
THOMSON GEER

LAWYERS

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DEED OF AMALGAMATION

between

RYDE-EASTWOOD LEAGUES CLUB LTD
ABN 77 000 431 792
(Ryde-Eastwood Leagues)

and

THIRROUL BOWLING, LEAGUES & RECREATION CLUB LTD
ABN 26 001 002 991
(Club Thirroul)

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This deed is made on.....12th October.....2020

Between **Ryde-Eastwood Leagues Club Ltd ABN 77 000 431 792** of 117 Ryedale Road,
West Ryde 2114 (Ryde-Eastwood Leagues)

And **Thirroul Bowling, Leagues & Recreation Club Ltd ABN 26 001 002 991** of 2A –
2B Station Street, Thirroul NSW 2515 (Club Thirroul)

Recitals

- A. The parties are both registered clubs each holding Club Licences.
- B. Club Thirroul called for expressions of interest for amalgamation from other registered clubs on 28 January 2020.
- C. Club Thirroul submitted an expression of interest which has been accepted by Ryde-Eastwood Leagues.
- D. The parties agree to amalgamate subject to the terms of this Deed and the MOU.
- E. This Deed is supplementary to the MOU entered into by the parties in accordance with the requirements of Part 2 Division 1A of the Registered Clubs Act and clause 7 of the Registered Clubs Regulation, and is intended to provide for:
 - (a) commercial terms; and
 - (b) other details agreed by the parties with respect to the Amalgamation,which are not required to be included in the MOU under the Registered Clubs Regulation.

Now it is covenanted and agreed as follows:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

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

Accounting Standard means:

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

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

Amalgamation means the amalgamation of Club Thirroul and Ryde-Eastwood Leagues in accordance with applicable law, the MOU and this Deed;

Amalgamated Club means Ryde-Eastwood Leagues as the continuing club after Amalgamation Completion;

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Amalgamation Completion means the day on which the Assets and Club Thirroul's Club Licence are transferred to Ryde-Eastwood Leagues;

Application for Transfer means an application for transfer of the Club Licence held by Club Thirroul to Ryde-Eastwood Leagues in accordance with section 60 of the Liquor Act;

Asset includes chattels, contract rights, motor vehicles, stock in trade, plant, fixtures and fittings, real property, (including leases held by Club Thirroul), Club Thirroul's Club Licence including gaming machines and gaming machine entitlements, debtors, business names, intellectual property rights, goodwill and all other property, tangible or intangible and cash on hand and cash at bank belonging to Club Thirroul at the time of Amalgamation Completion;

Authority means the Independent Liquor and Gaming Authority;

Board means the board of directors of Ryde-Eastwood Leagues, or, the Amalgamated Club after Amalgamation Completion;

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

Club Thirroul means Thirroul Bowling, Leagues & Recreation Club Ltd ABN 26 001 002 991;

Club Thirroul Premises has the meaning contained in the MOU;

Constitution means the Constitution of Ryde-Eastwood Leagues as amended from time to time, or if replaced by a new constitution, the replacement new constitution as amended from time to time;

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

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

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

Driveway means that part of the driveway to the Club Thirroul Premises which is subject to the Driveway and Partial Car Park Licences;

Driveway and Partial Car Park Licences means the non-exclusive licences between Club Thirroul and Wollongong City Council for the following licences:

- (a) by Club Thirroul as licensee for the non-exclusive use to use the Driveway and Licensed Car Park Area located on lot 166 in deposited plan 752054 and on part of lot 8 in deposited plan 1107347 in respect of which Wollongong City Council is the licensor and registered proprietor; and
- (b) by Wollongong City Council as licensee for the non-exclusive use of the Driveway located on part of lot B in deposited plan 364843 in respect of which Club Thirroul is the licensor and registered proprietor;

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

Force majeure means:

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

Insolvency Event means:

- (a) the happening of any of these events:
 - (i) an application is made to a court for an order or an order is made that a party be wound up;
 - (ii) an application is made to a court for an order appointing a liquidator or provisional liquidator for a party;
 - (iii) a person is appointed as a liquidator or provisional liquidator for a party;
 - (iv) a party enters into, or resolves to enter into, a scheme of arrangement, deed of company arrangement or composition with, or assignment for the benefit of, all or any class of its creditors;
 - (v) a party proposes a reorganisation, moratorium or other administration involving a class of its creditors;
 - (vi) a party resolves to wind itself up, otherwise dissolve itself, gives notice of intention to do so or is otherwise wound up or dissolved;
 - (vii) a party is or states that it is unable to pay its debts when they fall due;
 - (viii) as a result of the operation of section 459F(1) of the Corporations Act, a party is taken to have failed to comply with a statutory demand;
 - (ix) a party is, or makes a statement from which it may be reasonably deduced that the party is, the subject of an event described in section 459C(2) or section 585 of the Corporations Act;

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- (x) a party takes any step to obtain protection or is granted protection from its creditors, under any applicable legislation or an administrator is appointed to a party;
 - (xi) a person becomes an insolvent under administration as defined in section 9 of the Corporations Law or action is taken which could result in that event; or
 - (xii) anything analogous or having a substantially similar effect to any event specified in this definition happens under the law of any applicable jurisdiction;
- (b) it does not include something which happens under this clause if the party is solvent and on terms approved by the other party to effect Amalgamation Completion (including without limitation the dissolution of Club Thirroul pursuant to clause 11.1);

Licensed Car Park Area means that part of the car park at the Club Thirroul Premises which is not owned by Club Thirroul and is the subject of the Driveway and Partial Car Park Licenses;

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

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

Member means a member of either Club Thirroul, Ryde-Eastwood Leagues or the Amalgamated Club as the case may be, as shown on that club's register of members at the relevant time;

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

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

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

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

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

Sunset Date means the date which is 12 months after the date of this Deed;

1.2 Interpretation

The following rules of interpretation apply unless the context requires otherwise:

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

2 AMALGAMATION

2.1 Amalgamation

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

2.2 Purpose of this Deed

This Deed is supplementary to the MOU and provides for:

- (a) commercial terms; and
- (b) other details agreed by the parties with respect to the Amalgamation,

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which are not required to be included in the MOU under the Registered Clubs Regulation.

2.3 Effect of this Deed

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

2.4 Effect of the MOU

The Clubs agree that:

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

3 APPROVALS

3.1 Club Thirroul Meeting

- (a) Unless otherwise agreed by the parties, Club Thirroul will convene a general meeting of its Members entitled to vote under its constituent documents and the Registered Clubs Act to be held as soon as reasonably practicable after the date of this Deed.
- (b) At that meeting, the Ordinary members of Club Thirroul will consider and vote on resolutions in accordance with section 17AEB(d) of the Registered Clubs Act to:
 - (i) approve the Amalgamation in principle;
 - (ii) approve the transfer of Assets from Club Thirroul to Ryde-Eastwood Leagues in accordance with this Deed;
 - (iii) approve the making of the Application for Transfer; and
 - (iv) approve any other matters required to give effect to this Deed and the MOU.
- (c) The form of the resolutions referred to in clauses 3.1(b) to be put to Members of Club Thirroul are contained in Schedule 1.

3.2 Ryde-Eastwood Leagues Meetings

- (a) Ryde-Eastwood Leagues will convene a general meeting of its Members entitled to vote under its constituent documents and the Registered Clubs Act to be held before or as soon as reasonably practicable after the Club Thirroul meeting referred to in clause 3.1 above.
- (b) At that meeting the Members will consider and vote on resolutions in accordance with section 17AEB(d) of the Registered Clubs Act to:
 - (i) approve the Amalgamation in principle;

Reference: BAB:SSM:

- (ii) approve the making of the Application for Transfer;
 - (iii) pass the second resolution contained in Schedule 2 and referred to in clause 4.1; and
 - (iv) approve any other matters required to give effect to this Deed and the MOU.
- (c) The form of the resolutions referred to in clause 3.2(b) to be put to Members of Ryde-Eastwood Leagues is contained in Schedule 2.

3.3 Application for Transfer

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

4 TRANSFER OF MEMBERS AND CHANGES TO THE CONSTITUTION

- 4.1 At the meeting under clause 3.2, the Members of Ryde-Eastwood Leagues will consider the special resolution as contained in Schedule 2 to this Deed to amend the constituent documents of Ryde-Eastwood Leagues (with effect from Amalgamation Completion) to:
- (a) add a new rule for identification purposes under section 17AC of the Registered Clubs Act to identify persons as "Club Thirroul Members";
 - (b) permit all Members of Club Thirroul who make application under this clause to be admitted as Members of the Amalgamated Club (without the need for a proposer and seconder to sign their application);
- 4.2 As soon as practicable after provisional approval of the Application for Transfer has been given by the Authority, Ryde-Eastwood Leagues will send every Member of Club Thirroul (who is not already a Member of Ryde-Eastwood Leagues) an invitation to become a member of the Amalgamated Club which includes the requirements for application for membership.
- 4.3 A Member of Club Thirroul may accept the invitation by completing and returning the application for membership of the Amalgamated Club (in a class of membership for which they are eligible) to Ryde-Eastwood Leagues prior to Amalgamation Completion.
- 4.4 A Member of Club Thirroul who applies for membership of the Amalgamated Club under this clause will, subject to any restrictions contained in the constituent documents of Ryde-Eastwood Leagues and the requirements of section 30(2) of Registered Clubs Act, be admitted to membership of the Amalgamated Club with effect from Amalgamation Completion.
- 4.5 Any person who, at Amalgamation Completion, is a Life Member of Club Thirroul, and becomes a member of the Amalgamated Club:

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- (a) will continue to be recognised as a Life Member in respect of the Club Thirroul Premises and;
- (b) will not be required to pay an annual subscription to the Amalgamated Club unless an annual subscription is required under the Registered Clubs Act or if the Amalgamated Club is directed by the Authority to charge an annual subscription, in which case such person will only be required to pay the Amalgamated Club the minimum annual subscription required by the Registered Clubs Act.

5 OBLIGATIONS OF CLUB THIRROUL AND RYDE-EASTWOOD LEAGUES

5.1 On and from the date of this Deed up to Amalgamation Completion Club Thirroul must:

- (a) commence, facilitate and assist in negotiations with Wollongong City Council for the purposes of any one of the following (in each case, on terms acceptable to Ryde-Eastwood Leagues acting reasonably):
 - (i) the assignment of Club Thirroul Driveway and Car Park Licences to Ryde-Eastwood Leagues as licensor and licensee, as the case may be; or
 - (ii) Wollongong City Council entering into licences with Ryde-Eastwood Leagues of the Driveway and Licensed Car Park Area; or
 - (iii) Ryde-Eastwood Leagues purchasing the land licensed by Club Thirroul from Wollongong City Council;
- (b) trade in the ordinary course of business and with due care and skill;
- (c) maintain the following insurance policies with a reputable insurer in Australia:
 - (i) public liability insurance in the amount of \$20,000,000 for each single claim, and unlimited in aggregate;
 - (ii) property damage insurance to the full replacement value of all Assets insurable under such a policy; and
 - (iii) workers compensation insurance;
- (d) maintain the Assets in the same state of repair as at the date of this Deed (subject to reasonable wear and tear) and keep the Assets insured in amounts representing their full replacement or reinstatement value against fire and other risks normally insured;
- (e) give Ryde-Eastwood Leagues a copy of its certificates of currency for any insurance policy held under subclauses (c) and (d) on request;
- (f) immediately notify Ryde-Eastwood Leagues of anything which may result in a claim on an insurance policy held under subclauses (c) and (d);
- (g) comply with any agreement to which it is a party;
- (h) carry on its operations with normal and prudent practice using best endeavours to reduce losses and increase profitability and use best endeavours to maintain and increase the value of the Assets;
- (i) provide Ryde-Eastwood Leagues each week (or at such other times as requested) any details or documents relating to the operation and financial position of Club Thirroul ;
- (j) comply with all applicable laws;

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- (k) not do anything which may damage its reputation or the reputation of Ryde-Eastwood Leagues; and
 - (l) not enter into any negotiations, discussions or communications with any other registered club with respect to a possible amalgamation with such a registered club.
- 5.2 On and from the date of this Deed up to Amalgamation Completion, Ryde-Eastwood Leagues must do all things reasonably necessary to obtain the assignment of Driveway and Partial Car Park Licences, or new licences for the Driveway and Licensed Car Park Area with Wollongong City Council, or purchase of land licensed by Club Thirroul from and owned by Wollongong City Council.
- 5.3 On and from the date of this Deed to Amalgamation Completion Club Thirroul must not without the prior written consent of Ryde-Eastwood Leagues:
- (a) incur any single actual debt or liability in excess of five thousand dollars (\$10,000) plus goods and services tax outside the usual ordinary course of business;
 - (b) incur any contingent liabilities whether in relation to those operations or otherwise;
 - (c) vary, enter into, or exercise any option to renew an agreement except in the ordinary course of its business;
 - (d) enter into, terminate or alter any term of any material contract, arrangement or understanding including a lease, licence or easement in relation to its operations or otherwise except in the ordinary course of its business;
 - (e) employ any person (other than a casual employee);
 - (f) alter the terms of employment (including the terms of remuneration and or superannuation or any other benefit) of any employee;
 - (g) seek to borrow or borrow money from any third party; or
 - (h) except in the usual and routine conduct of its operations, dispose of, lease, license, mortgage, charge or otherwise encumber, or permit any encumbrance to arise, over any of its Assets.

6 CO-OPERATION BETWEEN THE CLUBS

- 6.1 From the date of this Deed to Amalgamation Completion the parties will each nominate suitably authorised officers to hold regular discussions about:
- (a) the management of Club Thirroul up to Amalgamation Completion;
 - (b) the efficient transfer of the Assets and Club Licence of Club Thirroul to Ryde-Eastwood Leagues and efficient payment of liabilities of Club Thirroul by Ryde-Eastwood Leagues;
 - (c) management of the transfer of the Members of Club Thirroul to Ryde-Eastwood Leagues under this Deed and the MOU; and
 - (d) the transfer and assignment of Driveway and Partial Car Park Licences or new licences for the Driveway and Licensed Car Park Area, or purchase by Ryde-Eastwood Leagues of land licensed from and owned by Wollongong City Council; and
 - (e) any other matters considered necessary by the parties.
- 6.2 Both parties agree to carry out all acts necessary to give effect to this Deed and the MOU promptly and in good faith.

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7 DRIVEWAY AND PARTIAL CAR PARK LEASE

- (a) Ryde-Eastwood Leagues enters into this Deed and the MOU subject to Ryde-Eastwood Leagues obtaining an assignment of the Driveway and Car Park Licences or obtaining new licences for the Driveway and Licensed Car Park Area, or or purchase by Ryde-Eastwood Leagues of land licensed from and owned by Wollongong City Council, on terms acceptable to Ryde-Eastwood Leagues on and from Amalgamation Completion.
- (b) For the purposes of clause 7(a), Ryde-Eastwood Leagues will use its best endeavours to either enter into a:
 - (i) Deed(s) of assignment and transfer of the Driveway and Partial Car Park Licences on and from Amalgamation Completion if Wollongong City Council consents to the assignment and transfer of the licences on terms acceptable to Ryde-Eastwood Leagues acting reasonably, but subject to Amalgamation Completion; or
 - (ii) new licenses for the Driveway and Licensed Car Park Area on and from Amalgamation Completion on terms acceptable to Ryde-Eastwood Leagues acting reasonably but subject to Amalgamation Completion or
 - (iii) a contract for purchase by Ryde-Eastwood Leagues of land licensed by Club Thirroul from and owned by Wollongong City Council (with any required associated licence for land owned by Club Thirroul and licensed to Wollongong City Council), on terms acceptable to Ryde-Eastwood Leagues acting reasonably but subject to Amalgamation Completion.

8 PUBLICITY

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

9 CONFIDENTIALITY

- 9.1 A party must not, and must ensure that its employees, agents and contractors do not, disclose any Confidential Information of the other party to any person except:
 - (a) as required to carry out its obligations under this Deed and the MOU;
 - (b) if required by law;
 - (c) if the other party ceases to treat that information as being confidential; or
 - (d) with the prior written consent of the other party.
- 9.2 If this Deed or the MOU is terminated, then a party must return or destroy any Confidential Information of the other party in its possession in any form, at the request of the other party except to the extent it is required to retain such a Record for financial reporting purposes or under any law.

10 LIABILITIES

Subject to clause 6.1(d) of the MOU (regarding payment of Employee Entitlements by Club Thirroul in respect of those employees who do not accept employment by Ryde-Eastwood Leagues or who are not offered employment by Ryde-Eastwood Leagues), Ryde-Eastwood Leagues will be responsible for and pay when due all debts and other liabilities of Club Thirroul :

- (a) which have not been paid or discharged in full as at Amalgamation Completion; and

Reference: BAB:SSM:

- (b) which are reasonably incurred after Amalgamation Completion, including without limitation the costs of the winding up of Club Thirroul .

11 TRANSFER OF ASSETS

11.1 Risk, title and insurance

The parties agree and acknowledge:

- (a) unencumbered legal and beneficial title to the business and in the Assets of Club Thirroul will pass to Ryde-Eastwood Leagues on Amalgamation Completion;
- (b) until Amalgamation Completion, Club Thirroul remains the owner of, and bears all risk in connection with, its business and the Assets; and
- (c) from Amalgamation Completion, the Ryde-Eastwood Leagues becomes the owner of and bears all risk in connection with such business and the Assets.

11.2 Benefit of contracts

If the Assets include the benefit of contracts with Club Thirroul which cannot effectively be assigned to Ryde-Eastwood Leagues without the consent of a third party or except by an agreement or novation:

- (a) prior to and after Amalgamation Completion, the parties will use all reasonable endeavours to obtain consent to assignment or to procure a novation of particular contracts specified by Ryde-Eastwood Leagues; and
- (b) unless and until consent is obtained or such contracts are novated Ryde-Eastwood Leagues will for its own benefit and to the extent that the contracts permit, perform on behalf of Club Thirroul (but at Ryde-Eastwood Leagues' expense) all the obligations of Club Thirroul arising after Amalgamation Completion.

11.3 Amalgamation completion

- (a) Club Thirroul must on Amalgamation Completion (unless it is required to retain such items by law until completion of the winding up and de-registration of Club Thirroul):
 - (i) **(Assets)** deliver to Ryde-Eastwood Leagues duly signed transfer and similar forms in respect of all Assets that require such forms for their transfer. For the avoidance of doubt, this does not include the Club Thirroul Retained Funds;
 - (ii) **(Licences)** subject to any purchase by Ryde-Eastwood Leagues of land licensed from and owned by Wollongong City Council, deliver to Ryde-Eastwood Leagues a duly executed transfer of the Driveway and Partial Car Park Licences and any deed(s) of assignment or novation of the Lease in a form reasonably required by Ryde-Eastwood Leagues provided that this obligation shall not apply if Ryde-Eastwood Leagues enters into new licences for the Driveway and Licensed Car Park Area with the registered proprietor of the Driveway and Licensed Car Park Area;
 - (iii) **(intellectual property rights)** assign and transfer absolutely all its right, title and interest in all intellectual property rights by delivering to Ryde-Eastwood Leagues deeds of assignment or transfers of such Assets all in form and substance reasonably required by Ryde-Eastwood Leagues;

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- (iv) **(delivery)** deliver to Ryde-Eastwood Leagues those Assets, including plant and equipment, capable of transfer by leaving those Assets in situ at the Club Thirroul Premises;
 - (v) **(possession)** permit Ryde-Eastwood Leagues to take possession of all those Assets which are not on the Club Thirroul Premises, at the location where they are usually retained;
 - (vi) **(Records)** deliver to Ryde-Eastwood Leagues the Records;
 - (vii) **(IT Asset licences)** deliver to Ryde-Eastwood Leagues executed transfers or assignments in favour of Ryde-Eastwood Leagues of all information technology Asset licences;
 - (viii) **(deeds of assignment or novation)** deliver to Ryde-Eastwood Leagues duly executed deeds of assignment or novation, all in form and substance as reasonably required by Ryde-Eastwood Leagues in respect of all contracts;
 - (ix) **(release of encumbrances)** deliver evidence satisfactory to Ryde-Eastwood Leagues of the release of all encumbrances (if any) over its business and the Assets;
 - (x) **(consents and approvals)** deliver to Ryde-Eastwood Leagues signed copies of all required Government Agency 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 Club Thirroul Premises
 - (xii) **(general)** deliver to Ryde-Eastwood Leagues such other documents and material and do all other things reasonably required to effect the transfer of the business of Club Thirroul and the Assets to Ryde-Eastwood Leagues on Amalgamation Completion and perform all other obligations to be performed by Club Thirroul on Amalgamation Completion under this Deed.
- (b) Club Thirroul must give Ryde-Eastwood Leagues or its solicitors all such documents within a reasonable period prior to Amalgamation Completion for stamping where necessary. All such documents must be held by Ryde-Eastwood Leagues or its solicitors in escrow pending Amalgamation Completion.
 - (c) On winding up of Club Thirroul it must give to Ryde-Eastwood Leagues the balance of all records described in clause 11.3(a).

12 DISSOLUTION OF CLUB THIRROUL

- 12.1 After Amalgamation Completion at such time as agreed between Club Thirroul and Ryde-Eastwood Leagues, Club Thirroul will:
- (a) call a general meeting of its Members entitled to vote under its constituent documents to consider and, if thought fit, pass the resolutions required for a members voluntary winding up of Club Thirroul ; and
 - (b) carry out all acts necessary to effect such winding up after the approval of those Members has been given.

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

12.3 This clause 12 survives Amalgamation Completion.

13 FORCE MAJEURE

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

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

14 REPRESENTATIONS AND WARRANTIES

Each party represents and warrants that:

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

15 DISPUTE RESOLUTION

15.1 A party must not commence proceedings in relation to a dispute under this Deed or the MOU without first following the procedures in this clause, except to seek urgent injunctive or other interlocutory relief.

15.2 If there is a dispute between the parties, then either party may give a notice to the other which must:

- (a) succinctly set out the details of the dispute; and
- (b) state that it is a dispute notice given under this clause.

15.3 The parties must meet within 5 Business Days after the date of delivery of the dispute notice and attempt to resolve the dispute.

15.4 Each party must use its best endeavours to resolve the dispute and act in good faith.

15.5 If the parties cannot solve the dispute within a further 10 Business Days, either party may refer the dispute for mediation by giving the other party notice.

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- 15.6 A mediation conducted under this clause will be in accordance with the mediation rules of the Law Society of New South Wales and the President of the Law Society of NSW (or his or her nominee) will determine the mediator's remuneration.
- 15.7 If a dispute is not resolved by mediation under this clause within 30 Business Days of referral to a mediator, or a longer period agreed by the parties, any party may take any action available to it at law.

16 TERMINATION

- 16.1 A party may terminate this Deed immediately by giving notice to the other party if:
- (a) the Members of either party do not approve the resolutions proposed under clause 3;
 - (b) the Authority refuses the Application for Transfer;
 - (c) Amalgamation Completion does not occur by the Sunset Date (or such later date as may be agreed by the parties in writing);
 - (d) the other party is in breach of an obligation under this Deed (including without limitation, any obligation set out in clause 4.5 of this Deed) or the MOU and:
 - (i) that breach is not capable of rectification; or
 - (ii) the other party fails to rectify that breach within 10 Business Days of being given notice to do so; or
 - (e) the other party suffers an Insolvency Event, subject to the Act.
- 16.2 Termination of this Deed by a party under clause 16.1(a) or clause 16.1(b) is without penalty to either party.

17 COSTS AND EXPENSES

17.1 Cost and expenses

Subject to any other express provision of this Deed, each party must pay its own legal and other costs and expenses relating to:

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

17.2 Stamp duty

Ryde-Eastwood Leagues must pay any stamp duty assessable in relation to this Deed.

18 NOTICES

- 18.1 A notice, approval, consent or other communication to a person relating to this Deed:
- (a) must be in legible writing;
 - (b) executed by duly authorised person(s); and

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(c) in English.

18.2 If the notice is to Ryde-Eastwood Leagues then it must be addressed as follows:

Name: Ryde-Eastwood Leagues Club ABN 77 000 431 792

Attention: Carl Pozzato, Chief Executive Officer

Address: 117 Ryedale Road, West Ryde NSW 2114

Email: Carl.Pozzato@releagues.com.au

18.3 If the notice is to Club Thirroul then it must be addressed as follows:

Name: Thirroul Bowling, Leagues & Recreation Club Ltd ABN 26 001 002 991

Attention: Michelle Lipscombe, General Manager

Address: 2A-2B Station Street, Thirroul NSW 2515

Email: michelle@clubthirroul.com.au

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

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

19 ASSIGNMENT

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

20 GENERAL

20.1 Governing law and Jurisdiction

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

20.2 Service

A document may be served on a party by delivering it to that party in accordance with the notice provisions of clause 18.

20.3 Severability

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

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20.4 No waiver

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

20.5 Variation

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

20.6 Further assurances

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

20.7 Entire agreement

This Deed and the MOU:

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

20.8 Counterparts

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

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Schedule 1

Resolution to be put to members of Club Thirroul

Ordinary Resolution

"That the members hereby:

1. *approve in principle the amalgamation of Thirroul Bowling, Leagues & Recreation Club Ltd ABN 26 001 002 991 ("Club Thirroul") with Ryde-Eastwood Leagues Club ABN 77 000 431 792 ("Ryde-Eastwood Leagues"), such an amalgamation to be effected by:*
 - (a) *the continuation of Ryde-Eastwood Leagues (as the amalgamated club) and the dissolution of Club Thirroul;*
 - (b) *the transfer of Club Thirroul's assets to Ryde-Eastwood Leagues; and*
 - (c) *the transfer of the club licence of Club Thirroul to Ryde-Eastwood Leagues;*
2. *approve in principle the making of an application to the Independent Liquor and Gaming Authority for the transfer of the club licence of Club Thirroul to Ryde-Eastwood Leagues."*

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DEED OF AMALGAMATION

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Schedule 2

Resolutions to be put to members of Ryde-Eastwood Leagues

Ordinary Resolution

"That the members hereby:

1. *approve in principle the amalgamation of Thirroul Bowling, Leagues & Recreation Club Ltd ABN 26 001 002 991 (Club Thirroul) with Ryde-Eastwood Leagues Club ABN 77 000 431 792 (Ryde-Eastwood Leagues), such an amalgamation to be effected by:*
 - (a) *the continuation of Ryde-Eastwood Leagues (as the amalgamated club) and the dissolution of Club Thirroul; and*
 - (b) *the transfer of Club Thirroul's assets to Ryde-Eastwood Leagues; and*
 - (c) *the transfer of the club licence of Club Thirroul to Ryde-Eastwood Leagues,*

and

2. *approve in principle the making of an application to the Independent Liquor and Gaming Authority for the transfer of the club licence of Club Thirroul to Ryde-Eastwood Leagues for the purposes of such an amalgamation."*

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

"That on the date on which the Independent Liquor and Gaming Authority transfers the club licence of Thirroul Bowling, Leagues & Recreation Club Ltd ABN 26 001 002 991 ("Club Thirroul") to Ryde-Eastwood Club Ltd the Constitution of Ryde-Eastwood Leagues Club Ltd be amended by:

- *inserting the following new Rule 21A after rule 21:*
"Those members who were financial full members of Thirroul Bowling, Leagues & Recreation Club Ltd ABN 26 001 002 991 (Club Thirroul) and whose names were entered in the Register of Members of Club Thirroul on the date on which the Independent Liquor and Gaming Authority transfers the club licence of Club Thirroul to the Club shall, for the purposes of section 17AC(2) of the Registered Clubs Act, be identified in the Club's Register of Members as Club Thirroul Members."

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DEED OF AMALGAMATION


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Executed as a deed by Ryde-Eastwood Leagues.

Executed as a deed by Ryde-Eastwood
Leagues Club Ltd ABN 77 000 431 792 in
accordance with section 127 of the
Corporations Act 2001 (Cth):


Director

JAMES MCKLYMONT
Name of Director
BLOCK LETTERS


*Director/*Company Secretary

MALCOLM CHAPPLE
Name of *Director/*Company Secretary
BLOCK LETTERS
*please strike out as appropriate

Reference: BAB:SSM:

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Reference: BAB:SSM:4602185


THOMSON GEER

Executed as a deed by Club Thirroul

Executed as a deed by Thirroul Bowling,
Leagues & Recreation Club Ltd ABN 26 001
002 991 in accordance with section 127 of the
Corporations Act 2001 (Cth):




Director



Name of Director
BLOCK LETTERS



*Director/*Company Secretary



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

Reference: BAB:SSM:

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