

NEW YORK STATE THOROUGHBRED BREEDING AND DEVELOPMENT FUND

**RESOLUTION REGARDING VIDEOCONFERENCING
UNDER OPEN MEETINGS LAW**

DECEMBER 2022

WHEREAS, by passing Chapter 56 of the Laws of 2022 ("Chapter 56"), the New York State Legislature amended Section 103 of the Open Meetings Law; and

WHEREAS, Chapter 56 adds Section 103-a of the Open Meetings Law, permitting the New York State Thoroughbred Breeding and Development Fund ("Breeding Fund") to authorize its members to attend meetings by videoconference under extraordinary circumstances; and

WHEREAS, Section 103-a(2)(a) requires the Breeding Fund to adopt a resolution following a public hearing authorizing the limited use of videoconferencing under such circumstances; and

WHEREAS, Section 103-a(2) allows for hybrid meetings by requiring that a minimum number of members are present to fulfill the Breeding Fund's quorum requirement in the same physical location or locations where the public can attend; and

WHEREAS, Section 103-a(2)(c) requires that members be physically present at any such meeting unless such member is unable to be physically present at any such meeting location due to extraordinary circumstances, including disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member's physical attendance at such meeting; and

WHEREAS, in accordance with Section 103-a(2)(d), any members attending by videoconference must, except during executive session, be heard, seen and identified, while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon; and

WHEREAS, Section 103-a(2)(g) requires that any meeting where a member attends by videoconference be recorded, posted on the Breeding Fund's webpage within five (5) business days, and transcribed upon request; and

WHEREAS, Section 103-a(2)(h) requires that members of the public be permitted to attend and participate, if authorized, in any meeting by videoconference when a member attends by videoconference.

BE IT RESOLVED, that the Breeding Fund authorizes its member who experience an extraordinary circumstances, as described above and further defined by any rules or written procedures later adopted, to attend meetings by videoconference: (i) as long as a quorum of the member attend in-person at one or more locations open to the public; (ii) as long as the member can be seen, heard, and identified while the open portion of the meeting is being conducted; and (iii) as otherwise permitted under Chapter 56 of the Laws of 2022; and be it further

RESOLVED, that the Breeding Fund shall create written procedures further governing its use of videoconferencing by its members in compliance with Chapter 56 of the Laws of 2022.

This **RESOLUTION** was duly adopted by the Board of Directors on December 13, 2022 at a public meeting conducted in compliance with the Open Meetings Law.

NEW YORK STATE THOROUGHBRED BREEDING AND DEVELOPMENT FUND

***PROCEDURES FOR MEMBER VIDEOCONFERENCING
PURSUANT TO PUBLIC OFFICERS LAW SECTION 103-a***

***ESTABLISHED
DECEMBER 2022***

In compliance with Public Officers Law ("POL") Section 103-a(2)(a), the New York State Thoroughbred Breeding and Development Fund ("Breeding Fund"), following a public hearing, authorized by resolution on December 13, 2022 the use of videoconferencing as described in POL Section 103-a.

The following procedures are hereby established to satisfy the requirement of POL Section 103-a(2)(b) that any public body which in its discretion wishes to permit its members to participate in meetings by videoconferencing from private location – under extraordinary circumstances – must establish written procedures governing member and public attendance.

1. A Breeding Fund member shall be physically present at any meeting of the Breeding Fund unless such member is unable to be physically present at one of the designated public meeting locations due to extraordinary circumstances.
2. For purposes of these procedures, the term "extraordinary circumstances" includes disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member's physical attendance at such meeting.
3. If a member is unable to be physically present at one of the designated public meeting location and wishes to participate by videoconferencing from a private location due to extraordinary circumstances, the member must notify the Breeding Fund's Executive Director no later than four business days prior to the scheduled meeting in order for proper notice to the public to be given. If extraordinary circumstances present themselves on an emergent basis within four days of a meeting, the Breeding Fund shall update its notice as soon as practicable to include that information. If it is not practicable for the Breeding Fund to update its notice, the Breeding Fund may reschedule its meeting.
4. If there is a quorum of members participating at a physical location open to the public, the Breeding Fund may properly convene a meeting. A member who is participating from a remote location that is not open to in-person physical attendance by the public shall not count toward a quorum of the Breeding Fund but may participate and vote if there is a quorum of members at a physical location open to the public.
5. Except in the case of executive sessions conducted pursuant to POL Section 105, the Breeding Fund shall ensure that its members can be heard, seen, and identified while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon. This shall include the use of first and last name placards physically placed in front of the members or, for members participating by videoconferencing from private locations due to extraordinary circumstances, such members

must ensure that their full first and last name appears on their videoconferencing screen.

6. The minutes of the meetings involving videoconferencing based on extraordinary circumstances pursuant to POL Section 103-a shall include which, if any, members participated by videoconferencing from a private location due to such extraordinary circumstances.
 7. The public notice for the meeting shall inform the public: (i) that extraordinary circumstances videoconferencing will be used, (ii) where the public can view and/or participate in such meeting, (iii) where required documents and records will be posted or available, and (iv) the physical location(s) for the meeting where the public can attend.
 8. The Breeding Fund shall provide that each open portion of any meeting conducted using extraordinary circumstances videoconferencing shall be recorded and such recordings posted or linked to the Breeding Fund's website within five (5) business days following the meeting, and shall remain so available for a minimum of five years thereafter. Such recordings shall be transcribed upon request.
 9. If members of the Breeding Fund are authorized to participate in videoconferencing from a private location due to extraordinary circumstances, the Breeding Fund shall provide the opportunity for members of the public to view such meeting by video, and to participate in proceedings by videoconference in real time where public comment or participation is authorized. The Breeding Fund shall ensure that where extraordinary circumstances videoconferencing is used, it authorizes the same public participation or testimony as in person participation or testimony.
 10. Open meetings of the Breeding Fund conducted using extraordinary circumstances videoconferencing pursuant to the provisions of POL Section 103-a shall utilize technology to permit access by members of the public with disabilities consistent with the 1990 Americans with Disabilities Act, as amended, and corresponding guidelines. For purposes of this guideline, "disability" shall have the meaning defined in Executive Law Section 192.
 11. The in-person participation requirements of POL Section 103-a(2)(c) shall not apply during a disaster emergency declared by an appropriate government official or body if the Breeding Fund determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the Breeding Fund to hold an in-person meeting.
 12. These procedures shall be conspicuously posted on the Breeding Fund's website.
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