

# Constitution

VAC/GMHC Ltd

ACN: 662 163 484

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## **MOORES**

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## Table of contents

<b>1.</b>	<b>Preamble .....</b>	<b>1</b>
<b>2.</b>	<b>Name.....</b>	<b>1</b>
<b>3.</b>	<b>Principal Purpose and Powers.....</b>	<b>1</b>
<b>4.</b>	<b>Not-For-Profit.....</b>	<b>2</b>
<b>5.</b>	<b>Membership .....</b>	<b>2</b>
5.1	General.....	2
5.2	Eligibility .....	2
5.3	Application.....	2
5.4	Admission .....	2
5.5	Entry Fee and Annual Subscription Fee.....	3
5.6	Register.....	3
5.7	Ceasing to be a Member.....	3
5.8	Discipline of Members .....	4
5.9	Liability of Members .....	5
<b>6.</b>	<b>General Meetings .....</b>	<b>5</b>
6.1	Convening General Meetings .....	5
6.2	Changes to General Meeting arrangements .....	5
6.3	Entitlement to receive notice .....	6
6.4	Notice of General Meetings.....	6
6.5	Timing of notice .....	6
6.6	Annual General Meeting.....	6
6.7	Chairperson of General Meetings .....	7
6.8	Quorum for General Meetings .....	7
6.9	Adjournment of General Meetings .....	7
6.10	Auditor's Rights .....	7
<b>7.</b>	<b>Voting at General Meetings .....</b>	<b>8</b>
7.1	Voting rights .....	8
7.2	Method of Voting.....	8
7.3	Decisions of the Members .....	8
7.4	Seconding.....	8
7.5	Proxies .....	8
7.6	Use of virtual meeting technology in General Meetings.....	9
<b>8.</b>	<b>Public Meetings .....</b>	<b>9</b>
<b>9.</b>	<b>Dispute Resolution.....</b>	<b>10</b>

<b>10.</b>	<b>Appointment and Removal of Directors.....</b>	<b>10</b>
10.1	Number and composition of Directors .....	10
10.2	Eligibility .....	11
10.3	Appointment and election of Directors.....	11
10.4	Appointment to fill a casual vacancy .....	12
10.5	Term of office .....	12
10.6	Ceasing to be a Director.....	12
10.7	Insufficient Directors .....	13
10.8	Defects in appointment of Directors .....	13
<b>11.</b>	<b>Board Decision Making.....</b>	<b>13</b>
11.1	Frequency of Board meetings .....	13
11.2	Convening Board meetings .....	13
11.3	Notice of Board meetings .....	13
11.4	Quorum for Board meetings .....	13
11.5	Use of virtual meeting technology in Board meetings.....	13
11.6	Chairperson of Board meetings .....	13
11.7	Voting at Board meetings .....	14
11.8	Resolutions without meetings.....	14
<b>12.</b>	<b>Directors' Powers and Duties .....</b>	<b>14</b>
12.1	Powers of the Board .....	14
12.2	Duties of Directors .....	14
12.3	Establishment of committees .....	14
12.4	By-laws.....	14
<b>13.</b>	<b>Directors' Interests.....</b>	<b>14</b>
13.1	Conflicts of interest .....	14
13.2	Permissible conduct.....	15
<b>14.</b>	<b>Office Bearers, Executive Officer and Returning Officer .....</b>	<b>15</b>
14.1	Appointment of Office Bearers.....	15
14.2	Secretary.....	16
14.3	Treasurer.....	16
14.4	Returning Officer.....	16
<b>15.</b>	<b>Indemnities and Insurance .....</b>	<b>16</b>
<b>16.</b>	<b>Administration .....</b>	<b>16</b>
16.1	Minutes and records .....	16
16.2	Members' access to Company records .....	17
16.3	Common seal.....	17
16.4	Execution of documents .....	17
<b>17.</b>	<b>Records, Accounting and Audit.....</b>	<b>17</b>

17.1	Accounts and other records of the Company.....	17
17.2	Audit.....	17
17.3	Financial year.....	17
<b>18.</b>	<b>Amending This Constitution .....</b>	<b>17</b>
<b>19.</b>	<b>Notices .....</b>	<b>17</b>
<b>20.</b>	<b>Winding Up or Revocation of Endorsement.....</b>	<b>18</b>
20.1	Contribution of a Member on winding up.....	18
20.2	Distribution of assets on winding up or revocation of endorsement.....	18
<b>21.</b>	<b>Interpretation .....</b>	<b>18</b>
21.1	Definitions.....	18
21.2	Interpretation .....	20
21.3	Exclusion of replaceable rules .....	20
<b>22.</b>	<b>Transitional Provisions.....</b>	<b>20</b>
22.1	Members .....	20
22.2	Directors .....	20

## 1. Preamble

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Our organisation is unique. It was born out of one of the worst crises to hit our community. From the very beginning our motivation has been passion, justice, courage and optimism. Our strength lies in volunteerism, activism and community control.

In 1983, 300 concerned community members attended a Melbourne meeting organized by the Alternative Lifestyle Organisation (**ALSO**). On 12 July 1983 – the Victorian AIDS Action Committee formed at Laird Hotel, soon to become the Victorian AIDS Council Inc (**VAC**). Australia's first HIV organisation, VAC cared for people living with HIV/AIDS and mounted HIV Safe Sex community campaigns.

In 1985, the Victorian Government declined to fund a gay organisation in spite of the fact that gay men were carrying the majority of the burden of HIV. The government agreed to fund a gay community health centre and the Gay Men's Community Health Centre was established, later known as the Gay Men's Health Centre Inc (**GMHC**). Melbourne's first specialist gay medical clinic was opened and health education, including HIV, substance use and domestic violence were considered to be high priorities.

VAC and GMHC continued as two separate entities through the mid-eighties whilst the community debated about the need for role clarity and addressing inconsistency, overlap and direction. This led to a strategic integration of the two organisations into VAC/GMHC in 1988. This decision divided the community, with some volunteers leaving both organisations, but a decision was made to stay together until the AIDS epidemic was over and then GMHC would pursue broader needs of our communities. Close to 40 years later, the now Thorne Harbour Health has honoured that commitment of addressing a wide range of gay men's non-HIV health issues, and consistent with today's broader communities' expectations expanded to include Lesbian, Bisexual, Trans and Gender Diverse, Intersex and Queer health needs whilst maintaining a steadfast resolve in addressing HIV and continuing as a community-controlled health organisation.

Over the course of four decades we have fought bigotry, stigma and discrimination with the ultimate objective of making life better for our diverse communities. We remember and honour those we have lost and continue to build on their legacy for the betterment of our sex, sexuality and gender diverse communities. By community, for community and accountable to community. Always.

## 2. Name

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The name of the Company is VAC/GMHC Ltd (the **Company**).

