

## DEED OF AMALGAMATION

between

**CABRAMATTA BOWLING AND RECREATION CLUB LIMITED**  
ABN 48 000 976 894  
(Cabra Bowls)

and

**MALUA BAY BOWLING AND RECREATION CLUB LIMITED**  
ABN 87 082 572 361  
(Club Malua)

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This deed is made on 5 October 2018

Between **Cabramatta Bowling and Recreation Club Limited** ABN 48 000 976 894 of  
Fairview Road, Cabramatta NSW 2166 (**Cabra Bowls**)

And **Malua Bay Bowling and Recreation Club Limited** ABN 87 082 572 361 of 40  
Sylvan Street, Malua Bay NSW 2536 (**Club Malua**)

## Recitals

- A. The parties are both registered clubs each holding a Club Licence.
- B. Club Malua called for expressions of interest in amalgamation from each other registered club which has premises within (and outside) a radius of 50 kilometres from its own premises.
- C. Cabra Bowls submitted an expression of interest which has been accepted by the board of directors of Club Malua.
- D. The parties agree to amalgamate subject to the terms of this Deed and the MOU.
- E. This Deed is supplementary to the MOU entered into by the parties in accordance with the requirements of Part 2 Division 1A of the Registered Clubs Act and clause 7 of the Registered Clubs Regulation, and is intended to provide for:
  - (a) commercial terms; and
  - (b) other details agreed by the parties with respect to the Amalgamation,which are not required to be included in the MOU under the Registered Clubs Regulation.

Now it is covenanted and agreed as follows:

## 1 DEFINITIONS AND INTERPRETATION

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### 1.1 Definitions

The following definitions apply in the Recitals and this Deed unless the context requires otherwise:

**Accounting Standard** means:

- (a) the same thing as a reference to an accounting standard in the Act;
- (b) if there is no standard under the Act, then the standard available from the Australian Accounting Standards Board; or
- (c) if there is no standard under subclause (b), then the standard required by a qualified auditor;

**Act** means the *Corporations Act 2001* (Cth);

**Amalgamation** means the amalgamation of Club Malua and Cabra Bowls in accordance with applicable law, the MOU and this Deed;

**Amalgamated Club** means Cabra Bowls as the continuing club after Amalgamation Completion;

**Amalgamation Completion** means the day on which all of:

- (a) the Assets and Club Licence of Club Malua are transferred to Cabra Bowls; and

(b) the liabilities of Club Malua are discharged by, or transferred to, Cabra Bowls.

**Application for Transfer** means an application for transfer of the Club Licence held by Club Malua to Cabra Bowls (including an application for provisional transfer) in accordance with section 60 of the Liquor Act;

**Asset** includes chattels, contract rights, motor vehicles, stock in trade, plant, fixtures and fittings, real property, (including the Land and the Premises) gaming machines and gaming machine entitlements, debtors, intellectual property rights, goodwill and all other property, tangible or intangible belonging to Club Malua at the time of Amalgamation Completion;

**Authority** means the Independent Liquor and Gaming Authority;

**Board** means the board of directors of Cabra Bowls, or, the Amalgamated Club after Amalgamation Completion;

**Business Day** means a day which is not a Saturday, Sunday, public holiday or bank holiday in the city of Sydney;

**Club Licence** means a club licence held under section 10 of the Liquor Act;

**Confidential Information** means all information which a party designates as being confidential, or, which would reasonably be considered to be confidential. This includes but is not limited to:

- (a) financial information;
- (b) business plans and marketing plans;
- (c) terms of agreements with third parties, including the details of those third parties;
- (d) membership records and information about persons which is subject to laws relating to privacy; and
- (e) information recorded in board and committee papers and minutes;

**Employee Entitlements** means all entitlements to salary or wages, annual leave, long service leave and other entitlements (including paid personal/carer's leave) under any industrial instrument or agreement between Club Malua and an employee of Club Malua;

