



# Memorandum of Understanding

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Cabramatta Rugby League Club Ltd ACN 000 650 206  
("Cabramatta Leagues Club")

Aberdeen RSL & Citizens' Club Ltd ACN 001 065 363  
("Aberdeen RSL")

This Memorandum of Understanding is made on 14 November 2022.

**BETWEEN:** Cabramatta Rugby League Club Ltd ACN 000 650 206 of 24-26 Sussex Street, Cabramatta NSW 2166 (“Cabramatta Leagues Club”)

**AND** Aberdeen RSL & Citizens’ Club Ltd ACN 001 065 363 of 23 Moray Street, Aberdeen, NSW 2336 (“Aberdeen RSL”)

#### RECITALS

- (A) Cabramatta Leagues Club and Aberdeen RSL are both registered clubs under the Registered Clubs Act.
- (B) On 2 August 2022 Aberdeen RSL called for expressions of interest to amalgamate from other clubs.
- (C) Cabramatta Leagues Club submitted an expression of interest to on 12 August 2022 indicating an interest in amalgamating with Aberdeen RSL.
- (D) Aberdeen RSL accepted the expression of interest from Cabramatta Leagues Club referred to in Recital (C) and Cabramatta Leagues Club and Aberdeen RSL have agreed to amalgamate in accordance with the terms set out in this Memorandum of Understanding.
- (E) The amalgamation between Cabramatta Leagues Club and Aberdeen RSL is also subject to the approval of both Clubs’ members and the Authority as required by the Registered Clubs Act.
- (F) The Amalgamation is always subject to compliance with the requirements of the Registered Clubs Act, the Registered Clubs Regulation 2015, the Liquor Act and the Corporations Act.
- (G) This Memorandum of Understanding satisfies the requirements of the Registered Clubs Regulations in that it deals with and legally binds Cabramatta Leagues Club and Aberdeen RSL to all matters relating to the Amalgamation as required by Regulation 7 of the Registered Clubs Regulations.

#### OPERATIVE PROVISIONS

##### 1. DEFINITIONS AND INTERPRETATIONS

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1.1 In this Memorandum of Understanding unless the context otherwise requires:

“**Aberdeen RSL CEO**” means the Approved Secretary of Aberdeen RSL;

“**Aberdeen RSL Premises**” means the approved licensed premises of Aberdeen RSL known as Aberdeen RSL Club in respect of Club Licence LIQC300242552 as at the date of this Memorandum situated at 23 Moray Street, Aberdeen, NSW 2336 and as otherwise approved by the Authority from time to time and includes any future approved licensed premises on the Land (as the

context may require);

**“Amalgamated Club”** means the amalgamated registered club of Cabramatta Leagues Club and Aberdeen RSL , the continuing vehicle of which will be Cabramatta Leagues Club after Completion;

**“Amalgamation”** means the amalgamation of the Clubs in accordance with this Memorandum of Understanding;

**“Amalgamation Application”** means the application, or applications as the context may require, for the transfer of the Club Licence of Aberdeen RSL (LIQC300242552) to Cabramatta Leagues Club (including an application for provisional transfer) pursuant to Sections 60(6) and (7) of the Liquor Act;

**“Approved Secretary”** means a person approved by the Authority under section 33 of the Registered Clubs Act to act as secretary of a club.

**“Assets”** means all of the assets of Aberdeen RSL as at Completion including without limitation the Land and those other assets listed in Schedule 1;

**“Authority”** means the Independent Liquor and Gaming Authority constituted under the Gaming and Liquor Administration Act 2007 (NSW);

**“Board and Board of Directors”** means the board of directors of Cabramatta Leagues Club, or, the Amalgamated Club after Completion (as the context may require);

**“Business”** means the business of Aberdeen RSL or Cabramatta Leagues Club (as the context may require);

**“Business Day”** means a day that is not a Saturday, Sunday or public holiday or a bank holiday in New South Wales;

**“Business Records”** means all records relating exclusively to the Assets or the Business and, whether in paper or electronic form, other than those records which the Aberdeen RSL is required by law to keep;

**“Cabramatta Leagues Club CEO”** means Approved Secretary of Cabramatta Leagues Club;

**“Claim”** means any claim, cost, damages, debt, expense, Tax, Liability, loss, allegation, suit, action, demand, cause of action or proceeding of any kind irrespective of:

- (i) how or when it arises;
- (ii) whether it is actual or contingent;
- (iii) whether or not it is in respect of legal or other costs, damages, expenses, fees or losses;
- (iv) whether or not it is in respect of a breach of trust or of a fiduciary or other duty or obligation; and

(v) whether or not it arises at law or in any other way.

**"Clubs"** means both Cabramatta Leagues Club and Aberdeen RSL;

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

**"Club Premises"** means a licensed premises owned or controlled by Aberdeen RSL or Cabramatta Leagues Club (as the context may require).

**"Completion"** means the day on which:

- (i) the Assets, Land, Liabilities and Club Licence of Aberdeen RSL are transferred to Cabramatta Leagues Club as referred to in clause 18; and
- (ii) Cabramatta Leagues Club takes over responsibility for the management, business and affairs of the Club Premises of Aberdeen RSL.

**"Conditions Precedent"** means the conditions precedent to Completion as set out in Clause 18 of this Memorandum of Understanding.

**"Confidential Information"** means all trade secrets and all financial, marketing and technical information, ideas, concepts, know-how, technology, business plans, strategic plans, member lists, gaming machine information, processes and knowledge which is confidential or of a sensitive nature but excludes that which is in the public domain.

**"Consideration"** for the purposes of clause 21 of this Memorandum of Understanding has the meaning given to that term by the GST law;

**"Corporations Act"** means the *Corporations Act 2001 (Commonwealth)* and the regulations made thereunder;

**"Encumbrance"** means any:

- (a) security granted for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement and any "security interest" as defined in sections 12(1) or (2) of the *Personal Property Securities Act 2009 (Cth)*; or
- (b) right, interest or arrangement which has the effect of giving another person a preference, priority or advantage over creditors including any right of set-off; or
- (c) right that a person (other than the owner) has to remove something from land (known as a profit a prendre), easement, public right of way, restrictive or positive covenant, lease or licence to use or occupy; or
- (d) third party right or interest or any right arising as a consequence of the enforcement of a judgment.

**"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 Aberdeen RSL and an employee of Aberdeen RSL;

**"Final Approval"** means the confirmation pursuant to Section 60(8) of the *Liquor Act* by the Authority whereby Aberdeen RSL's Club Licence will be approved to be transferred to Cabramatta Leagues Club;

**"Gaming Machines Act"** means the *Gaming Machines Act 2001 (NSW)* and the regulations made thereunder;

**"GME"** means a gaming machine entitlement;

**"Government Agency"** means:

- (a) a government, whether foreign, federal, state, territorial or local;
- (b) a department, office or minister of a government acting in that capacity; or
- (c) a commission, the Authority, delegate, instrumentality, agency, board, or other governmental, semi-governmental, judicial, administrative, monetary or fiscal authority, whether statutory or not.

**"GST"** means the goods and services tax as imposed by the GST Law.

**"GST Act"** means A New Tax System (Goods and Services Tax) Act 1999 or, if that Act does not exist for any reason, means any Act imposing or relating to the imposition of a goods and services tax in Australia.

**"GST Amount"** means in relation to a Taxable Supply the amount of GST for which the maker of the Taxable Supply ("**Supplier**") is liable in respect of the Taxable Supply.

**"GST-Free"** has the meaning given to that term by the GST Law.

**"GST Group"** has the meaning given to that term by the GST Law.

**"GST Law"** has the meaning given to that term in the GST Act.

**"Insolvency Event"** means the occurrence of any of the following events in relation to a party to this Memorandum of Understanding:

- (a) the party becomes insolvent as defined in the Corporations Act, states that it is insolvent or is presumed to be insolvent under an applicable law;
- (b) the party is wound up, dissolved or declared bankrupt or proposes its winding up or dissolution;
- (c) the party becomes an insolvent under administration as defined in the Corporations Act;

- (d) a liquidator, provisional liquidator, controller, administrator, trustee for creditors, trustee in bankruptcy or other similar person is appointed to, or takes possession or control of, any or all of the party's assets or undertaking;
- (e) the party enters into or becomes subject to:
  - (i) any arrangement or composition with one or more of its creditors or any assignment for the benefit of one or more of its creditors; or
  - (ii) it enters into or proposes to enter into any re-organisation, moratorium, deed of company arrangement or other administration involving one or more of its creditors;
- (f) the party is taken, under section 459F(1) of the Corporations Act, to have failed to comply with a statutory demand;
- (g) the person suspends payment of its debts, ceases or threatens to cease to carry on all or a material part of its business (otherwise than in compliance with any order made by a Government Agency) or becomes unable to pay its debts when they fall due;
- (h) the party is insolvent as disclosed in its accounts or otherwise states that it is insolvent or it is presumed to be insolvent under an applicable law.

**"Land"** means all land which Aberdeen RSL owns, has an interest in or contractual entitlement to, as at Completion, and must include, without limitation Lot 12 of Section 4 in DP 758003 , Lot 13 of Section 4 in Deposited Plan 758003 and Lot 2 in Deposited Plan 511692.

**"Land Purchase Contracts"** means the contracts for sale of unencumbered title to all Land including without limitation with respect to the titles detailed in the definition of Land above;

**"Liabilities"** means all liabilities (actual or contingent), losses, damages, debts, outgoing, costs and expenses of Aberdeen RSL (whatever description) as set out in Schedule 3 or incurred between the date of this MOU and Completion in accordance with clause 16.1 and 16.2;

**"Liquor Act"** means the *Liquor Act 2007 (NSW)* and the regulations made thereunder;

**"Material Adverse Event"** means any event, condition or change which:

- (a) materially and adversely affects; or
- (b) could reasonably be expected to affect materially and adversely;

the Business or Club Premises of Aberdeen RSL.

**"Material Adverse Regulatory Event"** means any ruling or decision by the Authority:

- (i) in which the Authority absolutely refuses under any circumstances to give the Final Approval, or rejects any application for which approval would be, required in order to effect Completion; or
- (ii) grants, or indicates that it will only grant, a Final Approval on conditions which are

inconsistent with the rights and obligations of a party under this Memorandum of Understanding.

**"Member"** means a member of either Cabramatta Leagues Club or Aberdeen RSL (as the case may be) as shown on the relevant club's register of members at the relevant time;

**"Memorandum of Understanding" "Memorandum" or "MOU"** means this Memorandum of Understanding and it includes any attachments or annexures to it;

**"Party"** means Aberdeen RSL and Cabramatta Leagues Club;

**"Payment"** means any amount payable under or in connection with this Memorandum of Understanding including any amount payable by way of indemnity, reimbursement or otherwise (other than a GST Amount) and includes the provision of any non-monetary consideration;

**"Plant and Equipment"** means all plant, equipment, furniture, fixtures and fittings, tools and other maintenance items, appliances, freehold or other improvements, and information technology items owned by Aberdeen RSL;

**"Recipient"** for the purposes of clause 21 of this Memorandum of Understanding, has the meaning given to that term by the GST Law;

**"Records"** means all originals and copies in machine readable or printed form of all books, registers, files, accounts, records, reports, correspondence, files, manuals and other documents and information and materials created by, owned by, or under the control of each Club;

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

**"Registered"** for the purposes of clause 20 of this Memorandum of Understanding, has the meaning given to that term by the GST Law;

**"RCR or Registered Club Regulations"** means the regulations to the Registered Clubs Act.

**"Stock"** means all food and beverage stock and any other trading stock and consumables.

**"Tax"** means a tax, levy, charge, impost, deduction, withholding or duty of any nature (including stamp and transaction duty and goods and services, (value added) or similar tax) at any time:

- (a) imposed or levied by any Government Agency; or
  - (b) required to be remitted to, or collected, withheld or assessed by, any Government Agency;
- and

any related interest, expense, fine, penalty or other charge on those amounts;

**"Tax Invoice"** has the meaning given to that term by the GST Law.

**"Taxable Supply"** has the meaning given to that term by the GST Law.

**1.1 Business days**

If the day on which any act is to be done under this document is a day other than a Business Day, that act must be done on the immediately following Business Day except where this document expressly specifies otherwise.

**1.2 Construction**

Unless expressed to the contrary, in this document:

- (a) words in the singular include the plural and vice versa;
- (b) any gender includes the other genders;
- (c) if a word or phrase is defined its other grammatical forms have corresponding meanings;
- (d) “includes” means includes without limitation;
- (e) no rule of construction will apply to a clause to the disadvantage of a party merely because that party put forward the clause or would otherwise benefit from it;
- (f) a reference to:
  - (i) a person includes a partnership, joint venture, unincorporated association, corporation and a government or statutory body or authority;
  - (ii) a person includes the person’s legal personal representatives, successors, assigns and persons substituted by novation;
  - (iii) any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced;
  - (iv) an obligation includes a warranty or representation and a reference to a failure to comply with an obligation includes a breach of warranty or representation;
  - (v) a right includes a benefit, remedy, discretion or power;
  - (vi) time is to local time in Sydney, New South Wales;
  - (vii) “\$” or “dollars” is a reference to Australian currency;
  - (viii) this or any other document includes the document as novated, varied or replaced and despite any change in the identity of the parties;
  - (ix) writing includes any mode of representing or reproducing words in tangible and permanently visible form, and includes fax transmissions;
  - (x) this document includes all schedules and annexures to it; and
  - (xi) a clause, schedule or annexure is a reference to a clause, schedule or annexure, as the case may be, of this document;
- (g) a reference to legislation is to be construed as a reference to that legislation and any regulation made under it, any subordinate legislation under it and any regulation made under that subordinate legislation, and that legislation and regulations and subordinate legislation and regulations as amended, re-enacted or replaced for the time being;



- (h) if the date on or by which any act must be done under this document is not a Business Day, the act must be done on or by the next Business Day; and
- (i) where time is to be calculated by reference to a day or event, that day or the day of that event is excluded.

**1.3 Headings**

Headings do not affect the interpretation of this document.

**2. AMALGAMATION**

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- 2.1 Cabramatta Leagues Club and Aberdeen RSL agree to amalgamate in accordance with this Memorandum of Understanding, the Registered Clubs Act, the Registered Clubs Regulation, the Liquor Act and the Corporations Act subject to the provisions of this document.
- 2.2 The Amalgamation will be effected by the continuation of Cabramatta Leagues Club and the dissolution of Aberdeen RSL.
- 2.3 The Amalgamation is intended to preserve and where possible, enhance the existing facilities and amenities of Cabramatta Leagues Club and Aberdeen RSL Premises.

**3. THE AGREED STEPS TO ACHIEVE AMALGAMATION OF THE CLUBS**

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- 3.1 The steps that will be undertaken to achieve Completion of the Amalgamation will be as follows:
  - (i) The Clubs entering this Memorandum of Understanding which addresses both:
    - (A) The matters required to be addressed between the Clubs by Regulation 7(2) of the Registered Clubs Regulation in a memorandum of understanding stating each club's position on certain matters relating to the amalgamation; and
    - (B) The due diligence process, member approval processes, Authority approval process and the processes and condition precedents including those related to the transfer of Assets including the Club Licence, and the transfer of Land, to complete the Amalgamation.
  - (ii) Cabramatta Leagues Club, at its own expense, undertaking a due diligence review of Aberdeen RSL's Assets including the Club Licence, liabilities, Land, and business operations and to give effect to this Aberdeen RSL will, acting reasonably, as soon as reasonably practicable and up and until the sooner of Completion or termination of this Memorandum of Understanding:
    - (A) make available to Cabramatta Leagues Club its Records in any reasonably required formats

- (B) provide further information, responses to queries and additional assistance (to the best of its knowledge, information and belief only) to allow Cabramatta Leagues Club to complete its due diligence properly to its satisfaction and
  - (C) provide reasonable access to the Aberdeen RSLs' Club Premises, the Land and any other premises of Aberdeen RSL, as required to view Records, conduct inspections and due diligence, view Assets and/or review business operations.
- (iii) In accordance with clause 14, Aberdeen RSL will call and hold a general meeting of the ordinary members of Aberdeen RSL to approve in principle, the Amalgamation (which includes without limitation the transfer of all Assets including the Club Licence, Liabilities and Land to Cabramatta Leagues Club.
- (iv) In accordance with clause 14, the Board of Cabramatta Leagues Club will call and hold a separate general meeting of the ordinary members of Cabramatta Leagues Club to approve all of the following:
  - (A) In principle, the Amalgamation; and
  - (B) Amendments to the Cabramatta Leagues Club's Constitution required to accommodate the transfer of members from Aberdeen RSL to Cabramatta Leagues Club in the manner set out in this Memorandum and to deal with any other matters required by this Memorandum.
- (v) In accordance with clause 15, after the necessary member approvals as set out in paragraphs (iii) and (iv) above have been obtained, the Amalgamation Application will then be made by Cabramatta Leagues Club. The Amalgamation Application will be made in the manner provided for in clause 15 below.
- (vi) In accordance with clause 16, the Clubs respectively warrant certain matters and Aberdeen RSL agrees to conduct its Business in a particular manner and subject to specific restrictions until Completion.
- (vii) In accordance with clause 19, after provisional approval of the Amalgamation Application is granted and the Conditions Precedent of Completion have either been achieved or waived as permitted by clause 18.3 then Completion will occur on that day in accordance with the terms and conditions of clauses 18 and 19 of this Memorandum of Understanding
- (viii) At the time or immediately after the Amalgamation Application is granted, but subject to prior or concurrent satisfaction of the Condition Precedents:
  - (A) The Assets will be transferred to Cabramatta Leagues Club;
  - (B) The Liabilities will be transferred to Cabramatta Leagues Club; and

- (C) The premises of Aberdeen RSL including without limitation the Aberdeen RSL Premises, will become the additional licensed premises of Cabramatta Leagues Club and be available to all members of the Amalgamated Club; and
  - (D) All financial members of Aberdeen RSL will be invited to become ordinary members of Cabramatta Leagues Club and will for the purposes of section 17AC(2) of the Registered Clubs Act all be identified in the separate class of membership called "Aberdeen RSL Members".
- (ix) After Completion:
- (A) Cabramatta Leagues Club will continue as the body corporate of the Amalgamated Club; and
  - (B) Aberdeen RSL will be wound up in accordance with the law and the requirement of clause 18.4.

**4. THE MANNER IN WHICH THE PREMISES AND OTHER FACILITIES OF ABERDEEN RSL WILL BE MANAGED AND THE DEGREE OF AUTONOMY THAT WILL BE PERMITTED IN THE MANAGEMENT OF ABERDEEN RSL PREMISES AND FACILITIES [REGULATIONS – CLAUSE 7(2)(A)]**

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**4.1 Premises and Facilities**

- (i) The Aberdeen RSL Premises and its associated facilities will become additional premises of Cabramatta Leagues Club.
- (ii) Cabramatta Leagues Club will take over responsibility and control of all Aberdeen RSL Premises from Completion.
- (iii) The cash balance of Aberdeen RSL will be transferred to Cabramatta Leagues Club on Completion and will be allocated to the cash balance of the Amalgamated Club.
- (iv) After Completion, the Club Premises of Cabramatta Leagues Club and the Club Premises of Aberdeen RSL will be made available for the use of all members of the Amalgamated Club (subject to their rights and restrictions under its constitution and by-laws).

**4.2 Name and Branding**

- (i) The Aberdeen RSL Premises will remain named and trade as "Aberdeen RSL Club", subject to the relevant consents being obtained by the Amalgamated Club to the continued use of "RSL" in its name and if unable to be used we be known as "Aberdeen Ex-Servicemen's Club", but the logo incorporating the name will be altered to utilise the Cabramatta Leagues Club logo branding mechanisms.

- (ii) The Amalgamated Club must use its best endeavours to obtain the necessary consents to enable the Aberdeen RSL Premises to be named and trade as “Aberdeen RSL Club” after Completion.

#### 4.3 Management

- (i) The Cabramatta Leagues Club CEO will be the Secretary and Chief Executive Officer of the Amalgamated Club.
- (ii) The Board of the Amalgamated Club will be the Board of Cabramatta Leagues Club consistent with Cabramatta Leagues Club being the continuing club upon Amalgamation.
- (iii) For the purposes of section 66 of the Liquor Act, the Amalgamated Club will appoint an approved manager for the Aberdeen RSL Premises.

#### 4.4 Advisory Committee

- (i) On or before Completion, the Board of the Amalgamated Club will create the Aberdeen RSL Advisory Committee (“**Advisory Committee**”) in respect of the Aberdeen RSL Premises and the following shall apply in respect of the Advisory Committee:
  - (A) The initial Advisory Committee will consist of the approved manager for the Aberdeen RSL Premises and the existing directors of Aberdeen RSL who, as at the date of Completion, have given written consent to Cabramatta Leagues Club to be members of the Advisory Committee;
  - (B) The initial Advisory Committee will sit until the first election of the Advisory Committee which shall occur in 2023 or 2024 (depending on the date of Completion);
  - (C) From the first election of the Advisory Committee, the Advisory Committee will be elected biennially and consist of no less than two (2) members.
  - (D) Only members of Aberdeen RSL (as at Completion) can be a committee member on the Advisory Committee or vote in the election of the Advisory Committee.
  - (E) The Advisory Committee Chairperson will be appointed by the members of the Advisory Committee;
  - (F) If any casual vacancies arise on the Advisory Committee, the remaining members of the Advisory Committee, subject to the requirements in sub paragraph (D) above, can appoint an eligible person to fill that casual vacancy.

- (G) The Advisory Committee will be required to meet monthly and forward any recommendations and reports to the CEO of the Amalgamated Club.
- (ii) Subject at all times to the approval of the Board of the Amalgamated Club it is envisaged that the Advisory Committee will:
  - (A) assist and provide direction to Amalgamated Club with respect to the management, operation and administration of the Aberdeen RSL Premises
  - (B) make recommendations about the Aberdeen RSL Premises for consideration by the board of Cabramatta Leagues Club via the Cabramatta Leagues Club CEO or his delegate.
  - (C) make recommendations to the Amalgamated Club in relation to the ClubGRANTS and other community support and sponsorships to be made by the Amalgamated Club that are attributable to the Aberdeen RSL Premises.
- (iii) Cabramatta Leagues Club's CEO or his delegate shall be entitled to attend and participate in all meetings of the Advisory Committee but he shall have no voting rights at such meetings
- (iv) The Advisory Committee:
  - (A) is subject to the overall control and direction of the Board and management of the Amalgamated Club
  - (B) will have no function in the governance or management of the Amalgamated Club or the Aberdeen RSL Premises (except if specifically delegated to it by the Board of the Amalgamated Club).
- (v) Cabramatta League Club will adopt by-laws which give effect to this clause 4.4 and the rules of the Advisory Committee shall be prepared and agreed upon by the Board of Cabramatta Leagues Club and the Board of Aberdeen RSL before Completion.
- (vi) Subject to any necessary member approvals (if any) first being obtained, the Amalgamated Club will reimburse certain reasonable and properly incurred expenses of the Advisory Committee members limited to only meal and drink expenses (when associated with monthly committee meetings), reasonable travel and accommodation expenses when attending the Club Premises of Cabramatta Leagues Club for official purposes and annual uniform expenses (with uniforms to be as agreed with Cabramatta Leagues Club) with all such expenses reimbursement subject to an annual aggregated budget as pre-approved by the Board of the Amalgamated Club. If any members approvals are required for the reimbursement of reasonable and properly incurred expenses of the Advisory

Committee members, the Board of the Amalgamated Club must ensure that the necessary resolutions are included in the relevant notices of annual general meeting.

- (vii) The Advisory Committee shall remain in force for as long as the Amalgamated Club trades from the Aberdeen RSL Premises.

**5. A LIST OF THE TRADITIONS, AMENITIES AND COMMUNITY SUPPORT THAT WILL BE PRESERVED OR CONTINUED BY THE AMALGAMATED CLUB [REGULATIONS – CLAUSE 7(2) (B)]**

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**5.1 Traditions, Amenities and Community Support**

- (i) The Amalgamated Club from Completion, and for as long as it trades from the Aberdeen RSL Premises, will:
  - (A) maintain the traditions and memorabilia of Aberdeen RSL as set out in Schedule 2; and
  - (B) continue the same, or provide a greater amount, of support and sponsorship to community, social and sporting groups in the local community of the Aberdeen RSL Premises.

**5.2 Memorabilia**

- (i) The memorabilia currently displayed at the Aberdeen RSL contains memorabilia which is owned by the Club and other memorabilia which is owned by third parties but lent to Aberdeen RSL.
- (ii) In respect of the memorabilia owned by the Club, it shall be displayed in a glass cabinet at the Aberdeen RSL Premises for as long as the Amalgamated Club trades from the Aberdeen RSL Premises. If the Amalgamated Club ceases to trade from the Aberdeen RSL Premises, it shall donate this memorabilia to RSL NSW or such other similar group.
- (iii) In respect of the memorabilia which is owned by third parties but lent to Aberdeen RSL, it shall be displayed in a glass cabinet at the Aberdeen RSL Premises for as long as the Amalgamated Club trades from the Aberdeen RSL Premises or the third party requires it to be returned to them (whichever is sooner). If the Amalgamated Club ceases to trade from the Aberdeen RSL Premises, it shall return this memorabilia to its owners.

**6. INTENTIONS REGARDING THE FUTURE DIRECTION OF THE AMALGAMATED CLUB [REGULATIONS – CLAUSE 7(2) (C)]**

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**6.1 Future Direction**

- (i) The future direction of the Amalgamated Club will be subject to the overall strategic plan of the Amalgamated Club and its finances as determined by its

Board of Directors.

- (ii) The Board of Directors of the Amalgamated Club intend to be financially prudent at all times to ensure continuity of the Amalgamated Club and all decisions are subject to available finances on an ongoing basis.

## 6.2 Club Operations

- (i) The Amalgamated Club will, subject to this Memorandum of Understanding carry on the business of a licensed registered club at Aberdeen RSL Premises with all the facilities and amenities of a registered club.
- (ii) The Amalgamated Club will upgrade the Aberdeen RSL Premises including works required for the premises to meet all applicable compliance standards, technology upgrades such as points of sale systems, sign in terminals and the addition of an ATM, installation of new signs and redecoration works to modernise the Aberdeen RSL Premises
- (iii) For as long as the Amalgamated Club trades from the Aberdeen RSL Premises, it must ensure that all general meetings (including Annual General Meetings) are physically held at both the Club Premises of Cabramatta Leagues Club and in an agreed location in Aberdeen (which may or may not be the Aberdeen RSL Premises) except when such general meeting is a hybrid general meeting held both physically and by electronic means or a meeting held only by electronic means.. This will ensure that Aberdeen RSL's members can attend, participate and vote at all general meetings of the Amalgamated Club. If required, Cabramatta Leagues Club will amend its Constitution at the general meeting referred to in clauses 15.3 and 15.5 to incorporate this obligation.

## **7. THE EXTENT TO WHICH THE EMPLOYEES OF THE AMALGAMATED CLUB WILL BE PROTECTED [REGULATIONS – CLAUSE 7(2) (D)]**

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- 7.1 Prior to Completion, Cabramatta Leagues Club will offer employment to all of Aberdeen RSL's employees on terms no less favourable than their existing terms of employment.
- 7.2 Any employee of Aberdeen RSL who accepts in writing the offer of employment with Cabramatta Leagues Club will become an employee of the Amalgamated Club on Completion and receive continuity of employment with Cabramatta Leagues Club and their Employee Entitlements as employees of Aberdeen RSL will be honoured by Cabramatta Leagues Club.
- 7.3 Any employee of Aberdeen RSL who does not accept the offer of employment with Cabramatta Leagues Club will be paid their full Employee Entitlements by Aberdeen RSL on Completion when their employment with Aberdeen RSL comes to an end.

**8. INTENTIONS REGARDING THE FOLLOWING ASSETS OF ABERDEEN RSL:**

- 1. ANY CORE PROPERTY OF ABERDEEN RSL;**
  - 2. ANY CASH OR INVESTMENTS HELD BY ABERDEEN RSL;**
  - 3. ANY GAMING MACHINE ENTITLEMENTS HELD BY ABERDEEN RSL**
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- [REGULATIONS – CLAUSE 7(2) (E)]**

**Core Property**

- 8.1 For the purposes of the Registered Clubs Act, the Land (including the Aberdeen RSL Premises) is currently “core property” of Aberdeen RSL.
- 8.2 As at Completion of the Amalgamation, the Land (including the Aberdeen RSL Premises) shall be core property of the Amalgamated Club and it will, subject to any member resolution declaring it non-core, remain core property.
- 8.3 The Amalgamated Club must take out and maintain appropriate building insurance for the Aberdeen RSL Premises, if available on reasonable commercial terms, sufficient to cover reinstatement of the Aberdeen RSL Premises to the same or better standard they were in as at Completion.

**Cash and Investments**

- 8.4 The cash and investments (if any) of Aberdeen RSL will be transferred to the general reserves of the Amalgamated Club.

**Gaming Machine Entitlements**

- 8.5 Aberdeen RSL has ten (10) GMEs as recorded on the Aberdeen RSL licence for the Aberdeen RSL Premises issued pursuant to the Liquor Act.
- 8.6 The Amalgamated Club will retain the ten (10) GMEs at the Aberdeen RSL Premises for as long as it trades from the Aberdeen RSL Premises.

**9. THE RISKS OF NOT MEETING ANY SPECIFIED INTENTIONS REGARDING THE PRESERVATION OF THE CORE PROPERTY OF THE DISSOLVED CLUB AND HOW THOSE RISKS ARE TO BE ADDRESSED IF REALISED [REGULATIONS – CLAUSE 7(2) (E1)]**

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**Risks**

- 9.1 The amalgamation as set out in this Memorandum of Understanding will see the Aberdeen RSL Premises become premises of a larger Registered Club of financial standing and net asset value.
- 9.2 The “core property” of Aberdeen RSL as set out in clause 8.1 above will, following Completion, be wholly owned by the Amalgamated Club with mortgagee interest on title. Other than unlikely risks associated with material changes in laws which may affect Registered Clubs there is no other risk that the Amalgamated Club will not be in control of the core property post Completion.



9.3 The risks identified in clause 9.2 are set out in order to comply with the requirements of the Registered Club Regulations only. The likelihood that those risks will be realised is low and such risks are mitigated because there are restrictions on disposal of core property of Aberdeen RSL contained in the Registered Clubs Act.

**10. ANY AGREEMENT UNDER SECTION 17AI (1) OF THE ACT RELATING TO THE PERIOD DURING WHICH THE MAJOR ASSETS OF THE DISSOLVED CLUB MUST NOT BE DISPOSED OF [REGULATIONS – CLAUSE 7(2) (E2)]**

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**Disposal of the Major Assets of the Dissolved Club**

10.1 For the purposes of section 17AI of the RCA, the Clubs agree that the major assets of Aberdeen RSL are the “core property” of Aberdeen RSL as set out in clause 8.1 above being the Land (including the Aberdeen RSL Premises) and subject to the Registered Clubs Act and the provisions of this Memorandum of Understanding, the major assets of Aberdeen RSL cannot be disposed of within three (3) years from Completion.

**11. THE CIRCUMSTANCES THAT WOULD PERMIT THE AMALGAMATED CLUB TO CEASE TRADING ON THE PREMISES OF ABERDEEN RSL OR TO SUBSTANTIALLY CHANGE THE OBJECTS OF ABERDEEN RSL [REGULATIONS – CLAUSE 7(2) (F)]**

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**Premises**

11.1 Cabramatta Leagues Club does not intend to cease trading from the Aberdeen RSL Premises subject to the terms and conditions of this Memorandum of Understanding.

11.2 The objects of Cabramatta Leagues Club will become the objects of Aberdeen RSL with effect from Completion.

11.3 Cabramatta Leagues Club intends to operate the Amalgamated Club in the manner referred to in clause 6 of this Memorandum of Understanding.

11.4 For the purposes of clause 7(2)(f) of the Regulations, Cabramatta Leagues Club and Aberdeen RSL have agreed that the Amalgamated Club may cease trading from the Aberdeen RSL Premises in the following circumstances:

- (i) If it does so in a manner that complies with section 17AI of the Registered Clubs Act;
- (ii) upon the order of any Court, Government Agency or body with jurisdiction to administer the laws in relation to liquor, gaming and registered clubs which orders the permanent closure of the Aberdeen RSL Premises;
- (iii) upon the lawful order of any Government Agency to permanently cease trading from the Aberdeen RSL Premises, or revoking any licence, approval or consent necessary for the Amalgamated Club to continue trading from the Aberdeen RSL Premises and it is not reasonably possible for the licences, approvals or

consents to be re-instated or new/replacement licences, approvals or consents to be obtained;

- (iv) if the Aberdeen RSL Premises are destroyed or partially destroyed, and it is not the resulting insurance claim is not sufficient to re-instate or rebuild an operational clubhouse at the Aberdeen RSL Premises;
- (v) if required to avoid an Insolvency Event occurring in respect of the Amalgamated Club in the opinion of the Board of the Amalgamated Club; or
- (vi) after expiry of the period referred to in clause 12.3 (being three (3) years after Completion) if the Board of the Amalgamated Club determines that continued trading from the Aberdeen RSL Premises is not in the best interests of the Amalgamated Club following consultation with the Advisory Committee.

11.5 The time period specified in clause 12.3, and the circumstances in which the Amalgamated Club may cease trading from the Aberdeen RSL Premises are not an indication that Cabramatta Leagues Club believes that the use of such premises will remain financially unviable. Cabramatta Leagues Club will use reasonable endeavours to maintain and improve the Aberdeen RSL Premises' financial viability.

**12. AN AGREED PERIOD OF TIME BEFORE THE AMALGAMATED CLUB IS PERMITTED TO CEASE TRADING FROM ABERDEEN RSL PREMISES OR SUBSTANTIALLY CHANGE THE OBJECTS OF ABERDEEN RSL PREMISES [REGULATIONS – CLAUSE 7(2) (G)]**

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- 12.1 Cabramatta Leagues Club intends to operate the Amalgamated Club in the manner referred to in clause 4 and would only cease to do so in the circumstances referred to in clause 11.
- 12.2 As mentioned above the objects of Cabramatta Leagues Club will become the objects of Aberdeen RSL Premises, as set out in its constitution, with effect from Completion.
- 12.3 For the purposes of clause 7(2)(g) of the Regulations, Cabramatta Leagues Club and Aberdeen RSL have agreed that the Amalgamated Club will continue to trade from the Aberdeen RSL Premises for a minimum of three (3) years from Completion (except in any of the circumstances referred to in clause 11.4(i) to (v) inclusive).

**13. BINDING EFFECT OF MEMORANDUM OF UNDERSTANDING**

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- 13.1 Cabramatta Leagues Club and Aberdeen RSL agree that this Memorandum of Understanding is legally binding on them.

**14. CALLING OF MEETINGS AND ADMISSION OF ABERDEEN RSL MEMBERS TO MEMBERSHIP OF CABRAMATTA LEAGUES CLUB**

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- 14.1 Aberdeen RSL must call a general meeting of the ordinary members of Aberdeen RSL within thirty (30) days of the date of this Memorandum of Understanding, or such other period of time as agreed to by Cabramatta Leagues Club, for the purposes of considering

and if thought fit passing:

- (i) a resolution approving in principle the Amalgamation in accordance with section 17AEB(d) of the Registered Clubs Act with such amalgamation to be effected by:
    - (A) The continuation of Cabramatta Leagues Club as the corporate entity of the Amalgamated Club; and
    - (B) The transfer of the Aberdeen RSL's Club Licence, Assets, Land and Liabilities to Cabramatta Leagues Club.
- 14.2 The meeting referred to in clause 14.1 must be held as soon as practicable after the date of this Memorandum of Understanding. For the avoidance of doubt, there is no obligation on Aberdeen RSL to call and hold more than one general meeting to seek and obtain the approvals referred to in clause 14.1 and such general meeting must be held within six (6) months of the date of this Memorandum.
- 14.3 Cabramatta Leagues Club must call a general meeting of the ordinary members of Cabramatta Leagues Club for the purposes of considering and if thought fit passing a resolutions:
- (i) approving in principle the Amalgamation in accordance with section 17AEB (d) of the Registered Clubs Act to be effected by:
    - (A) the continuation of Cabramatta Leagues Club as the corporate entity of the Amalgamated Club; and
    - (B) the transfer of the Club Licence, Assets; Land and Liabilities of Aberdeen RSL to Cabramatta Leagues Club.
- 14.4 The meeting referred to in clause 14.3 must be held as soon as reasonably practicable after Aberdeen RSL passes the resolution referred to in clause 14.1 (or at such prior time as may be determined by Cabramatta Leagues Club in its absolute discretion).
- 14.5 In addition to the resolution referred to in clause 14.3, Cabramatta Leagues Club will, at the meeting referred to in clause 14.3 submit to those members eligible to attend and vote, a special resolution to amend the Constitution of Cabramatta Leagues Club (with effect only from Completion) to the following effect:
- (i) All financial members of Aberdeen RSL will be invited to apply for ordinary membership of Cabramatta Leagues Club in the manner referred to in paragraphs (ii) and (vii) inclusive of this clause 14.5;
  - (ii) All transferring members will be ordinary members of Cabramatta Leagues Club;
  - (iii) All transferring members will be subject to the usual restrictions applicable to new Cabramatta Leagues Club members.
  - (iv) For the purposes of section 17AC(2) of the Registered Clubs Act, all transferring

members will be identified in Cabramatta Leagues Club membership register as “Aberdeen RSL Members”;

- (v) All transferring members will be given free membership of the Amalgamated Club for twelve (12) months from the date of Completion;
- (vi) Prior to Completion, Cabramatta Leagues Club will forward to each member of Aberdeen RSL an invitation to become a Club member or Junior member of Cabramatta Leagues Club;
- (vii) Any member of Aberdeen RSL who accepts the invitation to become a Club member agrees to pay the appropriate fees and subscriptions for that class of membership and agrees in writing to be bound by the constitution of Cabramatta Leagues Club will (subject to the name of that person being displayed on the noticeboard of Cabramatta Leagues 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 Cabramatta Leagues Club) be elected by a resolution of the Board of Cabramatta Leagues Club to membership of Cabramatta Leagues Club;
- (viii) All general meetings (including annual general meetings) of the Amalgamated Club must be physically held at both the Club Premises of Cabramatta Leagues Club and in Aberdeen (which may or may not be the Aberdeen RSL Premises) to ensure Aberdeen RSL members can attend, participate and vote at all general meetings (including annual general meetings) of the Amalgamated Club except if such general meeting is to be a general meeting held by both physical and electronic means or by electronic means only.

14.6 Notwithstanding anything contained in this Memorandum of Understanding, any member of Aberdeen RSL who, at Completion, is then:

- (i) duly in the ordinary course refused admission to or has been turned out of the Cabramatta Leagues Club Premises;
- (ii) suspended from Cabramatta Leagues Club; or
- (iii) expelled from Cabramatta Leagues Club;

shall only be entitled to attend at and use the facilities at Aberdeen RSL Premises, and for the avoidance of doubt, shall not be entitled to attend at or use the facilities at Cabramatta Leagues Club Premises, until such time as:

- (i) The person is again permitted to enter the Cabramatta Leagues Club Premises; or
- (ii) the period of suspension has been served; or
- (iii) The Board of the Amalgamated Club has overturned the person’s expulsion from Cabramatta Leagues Club or has readmitted the person to membership of Cabramatta Leagues Club.

- 14.7 This Memorandum of Understanding is to be:
- (i) made available to the ordinary members of Aberdeen RSL and Cabramatta Leagues Club at least 21 days before any meeting of the members of the respective club for the purpose of voting on whether to approve the proposed amalgamation; and
  - (ii) made available for inspection on the premises of each club and on the website of each club for at least 21 days before any such meeting is held.
- 14.8 Before this Memorandum of Understanding was executed, the parties acknowledge that each Club displayed the intentions and proposals notices to members which are required under section 17AE of the Registered Clubs Act and clause 4(5) of the Registered Club Regulations.

**15. AMALGAMATION APPLICATION TO THE INDEPENDENT LIQUOR AND GAMING AUTHORITY**

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- 15.1 As soon as reasonably practicable after the meetings referred to in clauses 14.1 and 14.3, each Club must prepare and provide to the lawyers for Cabramatta Leagues Club for the purposes of the Amalgamation Application the following documents:
- (i) A true copy of the notice of the meeting at which the resolution was passed; and
  - (ii) A true copy of the minutes of the meeting which will include the number of members present at the meeting and whether or not the resolution was passed.
- 15.2 Cabramatta Leagues Club and its lawyers will prepare and file the Amalgamation Application.
- 15.3 Aberdeen RSL will co-operate with Cabramatta Leagues Club and the lawyers for Cabramatta Leagues Club and will provide all documents and information reasonably required for the preparation, lodgement and finalisation of the Amalgamation Application and will cause the Aberdeen RSL CEO to sign the Amalgamation Application if required to do so.
- 15.4 Cabramatta Leagues Club will seek an approval in principle from the Authority of the Amalgamation Application with final transfer of the Aberdeen RSL's Club Licence to Cabramatta Leagues Club to occur on Completion.
- 15.5 After the Amalgamation Application is granted and the Conditions Precedent have either been achieved or waived as permitted by clause 17.3 then Completion will occur and:
- (i) Cabramatta Leagues Club will continue as the body corporate of the Amalgamated Club; and
  - (ii) Aberdeen RSL will be dissolved and wound up in accordance with law.

- 15.6 This Memorandum of Understanding is to be lodged with any application under section 60 of the Liquor Act 2007 to transfer the club licence held by Aberdeen RSL to Cabramatta Leagues Club.

## **16. WARRANTIES AND OPERATIONAL ARRANGEMENTS**

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16.1 Aberdeen RSL warrants to Cabramatta Leagues Club that:

- (a) from the date of this Memorandum of Understanding to the date of Completion, Aberdeen RSL shall not do any of the following without the prior written consent of Cabramatta Leagues Club:
  - (i) Manage and conduct the business other than in its ordinary and usual course including without limitation the payment of all debts as an when they fall due;
  - (ii) incur liabilities in the aggregate of more than \$5,000 per month other than as incurred in the usual and ordinary course of business;
  - (iii) incur in aggregate any capital expenses or repairs of more than \$2,000;
  - (iv) enter any commitment which will involve capital expenditure relating to its Business;
  - (v) other than disposals of Stock in the ordinary course of business, dispose of, create any Encumbrance over, or declare itself trustee of any asset of its Business;
  - (vi) hire any new permanent or part time employee, hire any new casual employee, terminate the employment of any employee or vary the terms of employment or engagement of any employee, agent, distributor or independent contractor, or agree to do any of those things except in the ordinary course of business or as required by law;
  - (vii) enter into any new contract or vary the term of any existing contract ;
  - (viii) enter into any transaction other than on arm's length terms;
  - (ix) fail to maintain the level of Stock levels appropriate in quality and volume for the ongoing needs of the Business;
  - (x) fail to maintain, repair and replace the Plant and Equipment in the ordinary course of the business (subject to (ii) and (iii) above);
  - (xi) engage in discussions or negotiations with anyone other than Cabramatta Leagues Club concerning a possible amalgamation and/or the sale of all or any part of Aberdeen RSL's Assets and Aberdeen RSL must advise Cabramatta Leagues Club of any solicitation by any third party in respect of

any such discussion or negotiation;

(xii) borrow any money or obtain any draw down or advance from any existing facility; or

(xiii) reduce any membership fees payable by members or other patrons and

(b) that Schedule 3 includes all liabilities (actual or contingent), losses, damages, debts, outgoings, costs and expenses of Aberdeen RSL (whatever description) as at the date of the MOU.

16.2 Until completion Aberdeen RSL must maintain the following insurance policies in respect of the Assets and the Aberdeen RSL Business:

(i) public liability insurance in the amount of at least \$20 million for each single occurrence, 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 as required by law.

16.3 Each of Aberdeen RSL's warranties contained in clause 16.1 remain in full force and effect notwithstanding Completion.

16.4 Without limiting its other rights, and notwithstanding any other provision of this Memorandum of Understanding, Cabramatta Leagues Club may terminate this Memorandum of Understanding and the amalgamation at any time prior to Completion if there is any breach of any of Aberdeen RSL's warranties set out in clause 16.1.

16.5 If, before Completion, in relation to Aberdeen RSL:

(i) A Material Adverse Event occurs;

(ii) A Material Adverse Regulatory Event occurs;

(iii) An event occurs which makes any warranty, or any of a Aberdeen RSL representations or other warranties made or given to the other party untrue or misleading;

(iv) Any Claim of any nature is threatened or asserted by or against Aberdeen RSL; or

(v) There is any material adverse change in the condition (financial or otherwise) or prospects of Aberdeen RSL or of its operations,

then Aberdeen RSL must within a reasonable time on becoming aware of the circumstances, give notice to Cabramatta Leagues Club fully describing the circumstances.

- 16.6 Title to, property in and risk of Aberdeen RSL's Assets remain solely with Aberdeen RSL until such time as they are passed to the Amalgamated Club in accordance with clause 18.
- 16.7 Each party represents and warrants that:
- (i) It has full power and authority to enter into and perform its obligations under this Memorandum of Understanding;
  - (ii) The accounts given to the other party 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;
  - (iii) It has complied with all laws relating to payment of Taxes and Employee Entitlements;
  - (iv) Each of the representations and warranties it has made in this Memorandum of Understanding are correct; and
  - (v) 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.

**17. CONDITION PRECEDENTS TO COMPLETION OF THE AMALGAMATION**

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- 17.1 Completion of this Memorandum of Understanding is subject to and conditional upon the following:
- (i) Aberdeen RSL making available the Records for review and copying by Cabramatta Leagues Club for due diligence purposes;
  - (ii) Cabramatta Leagues Club's due diligence being satisfactory to Cabramatta Leagues Club in relation to Aberdeen RSL's Premises, Club Licence, Business, Liabilities ;
  - (iii) All Assets (including the Land) on Completion being transferred to Cabramatta Leagues Club free of any and all Encumbrances with, subject to clause 18.1, any necessary releases being provided on Completion to Cabramatta Leagues Club;
  - (iv) Aberdeen RSL passing the resolutions set out in clause 14.1 of this Memorandum of Understanding;
  - (v) Cabramatta Leagues Club passing the resolutions set out in clause 14.3 and 14.5 of this Memorandum of Understanding;
  - (vi) The Final Approval being issued by the Authority to transfer Aberdeen RSL's Club Licence to Cabramatta Leagues Club;



- (vii) Aberdeen RSL's Club Licence when transferred to Cabramatta Leagues Club having ten (10) GMEs; and
  - (viii) The completion of all Land Purchase Contracts between Aberdeen RSL and Cabramatta Leagues Club with respect to all Land and the transfer of such Land to Cabramatta Leagues Club free from any and all Encumbrances; and
  - (ix) All loan facilities have been paid out in full by Aberdeen RSL.
- 17.2 Aberdeen RSL and Cabramatta Leagues Club will use all reasonable endeavours to ensure the satisfaction of the conditions set out in clause 17.1 above as far as they lie within their respective powers to do so.
- 17.3 If any of the above conditions in clauses 17.1 are not satisfied or waived by Cabramatta Leagues Club, either partially or fully, on or before the date which is 24 months from the date of this Memorandum of Understanding then Cabramatta Leagues Club may from that date terminate this Memorandum of Understanding by providing Aberdeen RSL written notice of the same and neither party shall be entitled to make a claim against the other party in connection with this Memorandum of Understanding.

**18. DISSOLUTION OF ABERDEEN RSL, TRANSFER OF ASSETS AND LIABILITIES POSITION UNDER THIS AMALGAMATION**

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- 18.1 On Completion Aberdeen RSL must transfer to Cabramatta Leagues Club the Assets and Land free from all Encumbrances (less an amount sufficient for the purposes of liquidating Aberdeen RSL in the manner referred to in clause 15.5 and for directors' and officers' liability insurance pending deregistration). For the purposes of this clause, Cabramatta Leagues Club will be deemed to have unencumbered title and ownership of an Asset (that is not Land) if Aberdeen RSL has obtained a written undertaking from the relevant secured party on or before Completion which states that the relevant secured party will release their interest in the Asset after Completion and the undertaking is acceptable to Cabramatta Leagues Club.
- 18.2 Subject to clause 18.3(ii), Cabramatta Leagues Club will honour and accept the novation or assignment of all contracts between Aberdeen RSL and third parties for the remainder of their existing term provided that such contracts have been available for inspection by Cabramatta Leagues Club during its due diligence process, and are specified in Schedule 4, or they have been entered into with the prior written consent of Cabramatta Leagues Club after the date of this Memorandum of Understanding.
- 18.3 Cabramatta Leagues Club will be responsible for and pay when due all debt and liabilities of Aberdeen RSL which:
- (i) have not been paid or otherwise discharged in full by Aberdeen RSL as at Completion, with such debts being amounts as set out in Schedule 3 or incurred in accordance with clauses 16.1(a);
  - (ii) are reasonably incurred by Aberdeen RSL after Completion with Cabramatta

Leagues Club's prior written consent, including without limitation the costs of winding up Aberdeen RSL and the costs of directors' and officers' liability insurance pending deregistration of Aberdeen RSL as a corporate entity;

- (iii) arise from Cabramatta Leagues Club not accepting the assignment or novation of any contracts as required by clause 18.2.

18.4 As soon as practicable after Completion, Aberdeen RSL must ensure Aberdeen RSL is wound up.

## **19. COMPLETION**

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19.1 Subject to the satisfaction, or valid waiver, of the Conditions Precedent set out in clause 17.1, Completion will take place on the date which Final Approval is issued by the Authority at a time, location and in the manner as specified by Cabramatta Leagues Club (acting reasonably and after consultation with Aberdeen RSL).

19.2 Aberdeen RSL must on Completion:

- (i) (Assets) deliver to Cabramatta Leagues Club duly signed transfer and similar forms in respect of all Assets that require such forms for their transfer;
- (ii) (business name) deliver to Cabramatta Leagues Club the online transfer key to transfer each Business name to Cabramatta Leagues Club;
- (iii) (Intellectual Property rights) assign and transfer absolutely all its rights, title and interest in all intellectual property rights by delivering to Cabramatta Leagues Club deeds of assignment or transfers of such Assets all in form and substance reasonably required by Cabramatta Leagues Club;
- (iv) (delivery) deliver to Cabramatta Leagues Club those Assets, including plant and equipment, capable of transfer by leaving those Assets in situ on the Land;
- (v) (possession) permit Cabramatta Leagues Club to take possession of all those Assets which are not on the Land, at the location where they are usually retained;
- (vi) (Records) deliver to Cabramatta Leagues Club the Records;
- (vii) (IT Asset licences) deliver to Cabramatta Leagues Club executed transfers or assignments in favour of Cabramatta Leagues Club of all information technology Asset licences;
- (viii) (deeds of assignment or novation) deliver to Cabramatta Leagues Club duly executed deeds of assignment or novation, all in form and substance as reasonably required by Cabramatta Leagues Club in respect of all contracts agreed to be honoured by Cabramatta Leagues Club;
- (ix) (release of Encumbrances) deliver evidence satisfactory to Cabramatta Leagues

Club of the release of all Encumbrances (if any) over its Business and the Assets;

- (x) (consents and approvals) deliver to Cabramatta Leagues Club signed copies of all required governmental and regulatory approvals or other third-party approvals and consents to the actions required by this Deed;
  - (xi) (utilities) surrender or cause to be surrendered all telephone and related lines, electricity, gas and other utility services as relate to the Land and use its best endeavours to assist the transfer or grant of those services or the grant of similar new services to Cabramatta Leagues Club;
  - (xii) (Rental Assets) deliver to Cabramatta Leagues Club such other documents and material as Cabramatta Leagues Club requires to effect the transfer of any rental assets to Cabramatta Leagues Club;
  - (xiii) (third party items) deliver to Cabramatta Leagues Club a comprehensive list of all items on the Premises owned by a party other than Aberdeen RSL (not including member personal effects but including any items of memorabilia on display);
  - (xiv) (general) deliver to Cabramatta Leagues Club such other documents and material and do all other things reasonably required to effect the transfer of the business of Aberdeen RSL and the Assets to Cabramatta Leagues Club on Completion and perform all other obligations to be performed by Aberdeen RSL on Completion under this Deed.
- 19.3 Where Aberdeen RSL is required to give any form of transfer, assignment or other documents to effect the transfer or assignment of any property or chose in action to Cabramatta Leagues Club on Completion in a form required by Cabramatta Leagues Club (the 'Transfer Documents'), Cabramatta Leagues Club must, not less than 7 days before the proposed date of Completion, deliver the Transfer Documents to Aberdeen RSL or its solicitors for execution by Aberdeen RSL.
- 19.4 Aberdeen RSL must give Cabramatta Leagues Club or its solicitors all such Transfer Documents within a reasonable period (having regard to when any such Transfer Documents were provided to Aberdeen RSL or its solicitors) prior to Completion for stamping where necessary. All such documents must be held by Cabramatta Leagues Club or its solicitors in escrow pending Completion.
- 19.5 On winding up of Aberdeen RSL it must give to Cabramatta Leagues Club the balance of all Records.
- 19.6 Any document or other item specified in clause 19.2 may be delivered to Cabramatta Leagues Club by leaving that document or other item in a safe and appropriate place at which it is located on the date of Completion or otherwise delivered in accordance with Cabramatta Leagues Club's instructions.
- 19.7 For the purposes of clause 18.1, Aberdeen RSL must do all things necessary and execute all documents to cause all of the Assets to be transferred to or assigned to the Cabramatta

Leagues Club with effect from the date of Final Approval.

- 19.8 The obligations of the parties under this clause 19 are interdependent and must be performed, as nearly as possible, simultaneously. If any obligation specified in clauses 19.2 to 19.4 is not performed on or before Completion then, without limiting any other rights of the parties, Completion is taken not to have occurred and any document delivered, or payment made, under clauses 19.2 to 19.4 must be returned to the party that delivered it or paid it.
- 19.9 Each of the parties warrant to the other 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 the matters referred to in this clause 19.

## **20. GST**

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- 20.1 The parties agree that:
- (a) All Payments, save to the extent provided for otherwise elsewhere in this Memorandum of Understanding, have been calculated without regard to GST;
  - (b) If the whole or any part of any Payment, is Consideration for a Taxable Supply, the Recipient of the Taxable Supply must pay to the Supplier an amount additional to the relevant Consideration provided for elsewhere in this Memorandum of Understanding equal to the GST Amount. Unless otherwise agreed in writing, such amount equal to the GST Amount is to be paid within five Business Days of the Supplier issuing to the Recipient a valid Tax Invoice for the Taxable Supply.  
  
The amount equal to the GST Amount must be paid in full and without deduction, notwithstanding any entitlement that the Purchaser may have to a credit or offset however arising;
  - (c) If either party is required to reimburse to the other any cost or expense or other amount incurred by the other party under or in connection with this Memorandum of Understanding, the amount to be reimbursed must be reduced by any part of that amount for which that other party can claim an Input Tax Credit, partial Input Tax Credit or other like set-off;
  - (d) If a party is a member of a GST Group, references to GST for which the party is liable and to Input Tax Credits to which the party is entitled include GST for which the Representative Member of the GST Group is liable and Input Tax Credits to which the Representative Member is entitled; and
  - (e) If, in relation to a Taxable Supply, an Adjustment Event occurs that gives rise to an Adjustment then the GST Amount will be adjusted accordingly and where necessary a payment will be made to reflect that adjustment. If a payment is required it will be made within five Business Days of the date on which the

Adjustment Note is issued by the Supplier.

## **21. CONFIDENTIALITY**

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- 21.1 Subject to clauses 21.2 and 21.3, each party must not disclose any Confidential Information without the prior written consent of the other party.
- 21.2 A party may disclose matters referred to in clause 21.1:
- (i) To those of its employees, officers, professional or financial advisers and bankers as the party reasonably thinks necessary but only on a strictly confidential basis; and
  - (ii) If required by law, after the form and terms of that disclosure have been notified to the other party and the other party has had a reasonable opportunity to comment on the form and terms.
- 21.3 A party may make announcements or statements at any time in the form and on the terms previously agreed by the parties in writing.
- 21.4 If this Memorandum of Understanding is terminated prior to Completion, each party must:
- (i) return any Confidential Information of the other party in its possession to that other party; and
  - (ii) do everything reasonably required by the other party to reverse any action taken under this Memorandum of Understanding.
- 21.5 This clause 21 will survive the termination of this Memorandum of Understanding.

## **22. COSTS**

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- 22.1 Each party will bear its own costs in relation to the negotiation, preparation and execution of this Memorandum of Understanding and the Amalgamation except that Cabramatta Leagues Club will contribute up to \$3,500 towards Aberdeen RSL's legal costs in relation to the negotiation of this Memorandum of Understanding.
- 22.2 Cabramatta Leagues Club must bear and is responsible for all filing fees, transaction fees (including PEXA fees), duties, stamp duties or other similar imposts on or in respect of this Memorandum of Understanding and any document or transaction contemplated by this Memorandum of Understanding.
- 22.3 This clause 22 survives the termination of this Memorandum.

## **23. GENERAL PROVISIONS**

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- 23.1 This Memorandum of Understanding constitutes the entire agreement between the

parties in relation to its subject matter. All prior discussions, undertakings, agreements, representations, warranties and indemnities in relation to that subject matter are replaced by this Memorandum of Understanding and have no further effect.

- 23.2 If this Memorandum of Understanding conflicts with any other document, agreement or arrangement, this Memorandum of Understanding prevails to the extent of the inconsistency.
- 23.3 The provisions of this Memorandum of Understanding will not merge on Completion of any transaction contemplated in this Memorandum of Understanding and, to the extent any provision has not been fulfilled, will remain in force.
- 23.4 Each person who executes this Memorandum of Understanding on behalf of a party under a power of attorney warrants that he or she has no notice of the revocation of that power or of any fact or circumstance that might affect his or her authority to execute this Memorandum of Understanding under that power.
- 23.5 This Memorandum of Understanding may not be amended or varied unless the amendment or variation is in writing signed by all parties.
- 23.6 No party may assign, transfer or otherwise deal with this Memorandum of Understanding or any right or obligation under this Memorandum of Understanding without the prior written consent of each other party.
- 23.7 Part or all of any provision of this Memorandum of Understanding that is illegal or unenforceable will be severed from this Memorandum of Understanding and will not affect the continued operation of the remaining provision or provisions of this Memorandum of Understanding.
- 23.8 Waiver of any power or right under this Memorandum of Understanding:
- (i) must be in writing signed by the party entitled to the benefit of that power or right; and
  - (ii) is effective only to the extent set out in that written waiver.
- 23.9 Any rights and remedies that a person may have under this Memorandum of Understanding are in addition to and do not replace or limit any other rights or remedies that the person may have.
- 23.10 Each party must do or cause to be done all things necessary or reasonably desirable to give full effect to this Memorandum of Understanding and the transactions contemplated by it (including the execution of documents).
- 23.11 This Memorandum of Understanding may be executed in any number of counterparts and all counterparts taken together will constitute one document.
- 23.12 If a party delivers an executed counterpart of this Memorandum of Understanding or any

other document executed in connection with it (“**Relevant Document**”) by email or other electronic means:

- (i) the delivery will be deemed to be an effective delivery of an originally executed counterpart; and
- (ii) the party will still be obliged to deliver an originally executed counterpart, but the failure to do so will not affect the validity or effectiveness of the Relevant Document.

23.13 This Memorandum of Understanding will be governed by and construed in accordance with the laws in force in the State of New South Wales and each party submits to the exclusive jurisdiction of the courts of that State.

## **24. TERMINATION**

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24.1 Cabramatta Leagues Club may terminate this Memorandum of Understanding at any time, without penalty, by giving written notice to Aberdeen RSL if:

- (i) The ongoing due diligence review undertaken by it on Aberdeen RSL is not at any time satisfactory to the Board of Cabramatta Leagues Club at any time prior to Completion;
- (ii) Aberdeen RSL breaches any warranty contained in clause 16;
- (iii) The circumstances in clause 16.5 exist in relation to Aberdeen RSL;
- (iv) Aberdeen RSL’s members do not pass the resolution referred to in clause 14.1 at a general meeting within six (6) months of the date of this Memorandum;
- (v) Cabramatta Leagues Club’s members do not pass the resolutions referred to in clauses 14.3 and 14.5 at a general meeting within twelve (12) of Cabramatta Leagues Club;
- (vi) Aberdeen RSL is in material breach of this Memorandum of Understanding and that breach is not capable of rectification or if able to be rectified it fails to rectify that breach within 10 Business Days of being given notice to do so;
- (vii) The Authority does not grant Final Approval of the Amalgamation Application before the first anniversary of the date of this document; or
- (viii) Aberdeen RSL suffers a Material Adverse Event or a Material Adverse Regulatory Event.

24.2 Aberdeen RSL may terminate this Memorandum of Understanding at any time, without penalty, by giving written notice to Cabramatta Leagues Club if:

- (i) Aberdeen RSL’s members do not pass the resolution referred to in clause 14.1 at its

general meeting;

- (ii) Cabramatta Leagues Club's members do not pass the resolutions referred to in clauses 14.3 and 14.5 at the general meeting of Cabramatta Leagues Club; or
- (iii) Cabramatta Leagues Club is in breach of this Memorandum of Understanding and that breach is not capable of rectification or it fails to rectify that breach within a reasonable time period of being given notice to do so.

24.3 Notwithstanding any other provision of this Memorandum of Understanding, if Completion has not occurred within twenty - four (24) months of the date of this Memorandum of Understanding then either party by giving written notice to the other may, without penalty or liability to the other party, terminate this Memorandum of Understanding on one (1) month's written notice.

24.4 Termination of this Memorandum of Understanding does not affect the rights and remedies of any party accrued prior to termination.

## **25. NOTICES**

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25.1 All notices, requests, demands, consents, approvals, offers, agreements or other communications ("**notices**") given by a party under or in connection with this agreement must be:

- (i) in writing;
- (ii) signed by a person duly authorised by the sender or, where transmitted by e-mail, sent by a person duly authorised by the sender;
- (iii) directed to the recipient's address (as specified in clause 25.3 or as varied by any notice); and
- (iv) hand delivered or sent by prepaid post to that address; or
- (v) transmitted by email to the recipient's nominated email address (as specified in clause 25.3 or as varied by notice).

25.2 A notice given in accordance with this clause is taken as having been given and received:

- (i) if hand delivered at or before 4.30pm on a Business Day, on delivery, otherwise at 9.30am on the next Business Day;
- (ii) if sent by prepaid post:
  - (A) within Australia, on the seventh Business Day after the date of posting;
  - (B) to or from a place outside Australia, on the fourteenth Business Day after the date of posting;



(iii) if transmitted by e-mail at or before 4.30pm on a Business Day, on transmission, otherwise at 9.30am on the next Business Day.

25.3 Unless varied by notice in accordance with this clause 27, the parties' addresses and other details are:

Party: **Aberdeen RSL**  
Attention: Mr Andrew Weekes Aberdeen RSL  
Address: 23 Moray Street, Aberdeen NSW 2336  
E-mail: weekesy1968@gmail.com

Party: **Cabramatta Leagues Club**  
Attention: Mr Victor Nguyen  
Address: 24-26 Sussex Street, Cabramatta NSW 2166  
E-mail: vnguyen@cabramattarlc.com.au

## SCHEDULE 1

### ASSETS

All assets which are owned by Aberdeen RSL at Completion including without limitation:

1. all of the goodwill;
2. all real property including without limitation the Land which includes without limitation:
  - (a) Lot 12 of Section 4 in DP 758003,
  - (b) Lot 13 of Section 4 in Deposited Plan 758003; and
  - (c) Lot 2 in Deposited Plan 511692
3. all Plant & Equipment;
4. all Gaming Machine Entitlements;
5. all gaming machines ;
6. all intellectual property rights;
7. all memorabilia owned by the Club;
8. all assets of trade;
9. all business names;
10. all cash on hand, general reserves and investments;
11. the Club Licence (LIQC300242552) for the Aberdeen RSL Premises with not less ten (10) ) gaming machine entitlements on it;
12. stock in trade;
13. domain names;
14. all other tangible and intangible assets;
15. insurance policies;
16. insurance claims; and
17. debtors.

## **SCHEDULE 2**

### **TRADITIONS AND MEMORABILIA OF ABERDEEN RSL**

1. Any honour boards at the Aberdeen RSL Premises may be displayed in their present form, electronically or in such other manner as may be determined by the Amalgamated Club.
2. The current memorial and flagpole will be preserved and used by the Amalgamated Club for continued ANZAC and Remembrance Day ceremonies. The current memorial and flagpole must be retained and maintained at the Aberdeen RSL Premises for as long as the Amalgamated Club trades from those premises.

**SCHEDULE 3**

**DEBTS AND LIABILITIES OF ABERDEEN RSL AS AT DATE OF MOU**

ato	76859.53
super	48704.67
rates	22303.28
electricity	16960.42
council tip fees	1163.74
water rates	3240.51
mike oconnell	4000
Steve hobbs	4000
aristocrat	\$1,417.39
rose & partners	\$4,513.00
initial	\$1,500.00
muswellbrook security	\$600.00
adele	\$1,848.00
<b>total</b>	<b>187110.5</b>


**SCHEDULE 4**

**CONTRACTS**


Not Applicable

**EXECUTED as a DEED:**

Executed by **Cabramatta Rugby League Club Ltd ACN 000 650 206** pursuant to Section 127 of the Corporations Act 2001 )  
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Director / Secretary

Edward Flahey  
\_\_\_\_\_  
Name of Director/Secretary  
(print name)

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Director / Secretary

Victor Nguyen  
\_\_\_\_\_  
Name of Director/Secretary  
(print name)

Executed by **Aberdeen RSL & Citizens Club Ltd ACN 001 065 363** pursuant to Section 127 of the Corporations Act 2001: )  
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Director / Secretary

Sue Murnane  
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Name of Director/Secretary  
(print name)

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Director / Secretary

Andrew Weekes  
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Name of Director/Secretary  
(print name)