## 3. Principal Purpose and Powers

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- (a) The Company is a not-for-profit public company limited by guarantee which is established to be, and to continue as, a Charity.
- (b) The Principal Purpose for which the Company is established is to:
  - (i) promote the prevention or control of HIV as its main activity, including by:
    - (A) designing and delivering programs and health services for all persons living with, affected by, or at risk of HIV, including affected communities such as lesbian, gay, bisexual, transgender, intersex, queer and other sexuality, sex and gender diverse people (collectively, **LGBTIQ+**), people who inject drugs, sex workers and Aboriginal and Torres Strait Islanders;
    - (B) providing information, education and training to health professionals, service providers, businesses, the LGBTIQ+ community, the general public and persons living with, affected by, or at risk of HIV;
    - (C) undertaking, participating in, or commissioning research; and
    - (D) undertaking advocacy work on behalf of key affected populations in all matters relating to the prevention and transmission of HIV and related health matters.
  - (ii) collaborate with other organisations and the public to support, develop and deliver innovative programs and initiatives to promote community awareness of HIV/AIDS and to support the health and wellbeing of persons living with, affected by, or at risk of HIV in a manner consistent with the principles and practices of self-empowerment and

- community development;
  - (iii) promote the health and wellbeing of people living with HIV and to design and deliver programs in a manner that encourages and welcomes active participation of such persons in the work of the organisation;
  - (iv) promote the health and wellbeing of LGBTIQ+ persons and to design and deliver programs in a manner that encourages and welcomes active participation of such persons in the work of the organisation;
  - (v) promote, defend, preserve and extend the rights and liberties of the LGBTIQ+ community and persons living with, or affected by HIV in the context of social and political issues impacting on the health and well-being of community members;
  - (vi) hold assets and real property on trust for Thorne Harbour Health Ltd; and
  - (vii) do such other things as are incidental or conducive to the attainment of the Principal Purpose.
- (c) Solely to carry out the Principal Purpose, the Company may exercise all of the powers of an individual and a company under the Act

#### **4. Not-For-Profit**

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- (a) The income and property of the Company must be applied solely towards the Principal Purpose.
- (b) No part of the income or property of the Company may be paid or transferred directly or indirectly to Members or Directors by way of dividend, bonus or other profit distribution in their capacity as Members or Directors.
- (c) Clause 4(b) does not stop the Company from making a payment:
  - (i) to a Member for goods or services provided or expenses properly incurred at fair and reasonable rates or rates more favourable to the Company;
  - (ii) to a Member in carrying out the Company's Principal Purpose;
  - (iii) of premiums for insurance indemnifying Directors to the extent allowed for by law and this Constitution; or
  - (iv) with the prior approval of the Board, to a Director:
    - (A) for work they do for the Company, other than as a Director, if the amount is no more than a reasonable fee for the work done; or
    - (B) as reimbursement for out-of-pocket expenses properly incurred in performing a duty as Director.

#### **5. Membership**

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##### **5.1 General**

The minimum number of Members is one.

##### **5.2 Eligibility**

To be eligible for Membership, a person must be committed to the Principal Purpose of the Company.

##### **5.3 Application**

- (a) An application for Membership must be made in writing in the form and manner (if any) approved by the Board.
- (b) An applicant must pay the Entry Fee (if any) and the Annual Subscription Fee determined by the Board.
- (c) An applicant must agree in writing to contribute the Guaranteed Amount in accordance with clause 20.1.

##### **5.4 Admission**

- (a) The Board must consider and resolve whether to accept or reject each application for Membership within a reasonable time.

- (b) The Board does not have to give reasons for accepting or rejecting any application.
- (c) If the Board accepts an application, the Secretary must, as soon as possible:
  - (i) enter the applicant's details into the Register, subject to the payment of the Entry Fee (if any) and the Annual Subscription Fee; and
  - (ii) notify the Member in writing of the date their membership commenced.
- (d) If the Board rejects an application, the Secretary must notify the applicant in writing of the rejection and refund the payment of any fees in connection with the application as soon as possible.
- (e) A person becomes a Member when their name is entered into the Register.

#### **5.5 Entry Fee and Annual Subscription Fee**

- (a) The Board may determine the amount of the Entry Fee and Annual Subscription Fee from time to time.
- (b) The Board may determine that any new Member who joins after the start of a Financial Year must, for that Financial Year, pay a Subscription Fee equal to:
  - (i) the full Annual Subscription Fee;
  - (ii) a pro rata Subscription Fee based on the remaining part of the Financial Year; or
  - (iii) a fixed amount determined from time to time by the Board.
- (c) The Annual Subscription Fee is due and payable in advance on 1 July each year.
- (d) The rights of a Member (including the right to vote) who has not paid the Annual Subscription Fee by the due date are suspended until it is paid.
- (e) If a Member does not pay their Annual Membership Fee by 31 December (or six months from the date that the Annual Subscription Fee is due and payable) and within one month of receiving a notice of payment from the Company, the Member is deemed to have resigned their Membership.

#### **5.6 Register**

- (a) The Secretary must maintain the Register.
- (b) The Register must contain:
  - (i) the name, address, email address and date of admission to Membership – for each current Member; and
  - (ii) the name, date of admission to Membership and date on which a person stopped being a Member – for each person who ceased to be Member in the past seven years.
- (c) The Secretary may keep former Member entries separately from current Member entries.
- (d) Notices may be served on a Member at their address in the Register.
- (e) The Company must give Members access to the Register in accordance with the Act.
- (f) Information that is accessed from the Register must only be used in a manner relevant to the interests or rights of Members.

#### **5.7 Ceasing to be a Member**

- (a) A person ceases to be a Member on:
  - (i) resignation;
  - (ii) expulsion in accordance with clause 5.8;
  - (iii) deemed resignation in accordance with clause 5.5(e);
  - (iv) the Board deeming, in their sole discretion, the Member to be an untraceable Member because the person has not responded to correspondence within 60 days; or
  - (v) death.
- (b) A Member whose Membership is terminated will be liable for all moneys due by that Member to the Company in addition to any sum not exceeding the Guaranteed Amount for which the Member is liable under this Constitution.

- (c) There will be no liability for any loss or injury suffered by a Member as a result of any decision made in good faith under this clause.
- (d) Any person who for any reason ceases to be a Member must not represent themselves in any manner as being a Member.

