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LAWYERS

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DEED OF AMALGAMATION

BETWEEN

EASTERN SUBURBS LEAGUES CLUB LIMITED
ABN 63 000 249 490
(Easts Leagues)

AND

BONDI GOLF AND DIGGERS CLUB LIMITED
ABN 47 001 066 708
(Bondi Golf and Diggers)

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THIS DEED is made on 29th June 2017

BETWEEN EASTERN SUBURBS LEAGUES CLUB LIMITED ABN 63 000 249 490 of 93-97 Spring Street, Bondi Junction 2022 (**East's Leagues**)

AND BONDY GOLF AND DIGGERS CLUB LIMITED ABN 47 001 066 708 of 5 Military Road, North Bondi NSW 2026 (**Bondi Golf and Diggers**)

RECITALS

- A. The parties are both registered clubs.
- B. East's Leagues has called for expressions of interest for amalgamation from other registered clubs which have premises in the same area and within a radius of 50 kilometres from its own premises.
- C. Bondi Golf and Diggers has submitted an expression of interest which has been accepted by the board of directors of East's Leagues and is nominated as a preferred amalgamation partner of East's 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 RCA and clause 7 of the Regulations, 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 Regulations.

NOW IT IS 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 Research Foundation; or
- (c) if there is no standard under subclause (b), then the standard required by a qualified auditor,

Act means the *Corporations Act 2001*;

Amalgamation means the amalgamation of Bondi Golf and Diggers and East's Leagues in accordance with applicable law, the MOU and this Deed;

Amalgamated Club means East's Leagues as the continuing club after Amalgamation Completion;

Amalgamation Completion means the day on which all of:

- (d) the Assets and Club Licence of Bondi Golf and Diggers are transferred to Easts Leagues; and
- (e) the liabilities of Bondi Golf and Diggers are discharged by, or transferred to, Easts Leagues.

Application for Transfer means an application for transfer of the Club Licence held by Bondi Golf and Diggers to Easts Leagues (including an application for provisional transfer) in accordance with section 60 of the Liquor Act;

Asset includes chattels, motor vehicles, stock in trade, plant, fixtures and fittings, real property, leases of or other interests in real property, gaming machines and gaming machine entitlements, debtors, intellectual property rights and goodwill;

Board means the board of directors of Easts Leagues, or, the Amalgamated Club after Amalgamation Completion;

Authority means the Independent Liquor and Gaming Authority;

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

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

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

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

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

Force majeure means:

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

- (viii) epidemic or quarantine restriction;

Insolvency Event means:

- (a) the happening of any of these events:
- (i) an application is made to a court for an order or an order is made that a party be wound up;
 - (ii) an application is made to a court for an order appointing a liquidator or provisional liquidator for a party;
 - (iii) a person is appointed as a liquidator or provisional liquidator for a party;
 - (iv) a party enters into, or resolves to enter into, a scheme of arrangement, deed of company arrangement or composition with, or assignment for the benefit of, all or any class of its creditors;
 - (v) a party proposes a reorganisation, moratorium or other administration involving a class of its creditors;
 - (vi) a party resolves to wind itself up, otherwise dissolve itself, gives notice of intention to do so or is otherwise wound up or dissolved;
 - (vii) a party is or states that it is unable to pay its debts when they fall due;
 - (viii) as a result of the operation of section 459F(1) of the Corporations Law, 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)(b) or section 585 of the Corporations Law;
 - (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 other party to effect Amalgamation Completion;

Liquor Act means the *Liquor Act 2007*;

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

Member means a member of either Bondi Golf and Diggers, Easts 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 Regulations;

Premises means the premises of Bondi Golf and Diggers at 5 Military Road, North Bondi NSW 2026 (being lots 1 and 2 in deposited plan 916095 and lot 7056 in deposited plan 93856);

Records means all documents, books, files, reports, accounts and plans of Bondi Golf and Diggers relating exclusively or substantially to its business including;

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

Regulations means the *Registered Clubs Regulation 2015*; and

RCA means the *Registered Clubs Act 1976*.

1.2 Interpretation

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

2 AMALGAMATION

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 RCA and Liquor Act; and
 - (ii) on the terms of this Deed and the MOU.

2.2 Purpose of this Deed

This Deed is supplementary to the MOU and provides for:

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

2.3 Effect of this Deed

This Deed is collateral to, and conditional upon execution of, the MOU.

