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MEMORANDUM OF UNDERSTANDING

DATED 20 December 2019

PARTIES

INGLEBURN RSL SUB-BRANCH CLUB LIMITED
(ACN 163 551 086)

AND

INGLEBURN BOWLING & RECREATION CLUB CO-OP LTD
(NSWC00482)

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This Memorandum of Understanding is made on 20 December 2019.

BETWEEN

INGLEBURN RSL SUB-BRANCH CLUB LIMITED (ACN 163 551 086) of 70 Chester Road, Ingleburn New South Wales 2565 ("**Ingleburn RSL Club**").

and

INGLEBURN BOWLING & RECREATION CLUB CO-OP LTD (NSWC00482) of 8 Memorial Avenue, Ingleburn New South Wales 2565 ("**Ingleburn Bowling Club**").

BACKGROUND

- (A) Ingleburn RSL Club and Ingleburn Bowling Club both operate registered clubs in New South Wales.
- (B) Ingleburn RSL Club called for expressions of interest in amalgamation from other registered clubs.
- (C) In response to Ingleburn RSL Club's call for expression of interest, Ingleburn Bowling Club submitted an expression of interest to Ingleburn RSL Club.
- (D) Ingleburn RSL Club has accepted the expression of interest from Ingleburn Bowling Club and, following further negotiation, Ingleburn RSL Club and Ingleburn Bowling Club have agreed to the terms set out in this Memorandum.
- (E) Ingleburn RSL Club and Ingleburn Bowling Club propose to amalgamate the two clubs (subject to the approval of the Authority and subject to the terms of this Memorandum) in accordance with the provisions of this Memorandum, the RCA, the Regulations, the Liquor Act, the Co-operatives Act and the Corporations Act.
- (F) Ingleburn Bowling Club acknowledges and appreciates the efforts by Ingleburn RSL Club to assist Ingleburn Bowling Club where possible and interact in a friendly and harmonious way.

1. DEFINITIONS AND INTERPRETATIONS

1.1 In this Memorandum unless the context otherwise requires:

- (a) "**Amalgamated Club**" mean the amalgamated registered club of Ingleburn RSL Club and Ingleburn Bowling Club, the corporate vehicle of which will be Ingleburn RSL Club;
- (b) "**Amalgamation**" means the amalgamation of the Clubs in accordance with this Memorandum;
- (c) "**Amalgamation Application**" means the provisional application for the transfer of Ingleburn Bowling Club's Liquor Licence to Ingleburn RSL Club pursuant to Sections 60(6) and (7) of the Liquor Act by Ingleburn RSL Club and Ingleburn Bowling Club;
- (d) "**Assets**" means all of the goodwill, land, personal property, equipment, stock, intellectual property, taxation benefits, poker machine entitlements, poker

machines and all other property, tangible or intangible belonging to Ingleburn Bowling Club at the time of Completion of the Amalgamation;

- (e) **“Authority”** means the Independent Liquor and Gaming Authority;
- (f) **“Claim”** means any claim, notice, demand, debt, account, action, expense, cost, lien, liability proceeding, litigation, investigation or judgement of any nature, whether known or unknown;
- (g) **“Clubs”** means both Ingleburn RSL Club and Ingleburn Bowling Club;
- (h) **“Completion of the Amalgamation”** means the day on which:
 - (i) the Final Order is granted and Ingleburn Bowling Club’s Liquor Licence is transferred to Ingleburn RSL Club; and
 - (ii) the Assets, Debts and Liabilities of Ingleburn Bowling Club are transferred to Ingleburn RSL Club, as referred to in clause 15.1;
 - (iii) Ingleburn Bowling Club’s members become members of Ingleburn RSL Club and all members of Ingleburn Bowling Club and Ingleburn RSL Club become members of the Amalgamated Club;
 - (iv) Ingleburn RSL Club takes over responsibility for the management and control of the Ingleburn Bowling Club Premises.
- (i) **“Confidential Information”** means all information relating to a party, its business, employees or suppliers which is or might reasonably be considered by the other party to be confidential and which is not in the public domain, including all financial data and information relating to a party, business plans, unpublished financial accounts, data and reports, supply lists and information relating to the business of a party’s suppliers;
- (j) **“Corporations Act”** means the Corporations Act 2001 (Commonwealth), and the Regulations made thereunder;
- (k) **“Co-operatives Act”** means the Co-operatives (Adoption of the National Law) Act 2012 (NSW) and the Regulations made thereunder;
- (l) **“Debts”** means the accumulated debts of Ingleburn Bowling Club at the time of Completion of the Amalgamation;
- (m) **“Final Order”** means the final order pursuant to Section 60(8) of the Liquor Act by the Authority whereby Ingleburn Bowling Club’s Liquor Licence will be transferred to Ingleburn RSL Club;
- (n) **“Gaming Machines Act”** means the Gaming Machines 2001 (NSW) and the Regulations made thereunder;
- (o) **“GST”** means Goods and Services Tax under A New Tax System (Goods and Services Tax) Act 1999;
- (p) **“Ingleburn Bowling Club Premises”** means Ingleburn Bowling Club’s current premises located at 8 Memorial Avenue, Ingleburn New South Wales 2565;

- (q) **“Ingleburn Bowling Club’s CEO”** means the individual who fulfils the Secretary or Secretary Manager’s role at Ingleburn Bowling Club;
- (r) **“Ingleburn RSL Club’s CEO”** means the individual who fulfils the Secretary or Secretary Manager’s role at Ingleburn RSL Club;
- (s) **“Ingleburn RSL Club Premises”** means Ingleburn RSL Club’s current premises located at 70 Chester Road, Ingleburn New South Wales 2565.
- (t) **“Liabilities”** means all liabilities, losses, damages, outgoings, costs and expenses of Ingleburn Bowling Club (whatever description) at the time of Final Order;
- (u) **“Liquor Act”** means the Liquor Act 2007 (NSW) and the Regulations made thereunder;
- (v) **“Liquor Licence”** means the club licence issued to a registered club under the *Liquor Act*;
- (w) **“Memorandum”** means this Memorandum of Understanding;
- (x) **“Order”** means the conditional grant of the Amalgamation Application by the Authority pursuant to Section 60(7) of the Liquor Act;
- (y) **“Party”** means the respective management and Board of Directors of Ingleburn Bowling Club and Ingleburn RSL Club;
- (z) **“Records”** means all original and copy records, sales brochures and catalogues, lists of clients, documents, books, files, accounts, plans and correspondence belonging to or used by Ingleburn Bowling Club in the conduct of Ingleburn Bowling Club business including but not limited to corporate, accounting and statutory records;
- (aa) **“Regulations”** mean the Regulations to the RCA;
- (bb) **“RCA”** means the Registered Clubs Act 1976 (NSW) and the Regulations made thereunder;
- (cc) **“Year”** means a period of twelve (12) months commencing on the anniversary of the date of the Final Order and concluding on the day immediately before the next anniversary date of the Final Order.

1.2 In this Memorandum unless the context otherwise requires:

- (a) headings are for convenience only and do not affect interpretation;
- (b) the singular includes the plural and vice versa;
- (c) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to a person, trust, partnership, joint venture, association, corporation, organisation, society, firm, authority or other entity includes any of them;
- (e) a reference to any legislation or provision of legislation includes all

- amendments, consolidations or replacements and all regulations or instruments issued under it;
- (f) a reference to a Party to a document includes that Party's successors, permitted assigns, administrators and substitutes;
 - (g) an agreement on the part of 2 or more persons binds them jointly and severally;
 - (h) a reference to a notice from, consent or approval of a Party and agreement between the Parties for the purposes of this Deed means a written notice, consent, approval or agreement;
 - (i) mentioning anything after 'include', 'includes' or 'including' does not limit what else might be included; and
 - (j) a reference to "dollars" or "\$" is to Australian currency.

2. EACH CLUB'S POSITION REGARDING THE PROPOSED AMALGAMATION

- 2.1 Ingleburn RSL Club and the Ingleburn Bowling Club agree to amalgamate in accordance with this Memorandum, the RCA, the Regulations, the Liquor Act, the Co-operatives Act and the Corporations Act.
- 2.2 The Amalgamation is intended to enhance the existing facilities and amenities of both Clubs.
- 2.3 The amalgamation will be effected by the continuation of Ingleburn RSL Club and the dissolution of the Ingleburn Bowling Club.

Process for Amalgamation

- 2.4 The process for the amalgamation will be as follows:
 - (a) The Clubs entering into this Memorandum; and
 - (b) The members of Ingleburn Bowling Club and Ingleburn RSL Club will be asked to approve the amalgamation at separate general meetings of the ordinary members of each club. These meetings will be called and held in the manner referred to in clause 13 below;
 - (c) The members of Ingleburn RSL Club will be asked to approve (by special resolution) amendments to Ingleburn RSL Club's Constitution in the manner provided for in clauses 13.5 and 13.6 below.
 - (d) The members of Ingleburn Bowling Club will also be asked to approve Ingleburn Bowling Club transferring its Assets to Ingleburn RSL Club in the manner referred to in clause 16 below and for this purpose, Ingleburn Bowling Club will liaise with NSW Fair Trading in relation to the requirements for compliance with section 359 and Part 4.5 of the Co-Operatives Act and the parties acknowledge and agree that the requirement to liaise and obtain approvals of the NSW Fair Trading can impact on the timeframes contained in this Memorandum and any timeframe specified in this Memorandum will be automatically extended as required to obtain the required approvals of NSW Fair Trading;

- (e) Once the approvals in paragraphs (b) to (d) inclusive of this clause 2.4 have been obtained, the Amalgamation Application will then be made. The Amalgamation Application will be made in the manner referred to in clause 14 below;
- (f) After the Amalgamation Application is granted and on the date of the Final Order:
 - (i) The Assets, Debts and Liabilities will be transferred to Ingleburn RSL Club in the manner referred to in clause 16 below;
 - (ii) Subject to clause 13.7, all members of Ingleburn Bowling Club will, with their consent, be admitted as members of Ingleburn RSL Club and will be identified as a separate class of ordinary membership called "Ingleburn Bowling Club members". This will occur in accordance with the procedure set out in clause 13.5 below (that is, the category of membership will be inserted into Ingleburn RSL Club's Constitution pursuant to the Special Resolution referred to in that clause);
 - (iii) Employees of Ingleburn Bowling Club who accept Ingleburn RSL Club's offer of employment will become employees of the Amalgamated Club.
 - (iv) After Completion of the Amalgamation, Ingleburn RSL Club will continue as the body corporate of the Amalgamated Club;
- (g) From Completion of the Amalgamation, the Ingleburn Bowling Club Premises will become additional licensed premises of Ingleburn RSL Club and will be available to all members of the Amalgamated Club. The Ingleburn Bowling Club Premises will be operated in the manner set out in clauses 3, 4 and 5 below;
- (h) After Completion of the Amalgamation, Ingleburn Bowling Club will be liquidated or otherwise voluntarily deregistered in the manner referred to in clause 16 below.

2.5 Ingleburn RSL Club may undertake a due diligence review of Ingleburn Bowling Club's financial position and operations.

2.6 Ingleburn Bowling Club will, if required, provide a list of information and copies of its Records (including, but not limited to, details of its Assets, Debts and Liabilities) and assistance to Ingleburn RSL Club in order for Ingleburn RSL Club to properly carry out and complete the due diligence review.

3. THE MANNER IN WHICH THE PREMISES AND OTHER FACILITIES OF THE INGLEBURN BOWLING CLUB WILL BE MANAGED AND THE DEGREE OF AUTONOMY THAT WILL BE PERMITTED IN THE MANAGEMENT OF THE INGLEBURN BOWLING CLUB PREMISES AND FACILITIES
[Regulations – Clause 7(2)(a)]

3.1 The Ingleburn Bowling Club Premises will become additional premises of Ingleburn RSL Club.

3.2 As at the Completion of the Amalgamation, the Amalgamated Club will operate and

trade from the Ingleburn RSL Club Premises and the Ingleburn Bowling Club Premises.

- 3.3 The Board of Ingleburn RSL Club will be the Board of the Amalgamated Club.
- 3.4 Ingleburn RSL Club will take over responsibility and control of the Ingleburn Bowling Club Premises with effect from Completion of the Amalgamation.
- 3.5 For the purposes of the RCA, Ingleburn RSL Club's CEO will be the Secretary and Chief Executive Officer of the Amalgamated Club and be responsible for the Ingleburn Bowling Club Premises.

4. **A LIST OF THE TRADITIONS, AMENITIES AND COMMUNITY SUPPORT THAT WILL BE PRESERVED OR CONTINUED BY THE AMALGAMATED CLUB**
[Regulations – Clause 7(2)(b)]

- 4.1 The traditions, amenities, culture, bowling facilities, bowling activities and memorabilia of Ingleburn Bowling Club will be maintained by the Amalgamated Club at the Ingleburn Bowling Club Premises. For the avoidance of doubt, the parties acknowledge and agree that the memorabilia of the Ingleburn Bowling Club may be displayed in its present form or in an electronic form.
- 4.2 The Amalgamated Club will continue to support the community that was supported by Ingleburn Bowling Club (as at the date of this Memorandum) and it will explore opportunities to expand community support.

5. **INTENTIONS REGARDING THE FUTURE DIRECTION OF THE AMALGAMATED CLUB**
[Regulations – Clause 7(2)(c)]

- 5.1 The future direction of the Amalgamated Club will be subject to the overall strategic plan of the Amalgamated Club and its finances. However, Ingleburn RSL Club will operate the Amalgamated Club and the Ingleburn Bowling Club Premises in accordance with this clause 5.
- 5.2 The vision of the Directors of Ingleburn RSL Club is to strategically align the Amalgamated Club with all forms of sport in its venues with lawn bowls being an integral pillar to the Amalgamated Club's long-term strategy and to promote social interaction, participation and longevity of the Amalgamated Club's membership.

Amalgamated Club Premises

- 5.3 As at the Completion of the Amalgamation, the Amalgamated Club will operate and trade from the Ingleburn RSL Club Premises and the Ingleburn Bowling Club Premises.

Ingleburn Bowling Club Premises

- 5.4 The Ingleburn Bowling Club Premises will continue to be known as "Ingleburn Bowling Club".
- 5.5 Subject to clauses 10 and 11, Ingleburn RSL Club intends to:
 - (a) carry on the business of a licensed registered club under the RCA and the Liquor Act at the Ingleburn Bowling Club Premises with all the facilities and

amenities of a registered club; and

- (b) operate the Ingleburn Bowling Club Premises as a successful and well supported local based sporting and community club;
- (c) undertake necessary capital works and/or services at the Ingleburn Bowling Club Premises (including undertaking investment in relation to maintenance, marketing, promotions, buildings, amenities and gaming machines) of at least six million, seven hundred and eighty thousand dollars (\$6,780,000) at the Ingleburn Bowling Club Premises in accordance with the following:
 - (i) within the first twelve (12) months after the Completion of the Amalgamation – five hundred thousand dollars (\$500,000);
 - (ii) years two (2) to four (4) after the Completion of the Amalgamation – three million six hundred and seventy two thousand dollars (\$3,672,000);
 - (iii) years five (5) to ten (10) after the Completion of the Amalgamation – two million six hundred and eight thousand dollars (\$2,608,000),

with the nature, budget and timeframe of the capital works and/or services to be determined by the Board of the Amalgamated Club in its absolute discretion;

- (d) improve trading at the Ingleburn Bowling Club Premises;
- (e) ensure the commitment to lawn bowls for the members of the Amalgamated Club for a minimum of ten (10) years with the provision of:
 - (i) three operationally available bowling greens for at least the first twelve (12) months after Completion of the Amalgamation; and
 - (ii) subject to the agreement between Ingleburn RSL Club and Ingleburn Bowling Club after the period referred to in clause 5.5(e)(i), two operationally available bowling greens for at least 50 playing members on a regular basis provided that if the number of active bowling members decreases to warrant the use of one bowling green then provision will be made to provide a second bowling green if necessary, in the event of a significant resurgence in active bowling members in the defined period. The bowling greens will be maintained to the current standard condition with generally accepted maintenance and availability.

Bowling Activities and Bowling Sub-Clubs

5.6 Ingleburn RSL Club intends for the Amalgamated Club to create a men's bowling sub-club and a women's bowling sub-club to conduct and administer bowling at the Ingleburn Bowling Club Premises on behalf of the Amalgamated Club.

5.7 It is intended that the bowling sub-clubs will:

- (a) have their own rules, committees and members; and
- (b) continue using their existing names and insignia;

- (c) elect their own committees;
 - (d) be eligible to affiliate with such bodies controlling bowls in New South Wales on such terms and conditions (not inconsistent with the Constitution of the Ingleburn RSL Club or the RCA) as such controlling bodies may from time to time require;
 - (e) be created with the persons referred to in clause 13.7 recognised as life members of the relevant sub-club.
- 5.8 The Amalgamated Club will provide annual funding of \$60,000 per annum to the bowling sub clubs to be shared equally from years one (1) to ten (10) after Completion of the Amalgamation. The bowling sub club committees will provide an annual budget to the Board of the Amalgamated Club for its approval. The annual budget may cover:
- (a) all relevant insurances applicable to the bowling sub-clubs and their activities;
 - (b) all relevant fees payable to relevant associations (including affiliation fees) in respect of the bowling sub-clubs' activities; and
 - (c) all relevant trophies, prizes and prize money for bowling competitions and events and the recoupment of competition fees; and
 - (d) such other expenses as the bowling sub-clubs consider appropriate.
- 5.9 Ingleburn RSL Club will also ensure adequate and competent resources are allocated to cover the requirements of a bowls co-ordinator.
- 5.10 Ingleburn RSL Club will also commit to support operationally the bowls events and tournaments as agreed to between the Amalgamated Club and the respective bowls committees.

Other Sub Clubs

- 5.11 If, at the date of this Memorandum, there are any sub-clubs at Ingleburn Bowling Club (other than the bowls sub-clubs referred to above), the Board of the Amalgamated Club will allow those sub-clubs to continue to exist provided all members of those sub clubs become members of Ingleburn RSL Club.

6. THE EXTENT TO WHICH THE EMPLOYEES OF THE AMALGAMATED CLUB WILL BE PROTECTED

[Regulations – Clause 7(2) (d)]

- 6.1 As part of the Amalgamation, Ingleburn Bowling Club will be wound up/liquidated. As part of the winding up/liquidation of Ingleburn Bowling Club, the employment of all Ingleburn Bowling Club's employees by Ingleburn Bowling Club would otherwise come to an end.
- 6.2 Prior to the Completion of the Amalgamation, Ingleburn RSL Club will offer similar employment to all of Ingleburn Bowling Club's employees.
- 6.3 The offers of employment will be effective from the Completion of the Amalgamation and they will be on the same terms and conditions presently offered by Ingleburn RSL Club to employees of Ingleburn RSL Club in the same role provided that it does

not result in any employee of Ingleburn Bowling Club receiving lesser benefits than they presently receive from Ingleburn Bowling Club.

6.4 Any employee of Ingleburn Bowling Club who accepts an offer of employment with Ingleburn RSL Club will receive continuity of employment and their accrued entitlements will be honoured by Ingleburn RSL Club.

6.5 Any employee of Ingleburn Bowling Club who does not accept an offer of employment with Ingleburn RSL Club will be paid their full entitlements when their employment with Ingleburn Bowling Club comes to an end.

7. INTENTIONS REGARDING THE FOLLOWING ASSETS OF INGLEBURN BOWLING CLUB:

- 1. ANY CORE PROPERTY;**
 - 2. ANY CASH OR INVESTMENTS;**
 - 3. ANY POKER MACHINE ENTITLEMENTS**
- [Regulations – Clause 7(2)(e)]**
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Core Property

7.1 For the purposes of the RCA, the Ingleburn Bowling Club Premises is the “core property” of the Ingleburn Bowling Club.

7.2 Subject to clauses 9, 10 and 11, Ingleburn RSL Club intends to retain the core property of the Ingleburn Bowling Club.

Cash and Investments

7.3 The cash and investments (if any) of the Ingleburn Bowling Club will be transferred (in accordance with clause 16) to the general reserves of the Amalgamated Club.

Poker Machine Entitlements

7.4 Ingleburn Bowling Club has thirty eight (38) poker machine entitlements and subject to clause 7.5, those poker machine entitlements will be retained at Ingleburn Bowling Club Premises after the Completion of the Amalgamation.

7.5 Ingleburn RSL Club intends to keep the thirty eight (38) gaming machine entitlements and operate thirty eight (38) gaming machines at the Bowling Club Premises on an ongoing basis. However, depending on the success of gaming at the Ingleburn Bowling Club Premises, the Amalgamated Club may either increase the number of gaming machines at the Ingleburn Bowling Club Premises or transfer gaming machine entitlements from the Ingleburn Bowling Club Premises to the Ingleburn RSL Club Premises.

7.6 If Ingleburn RSL Club considers that an increase in gaming machine entitlements at the Ingleburn Bowling Club Premises is required, the Ingleburn RSL Club will initially seek approval to increase the number by twenty (20) poker machine entitlements which are, at the date of this MOU, held by Ingleburn RSL Club but not on the gaming floor of the Ingleburn RSL Club Premises.

8. **RISKS OF NOT PRESERVING INGLEBURN BOWLING CLUB'S CORE PROPERTY AND HOW THOSE RISKS ARE TO BE ADDRESSED**
[Regulations – Clause 7(2)(E1)]

- 8.1 Subject to clauses 9, 10 and 11, the Amalgamated Club will not dispose of the core property of Ingleburn Bowling Club during the first three (3) years after Completion of the Amalgamation.
- 8.2 The risks of the Amalgamated Club not meeting the intentions of the parties in preserving the core property of Ingleburn Bowling Club are those set out in clause 10.2.
- 8.3 If the risks (or any of them) in clause 10.2 are realised during the first three (3) years after the Completion of the Amalgamation, clause 8.1 and section 17A1 of the RCA will prevent the Amalgamated Club from disposing the core property.
- 8.4 If the risks (or any of them) in clause 10.2 are realised after the first three (3) years after Completion of the Amalgamation, the Amalgamated Club will endeavour to find ways to address those risks so that the disposal of core property will be considered only after all other ways have been exhausted and provided the disposal is in accordance with the RCA.

9. **DISPOSAL OF INGLEBURN BOWLING CLUB'S MAJOR ASSETS**
[Regulations – Clause 7(2)(E2)]

- 9.1 For the purposes of the RCA, the Ingleburn Bowling Club Premises (including the bowling greens) are the "core property" of Ingleburn Bowling Club.
- 9.2 Subject to clauses 9, 10 and 11 of this Memorandum, the Amalgamated Club will not dispose of the major assets of Ingleburn Bowling Club during the first three (3) years after Completion of the Amalgamation.

10. **THE CIRCUMSTANCES THAT WOULD PERMIT THE AMALGAMATED CLUB TO CEASE TRADING ON THE PREMISES OF THE INGLEBURN BOWLING CLUB OR TO SUBSTANTIALLY CHANGE THE OBJECTS OF THE INGLEBURN BOWLING CLUB**
[Regulations – Clause 7(2)(F)]

- 10.1 Ingleburn RSL Club does not intend to cease trading from the Ingleburn Bowling Club Premises. However, for the purposes of clause 7(2) (f) of the Regulations, Ingleburn RSL Club and Ingleburn Bowling Club are required to agree to the matters set out in clause 10.2.
- 10.2 For the purposes of clause 7(2)(f) of the Regulations and subject to clause 11.2, Ingleburn RSL Club and Ingleburn Bowling Club have agreed that the following circumstances would permit the Amalgamated Club to cease trading from Ingleburn Bowling Club Premises:
- (a) subject to clause 11, if it is not financially viable for the Amalgamated Club (as determined by the Amalgamated Club in its absolute discretion) to continue to trade from the Ingleburn Bowling Club Premises; or
 - (b) upon the order of any Court or body with jurisdiction to administer the laws in relation to liquor, gaming and registered clubs;

- (c) upon the lawful order of any government authority;
- (d) if, after the period of ten (10) years referred to in clause 11.2 of this MOU, the Ingleburn Bowling Club Premises were destroyed or partially destroyed by fire, floods, storms etc and one or both of the following apply:
 - (i) it is not lawful for a licensed club to be operated at the Ingleburn Bowling Club Premises; and/or
 - (ii) any insurance payment from a resulting insurance claim is not sufficient to cover all of the costs related to the re-instatement or the re-building of an acceptable club house (which shall be determined by the Board of the Amalgamated Club in its absolute discretion) at the Ingleburn Bowling Club Premises.

10.3 For the purposes of clause 10.2(a), the Ingleburn Bowling Club Premises will not be "*financially viable*" if, in any twelve month period (commencing after the ten (10) year period referred to in clause 11.2) the Ingleburn Bowling Club Premises is not cash-flow positive from trading as determined by an independent company auditor in accordance with proper accounting standards.

11. AN AGREED PERIOD OF TIME BEFORE THE AMALGAMATED CLUB WILL CEASE TRADING FROM THE INGLEBURN BOWLING CLUB PREMISES OR SUBSTANTIALLY CHANGE THE OBJECTS OF THE INGLEBURN BOWLING CLUB PREMISES
[Regulations – Clause 7(2)(G)]

11.1 The objects of Ingleburn RSL Club will become the objects of Ingleburn Bowling Club with effect from Completion of the Amalgamation.

11.2 For the purposes of clause 7(2)(g) of the Regulations, Ingleburn RSL Club and Ingleburn Bowling Club have agreed that the Amalgamated Club will continue to trade from the Ingleburn Bowling Club Premises for at least ten (10) years (except in the circumstances referred to in clauses 10.2(b) and 10.2(c)).

12. BINDING EFFECT OF MEMORANDUM

12.1 Ingleburn RSL Club and the Ingleburn Bowling Club agree that this Memorandum is binding on them and for that purpose is executed as a Deed.

13. CALLING OF MEETINGS AND ADMISSION OF INGLEBURN BOWLING CLUB MEMBERS TO MEMBERSHIP OF INGLEBURN RSL CLUB

13.1 Ingleburn Bowling Club will call a general meeting of the ordinary members of Ingleburn Bowling Club for the purposes of considering and if thought fit passing a resolution approving in principle the amalgamation in accordance with section 17AEB (d) of the RCA. Also, at the same general meeting, Ingleburn Bowling Club may, with the consent of NSW Fair Trading, put other resolutions, including special resolutions, to the ordinary members of Ingleburn Bowling Club, seeking approvals required under section 359 and Part 4.5 of the Co-Operatives Act.

13.2 The meeting referred to in clause 13.1 must be held as soon as reasonably practicable after the date of this Memorandum.

13.3 Ingleburn RSL Club will call a general meeting of the ordinary members of Ingleburn

RSL Club for the purposes of considering and if thought fit passing a resolution approving in principle the amalgamation in accordance with section 17AEB(d) of the RCA.

13.4 The meeting referred to in clause 13.3 will be held as soon as reasonably practicable after the date of this Memorandum.

13.5 In addition to the resolution referred to in clause 13.4, Ingleburn RSL Club will, at the meeting referred to in clause 13.3, submit to those members eligible to attend and vote, on a special resolution to amend the Constitution of Ingleburn RSL Club to give effect to the following:

- (a) Subject to clause 13.7, all members of Ingleburn Bowling Club who apply to become members of Ingleburn RSL Club will be admitted to membership of Ingleburn RSL Club.
- (b) Subject to clause 13.7, all members of Ingleburn Bowling Club will be able to apply for membership of Ingleburn RSL Club in the manner referred to in this clause 13.5.
- (c) As soon as practicable after the Order, Ingleburn RSL Club will forward to each member of Ingleburn Bowling Club, who is not already a member of Ingleburn RSL Club, a written invitation to become a member of Ingleburn RSL Club.
- (d) Subject to clause 13.7, any member of Ingleburn Bowling Club who accepts the invitation and agrees in writing to be bound by the Constitution of Ingleburn RSL Club will (subject to the name of that person being displayed on the noticeboard of Ingleburn RSL 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 Ingleburn RSL Club) be elected by a resolution of the Board of Ingleburn RSL Club to membership of Ingleburn RSL Club with effect from the date of Completion of the Amalgamation.
- (e) Ingleburn Bowling Club's members who are admitted to membership of Ingleburn RSL Club will be identified as a separate class of ordinary membership called the "Ingleburn Bowling Club Members" but may transfer to any other class of membership of Ingleburn RSL Club for which they are eligible to join. "Ingleburn Bowling Club membership" will have two sub classes being "Ingleburn Bowling Club Bowling members" and "Ingleburn Bowling Club Social members".
- (f) The subcategory "Ingleburn Bowling Club Bowling members" will have the same rights as the proposed new category of membership to be added to Ingleburn RSL Club's Constitution which will be known as "Bowling members" (see clause 13.6 below) and the sub category "Ingleburn Bowling Club Social members" will have the same rights as "Social members" under the Constitution of Ingleburn RSL Club.

13.6 In addition to the special resolution referred to in clause 5, Ingleburn RSL Club will, at the meeting referred to in clause 13.3, submit to those members eligible to attend and vote, on a further special resolution to amend the Constitution of Ingleburn RSL Club to create Bowling membership as a new category of membership of Ingleburn RSL Club. For the avoidance of doubt, Bowling members will have the same rights and entitlements as Social members but they will also be entitled to such bowling

rights as determined by the Board of the Amalgamated Club from time to time.

- 13.7 Any person who, at Completion of the Amalgamation, is a Life member of Ingleburn Bowling Club will continue to be recognised as a Life member of Ingleburn Bowling Club but only in respect of the Ingleburn Bowling Club Premises and:
- (a) have their name displayed on the honour boards at the Ingleburn Bowling Club Premises which identifies them as a Life member of Ingleburn Bowling Club;
 - (b) be admitted to Life membership of the bowling sub clubs which are to be created by the Amalgamated Club.
- 13.8 Notwithstanding anything contained in this Memorandum and unless otherwise determined by the Board of the Amalgamated Club, any member of Ingleburn Bowling Club who, at Completion of the Amalgamation, is listed in Ingleburn RSL Club's "register of banned patrons" shall not be admitted to membership of the Amalgamated Club.

14. AMALGAMATION APPLICATION TO THE INDEPENDENT LIQUOR AND GAMING AUTHORITY

- 14.1 Ingleburn RSL Club and its lawyers will prepare and file the Amalgamation Application.
- 14.2 Ingleburn Bowling Club will co-operate with Ingleburn RSL Club and its lawyers and will provide all documents and information reasonably required for the preparation, lodgement and finalisation of the Amalgamation Application.

15. WARRANTIES AND OPERATIONAL ARRANGEMENTS

- 15.1 Ingleburn Bowling Club warrants to Ingleburn RSL Club that from the date of this Memorandum to the date of Completion of the Amalgamation, Ingleburn Bowling Club will:
- (a) carry on its business in the usual ordinary course and in a diligent manner and will not incur any single debt or liability (including, but not limited to, the purchase of any capital equipment) over the sum of two thousand dollars (\$2,000.00) plus GST without the prior approval of the Ingleburn RSL Club's CEO or his delegate;
 - (b) maintain the Assets of Ingleburn Bowling Club in the same state of repair as they are at the date of the Memorandum subject to reasonable wear and tear and keep the Assets of Ingleburn Bowling Club insured in amounts representing their full replacement or reinstatement value against fire and other risks normally insured;
 - (c) 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;
 - (d) provide the Ingleburn RSL Club's CEO each week (or at such other times as requested) any details or documents relating to the operation and financial position of Ingleburn Bowling Club;

- (e) not do anything which may damage the goodwill of its business or that of the Ingleburn RSL Club;
- (f) not without the prior written consent of the Ingleburn RSL Club:
 - (i) enter into, terminate or alter any term of any material contract, arrangement or understanding including any lease, licence or easement in relation to its operations or otherwise;
 - (ii) except in the usual and routine conduct of its trading operations in conformity with and in the manner of recent times, incur any actual or contingent liabilities whether in relation to those operations or otherwise;
 - (iii) dispose of, agree to dispose of, encumber or grant an option over, or grant any interest in any of Ingleburn Bowling Club's Assets (including without limitation its real property or poker machine entitlements);
 - (iv) employ any employee (other than a casual employee);
 - (v) terminate the employment of any employee (other than a casual employee);
 - (vi) alter the terms of employment (including the terms of remuneration and or superannuation or any other benefit) of any employee;
 - (vii) seek to borrow or borrow money from any third party;
 - (viii) increase the level of debt of Ingleburn Bowling Club beyond that existing as at the date of this Memorandum other than any debt incurred in the normal day to day trading of Ingleburn Bowling Club; or
 - (ix) engage in discussions or negotiations with anyone other than the Ingleburn RSL Club concerning the sale of all or any part of Ingleburn Bowling Club's Assets (otherwise than as permitted under (iii) above), and Ingleburn Bowling Club must advise Ingleburn RSL Club of any solicitation by any third party in respect of any such discussion or negotiation.

15.2 Each of Ingleburn Bowling Club's warranties contained in clause 15.1 remains in full force and effect notwithstanding Completion of the Amalgamation.

15.3 Without limiting its other rights, and notwithstanding any other provision of this Memorandum, Ingleburn RSL Club may terminate this Memorandum and the amalgamation at any time prior to Completion of the Amalgamation if there is any material breach of any of Ingleburn Bowling Club's warranties set out in clause 15.1.

15.4 Ingleburn RSL Club's CEO and Ingleburn Bowling Club's CEO will have regular discussions about the management and operations of Ingleburn Bowling Club with the object of:

- (a) providing for an orderly transfer of the management and operations of Ingleburn Bowling Club to Ingleburn RSL Club on the date of Completion of the Amalgamation; and

- (b) achieving efficiencies and cost savings in Ingleburn Bowling Club;
- (c) implementing operational changes in preparation for Completion of the Amalgamation.

15.5 If, before Completion of the Amalgamation, in relation to either of the Clubs (the subject Club):

- (a) an event occurs which has or may have a material effect on the profitability of the premises or value of any of the Assets of the subject Club;
- (b) an event occurs which makes any warranty, or any of the subject Club's representations or other warranties made or given to the other Club untrue or misleading;
- (c) any Claim of any nature is threatened or asserted by or against the subject Club; or
- (d) there is any material adverse change in the condition (financial or otherwise) or prospects of the subject Club or of its operations,

then the subject Club must within a reasonable time on becoming aware of the circumstances, give notice to the other Club fully describing the circumstances.

15.6 Title to, property in and risk of Ingleburn Bowling Club's Assets remain solely with Ingleburn Bowling Club until such time as they are passed to the Amalgamated Club in accordance with clause 15.1.

16. DISSOLUTION OF THE INGLEBURN BOWLING CLUB AND TRANSFER OF ITS ASSETS, DEBTS AND LIABILITIES TO INGLEBURN RSL CLUB

16.1 Ingleburn Bowling Club must ensure the Assets, Debts and Liabilities of Ingleburn Bowling Club are transferred to the Ingleburn RSL Club (less an amount sufficient for the purposes of any liquidation of the Ingleburn Bowling Club).

16.2 The parties acknowledge that it is intended for the transfer of the Assets, Debts, Liabilities referred to in clause 16.1 to occur on the date of the Final Order wherever possible. However, the parties acknowledge that the transfer of some Assets, Debts and Liabilities may occur after the date of the Final Order.

16.3 For the purposes of clause 16.1, Ingleburn Bowling Club must do all things necessary and execute all documents to cause all of the Assets of Ingleburn Bowling Club to be transferred to or assigned to the Ingleburn RSL Club. Such transfers and assignments will without limitation be in respect of:

- (a) all real property; and
- (b) all poker machines and all poker machine entitlements;
- (c) all contract rights including hire purchase agreements;
- (d) all intellectual property rights;
- (e) all physical assets, furniture and fittings and stock in trade;

(f) all other rights including taxation benefits and entitlements,
owned or entered into by Ingleburn Bowling Club.

- 16.4 The transfers and assignments referred to in clause 16.3 must be executed by Ingleburn Bowling Club and held in escrow by the Ingleburn RSL Club pending Completion of the Amalgamation.
- 16.5 As soon as practicable after Completion of the Amalgamation but not before Ingleburn Bowling Club has transferred all of its Assets, Debts and Liabilities to Ingleburn RSL Club, Ingleburn Bowling Club must ensure the Ingleburn Bowling Club is either voluntarily deregistered or liquidated.
- 16.6 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 16.

17. ACCESS TO RECORDS

- 17.1 From the date of this Memorandum, Ingleburn Bowling Club will provide to Ingleburn RSL Club at all reasonable times access to the Ingleburn Bowling Club Premises, Records and other information and material reasonably required by Ingleburn RSL Club (including for the purpose of any due diligence referred to in clause 2.5).

18. CONFIDENTIALITY

- 18.1 A party must not without the prior written approval of the other disclose the other party's Confidential Information.
- 18.2 Each party must take all reasonable steps to ensure its employees and agents, subcontractors and consultants do not disclose or make public the other parties Confidential Information.
- 18.3 A party must on demand return to the other any documents supplied by the other in connection with this Memorandum.
- 18.4 This clause 18 survives completion of this Memorandum.

19. RESOLUTION OF DISPUTES ARISING UNDER THIS MEMORANDUM

- 19.1 A party must not commence any Court or arbitration proceedings relating to a dispute unless it complies with this clause.
- 19.2 A party claiming a dispute has arisen under or in relation to this Memorandum or the amalgamation process must give written notice to the other party specifying the nature of the dispute.
- 19.3 On receipt of that notice by the other party the parties must endeavour in good faith to resolve the dispute expeditiously using informal dispute resolution techniques, such as mediation, expert evaluation or expert determination or other techniques as may be agreed by them.
- 19.4 If the parties do not within seven (7) days of the receipt of the notice referred to in clause 19.2 or any extended period agreed in writing between the parties as to:

- (a) the dispute resolution technique or procedures to be adopted;
- (b) the timetable for steps in those procedures; and
- (c) the selection and compensation of an independent person required for such dispute resolution technique or procedures,

The parties must mediate the dispute in accordance with the mediation rules of the Law Society of New South Wales. The parties must request the President of the Law Society of New South Wales or the President's nominee to select the mediator and determine the mediator's remuneration.

- 19.5 If the dispute is not resolved within twenty eight (28) days after notice is given under clause 19.2 a party which has complied with the provisions of this clause 19 may by written notice to the other terminate any dispute resolution process undertaken pursuant to this clause and may then refer the dispute to arbitration or commence Court proceedings in relation to the dispute.
- 19.6 The parties acknowledge the purpose of any exchange of information or documents or the making of any offer of settlement pursuant to this clause 19 is to settle the dispute concerned. Neither party may use any information or documents obtained through any dispute resolution process undertaken pursuant to this clause for any purpose other than in an attempt to settle the dispute.

20. COSTS

- 20.1 Each party shall pay its own costs of and in relation to the preparation, execution and completion of this Memorandum.

21. STAMP DUTY

- 21.1 The parties acknowledge that section 65(3) of the *Duties Act (NSW)* provides no duty is chargeable on a transfer of dutiable property to give effect to an amalgamation of two registered clubs provided such information and documents as the Chief Commissioner of the Office of State Revenue requires are provided.
- 21.2 Despite the exemption from duty referred to in clause 21.1 the parties agree that any duty payable by either party to bring into effect the provisions of this Memorandum shall be paid by Ingleburn RSL Club.

22. GENERAL

- 22.1 This Memorandum constitutes the whole and entire agreement between the parties and any warranty, representation, guarantee or other term or condition of any nature not contained or recorded in this Memorandum is of no force or effect.
- 22.2 No provision of this Memorandum is in any way modified, discharged or prejudiced by reason of any investigation made, or information acquired, by or on behalf of either Club respectively, whether prior to or after the date of this Memorandum.
- 22.3 The rights, powers, remedies and privileges provided in this Memorandum are cumulative, and are not exhaustive of any other rights, powers, remedies and privileges provided by law, except as may be expressly stated otherwise in this Memorandum.

- 22.4 If any provision of this Memorandum is invalid and not enforceable in accordance with its terms, other provisions which are self-sustaining and capable of enforcement continue to be valid and enforceable in accordance with their terms.
- 22.5 Neither party may assign this Memorandum or any benefit under it without the prior written consent of the other which it may refuse in its absolute discretion.
- 22.6 Each party must do, sign and deliver all acts and documents reasonably required of it by notice from the other to effectively carry out and give full effect to this Memorandum.
- 22.7 This Memorandum is governed by and is to be construed in accordance with the law of New South Wales.

23. **TERMINATION**

- 23.1 Ingleburn RSL Club may terminate this Memorandum at any time, without penalty, by giving written notice to Ingleburn Bowling Club if:
- (a) the due diligence review undertaken by it on Ingleburn Bowling Club (as referred to in clause 2.5) is not satisfactory to the Board of Ingleburn RSL Club. The Board of Ingleburn RSL Club can waive this requirement at any time.
 - (b) Ingleburn Bowling Club breaches any warranty contained in clause 15.1.

23.2 If:

- (a) the members of Ingleburn Bowling Club have not passed the resolution referred to in clause 13.1 within nine (9) months of the date of this Memorandum; or
- (b) the members of Ingleburn RSL Club have not passed the resolutions referred to in clauses 13.3,13.5 and 13.6 within nine (9) months of the members of Ingleburn Bowling Club passing the resolution referred to in clause 13.1,

then either party by giving written notice to the other may, without penalty or liability to the other, terminate this Memorandum.

- 23.3 Notwithstanding anything contained in this Memorandum, if Completion of the Amalgamation has not occurred within eighteen (18) months of the date of this Memorandum (or such later date agreed by the parties), then either party by giving written notice to the other may, without penalty, terminate this Memorandum.
- 23.4 Any delay or forbearance in giving or withdrawing a notice pursuant to this clause 23 by a party shall not prejudice its rights to subsequently terminate this Memorandum pursuant to this clause 23.
- 23.5 If this Memorandum is terminated in accordance with this clause 23 the Amalgamation terminates.

24. **NOTICES**

- 24.1 A notice, approval, consent or other communication to a person relating to this Memorandum must be in writing and executed by duly authorised persons.

24.2 If the notice is to Ingleburn RSL Club then it must be addressed as follows:

- (a) **Name:** Ingleburn RSL Sub Branch Club Limited
- (b) **Attention:** Glenn Cushion (CEO)
- (c) **Address:** 70 Chester Road, Ingleburn New South Wales 2565
- (d) **Email:** glenn@ingleburnrsl.com.au

24.3 If the notice is to Ingleburn Bowling Club then it must be addressed as follows:

- (a) **Name:** Ingleburn Bowling & Recreation Club Co-Op Limited
- (b) **Attention:** Anton Dworzak (Acting CEO)
- (c) **Address:** 8 Memorial Avenue Ingleburn New South Wales 2565
- (d) **Email:** info@ingleburnbowlingclub.com.au

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

- (a) if the notice is hand delivered, upon delivery to the receiving party; or
- (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, two (2) business days after the registration of the notice of posting.

25. PROCESS FOR THE VARIATION OF THIS MEMORANDUM

25.1 No variation or waiver of any provision of this Memorandum is of any force or effect unless it is confirmed in writing and signed by both Parties. The variation or waiver is effective only to the extent for which it is made or given.

26. WAIVER AND THE EXISTENCE OF A POWER OR A RIGHT

26.1 No failure, delay, relaxation or indulgence on the part of either Party in exercising any power or right conferred on that Party by this Memorandum operates as a waiver of that power or right. No single or partial exercise of any such power or right will preclude any other or future exercise of it, or the exercise of any other power or right under this Memorandum.

27. NOTES

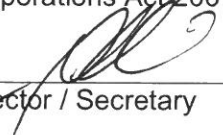
27.1 This Memorandum is to be:

- (a) made available to the ordinary members of Ingleburn Bowling Club and Ingleburn RSL Club at least 21 days before any meeting of the members of each club for the purpose of voting on whether to approve the proposed amalgamation.
- (b) made available for inspection on the premises of each club and on the website of each club for at least 21 days before any meeting as referred to in

paragraph (a) of these Notes is held.

- (c) lodged with any application under section 60 of the Liquor Act 2007 to transfer the club licence held by Ingleburn Bowling Club to Ingleburn RSL Club.

Executed by **INGLEBURN RSL SUB-BRANCH CLUB LIMITED**)
pursuant to Section 127 of the)
Corporations Act 2001




Director / Secretary



Name of Director/Secretary




Director



Name of Director

Executed by **INGLEBURN BOWLING & RECREATION CLUB CO-OP LTD**)
pursuant to Section 49 of Cooperatives)
(Adoption of National Law) Act 2012



Director / Secretary



Name of Director/Secretary



Director / Secretary



Name of Director/Secretary