## 5.8 Discipline of Members

- (a) The Board may expel a Member from the Company by resolution if the Board is of the opinion that the Member has engaged in conduct that is prejudicial to the interests of the Company or acted in breach of this Constitution.
- (b) A resolution of the Board to expel a Member under clause 5.8(a) does not take effect unless and until the:
  - (i) decision is confirmed by an Unbiased Decision Maker under clause 5.8(d); or
  - (ii) resolution is confirmed at a General Meeting under clauses 5.8(e) to 5.8(g).
- (c) After the Board passes a resolution under clause 5.8(a), the Secretary must, as soon as possible, ensure a notice in writing ("**Expulsion Notice**") is served on the Member:
  - (i) setting out the resolution of the Board and the grounds on which it is based;
  - (ii) stating the date, place and time of the hearing before an Unbiased Decision Maker, to be held no earlier than 14 days and no later than 28 days after the date of service of the Expulsion Notice;
  - (iii) informing the Member that the Member may elect to:
    - (A) attend the hearing before the Unbiased Decision Maker and address it; or
    - (B) lodge with the Secretary, before the hearing before the Unbiased Decision Maker, a notice ("**Appeal Notice**") that the Member prefers to appeal to a General Meeting against the resolution; and
  - (iv) informing the Member that irrespective of the election under Clause 5.8(c)(iii)(A), the Member can provide a written notice to the Unbiased Decision Maker or General Meeting (as the case may be), setting out any reasons why the Member should not be expelled.
- (d) If the Member has not lodged an Appeal Notice in accordance with Clause 5.8(c)(iii)(B) then the resolution to expel the Member must be considered by an Unbiased Decision Maker appointed by the Board. At the hearing, the Unbiased Decision Maker must:
  - (i) give the Member, if present, an opportunity to be heard;
  - (ii) give due consideration to any written statement submitted by the Member;
  - (iii) give any Director or representative appointed by the Board, if present, an opportunity to be heard;
  - (iv) give due consideration to the grounds for expulsion set out in the Expulsion Notice; and
  - (v) confirm in writing to the Board and the Member whether the Board has grounds to expel the Member under clause 5.8(a).
- (e) Upon receiving an Appeal Notice:
  - (i) the Secretary must promptly notify the Board of the appeal; and
  - (ii) within 7 days of receiving the notification, the Board must give notice to the Members of a General Meeting in accordance with clauses 6.4 and 6.5.
- (f) At a General Meeting convened under clause 5.8(e):
  - (i) no business other than the question of the appeal shall be transacted;
  - (ii) no proxy shall be bound by any direction to vote for confirmation or revocation of the resolution;
  - (iii) the Board shall place before the meeting its reasons for passing the resolution;
  - (iv) any written statement provided by the Member must be read out to the meeting;
  - (v) the Member shall be given the opportunity to be heard; and



- (vi) the Members entitled to do so shall vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- (g) If at the General Meeting:
  - (i) two thirds or more of the Members entitled to vote, vote in favour of the confirmation of the resolution, the resolution is confirmed; and
  - (ii) in any other case, the resolution is revoked.
- (h) Any Member expelled from the Company may at any time apply to the Board to be readmitted as a Member.

### 5.9 Liability of Members

The liability of a Member is limited to the Guaranteed Amount of \$10.

## 6. General Meetings

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### 6.1 Convening General Meetings

- (a) The Board may call a General Meeting.
- (b) The Board must convene a General Meeting:
  - (i) if the Company receives a written request from Members with at least 10% of the votes that may be cast at a General Meeting to call a General Meeting (a **Meeting Request**)
  - (ii) if required by clause 5.8; and
  - (iii) if more than seventeen months would have lapsed between General Meetings.
- (c) Upon receipt of a Meeting Request, the Board must:
  - (i) give all Members notice of a General Meeting within 21 days of the Meeting Request; and
  - (ii) hold the General Meeting within 3 months of the Meeting Request.
- (d) The Meeting Request:
  - (i) must state any resolution to be proposed at the meeting;
  - (ii) must be signed by all of the Members making the Meeting Request;
  - (iii) may consist of several documents identical in form or otherwise each seeking the transaction of business of a similar nature and each signed by one or more of the Members making the Meeting Request; and
  - (iv) must be addressed to the Secretary.
- (e) If the Board does not call the meeting within one month of a Meeting Request, any of the Members who made the request may call a General Meeting.
- (f) To call and hold a meeting under clause 6.1(e) the Members must:
  - (i) as far as possible, follow the General Meeting procedures in this Constitution; and
  - (ii) hold the General Meeting within three months after making the Meeting Request.
- (g) The Company must pay the Members who made the Meeting Request any reasonable expenses they incur because the Board did not call and hold the meeting.
- (h) The Board must ensure that any General Meeting is held at a reasonable time and, if any Members are entitled to physically attend, at a reasonable location or locations.

### 6.2 Changes to General Meeting arrangements

- (a) The Board may change the venue for, postpone or cancel a General Meeting called under clause 6.1(a).
- (b) If a change is made under clause 6.2(a):
  - (i) notice of the change must be given to all persons entitled to receive notices of a General Meeting under this Constitution;
  - (ii) a notice of postponement must specify the date, time and place to which the General Meeting has been postponed; and

(iii) clause 6.5 does not apply to the notice.

- (c) The only business that may be transacted at a General Meeting which is postponed is the business specified in the original notice convening the meeting.

### **6.3 Entitlement to receive notice**

Notice of a General Meeting:

- (a) must be given to every Member and every Director; and  
 (b) may be given to any auditor appointed for the Company and in office at the time.

### **6.4 Notice of General Meetings**

A notice of General Meeting must:

- (a) be in writing;  
 (b) state the place, day and time of the meeting;  
 (c) if virtual meeting technology is to be used, provide sufficient information to allow the Members to participate by means of the technology;  
 (d) state the general nature of the business to be transacted at the meeting;  
 (e) state the wording of any special resolution to be considered (and state that it is proposed as a special resolution);  
 (f) include the information under clause 7.5;  
 (g) include any proxy form approved by the Board; and  
 (h) state that any proxy form must be given to the Secretary at least 48 hours before the meeting, by delivery to the Company at its registered address or at another address (including an electronic address) specified in the notice of the meeting.

### **6.5 Timing of notice**

At least 21 days' notice must be given of a General Meeting:

- (a) to consider a resolution under clause 5.8;  
 (b) to consider a resolution to remove an auditor or a Director;  
 (c) in the case of an Annual General Meeting, unless all the Members entitled to attend and vote agree beforehand; and  
 (d) in the case of any other General Meeting, unless Members with at least 95% of the votes that may be cast at the meeting agree beforehand.

### **6.6 Annual General Meeting**

- (a) The Board must hold an Annual General Meeting at least once in every calendar year.  
 (b) The business of an Annual General Meeting may include any of the following (even if not stated in the notice of meeting):  
 (i) confirmation of the minutes of the last preceding Annual General Meeting and of any General Meetings held since that meeting;  
 (ii) a Board report on the previous financial year and an audited report setting out the following information:  
 (A) the income and expenditure of the Company during its last financial year;  
 (B) the assets and liabilities of the Company at the end of its last financial year;  
 (C) the mortgages, charges and securities of any description affecting any of the property of the Company at the end of its last financial year; and  
 (D) in respect of any trust of which the Company was a trustee during a period, being the whole or any part of the Company's last financial year: the income and expenditure of the trust during that period, the assets and liabilities of the trust at the end of that period and the mortgages, charges and securities of any description affecting any of the property of the trust at the end of that period.  
 (iii) the annual financial statements and any auditor's report;

- (iv) the election of Directors; and
  - (v) the appointment and remuneration of any auditor.
- (c) At an Annual General Meeting, the chairperson must allow a reasonable opportunity for the Members:
- (i) to ask questions or comment on the management of the Company; or
  - (ii) if an auditor or an auditor's representative is present in their capacity as appointed auditor of the Company, to ask the auditor or the auditor's representative questions relevant to the conduct of the audit and the content of the auditor's report.

#### **6.7 Chairperson of General Meetings**

- (a) The President will preside as chairperson at every General Meeting.
- (b) If the President is not present within 15 minutes of the commencement time or the President is unwilling to act as chairperson for all or part of the meeting, the following may preside as chairperson (in order of precedence):
  - (i) the Vice-President (if any); or
  - (ii) a Member chosen by a majority of the Members present.

#### **6.8 Quorum for General Meetings**

- (a) No business may be transacted at a General Meeting (other than electing a chairperson or adjourning the meeting), unless a quorum is present at the time the business is dealt with.
- (b) A quorum for a General Meeting is five Members or 5% of the total number of Members entitled to vote whichever is the greater (being present in person or by proxy) for the whole meeting.
- (c) If a quorum is not present within 30 minutes of the commencement time, then:
  - (i) if the meeting was called by, or at the request of Members, the meeting will dissolve;
  - (ii) otherwise:
    - (A) the meeting stands adjourned to the day, time and place, determined by the Board or (if no determination is made by the Board), to the same day, time and place in the following week; and
    - (B) if at the resumption of the meeting a quorum is not present within 30 minutes of the commencement time, the meeting will dissolve.
- (d) Each proxy present must be counted for the purpose of determining a quorum, provided that:
  - (i) only one proxy may be counted for each Member; and
  - (ii) no individual may be counted more than once.
- (e) A suspended Member is not counted for the purpose of determining a quorum.

#### **6.9 Adjournment of General Meetings**

- (a) The chairperson may (and must if directed by a majority of the Members present and entitled to vote) adjourn the meeting or any business, motion, or discussion being considered or remaining to be considered.
- (b) Only unfinished business may be transacted at a General Meeting resumed after an adjournment.
- (c) It is not necessary to give any notice of an adjournment, or of the business to be transacted at any adjourned meeting, unless a meeting is adjourned for one month or more.
- (d) A meeting adjourned under this clause is adjourned to the day, time and place determined by the Board or (if no determination is made by the Board), to the same day, time and place in the following week.

#### **6.10 Auditor's Rights**

- (a) Any auditor appointed by the Company and in office at the time of a General Meeting is entitled to:
  - (i) attend any General Meeting; and

- (ii) be heard at the General Meeting on any part of the business of the meeting that concerns the auditor in their capacity as auditor.
- (b) The auditor may authorise a person in writing as their representative for the purpose of attending and speaking at any General Meeting

## **7. Voting at General Meetings**

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### **7.1 Voting rights**

- (a) Each Member has one vote (provided they are not suspended by virtue of clause 5.5(d)).
- (b) On a vote conducted at a General Meeting:
  - (i) on a show of hands or voices, each person present who is a Member, or proxy for a Member has one vote; and
  - (ii) by poll, each person present who is a Member has one vote and each person present as a proxy has one vote for each Member they represent.

### **7.2 Method of Voting**

- (a) A Member may cast their vote personally or by proxy.
- (b) Voting will occur by show of hands or voices or such other method as the chairperson determines, unless:
  - (i) a poll (including any secret ballot) is demanded and not withdrawn; or
  - (ii) virtual meeting technology is used, in which case voting will occur by poll.
- (c) A poll can be demanded by three Members (or their proxies) at any time prior to a vote, or immediately after the declaration of a result of a vote conducted by means other than a poll.
- (d) A poll demanded on the election of the chairperson or on a question of adjournment must be taken immediately.
- (e) Subject to clause 7.2(f), a poll must be taken in the manner directed by the chairperson.
- (f) A poll must be conducted by secret ballot if:
  - (i) it involves a resolution to expel a Member (clause 5.8) or a resolution to remove a Director (clause 10.6(a)(iii)) or any other provision in the Constitution in which a secret ballot is required; or
  - (ii) a secret ballot is demanded by at least ten Members (or their proxies).

### **7.3 Decisions of the Members**

- (a) Questions arising for determination (other than a Special Resolution) will be decided by a majority of votes cast (unless otherwise provided in this Constitution).
- (b) The chairperson has a deliberative vote. If the votes cast on a motion are equal, the chairperson will also have a casting vote.
- (c) A declaration by the chairperson that a resolution has been carried or lost on a show of hands or voices is conclusive evidence of the fact (unless a poll is demanded).
- (d) An objection to the right of a person to vote may only be raised at the meeting at which the vote objected to is given or tendered. Any objection must be referred to the chairperson, whose decision is final. A vote not disallowed pursuant to such an objection is valid for all purposes.

### **7.4 Seconding**

It is not necessary for a motion to be seconded in order to be put to a vote.

### **7.5 Proxies**

- (a) The Board must provide for receipt of proxy forms by email (or any other appropriate electronic communication method determined by the Board).
- (b) A Member may appoint a proxy to act on their behalf at one or more General Meetings (including any adjournment of that meeting) by written notice submitted to the Secretary at least 48 hours prior to the meeting.
- (c) A proxy may exercise any and all of the rights of the Member who appointed them, subject to the following:

- (i) any directions or limitations specified in the proxy appointment; and
  - (ii) a proxy cannot speak and vote for a Member while the Member is present at a meeting.
- (d) A proxy must be:
- (i) in the case of a directed proxy (where the appointment specifies how the proxy must vote) – the Secretary or a Member; or
  - (ii) in the case of an undirected proxy – a Member.
- (e) The appointment must be written and signed by the appointing Member in a form substantially similar to that in Schedule 1.
- (f) A proxy vote is valid even if the appointing Member revokes the appointment, or ceases to be a Member, provided that the chairperson was not aware of the revocation or cessation of membership at the time of the meeting.
- (g) If:
- (i) an appointed proxy is not the chairperson;
  - (ii) the appointment specifies the way that the proxy is to vote on a particular resolution at a General Meeting;
  - (iii) at the General Meeting, a poll is demanded for voting on a resolution; and
  - (iv) the proxy either does not vote on the resolution or is not recorded as attending the General Meeting,
- then the chairperson is taken, before voting on the resolution closes, to have been appointed as the proxy for the purpose of voting on the resolution at that General Meeting.
- (h) If a General Meeting is postponed to a later date, an appointment of a proxy is valid for the postponed meeting unless the appointing Member:
- (i) revokes the appointment by written notice to the Secretary at least 24 hours prior to the later meeting date; or
  - (ii) ceases to be entitled to vote prior to the later meeting date.

#### **7.6 Use of virtual meeting technology in General Meetings**

- (a) The Company may hold a General Meeting at any two or more locations using any virtual meeting technology that gives the Members as a whole a reasonable opportunity to participate including a reasonable opportunity to exercise a right to speak.
- (b) A person participating through the use of virtual meeting technology will be deemed to be present at the meeting in person.
- (c) A person participating through the use of virtual meeting technology:
  - (i) must be given the opportunity to participate in a vote in real time; and
  - (ii) may, in the sole discretion of the Board, be given the opportunity to record a vote in advance of the meeting, in which case the voter may elect to vote in real time or in advance.
- (d) A document that is required or permitted to be tabled at a meeting using virtual meeting technology is taken to have been tabled if it is:
  - (i) given to the persons entitled to attend the meeting (whether physically or using virtual meeting technology) before the meeting; or
  - (ii) made accessible to the persons entitled to attend the meeting (whether physically or using virtual meeting technology) during the meeting.

## **8. Public Meetings**

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- (a) In addition to the General Meetings of its Members, the Company may also convene from time to time public meetings of the LGBTIQ+ community.
- (b) Notice of the date, time and place of these public meetings shall be given in publications circulating in the LGBTIQ+ community.
- (c) The Company shall record, publicise and give due consideration to any resolution approved

by a Public Meeting convened under this clause 8.

## 9. Dispute Resolution

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- (a) The parties to a dispute under this Constitution, being a Member or Director and:
- (i) one or more Members;
  - (ii) one or more Directors; or
  - (iii) the Company;
- must attempt to resolve the matter between themselves within 14 days of being made aware of the dispute.
- (b) The Company, a Member or a Director must not start a dispute resolution procedure in relation to a matter which is the subject of a disciplinary procedure under clause 5.8 until the disciplinary procedure is completed.
- (c) If the parties cannot resolve the dispute within 14 days, they must:
- (i) notify the Company;
  - (ii) agree or request that a mediator be appointed; and
  - (iii) attempt in good faith to settle the dispute by mediation.
- (d) The mediator must:
- (i) be a person chosen by agreement between the parties or;
  - (ii) in the absence of agreement:
    - (A) for disputes between Members, an unbiased person chosen by the Board; and
    - (B) for other disputes (including a dispute between a Member and the Company), an Unbiased Decision Maker.
- (e) A mediator chosen by the Board pursuant to clause 9(d)(ii)(A):
- (i) must be a professionally accredited mediator;
  - (ii) must not be a current or former Member;
  - (iii) must not have a personal interest in the dispute; and
  - (iv) must not be biased towards or against anyone involved in the dispute.
- (f) When conducting the mediation, the mediator must:
- (i) allow those involved a reasonable chance to be heard;
  - (ii) allow all parties to review any written statement submitted by any party;
  - (iii) ensure that natural justice is accorded to the parties to the dispute; and
  - (iv) subject to the Act, act in accordance with any By-Laws which apply to a dispute.
- (g) The mediator must not determine the dispute.
- (h) The parties to the dispute must, in good faith, attempt to settle the dispute.
- (i) A Member or a Director must not commence a formal legal proceeding (except for interlocutory relief) in relation to a dispute under this Constitution unless and until they have complied with this dispute resolution procedure.

## 10. Appointment and Removal of Directors

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### 10.1 Number and composition of Directors

- (a) The Company must have at least seven Directors and no more than ten Directors, unless otherwise determined by resolution of the Members
- (b) The Board will comprise:
- (i) seven **Elected Directors** appointed by way of election by the Members pursuant to clause 10.3(a); and
  - (ii) up to three **Appointed Directors** appointed by the Board pursuant to clause 10.3(b) to bring any additional skills, expertise and experience that the Board may require

from time to time.

- (iii) The Board must use all reasonable efforts to ensure that the Board comprises of at least two individuals (who may be Elected Directors or Appointed Directors) living with the Human Immunodeficiency Virus.

## 10.2 Eligibility

- (a) Any natural person committed to the Principal Purpose is eligible to be a Director provided:
  - (i) the person is a Member;
  - (ii) the person returns a satisfactory Police Check;
  - (iii) the person has consented in writing to be a Director;
  - (iv) the person has suitable qualifications, skills and experience to discharge the functions of a Director, as determined by the Board from time to time;
  - (v) the person meets the requirements set out in a Victorian Common Funding Agreement or any relevant legislation governing the Company;
  - (vi) the person meets any requirements set by the Board with respect to their State or Territory of residence; and
  - (vii) the person is not ineligible to be a Director under:
    - (A) the Act; or
    - (B) the ACNC Legislation.
- (b) Rule 10.2(a)(vii)(B) will not apply to disqualify a person if an exemption is obtained from the ACNC Commissioner.
- (c) Current employees of the Company and Thorne Harbour Health Ltd are ineligible to be Directors.

## 10.3 Appointment and election of Directors

### (a) Elected Directors

- (i) At least two months prior to each Annual General Meeting, the Returning Officer must issue a notice to Members stating:
  - (A) the number of Elected Director vacancies that will arise on the Board at the Annual General Meeting; and
  - (B) that Members may submit nominations of candidates for election as Elected Directors.
- (ii) Nominations of candidates for election as Elected Directors:
  - (A) must be in writing, signed by two Members and accompanied by the written consent of the candidate;
  - (B) must be delivered to the Returning Officer at least 25 days before the date of the Annual General Meeting; and
  - (C) must comply with any relevant policies established by the Board from time to time.
- (iii) If the number of nominations is equal to the number of Elected Director vacancies to be filled, the persons nominated shall be deemed to be elected.
- (iv) If the number of nominations exceeds the number of vacancies to be filled, a postal or electronic ballot shall be held. A postal or electronic ballot shall be held in the manner determined by the Board subject to the following:
  - (A) Ballot papers must be provided to Members at least 21 days before the Annual General Meeting;
  - (B) The ballot shall be conducted as a secret ballot;
  - (C) The ballot paper shall indicate the: name of each candidate with a square opposite their name; number of vacancies to be filled in the election and method of voting;
  - (D) A candidate may provide information, not exceeding 250 words in length, as to

the candidate's community service, qualifications and skills and any special interests and such information shall be sent by the Returning Officer to Members with the ballot papers;

- (E) The Returning Officer, or a person nominated by the Returning Officer, shall draw by lot the order in which the names of the candidates for election appear on the ballot paper;
- (F) A candidate or a nominee of their choice may be present to observe the draw of the lot used to determine the order in which the names of candidates appear on the ballot paper;
- (G) Each Member may number any number of boxes in preferential order;
- (H) The method of counting the votes and ascertaining the result shall be the quota preferential (proportional representation) system;
- (I) A candidate may appoint one scrutineer to observe the counting of the votes;
- (J) Only completed ballot papers received by the Returning Officer 48 hours before the Annual General Meeting shall be counted; and
- (K) The results of the election shall be announced at the Annual General Meeting.

**(b) Appointed Directors**

The Board may appoint a person to be an Appointed Director by resolution at any time.

**10.4 Appointment to fill a casual vacancy**

- (a) The Board may appoint a new Director to fill a casual vacancy.
- (b) All appointments to fill a casual vacancy must meet the eligibility criteria in clause 10.2.

**10.5 Term of office**

- (a) The term of office of Director:
  - (i) is three years (unless a different period is specified in the resolution);
  - (ii) commences at the end of the General Meeting at which they are elected or the Board Meeting at which they are appointed; and
  - (iii) expires at the commencement of the Board meeting immediately following:
    - (A) the third Annual General Meeting after the Director's election or appointment; or
    - (B) the end of the period specified in the resolution.
- (b) Unless otherwise determined by ordinary resolution of Members, an Elected Director or Appointed Director is only eligible to serve a maximum of nine consecutive years (three consecutive terms).