**Force majeure** means:

- (a) an event which is beyond the reasonable control of a party; and
- (b) includes but is not limited to:
  - (i) an act of God;
  - (ii) a breakdown or destruction of plant and equipment;
  - (iii) a shortage of or inability to secure fuel, power, material or labour;
  - (iv) a flood, earthquake, rockfall or landslide;
  - (v) a government act or regulation including but not limited to, exchange control by government having jurisdiction over the parties effected;
  - (vi) a blockade, riot, civil insurgence, act of terrorism or war;
  - (vii) lightning, fire or explosion; or
  - (viii) epidemic or quarantine restriction;

**Insolvency Event** means:

- (a) the happening of any of these events:
- (i) an application is made to a court for an order or an order is made that a party be wound up;
  - (ii) an application is made to a court for an order appointing a liquidator or provisional liquidator for a party;
  - (iii) a person is appointed as a liquidator or provisional liquidator for a party;
  - (iv) a party enters into, or resolves to enter into, a scheme of arrangement, deed of company arrangement or composition with, or assignment for the benefit of, all or any class of its creditors;
  - (v) a party proposes a reorganisation, moratorium or other administration involving a class of its creditors;
  - (vi) a party resolves to wind itself up, otherwise dissolve itself, gives notice of intention to do so or is otherwise wound up or dissolved;
  - (vii) a party is or states that it is unable to pay its debts when they fall due;
  - (viii) as a result of the operation of section 459F(1) of the Corporations Act, a party is taken to have failed to comply with a statutory demand;
  - (ix) a party is, or makes a statement from which it may be reasonably deduced that the party is, the subject of an event described in section 459C(2) or section 585 of the Corporations Act;
  - (x) a party takes any step to obtain protection or is granted protection from its creditors, under any applicable legislation or an administrator is appointed to a party;
  - (xi) a person becomes an insolvent under administration as defined in section 9 of the Corporations Law or action is taken which could result in that event; or
  - (xii) anything analogous or having a substantially similar effect to any event specified in this definition happens under the law of any applicable jurisdiction;
- (b) it does not include something which happens under this clause if the party is solvent and on terms approved by the other party to effect Amalgamation Completion (including without limitation the dissolution of Club Malua pursuant to clause 12);

**Land** has the same meaning as contained in the MOU;

**Liquor Act** means the *Liquor Act 2007* (NSW);

**Loss** means all loss, liability, damage, costs and expenses including direct and indirect Loss (on an indemnity basis);

**Member** means a member of either Club Malua, Cabra Bowls or the Amalgamated Club as the case may be, as shown on that club's register of members at the relevant time;

**MOU** means the memorandum of understanding entered into by the parties on or about the date of this Deed for the purposes of the Amalgamation and in accordance with clause 7 of the Registered Clubs Regulation;

**Premises** has the same meaning as contained in the MOU;

**Records** means all documents, books, files, reports, accounts and plans of a party relating exclusively or substantially to its business including:

- (a) all marketing and member files and member lists;

- (b) promotional and sales literature and other advertising material and catalogues;
- (c) supplier lists;
- (d) all records of debtors and creditor claims;
- (e) wages and other employment benefit and payroll and personnel records of its employees;
- (f) all computer software (including the media on which the same is stored) and computer records;
- (g) financial records; and
- (h) all records of contracts (including contracts of insurance);

**Registered Clubs Act** means the *Registered Clubs Act 1976 (NSW)*; and

**Registered Clubs Regulation** means the *Registered Clubs Regulation 2015 (NSW)*.

## 1.2 Interpretation

- (a) The following rules of interpretation apply unless the context requires otherwise:
  - (i) headings are for convenience only and do not affect interpretation;
  - (ii) the singular includes the plural and conversely;
  - (iii) a gender includes any gender;
  - (iv) if a word or phrase is defined, then its other grammatical forms have a corresponding meaning;
  - (v) a reference to **person** includes:
    - (A) a body corporate, an unincorporated or other entity and conversely; and
    - (B) a reference to that person's executors, administrators, successors, permitted assigns and substitutes including but not limited to a person to whom this Deed is novated;
  - (vi) a reference to **clause** or **schedule** is to a clause or schedule to this Deed;
- (b) a reference to a specific document is to that document as amended, novated, supplemented, varied or replaced;
- (c) a reference to a thing including but not limited to a right, includes a reference to a part of that thing;
- (d) a reference to legislation includes but is not limited to a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument under it;
- (e) a reference to conduct includes but is not limited to, an omission, statement or undertaking whether or not in writing; and
- (f) a provision of this Deed must not be construed adversely to a party on the grounds that the party is responsible for the preparation of it.

