

Memorandum of Understanding

In Relation to Welfare in the Euthanasia of Standardbred and Thoroughbred Horses

**Racing and Wagering Western Australia (RWWA) (ABN 21 347 055
603)**

The Southdale Trading Trust (Southdale) (ABN 76 544 631 098)

Details

Date 10 September 2020

Parties

Name Racing and Wagering Western Australia
ABN 21 347 055 603
Short form name RWWA
Address 14 Hasler Road, Osborne Park, WA 6017
Notice Details Manager Animal Welfare
anna.smet@rwwa.com.au

Name The Southdale Trading Trust
ABN 76 544 631 098
Short form name Southdale
Address PO Box 206, Byford, WA 6122
Notice Details southdalepm@bigpond.com

Background

- A. RWWA is authorised under the Act to foster the development, promote the welfare and ensure the integrity of racing in Western Australia.
- B. Southdale is a registered abattoir and knackery in Western Australia.
- C. The parties have entered into this MoU to record the terms upon which they have agreed to support the traceability and uphold the standards of welfare in the euthanasia of Thoroughbred and Standardbred horses, who have been bred for purposes of racing; and for the provision of relevant data in respect to the euthanasia of Thoroughbred and Standardbred horses.

Agreed Terms

1 Defined Terms and Interpretation

1.1 Defined Terms

In this agreement:

Act means the *Racing and Wagering Western Australia Act 2003 (WA)*

Business Day means a day that is not a Saturday, Sunday, Public Holiday or bank holiday in Western Australia, Australia.

Execution Date means the date that this MOU is executed by all parties.

Period means 1 August 2020 through 31 July 2021

MoU means this Memorandum of Understanding

DPIRD means the Department of Primary Industries and Regional Development

Racehorse means all Thoroughbred and Standardbred horses that have been bred into the racing industry, recorded as such by the relevant Stud Book, and as such are considered eligible to be registered with the respective racing authority and possess identifiable markers (brands and/or microchips).

1.2 Interpretation

In this agreement, except where context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has corresponding meaning;
- (c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this agreement, and a reference to this agreement includes any schedule or annexure;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented, or replaced from time to time;
- (e) a reference to **A\$, A\$, dollar** or **\$** is to Australian currency;
- (f) a reference to time is Perth, Australia time;
- (g) a reference to a party is a party in this agreement, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (h) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (i) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (j) the meaning of general words is not limited by specific examples introduced **by including, for example** or similar expressions
- (k) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this agreement or any part of it, and,
- (l) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day.

1.3 Headings

Headings are for ease of reference only and do not affect interpretation.

2 Confidentiality

- (a) No party will disclose to any third party without the prior written consent of the other parties any confidential information received from another party in connection with:
 - (i) this memorandum;
 - (ii) any further negotiations which eventuate between the parties in furtherance of this memorandum; or
 - (iii) the transaction/s contemplated by this memorandum.
- (b) Southdale further agrees that other than with the prior written consent of RWWA, they will keep confidential the existence of this MoU and any negotiations and discussions which, eventuate between the parties in furtherance of this MoU.
- (c) This clause 2 does not apply to information which is or becomes generally available to the public (other than as a result of breach of an obligation under this clause), is independently developed by Southdale or is required by law to be disclosed.
- (d) A public announcement in connection with this memorandum or any transaction/s contemplated by it must be agreed by the parties before it is made, except if required by law or a regulatory body (including relevant stock exchange), in which case the party required to

make an announcement must, to the extent practicable, first consult with and take into account the reasonable requirements of each other party.

3 RWWA's Commitments and Acknowledgements

RWWA commits to:

- (a) develop a relationship with Southdale which fosters cooperation and coordination in relation to the welfare of racehorses;
- (b) provide Southdale with a microchip scanner for the purposes of identifying racehorses which have been relinquished into their ownership for euthanasia. Replacement scanners will be made available at the discretion of RWWA, with faulty scanners to be returned to RWWA;
- (c) ensure that the use of Southdale by licensed racing participants is not prohibited, by the Rules of Racing, or other means, whilst the commitments in this Agreement are met and the MoU is in effect; and
- (d) refer any complaints obtained through the relationships established by this MoU where it does not have jurisdiction to investigate, or penalise under the rules of racing, immediately to the RSPCA WA and/or DPIRD.

4 Southdale Commitments and Acknowledgements

Southdale commits to:

- (a) ensuring that all racehorses entering any Southdale facility, or being handled and euthanised at a remote location, are at all times handled in accordance with any relevant standards and guidelines pertaining to the health and welfare of horses including, but not limited to:
 - (i) *Animal Welfare Act 2002 and Animal Welfare (General) Regulations 2003*;
 - (ii) Model Code of Practice for the Welfare of Animals: Livestock at Slaughtering Establishments;
 - (iii) Code of Practice for the Transportation of Horses in Western Australia; and
 - (iv) Any welfare standards as enforced by the Livestock Compliance Unit at DPIRD.
- (b) notifying RWWA, as soon as practicable, when a potential act of cruelty or neglect is observed and involves, or is suspected to involve, a registered Thoroughbred or Standardbred and/or a licensed person;
- (c) notifying RWWA, as soon as practicable, where a potential act of cruelty or neglect arises at any of Southdale's facilities, or a remote location, during the transporting, holding, handling or processing of any registered Thoroughbred or Standardbred; including any investigation/s into Southdale conducted by RSPCA WA, DPIRD or other regulatory bodies;
- (d) collecting documentary evidence prior to euthanasia should any of the situations outlined in 3.2 (b) or (c) arise, which may include photographic, video or other evidence and provide to RWWA as requested. The evidence obtained must not be circulated to any third party, without the prior consent of RWWA;
- (e) communicating with RWWA as soon as it becomes aware of, and at least 24 hours in advance, of any media that may potentially negatively impact RWWA or the racing industry's brand, image or reputation arising from Southdale activities;
- (f) maintaining registration and/or licensing with relevant agencies/authorities regulating their respective industry, and provide RWWA with relevant notice of inspection outcomes related to the respective registration/licenses;
- (g) Informing RWWA immediately, should any of the agencies/authorities cancel registration/licensing at any point due to failure to comply;
- (h) complying with all RWWA Rules of Racing; and
- (i) providing to RWWA information pertaining to racehorses, or suspected racehorses, received through, or handled by, the facility on a monthly basis. The information will be obtained by a

prescribed form, requesting the following details from the custodian of the racehorse, as known:

- (i) Horse's name or dam and year of birth for unnamed horses;
- (ii) Brands;
- (iii) Breed;
- (iv) Colour;
- (v) Sex;
- (vi) Microchip number, where microchip is present;
- (vii) Name of owner or authorised agent for owner; and
- (viii) Reason why the horse is being euthanased including whether horse has been referred to facility upon veterinary advice.

5 Termination

Either party may terminate this MoU at any time by giving thirty (30) days' written notice to that effect to the other party.

6 Notices

6.1 Service of Notices

A notice made under this memorandum (**Notice**) must be:

- (a) In writing, in English and signed by a person duly authorised by the sender; and
- (b) hand delivered, or sent by prepaid post, or email to the recipient's address for Notices specified in the Details, as varied by any Notice given by the recipient to the sender.

6.2 Effective on receipt

A Notice given in accordance with clause 6.1 takes effect when taken to be received (or at a later time specified in it), and is taken to be received:

- (a) If hand delivered, on delivery;
- (b) If sent by prepaid post, on the second Business Day after the date of posting (or on the seventh Business Day after the date of posting if posted to or from a place outside of Australia);
- (c) If sent by email, an hour after the time the sender's IT system recorded that the email left the sender's IT system unless, within four (4) Business Hours, the sender is informed (by automatic notice or otherwise) that the email has not been received by the recipient, but if the delivery, receipt or transmission is not on a Business Day or is after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the next Business Day.

7 Miscellaneous

7.1 Alterations

This memorandum may be altered only in writing signed by each party.

7.2 Survival

Any indemnity or any obligation of confidence under this MoU is independent and survives both termination of this MoU by any or all of the parties of the transaction/s contemplated by this MoU. Any other term by its nature intended to survive termination of this MoU of the transaction/s contemplated by the MoU survives such termination.

7.3 Further action

Each party must do, at its own expense, everything reasonably necessary (including executing documents) to give full effect to legally binding obligations set out in this MoU.

7.4 Severability

A term or part of a term of this MoU that is illegal or unenforceable may be severed from the MoU and the remaining terms or parts of the terms of this MoU continue in force.

7.5 Waiver

A party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver.

7.6 Relationship

Except where this MoU expressly states otherwise, it does not create a relationship of employment, trust, agency or partnership between parties.

7.7 Governing law and jurisdiction

This MoU is governed by the law of Western Australia and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Western Australia.

Signing Page

SIGNED by the Attorneys for **RACING AND WAGERING WESTERN AUSTRALIA** under Power of Attorney No N750792.

Group A Attorney

DocuSigned by:
Ian Edwards
B1338328D779473...

Signature

Ian Edwards

Name

Group B Attorney


DocuSigned by:
Charlotte Mills
39B6E0D72A714CA...

Signature

Charlotte Mills

Name

Witness Name: Peter Davis

Signature: 
DocuSigned by:
77186E34B1BF4FA...

Address: 14 Hasler Road, Osborne Park WA 6017

Occupation Procurement Manager

Executed by The Southdale Trading Trust
ABN 76 544 631 098 by its authorised representative in the presence of:

DocuSigned by:
Ross Malcolm Waddell
97B6112349EC49C...
Signature of Authorised Representative

Ross Malcolm Waddell
Name of Authorised Representative

DocuSigned by:
Rebecca Waddell
6F90814D4DB4446...
Signature of Witness

Rebecca Waddell
Name of Witness