**10.6 Ceasing to be a Director**

- (a) A person stops being a Director, and a casual vacancy is created, if they:
  - (i) resign by written notice to the Company;
  - (ii) cease to be a Member;
  - (iii) are removed by the Members by Special Resolution at a General Meeting;
  - (iv) are absent without leave of the Board, from three consecutive Board meetings;
  - (v) die, or become subject to a Court order to receive treatment or have their finances managed by another person due to being of unsound mind or having a mental illness;
  - (vi) are directly or indirectly interested in any contract or proposed contract with the Company and fail to declare the nature of the interest as required by the Act; or
  - (vii) become ineligible to be a Director under the Act or the ACNC Legislation.
- (b) At a General Meeting convened to give effect to 10.6(a)(iii):
  - (i) no proxy shall be bound by any direction to vote for or against the resolution; and
  - (ii) the Director who is being removed shall be given an opportunity to be heard or to have written representations of reasonable length read to the meeting.



**10.7 Insufficient Directors**

If the number of Directors is insufficient to constitute a quorum, the remaining Directors may, except in an emergency, act only to:

- (a) increase the number of Directors to a number sufficient to constitute a quorum; or
- (b) convene a General Meeting of the Company.

**10.8 Defects in appointment of Directors**

An act done by, or with the participation of, a person acting as a Director or member of a committee is valid even if it is later discovered that:

- (a) there was a defect in the appointment of the person; or
- (b) the person was disqualified from continuing in office, voting or taking the relevant step.

**11. Board Decision Making**

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**11.1 Frequency of Board meetings**

The Board must meet at least six times a year.

**11.2 Convening Board meetings**

The President or any three Directors may convene or ask the Secretary to convene a Board meeting.

**11.3 Notice of Board meetings**

- (a) Written notice of Board meetings must be given to every Director at least 48 hours prior to the meeting (unless the Board unanimously waives this requirement).
- (b) A notice of a Board meeting:
  - (i) must specify the place, day and time of the meeting;
  - (ii) must, if virtual meeting technology is to be used, provide sufficient information to allow the Directors to participate; and
  - (iii) does not need to specify the nature of the business to be transacted at the meeting.

**11.4 Quorum for Board meetings**

- (a) No business may be transacted at any Board meeting unless a quorum is present.
- (b) A quorum of Directors for Board meetings is five Directors.
- (c) A Director on a leave of absence approved by the Board should not be included when calculating the total number of Directors for the purposes of this clause.

**11.5 Use of virtual meeting technology in Board meetings**

- (a) The Board may hold its meetings using any virtual meeting technology that is agreed to by the Board.
- (b) The use of any virtual meeting technology must give the Director a reasonable opportunity to participate including a reasonable opportunity to exercise a right to speak.
- (c) The Board's agreement may be a standing one.
- (d) A Director participating through the use of virtual meeting technology will be deemed to be present at the meeting in person.
- (e) If, before or during the meeting, any technical difficulty results in one or more Director being unable to participate, the chairperson may adjourn the meeting until the difficulty is remedied or may, provided a quorum of Directors remains present, continue with the meeting.

**11.6 Chairperson of Board meetings**

- (a) The President will preside as chairperson at Board meetings.
- (b) If the President is not present within 15 minutes after the commencement time or is unwilling to act as chairperson for all or part of the meeting then:
  - (i) the Vice-President will be the chairperson; and
  - (ii) if the Vice-President is not present or is not willing and able to be the chairperson

during all or part of the meeting, the Directors present may elect a Director to be chairperson of the meeting or part of it.

### 11.7 Voting at Board meetings

- (a) A question arising at a Board meeting is to be decided by a majority of votes of Directors present and entitled to vote.
- (b) The chairperson has a deliberative vote. If the votes cast on a motion are equal, the chairperson will also have a casting vote.

### 11.8 Resolutions without meetings

- (a) A Board resolution may be passed without a meeting if all the Directors entitled to vote on the resolution sign a notice stating that they are in favour of the resolution.
- (b) The resolution is passed at the time when the last Director necessary to constitute unanimous consent in favour of the resolution signs.
- (c) For the purpose of this clause:
  - (i) the notice must include the wording of the resolution;
  - (ii) the notice may be distributed by any means;
  - (iii) separate copies of the notice may be signed; and
  - (iv) the resolution fails if it has not achieved unanimous consent within four business days after the notice was given.

## 12. Directors' Powers and Duties

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### 12.1 Powers of the Board

- (a) The Directors are responsible for managing the business of the Company and furthering the Principal Purpose.
- (b) The Directors may exercise all the powers of the Company that are not, by the Act or by this Constitution, required to be exercised by the Members.
- (c) The Board cannot remove a Director or auditor.
- (d) The Board may delegate any of its powers to one or more Directors, a committee, an employee or any other person.
- (e) The Board may specify terms of the delegation (including the power to further delegate) and revoke a delegation.

### 12.2 Duties of Directors

Directors must comply with any duties imposed on them by the Act and with the duties described in governance standard 5 of the ACNC Legislation.

### 12.3 Establishment of committees

- (a) The Board may establish committees.
- (b) A committee may include, or be comprised of, non-Directors.
- (c) The meetings and proceedings of committees are:
  - (i) subject to any terms of reference and/or delegation; and
  - (ii) otherwise governed as far as possible by the provisions of this Constitution which regulate the proceedings of the Board.

### 12.4 By-laws

- (a) The Board may make regulations or by-laws for the general conduct and management of the Company and the business of the Board.
- (b) The Board may revoke and alter by-laws or regulations as it sees fit.

## 13. Directors' Interests

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### 13.1 Conflicts of interest

- (a) A Director must disclose the nature and extent of any perceived or actual material conflict of interest to the other Directors (or the Members if the other Directors share that conflict).

- (b) A Director who has a material personal interest in a matter that is being considered by the Board:
- (i) must not be present while the matter is being considered at a Board meeting; or
  - (ii) vote on the matter;
- unless permitted by clause 13.1(c).
- (c) Provided the Board approves and it is permitted by law, a Director may be present or vote if:
- (i) the interest arises because the Director is a Member and the other Members have the same interest;
  - (ii) the interest relates to an insurance contract that insures, or would insure, the Director against liabilities that the Director incurs as an officer of the Company;
  - (iii) the interest relates to any payment by the Company under clause 15 in respect of an indemnity permitted under the Act or any contract relating to such an indemnity; or
  - (iv) the Australian Securities and Investments Commission makes an order allowing the Director to vote on the matter; or
  - (v) the interest relates to a contract the Company is proposing to enter into that:
    - (A) is subject to approval by the Members; and
    - (B) will not impose any obligation on the Company if it is not approved by the Members;
  - (vi) the Directors who do not have a material personal interest in the matter pass a resolution that:
    - (A) identifies the Director, the nature and extent of the Director's interest in the matter and how it relates to the affairs of the Company, and
    - (B) states that those Directors are satisfied that the interest should not stop the Director from voting or being present; or
  - (vii) the interest arises merely because the Director has a right of subrogation in relation to a guarantee or indemnity referred to in clause 15.

