

## SUPER VOBIS TERMS AND CONDITIONS

Racing Victoria Limited ACN 096 917 930 (**Racing Victoria**) operates the Super VOBIS scheme (**Super VOBIS**) to reward owners and breeders who invest in Victorian bred horses by paying a Super VOBIS Bonus to the Nominators, Current Owners, Relevant Trainers and Relevant Jockeys of a Super VOBIS Horse that places first, second or third in a Programmed Race conducted during the Racing Year in accordance with these Terms and Conditions. These Terms and Conditions set out the eligibility criteria for participation in Super VOBIS and the conditions of Your entry and participation in that scheme.

Any person who participates in Super VOBIS is bound by these Terms and Conditions.

### 1. Definitions and Interpretation

#### 1.1 Definitions

In these Terms and Conditions:

**ABN** means Australian Business Number;

**Attorney** means a natural person, who in accordance with these Terms and Conditions, is appointed to act for a Nominator;

**Australian Stud Book** means the officially published records of Thoroughbred bloodlines in Australia, and is managed by a division of Racing Australia which is responsible for the maintenance, accuracy, quality and integrity of those records;

**Business Day** means Monday to Friday excluding public holidays in Melbourne, Victoria.

**Claims** means any liabilities, actions, suits, proceedings, claims, demands, costs or expenses;

**Clubs** means thoroughbred racing clubs registered by Racing Victoria to conduct Race Meetings in the state of Victoria.

**Terms and Conditions** means these Terms and Conditions as may be varied by Racing Victoria from time to time in its absolute discretion;

**Country VOBIS Race** means a race that Racing Victoria determines:

- (a) carries country race status; and
- (b) contains a Super VOBIS Bonus total of \$12,000 (of which, \$3,600 is allocated as a Super VOBIS Nominator's Bonus and \$8,400 is allocated as a Super VOBIS Owner's Bonus);

**Current Owners** means the owners of a horse (or if the horse is leased, the lessees of that horse) on the date and time on which that horse runs in a Programmed Race, as recorded by the Registrar of Racehorses or as otherwise determined by the Stewards;

**Eligibility Category** means either Category A, Category B, or Category C, as defined in these Terms and Conditions under clause 4.1;

**Eligible Nominator** means a Nominator of a Super VOBIS Horse:

- (a) who:
  - i. when requested by Racing Victoria, provided evidence that he/she was the sole owner of the Super VOBIS Horse when it was nominated; or
  - ii. was not the sole owner of the Super VOBIS Horse when it was nominated, but provided evidence at the time of nomination that, he/she:
    1. was a lessee of the Super VOBIS Horse (and if there were multiple lessees, was the lessee duly authorised by the other lessees to be named as the Nominator); or
    2. was an owner of the Super VOBIS Horse (and was the owner authorised by the other owners to be named as the Nominator); and

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- (b) who paid the Nomination Fee for the Super VOBIS Horse; and
- (c) who was the first person to nominate the Super VOBIS Horse for the Super VOBIS Scheme, except in circumstances where somebody else previously nominated the Super VOBIS Horse and their nomination was rejected (or accepted but has since been revoked) by Racing Victoria; and
- (d) who provided all other relevant documentation and evidence required in these Terms and Conditions.

NB: an Attorney may undertake any of the above requirements on behalf of a Nominator, but only if done so in accordance with these Terms and Conditions.

**Final Finishing Order** means the official race results as published by Racing Australia, subject only to any subsequent determination made by the RAD Board or the Victorian Racing Tribunal (or appeal therefrom) under the Rules of Racing;

**GST** means the tax payable on taxable supplies under the GST Legislation;

**GST Legislation** means *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any related laws imposing such tax or legislation that is enacted to validate, recapture or recoup such tax;

**Horse Microchip ID Number** means the official identification number of the microchip implanted in a horse;

**Late Nomination** means any nominations received, processed and paid for between 1 May and 15 June of the Racing Year in which the horse became a yearling. For the avoidance of doubt, no Super VOBIS nominations will be accepted after 15 June of the Racing Year in which the horse became a yearling. A Late Nomination must include all necessary information and documentation as required pursuant to the Super VOBIS Form and these Terms and Conditions;

**Late Nomination Fee** means the following application fee payable by a Nominator to Racing Victoria in relation to a Late Nomination for the horse listed on the relevant Super VOBIS Form to be accepted into the Super VOBIS Scheme:

- (a) For Category A: \$1,320 (exclusive of GST);
- (b) For Category B: \$2,640 (exclusive of GST); or
- (c) For Category C: \$3,960 (exclusive of GST);

**Metropolitan VOBIS Race** means a race that Racing Victoria determines:

- (a) carries metropolitan status; and
- (b) contains a Super VOBIS Bonus total of \$30,000 (of which, \$7,000 is allocated as a Super VOBIS Nominator's Bonus and \$23,000 is allocated as a Super VOBIS Owner's Bonus);

**Midweek Metropolitan VOBIS Race** means a race that Racing Victoria determines:

- (a) carries midweek metropolitan status; and
- (b) contains a Super VOBIS Bonus total of \$15,000 (of which, \$4,500 is allocated as a Super VOBIS Nominator's Bonus and \$10,500 is allocated as a Super VOBIS Owner's Bonus);

**Nomination Fee** means:

- (a) the Prescribed Nomination Fee that is payable by a Nominator to Racing Victoria for the horse listed on the relevant Super VOBIS Form to be accepted into the Super VOBIS Scheme; or
- (b) in the case of a Late Nomination, the Late Nomination Fee.

