

PRIVATE COMPANY LIMITED BY GUARANTEE

ARTICLES OF ASSOCIATION OF

EARTHWORKS ST ALBANS

(as adopted by a special resolution of the members dated 7 September 2020)

**PART A – CONSTITUTIONAL PROVISIONS**

1. The name of the Company (hereinafter called the “**Company**”) is “**EARTHWORKS ST ALBANS**”.
2. The registered office of the Company shall be situated in England and Wales.
3. The Company is established to advance the education and training of the public, and particularly those with learning difficulties and mental health problems, in conservation work, horticulture and other land-based skills; to promote the improvement of the natural environment; and advance the education of the public in all aspects of conservation and environmental protection.
4. In furtherance of the above objects, but not otherwise, the Company shall have the following powers:
  - (a) To enter into any contracts with statutory, voluntary or other bodies as are considered necessary or convenient for the achievement of the Company's objects;
  - (b) To purchase, take on lease or in exchange, hire or otherwise acquire any real or personal property and any other rights or privileges which the Company may think necessary for the promotion of its objects;
  - (c) To raise funds and invite and receive contributions from any person and persons whatsoever by way of subscription and otherwise provided that the Company shall not undertake any substantial permanent trading activities in raising funds for the said objects;
  - (d) To construct, maintain and alter any buildings or erections which the Company may think necessary for the promotion of its objects;
  - (e) To publish books, pamphlets, reports, leaflets, journals, audio tapes, video tapes, films and instructional matter and to run lectures, seminars, conferences and courses;
  - (f) To receive donations, endowments, sponsorship fees, subscriptions and legacies from persons desiring to promote the Company's objects or any of them and to hold funds in trust for the same;
  - (g) Subject to such consents, if any, as may be required by law, to borrow or raise money for the Company on such terms and on such security as may be thought fit;
  - (h) To establish and support or aid in the establishment and support or to amalgamate with any other charitable institutions or associations and to subscribe or guarantee money for charitable

purposes in any way connected with the purposes of the Company or calculated to further its objects;

- (i) To undertake and execute any charitable trusts which may be lawfully undertaken by the Company and may be necessary to its objects;
- (j) To invest the monies of the Company not immediately required for its own purposes in or upon such investments, securities or property as may be thought fit, subject nevertheless to such conditions (if any) and such consents (if any) as for the time being may be imposed or required by law and subject also as hereinafter provided;
- (k) To sell, improve, develop, exchange, let on rent, royalty or otherwise and in any manner deal with or dispose of all or any of property and assets for the time being of the Company subject to the provisions of these Articles;
- (l) To engage or employ such personnel (not being Directors of the Company), whether as employees, consultants, advisers or however, as may be required for the promotion of the objects of the Company;
- (m) To open and operate bank accounts and other facilities for banking in the name of the Company;
- (n) To provide indemnity insurance to cover the liability of the Directors in accordance with, and subject to the conditions in, section 189 of the Charities Act 2011;
- (o) To do all such other lawful things as may be necessary for the attainment of the above objects or any of them.

PROVIDED THAT:

- (1) In case the Company shall take or hold any property which may be subject to any trusts, the Company shall only deal with or invest the same in such manner as allowed by law, having regard to such trusts;
  - (2) In case the Company shall take or hold any property subject to the jurisdiction of the Charity Commission for England and Wales, the Company shall not sell, mortgage, charge or lease the same without such authority, approval or consent as may be required by law, and as regards any such property that may come into their hands the Directors shall be answerable and accountable for their own acts, receipts, neglects and defaults, and for the due administration of such property in the same manner and to the same extent as such Directors would have been if no incorporation had been effected, and the incorporation of the Company shall not diminish or impair any control or authority exercisable by the Chancery Division or the Charity Commission over such Directors but they shall, as regards such property, be subject jointly and separately to such control and authority as if the Company were not incorporated;
  - (3) The objects of the Company shall not extend to the regulation of relations between workers and employers or organisations of workers and organisations of employers.
5. In carrying out its objects the Company shall seek to ensure equality of opportunity for all sections of the community in its own affairs and in access to facilities provided by the Company.
6. The income and property of the Company shall be applied solely towards the promotion of its objects set out in these Articles, and no portion shall be transferred directly or indirectly by way of dividend,

bonus, or otherwise whatsoever by way of profit to the members; PROVIDED THAT nothing shall prevent any payment in good faith by the Company:

- (a) Of reasonable and proper remuneration to any member, officer or servant of the Company (not being a Director except as specifically provided for in the Company's Articles) for any services rendered to the Company;
- (b) Of interest on money lent by any member (or of its Directors) at a rate per annum not exceeding 2 percent below the base lending rate of the Company's bankers from time to time;
- (c) Of reasonable and proper rent for premises demised or let by any member (or of its Directors);
- (d) Of fees, remuneration or other benefits in money or money's worth to a company of which a Director may be a member holding not more than 1/100th part of the capital of the company;
- (e) Of grants, loans, donations or any other kind of financial assistance to any individual, organisation, firm, company, society or statutory authority which is a member or a Director or is represented by a Director provided that any such assistance is in respect of charitable activities in furtherance of the objects of the Company;
- (f) Of payment of any premium in respect of any insurance or indemnity to cover the liability of a Director in the circumstances specified in article 55.
- (g) To any Director in respect of reasonable out-of-pocket expenses.

7. The liability of the members is limited.
8. Every member undertakes to contribute to the assets of the Company in the event of the same being wound up during the time he or she is a member, or within one year afterwards, for the payments of the debts and liabilities of the Company contracted before the time at which he or she ceases to be a member and of the costs, charges and expenses of winding up the same, and for the adjustments of the rights of the contributors among themselves such amount as may be required not exceeding one pound.
9. In the event of the winding up or dissolution of the Company, after the satisfaction of all its debts and liabilities, the assets remaining shall not be distributed amongst the members, but shall be transferred in the furtherance of its objects to some other charitable institution or institutions having objects similar to or compatible with any of the objects of the Company as may be determined by a general meeting at the time of or prior to the winding up or dissolution of the Company.
10. No such addition, alteration or amendment shall be made to or in the provisions of these Articles for the time being in force as shall cause the Company to cease to be a charity in law or to be a Company to which section 60 of the Companies Act 2006 does not apply.

## PART B – ADMINISTRATIVE PROVISIONS

### Interpretation

1. In these Articles:

“**address**” means a postal address or, for the purposes of electronic communication, a fax number, an e-mail or postal address or a telephone number for receiving text messages in each case registered with the Company;

“**Articles**” means the Company’s articles of association;

“**Company**” means the above-named Company intended to be regulated by the Articles;

“**clear days**” in relation to the period of a notice means a period excluding: (i) the day when the notice is given or deemed to be given; and (ii) the day for which it is given or on which it is to take effect;

“**Commission**” means the Charity Commission for England and Wales;

“**Companies Acts**” means the Companies Acts (as defined in section 2 of the Companies Act 2006) insofar as they apply to the Company;

“**Directors**” means the directors of the Company.

“**document**” includes, unless otherwise specified, any document sent or supplied in electronic form;

“**electronic form**” has the meaning given in section 1168 of the Companies Act 2006;

“**member**” means member of the Company, as defined in section 112 of the Companies Act 2006;

“**seal**” means the common seal of the Company if it has one;

“**secretary**” means any person appointed to perform the duties of the secretary of the Company;

“**United Kingdom**” means Great Britain and Northern Ireland; and

words importing one gender shall include all genders, and the singular includes the plural and vice versa.

Unless the context otherwise requires words or expressions contained in the Articles have the same meaning as in the Companies Acts but excluding any statutory modification not in force when this constitution becomes binding on the Company.

Apart from the exception mentioned in the previous paragraph a reference to an Act of Parliament includes any statutory modification or re-enactment of it for the time being in force.

### Members

2. The Directors from time to time shall be the only members. A Director shall, by agreeing to become a Director, agree to become a member and accordingly shall be admitted to membership of the Company on his or her appointment as Director.
3. Membership is not transferable.
4. The Company shall maintain a register of members.

### **Termination of membership**

5. Membership is terminated if the member:
  - (1) dies; or
  - (2) ceases to be a Director.

### **General meetings**

6. The Directors may call a general meeting at any time.

### **Notice of general meetings**

7. The minimum period of notice required to hold a general meeting of the Company is 14 clear days.
8. A general meeting may be called by shorter notice if it is so agreed by a majority in number of members having a right to attend and vote at the meeting, being a majority who together hold not less than 90 percent of the total voting rights.
9. The notice must specify the date, time and place of the meeting and the general nature of the business to be transacted. The notice must also contain a statement setting out the right of members to appoint a proxy under section 324 of the Companies Act 2006 and article 18.
10. The notice must be given to all members and to the Directors and auditors.
11. The proceedings at a meeting shall not be invalidated because a person who was entitled to receive notice of the meeting did not receive it because of an accidental omission by the Company.

### **Proceedings at general meetings**

12. (1) No business shall be transacted at any general meeting unless a quorum is present.  
(2) A quorum is three members or the number nearest to one-third of the total number of members, whichever is the greater, present in person or by proxy and entitled to vote upon the business to be conducted at the meeting.
13. (1) If a quorum is not present within half an hour from the time appointed for the meeting or during a meeting a quorum ceases to be present, the meeting shall be adjourned to such time and place as the Directors shall determine.  
(2) The Directors must reconvene the meeting and must give at least seven clear days' notice of the reconvened meeting stating the date, time and place of the meeting.

- (3) If no quorum is present at the reconvened meeting within 15 minutes of the time specified for the start of the meeting the members present in person or by proxy at that time shall constitute the quorum for that meeting.
14. (1) General meetings shall be chaired by the person who has been appointed to chair meetings of the Directors.
- (2) If there is no such person or he or she is not present within 15 minutes of the time appointed for the meeting, a Director nominated by the Directors shall chair the meeting.
15. (1) The members present in person or by proxy at a meeting may resolve by ordinary resolution that the meeting shall be adjourned.
- (2) The person who is chairing the meeting (the “**Chairperson**”) must decide the date, time and place at which the meeting is to be reconvened unless those details are specified in the resolution.
- (3) No business shall be conducted at a reconvened meeting unless it could properly have been conducted at the meeting had the adjournment not taken place.
- (4) If a meeting is adjourned by a resolution of the members for more than seven days, at least seven clear days’ notice shall be given of the reconvened meeting stating the date, time and place of the meeting.
16. (1) Any vote at a meeting shall be decided by a show of hands unless before, or on the declaration of the result of, the show of hands a poll is demanded by:
- (a) the Chairperson; or
  - (b) at least two members present in person or by proxy and having the right to vote at the meeting; or
  - (c) a member or members present in person or by proxy representing not less than 10% of the total voting rights of all the members having the right to vote at the meeting.
- (2) (a) The declaration by the Chairperson of the result of a vote shall be conclusive unless a poll is demanded.
- (b) The result of the vote must be recorded in the minutes of the Company, but the number or proportion of votes cast need not be recorded.
- (3) In the case of an equality of votes, whether on a show of hands or on a ballot, the Chairperson shall not have a second or casting vote and the resolution shall be deemed to be lost.
- (4) (a) A demand for a poll may be withdrawn, before the poll is taken, but only with the consent of the person who is chairing the meeting.
- (b) If the demand for a poll is withdrawn the demand shall not invalidate the result of a show of hands declared before the demand was made.
- (4) (a) A poll must be taken as the Chairperson directs, who may appoint scrutineers (who need not be members) and who may fix a time and place for declaring the results of the poll.

- (b) The result of the poll shall be deemed to be the resolution of the meeting at which the poll is demanded.
- (5) (a) A poll demanded on the election of a Chairperson or on a question of adjournment must be taken immediately.
- (b) A poll demanded on any other question must be taken either immediately or at such time and place as the Chairperson directs.
  - (c) The poll must be taken within 30 days after it has been demanded.
  - (d) If the poll is not taken immediately at least seven clear days' notice shall be given specifying the time and place at which the poll is to be taken.
  - (e) If a poll is demanded the meeting may continue to deal with any other business that may be conducted at the meeting.
17. The Company may at its discretion invite other persons to attend its meetings, with or without speaking rights, and without voting rights.

#### **Content of proxy notices**

18. (1) Proxies may only validly be appointed by a notice in writing (a "**proxy notice**") which:
- (a) states the name and address of the member appointing the proxy;
  - (b) identifies the person appointed to be that member's proxy and the general meeting in relation to which that person is appointed;
  - (c) is signed by or on behalf of the member appointing the proxy, or is authenticated in such manner as the Directors may determine; and
  - (d) is delivered to the Company in accordance with the Articles and any instructions contained in the notice of the general meeting to which they relate.
- (2) The Company may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.
- (3) Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.

#### **Delivery of proxy notices**

19. (1) A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the Company by or on behalf of that person.
- (2) An appointment under a proxy notice may be revoked by delivering to the Company a notice in writing given by or on behalf of the person by whom or on whose behalf the proxy notice was given.
- (3) A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates.

(4) If a proxy notice is not executed by the person appointing the proxy, it must be accompanied by written evidence of the authority of the person who executed it to execute it on the appointor's behalf.

#### **Written resolutions**

20. (1) A resolution in writing agreed by a simple majority (or in the case of a special resolution by a majority of not less than 75%) of the members who would have been entitled to vote upon it had it been proposed at a general meeting shall be effective provided that:
- (a) a copy of the proposed resolution has been sent to every eligible member;
  - (b) a simple majority (or in the case of a special resolution a majority of not less than 75%) of members has signified its agreement to the resolution; and
  - (c) it is contained in an authenticated document which has been received at the registered office within the period of 28 days beginning with the circulation date.
- (2) A resolution in writing may comprise several copies to which one or more members have signified their agreement.

#### **Votes of members**

21. Every member shall have one vote.
22. Any objection to the qualification of any voter must be raised at the meeting at which the vote is tendered and the decision of the Chairperson shall be final.
23. A member or proxy shall declare an interest in, and shall not debate or vote in respect of, any matter in which he or she has a personal material or financial interest without the permission of a majority of the other members present.

#### **Directors**

24. (1) A Director must be a natural person aged 18 years or older.  
(2) No one may be appointed a Director if he or she would be disqualified from acting under the provisions of article 31.  
(3) A person may not be appointed as a Director unless he or she has also agreed to become a member. Upon a Director ceasing to be a member, he or she shall automatically and immediately cease to be a Director.
25. The minimum number of Directors shall be three and unless the Directors determine otherwise pursuant to article 56 from time to time, there shall be no maximum number of Directors.
26. A Director may not appoint an alternate Director or anyone to act on his or her behalf at meetings of the Directors.



### **Powers of Directors**

27. (1) The Directors shall manage the business of the Company and may exercise all the powers of the Company unless they are subject to any restrictions imposed by the Companies Acts, the Articles or any special resolution.
- (2) No alteration of the Articles or any special resolution shall have retrospective effect to invalidate any prior act of the Directors.
- (3) Any meeting of Directors at which a quorum is present at the time the relevant decision is made may exercise all the powers exercisable by the Directors.

### **Appointment of Directors**

28. The Company may by ordinary resolution appoint a person who is willing to act to be a Director.
29. The Directors may appoint a person who is willing to act to be a Director.
30. The appointment of a Director, whether by the Company in a general meeting or by the other Directors, must not cause the number of Directors to exceed any number fixed as the maximum number of Directors.

### **Disqualification and removal of Directors**

31. A Director shall cease to hold office if:
- (1) he or she ceases to be a director by virtue of any provision in the Companies Acts or is prohibited by law from being a director;
  - (2) he or she is disqualified from acting as a trustee or charity trustee by virtue of sections 178 and 179 of the Charities Act 2011 (or any statutory re-enactment or modification of those provisions);
  - (3) he or she ceases to be a member;
  - (4) in the written opinion, given to the Company, of a registered medical practitioner treating that person, he or she has become physically or mentally incapable of acting as a Director and may remain so for more than three months;
  - (5) he or she resigns as a Director by notice to the Company (but only if at least two Directors will remain in office when the notice of resignation is to take effect);
  - (6) he or she is absent without the permission of the Directors from all their meetings held within a period of six consecutive months and the Directors resolve that his or her office be vacated; or
  - (7) at least 75% of the Directors vote in favour of his/her removal in writing or at a meeting of the Directors.