### 13.2 Permissible conduct

Provided a Director complies with clause 13.1 and clause 10.2 (c) they may:

- (a) hold other positions in the Company, except that of auditor;
- (b) hold any office or place of profit in any other entity promoted by the Company or in which it has an interest of any kind;
- (c) enter into a contract or arrangement with the Company;
- (d) participate in any association, institution, fund, trust or scheme for past or present employees or Directors of the Company or persons dependent on or connected with them;
- (e) act in a professional capacity (or be a Member of a firm which acts in a professional capacity) for the Company, except as auditor;
- (f) sign or participate in the execution of a document by or on behalf of the Company; and
- (g) do any of the above despite the fiduciary relationship of the Director's office:
  - (i) without any liability to account to the Company for any direct or indirect benefit accruing to the Director; and
  - (ii) without affecting the validity of any contract or arrangement.

## 14. Office Bearers, Executive Officer and Returning Officer

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### 14.1 Appointment of Office Bearers

- (a) From time to time as required, the Board must appoint a President, a Vice-President, a Treasurer, a Secretary and any other Office Bearers from among the Board.
- (b) Office Bearers of the Company hold office until the commencement of the Board meeting immediately following the first Annual General Meeting after their appointment.

- (c) An Office Bearer may be elected for more than one successive term.
- (d) The Board may remove or suspend a person from holding any Office Bearer position by resolution passed at a Board meeting provided:
  - (i) the resolution is passed by not less than two-thirds of the Directors present; and
  - (ii) at least 21 days' notice in writing of the resolution has been given to the Secretary and to the person who is the subject of the resolution.

#### **14.2 Secretary**

- (a) The Directors must appoint at least one Secretary, who may be the Executive Officer or a Director (if the Executive Officer is not appointed to the role of Secretary).
- (b) The Secretary is to be appointed on such terms and conditions as the Board deems fit.
- (c) A person may not be appointed as Secretary unless the person:
  - (i) consents in writing to being appointed as Secretary;
  - (ii) is at least 18 years of age; and
  - (iii) is resident in Australia.
- (d) The Board may suspend or remove a Secretary.
- (e) The position of Secretary must not remain vacant for more than 14 days.

#### **14.3 Treasurer**

- (a) There must be at least one Treasurer, who may also be a Director.
- (b) The Treasurer is to be appointed on such terms and conditions as the Board deems fit.
- (c) The Treasurer must ensure that the financial records of the Company are kept in accordance with the requirements of the Act and the ACNC Legislation.
- (d) The Treasurer must ensure that at least one other Director has access to the accounts and financial records of the Company.

#### **14.4 Returning Officer**

- (a) The Board may appoint a Returning Officer.
- (b) The Returning Officer may not be a Director.
- (c) If the Board does not appoint a Returning Officer, or if the Returning Officer ceases to act, the Executive Officer must appoint a Returning Officer.

### **15. Indemnities and Insurance**

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- (a) The Company indemnifies every present and past Director and Executive Officer of the Company to the full extent permitted by law against all losses and liabilities incurred as a result of their position as an officer of the Company.
- (b) This indemnity:
  - (i) is a continuing obligation and is enforceable even if the person has ceased to be an officer of the company;
  - (ii) is not subject to any requirement to first incur an expense or make a payment; and
  - (iii) operates only to the extent that the relevant loss or liability is not covered by insurance.
- (c) The Company may, to the extent permitted by law, pay or agree to pay, a premium in respect of a contract insuring its officers.
- (d) Nothing in this clause 15 limits the Company's ability to indemnify or pay for insurance for any person not expressly covered by this clause.

### **16. Administration**

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#### **16.1 Minutes and records**

- (a) The Board must ensure that:
  - (i) minutes of all General Meetings, Board meetings and committee meetings; and

- (ii) records of resolutions passed by Members, Directors and committees without a meeting;

are recorded and kept with the Company's records as soon as practicable (being no later than one month after the meeting or passing of the resolution).

- (b) The Company must ensure that minutes of a Board or General Meeting are signed within a reasonable time by the chairperson of the meeting or of the next meeting.
- (c) The Company must ensure that Directors have access to the Company's records and financial documents at all reasonable times.

## 16.2 Members' access to Company records

Upon request, the Company must give Members reasonable access to inspect and copy Company records, free of charge.

## 16.3 Common seal

The Company does not have a common seal.

## 16.4 Execution of documents

- (a) The Company may execute documents by the signature of:
  - (i) two Directors;
  - (ii) one Director and the Secretary; or
  - (iii) such other persons appointed by the Board for that purpose.
- (b) Documents may be signed by electronic means in accordance with the Act.

# 17. Records, Accounting and Audit

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## 17.1 Accounts and other records of the Company

- (a) The Board must:
  - (i) ensure that proper financial records are kept in accordance with all legal and regulatory requirements; and
  - (ii) ensure that records of its operations are kept; and
  - (iii) take reasonable steps to ensure that the Company's records are kept safe.
- (b) The Company must retain its records for at least seven years.

## 17.2 Audit

- (a) If required by law, the Company must appoint and remunerate an auditor.
- (b) Any auditor is entitled to attend any General Meeting and to be heard by the Members on any business of the meeting that concerns the auditor in their capacity as auditor.
- (c) The Company must give any auditor all communications relating to the General Meeting that the Members of the Company are entitled to receive.

## 17.3 Financial year

The financial year will begin on 1 July and end on 30 June, unless the Board passes a resolution to change the financial year.

# 18. Amending This Constitution

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- (a) The Company may only alter this Constitution by special resolution in accordance with the Act.
- (b) The Members must not pass a special resolution that amends this Constitution if passing it causes the Company to no longer be a Charity.

# 19. Notices

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- (a) The Company may give notices (subject to any election or request received from a Member in accordance with the Act) and any communications personally, by post, email or other electronic means.
- (b) Notices to the Company may be given personally, by post, email or other electronic means.

- (c) Notices are deemed to be received:
  - (i) in the case of a properly addressed and posted notice, five Business Days after the date of posting; and
  - (ii) in the case of a notice sent by email or other electronic means, at the time of sending.
- (d) The non-receipt of notice or a failure to give notice, does not invalidate any thing done or resolution passed at the meeting if:
  - (i) the non-receipt or failure occurred by accident or error;
  - (ii) the individual waives notice before or after the meeting (including by attending the meeting); or
  - (iii) the individual notifies the Company of their agreement to that thing or resolution before or after the meeting.
- (e) In calculating a period of notice, both the days on which the notice is given or taken to be given and the day of the meeting must be disregarded.

## 20. Winding Up or Revocation of Endorsement

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### 20.1 Contribution of a Member on winding up

If required, each Member must contribute an amount (not more than the Guaranteed Amount) to the assets of the Company if it is wound up while they are a Member, or within one year of the Member ceasing to be a Member, for the:

- (a) payment of the debts and liabilities of the Company incurred before they ceased to be a Member; and/or
- (b) costs, charges and expenses of winding up.

