EXECUTIVE ORDER NO. 197

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, through Executive Order Nos. 119, 138, 151, 162, 171, 180, 186, and 191, issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, August 1, 2020, August 27, 2020, September 25, 2020, and October 24, 2020, respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted, in whole or in part, in response to the COVID-19 Public Health Emergency remained in full force and effect; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133, Nos. 135-138, Nos. 140-166, Nos. 168-173, No. 175, Nos. 177-181, No. 183, Nos. 186-187, and Nos. 189-196 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, to protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, I issued Executive Order No. 104 on March 16, 2020, the facts and circumstances of which are also adopted by reference herein, which established statewide social mitigation strategies for combatting COVID-19; and

WHEREAS, the issuance of the Public Health Emergency on March 9, 2020 and mitigation strategies on March 16, 2020 resulted in the closure of the racetracks conducting horse races and stabling facilities; and

WHEREAS, the racetracks remained closed until June 1, 2020, when Administrative Order No. 2020-14 allowed the racetrack permit holders to offer live racing and to open stabling facilities, while still prohibiting spectators or other members of the public due to the ongoing Public Health Emergency; and

WHEREAS, the permit holders ultimately were authorized to allow spectators and other members of the public, in a limited capacity, into the racetrack to participate in simulcasting, pari-mutuel wagering, sports wagering or other activities on July 3, 2020, by Administrative Order No. 2020-16; and

WHEREAS, notwithstanding the extraordinary circumstances of the COVID-19 pandemic, N.J.S.A. 5:5-156 requires the permit holders to schedule a minimum number of live race dates as a condition for participation in off-track wagering and account wagering; and

WHEREAS, N.J.S.A. 5:5-130 provides that the New Jersey Racing Commission shall issue an off-track wagering license only if the permit holders schedule at least the minimum number of race dates required in N.J.S.A. 5:5-156; and

WHEREAS, N.J.S.A. 5:5-139 similarly provides that the New Jersey Racing Commission shall issue the account wagering license only if the permit holders schedule the statutory minimum number of race dates; and

WHEREAS, the permit holders were limited in their ability to conduct the minimum number of live race dates required in N.J.S.A. 5:5-156 due to the interruptions related to the Public Health Emergency and the social distancing and mitigation restrictions imposed, including the closure of the racetracks for a period of months, along with the continued limitation on public access; and

WHEREAS, the permit holders' inability to strictly comply with the mandatory minimum number of live race dates under N.J.S.A. 5:5-156, was caused by the March 16, 2020 closure of the racetracks by Executive Order No. 104 through June 1, 2020, when Administrative Order No. 2020-14 permitted live races at the racetracks; and

WHEREAS, strict enforcement of the statutory mandate under N.J.S.A. 5:5-156, during the ongoing Public Health Emergency, would unduly burden the permit holders and frustrate their ability to maintain their licenses and participate in off-track and account wagering; and

WHEREAS, pursuant to N.J.S.A. App. A:9-47, the Governor is authorized to, among other things, suspend any regulatory provision of law when its enforcement is detrimental to the public welfare during an emergency; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto,

confer upon the Governor of the State of New Jersey certain emergency powers;

NOW, THEREFORE, I, PHILIP D. MURPHY, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER and DIRECT:

1. The statutory minimum number of live race dates required by N.J.S.A. 5:5-156 is hereby waived for the 2020 calendar year.

2. This Order is not intended to, and does not confer any legal rights upon the permit holders whose activities are regulated by the New Jersey Racing Commission and shall not be used as a basis for legal challenges to regulations, rules, approvals, permits, licenses or other actions, or to any inaction of the governmental entity subject to it.

3. This Order shall take effect immediately.

GIVEN, under my hand and seal this 17th day of November, Two Thousand and Twenty, and of the Independence of the United States, the Two Hundred and Forty-Fifth.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor