

# Italian Forum Cultural Centre

## Hire Agreement

### Schedule 2

## General Terms and Conditions

Proudly Operated by ACA Sydney Pty Ltd

**Italian Forum Cultural Centre**

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## 1. Definitions and interpretation

- a. In this Hire Agreement, including these General Terms and Conditions and all applicable Schedules, unless the context or subject matter otherwise indicates or requires:
  - i. **ACA** includes executors, administrators, substitutes, successors and permitted assigns;
  - ii. the **Hirer** includes executors, administrators, substitutes, successors and permitted assigns;
  - iii. the singular includes the plural and vice versa;
  - iv. one gender includes any other gender;
  - v. words denoting a natural person will include a corporation and vice versa;
  - vi. a reference to a group of persons or things is a reference to any two or more of them jointly and to each of them individually;
  - vii. words and phrases defined in the Corporations Act have the meanings given to them in that Act; and
  - viii. where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- b. The Hirer acknowledges that it is bound by this Hire Agreement. All previous discussions, correspondence, representations or agreements, except to the extent expressly incorporated into and forming part of this Hire Agreement, have no effect and this Hire Agreement is the entire and concluded agreement between ACA and the Hirer.
- a. In the event of any discrepancy between the documents comprising this Hire Agreement, subject to a contrary direction by ACA's Representative (which may be made in its absolute discretion), the most onerous obligation imposed upon the Hirer will apply.
- c. The provisions of this Hire Agreement that, by their nature, continue will survive any expiration or termination of this Hire Agreement.
- d. 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.
- e. The Table of Contents to this Hire Agreement and headings and subheadings are used for convenience and ease of reference only and must not be used to construe or interpret the provisions of this Hire Agreement.
- f. Where a list of items is concluded by a general word or phrase, that general word or phrase is not to be read as being limited to items similar to those in the list. Where one or more examples are given of items covered by a general word or phrase, that is not to be read as limiting the meaning of that general word or phrase to those examples or similar items. The words "includes" and "including" (and any variants of those words) must be read as if followed by the words "without limitation".
- g. Any amendment to the terms of this Hire Agreement will only be effective if made in writing and signed by ACA and the Hirer.
- h. A reference to "\$", "dollars", "¢" or "cents" is to the currency of the Commonwealth of Australia.
- i. This Hire Agreement is to be construed to give effect to the commercial intent of the parties and the common law rule that the construction of a document least favourable to the party who was responsible for its preparation or who seeks to rely on it should be preferred, is expressly excluded.
- j. Unless the context otherwise requires, where something is required by this Hire Agreement to be done on a day which is not a Business Day in the place where it is to be done, it must be done on the next day which is a Business Day in that place.

## 2. Venue Hire Fees

The Hirer must pay ACA the fees set out in Schedule 1 for the hire of the Venue. The Hirer acknowledges and agrees that:

- a. the fees in Schedule 1 are calculated by reference to the ACA fee rate card set out in Schedule 4;
- b. Schedule 4 also specifies fees for other services associated with the use of the Venue, which the Hirer may require, and if so, the Hirer must pay the relevant fees for those other services; and
- c. under clause 50, ACA may vary the fees payable by the Hirer under this clause.

## 3. Deposit

The Hirer must, within 14 days of making a tentative booking, pay a deposit, 50% of the total amount payable (excluding any Security Bond that is payable), which will be applied as set out in clause 9. If the deposit is not received by this date, ACA may cancel the tentative booking and hire the Venue to another Hirer.

## 4. Balance

The Hirer must pay the balance of applicable fees to ACA at least 14 days prior to the first booking date. If payment in full is not received by this date, ACA may cancel the booking and hire the Venue to another Hirer.

## 5. Changes to Requirements

Any changes requested by the Hirer within 24 hours of the hiring period may incur a fee of \$110.00 (inc. GST) in addition to any other hiring fees. ACA, in its absolute discretion, may require payment of any sum payable under this clause within 7 days of the requested change being accepted by ACA which payment must be made prior to the first booking date.

