

RULES OF INCORPORATION – The Serval Project

1. Name State the name of your association in full.

The name of the incorporated association is The Serval Project, referred to herein as 'the association'.

2. Definitions List terms or phrases used in your rules and state a meaning for each.

'committee' means the committee of management of the association

'general meeting' means a general meeting of members of the association convened in accordance with these rules

'member' means a member of the association

'the Act' means the Associations Incorporation Act 1985

'special resolution' means a special resolution defined in the Act

'month' shall mean a calendar month.

'open source' shall mean software that is defined as free to distribute, modify, or alter, as long as attribution is preserved.

3. Objects or purposes of the association

The association is a group of people who wish to further encourage, promote, and develop open source based software solutions to telephony based issues in regions affected by geographic, emergency, economic, or social issues. No profit will be made by this association, due to the nature of the software developed. Any commercial interests that may arise are to be determined by a separate entity, which may work with the association for purposes of mutual benefit.

4. Powers of the association

The association shall have all the powers conferred by section 25 of the Act.

5. Membership

5.1 Types

Any person who supports the objects of the association and agrees to be bound by its rules, and who applies for membership of the association shall be proposed by one member and seconded by another member, with at least one of these members being on the committee. The application for membership shall be made in writing, signed by the applicant and the proposer and seconder. Upon the acceptance of the application by the committee, the applicant shall be a member of the association. All applicants must sign a standard non disclosure agreement, to protect any potential commercial conflicts of interest arising.

5.2 Subscriptions

Subscription fees are not required.

5.3 Resignations Outline the procedure to be followed should a member wish to resign from your association.

A member may resign from membership of the association by giving written notice to the secretary or public officer of the association.

5.4 Expulsion of a member

a. Subject to giving a member an opportunity to be heard or to make a written submission, the committee may resolve to expel a member upon a charge of misconduct detrimental to the interests of the association.

b. Particulars of the charge shall be communicated to the member at least one month before the meeting of the committee at which the matter will be determined.

c. The determination of the committee shall be communicated to the member, and in the event of an adverse determination the member shall, (subject to 5.4d below), cease to be a member 14 days after the committee has communicated its determination to the member.

d. It shall be open to a member to appeal the expulsion to the association at a general meeting. The intention to appeal shall be communicated to the secretary or public officer of

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the association within 14 days after the determination of the committee has been communicated to the member.

e. In the event of an appeal under 5.4d above, the appellant's membership of the association shall not be terminated unless the determination of the committee to expel the member is upheld by the members of the association in general meeting after the appellant has been heard by the members of the association, and in such event membership

will be terminated at the date of the general meeting at which the determination of the committee is upheld.

5.5 Register of members

A register of members must be kept and contain:

i) the name and address of each member ii) the date on which each member was admitted to the association, and iii) if applicable, the date of and reason(s) for termination of membership.

6. The committee

6.1 Powers and duties

a. The affairs of the association shall be managed and controlled by a committee which, in addition to any powers and authorities conferred by these rules, may exercise all such powers and do all such things as are within the objects of the association, and are not by the Act or by these rules required to be done by the association in general meeting.

b. The committee has the management and control of the funds and other property of the association.

c. The committee shall have authority to interpret the meaning of these rules and any other matter relating to the affairs of the association on which these rules are silent.

d. The committee shall appoint a public officer as required by the Act.

Notice of appointment and any change in the identity or address of the public officer are to be lodged within one month after the change (Form 10) with the Office of Consumer and Business Affairs, Corporate Affairs and Compliance Branch, Level 3, Chesser House, 91-97 Grenfell Street, Adelaide 5000; postal address: GPO Box 1719, Adelaide 5001.

6.2 Appointment

a. The committee shall be comprised of a chairperson, secretary, treasurer, and one committee member.

b. A committee member shall be a natural person.

c. The first committee of the association shall be appointed from the promoters of the association, or be comprised of such persons as hold office prior to incorporation. The first committee shall hold office until the first annual general meeting after incorporation. All committee positions shall be subject to re-election at each AGM.

d. A retiring committee member shall be eligible to stand for re-election without nomination. No other person shall be eligible to stand for election unless a member of the association has nominated that person at least 28 days before the meeting by delivering the nomination of that person to the secretary of the association. The nomination shall be signed by the proposer and by the nominee.

e. Notice of all persons seeking election to the committee shall be given to all members of the association with the notice calling the meeting at which the election is to take place.

f. The committee may appoint a person to fill a casual vacancy, and such a committee member shall hold office until the next annual general meeting of the association and shall be eligible for election to the committee without nomination.

6.3 Proceedings of committee

a. The committee shall meet together for the dispatch of business monthly.

b. Questions arising at any meeting of the committee shall be decided by a majority of votes, and in the event of equality of votes the chairperson shall have a casting vote in addition to a deliberative vote.

c. A quorum for a meeting of the committee shall be one half of the members of the committee.

d. A member of the committee having a direct or indirect pecuniary interest in a contract or proposed contract with the association must disclose the nature and extent of that interest to the committee as required by the Act, and shall not vote with respect to that

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contract or proposed contract. The member of the committee must disclose the nature and extent of his or her interest in the contract at the next annual general meeting of the association.

6.4 Disqualification of committee members

The office of a committee member shall become vacant if a committee member is:

- disqualified from being a committee member by the Act
- expelled as a member under these rules
- permanently incapacitated by ill health
- absent without apology from more than four meetings in a financial year
- no longer the duly appointed representative of a corporate member.

7. The seal

You can obtain a common seal from a rubber stamp maker. Section 26(1)(a) deals with contracts made under common seal. Section 63(5) deals with documents bearing the common seal.

The association shall have a common seal upon which its corporate name shall appear in legible characters.

The seal shall not be used without the express authorisation of the committee, and every use of the seal shall be recorded in the minute book of the Association. The affixing of the seal shall be witnessed by the chairperson and the secretary.

8. General meetings

8.1 Annual general meetings

- a. The committee shall call an annual general meeting in accordance with the Act and these rules.
- b. The first annual general meeting shall be held within 18 months after the incorporation of the association, and thereafter within five months after the end of its financial year.
- c. The order of the business at the meeting shall be:
 - i) the confirmation of the minutes of the previous annual general meeting and of any special general meeting held since that meeting
 - ii) the consideration of the accounts and reports of the committee and the auditor's report (if auditor's report is required)
 - iii) the election of committee members
 - iv) the appointment of auditors (if required - see rule 11.5)
- v) any other business requiring consideration by the association in general meeting.

8.2 Special general meeting

- a. The committee may call a special general meeting of the association at any time.
- b. Upon a requisition in writing of not less than 5% of general members, or ½ of the committee, then the committee shall, within one month of the receipt of the requisition, convene a special general meeting for the purpose specified in the requisition.
- c. Every requisition for a special general meeting shall be signed by the relevant members and shall state the purpose of the meeting.
- d. If a special general meeting is not convened within one month, as required by 8.2b above, the requisitionists & the chairperson may convene a special general meeting. Such a meeting shall be convened in the same manner as nearly as practical as a meeting convened by the committee, and for this purpose the committee shall ensure that the requisitionists are supplied free of charge with particulars of the members entitled to receive a notice of meeting. The reasonable expenses of convening and conducting such a meeting shall be borne by the association.

8.3 Notice of general meetings

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- a. Subject to 8.3b, at least 14 days notice of any general meeting shall be given to members. The notice shall set out where and when the meeting will be held, and particulars of the nature and order of the business to be transacted at the meeting.
- b. Notice of a meeting at which a special resolution is to be proposed shall be given at least 21 days prior to the date of the meeting.
- c. A notice may be given by the association to any member by serving the member with the notice personally, or by sending it by post to the address appearing in the register of members. (See rule 5.5.)
- d. Where a notice is sent by post:
 - i) the service is effected by properly addressing, prepaying and posting a letter or packet containing the notice, and
 - ii) unless the contrary is proved, service will be taken to have been effected at the time at which the letter or packet would be delivered in the ordinary course of post.

8.4 Proceedings at general meetings

- a. The chairperson or the secretary, or their nominated proxy, and at least 1 general member present personally or by proxy shall constitute a quorum for the transaction of business at any general meeting.
- b. If within 30 minutes after the time appointed for the meeting a quorum of members is not present, a meeting convened upon the requisition of members shall lapse. In any other case, the meeting shall stand adjourned to the same day in the next week, at the same time and place and if at such adjourned meeting a quorum is not present within 30 minutes of the time appointed for the meeting the members present shall form a quorum.
- c. Subject to 8.4d, the chairperson shall preside as chairperson at a general meeting of the association.
- d. If the chairperson is not present within five minutes after the time appointed for holding the meeting, or he or she is present but declines to take or retires from the chair, the members may choose a committee member or one of their own number to be the chairperson of that meeting.

8.5 Voting at general meetings

- a. Subject to these rules, every member of the association has only one vote at a meeting of the association.
- b. Subject to these rules, a question for decision at a general meeting, other than a special resolution, must be determined by a majority of members who vote in person or, where proxies are allowed, by proxy, at that meeting.
- c. Unless a poll is demanded by at least 2 members, a question for decision at a general meeting must be determined by a show of hands.
- d. A member being a body corporate shall be entitled to appoint one person, who shall not be a member of the association, to represent it at a particular general meeting or at all general meetings of the association. That person shall be appointed by the corporate member by a resolution of its board, which may be authenticated under its seal. Such a person shall be deemed to be a member of the association for all purposes until the authority to represent the corporate member is revoked.

8.6 Poll at general meetings

- a. If a poll is demanded by at least 2 members, it must be conducted in a manner specified by the person presiding and the result of the poll is the resolution of the meeting on that question.
- b. A poll demanded for the election of a person presiding or on a question of adjournment must be taken immediately, but any other poll may be conducted at any time before the close of the meeting.

8.7 Special and ordinary resolutions

- a. A special resolution as defined in the Act. A clause can be included repeating the definition in section 3 of the Act.
- b. An ordinary resolution is a resolution passed by a simple majority at a general meeting.

8.8 Proxies

A member shall be entitled to appoint in writing a natural person who is also a member of the association to be their proxy, and attend and vote at any general meeting of the association.

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9. Minutes

- a. Proper minutes of all proceedings of general meetings of the association and of meetings of the committee, shall be entered within one month after the relevant meeting in records stored electronically online, and access allowed to the whole committee, with a printed copy kept by the secretary in a folder acquired for the purpose.
- b. The minutes kept pursuant to this rule must be confirmed by the members of the association or the members of the committee (as relevant) at a subsequent meeting.
- c. The minutes kept pursuant to this rule shall be signed by the chairperson of the meeting at which the proceedings took place or by the chairperson of the next succeeding meeting at which the minutes are confirmed.
- d. Where minutes are entered and signed they shall, until the contrary is proved, be evidence that the meeting was convened and duly held, that all proceedings held at the meeting shall be deemed to have been duly held, and that all appointments made at a meeting shall be deemed to be valid.

10. Dispute resolution

- a. The dispute resolution procedure set out in this rule applies to disputes under these Rules between -
 - (i) a member and another member
 - (ii) a member and the association
 - b. The parties to the dispute must meet and discuss the matter in dispute and, if possible, resolve the dispute within 14 days after the dispute comes to the attention of all of the parties.
 - c. If the parties are unable to resolve the dispute at the meeting the parties may choose to meet and discuss the dispute before an independent third person agreed to by the parties.
 - d. In this rule 'member' includes any person who was a member not more than six months before the dispute occurred.
- Section 40 of the Act provides that where the committee exercises any power of adjudication in relation to a dispute between the members, or a dispute between itself and members of the association, the rules of natural justice must be observed
- Section 61 of the Act provides that an application to the Court for an order under the section may be made by a member of an incorporated association or by a former member expelled from the association (provided that the application is made within six months of the expulsion), who believes that the affairs of the association are being conducted in a manner that is oppressive or unreasonable.

11. Financial reporting

11.1 Financial year

The first financial year of the association shall be the period ending on the next 30 June following incorporation, and thereafter a period of 12 months commencing on 1 July and ending on 30 June of each year.

11.2 Accounts to be kept

The association shall keep and retain such accounting records as are necessary to correctly record and explain the financial transactions and financial position of the association in accordance with the Act.

11.3 Accounts and reports to be laid before members

The accounts, together with the committee's statement and the committee's report, shall be laid before members at the annual general meeting.

11.4 Annual returns

This rule is non applicable, as not a prescribed association. Should we meet the qualifications to be a prescribed association, the Public Officer will need to amend, with the authorisation of the committee, these rules and refile accordingly, as per section 15.

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Refer to section 3 of the Act for the definition of a 'prescribed association'. As a general description, a prescribed association is one that had gross receipts, excluding member subscriptions, in excess of \$500,000 in the previous financial year.

11.5 Appointment of auditor

This rule is non applicable, as not a prescribed association. Should we meet the qualifications to be a prescribed association, the Public Officer will need to amend, with the authorisation of the committee, these rules and refile accordingly, as per section 15.

Refer to section 3 of the Act for the definition of a 'prescribed association'. As a general description, a prescribed association is one that had gross receipts, excluding member subscriptions, in excess of \$500,000 in the previous financial year.

12. Prohibition against securing profits for members

The income and capital of the association shall be applied exclusively to the promotion of its objects and no portion shall be paid or distributed directly or indirectly to members or their associates except as bona fide remuneration of a member for services rendered or expenses incurred on behalf of the association.

Section 55 of the Act provides a prohibition against securing profits for members.

13. Winding up

The association may be wound up in the manner provided for in the Act.

14. Application of surplus assets

a. If after the winding up of the association there remains 'surplus assets' as defined in the Act, such surplus assets shall be distributed to any organisation which has similar objects and has rules which prohibit the distribution of its assets and income to its members.

The association may determine to distribute surplus assets to nominated charities.

b. Such organisation or organisations shall be identified and determined by a resolution of members in general meeting.

Section 43 of the Act prohibits the distribution of surplus assets at the completion of a winding up to members or former members, or associates of those persons.

15. Rules

These rules may be altered (including an alteration to the association's name) by special resolution of the members of the association. This includes rescission or replacement by substitute rules.

The alteration shall be registered with the Office of Consumer and Business Affairs, Corporate Affairs Commission, as required by the Act.

The registered rules shall bind the association and every member to the same extent as if they have respectively signed and sealed them, and agreed to be bound by all of the provisions thereof.

The Act provides that an alteration to a rule may be made by special resolution of the association unless other provision is made in the rules.

Note requirements of Section 24(6) and 24(7): Subject to any provision in the rules or a resolution to the contrary, an alteration to the rules comes into force at the time that the alteration is passed. This does not apply to an alteration to the name of the association which does not come into force until registered by the Office of Consumer and Business Affairs, Corporate Affairs Commission.