## **2 AMALGAMATION**

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### **2.1 Amalgamation**

- (a) The Amalgamation is intended to enhance the facilities and services available to all Members of the Amalgamated Club.
- (b) The parties agree to amalgamate:
  - (i) in accordance with the Registered Clubs Act and Liquor Act; and
  - (ii) on the terms of this Deed and the MOU.

### **2.2 Purpose of this Deed**

This Deed is supplementary to the MOU and provides for:

- (a) commercial terms; and
  - (b) other details agreed by the parties with respect to the Amalgamation,
- which are not required to be included in the MOU under the Registered Clubs Regulation.

### **2.3 Effect of this Deed**

This Deed is collateral to, and conditional upon execution of, the MOU and the terms of this Deed are legally binding on both parties

### **2.4 Effect of the MOU**

The Clubs agree that:

- (a) the terms of the MOU will be taken to be terms of this Deed and are binding on both parties;
- (b) a breach of the MOU will be taken to be a breach of this Deed; and
- (c) if this Deed imposes an obligation on a party which would result in that party breaching a term of the MOU then:
  - (i) the MOU will prevail to the extent of the inconsistency; and
  - (ii) compliance by that party with the MOU will not be taken to be a breach of this Deed.

## **3 APPROVALS**

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### **3.1 Club Malua Meeting**

- (a) Unless otherwise agreed by the parties, Club Malua will convene a general meeting of its Members entitled to vote under its constituent documents and the Registered Clubs Act to be held as soon as reasonably practicable but within 60 days after the date of this deed.
- (b) At that meeting, the Members will consider and vote on a resolution in accordance with section 17AEB(d) of the Act to:
  - (i) approve the Amalgamation in principle;
  - (ii) approve the transfer of Assets from Club Malua to Cabra Bowls in accordance with this Deed;

- (iii) approve the making of the Application for Transfer; and
  - (iv) approve any other matters required to give effect to this Deed and the MOU.
- (c) The form of the resolution referred to in clause 3.1(b) to be put to Members of Club Malua is contained in Schedule 1.

### 3.2 Cabra Bowls Meeting

- (a) Cabra Bowls will convene a general meeting of its Members entitled to vote under its constituent documents and the Registered Clubs Act to be held as soon as reasonably practicable after Club Malua's general meeting held under clause 3.1(a).
- (b) At that meeting the Members will consider and vote on resolutions in accordance with section 17AEB(d) of the Act to:
- (i) approve the Amalgamation in principle;
  - (ii) approve the making of the Application for Transfer;
  - (iii) pass the special resolutions contained in Schedule 2 and referred to in clause 4.1; and
  - (iv) approve any other matters required to give effect to this Deed and the MOU.
- (c) The form of the resolutions referred to in clause 3.2(b) to be put to Members of Cabra Bowls is contained in Schedule 2.

### 3.3 Application for Transfer

- (a) Within 10 Business Days of the meeting under clause 3.1, Club Malua will give to Cabra Bowls:
- (i) a certified copy of the notice of meeting and minutes of the meeting; and
  - (ii) certification that the notice of meeting and MOU have been displayed as required by the Registered Clubs Act and Registered Clubs Regulation.
- (b) Cabra Bowls will prepare and lodge the Application for Transfer with the Authority as soon as reasonably practicable if approval is given by its members under clause 3.2.
- (c) Club Malua agrees to sign all documents and provide all information reasonably necessary for Cabra Bowls to complete and lodge the Application for Transfer.

