles necessary to govern the relationship between the parties in the ownership and management of the Racecourse Land are to be developed by discussion and negotiation between the parties as the need arises.



19      **Review**

York Racing and the Shire agree that this MOU should be kept under review, and to that end the parties will at each third anniversary of the date hereof, consider whether any change is appropriate and confer and decide upon any change proposed by either party.

Signed: \_\_\_\_\_  
Chairman  
York Racing Inc

Date: \_\_\_\_\_

Signed: \_\_\_\_\_  
President  
Shire of York

Date: \_\_\_\_\_

Signed: \_\_\_\_\_  
Chief Executive Officer  
Shire of York

Date: \_\_\_\_\_