## 6. Security Bond

ACA may require the Hirer to pay a security deposit to cover possible loss or damage to the Venue or facilities, including any equipment (**Security Bond**). The Security Bond will be refunded if the Venue is left in a satisfactory condition. If any additional fees (e.g. cleaning or repairs) are incurred either before, during or after the event these costs will be deducted by ACA from the Security Bond.

## 7. Insurance

The Hirer must effect and maintain during the currency of the Agreement, at its own cost:

- a. public and products liability insurance policy of not less than \$20 million, with a deductible (excess) of no more than \$500;
- b. Workers Compensation insurance; and
- c. Personal Accident, Theft or Breakage Insurances.

ACA may request a higher amount of insurance in certain cases. The Hirer must provide a certificate of currency to ACA at least 7 days prior to the event. Should this condition not be complied with, entry to, or use of, the Venue by the Hirer shall not be permitted.

## 8. Indemnity for Hirers and their Agents

- a. The Hirer indemnifies ACA for and against all damages, actions, suits, claims, costs and demands, whensoever arising, which may be made or recovered against ACA by any person whatsoever in respect of any loss, injury (including death) or damage sustained whilst in or upon ACA's premises or the Venue, except to the extent that such loss, injury or damage is caused by the negligence of ACA, its employees or agents.
- b. Where this Hire Agreement covers Crown Land, the Hirer indemnifies the Minister administering the *Crown Lands Act 1989* in like manner.

## 8 Late Conclusion

If an event is to conclude after the time noted in Schedule 1 additional fees will be on-charged to the Hirer at the conclusion of the event. ACA can conclude the event at the time noted in the Schedule where the time extension is not operationally possible.

## 9 Cancellation

### a. Cancellation by Hirer

The 50% confirmation deposit is comprised of two elements: a 25% booking fee and a 25% hiring fee. The Hirer acknowledges and agrees that if the Hirer cancels the booking more than 90 days prior to the event commencement, ACA will retain 25% of the Deposit as a cancellation fee.

The 25% Hiring Fee will only be refunded to the Hirer in the event another party books the Venue for the same period as the cancelled booking. The 25% Booking Fee will be retained to cover administration costs.

If the Hirer cancels a confirmed event within 90 days prior to the event commencement, the full room hire fee as specified in Schedule 1 is payable.

### b. Cancellation by ACA

ACA may, in its absolute discretion, at any time before the event, cancel the Hirer's booking of the Venue by giving written notice of such cancellation to the Hirer. If ACA cancels the booking pursuant to this clause 9b, all monies paid to ACA by the Hirer will be returned to the Hirer. The Hirer acknowledges and agrees that ACA is not liable to the Hirer for any loss or damage suffered by the Hirer as a result of such cancellation.

### c. Termination for Breach

If, at any time, the Hirer is in breach of this Agreement, ACA may, in its absolute discretion, cancel the Hirer's booking of the Venue by giving written notice of such cancellation to the Hirer. Should the booking of the Venue be cancelled pursuant to this Clause 9c, the full room hire fee specified in Schedule 1 shall be payable by the Hirer.

### d. Force Majeure

If either party to this Hire Agreement is rendered unable wholly or in part to carry out their obligations under this Hire Agreement, both parties will make reasonable endeavours to mitigate the effects of a force majeure event. Subject to availability of the Venue, an event may be rescheduled solely at the discretion of ACA. Costs associated with any form of relief granted under a force majeure event shall be borne by the Hirer.

*In this clause, a "force majeure" event refers to an act of God, a strike, a lockout, an act of public enemy, civil commotion, war, blockade, riot, state of emergency, lighting, fire, storm, flood, washout, explosion, government restraint, or any form of governmental intervention and any other cause which is not within the control of the party alleging it.*

## 10 Use of Venue

The Hirer may only use the Venue for that purpose which is agreed to by ACA and noted in Schedule 1.

## 11 Access to the Venue - Non-exclusive occupancy

ACA retains the right to control the Venue including all means of ingress and egress, the timing of the opening and closing of doors and the admission of the public (including the right to refuse admission to any person or persons). ACA also retains the right to allow use by other hirers of the Venue at any time during the hire period provided that such usage does not interfere with the principal Hirer's activities.

## 12 Ingress and Egress

The Hirer must comply in every respect with all applicable regulations relating to public buildings and overcrowding and obstruction to passages, corridors, ramps or any other part of a facility or event area. If any path is obstructed, the Hirer must clear any articles causing such an obstruction immediately or be in breach of the terms of this Hire Agreement.

## 13 Ticketing

The issue of all tickets of admission are subject to the direction of ACA. The terms and conditions of ticketing will be governed by a separate ticketing agreement in the form of Schedule 5, if applicable.

## 14 Box Office

The Hirer must ensure that the box office can be opened for ticket sales and collections a minimum of one hour prior to each performance.

## 15 Companion Card

ACA's Venues are affiliated with the NSW Government's 'Companion Card' program. Hirers are required to accept valid Companion Cards when they are presented by authorised card-holders. Accompanying carers of Companion Card holders are entitled to free admission into all events or performances held at ACA Venues. The use and acceptance of Companion Cards must comply with applicable Companion Card terms and conditions as determined by the NSW Government.

## 16 Crowd Control and Staffing

The Hirer must provide security / ushers approved by ACA at the cost of the Hirer. Minimum crowd control staffing numbers required by ACA is noted in Schedule 1 and the standard fees documentation.

#### **17 Maximum Capacity**

The Hirer's event must be limited to the maximum capacity of the Venue as noted in Schedule 1. It is the responsibility of the Hirer to ensure this maximum capacity is not exceeded. ACA may stop the Hirer's event or close the Venue until the Hirer rectifies the breach.

#### **18 Child Protection**

ACA strictly enforces all provisions of the *Child Protection (Prohibited Employment) Act 1998* and the *Child Protection (Offenders Registration) Act 1998* as they relate to ACA premises and ACA representatives or agents.

The Hirer agrees to be responsible for compliance with these Acts, including compliance by the Hirer's staff, agents or contractors.

#### **19 Copyright/Licences**

The Hirer must not infringe or allow others to infringe, any copyright, performing right or other protected right involved in any performance, or use of the Venue.

The Hirer indemnifies ACA Sydney against all claims, demands or actions whensoever arising from any such infringement or breach. Prior to any performance or use covered by this Hire Agreement, the Hirer will obtain from the Australasian Performing Rights Association Limited (APRA), Phonographic Performance Company of Australia Ltd (PPCA) or other relevant individual or organisation all such licences as may be required for the use of such works as are subject to copyright or other performing rights.

#### **20 Photography, Broadcasting and Television Recording**

- a. The Hirer must inform ACA in writing of any intention to photograph, broadcast, televise or record any activity within the Venue during the hire period.
- b. The Hirer must pay all fees and costs resulting from such activities, and must include in any photography, television, or broadcast such material and information that maybe required by the local municipal government.

#### **21 Additional Facilities, Equipment and Services**

- a. ACA may permit the Hirer in some cases to use additional equipment and services, not provided by ACA. Any facilities, equipment and services must be operated and maintained in accordance with any written or verbal direction given by ACA staff or agents at any point in time.
- b. Risk assessment and work method statements must be completed for all external facilities, equipment and services. The Venue management reserves the right to alter the security arrangements subject to the outcome of this assessment process. This includes connection to or interference with the electrical installation, lighting, audio or visual systems within the Venue. Electrical equipment must be tested and tagged prior to being brought into the Venue. Any equipment not approved by ACA will not be allowed on-site

#### **22 Licence and Approvals**

The Hirer is responsible for obtaining all necessary permits and approvals for all activities. The Hirer must ensure that all equipment and vehicles are only operated by people holding appropriate licences and permits in accordance with relevant State legislation.

#### **23 Furniture, Fixtures, Equipment and Content**

The Hirer must not remove or cause the relocation, removal of any furniture, fixture, item of equipment or any other content under the control of ACA or by third parties in or around the Venue without written approval from ACA.

#### **24 Additions or Alterations**

The Hirer must not, unless approved by ACA in writing, make any addition or alterations to the structure, facilities, goods, equipment or decoration of the Venue.

#### **25 Deliveries/Couriers**

Unless by prior arrangement with the Venue management, deliveries and pick-ups must take place during the hire period and the Hirer must be on-site to accept the goods. Unexpected deliveries may be refused. The Hirer acknowledges and agrees that ACA representatives or agents will not dispatch goods from the Venue or sign consignment notes on behalf of the Hirer and are not responsible for theft or damage of delivered goods.

#### **26 Departure from Venue**

The Hirer must leave the Venue and all facilities in a clean, safe and proper condition as at the commencement of the hire period, to the satisfaction of ACA, and must remove all goods and equipment brought in by the Hirer in accordance with any direction of ACA. The Hirer acknowledges and agrees that ACA shall not have any liability in respect to loss of or damage caused to goods left in the Venue.

#### **27 Smoking**

Smoking is not permitted within ACA Venues or associated land.

#### **28 Risk Management**

The Hirer must provide and maintain, at all times, an environment that is safe and without risks to the health of all persons employed for or visiting the event and the public at large.

The Hirer must be familiarise itself with NSW Work Health and Safety legislation. The Hirer must provide evidence of a completed risk assessment undertaken for an event and the health and safety controls that have been put into place at least one month prior to commencement of the hire period. When required, safe work method statements must also be completed.

Any person found working under the influence of drugs or alcohol will be asked to leave the premises.

#### **29 Explosives, Flammable Liquids or any other Dangerous Goods**

The Hirer must not bring into or use in, or permit to be brought into or used in, the Venue or any other part of the building explosive, fuel, or flammable liquid or substance.

ACA management must approve the use of pyrotechnics, candles, smoke machines; hazer's or oil crackers at minimum one month prior to the commencement of the hire period. Arrangements for the isolation of smoke detectors/alarms will be organised by the Venue management and all associated costs will be passed on the Hirer. ACA reserves the right to decline any approval.

The Hirer must not bring or permit others to bring any other dangerous good or item such as, ammunition, firearms or weapons into any ACA Venue without the express prior written consent of the ACA management. Such consent must be obtained at minimum one month prior to the commencement of the hire period. ACA reserves the right to decline approval to requests received after this time.

### 30 Fire Retardant

All scenery, properties, drapes etc. for use in the Venue by or on behalf of the Hirer must be rendered fire-retarded before being brought on-site. A certificate of such treatment must be produced on request. Polystyrene and other such materials that cannot be treated with fire retardant are not permitted for use in ACA Venues.

### 31 Noise

The Hirer must ensure that music and noise levels are restricted to a safe and reasonable level. The noise emissions must not exceed normal background noise level when measured at the nearest boundary of any residential property outside of the Venue. The Hirer must comply with any reasonable request by any person to mitigate any such nuisance.

### 32 Animals

No pets, animals or birds are allowed in ACA Venues without written permission from ACA management. Registered guide dogs are excepted.

### 33 Regulations

The Hirer, and its agents must comply with all relevant Acts, Regulations and any other legal requirements relating to the use of Venue within the jurisdiction of NSW and/or relating to the conduct of performances, activity or events.

### 34 Catering

ACA operates a number of Venues under preferred catering agent agreements. All details regarding catering arrangements must be confirmed seven days prior to the event date.

Where no preferred catering agent agreement is in place the Venue will only accept the services of caterers with a valid gold licence from the Restaurant & Caterers Association. A list of all applicable caterers can be found on the NSW branch website [www.rca.asn.au](http://www.rca.asn.au)

Where a non-preferred catering agent is used a commission is charged in addition to the Venue hire costs. Commission fees reflect the costs associated with the maintenance and upkeep of the Venue.

### 35 Liquor Licensing

**UNDER LIQUOR LICENSING PROVISIONS, NO ALCOHOL MAY BE BROUGHT INTO THE VENUE EXCEPT BY THE LICENSEE AND NO ALCOHOL MAY BE CONSUMED IN ANY PART OF THE VENUE EXCEPT IN THE LICENSED AREAS.**

Note:

- a) Where a Venue has an operating Liquor Licence the terms of that licence must be followed.

- b) Where a Venue has no licence but one can be obtained this will still be at the discretion of ACA.
- c) Where a Venue cannot obtain, or has no liquor licence, no alcohol may be consumed or brought on-site under any circumstances.
- d) No person under the age of 18 years shall be served alcoholic liquor or allowed to consume alcoholic liquor.
- e) The Hirer shall be responsible for the conduct of patrons attending the event.

### 36 Merchandise

If the Hirer wishes to sell merchandise or programmes in the Venue, a 12.5% commission of all sales on the gross receipt will be payable to ACA unless this is waived by ACA's management in writing.

### 37 Advertising and Signage

The Hirer must comply with ACA's policy covering "Signage Conditions" and the directions of the Venue management.

### 38 Use of ACA Owned or Controlled Image

The Hirer must not use in any of its promotional material any image or logo of an ACA Venue without the express permission of ACA management.

### 39 Presentation Standards

ACA may, in its absolute discretion, require the Hirer to remove any material (including cartons, boxes, and handwritten signs and display materials) which is detrimental to the presentation standards of the Venue. The Hirer must comply immediately with any such request.

### 40 ACA Sydney Representatives

Venue management, staff, agents or representatives may be present at every event.

### 41 Right of Entry

ACA's authorised representatives or agents may enter and inspect the Venue or any part of it at any time. The Hirer must not obstruct them or any member of the police force, fire brigade, ambulance service or any other emergency service, from entering the Venue.

### 42 Lost Property

Only ACA staff may enter, examine and search the Venue for lost property after the termination of the hire period. Any property found will be registered and disposed of in accordance with ACA's policy.

### 43 Hirer's Employees and Agents

All persons engaged or employed by the Hirer in connection with the hiring of the Venue must comply with the provisions of this Hire Agreement, and the Hirer agrees to accept responsibility for any failure on the part of its agents, employees and contractors to observe and comply with these provisions. The Hirer must ensure that all agents, employees and contractors are familiar with the requirements of any applicable NSW Work Health and Safety Legislation.

#### **44 Criminal Acts**

The Hirer acknowledges and agrees that:

- a. Without exception, all acts deemed to be of a criminal nature by the Venue management will be referred to the Police.
- b. Details relating to a hire, Hirer and/or any other information that ACA has available in relation to the hire and any other associated activities will be provided to the Police upon their request.

#### **45 Disorderly Behaviour**

No obscene or insulting language, disorderly behaviour or damage to property is permitted in any part of the Venue.

#### **46 Prohibition of Assignment**

The Hirer may not transfer, assign, sub-let or sub-hire its rights under this Hire Agreement.

#### **47 Waiver**

The provisions of this Hire Agreement, and all associated documentation may only be varied by ACA's management in writing.

#### **48 Interest**

ACA may, in its absolute discretion, require the Hirer to pay interest on all monies outstanding to ACA for any period in excess of 30 days after those monies become due for payment, at the standard ACA interest rate payable on overdue rates.

#### **49 Serving of Notices**

Any notice will be served upon the party or parties at the relevant address set out in Schedule 1.

#### **50 Price Rise**

The Hirer acknowledges that all fees have been calculated in accordance with Schedule 4 which is the ACA fee rate card for the current financial year. If the Venue is booked for an event after the 30 June, the amount payable for that event may be increased or adjusted by ACA to reflect the ACA rate card current at the time of the event.

#### **51 Surcharges**

All surcharges are noted in the standard fees for the Venue and will be incorporated in the costing shown in Schedule 1.

#### **52 ACA Support**

Any support, funding or waiver of fees for a hire does not constitute any liability, partnership or involvement in an event on the part of ACA, unless otherwise stated in writing.

#### **53 Safety and Emergency Evacuation Procedures**

The Hirer must comply with the safety and emergency procedures of each ACA-operated Venue - see Schedule 3 for these procedures.

#### **54 Special Conditions**

ACA reserves the right to impose further special conditions on the granting of a booking for hire of the Venue, and any such special conditions shall be specified in Schedule 2.