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 Bondi Golf and Diggers Meeting

- (a) Unless otherwise agreed by the parties, Bondi Golf and Diggers will convene a general meeting of its Members entitled to vote under its constituent documents and the RCA as soon as reasonably after the earlier of:
 - (i) Easts Leagues giving written notice to Bondi Golf and Diggers that it has completed its due diligence investigations referred to in clause 8.1 and that it is satisfied with those investigations; and
 - (ii) expiry of 90 Business Days after the date of this deed if Easts Leagues has not terminated this deed under clause 8.2.
- (b) At that meeting, the Members will consider resolution in accordance with section 17AEB(d) of the Act to:

- (i) approve the Amalgamation in principle;
 - (ii) approve the transfer of Assets from Bondi Golf and Diggers to Easts 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) A draft form of the resolution referred to in clause 3.1(b) to be put to Members of Bondi Golf and Diggers is contained in Schedule 1.

3.2 Easts Leagues Meeting

- (a) Unless otherwise agreed by the parties, subject to approval being given under subclause 3.1(b), Easts Leagues will convene a general meeting of its Members entitled to vote under its constituent documents and the RCA as soon as reasonably practicable after Bondi Golf and Diggers passes the resolutions referred to in clause 3.1(b).
- (b) At that meeting the Members will consider resolutions in accordance with section 17AEB(d) of the Act to:
- (i) approve the Amalgamation in principle;
 - (ii) approve the making of the Application for Transfer; and
 - (iii) approve any other matters required to give effect to this Deed and the MOU.
- (c) A draft form of the resolution referred to in clause 3.2(b) to be put to Members of Easts Leagues is contained in Schedule 2.

3.3 Application for Transfer

- (a) Within 10 Business Days of the meeting under clause 3.1 Bondi Golf and Diggers will give to Easts 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 RCA and Regulations.
- (b) Easts Leagues will 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) Bondi Golf and Diggers agrees to sign all documents and provide all information reasonably necessary for Easts Leagues to complete and lodge the Application for Transfer.

4 TRANSFER OF MEMBERS

- 4.1 Pursuant to rules 19(b) and 19(c) of the Easts Leagues Constitution, all full members of Bondi Golf and Diggers may apply for admission to a class of Ordinary membership of Easts Leagues (subject to the eligibility requirements of the relevant class of Ordinary membership), without being required to be proposed or seconded for membership, and whilst they continue to be an Ordinary member of Easts Leagues, will for the purposes of section 17AC(2) of the Registered Clubs Act be identified in the records of Easts Leagues as "Bondi Golf and Diggers Club Members".
- 4.2 As soon as practicable after provisional approval of the Application for Transfer has been given by the Authority, Easts Leagues will send every Member of Bondi Golf and Diggers (who is not already a Member of Easts Leagues) an invitation to become a member of the Amalgamated Club which includes the requirements for application for membership.

- 4.3 A Member of Bondi Golf and Diggers 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 Easts Leagues prior to Amalgamation Completion.
- 4.4 A Member of Bondi Golf and Diggers who applies for membership of the Amalgamated Club under this clause:
- (a) will have their name displayed on the noticeboard of Easts Leagues for at least 7 days and will not be admitted as a member of the Amalgamated Club until at least 14 days after receipt of their application for membership;
 - (b) during the period set out in clause 4.4(a) will be a Provisional Member of Easts Leagues; and
 - (c) subject to clause 4.4(a) and in accordance with section 30(2) of the RCA, will be admitted as a Member of the Amalgamated Club on or before Amalgamation Completion.
- 4.5 Members of Bondi Golf and Diggers who become Members of the Amalgamated Club will not be required to pay any fee or subscription in addition to any fee or subscription pre-paid to Bondi Golf and Diggers in respect of their membership for that financial year of Bondi Golf and Diggers.
- 4.6 Any person who, at Amalgamation Completion, is a Life Member of Bondi Golf and Diggers:
- (a) will continue to be recognised as a Life Member in respect of the Premises; and
 - (b) will only be required to pay the Amalgamated Club the minimum annual subscription required by the RCA.

5 BONDIGOLF AND DIGGERS' OBLIGATIONS

- 5.1 On and from the date of this Deed up to Amalgamation Completion Bondi Golf and Diggers must:
- (a) trade in the ordinary course of business and with due care and skill;
 - (b) maintain the following insurance policies with a reputable insurer in Australia:
 - (i) public liability insurance in the amount of \$20,000,000 for each single claim, and unlimited in aggregate;
 - (ii) property damage insurance to the full replacement value of all Assets insurable under such a policy;
 - (iii) workers compensation insurance,
 - (c) give Easts Leagues a copy of its certificates of currency for any insurance policy held under subclause (b) on request;
 - (d) immediately notify Easts Leagues of anything which may result in a claim on an insurance policy held under subclause (b);
 - (e) comply with any agreement to which it is a party;
 - (f) comply with all applicable laws;
 - (g) not do anything which may damage its reputation or the reputation of Easts Leagues;
 - (h) not enter into any negotiations, discussions or communications with any other registered club with respect to a possible amalgamation with such a registered club; and
 - (i) not dispose of, lease, licence, mortgage, charge or otherwise encumber, or permit any encumbrance to arise, over any of its Assets.

- 5.2 On and from the date of this Deed to Amalgamation Completion Bondi Golf and Diggers must not without the prior written consent of Easts Leagues:
- (a) incur any single debt or liability in excess of \$5,000 plus goods and services tax;
 - (b) vary, enter into, or exercise any option to renew an agreement;
 - (c) enter into, terminate or alter any term of any material contract, arrangement or understanding in relation to its operations or otherwise; or
 - (d) employ any person.

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 Bondi Golf and Diggers up to Amalgamation Completion;
 - (b) the efficient transfer of the Assets and Club Licence of Bondi Golf and Diggers to Easts Leagues and efficient payment of liabilities of Bondi Golf and Diggers by Easts Leagues;
 - (c) management of the transfer of the Members of Bondi Golf and Diggers to Easts Leagues under this Deed and the MOU; and
 - (d) any other matters considered necessary by the parties.
- 6.2 Easts Leagues acknowledges that prior to Amalgamation Completion Bondi Golf and Diggers remains under control of its own board and other duly authorised officers, and Easts Leagues participates in discussions about the management of Bondi Golf and Diggers in an advisory capacity only under this clause.
- 6.3 Both parties agree to carry out all acts necessary to give effect to this Deed and the MOU promptly and in good faith.
- 6.4 From the date of this deed Bondi Golf and Diggers will give Easts Leagues access to its premises on reasonable notice, to:
- (a) inspect and copy any records of Bondi Golf and Diggers; and
 - (b) observe the operations of Bondi Golf and Diggers.

7 FINANCIAL ASSISTANCE

- 7.1 Subject to:
- (a) clause 7.2;
 - (b) Bondi Golf and Diggers complying with clauses 5 and 6;
 - (c) Bondi Golf and Diggers' Members pass the ordinary resolution referred to in clause 3.1;
 - (d) Easts Leagues's Members pass the ordinary resolution referred to in clause 3.2,

Easts Leagues may provide Bondi Golf and Diggers with such reasonable financial assistance (in accordance with clause 7.2) as is required to assist Bondi Golf and Diggers to remain solvent until Amalgamation Completion or termination of this Deed and the MOU (whichever is the earlier).

- 7.2 Any financial assistance referred to in clause 7.1 will be subject to the following:

- (a) the parties entering into appropriate loan and security documents a registrable general security deed over the assets of Bondi Golf and Diggers, including over the gaming machine entitlements of Bondi Golf and Diggers (**loan and security documents**);
- (b) compliance with any requirements of the RCA and Regulations (such as the requirements of section 41O of the RCA, the requirements of the Authority and approval is given under section 41O of the RCA by the Director-General of the Department of Trade and Investment, Regional Infrastructure and Services (but only if section 41O applies to the loan and/or security));
- (c) Bondi Golf and Diggers signing such loan and security documents and associated documents and doing all things reasonably necessary to give effect to the loan and security documents referred to in this clause 7.2; and
- (d) the consent of any prior ranking security holder being obtained to Easts Leagues' security under its loan and security documents (if Easts Leagues agrees to accept any security other than a first ranking security) for registration of the securities to be provided under this 7.2.

8 DUE DILIGENCE

8.1 Due Diligence enquiries

Amalgamation Completion is subject to, and conditional upon:

- (a) Bondi Golf and Diggers making the Records available to Easts Leagues for inspection and copying by Easts Leagues or its authorised representatives for the purposes of due diligence, within a reasonable time of receiving a request from Easts Leagues;
- (b) Bondi Golf and Diggers permitting Easts Leagues and its authorised representatives to enter and access any part of the Land on request, in order to carry out inspections, surveys or any other assessment of the Land (provided that Easts Leagues must use reasonable endeavours not to unduly interfere with the trading activities of Bondi Golf and Diggers on the Land);
- (c) signing all consents or applications to be signed by Bondi Golf and Diggers and requested by Easts Leagues to enable Easts Leagues to complete its due diligence; and
- (d) Easts Leagues being satisfied (at its sole discretion) with the outcome of its legal, accounting, taxation, commercial, insurance, and management due diligence investigations into the Land and business of Bondi Golf and Diggers and not giving a notice of termination under clause 8.2.

8.2 Termination

Despite anything else in this deed, if Easts Leagues is not satisfied (in its sole discretion) with the outcome of its legal, accounting, financial, taxation, commercial, insurance, and management due diligence investigations into the Land and business of Bondi Golf and Diggers, Easts Leagues may within 90 Business Days after the date of this deed give notice to Bondi Golf and Diggers of termination of this deed without penalty by giving written notice to Bondi Golf and Diggers with immediate effect.

8.3 Effect of termination

Termination of this deed pursuant to this clause 8 does not affect any right or Liability of a party accrued prior to such termination.

9 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).

10 CONFIDENTIALITY

- 10.1 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.
- 10.2 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.

11 LIABILITIES

East's Leagues will be responsible for and pay when due all debts and liabilities of Bondi Golf and Diggers:

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

12 TRANSFER OF ASSETS, ASSIGNMENT OR NOVATION OF AGREEMENTS AND PAYMENT OF REMAINING LIABILITIES

- 12.1 On the date of transfer of the Club Licence of Bondi Golf and Diggers to East's Leagues, or as soon as practicable after that, Bondi Golf and Diggers must do all things necessary:
- (a) to assign to East's Leagues or assist East's Leagues to novate those contracts (including hire purchase contracts) of Bondi Golf and Diggers with third parties which East's Leagues has agreed will be assigned to it or will be novated;
 - (b) to assist East's Leagues in the payment of all liabilities of Bondi Golf and Diggers not already paid by either Bondi Golf and Diggers or East's Leagues; and
 - (c) to transfer to East's Leagues all Assets of Bondi Golf and Diggers.
- 12.2 On Amalgamation Completion Bondi Golf and Diggers must give to East's Leagues all statutory, membership and other records of Bondi Golf and Diggers that it is not required to retain until winding up is completed.
- 12.3 On winding up of Bondi Golf and Diggers it must give to East's Leagues the balance of all records described in clause 12.2.

13 DISSOLUTION OF BONDI GOLF AND DIGGERS

- 13.1 After Amalgamation Completion, or as otherwise agreed by the parties, Bondi Golf and Diggers 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 Bondi Golf and Diggers; and
 - (b) carry out all acts necessary to effect such winding up after the approval of those Members has been given.

- 13.2 Easts Leagues shall nominate a liquidator (who is to be approved by Bondi Golf and Diggers) to be appointed to liquidate Bondi Golf and Diggers.
- 13.3 Each of the parties warrant to the other that it will co-operate with the other and their respective advisors, and provide all documents and information reasonably required, for the preparation, lodgement and finalisation of matters referred to in this clause 13.

14 FORCE MAJEURE

- 14.1 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.
- 14.2 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.

15 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.

16 DISPUTE RESOLUTION

- 16.1 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.
- 16.2 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.
- 16.3 The parties must meet within 5 Business Days after the date of delivery of the dispute notice and attempt to resolve the dispute.
- 16.4 Each party must use its best endeavours to resolve the dispute and act in good faith.
- 16.5 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.
- 16.6 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.

- 16.7 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.

17 TERMINATION

- 17.1 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 does not approve the transfer of the Club Licence of Bondi Golf and Diggers to Easts Leagues within twelve (12) months after the date of this Deed;
 - (c) Amalgamation Completion does not occur by the date which is 6 weeks after the date on which the Authority approves the transfer of the Club Licence of Bondi Golf and Diggers to Easts Leagues (or such other date which is agreed by the parties).
 - (d) the other party is in breach of an obligation under this Deed or the MOU and:
 - (i) that breach is not capable of rectification; or
 - (ii) the other party fails to rectify that breach within 10 Business Days of being given notice to do so; or
 - (e) the other party suffers an Insolvency Event.
- 17.2 Easts Leagues may terminate this deed under clause 8.2.
- 17.3 Termination of this Deed by a party under clauses 8.2, 17.1(a) or 17.1(b) is without penalty to either party.