**Nominator** means a natural person who makes an application for a horse to enter the Super VOBIS Scheme and is the Owner of that horse at the time of submitting the Super VOBIS Form;

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**Non-VOBIS Horse** means a horse that has not been accepted into one of the three Eligibility Categories listed in these Terms and Conditions, or was otherwise not nominated for the Super VOBIS scheme;

**Ordinarily Resident in Victoria** means a person who has spent at least 183 days in the previous 365 days residing in the State of Victoria;

**Parentage Verified** means that:

- (a) the horse has been microchipped;
- (b) a DNA sample has been collected from the horse and that DNA sample has been processed and the results verified;
- (c) the horse has been identified by a veterinarian; and
- (d) the horse has been accepted into the Australian Stud Book;

**Prescribed Fee Schedule** means the Racing Victoria prescribed fee schedule available on the RVL Website;

**Prescribed Nomination Fee** means the prescribed fee for nomination into the Super VOBIS Scheme as set out in the Prescribed Fee Schedule, which for the 2020/21 Racing Year is:

- (a) For Category A: \$660 (exclusive of GST);
- (b) For Category B: \$1,320 (exclusive of GST); or
- (c) For Category C: \$1,980 (exclusive of GST);

**Prohibited Substance** has the same meaning as set out in the Rules of Racing;

**Programmed Race** means an official race scheduled by Racing Victoria (and published in Inside Racing) in which Super VOBIS Horses may win Super VOBIS Bonuses, and which fall into one of the following three categories as determined by Racing Victoria in its absolute discretion:

- (a) Country VOBIS Race;
- (b) Midweek Metropolitan VOBIS Race; or
- (c) Metropolitan VOBIS Race;

**Race** means a thoroughbred race held at a Race Meeting;

**Racetrack** means the facilities used by any of the Clubs for the purposes of conducting a Race Meeting;

**Race Meeting** means any thoroughbred race meeting conducted by or on behalf of any of the Clubs;

**Racing Australia** means Racing Australia Pty Ltd 89 105 994 330;

**Racing Victoria** means Racing Victoria Limited ACN 096 917 930;

**Racing Year** means the period from 1 August to 31 July in the following year;

**RAD Board** means the Racing Appeals and Disciplinary Board, constituted under the Rules of Racing;

**Registrar of Racehorses** means the division of Racing Australia whose role is to record information regarding the ownership and identity of thoroughbred racehorses for racing in Australia and for export;

**Relevant Jockey** means a jockey that rode a Super VOBIS Horse that finished first, second or third in a Programmed Race;

**Relevant Trainer** means a registered trainer that was the trainer of a Super VOBIS Horse that finished first, second or third in a Programmed Race;

**Rules of Racing** means the Australian Rules of Racing for the time being and the Rules of Racing made by the Directors of Racing Victoria acting as a Board (referred to as the Local Rules) for the time being read, interpreted and construed together and all modifications thereof.

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**RVL Entities** has the meaning given in clause 15.15.

**RVL Website** means the official website of Racing Victoria, currently at the URL [www.racingvictoria.com.au](http://www.racingvictoria.com.au).

**Sales Deduct Option** means that when a Nominator nominates a horse for the Super VOBIS Scheme on or before 30 April in the relevant year, they do not pay the Nomination Fee at the time of nomination. Instead, they authorise the relevant auction house Selling their horse to pay Racing Victoria the amount (from the sale amount of the horse) equal to the relevant Nomination Fee;

**Selling** means putting a horse up for auction in an auction ring, and does not include online sales;

**Stakesmoney** means prizemoney only (excluding Super VOBIS Bonuses) and does not include cups, trophies or any material gain or benefit capable of being valued in money earned by a horse from whatever source for any person;

**Stewards** means the Stewards appointed under the Rules of Racing;

**Stud Season** means the period from 1 September to 31 May in the following year;

**Super VOBIS Bonus** means the money awarded (as Super VOBIS Nominator's Bonus and Super VOBIS Owner's Bonus) for a Programmed Race, and governed in accordance with these Terms and Conditions;

**Super VOBIS Form** means the form approved by Racing Victoria for Nominators to nominate a horse for the Super VOBIS Scheme;

**Super VOBIS Horse** means a horse that has been accepted by Racing Victoria into one of the Eligibility Categories and is entered as a thoroughbred horse in the Australian Stud Book;

**Super VOBIS Nominator's Bonus** means the Super VOBIS Bonus paid out to the Eligible Nominator when the horse they nominated places first, second or third in a Programmed Race, subject to these Terms and Conditions;

**Super VOBIS Owner's Bonus** means the Super VOBIS Bonus paid out to the Current Owners of a Super VOBIS Horse, the Relevant Trainer, and the Relevant Jockey when that horse places first, second or third in a Programmed Race, subject to these Terms and Conditions;

**Super VOBIS or Super VOBIS Scheme** means the scheme governed by these Terms and Conditions as amended from time to time;

**TBV** means Thoroughbred Breeders Victoria Inc;

**Victorian Breeder** is a person that Racing Victoria determines in its sole discretion is a Victorian breeder of thoroughbred horses. Examples of persons who may constitute being a Victorian Breeder include:

- (a) an individual who is Ordinarily Resident in Victoria at the time the horse is born;
- (b) a partnership where at least 50% of the partners are Ordinarily Resident in Victoria at the time of the horse's birth;
- (c) a joint venture where at least 50% of the participants in that joint venture are Ordinarily Resident in Victoria at the time of the horse's birth;
- (d) a company where at least 50% of the shareholders of that company are Ordinarily Resident in Victoria at the time of the horse's birth; or
- (e) a person that, at the time their horse is born, has made a substantial investment in the Victorian thoroughbred breeding industry.

