



Memorandum of Understanding

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

German-Austrian Society of Australia Ltd (ABN 35 000 188 625)
("German-Austrian Society")

This Memorandum of Understanding is made on 1 December 2022.

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

AND **German-Austrian Society of Australia Ltd ABN 35 000 188 625** of c/- 18 Mepunga Street, Concord West, NSW, 2138 (“German-Austrian Society”)

RECITALS

- (A) Cabramatta Leagues Club and German-Austrian Society are both registered clubs under the Registered Clubs Act.
- (B) On 29 November 2022 Cabramatta Leagues Club called for expressions of interest to amalgamate from other clubs.
- (C) German-Austrian Society submitted an expression of interest on 29 November 2022 indicating an interest in amalgamating with Cabramatta Leagues Club.
- (D) Such amalgamation to occur by the continuation of Cabramatta Leagues Club, the dissolution of the German-Austrian Society and the transfer of the Club Licence of the German-Austrian Society to Cabramatta Leagues Club.
- (E) Cabramatta Leagues Club accepted the expression of interest from German-Austrian Society referred to in Recital (C) and Cabramatta Leagues Club and German-Austrian Society have agreed to amalgamate as set out in Recital (D) and in accordance with the terms set out in this Memorandum of Understanding.
- (F) The amalgamation between Cabramatta Leagues Club and German-Austrian Society is subject to the approval of both Clubs’ members and the Authority as required by the Registered Clubs Act.
- (G) 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.
- (H) This Memorandum of Understanding satisfies the requirements of the Registered Clubs Regulations in that it deals with and legally binds Cabramatta Leagues Club and German-Austrian Society to all matters relating to the Amalgamation as required by Regulation 7 of the Registered Clubs Regulations.

OPERATIVE PROVISIONS

1. DEFINITIONS AND INTERPRETATIONS

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

“**German-Austrian Society CEO**” means the Approved Secretary of German-Austrian Society;

“German-Austrian Society Premises” means the approved licensed premises of German-Austrian Society known as German-Austrian Society in respect of Club Licence LIQC300200515 as at the date of this Memorandum situated at 73-75 Curtin St, Cabramatta, NSW 2166 and as otherwise approved by the Authority from time to time and includes any future approved licensed premises (as the context may require);

“Amalgamated Club” means the amalgamated registered club of Cabramatta Leagues Club and German-Austrian Society, 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 German-Austrian Society (LIQC300200515) 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 German-Austrian Society 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 German-Austrian Society 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 Club Licence or the Business and, whether in paper or electronic form, other than those records which the German-Austrian Society is required by law to keep;

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

“Clubs” means both Cabramatta Leagues Club and German-Austrian Society;

“Club Licence” means a club licence held under section 10 of the Liquor Act by the German-Austrian Society being LIQC300200515;

“Club Premises” means a licensed premises owned or controlled by German-Austrian Society or

Cabramatta Leagues Club (as the context may require).

“Completion” means the day on which the Club Licence of German-Austrian Society is transferred to Cabramatta Leagues Club as referred to in clause 18.

“Conditions Precedent” means the conditions precedent to Completion as set out in Clause 17 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 20 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.

“Final Approval” means the confirmation pursuant to Section 60(8) of the *Liquor Act* by the Authority whereby German-Austrian Society’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.

“Liabilities” means all liabilities (actual or contingent), losses, damages, debts, outgoings, costs and expenses of German-Austrian Society (whatever description).

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

“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 German-Austrian Society (as the case may be) as shown on the relevant club’s register to 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 German-Austrian Society 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;

“Recipient” for the purposes of clause 20 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

“RCR or Registered Club Regulations” means the regulations to the Registered Clubs Act.

“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. CLUB CONTINUATION AND TRANSFER OF CLUB LICENCE

- 2.1 As permitted by Section 17AB (2) of the Registered Clubs Act the Amalgamation will be effected by:
 - (i) the continuation of Cabramatta Leagues Club and the dissolution of German-Austrian Society; and
 - (ii) the transfer, under section 60 of the Liquor Act 2007, of the Club Licence held by the German-Austrian Society to Cabramatta Leagues Club.
- 2.2 Cabramatta Leagues Club and German-Austrian Society 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.

3. THE AGREED STEPS TO ACHIEVE COMPLETION

- 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 the Club Licence to complete the Amalgamation.

- (ii) Cabramatta Leagues Club, at its own expense, undertaking a due diligence review of German-Austrian Society's Club Licence and to give effect to this German-Austrian Society 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 view Records relating to the Club Licence of German-Austrian Society.
- (iii) In accordance with clause 14, German-Austrian Society will call and hold a general meeting of the ordinary members of German-Austrian Society to approve in principle, the Amalgamation (which includes without limitation the transfer of the Club Licence of German-Austrian Society 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 German-Austrian Society 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.
- (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 17 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 premises of German-Austrian Society, will become the additional club licensed premises of Cabramatta Leagues Club and be available to all members of the Amalgamated Club; and
 - (B) All financial members of German-Austrian Society 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 "German-Austrian Society Members".

- (ix) After Completion:
 - (A) Cabramatta Leagues Club will continue as the body corporate of the Amalgamated Club; and
 - (B) German-Austrian Society will be wound up in accordance with the law and the requirement of clause 18.2.

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

4.1 Premises and Facilities

- (i) The German-Austrian Society Premises has been transferred to Cabramatta Leagues Club and will become additional club premises of Cabramatta Leagues Club following Completion.
- (ii) Cabramatta Leagues Club has control over the German-Austrian Society Premises.
- (iii) After Completion, the Club Premises of German-Austrian Society 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 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 German-Austrian Society Premises.

4.3 German-Austrian Society Sub Club

- (i) On or before Completion the Amalgamated Club will establish a German-Austrian Society Sub Club rule 29.10 of its constitution to support the ongoing traditions of the German-Austrian Society as set out in Schedule 1 on behalf of the Amalgamated Club.
- (ii) The rules of the German-Austrian Society Sub Club will be prepared and agreed upon by the Board of Cabramatta Leagues Club and the Board of German-Austrian Society before Completion.
- (iii) The rules of the German-Austrian Society Sub Club will include objects to continuing the traditions of the German-Austrian Society as set out in Schedule 1 to this Memorandum of Understanding.
- (iv) The rules of the German-Austrian Society Sub Club will include, and be limited to, the following membership classes with the specified eligibility criteria:

Sub Club Membership Class	Eligibility Criteria
Ordinary	<ul style="list-style-type: none"> A person who was a financial member of German-Austrian Society on Completion and who transfers to Cabramatta Leagues Club under the terms of this MOU.
Life	<ul style="list-style-type: none"> A person who was a Life Member of German-Austrian Society on Completion and who transfers to Cabramatta Leagues Club under the terms of this MOU.

- (v) The Amalgamated Club will at its cost provide the following to support the ongoing traditions of the German-Austrian Society by the German-Austrian Society Sub-Club:
- (1) insurance coverage for sub-club activities.
 - (2) event organisation, administrative, communication and marketing support;
 - (3) the provision of a meeting room at the German-Austrian Society Premises or the Club Premises for meetings of its Committee; and
 - (4) the German-Austrian Society Premises or the Club Premises, as determined appropriate, for celebrations and cultural events, and the holding of meetings German-Austrian Society Members.

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)]

5.1 Traditions, Amenities and Community Support

- (i) The Amalgamated Club from Completion, and for as long as it trades from the German-Austrian Society Premises, will:
 - (A) maintain the traditions and memorabilia of German-Austrian Society as set out in Schedule 1; 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 German-Austrian Society Premises.

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

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.

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

- 7.1 The German-Austrian Society does not have any employees at this time. Therefore, there are no employees of the German-Austrian Society to be protected.

8. INTENTIONS REGARDING THE FOLLOWING ASSETS OF GERMAN-AUSTRIAN SOCIETY:
1. ANY CORE PROPERTY OF GERMAN-AUSTRIAN SOCIETY;
2. ANY CASH OR INVESTMENTS HELD BY GERMAN-AUSTRIAN SOCIETY;
3. ANY GAMING MACHINE ENTITLEMENTS HELD BY GERMAN-AUSTRIAN SOCIETY [REGULATIONS – CLAUSE 7(2) (E)]

Core Property

8.1 German-Austrian Society does not have any core property. However, the German-Austrian Society Premises have already been purchased by Cabramatta Leagues Club

Cash and Investments

8.2 The cash and investments (if any) of German-Austrian Society will remain with the German-Austrian Society and will be dealt with by the German-Austrian Society as it sees fit before dissolution. There will be no transfer of any cash and investments to the Cabramatta Leagues Club.

Gaming Machine Entitlements

8.3 German-Austrian Society has one (1) GME as recorded on the German-Austrian Society Club Licence for the German-Austrian Society Premises issued pursuant to the Gaming Machines Act.

8.4 The GME is to remain on the Club Licence of the German-Austrian Society when it is transferred to Cabramatta Leagues Club and Cabramatta Leagues Club will pay \$250,000 plus any applicable GST for it to the German-Austrian Society on Completion.

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)]

Risks

9.1 No core property of the German-Austrian Society will be transferred to Cabramatta Leagues Club as a result of the Amalgamation.

9.2 The German-Austrian Society Premises are already owned by Cabramatta Leagues Club. Accordingly, the question of risks in relation to future dealings with any core property, does not arise.

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)]

Disposal of the Major Assets of the Dissolved Club

10.1 Section 17AI of the RCA potentially creates additional requirements in relation to any Major Assets of the German-Austrian Society however the Club Licence that will pass to Cabramatta Leagues Club under the Amalgamation does not fall within that definition.

10.2 Accordingly, the question of other arrangements in relation to Major Asset does not arise.

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

Premises

11.1 German-Austrian Society has already ceased trading from the German-Austrian Society Premises.

11.2 Cabramatta Leagues Club purchased the German-Austrian Society Premises prior to this MOU following the election by the German-Austrian Society to sell its core property.

11.3 Cabramatta Leagues Club does intend to trade from the Club Premises of the German-Austrian Society from Completion including allowing the German-Austrian Society Sub-Club to be established pursuant to this MOU on Completion.

11.4 German-Austrian Society is not the continuing club in this Amalgamation and following the Amalgamation will be dissolved; and the objects of Cabramatta Leagues Club will be the objects of the Amalgamated Club.

11.5 For the purposes of clause 7(2)(f) of the Regulations, Cabramatta Leagues Club and German-Austrian Society have agreed that the Amalgamated Club may cease trading from the German-Austrian Society Premises at the Boards discretion.

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

12.1 German-Austrian Society has already ceased trading from the German-Austrian Society Premises and no longer has any rights to those premises that can be passed to Cabramatta Leagues Club.

12.2 The objects of Cabramatta Leagues Club will become the objects of German-Austrian Society 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 may trade from the German-Austrian Society Premises at the discretion of its Board.

13. BINDING EFFECT OF MEMORANDUM OF UNDERSTANDING

13.1 Cabramatta Leagues Club and German-Austrian Society agree that this Memorandum of Understanding is legally binding on them.

14. CALLING OF MEETINGS AND ADMISSION OF GERMAN-AUSTRIAN SOCIETY MEMBERS TO MEMBERSHIP OF CABRAMATTA LEAGUES CLUB

14.1 German-Austrian Society must call a general meeting of the ordinary members of German-Austrian Society 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 the dissolution of the German-Austrian Society; and

(B) The transfer of the German-Austrian Society's Club Licence 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 German-Austrian Society 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 of German-Austrian Society to Cabramatta Leagues Club.

14.4 The meeting referred to in clause 14.3 must be held as soon as reasonably practicable

after German-Austrian Society 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 German-Austrian Society will be invited to apply for ordinary membership of Cabramatta Leagues Club in the manner referred to in paragraphs (ii) to (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 "German-Austrian Society Members";
- (v) All transferring members will be given credit for any membership fees paid for in advanced to the German-Austrian Society ;
- (vi) Prior to Completion, Cabramatta Leagues Club will forward to each member of German-Austrian Society an invitation to become a Club member or Junior member of Cabramatta Leagues Club;
- (vii) Any member of German-Austrian Society 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.

14.6 Notwithstanding anything contained in this Memorandum of Understanding, any member of German-Austrian Society 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 German-Austrian Society

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 German-Austrian Society 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 (if any) of each club 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

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 German-Austrian Society 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 German-Austrian Society 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 German-Austrian Society'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) German-Austrian Society 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 German-Austrian Society to Cabramatta Leagues Club.

16. WARRANTIES AND OPERATIONAL ARRANGEMENTS

- 16.1 German-Austrian Society warrants to Cabramatta Leagues Club that:
- (a) from the date of this Memorandum of Understanding to the date of Completion, German-Austrian Society shall not do any of the following without the prior written consent of Cabramatta Leagues Club:
 - (i) engage in discussions or negotiations with anyone other than Cabramatta Leagues Club concerning a possible amalgamation and German-Austrian Society must advise Cabramatta Leagues Club of any solicitation by any third party in respect of any such discussion or negotiation;
- 16.2 Each of German-Austrian Society's warranties contained in clause 16.1 remain in full force and effect notwithstanding Completion.
- 16.3 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 German-Austrian Society's warranties set out in clause 16.1.
- 16.4 Title to, property in and risk of German-Austrian Society's Club Licence remains solely with German-Austrian Society until such time as they are passed to the Amalgamated Club in accordance with clause 18.
- 16.5 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

- 17.1 Completion of this Memorandum of Understanding is subject to and conditional upon the following:
 - (i) German-Austrian Society 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 German-Austrian Society's Club Licence ;
 - (iii) The Club Licence on Completion being transferred to Cabramatta Leagues Club effective to allow for club operations and free of any and all Encumbrances;
 - (iv) German-Austrian Society 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 German-Austrian Society's Club Licence to Cabramatta Leagues Club;
- 17.2 German-Austrian Society 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 German-Austrian Society 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 GERMAN-AUSTRIAN SOCIETY AND TRANSFER OF CLUB LICENCE UNDER THIS AMALGAMATION

- 18.1 On Completion German-Austrian Society must transfer to Cabramatta Leagues Club the Club Licence free from all Encumbrances.

- 18.2 As soon as practicable after Completion, German-Austrian Society must ensure German-Austrian Society is wound up.

19. COMPLETION

- 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 German-Austrian Society).
- 19.2 German-Austrian Society must on Completion:
- (i) (release of Encumbrances) deliver evidence satisfactory to Cabramatta Leagues Club of the release of all Encumbrances (if any) over the Club Licence;
 - (ii) (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;
 - (iii) (general) deliver to Cabramatta Leagues Club such other documents and material and do all other things reasonably required to effect the transfer of the Club Licence of German-Austrian Society to Cabramatta Leagues Club on Completion and perform all other obligations to be performed by German-Austrian Society on Completion under this Deed.
- 19.3 Where German-Austrian Society 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 German-Austrian Society or its solicitors for execution by German-Austrian Society.
- 19.4 German-Austrian Society 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 German-Austrian Society 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 For the purposes of clause 18.1, German-Austrian Society must do all things necessary and execute all documents to cause the Club Licence to be transferred to or assigned to the Cabramatta Leagues Club with effect from the date of Final Approval.
- 19.6 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.

- 19.7 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

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

- 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

- 22.1 Cabramatta Leagues Club will bear both parties costs in relation to the negotiation, preparation and execution of this Memorandum of Understanding and the Amalgamation. Cabramatta Leagues Club will pay the costs of dissolution of the German-Australian Society.
- 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

- 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

24.1 Cabramatta Leagues Club may terminate this Memorandum of Understanding at any time, without penalty, by giving written notice to German-Austrian Society if:

- (i) The ongoing due diligence review undertaken by it on German-Austrian Society and Club Licence is not at any time satisfactory to the Board of Cabramatta Leagues Club at any time prior to Completion;
- (ii) German-Austrian Society breaches any warranty contained in clause 16;
- (iii) German-Austrian Society’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;
- (iv) 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) months of German-Austrian Society;
- (v) German-Austrian Society 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;
- (vi) The Authority does not grant Final Approval of the Amalgamation Application before the first anniversary of the date of this document; or
- (vii) German-Austrian Society suffers a Material Adverse Regulatory Event.

24.2 German-Austrian Society may terminate this Memorandum of Understanding at any time, without penalty, by giving written notice to Cabramatta Leagues Club if:

- (i) German-Austrian Society’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 twelve (12) 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

- 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 25, the parties' addresses and other details are:

Party: **German-Austrian Society**
Attention: Mr Peter Quast, Company Secretary
Address: PO Box 453, Concord West, NSW 2138
E-mail: peter.quast@germanaustriansoc.com.au

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


SCHEDULE 1

TRADITIONS AND MEMORABILIA OF GERMAN-AUSTRIAN SOCIETY

1. Oktoberfest
2. Christmas/New Year celebrations
3. Operation of a periodic German-Austrian markets day promoting German and Austrian foods and beverages (known as "Frueschoppen")
4. German-Austrian Cultural events
5. Bus/coach trips for various activities/excursions
6. Assistance with aged care needs and funeral benefits
7. Support to sub-groups – shooters, golf, Skat, seniors
8. Donations to charitable, educational and other worthwhile causes
9. German language classes
10. Other activities to be determined by German-Austrian Society members.

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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)
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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 **German-Austrian Society of Australia Ltd (ABN 35 000 188 625)** pursuant to Section 127 of the Corporations Act 2001:)
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Director / Secretary

Peter Niess

Name of Director/Secretary
(print name)

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Director / Secretary

Peter Quast

Name of Director/Secretary
(print name)