## 4 TRANSFER OF MEMBERS

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- 4.1 At the meeting under clause 3.2, the Members of Cabra Bowls will consider special resolutions as contained in Schedule 2 to this Deed to amend the constituent documents of Cabra Bowls (with effect from Amalgamation Completion) to:
- (a) add a new rule for identification purposes under section 17AC of the Registered Clubs Act to identify persons as "Club Malua Members"; and
  - (b) permit all Members of Club Malua who make application under this clause to be admitted as Members of the Amalgamated Club (without the need for a proposer and seconder to sign their application).
- 4.2 As soon as practicable after provisional approval of the Application for Transfer has been given by the Authority, Cabra Bowls will send every Member of Club Malua (who is not already a Member of Cabra Bowls) an invitation to become a member of the Amalgamated Club which includes the requirements for application for membership.



- 4.3 A Member of Club Malua may accept the invitation by completing and returning the application for membership of the Amalgamated Club (in a class of membership for which they are eligible) to Cabra Bowls prior to Amalgamation Completion.
- 4.4 A Member of Club Malua who applies for membership of the Amalgamated Club under this clause will, subject to any restrictions contained in the constituent documents of Cabra Bowls and the requirements of section 30(2) of Registered Clubs Act, be admitted to membership of the Amalgamated Club with effect from Amalgamation Completion.
- 4.5 Members of Club Malua who become Members of the Amalgamated Club will not be required to pay any fee or subscription in addition to any fee or subscription pre-paid to Club Malua in respect of their membership for that financial year of Club Malua.
- 4.6 Any person who, at Amalgamation Completion, is a Life Member of Club Malua, and becomes a member of the Amalgamated Club:
- (a) will continue to be recognised as a Life Member of the Premises; and
  - (b) will only be required to pay the Amalgamated Club the minimum annual subscription required by the Registered Clubs Act.
- 4.7 Any person who, at Amalgamation Completion, is a Perpetual Member of Club Malua, and becomes a member of the Amalgamated Club:
- (a) will continue to be recognised as a Perpetual Member of the Premises; and
  - (b) will only be required to pay the Amalgamated Club the minimum annual subscription required by the Registered Clubs Act.

## **5 CLUB MALUA'S OBLIGATIONS**

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- 5.1 On and from the date of this Deed up to Amalgamation Completion Club Malua must:
- (a) trade in the ordinary course of business and with due care and skill;
  - (b) maintain the following insurance policies with a reputable insurer in Australia:
    - (i) public liability insurance in the amount of \$20,000,000 for each single claim, and unlimited in aggregate;
    - (ii) property damage insurance to the full replacement value of all Assets insurable under such a policy; and
    - (iii) workers compensation insurance;
  - (c) keep the Assets insured in amounts representing their full replacement or reinstatement value against fire and other risks normally insured;
  - (d) give Cabra Bowls a copy of its certificates of currency for any insurance policy held under subclauses (b) and (c) on request;
  - (e) immediately notify Cabra Bowls of anything which may result in a claim on an insurance policies held under subclauses (b) and (c);
  - (f) comply with any agreement to which it is a party;
  - (g) carry on its operations with normal and prudent practice using best endeavours to reduce losses and increase profitability and use best endeavours to maintain and increase the value of the Assets;

- (h) provide Cabra Bowls each week (or at such other times as requested) any details or documents relating to the operation and financial position of Club Malua;
- (i) comply with all applicable laws;
- (j) not do anything which may damage its reputation or the reputation of Cabra Bowls; and
- (k) not enter into any negotiations, discussions or communications with any other registered club with respect to a possible amalgamation with such a registered club.

5.2 On and from the date of this Deed to Amalgamation Completion Club Malua must not without the prior written consent of Cabra Bowls:

- (a) incur any single debt or liability in excess of ten thousand dollars (\$10,000) plus goods and services tax;
- (b) subject to clause 5.2(a), incur any contingent liabilities whether in relation to those operations or otherwise;
- (c) vary, enter into, or exercise any option to renew an agreement;
- (d) enter into, terminate or alter any term of any material contract, arrangement or understanding including a lease, licence or easement in relation to its operations or otherwise;
- (e) employ any person (other than a casual employee);
- (f) terminate the employment of any employee (other than a casual employee);
- (g) alter the terms of employment (including the terms of remuneration and or superannuation or any other benefit) of any employee;
- (h) seek to borrow or borrow money from any third party;
- (i) increase the level of debt of Club Malua beyond that existing as at the date of this Deed other than any debt incurred in the normal day to day trading of Club Malua; or
- (j) dispose of, lease, license, mortgage, charge or otherwise encumber, or permit any encumbrance to arise, over any of its Assets.

## **6 CO-OPERATION BETWEEN THE CLUBS**

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6.1 From the date of this Deed to Amalgamation Completion the parties will each nominate suitably authorised officers to hold regular discussions about:

- (a) the management of Club Malua up to Amalgamation Completion;
- (b) the efficient transfer of the Assets and Club Licence of Club Malua to Cabra Bowls and efficient payment of liabilities of Club Malua by Cabra Bowls;
- (c) management of the transfer of the Members of Club Malua to Cabra Bowls under this Deed and the MOU; and
- (d) any other matters considered necessary by the parties.

6.2 Cabra Bowls acknowledges that prior to Amalgamation Completion Club Malua remains under control of its own board and other duly authorised officers, and Cabra Bowls participates in discussions about the management of Club Malua in an advisory capacity only under this clause.

6.3 Both parties agree to carry out all acts necessary to give effect to this Deed and the MOU promptly and in good faith.

## **7 DUE DILIGENCE**

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### **7.1 Due Diligence investigations**

Amalgamation Completion is subject to, and conditional upon:

- (a) each party making its Records available to the other party for inspection and copying by the other party or its authorised representatives for the purposes of due diligence, within a reasonable time of receiving a request from the other party;
- (b) Club Malua permitting Cabra Bowls and its authorised representatives to enter and access any part of the Land on request, in order to carry out inspections, surveys or any other assessment of the Land (provided that Cabra Bowls must use reasonable endeavours not to unduly interfere with the trading activities of Club Malua on the Land);
- (c) each party signing all consents or applications (if necessary) as requested by the other party to enable the other party to complete its due diligence; and
- (d) each party being satisfied (at its sole discretion) with the outcome of its legal, accounting, taxation, commercial, insurance, and management due diligence investigations into the other party and its business and not giving a notice of termination under clause 7.2.

### **7.2 Termination**

Despite anything else in this deed, if a party is not satisfied (in its sole discretion) with the outcome of its legal, accounting, financial, taxation, commercial, insurance, and management due diligence investigations under clause 7.1, the party may within 30 Business Days after the date of this deed give written notice of termination of this deed with immediate effect to the other party without penalty.

### **7.3 Effect of termination**

Termination of this deed pursuant to this clause 7 does not affect any right or Liability of a party accrued prior to such termination.

## **8 PUBLICITY**

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A party must not make any public announcement or statement relating to the Amalgamation without the prior written consent of the other party (which must not be unreasonably withheld).

## **9 CONFIDENTIALITY**

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9.1 A party must not, and must ensure that its employees, agents and contractors do not, disclose any Confidential Information of the other party to any person except:

- (a) as required to carry out its obligations under this Deed and the MOU;
- (b) if required by law;
- (c) if the other party ceases to treat that information as being confidential; or
- (d) with the prior written consent of the other party.

9.2 If this Deed or the MOU is terminated, then a party must return or destroy any Confidential Information of the other party in its possession in any form, at the request of the other party except to the extent it is required to retain such a Record for financial reporting purposes or under any law.

## **10 LIABILITIES**

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Cabra Bowls will be responsible for and pay when due all debts and liabilities of Club Malua:

- (a) as at Amalgamation Completion; and
- (b) reasonably incurred after Amalgamation Completion for the purposes of the winding up of Club Malua.

## **11 TRANSFER OF ASSETS,**

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11.1 Club Malua must do all things necessary to ensure:

- (a) the Assets are transferred to Cabra Bowls; and
- (b) Cabra Bowls obtains absolute title to the Assets, with effect from Amalgamation Completion.

11.2 On Amalgamation Completion Club Malua must give to Cabra Bowls all statutory, membership and other Records of Club Malua that it is not required to retain until winding up is completed.

11.3 On winding up of Club Malua it must give to Cabra Bowls the balance of all Records described in clause 11.2.

## **12 DISSOLUTION OF CLUB MALUA**

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12.1 After Amalgamation Completion, Club Malua will:

- (a) call a general meeting of its Members entitled to vote under its constituent documents to consider and, if thought fit, pass the resolutions required for a members voluntary winding up of Club Malua; and
- (b) carry out all acts necessary to effect such winding up after the approval of those Members has been given.

12.2 Cabra Bowls shall nominate a liquidator (who is to be approved by the members of Club Malua) to be appointed to liquidate Club Malua.

12.3 Each of the parties warrant to the other that it will co-operate with the other and their respective advisors, and provide all documents and information reasonably required, for the preparation, lodgement and finalisation of matters referred to in this clause 12.

## **13 FORCE MAJEURE**

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13.1 A party is deemed not to be in breach of an obligation under this Deed or the MOU if it cannot comply with its obligations because of a Force Majeure event.

13.2 A party which is subject to a Force Majeure event must take all reasonable steps to mitigate the effects of that event, keep the other party notified of progress of mitigation actions, and comply with its obligations under this Deed and the MOU.

## **14 REPRESENTATIONS AND WARRANTIES**

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Each party represents and warrants that:

- (a) it has full power and authority to enter into and perform its obligations under this Deed and the MOU;

- (b) the Records and accounts which it has given to the other party before the execution of this Deed contain all information necessary to give a true and fair view of its financial situation and state of affairs and are prepared in accordance with any applicable Accounting Standard;
- (c) it has complied with all laws relating to payment of taxes and Employee Entitlements;
- (d) each of the representations and warranties it has made in this Deed and the MOU are correct; and
- (e) all information that it has provided to the other party is true and correct in all respects and is not misleading by omission of information.

## **15 DISPUTE RESOLUTION**

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- 15.1 A party must not commence proceedings in relation to a dispute under this Deed or the MOU without first following the procedures in this clause, except to seek urgent injunctive or other interlocutory relief.
- 15.2 If there is a dispute between the parties, then either party may give a notice to the other which must:
- (a) succinctly set out the details of the dispute; and
  - (b) state that it is a dispute notice given under this clause.
- 15.3 The parties must meet within 5 Business Days after the date of delivery of the dispute notice and attempt to resolve the dispute.
- 15.4 Each party must use its best endeavours to resolve the dispute and act in good faith.
- 15.5 If the parties cannot solve the dispute within a further 10 Business Days, either party may refer the dispute for mediation by giving the other party notice.
- 15.6 A mediation conducted under this clause will be in accordance with the mediation rules of the Law Society of New South Wales and the President of the Law Society of NSW (or his or her nominee) will determine the mediator's remuneration.
- 15.7 If a dispute is not resolved by mediation under this clause within 30 Business Days of referral to a mediator, or a longer period agreed by the parties, any party may take any action available to it at law.

## **16 TERMINATION**

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- 16.1 In addition to the termination right contained in clause 7.2, a party may terminate this Deed immediately by giving notice to the other party if:
- (a) the Members of either party do not approve the resolutions proposed under clause 3;
  - (b) the Authority refuses the Application for Transfer;
  - (c) Amalgamation Completion does not occur within twelve (12) months of the date of this deed (or such longer period as may be agreed by the parties);
  - (d) the other party is in breach of an obligation under this Deed or the MOU and:
    - (i) that breach is not capable of rectification; or
    - (ii) the other party fails to rectify that breach within 10 Business Days of being given notice to do so; or

(e) the other party suffers an Insolvency Event, subject to the Act.

16.2 Termination of this Deed by a party under clause 16.1(a) or clause 16.1(b) is without penalty to either party.

## 17 NOT USED

## 18 COSTS AND EXPENSES

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### 18.1 Cost and expenses

Each party must pay its own legal and other costs and expenses relating to:

- (a) preparation and execution of this Deed and the MOU; and
- (b) effecting Amalgamation Completion.

### 18.2 Stamp duty

Cabra Bowls must pay any stamp duty assessable in relation to this Deed.

## 19 NOTICES

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19.1 A notice, approval, consent or other communication to a person relating to this Deed:

- (a) must be in legible writing;
- (b) executed by duly authorised person(s); and
- (c) in English.

19.2 If the notice is to Cabra Bowls then it must be addressed as follows:

Name: Cabramatta Bowling and Recreation Club Limited ABN 48 000 976 894  
Attention: Jay Porter, Group Chief Executive Officer  
Address: Fairview Road, Cabramatta NSW 2166  
Email: jay@cabrabowls.com.au

19.3 If the notice is to Club Malua then it must be addressed as follows:

Name: Malua Bay Bowling and Recreation Club Limited ABN 87 082 572 361  
Attention: Peter Cook, Secretary Manager  
Address: 40 Sylvan Street, Malua Bay NSW 2536  
Email: manager@maluabayclub.com.au

19.4 Notice is sent by the sender and received by the receiver:

- (a) if the notice is hand delivered, upon delivery to the receiving party;
- (b) if the notice is sent by email, upon the successful completion of the relevant transmission;
- (c) if the notice is sent by pre-paid registered mail within Australia, 2 Business Days after the registration of the notice of posting.

## **20 ASSIGNMENT**

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A party can not assign its rights and obligations under this Deed.

## **21 GENERAL**

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### **21.1 Governing law and Jurisdiction**

- (a) This Deed is governed by the laws of New South Wales.
- (b) The parties submit to the New South Wales. The parties' submission to the jurisdiction includes submission to a court of appeal.

### **21.2 Service**

A document may be served on a party by delivering it to that party in accordance with the notice provisions of clause 19.

### **21.3 Severability**

- (a) If a provision of this Deed is invalid, illegal or unenforceable, then that provision to the extent of the invalidity, illegality or unenforceability must be ignored in the interpretation of this Deed.
- (b) All the other provisions of this Deed remain in full force and effect.

### **21.4 No waiver**

- (a) A party's agreement to waive a right or entitlement under this Deed is only effective if that party gives written notice of that waiver to the party seeking the benefit of the waiver.
- (b) Waiver by a party of anything required to be done under this Deed is not a waiver of any other thing required to be done under this Deed.
- (c) A failure or delay in exercising a right arising from a breach of this Deed is not a waiver of that right.

### **21.5 Variation**

The parties can only vary a term of this Deed if the variation is in writing and both parties sign.

### **21.6 Further assurances**

Each party must do everything necessary in good faith to give full effect to this Deed.

### **21.7 Entire agreement**

This Deed and the MOU:

- (a) are the entire agreement between the parties with respect to the Amalgamation; and
- (b) supersede all previous agreements.

### **21.8 Counterparts**

- (a) A party may execute this Deed by signing any counterpart.
- (b) All counterparts constitute one document when taken together.

## Schedule 1

Resolution to be put to members of Club Malua
---

### Ordinary Resolution

*"That the members hereby:*

1. *approve in principle the amalgamation of Malua Bay Bowling and Recreation Club Limited ABN 87 082 572 361 ("**Club Malua**") with Cabramatta Bowling and Recreation Club Limited ABN 48 000 976 894 ("**Cabra Bowls**"), such an amalgamation to be effected by:*
  - (a) *the continuation of Cabra Bowls (as the amalgamated club) and the dissolution of Club Malua;*
  - (b) *the transfer of Club Malua's assets to Cabra Bowls; and*
  - (c) *the transfer of the club licence of Club Malua to Cabra Bowls;*

*and*

2. *approve in principle the making of an application to the Independent Liquor and Gaming Authority for the transfer of the club licence of Club Malua to Cabra Bowls for the purposes of such an amalgamation."*



## Schedule 2

Resolutions to be put to members of Cabra Bowls
---

### Ordinary Resolution

*"That the members hereby:*

1. *approve in principle the amalgamation of Malua Bay Bowling and Recreation Club Limited ABN 87 082 572 361 ("**Club Malua**") with Cabramatta Bowling and Recreation Club Limited ABN 48 000 976 894 ("**Cabra Bowls**"), such an amalgamation to be effected by:*
  - (a) *the continuation of Cabra Bowls (as the amalgamated club) and the dissolution of Club Malua;*
  - (b) *the transfer of Club Malua's assets to Cabra Bowls; and*
  - (c) *the transfer of the club licence of Club Malua to Cabra Bowls;*

*and*

2. *approve in principle the making of an application to the Independent Liquor and Gaming Authority for the transfer of the club licence of Club Malua to Cabra Bowls for the purposes of such an amalgamation."*

### Special Resolution (to be considered only if the Ordinary Resolution is passed)

*"That on the date on which the Independent Liquor and Gaming Authority transfers the club licence of Malua Bay Bowling & Recreation Club Limited to Cabramatta Bowling & Recreation Club Limited the Articles of Association of Cabramatta Bowling & Recreation Club Limited be amended by:*

- (a) **inserting** the following bullet point at the end of Article 12:
 

*"- Club Malua members."*
- (b) **inserting** the following new Article 13(e):
 

*"(e) "**Club Malua Members** shall be those persons who are admitted as Club Malua Members in accordance with Article 26B."*
- (c) **inserting** the following new Article 15(e):
 

*"(e) **Club Malua Members** shall have the same rights and privileges as Club members."*
- (d) **inserting** the following new heading and new Article 26B:
 

**"ADMISSION TO MEMBERSHIP OF THE CLUB BY MEMBERS OF MALUA BAY BOWLING & RECREATION CLUB LIMITED WHO ARE NOT MEMBERS OF THE CLUB"**

*"26B. (a) "Club Malua" in this Article 26B means Malua Bay Bowling & Recreation Club Limited.*

*(b) All members of Club Malua, other than any person who has been expelled from membership of the Club, who apply to become members pursuant to the Amalgamation, will be admitted to membership of the Club.*

*(c) All members of Club Malua, other than any person who has been expelled from membership of the Club, will be able to apply for membership of the Club in the manner referred to in sub paragraphs (d) to (f) of this Article 26B.*

*(d) A member of Club Malua will not be required to be proposed or seconded for membership of the Club.*

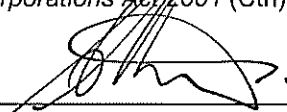
*(e) After the Club and Club Malua have passed the resolutions approving in principle the*

*Amalgamation, the Club will forward to each member of Club Malua, other than any person who has been expelled from membership of the Club, a written invitation to become a member of the Club.*

- (f) *Any member of Club Malua who accepts the invitation referred to in Article 26A(e) and agrees in writing to be bound by these Articles will, (subject to the name of that person being displayed on the noticeboard of the Club for not less than seven (7) days and a period of not less than fourteen (14) days elapsing after the receipt of the acceptance by the Club) be elected by a resolution of the Board to membership of the Club with effect from the date of completion of the amalgamation with Club Malua.*
- (g) *The members of Club Malua who are admitted to membership of the Club shall, for the purposes of section 17AC(2) of the Registered Clubs Act, be identified in the Club's register of members as "Club Malua Members".*

Executed as a deed by Cabra Bowls

Executed by Cabramatta Bowling and Recreation Club Limited ABN 48 000 976 894 in accordance with section 127 of the Corporations Act 2001 (Cth):



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Director

COLIN STRUDWICK

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Name of Director  
BLOCK LETTERS



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~~Director~~/\*Company Secretary

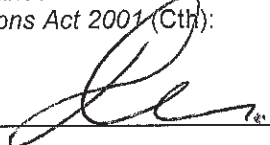
JAY PORTER

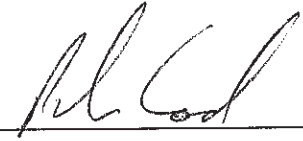
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Name of ~~Director~~/\*Company Secretary  
BLOCK LETTERS  
\*please strike out as appropriate

Executed as a deed by Club Malua

Executed by Malua Bay Bowling and Recreation Club Limited ABN 87 082 572 361 in accordance with section 127 of the Corporations Act 2001 (Cth):

  
\_\_\_\_\_  
Director

  
\_\_\_\_\_  
\*Director/\*Company Secretary

DENIS ALLAN J BEAUZY  
Name of Director  
BLOCK LETTERS

PETER WILLIAM COOK  
Name of \*Director/\*Company Secretary  
BLOCK LETTERS  
\*please strike out as appropriate