18 INDEMNITY

- 18.1 Easts Leagues indemnifies Bondi Golf and Diggers against any Loss that Bondi Golf and Diggers incurs as a result of:
- (a) any breach of this Deed, the MOU or any law by Easts Leagues; and
 - (b) the wilful misconduct, negligence, or fraud of Easts Leagues or its officers, employees, contractors or agents,
- except to the extent such Loss is caused or contributed to by Bondi Golf and Diggers or its officers, employees, contractors or agents.
- 18.2 Bondi Golf and Diggers indemnifies Easts Leagues against any Loss that Easts Leagues incurs as a result of:
- (a) any breach of this Deed, the MOU or any law by Bondi Golf and Diggers; and
 - (b) the wilful misconduct, negligence, or fraud of Bondi Golf and Diggers or its officers, employees, contractors or agents,
- except to the extent such Loss is caused or contributed to by Easts Leagues or its officers, employees, contractors or agents.
- 18.3 The indemnities given under this clause are in addition to any other remedy available to a party at law.

19 COSTS AND EXPENSES

19.1 Cost and expenses

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

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

19.2 Stamp duty

Easts Leagues must pay any stamp duty assessable in relation to this Deed.

20 NOTICES

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

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

20.2 If the notice is to Easts Leagues then it must be addressed as follows:

Name: Eastern Suburbs Leagues Club Limited
Attention: Scott Bennetts, Chief Executive Officer
Address: 93-97 Spring Street, Bondi Junction NSW 2022
Facsimile: (02) 9387 7779
Email: info@eastsgroup.com.au

20.3 If the notice is to Bondi Golf and Diggers then it must be addressed as follows:

Name: Bondi Golf and Diggers Club Limited
Attention: Gordon Rice, President
Address: 5 Military Road, North Bondi NSW 2026
Email: admin@bondigolf.com.au

20.4 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 facsimile, 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.

21 ASSIGNMENT

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

22 GENERAL

22.1 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.

22.2 Service

A document may be served on a party by delivering it to that party in accordance with the notice provisions of clause 20.

22.3 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.

22.4 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.

22.5 Variation

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

22.6 Further assurances

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

22.7 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.

22.8 Counterparts

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

Schedule 1

Draft of resolution to be put to members of Bondi Golf and Diggers

Ordinary Resolution

"That the members hereby:

1. *approve in principle the amalgamation of Bondi Golf and Diggers Club Limited ABN 47 001 066 708 ("**Bondi Golf and Diggers**") with Eastern Suburbs Leagues Club Limited ABN 63 000 249 490 ("**Easts Leagues**") such an amalgamation to be effected by:*
 - (a) *the continuation of Easts Leagues (as the Amalgamated Club) and the dissolution of Bondi Golf and Diggers;*
 - (b) *the transfer of Bondi Golf and Diggers' assets to Easts Leagues; and*
 - (c) *the transfer of the club licence of Bondi Golf and Diggers to Easts 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 Bondi Golf and Diggers to Easts Leagues for the purposes of such an amalgamation."*

Schedule 2

Draft of resolution to be put to members of Easts Leagues

Ordinary Resolution

"That the members hereby:

1. *approve in principle the amalgamation of Bondi Golf and Diggers Club Ltd ABN 47 001 066 708 ("Bondi Golf and Diggers") with Eastern Suburbs Leagues Club Ltd ABN 63 000 249 490 ("Easts Leagues") such an amalgamation to be effected by:*
 - (a) *the continuation of Easts Leagues (as the Amalgamated Club) and the dissolution of Bondi Golf and Diggers;*
 - (b) *the transfer of Bondi Golf and Diggers' assets to Easts Leagues; and*
 - (c) *the transfer of the club licence of Bondi Golf and Diggers to Easts 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 Bondi Golf and Diggers to Easts Leagues for the purposes of such an amalgamation."*

EXECUTED as a DEED

EXECUTED by EASTERN SUBURBS LEAGUES CLUB LIMITED ABN 63 000 249 490 in accordance with Section 127 of the Corporations Act 2001:



*Director/*Company Secretary



Name of *Director/*Company Secretary

(BLOCK LETTERS)

*please delete as appropriate



Director



Name of Director

(BLOCK LETTERS)

EXECUTED by BONDI GOLF AND DIGGERS CLUB LIMITED ABN 47 001 066 708 in accordance with Section 127 of the Corporations Act 2001:




*Director/*Company Secretary



Name of *Director/*Company Secretary

(BLOCK LETTERS)

*please delete as appropriate



Director



Name of Director

(BLOCK LETTERS)