### **Remuneration of Directors**

32. The directors must not be paid any remuneration unless it is authorised by these Articles.
33. Directors may be paid all reasonable out-of-pocket expenses incurred by them in attending and returning from meetings of the Directors or general meetings of the Company or in connection with the business of the Company.
34. Any Director, being a solicitor or other person engaged in any profession, shall be entitled to charge and be paid all usual professional or other charges for work done on behalf of the Company by him/her or his/her firm when so instructed by the Directors; provided that nothing shall authorise a Director or his/her firm to act as auditor to the Company.

### **Proceedings of Directors**

35.
  - (1) The Directors may regulate their proceedings as they think fit, subject to the provisions of the Articles.
  - (2) Any Director may call a meeting of the Directors.
  - (3) The secretary (if any) must call a meeting of the Directors if requested to do so by a Director.
  - (4) Questions arising at a meeting shall be decided by a majority of votes.
  - (5) In the case of an equality of votes, the Chairperson shall not have a second or casting vote.
  - (6) A meeting may be held by suitable electronic means agreed by the Directors in which each participant may communicate with all the other participants.
36.
  - (1) No decision may be made by a meeting of the Directors unless a quorum is present at the time the decision is purported to be made. "Present" includes being present by suitable electronic means agreed by the Directors in which a participant or participants may communicate with all the other participants.
  - (2) The quorum shall be three or the number nearest to one-third of the total number of Directors, whichever is the greater.
37. If the number of Directors is less than the number fixed as the quorum, the continuing Directors or Director may act only for the purpose of filling vacancies or of calling a general meeting.
38. A Director shall declare an interest in and shall not speak or vote in respect of any matter in which he or she has a personal material or financial interest or any connected matter. Any Director declaring such an interest shall not be counted for the purpose of calculating a quorum for the meeting for the period during which the matter is under debate.
39.
  - (1) The Directors shall appoint a Director to chair their meetings and may at any time revoke such appointment.

- (2) If no one has been appointed to chair meetings of the Directors or if the person appointed is unwilling to preside or is not present within 20 minutes after the time appointed for the meeting, the Directors present may appoint one of their number to chair that meeting.
- (3) The person appointed to chair meetings of the Directors shall have no functions or powers except those conferred by the Articles or delegated to him or her by the Directors.
40. (1) A resolution in writing or in electronic form agreed by all of the Directors entitled to receive notice of a meeting of the Directors and to vote upon the resolution shall be as valid and effectual as if it had been passed at a meeting of the Directors duly convened and held.
- (2) The resolution in writing may comprise several documents containing the text of the resolution in like form to each of which one or more Directors has signified their agreement.
41. The Directors may at their discretion invite other persons to attend its meetings, with or without speaking rights, and without voting rights.

### **Delegation**

42. (1) The Directors may delegate any of their powers or functions to a committee made up of two or more Directors and other persons as the Directors think fit, but the terms of any delegation must be recorded in the minute book.
- (2) The Directors may impose conditions when delegating, including the conditions that:
- (a) the relevant powers are to be exercised exclusively by the committee to whom they delegate;
  - (b) no expenditure may be incurred on behalf of the Company except in accordance with a budget previously agreed with the Directors.
- (3) The Directors may revoke or alter a delegation.
- (4) All acts and proceedings of any committees must be fully and promptly reported to the Directors.

### **Validity of Director's decisions**

43. (1) Subject to article 43(2), all acts done by a meeting of Directors, or of a committee of Directors, shall be valid notwithstanding the participation in any vote of a Director:
- (a) who was disqualified from holding office;
  - (b) who had been obliged by the constitution to vacate office;
  - (c) who was not entitled to vote on the matter, whether by reason of a conflict of interests or otherwise;
- if without:
- (d) the vote of that Director; and
  - (e) that Director being counted in the quorum;
- the decision has been made by a majority of the Directors at a quorate meeting.
- (2) Article 433(1) does not permit a Director or a connected person to keep any benefit that may be conferred upon him or her by a resolution of the Directors or of a committee of Directors if, but for article 433(1), the resolution would have been void.

### **Secretary**

44. The Directors may appoint a secretary of the Company for such term at such remuneration and upon such conditions as they think fit; and any secretary so appointed may be removed by them. No remuneration may be paid to a secretary who is also a Director.
45. A provision of the Act or these Articles requiring or authorising a thing to be done by or to a Director and the secretary shall not be satisfied by its being done by or to the same person acting in both capacities.

### **Seal**

46. If the Company has a seal it must only be used by the authority of the Directors or of a committee of Directors authorised by the Directors. The Directors may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by a Director and by the secretary (if any) or by a second Director.

### **Minutes**

47. The Directors must keep minutes of all:
  - (1) appointments of officers made by the Directors;
  - (2) proceedings at meetings of the Company;
  - (3) meetings of the Directors and committees of Directors including:
    - (a) the names of the Directors present at the meeting;
    - (b) the decisions made at the meetings; and
    - (c) where appropriate the reasons for the decisions.

### **Accounts**

48. (1) The Directors must prepare for each financial year accounts as required by the Companies Acts. The accounts must adhere to the recommendations of applicable Statements of Recommended Practice.
  - (2) The Directors must keep accounting records as required by the Companies Acts.

### **Annual Report and Return and Register of Charities**

49. (1) The Directors must comply with the requirements of the Charities Act 2011 with regard to the:
  - (a) transmission of a copy of the statements of account to the Commission;
  - (b) preparation of an Annual Report and the transmission of a copy of it to the Commission;
  - (c) preparation of an Annual Return and its transmission to the Commission.

(2) The Directors must notify the Commission promptly of any changes to the Company's entry on the Central Register of Charities.

#### **Means of communication to be used**

50. (1) Subject to the Articles, anything sent or supplied by or to the charity under the Articles may be sent or supplied in any way in which the Companies Act 2006 provides for documents or information which are authorised or required by any provision of that Act to be sent or supplied by or to the Company.
- (2) Subject to the Articles, any notice or document to be sent or supplied to a Director in connection with the taking of decisions by directors may also be sent or supplied by the means by which that Director has asked to be sent or supplied with such notices or documents for the time being.
51. Any notice to be given to or by any person pursuant to the Articles:
- (1) must be in writing; or
- (2) must be given in electronic form.
52. (1) The Company may give any notice to a member either:
- (a) personally; or
- (b) by sending it by post in a prepaid envelope addressed to the member at his or her address; or
- (c) by leaving it at the address of the member; or
- (d) by giving it in electronic form to the member's address; or
- (e) by placing the notice on a website and providing the person with a notification in writing or in electronic form of the presence of the notice on the website.
- (2) The notification must state that it concerns a notice of a Company meeting and must specify the place, date and time of the meeting.
- (3) A member who does not register an address with the Company or who registers only a postal address that is not within the United Kingdom shall not be entitled to receive any notice from the Company.
53. A member present in person at any meeting of the Company shall be deemed to have received notice of the meeting and of the purposes for which it was called.
54. (1) Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given.
- (2) Proof that an electronic form of notice was given shall be conclusive where the Company can demonstrate that it was properly addressed and sent, in accordance with section 1147 of the Companies Act 2006.
- (3) In accordance with section 1147 of the Companies Act 2006, notice shall be deemed to be given:
- (a) 48 hours after the envelope containing it was posted; or
- (b) in the case of an electronic form of communication, 48 hours after it was sent.

### **Indemnity**

55. (1) The Company shall indemnify a relevant Director against any liability incurred in that capacity, to the extent permitted by sections 232 to 234 of the Companies Act 2006.
- (2) In this article, a “**relevant Director**” means any Director or former Director of the Company.

### **Rules**

56. (1) The Directors may from time to time make such reasonable and proper rules or bye laws as they may deem necessary or expedient for the proper conduct and management of the Company.
- (2) The bye laws may regulate the following matters but are not restricted to them:
- (a) the appointment of a Chairperson, secretary, treasurer or such other officers as the Directors may from time to time think fit;
  - (b) the admission of members and the rights and privileges of such members, and the entrance fees, subscriptions and other fees or payments to be made by members;
  - (c) the conduct of members in relation to one another, and to the Company's employees and volunteers;
  - (d) the terms applicable from time to time in respect of Directors, including as to the duration of their term of office, or any maximum number of consecutive terms of office served or other qualifying requirements;
  - (e) the setting aside of the whole or any part or parts of the Company's premises at any particular time or times or for any particular purpose or purposes;
  - (f) the procedure at general meetings and meetings of the Directors in so far as such procedure is not regulated by the Companies Acts or by the Articles;
  - (g) generally, all such matters as are commonly the subject matter of Company rules.
- (3) The Company in general meeting or by written resolution has the power to alter, add to or repeal the rules or bye laws.
- (4) The Directors must adopt such means as they think sufficient to bring the rules and bye laws to the notice of members.
- (5) The rules or bye laws shall be binding on all members. No rule or bye law shall be inconsistent with, or shall affect or repeal anything contained in, the Articles.

### **Dispute Resolution**

57. If a dispute arises between members about the validity or propriety of anything done by the members under these Articles, and the dispute cannot be resolved by agreement, the parties to the dispute must first try in good faith to settle the dispute by mediation before resorting to litigation.

**PRIVATE COMPANY LIMITED BY GUARANTEE**

**ARTICLES OF ASSOCIATION OF  
EARTHWORKS ST ALBANS**

**Supplementary Notes**

**November 2020**

**Background**

**Earthworks developed amended Articles of Association in 2020 to replace the previous governing documents. These notes are designed to explain the reasons for the changes to the Articles of Association, also known as the Governing Document.**

**The governing documents were amended and submitted to the Charity Commission for the following reasons:**

The original governing documents provided for Earthworks to be a membership organisation, with a register of members having various powers, notably to appoint the Trustees. However, a register of members had not been kept and no one knew who would be qualified to be a member.

The original governing documents, for example the references to legislation, were out of date and not consistent with the current Charity Commission recommendations

The original Memorandum covered the powers of the AGM including the appointment of Trustees by members for one-year terms that are potentially renewable indefinitely. This is no longer good practice and inconsistent with the Charity Governance Code.

**PART A – CONSTITUTIONAL PROVISIONS**

**Article 3 - Objects**

After taking legal advice it was decided to retain Earthworks' existing charitable objects. The objects are broad but enables the charity to focus on its core purpose.

**PART B – ADMINISTRATIVE PROVISIONS**

**Articles 2 – 5 Members**

Earthworks is a private company limited by guarantee, so has directors. A Register of Members and Directors has been established. The only members are also directors of the company. Earthworks is also a registered charity and the directors are also trustees of the Charity. So, directors, trustees and members are all the same individuals.

### **Articles 6 – 23 Meetings**

An AGM is a general meeting that certain companies (such as public companies) are required to hold each year. A private company, such as Earthworks, is not required to hold an AGM each year, although it may choose to do so (and make the necessary provisions in its articles of association).

There is no longer a requirement in Earthworks' articles of association to hold an AGM because it provides greater flexibility to make appointments and decide on other matters. These decisions can be made at a general meeting of the members, which can be called at any time per Article 6 (i.e. need not be called annually).

Since the directors are also members, the persons eligible to attend both the general meetings and board meetings are the same. However, directors and members perform different roles in a company. The members are "owners" of the company whereas the directors are its managers.

Company law requires some decisions to be made by the directors in board meetings and others to be made by the members by resolutions, either written or passed at general meetings.

To replace the AGM, an annual celebration event is held for anyone associated with Earthworks. This celebration and other processes such as the quarterly Project Group meetings allow Earthworkers, staff and volunteers to raise any issues notably on what they like, or don't like about Earthworks and what they would like in the future. In this way the Board promotes inclusivity where everyone has a voice.

### **Article 25 – Directors**

There is no maximum number of directors in the Articles. This provides flexibility; if the Board decides to amend the maximum number, the articles do not have to be formally amended.

### **Article 39 – Chair**

**The directors have the power to elect, or remove, their Chair at any time. There is no specific requirement to have any other officers.**

### **Article 56 – Rules**

**The directors have the power to create rules to cover such issues as the maximum number of directors and appointment of various officers. The Board is committed to achieving full**



**compliance with the Charity Governance Code. It has therefore agreed there is no need to create any rules under this article but there is the potential to do so, should the need arise.**