**Victorian Racing Tribunal or VRT** has the same meaning as in the *Racing Act 1958* (Vic);

**You and Your** means the Nominator.

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Any capitalised terms not defined in these Terms and Conditions have the same meaning as in the Rules of Racing.

### 1.2 Interpretation

In these Terms and Conditions, unless the context indicates a contrary intention:

- 1.2.1 words denoting the singular number include the plural and vice versa;
- 1.2.2 words denoting individuals, persons, associations, clubs, societies and corporations include a reference to each and every one of them;
- 1.2.3 headings are for convenience only and do not affect interpretation;
- 1.2.4 references to clauses are references to clauses of these Conditions and references to sub-clauses are references to sub-clauses of these Conditions;
- 1.2.5 words denoting any gender include all genders;
- 1.2.6 if a word or phrase is defined cognate words or phrases have corresponding definitions;
- 1.2.7 the words “include”, “including”, “for example” or “such as” and other like words are not used as, nor are they to be interpreted as, words of limitation; and
- 1.2.8 references to any legislation or to any section or provision thereof includes any statutory modification or re-enactment thereof or any statutory provision substituted therefore and ordinances, by-laws, regulations and other statutory instruments issued thereunder.

## 2 Who Receives a Super VOBIS Bonus?

- 2.1 Racing Victoria will pay the applicable Super VOBIS Nominator's Bonus to the Eligible Nominator if the horse that they nominated:
  - 2.1.1 is a Super VOBIS Horse;
  - 2.1.2 places first, second or third in a Programmed Race as recorded in the Final Finishing Order; and
  - 2.1.3 satisfactorily passes any swab or inquiry procedure or any other reasonable condition of Racing Victoria.
- 2.2 Racing Victoria will pay the applicable Super VOBIS Owner's Bonus to the Current Owners, Relevant Jockey and Relevant Trainer if the horse they currently own/rode/trained in the Programmed Race:
  - 2.2.1 is a Super VOBIS Horse;
  - 2.2.2 places first, second or third in the Programmed Race as recorded in the Final Finishing Order; and
  - 2.2.3 satisfactorily passes any swab or inquiry procedure or any other reasonable condition of Racing Victoria
- 2.3 When determining whether a Super VOBIS Horse finishes first, second or third for the purposes of these Terms and Conditions, Racing Victoria will rely on the Final Finishing Order of that Programmed Race.
- 2.4 If, following the payment of a Super VOBIS Bonus with respect to a Race:
  - 2.4.1 Racing Victoria, the RAD Board, the VRT, a relevant tribunal, or a court of competent jurisdiction determines that the Super VOBIS Horse is disqualified from that Race under the Rules of Racing due to a Prohibited Substance or any other reason (**Disqualified Horse**),then all Super VOBIS Bonuses for that Race paid by Racing Victoria with respect to the Disqualified Horse must be repaid in full to Racing Victoria within 14 days of such determination.

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- 2.5 Racing Victoria retains absolute discretion as to whether it will redirect any Super VOBIS Bonuses repaid in accordance with clause 2.4 to another Super VOBIS Horse which placed in the adjusted Final Finishing Order.

### **3 Distribution of Super VOBIS Nominator's and Owner's Bonuses**

- 3.1 Subject to Condition 3.2, the Super VOBIS Nominator's or Owner's Bonuses available for a Programmed Race are allocated as follows:

- 3.1.1 First: 70% of the Super VOBIS Bonus.
- 3.1.2 Second: 20% of the Super VOBIS Bonus.
- 3.1.3 Third: 10% of the Super VOBIS Bonus.

- 3.2 If there is a dead-heat for first, second or third place in a Programmed Race, the Super VOBIS Bonuses available will be the aggregate of the amounts which would have been awarded if the dead-heated horses had finished in successive places, divided by the number of horses which dead-heated for that place. If one or more of the horses that dead-heated was a Non-VOBIS Horse, this must not affect the calculation in this clause 2.2.

For example, if a Super VOBIS Horse dead-heats with a Non-VOBIS horse in first place, the Super VOBIS Horse would be entitled to 45% of the Super VOBIS Bonus (i.e.  $(70\% + 20\%) / 2$ ).

- 3.3 If a Non-VOBIS Horse finishes in first, second or third place in a Programmed Race, a Super VOBIS Horse will only receive the percentage awarded in clause 3.1 in accordance with their placing in the race.

For example, if a Super VOBIS Horse finishes first, they will receive 70% of the applicable Super VOBIS Bonus. If a Non-VOBIS Horse finishes second, and a Super VOBIS Horse finishes third, the Super VOBIS Horse that finished third will only receive 10% of the applicable Super VOBIS Bonus. Nobody will receive 20% of the applicable Super VOBIS Bonus for second place. This may result in a situation where in some races, depending on the outcomes, 100% of the Super VOBIS Bonus may be awarded, and in others 0% of the Super VOBIS Bonus may be awarded.

### **4 Categories and Fees**

- 4.1 A horse may only be entered into the Super VOBIS Scheme if Racing Victoria is satisfied that it falls within one of the three Eligibility Categories as follows:

- 4.1.1 Category A: "Victorian Sired":

A horse will be eligible for Category A if:

- (a) it was conceived in Victoria; and
- (b) it was sired by a Stallion which (while in Australia) stood in Victoria during the Stud Season in which the horse was conceived.

- 4.1.2 Category B: "Breedback":

A horse will be eligible for Category B if:

- (a) it was conceived outside of Victoria; and
- (b) its dam was served in Victoria in the Stud Season in which the horse was born by a stallion which (while in Australia) stood in Victoria during that Stud Season.

- 4.1.3 Category C: "Victorian Breeder":

A horse will be eligible for Category C if:

- (a) the horse was sired by a Stallion which stands outside of Victoria;

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- (b) the horse was conceived by a Dam which at the time of the horse's birth was owned at least 50% by a Victorian Breeder; and
  - (c) the horse and its Dam resided in Victoria for six continuous months from when that horse was born to 30 April in the Stud Season that the horse was a yearling.
- 4.2 Subject to clause 4.3, at the time of nomination, the Nominator must pay the relevant Nomination Fee.
- 4.3 **Sales Deduct Option**
  - 4.3.1 This clause 4.3 applies only where Racing Victoria has received a valid and complete Super VOBIS Form (including any necessary supporting documentation) in relation to the horse on or before 30 April of the Racing Year in which the horse became a yearling. It does not apply with respect to Late Nominations.
  - 4.3.2 The Sales Deduct Option is only available for the yearling sales listed on the Super VOBIS Form.
  - 4.3.3 At the time of nomination, instead of paying the Nomination Fee, the Nominator may opt for the Sales Deduct Option (which requires them to provide their Credit Card details). If the Nominator chooses the Sales Deduct Option, and their horse does not sell at auction, Racing Victoria will charge the Credit Card listed by the Nominator. If the payment cannot be made, the Nominator will be personally sent an invoice requiring payment of the Nomination Fee as well as a \$50 processing fee. The Nominator must no later than 30 days from the date of that invoice pay Racing Victoria the relevant Nomination Fee and \$50 processing fee in full. If the Nominator fails to pay the Nomination Fee and the \$50 processing fee within that 30 day period:
    - (a) the Nominator will not have entered the horse into the Super VOBIS Scheme;
    - (b) the Nominator will not be entitled to use the Sales Deduct Option again, unless Racing Victoria determines otherwise; and
    - (c) the Nominator must inform all owners or persons who have expressed an interest in owning the horse that it is not entered into the Super VOBIS Scheme.
- 4.4 When nominating for an Eligibility Category, the Nominator is responsible for and must take all reasonable precautions to ensure to select the appropriate Eligibility Category for their horse to be enrolled under these Terms and Conditions. If a Nominator enrolls their horse in an inappropriate Eligibility Category (e.g. Category C instead of Category A), Racing Victoria is not obliged to refund to that Nominator the difference in the applicable Nomination Fees, and the Horse may in Racing Victoria's absolute discretion be ruled to be ineligible as a Super VOBIS Horse. If Racing Victoria rules that the Horse is ineligible for the Category it has been nominated for on the Super VOBIS Form, but the Horse may be eligible for another Category, the Nominator may be required to submit a new application by submitting a new Super VOBIS Form and may be liable for the Nomination Fee applicable at that time (which may be the Late Nomination Fee).
- 4.5 When Nominators seek to nominate their horse for an Eligibility Category, they must provide all relevant, complete and accurate documentation at the time of nomination which must not be misleading in any respect. Racing Victoria is under no obligation to verify any documentation that is provided or to seek further documentation from the Nominator, and as such, the onus is strictly on the Nominator to appropriately evidence that their horse is eligible. However, where Racing Victoria requests further documentation from the Nominator, this must be provided promptly. Any incomplete, inaccurate or misleading documentation will result in the nomination being rejected or rescinded by Racing Victoria. Examples of acceptable documentation that would assist a Nominator making a Category C nomination include (but are not limited to):
  - 4.5.1 invoices for veterinary services;
  - 4.5.2 agistment bills for the foal and dam, such as Ardex Files;
  - 4.5.3 invoices for Farrier bills;
  - 4.5.4 invoices from Horse Microchip ID of foal;

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4.5.5 invoices from other relevant transport of foal and dam; and

4.5.6 stud book declarations.

4.6 In addition to any other requirements in this clause 4, Nominators must ensure at the time of nomination that their horse:

4.6.1 is fully Parentage Verified in the Australian Stud Book; and

4.6.2 has a current Horse Microchip ID Number.

### **5 Payment of Super VOBIS Nominator's Bonuses**

5.1 Subject to these Terms and Conditions, a Super VOBIS Nominator's Bonus will be paid by single payment and will be drawn in favour of and paid to the Eligible Nominator.

5.2 Payments will be paid via EFT to the Eligible Nominator's nominated bank account. If bank account details are not provided, Super VOBIS Nominator's Bonus payments will be held by Racing Victoria, until current bank details are provided.

5.3 No interest will be payable by Racing Victoria in relation to any Super VOBIS Nominator's Bonuses.

5.4 Except as otherwise provided in these Terms and Conditions, all consideration payable under these Terms and Conditions in relation to any supply is exclusive of GST.

5.5 If an Eligible Nominator is registered for GST and has an ABN, then they will receive GST in addition to their Super VOBIS Nominator's Bonus.

5.6 In this clause words that are defined in the GST Legislation have the same meaning as their definition in that legislation.

### **6 Payment of Super VOBIS Owner's Bonuses**

6.1 Subject to these Terms and Conditions, Super VOBIS Owner's Bonuses will be paid with race Stakesmoney to Current Owners, the Relevant Trainer and the Relevant Jockey in accordance with the following percentages:

6.1.1 Current Owners: 85%

6.1.2 Relevant Trainer: 10%

6.1.3 Relevant Jockey: 5%.

6.2 If the horse is subject to a lease, Racing Victoria may, in its absolute discretion, direct that the Current Owners' percentage of the Super VOBIS Owner's Bonus be paid to the managing lessee, who is then responsible for distributing the Super VOBIS Owner's Bonus to the other lessees in accordance with their percentage share of the lease. Racing Victoria is not responsible for any mismanagement or unlawful appropriation of a Super VOBIS Owner's Bonus if it is paid to a managing lessee.

6.3 No interest will be payable by Racing Victoria in relation to the payment of Super VOBIS Owner's Bonuses.

6.4 If any of the Current Owners, Relevant Jockey or Relevant Trainer are registered for GST and have an ABN, they will receive GST in addition to their Super VOBIS Bonus.

6.5 In this clause words that are defined in the GST Legislation have the same meaning as their definition in that legislation.

### **7 Super VOBIS Form**

7.1 Racing Victoria will make available the Super VOBIS Form.

7.2 Nominators must execute the Super VOBIS Form where appropriate and relevant for their horse to be included into the Super VOBIS Scheme and become a Super VOBIS Horse.



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- 7.3 Racing Victoria may accept signatures from Attorneys acting for a Nominator, but only if:
- 7.3.1 the Attorney declares that he or she is duly authorised to execute the Super VOBIS Form on behalf of the Nominator;
  - 7.3.2 the Attorney provides appropriate and relevant Power of Attorney documentation at the time of nomination; and
  - 7.3.3 the Attorney fully and unconditionally indemnifies and holds harmless Racing Victoria against all Claims as a result of that Attorney not being authorised to complete or execute the Super VOBIS Form.
- 7.4 Racing Victoria is not obliged to enquire into the right or capacity of any person to be named as a Nominator (or to become an Eligible Nominator), and whether someone has the authorisation or capacity to execute as an Attorney of a Nominator.
- 7.5 Each person that executes a Super VOBIS Form agrees, accepts and acknowledges that in respect of the horse that is being nominated, they fully indemnify and hold harmless Racing Victoria against all Claims as a result of or in connection with:
- 7.5.1 a Nominator not being entitled to nominate that horse;
  - 7.5.2 the horse not meeting any of the Eligibility Categories;
  - 7.5.3 the horse not being fully Parentage Verified; or
  - 7.5.4 inaccurate, incomplete, misleading or deceptive statements or assertions conveyed in or around the time that the Super VOBIS Form is lodged with or processed by Racing Victoria.
- 7.6 Each person who executes a Super VOBIS Form represents and warrants to Racing Victoria that any horse named on that form is fully Parentage Verified and fully satisfies the Eligibility Category specified by the Nominator on that Form. If that representation and warranty is incorrect, then the Nominator and the Attorney (if an Attorney has executed the Super VOBIS Form) shall jointly and severally be liable to pay Racing Victoria for any relevant costs associated, and to refund all Super VOBIS Bonuses which have been paid in relation to the horse named on that form, and no further Super VOBIS Bonuses shall be paid in relation to that horse.
- 8 Power to Offset**
- 8.1 Subject to clause 8.3, if a Nominator (**Defaulting Party**) is in default with respect to:
- 8.1.1 payment of any Nomination Fee;
  - 8.1.2 payment of any other fee due pursuant to these Terms and Conditions;
  - 8.1.3 repayment of any Super VOBIS Bonus; or
  - 8.1.4 repayment of any Stakesmoney,  
(each a **Debt**),
- Racing Victoria may set off any obligation owed by Racing Victoria to the Defaulting Party, whether that obligation arises under these Terms and Conditions, the VOBIS Gold terms and conditions, the VOBIS Sires terms and conditions or the Rules of Racing, against the amount of any Debt due from the Defaulting Party to Racing Victoria pursuant to these Terms and Conditions.
- 8.2 Without limiting Racing Victoria's rights pursuant to this clause, Racing Victoria has the right to set off and apply any monies held (or other indebtedness at any time owing) by Racing Victoria to or for the credit or the account of the Defaulting Party against any outstanding Debt due by the Defaulting Party to Racing Victoria, including any monies due or held by Racing Victoria to the Defaulting Party with respect to any bonus (be it a VOBIS Scheme bonus or otherwise) or prizemoney payable to the Defaulting Party pursuant to the Rules of Racing with respect to any horse in which the Defaulting Party has an interest, be it a Super VOBIS Horse or otherwise.
- 8.3 Prior to exercising its rights under this clause 8, Racing Victoria will provide written notice (via email or post) of the Defaulting Party's default to the Defaulting Party and such notice will provide the Defaulting Party with fourteen (14) days from receipt of the notice to rectify the default. If the Defaulting Party fails

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to rectify the default within the time period specified in this clause, Racing Victoria may exercise its rights pursuant to clause 8.1 immediately and without any further notice.

- 8.4 A notice given to a Defaulting Party in accordance with this clause 8 is regarded as having been given and received:
- 8.4.1 if delivered to the Defaulting Party's address, on the day of delivery if a Business Day, otherwise on the next Business Day;
  - 8.4.2 if sent by pre-paid mail, on the third Business Day after posting;
  - 8.4.3 if served by email, at the time the email containing the notice left the sender's email system, unless the sender receives notification that the email containing the notice was not received by the recipient. If received after 5.00pm in the place of receipt or on a day which is not a Business Day, at 9.00am on the next Business Day.
- 8.5 For the purpose of this clause 8, the address for service of notices to the Nominator shall be the address as provided by the Nominator to Racing Victoria in the Nominator's Super VOBIS Form (or as otherwise notified to Racing Victoria by the Nominator in writing).
- 8.6 The rights granted to Racing Victoria pursuant to this clause are in addition to any other rights and/or remedies that Racing Victoria may have at law or under these Terms and Conditions.

### 9 Your Warranty and Acknowledgement

- 9.1 As a participant in Super VOBIS, You must not:
- 9.1.1 act in any way which breaches these Terms and Conditions or the Rules of Racing; or
  - 9.1.2 abuse or misuse the Super VOBIS Scheme or any privileges, services or other benefits accorded to You as a result of your participation in Super VOBIS including by:
    - (a) engaging in any unlawful, corrupt and/or fraudulent activities;
    - (b) causing disharmony or conflict at a Racetrack, or interfering with any other person's proper performance of his or her role at a Racetrack;
    - (c) engaging in any anti-social conduct which constitutes harassment, hateful, abusive, bullying, threatening, aggressive or other unacceptable behaviour whether in social media, at a Racetrack, or elsewhere; or
    - (d) at any time, failing to observe any reasonable direction or instruction issued by Racing Victoria or a Club or an officer, employee or agent of Racing Victoria or a Club, including the Racing Victoria Stewards.
- 9.2 You represent and warrant to Racing Victoria that:
- 9.2.1 You and Your Super VOBIS Horse(s) fulfil the eligibility criteria for participation in Super VOBIS;
  - 9.2.2 You have full power and authority to enter into and perform your obligations under these Terms and Conditions;
  - 9.2.3 these Terms and Conditions constitute and impose legally binding obligations on You;
  - 9.2.4 You will pay all applicable fees, including Nomination Fees, as notified by Racing Victoria in full by the relevant due date; and
  - 9.2.5 all information supplied in the Super VOBIS Form is true and correct as at and from the date it was signed, and you will notify Racing Victoria immediately in writing should any such information change.
- 9.3 You acknowledge that Racing Victoria will review and accept (if applicable) the Super VOBIS Form in reliance on the representation and warranty provided in clause 9.2.

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- 9.4 You acknowledge and agree that, as a result of Your Participation in VOBIS Sires, Racing Victoria considers You to be a “relevant person” for the purpose of LR 2 (or its equivalent as amended from time to time) of the Rules of Racing.
- 9.5 You acknowledge that it is Your responsibility to ensure that Racing Victoria holds Your current contact details, including a valid email address.
- 9.6 You acknowledge that Racing Victoria reserves the right to:
- 9.6.1 take all legal steps to recover the outstanding fees, including any outstanding Nomination Fee, and all reasonable costs;
  - 9.6.2 place You on the “Forfeit List” pursuant to AR 95 and AR 96 (or equivalent provisions as may be amended from time to time) of the Rules of Racing,  
  
in the event You fail to pay the applicable fees in full by the due date.
  - 9.6.3 If it is determined that Your representation and warranty is false (particularly with respect to the fact that a Super VOBIS Horse fails to satisfy the eligibility criteria), then without limitation You are liable to refund all prize money and/or Super VOBIS Owner’s Bonus(es) and/or Super VOBIS Nominator’s Bonus(es) that have been paid in relation to the relevant horse(s) and Racing Victoria reserves the right to immediately terminate Your participation in Super VOBIS pursuant to clause 13 below. No further prize money and/or Super VOBIS Bonus shall be paid in relation to the relevant horse(s).

### 10 Your Indemnity

- 10.1 You indemnify Racing Victoria in relation to all loss and damage whatsoever suffered (including indirect or consequential loss) by Racing Victoria as a result of You acting inconsistently with or breaching any part of these Terms and Conditions.
- 10.2 Notwithstanding Racing Victoria’s right to terminate pursuant to clause 13, Racing Victoria may suspend Your involvement (including all Super VOBIS Horse(s) that you have nominated) in Super VOBIS and/or withhold payment of any Super VOBIS Bonus without notice for any conduct that Racing Victoria in its sole discretion believes is inconsistent with or breaches these Terms and Conditions or any applicable law or is harmful to any of the interests of Racing Victoria, its affiliates and or the Victorian racing industry.

### 11 Limitation of Liability

Where conditions, warranties or guarantees implied by or otherwise arising under law cannot be lawfully excluded, then to the extent permitted by law, Racing Victoria limits its liability for a breach of any such condition, warranty or guarantee, where it is entitled to do so, to the resupply of the relevant service, or paying you the cost of that resupply. Otherwise, to the maximum extent permitted by law, Racing Victoria and its officers, employees, agents and representatives will not be liable for any loss or damage (including consequential loss or damage) to any person or entity, however caused (whether by negligence or otherwise), which may arise directly or indirectly in respect of any error, omission or misrepresentation in any information or material provided relating to Super VOBIS or otherwise in connection with Super VOBIS.

### 12 Use of Personal Information

- 12.1 You agree that Racing Victoria and/or authorised third parties (including but not limited to TBV) may be required to collect and process Your personal information in order to:
- 12.1.1 determine whether or not You satisfy the criteria required to be a participant in Super VOBIS;
  - 12.1.2 determine whether or not the horse(s) You have nominated satisfy an Eligibility Category;
  - 12.1.3 provide You with any applicable privileges or benefits or to impose any applicable restrictions on Your participation in Super VOBIS;
  - 12.1.4 recover any outstanding fee, including any outstanding Nomination Fee, from You, including without limitation any recovery in accordance with clause 8;

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12.1.5 otherwise administer and manage the VOBIS scheme (which includes Super VOBIS, VOBIS Gold and VOBIS Sires),

each a **Permitted Purpose** and together the **Permitted Purposes**.

- 12.2 You consent to Racing Victoria sharing Your Personal Information with third parties, including TBV and any third party providing services for the Super VOBIS Scheme, for a Permitted Purpose or otherwise in accordance with Racing Victoria's Privacy Policy, which can be accessed at [www.racingvictoria.com.au/privacy-policy](http://www.racingvictoria.com.au/privacy-policy). The Privacy Policy provides You with more information regarding how and in what circumstances Racing Victoria may share and process Your personal information.
- 12.3 You acknowledge that Racing Victoria will collect, use and disclose Your personal information in accordance with its Privacy Policy and these Terms and Conditions.
- 12.4 As a participant in Super VOBIS, You provide Your express consent to Racing Victoria sending You marketing communications including via direct mail, telephone, email, SMS or other digital means, including in regard to racing industry news, offers for Super VOBIS participants, surveys or requests for feedback regarding the racing industry including Super VOBIS and competitions open to Super VOBIS participants.
- 12.5 You can opt out of receiving the communications described at 12.4 at any time. Opting out of these communications will impact Racing Victoria's ability to provide You with all the privileges and other benefits that may otherwise be available to You as a Super VOBIS participant.
- 12.6 You acknowledge that if You do not provide Your Personal Information following a request by Racing Victoria or refuse to consent to Racing Victoria's use and/or sharing of that information in accordance with this clause, Racing Victoria may not be able to approve Your Super VOBIS Form and/or enable You to participate in Super VOBIS in accordance with these Terms and Conditions, or may be required to terminate, suspend or otherwise impose conditions on Your participation in Super VOBIS.

### 13 Termination, Modification and Amendment

- 13.1 Racing Victoria may exclude any Super VOBIS Horse(s) from participation in Super VOBIS, and may exclude or terminate Your participation in Super VOBIS in its entirety at any time (including should any Super VOBIS Horse that You have nominated cease to satisfy the relevant Eligibility Category and/or You cease to satisfy the criteria to be Nominator) without giving any explanation or justification for the exclusion or termination, and Racing Victoria has no liability for any costs, losses or damages of any kind arising as a consequence of said exclusion or termination.
- 13.2 Racing Victoria may impose conditions on your participation in Super VOBIS at any time, whether prior to or during the term of Your participation, without giving any explanation or justification, and Racing Victoria has no liability for any costs, losses or damages of any kind arising as a consequence of the imposition of those conditions
- 13.3 Without limiting Racing Victoria's rights pursuant to clauses 13.1 and 13.2, if Racing Victoria intends to exercise its rights pursuant to either clause 13.1 or clause 13.2, it will provide You with written notice which identifies the relevant issues or concerns (**Notice**). You will then be provided with an opportunity to respond to the matters raised in the Notice. If Racing Victoria requires a response within a certain time period, Racing Victoria will make that clear in the Notice. If You then fail to respond within that time period, Racing Victoria may make a decision with regard to the exercise of its rights pursuant to clause 13.1 or clause 13.2, as the case may be, without Your views. Racing Victoria will consider all matters it determines relevant prior to making a decision whether or not to take action pursuant to clause 13.1 or clause 13.2.
- 13.4 Without limitation, Racing Victoria may exclude or terminate Your participation in Super VOBIS, or impose conditions on Your participation if:
- 13.4.1 a Super VOBIS Horse You have nominated ceases to satisfy the relevant Eligibility Category;
  - 13.4.2 You cease to satisfy the criteria to be Nominator;
  - 13.4.3 You fail to pay any fee(s), including any Nomination Fee;

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- 13.4.4 You are not of good character;
  - 13.4.5 You pose an unacceptable risk to the integrity of racing or the racing industry;
  - 13.4.6 You cause disharmony or conflict at a Racetrack, or interfere with any other person's proper performance of his or her role at a Racetrack;
  - 13.4.7 You engage in unlawful or anti-social conduct which constitutes harassment, hateful, abusive, bullying, threatening or other unacceptable behaviour whether in social media, at a Racetrack, or elsewhere;
  - 13.4.8 at any time You fail to observe any direction or instruction issued by Racing Victoria or a Club (or any officer, employee or agent of Racing Victoria or a Club), including the Racing Victoria Stewards;
  - 13.4.9 You are found to have breached the Rules of Racing; or
  - 13.4.10 You breach any of these Terms and Conditions.
- 13.5 Racing Victoria reserves the right to modify Super VOBIS (including, without limitation, amending these Terms and Conditions):
- 13.5.1 with or without further notice to You; and
  - 13.5.2 without giving You any explanation or justification for such change,
- and any modifications and amendments (as the case may be) will become effective once published at <https://www.racingvictoria.com.au/super-vobis> provided however that any change to Eligibility Categories shall not affect the eligibility of a horse that has already been accepted into that Eligibility Category prior to the amendment and such acceptance was in accordance with the Terms and Conditions at that time). Without limitation, and for the avoidance of doubt, such modifications and amendments include reducing the eligibility and size of Super VOBIS Bonuses and altering the Nomination Fees or Eligibility Categories.
- 13.6 Racing Victoria gives no warranty as to the continuing availability of Super VOBIS. Racing Victoria may terminate or suspend Super VOBIS at any time:
- 13.6.1 with or without notice to You; and
  - 13.6.2 without giving You any explanation or justification for the termination,
- and any termination will become effective once published on the RVL Website.
- 13.7 Without limiting Racing Victoria's rights pursuant to clause 13.6, Racing Victoria will use best efforts to notify Super VOBIS participants in advance of any decision by Racing Victoria to terminate or suspend Super VOBIS.
- 13.8 Neither Racing Victoria nor any RVL Entities shall be liable to any person in any way if Super VOBIS is terminated.
- 14 Intellectual Property**
- 14.1 You acknowledge and agree that all Intellectual Property Rights in and to Super VOBIS are owned and retained exclusively by Racing Victoria.
- 15 General**
- 15.1 Racing Victoria may, in its sole and absolute discretion:
- 15.1.1 waive, remove or modify a requirement provided for under these Terms and Conditions; and
  - 15.1.2 may require that additional requirements be met.

## SUPER VOBIS TERMS AND CONDITIONS

- 15.2 Notwithstanding anything contained in these Terms and Conditions, Racing Victoria retains the power to determine in its sole and absolute discretion whether:
- 15.2.1 a Nominator is entitled to be an Eligible Nominator; or
  - 15.2.2 any person is entitled to any Super VOBIS Bonuses.
- 15.3 Racing Victoria:
- 15.3.1 takes no responsibility for determining, and has no obligation to inquire into or advise, whether information listed on a Super VOBIS Form is correct and complete;
  - 15.3.2 is not liable to any person in any way if Racing Victoria erroneously states, certifies or authorises that a horse is, or was, within an Eligibility Category or has otherwise entered into the Super VOBIS Scheme; and
  - 15.3.3 has no obligation to notify any person (other than a Nominator) that a horse has or has not been nominated for the Super VOBIS Scheme, or has or has not been accepted into the Super VOBIS Scheme.
- 15.4 By executing and lodging a Super VOBIS Form, all signatories accept that they are bound by these Terms and Conditions and the Rules of Racing. They will also procure that any Current Owners, Relevant Trainers and Relevant Jockeys be bound by these Terms and Conditions.
- 15.5 Racing Victoria may:
- 15.5.1 delegate to a sub-committee;
  - 15.5.2 appoint; and/or
  - 15.5.3 employ,
- any person to undertake its role (or any aspect of its role) in operating the Super VOBIS Scheme.
- 15.6 Racing Victoria may terminate the Super VOBIS Scheme at any time.
- 15.7 Racing Victoria retains absolute discretion to determine whether it will refund a Nomination Fee or provide any compensation whatsoever with regard to any aspect of the Super VOBIS Scheme.
- 15.8 No person shall have any right to seek any refund or compensation from Racing Victoria with respect to Racing Victoria's administration of, or decisions made under, these Terms and Conditions or in any way associated with the Super VOBIS Scheme.
- 15.9 No refund, in full or in part, of a Nominator's Fee is payable except as follows: -
- 15.9.1 If Racing Victoria terminates Super VOBIS, Racing Victoria shall determine and refund to those Super VOBIS Nominators determined by it the proportion (if any) of the balance of the fees paid to it in respect of Super VOBIS after deducting expenses incurred in respect of Super VOBIS, liabilities (contingent or otherwise) incurred in respect of Super VOBIS and Super VOBIS Bonuses paid or liable to be paid by it which it in its sole and unfettered discretion thinks is appropriate;
  - 15.9.2 If any Super VOBIS Form is rejected by Racing Victoria Limited (which it may determine to do in its sole discretion at any time on or before the commencement of the horses 2YO Racing Year without having or giving any reason therefore), any fee paid in respect of a horse nominated on that form shall be refunded in full;
  - 15.9.3 If the horse dies prior to 31 July in the Racing Year in which the horse became a yearling.
- 15.10 Relevant jurisdiction
- 15.10.1 These Terms and Conditions are governed by and interpreted in accordance with the law of the State of Victoria, Australia.

## SUPER VOBIS TERMS AND CONDITIONS

15.10.2 You agree to the jurisdiction of the courts of the State of Victoria, Australia to determine any dispute arising out of these Terms and Conditions.

### 15.11 Severability

If any provision of these Terms and Conditions are found to be void, unlawful, or unenforceable then that provision will be deemed to be severable from these Terms and Conditions, and the severed part will not affect the validity and enforceability of any remaining provisions.

### 15.12 Waiver

The failure, delay or omission by Racing Victoria to exercise a power or right conferred on Racing Victoria under these Terms and Conditions will not operate as a waiver of that power or right, and any single exercise of a power or right will not preclude another exercise of that power or right, or the exercise of another power or right under these Terms and Conditions.

### 15.13 Assignment and Transfer

15.13.1 You may not assign or transfer, whether in whole or part, any benefits, rights or obligations under these Terms and Conditions to any other party without Racing Victoria's prior written consent, which may be provided or withheld in its absolute discretion.

15.13.2 Racing Victoria may:

- (a) delegate to a sub-committee;
- (b) appoint or employ any person to undertake; or
- (c) otherwise assign its role or any aspect of its role under these Terms and Conditions, to any person or entity.

15.14 All references to Racing Victoria in these Terms and Conditions shall be construed as including references to the Board of Racing Victoria, Racing Victoria's officers, employees and agents and any person, committee or board to whom or which any aspect of Racing Victoria's role has been delegated or assigned (**RVL Entities**).

### 15.15 Hold on Trust

To the extent that You enter into any obligation in relation to or in respect of any RVL Entities, including any obligation to indemnify any of the RVL Entities, Racing Victoria holds the benefit of that obligation on trust for and on behalf of the RVL Entities, and may on behalf of the RVL Entities take action directly against You in relation to any breach of such obligation or any other actionable conduct by You, notwithstanding that the RVL Entities are not parties to this agreement.