### 20.2 Distribution of assets on winding up or revocation of endorsement

- (a) If the Company is a Deductible Gift Recipient any DGR gifts must be deposited in a separate bank account or otherwise identified so that they can be distinguished from other assets of the Company.
- (b) If the Company is a Deductible Gift Recipient and is wound up, or it ceases to be endorsed as a Deductible Gift Recipient, any DGR gifts remaining after satisfying the Company's liabilities and expenses must be transferred to a Charity or Charities which:
  - (i) has a similar purpose to the Principal Purpose;
  - (ii) prohibits the distribution of income, profit or assets to its members in their capacity as members; and
  - (iii) is endorsed as a Deductible Gift Recipient.
- (c) On the winding up of the Company, any assets remaining after complying with clause 20.2(a) and 20.2(b):
  - (i) must not be paid or distributed to the Members in their capacity as Members, and
  - (ii) must be given or transferred to a Charity or Charities which:
    - (A) has a similar purpose to the Principal Purpose, and
    - (B) prohibits the distribution of income, profit or assets to its Members in their capacity as Members.
- (d) The Members must decide before any winding up or revocation which Charity or Charities will receive a distribution under clause 20.2(a) or 20.2(b). If the Members fail to decide, the matter must be determined by application to the Supreme Court in the State Victoria.

## 21. Interpretation

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### 21.1 Definitions

In this Constitution:

“**ACNC**” means the Australian Charities and Not-for-profits Commission.

“**ACNC Legislation**” means the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) and the *Australian Charities and Not-for-profits Commission (Consequential and*

*Transitional) Act 2012 (Cth).*

“**Act**” means the *Corporations Act 2001 (Cth)*.

“**Annual Subscription Fee**” means the annual fee payable by the Members as determined by the Board under clause 5.5.

“**auditor**” may mean a reviewer, if permitted by the Act or ACNC Legislation.

“**chairperson**” means the person chairing a meeting.

“ballot paper” means a physical or electronic ballot paper.

“**Board**” means the group of individuals that are responsible for the governance, strategy and management of the Company.

“**Charity**” means a charity registered under the ACNC Legislation.

“**day**” means calendar day except public holidays.

“**Deductible Gift Recipient**” means an entity to which tax deductible gifts may be made pursuant to Division 30 of the ITAA 97.

“**DGR Gifts**” means:

- (a) gifts of money or property for the Principal Purpose received during any time that the Company is endorsed as a Deductible Gift Recipient;
- (b) contributions described in item 7 or 8 of the table in section 30-15 of the ITAA 97 in relation to a fundraising event (as defined by section 995-1 of the ITAA 97) held for that purpose during any time that the Company is endorsed as a Deductible Gift Recipient; and
- (c) money received by the Company because of such gifts or contributions during any time that the Company is endorsed as a Deductible Gift Recipient.

“**Entry Fee**” means the entry payable by the Members for admission or upon readmission as determined by the Board under clause 5.5.

“**Executive Officer**” means the Company’s senior employee whose job title may vary from time to time, for example, the Chief Executive Officer, General Manager or Executive Director.

“**General Meeting**” means a general meeting of Members (including an Annual General Meeting).

“**Guaranteed Amount**” means the amount set out in clause 5.9.

“**ITAA 97**” means the *Income Tax Assessment Act 1997 (Cth)*.

“**Member**” means a natural person whose name is entered in the Register as a Member of the Company in accordance with clause 5.5.

“**Office Bearer**” means President, Vice-President, Secretary, Treasurer and any other person appointed under clause 14.1(a).

“**person**” means a natural person and excludes a corporation within the meaning of s 57A of the Act.

“**Police Check**” means a formal inquiry made to the relevant police authority in each Australian State or Territory the person is known to have resided, designed to obtain details of the person’s criminal convictions or a finding of guilt in all places (within and outside Australia).

“**President**” means the person appointed to the position of President under clause 14.1(a) who may also be known as the Chair of the Board.

“**Principal Purpose**” means the purpose set out in clause 3.

“**Register**” means the register of Members under the Act.

“**Returning Officer**” means the person appointed as such under clause 14.4.

“**Special Resolution**” means a resolution passed at a General Meeting:

- (a) of which notice specifying the intention to propose the resolution as a Special Resolution has been given pursuant to this Constitution and the Act; and
- (b) by not less than 75% of the votes cast.

**'Thorne Harbour Health Ltd'** means Thorne Harbour Health Ltd ACN 662 163 484.

**'Unbiased Decision Maker'** means a person who is a recognised decision-maker under the Act and appointed or employed by the Dispute Settlement Centre of Victoria instituted by the Department of Justice and Community Safety or any similar body nominated by the Board.

**"Vice-President"** means the person elected or appointed as Vice-President under clause 14.1(a).

## 21.2 Interpretation

In this Constitution:

- (a) If an expression in the Constitution has a meaning in the Act, the meaning from the Act will apply to the expression - except where a contrary intention appears in this Constitution.
- (b) A reference to any legislation or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments issued under it.

## 21.3 Exclusion of replaceable rules

- (a) The replaceable rules contained in the Act do not apply to the Company.
- (b) If at any time, the company is not a Charity, the Act (unless it is a replaceable rule) overrides any part of this Constitution or policy of the Company to the extent of any inconsistency.

## 22. Transitional Provisions

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The following clauses apply notwithstanding anything to the contrary in this Constitution.

### 22.1 Members

The Members immediately following the adoption of this Constitution will be those individuals listed on the register of members of Gay Men's Health Centre Inc (Registration number: A0010550F) (**GMHC**) as at the date GMHC migrated from the structure of a Victorian incorporated association under *Associations Incorporation Reform Act 2012 (Vic)* (**AIR Act**) to a company limited by guarantee under the Act pursuant to Part 8 of the AIR Act and Part 5B.1 of the Act (**migration**).

### 22.2 Directors

- (a) The initial Directors will be those named in the application to register the Company.
- (b) Notwithstanding any other provision in this Constitution, the Company may have more than ten initial Directors.
- (c) The terms of office of the initial Directors will end on the earlier of:
  - (i) the dates specified in the Company's Directors' Register; or
  - (ii) the Director ceasing to hold office by virtue of clause 10.6.
- (d) The maximum terms of office of the initial Directors is set out in the Company's Directors' Register.



## SCHEDULE 1

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### APPOINTMENT OF PROXY – VAC/GMHC LTD

I, \_\_\_\_\_  
(Member)

of \_\_\_\_\_  
(Address)

appoint \_\_\_\_\_  
(Proxy)

as my proxy for the General Meeting of VAC/GMHC Ltd be held on

\_\_\_\_\_  
(Date)

and at any adjournment.

### CHOOSE

My proxy can vote on my behalf for all resolutions at the above General Meeting.

### OR

My proxy can vote for the resolutions listed below as indicated:

in favour of / against	detail of proposed resolution

Signed \_\_\_\_\_  
(Member)

Date: