

SECOND AMENDMENT
TO AMENDED AND RESTATED FUNDING AGREEMENT FOR LIVE HORSE RACING

THIS SECOND AMENDMENT TO AMENDED AND RESTATED FUNDING AGREEMENT FOR LIVE HORSE RACING (this “**Second Amendment**”) made as of the 16th day of December, 2020.

BETWEEN:

ONTARIO LOTTERY AND GAMING CORPORATION,

a corporation established pursuant to the *Ontario Lottery and Gaming Corporation Act, 1999*

(hereinafter referred to as “**OLG**”)

- and -

HORSE RACING ONTARIO,

a non-share capital corporation incorporated under the laws of Canada,

(hereinafter referred to as “**Ontario Racing**”)

- and -

ONTARIO RACING MANAGEMENT INC.,

a corporation incorporated under the laws of the Province of Ontario,

(hereinafter referred to as “**ORM**”)

- and -

WOODBINE ENTERTAINMENT GROUP,

a non-share capital corporation incorporated under the laws of the Province of Ontario,

(hereinafter referred to as “**WEG**”)

WHEREAS OLG, Ontario Racing, ORM and WEG are parties to that certain Amended and Restated Funding Agreement for Live Horse Racing made effective as of April 1, 2019 (the “**Original Funding Agreement**”), as amended by the First Amendment to Amended and Restated Funding Agreement for Live Horse Racing made as of April 9, 2020 (the “**First Amendment**”, and together with the Original Funding Agreement, the “**Funding Agreement**”);

AND WHEREAS capitalized terms that are used but not defined in this Second Amendment have the respective meanings specified in the Funding Agreement;

AND WHEREAS the Parties entered into the Funding Agreement to implement a funding model in which payments are made by OLG to Ontario Racing, and Ontario Racing thereafter distributes the money received from OLG to or for the benefit of the OR Racetrack Members or other horse racing industry participants, in each case subject to the terms and conditions of the Funding Agreement (including with respect to the permitted uses of the funds comprising the Annual Payments) and the Organizational Documents of Ontario Racing, all in furtherance of the Funding Purpose, which includes the expectation that the funding of purses for live horse racing in Ontario and certain related costs and expenses pursuant to the Funding Agreement will help to build the foundation for a more stable and sustainable live horse racing industry in Ontario, with increased responsibility for the industry to become self-governing and manage its business towards such greater sustainability;

AND WHEREAS like many other sectors of Ontario's economy, the horse racing industry has been significantly impacted by the COVID-19 pandemic and will continue to face uncertainties going forward;

AND WHEREAS in order to provide the horse racing industry time to assess the impacts of the COVID-19 pandemic, the Parties desire to amend the Funding Agreement as set forth in this Second Amendment;

NOW THEREFORE THIS SECOND AMENDMENT WITNESSES THAT in consideration of the respective covenants and agreements of the Parties herein contained and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Parties hereby agree as follows:

1. New Section 5.8 (Funding Years April 1, 2021 to March 31, 2026)

The Funding Agreement is hereby amended by adding the following provisions to Article 5, as Section 5.8 (Funding Years April 1, 2021 to March 31, 2026):

- (a) For purposes of this Section 5.8, unless the context otherwise requires, the following terms shall have the respective meanings specified below and grammatical variations of such terms shall have corresponding meanings:
 - (i) **"2020/2021 Plan"** means the Approved Annual Business Plan for the Funding Year that commenced on April 1, 2020, prior to any changes thereto that were made in relation to, or as a result of, the Closure Period; and
 - (ii) **"Subject Funding Years"** means the five Funding Years commencing on April 1, 2021 and ending on March 31, 2026, and **"Subject Funding Year"** means any of such Funding Years.
- (b) OLG and Ontario Racing agree that, notwithstanding anything to the contrary in this Agreement but subject to Section 3.4(a) (including Schedule 3.4(a)), Article 4, Section 6.1(g) and Section 6.1(h), the provisions of this Section 5.8 will apply in respect of the Subject Funding Years.
- (c) For each Subject Funding Year, the Annual Payment will be an aggregate amount not to exceed \$120,350,000, comprised of:

- (i) the Racetracks Payment, in the amount of \$91,400,000, subject to Article 4;
 - (ii) the Additional Purse Enhancement Payment, in the amount of \$4,000,000;
 - (iii) the Capital Improvements Payment, in the amount of \$6,000,000;
 - (iv) the Administration Payment, in the amount of \$3,900,000;
 - (v) the Operational Enhancement Payment, in the amount of \$2,050,000;
 - (vi) the Horse Improvement Payment, in the amount of \$10,000,000; and
 - (vii) the Transition Payment, in the amount of \$3,000,000.
- (d) The Proposed Annual Business Plan for each Subject Funding Year will reflect the following:
- (i) a number of race dates for each of the Member Racetracks that is substantially similar to the number of race dates for each of the Member Racetracks that was reflected in the 2020/2021 Plan; and
 - (ii) an allocation of the Racetracks Payment that is consistent with the allocation contemplated in the 2020/2021 Plan, subject to any differences in the anticipated number of race dates or purse levels for each of the Member Racetracks during the applicable Subject Funding Year as compared to those race dates and purse levels originally contemplated in the 2020/2021 Plan.
- (e) The portion of the Additional Purse Enhancement Payment, the Capital Improvements Payment, the Operational Enhancement Payment, the Horse Improvement Payment and the Transition Payment that Ontario Racing will distribute to ORM for the benefit of each OR Racetrack Member will be determined by Ontario Racing and reflected in the Proposed Annual Business Plan for each Subject Funding Year; provided, however, that:
- (i) WEG will not be entitled to receive any portion of the Additional Purse Enhancement Payment, the Capital Improvements Payment or the Transition Payment;
 - (ii) the Operational Enhancement Payment will be distributed and used in accordance with Section 3.4;
 - (iii) the Horse Improvement Payment will be distributed and used in accordance with Section 3.5; and
 - (iv) the Transition Payment may be used solely for the purpose of paying Eligible Costs (rather than Transition Payment Eligible Costs) for and on behalf of, and for the benefit of, the Transition Payment Recipients. For greater certainty, during the Subject Funding Years, (A) the use of the

Transition Payment is not limited to the Transition Payment Eligible Costs as reflected in Schedule 5.6(a)(ii), and (B) the allocation of the Transition Payment specified in Schedule 5.6(a)(ii) is not applicable, and the portion of the Transition Payment that will be used to pay Eligible Costs for and on behalf of, or for the benefit of, any Transition Payment Recipient during each of the Subject Funding Years will instead be proposed by Ontario Racing in the applicable Proposed Annual Business Plan.

- (f) For each Subject Funding Year only (but not thereafter), the amount of the Administration Payment will be \$3,900,000.

2. Amendment to Section 5.1(a) (Annual Business Plan)

Section 5.1(a)(vii) of the Funding Agreement is hereby deleted in its entirety and replaced with the following:

- “(vii) without limiting the generality of Section 5.1(a)(ii), a detailed use of funds relating to the Horse Improvement Payment and the Transition Payment.”

3. Amendment to Section 4.2(a) (Gaming Expansion Funds – WEG)

Section 4.2(a) of the Funding Agreement is hereby amended by replacing the word “third” with the word “fourth”, so that the opening phrase of such Section becomes “Commencing with the fourth Funding Year of the Term, ...”.

4. Amendment to Section 5.4(a) (Three-Year Strategic Plan)

The first sentence of Section 5.4(a) of the Funding Agreement is hereby deleted in its entirety and replaced with the following:

“Ontario Racing shall deliver to OLG a three-year strategic plan (the “**Three-Year Strategic Plan**”) that addresses the matters specified in Schedule 5.4 (i) by no later than March 31, 2021 and (ii) contemporaneously with the submission of the Proposed Annual Business Plan for each of the fourth and seventh Funding Years and, if applicable, each of the tenth, thirteenth, sixteenth and nineteenth Funding Years.”

5. New Section 6.5 (Auditor General’s 2019 Annual Report)

The Funding Agreement is hereby amended by adding the following provisions to Article 6, as Section 6.5 (Auditor General’s 2019 Annual Report):

“At OLG’s reasonable request from time to time, Ontario Racing, ORM and WEG shall use reasonable efforts to cooperate with OLG in its review and consideration of the recommendations made by the Auditor General in the 2019 Annual Report, issued by the Office of the Auditor General of Ontario, relating to provincial support to sustain the horse racing industry, including matters contemplated by this Agreement and other matters ancillary thereto.”

6. New Section 6.6 (PMTR Reform)

The Funding Agreement is hereby amended by adding the following provisions to Article 6, as Section 6.6 (PMTR Reform):

“At OLG’s reasonable request from time to time, Ontario Racing, ORM and WEG shall use reasonable efforts to cooperate with OLG in its review and consideration of reforms to the existing PMTR framework, including with respect to the allocation and distribution of PMTR funds, having regard to the Funding Purpose.”

7. Effect of Second Amendment on Funding Agreement

Except as modified by this Second Amendment, the Funding Agreement remains unchanged and in full force and effect.

8. Publishing of Second Amendment

Ontario Racing, ORM and WEG acknowledge that OLG is required to publish this Second Amendment on its website pursuant to *Ontario Regulation 265/18: Payments to Support Live Horse Racing In Ontario*, made pursuant to the *Ontario Lottery and Gaming Corporation Act, 1999*.

9. Counterparts

This Second Amendment may be executed in several counterparts, each of which will be deemed to be an original and all of which will together constitute one and the same instrument.

10. Electronic Delivery

Delivery of an executed copy of this Second Amendment by any means of electronic communication capable of producing a copy will be deemed to be execution and delivery of this Second Amendment as of the date set forth on page one of this Second Amendment.

[The next page is the signature page.]

Parties. IN WITNESS WHEREOF this Second Amendment has been executed by the

ONTARIO LOTTERY AND GAMING CORPORATION

by (signed) Lori Sullivan
Name: Lori Sullivan
Title: EVP, Chief Operating Officer
(signed) Tina MacMillan
Name: Tina MacMillan
Title: Senior Director, Horse Racing

HORSE RACING ONTARIO

by (signed) John Hayes
Name: John Hayes
Title: Chair
(signed) Sue Leslie
Name: Sue Leslie
Title: Board member

ONTARIO RACING MANAGEMENT INC.

by (signed) Katherine Curry
Name: Katherine Curry
Title: WEG VP, Legal
(signed) Jonathan Zammit
Name: Jonathan Zammit
Title: Executive Director, ORM

WOODBINE ENTERTAINMENT GROUP

by (signed) Jim Lawson
Name: Jim Lawson
Title: CEO
(signed) Bill Ford
Name: Bill Ford
Title: General Counsel