

SERVICE AGREEMENT

**Consulate General of Italy in Sydney by its Cultural Office
Istituto Italiano di Cultura**

**ILCA
Italian Language and Cultural Association Incorporated**

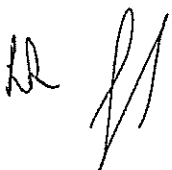
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PARTIES

The Client	Name	Consulate General of Italy in Sydney by its Cultural Office, the Istituto Italiano di Cultura
	Address	Level 4, 125 York Street, Sydney NSW 2000

The Service Provider	Name	ILCA Italian Language and Cultural Association Incorporated
	Address	12/9 Goomerah Cres. Darling Point NSW 2027 Sydney

DATE OF AGREEMENT	02.09.2020
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1 Purpose of this agreement

- 1.1 The Agreement is made between the Client and the Service Provider.
- 1.2 The Client is in the business outlined in Item 1 of Schedule 1.
- 1.3 The Service Provider is in the business outlined in Item 2 of Schedule 1.
- 1.4 The Service Provider has offered to provide the Service to the Client.
- 1.5 The Client has accepted the offer from the Service Provider.
- 1.6 The Client and the Service Provider agree that their relationship will be managed by the terms and conditions set out in this agreement.

2 Definitions and Interpretation

- 2.1 This Agreement is to be interpreted as per the Definitions and Rules of Interpretation contained at Schedule 2.

3 Term

- 3.1 This agreement will commence on the Commencement Date and end on the Expiry Date.

4 Engagement

- 4.1 The Service Provider will provide the Service to the Client during the Term.
- 4.2 Before the commencement of each Course, the Service Provider will provide the Client with a list of Italian Language teachers available to teach the Courses.
- 4.3 The choice of the most adequate teacher will be agreed between the parties. If no agreement can be found, then the Client will choose.

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5 Consideration

- 5.1 The Client will pay the Service Fee as calculated in accordance with Item 3 of Schedule 1 (to the *Maximum Sum outlined in Item 4 of Schedule 1*) to the Service Provider.
- 5.2 The Service Fee will be paid to the Service Provider for the Service provided by it during the Term. Notwithstanding any extension outlined in Clause 6, the Term expires on the Expiry Date and cannot be extended.
- 5.3 The Service Fee will be paid to the Service Provider fortnightly in arrears.
- 5.4 The Service Fee shall be paid by the Client by direct deposit into the Bank Account identified in Item 3A of Schedule 1.
- 5.5 The Service Provider shall, if requested by the Client, include on any applicable Tax Invoice, any unique Service Provider identity code ("CIG") provided by the Client.

6 Extension

The Service Provider acknowledges, that upon twenty eight (28) days notice, it is obliged to provide the Services in circumstances where the Maximum Sum has been exhausted, and the Client desires in its absolute discretion to continue with the Services for consideration over and above the Maximum Sum to a ceiling of \$ 210,000.

The obligation to provide the Services, is limited only by the expiry of time as outlined in 5.2 above.

7 Client's Responsibility

- 7.1 The Client shall be responsible of managing the enrolment of students to the Courses.

8 Assistance provided by The Client

- 8.1 The Client may provide assistance to the Service Provider of the type outlined in Schedule 3.

9 Service Provider Responsibilities

- 9.1 The responsibilities of the Service Provider are outlined at Schedule 4.
- 9.2 The Service Provider indemnifies the Client from and against all loss in respect of any non-performance or breach of the responsibilities.

10 Obligations of Service Provider

- 10.1 The obligations of the Service Provider are outlined at Schedule 5.
- 10.2 The Service Provider indemnifies the Client from and against all loss in respect of any non-performance or breach of the obligations.

11 Service Provider's warranties

- 11.1 The warranties of the Service Provider are outlined at Schedule 6.



11.2 The Service Provider indemnifies the Client from and against all loss in respect of any non-performance or breach of the warranties.

12 Relationship between parties

12.1 Nothing in this agreement constitutes the relationship of partnership, agency or employer-employee between the Client and the Service Provider.

12.2 Nothing in this agreement constitutes or deems any employees of the Service Provider to be employees of the Client. The Service Provider's employees are and will remain at all times employees of the Service Provider.

13 No Solicitation

13.1 The Service Provider may engage in any other work and assignments during the Term provided that:

- (a) such other work or assignments do not bring the Client into disrepute; and
- (b) the Service Provider or a related entity or employee of the Service Provider does not:
 - 1. interfere with the relationship between the Client, its customers, employees or suppliers;
 - 2. induce or help to induce an employee of the Client to leave their employment; or

13.2 The Service Provider acknowledges that any breach by the Service Provider of this clause would cause irreparable harm and significant damage to the Client and accordingly that the Client has the right to seek and obtain immediate injunctive relief in relation to any such breach.

13.3 The Service Provider acknowledges that the covenants in respect of non-solicitation contained in this clause are fair and reasonable and that the Client is relying upon this acknowledgement in entering into this agreement.

13.4 The Service Provider's obligations in this clause begin on the Commencement Date and end on the date 12 months after the determination of this Agreement, unless that period is held invalid for any reason by a court of competent jurisdiction.

14 Confidential Information

14.1 Unless it has previous written consent from the Client the Service Provider must:

- (a) only use the Confidential Information for the purpose of performing the Service;
- (b) not use or attempt to use any Confidential Information in any manner which may prejudice the confidentiality of the Confidential Information or may injure or cause loss to the Client.

14.2 The Service Provider must at all times store all Confidential Information safely and securely.

14.3 The Service Provider must immediately notify the Client in writing of any actual, threatened or suspected unauthorised disclosure of any Confidential Information.

14.4 The Service Provider's obligations with regard to the Confidential Information will continue for so long as this information is maintained on a confidential basis:

- (a) by the Client, in the case of Confidential Information pertaining to the Client's business; or

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(b) by the Client's customers, contractors or suppliers, in the case of Confidential Information pertaining to the Client's customers, contractors or suppliers.

14.5 The Service Provider agrees that the Client may require any of the Service Provider's employees and contractors to sign a confidentiality agreement in a form that the Client approves.

14.6 The Service Provider indemnifies the Client against all liabilities, damage, costs and expenses which the Client may suffer or incur as a result of any breach of this clause by the Service Provider.

14.7 The Service Provider will and will ensure that the Service Provider's employees and contractors comply with all privacy obligations under any law or regulation.

14.8 At the end of the Term the Service Provider must return or, if requested by the Client, destroy, any of the Client's Confidential Information, materials or documents in its possession or control.

14.9 The obligations accepted by the Service Provider under this clause survive termination or expiry of this agreement.

15 **Subcontracting**

The Service Provider cannot subcontract all or part of its obligations to provide the Services.

16 **Breach**

If a party breaches any term of this Agreement, the other party may give notice requiring that party to rectify the breach. If the notified party fails to rectify the breach to the satisfaction of the notifying party within 7 days of the notice, the notifying party may terminate this agreement by notice in writing.

17 **Termination of the Agreement**

17.1 In addition to any other rights the Client may have under the agreement, the Client may at its sole discretion, at any time and for its sole convenience, and for any reason, terminate the agreement by giving at least 28 (twenty-eight) days written notice to the Services Provider effective from the time stated in the notice.

17.2 If the Client terminates the agreement under clause 17.1, the Services Provider:

(a) will not be entitled to any damages or profit anticipated on any part of the agreement hereby terminated, but shall be entitled to:

i. payment of the Termination Fee; and

ii. payment of the Service Fee up until the date of termination specified in the Client's notice under clause 17.1.

(b) the payments to which the Services Provider is entitled under this clause 17.2 will be a limitation upon the Client's liability to the Services Provider arising out of, or in any way in connection with, the termination of the agreement and the Services Provider may not make any claim (including under the agreement or otherwise at law or in equity) against the Client arising out



- (b) by the Client's customers, contractors or suppliers, in the case of Confidential Information pertaining to the Client's customers, contractors or suppliers.
- 14.5 The Service Provider agrees that the Client may require any of the Service Provider's employees and contractors to sign a confidentiality agreement in a form that the Client approves.
- 14.6 The Service Provider indemnifies the Client against all liabilities, damage, costs and expenses which the Client may suffer or incur as a result of any breach of this clause by the Service Provider.
- 14.7 The Service Provider will and will ensure that the Service Provider's employees and contractors comply with all privacy obligations under any law or regulation.
- 14.8 At the end of the Term the Service Provider must return or, if requested by the Client, destroy, any of the Client's Confidential Information, materials or documents in its possession or control.
- 14.9 The obligations accepted by the Service Provider under this clause survive termination or expiry of this agreement.

15 Subcontracting

The Service Provider cannot subcontract all or part of its obligations to provide the Services.

16 Breach

If a party breaches any term of this Agreement, the other party may give notice requiring that party to rectify the breach. If the notified party fails to rectify the breach to the satisfaction of the notifying party within 7 days of the notice, the notifying party may terminate this agreement by notice in writing.

17 Termination of the Agreement

- 17.1 In addition to any other rights the Client may have under the agreement, the Client may at its sole discretion, at any time and for its sole convenience, and for any reason, terminate the agreement by giving at least 28 (twenty-eight) days written notice to the Services Provider effective from the time stated in the notice.
- 17.2 If the Client terminates the agreement under clause 17.1, the Services Provider:
 - (a) will not be entitled to any damages or profit anticipated on any part of the agreement hereby terminated, but shall be entitled to:
 - i. payment of the Termination Fee; and
 - ii. payment of the Service Fee up until the date of termination specified in the Client's notice under clause 17.1.
 - (b) the payments to which the Services Provider is entitled under this clause 17.2 will be a limitation upon the Client's liability to the Services Provider arising out of, or in any way in connection with, the termination of the agreement and the Services Provider may not make any claim (including under the agreement or otherwise at law or in equity) against the Client arising out



of, or in any way in connection with, the termination of the agreement other than for the payments payable under this clause 17.2.

This clause 17.2 will survive the termination of the agreement by the Client under clause 17.1.

18 Termination for Default

- 18.1 The Client may terminate this Agreement at any time without notice if the Service Provider engages in a serious or material breach of this Agreement or an essential term.
- 18.2 The Client may terminate this agreement at any time by notice in writing to the Service Provider if the Service Provider:
- (a) is guilty of any dishonesty, serious misconduct or serious neglect of duty in connection with the provision of the Service; or
 - (b) engages in any act or omission that in the reasonable opinion of the Client has or will likely have the effect of causing material damage to the Client.
- 18.3 In the event that this Agreement is terminated by the Client in accordance with this clause, the Service Provider will pay to the Client a sum equal to 5% of the Maximum Sum payable under this Agreement as a genuine pre-estimate of damage in the Client being required to source and obtain an alternate provider to provide the Service for the remainder of the Term.
- 18.4 If at the end of this agreement, and following the payment by the Service Provider of any fees or other monies under this Agreement, the Service Provider is owed any fees or other monies, the monies must be paid within 14 days of receipt of a final invoice.

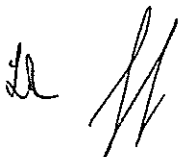
19 Indemnity

- 19.1 The Service Provider provides the Service at the risk of the Service Provider and releases the Client to the full extent permitted by the law.
- 19.2 The Service Provider agrees that the Client shall have no responsibility or liability for any loss of or damage to the property of the Service Provider or any person claiming through or under the Service Provider other than as may be caused by the negligence of the Client, its agents, contractors or employees.
- 19.3 Except in the case of the negligence of the Client, its agents, contractors or employees, the Service Provider indemnifies the Client from and against all Claims occasioned or contributed to by any negligence, willful act or omission of the Service Provider or its agents, employees and contractors.

20 Guarantee

The Client may at its sole discretion, at any time and for its sole convenience, and for any reason request the person who executes this Agreement for and on behalf of the Service Provider to be Guarantor of the Service Provider and independently and irrevocably:

- (a) make the Service Provider Warranties;
- (b) give the Service Provider Indemnities;



21 **Waiver**

Nothing in this agreement shall be interpreted as a waiver (explicit or implicit) by the Client of the Client's immunities under the International Law and International Treaties.

22 **General**

Notices

22.1 Any notice or other communication to or by a party to this agreement:

- (a) may be given by personal service, post, facsimile or email;
- (b) must be in writing, legible, and in English;

Other

22.2 The failure, delay or omission by a party to exercise any power or right conferred upon it by this agreement will not operate as a waiver of such power or right, nor will any single exercise of any such power or right preclude any other future exercise of the power, or the exercise of any other power or right under this agreement. A waiver of any provision of this agreement, or consent to any departure by a party from any provision of this agreement, must be in writing and signed by all parties and is effective only to the extent for which it is given.

22.3 This agreement may not be changed or modified in any way except in writing signed by or on behalf of all the parties.

22.4 This agreement constitutes the entire agreement of the parties in respect of the matters dealt with in this agreement and supersedes all prior agreements, understandings, undertakings and negotiations in respect of the matters dealt with in this agreement.

22.5 This agreement is governed by, and is to be construed and take effect in accordance with, the laws of New South Wales. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales.

EXECUTED for and on behalf of
**ISTITUTO ITALIANO DI CULTURA OF
SYDNEY** by its Authorised Person:

Lillo Teodoro Guarneri

Name of its Authorised Person

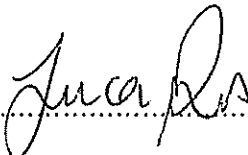

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Signature



EXECUTED for ad behalf of ILCA
ITALIAN LANGUAGE AND CULTURAL
ASSOCIATION INCORPORATED by its
Authorized Person

Luca Ros

Name of its Authorised Person


.....
Signature



Schedule 1

Item 1 **Business of the Client:** Promotion of the Italian Language and Culture;

Item 2 **Business of Service Provider:** Provision of Education Services in the Italian Language;

Item 3 **Service Fee:** AUD\$ 58.50 gross per man hour;

Item 3A **Bank Account:** National Australia Bank BSB: 082748 Account: 73286693

Item 4 **Maximum Sum:** AUD \$ **190.080**

with any payment to the Service Provider over and above Euro 1000 being publically disclosed on *Albo dei Beneficiari dei Vantaggi Economici* as per section 26 *Decreto Legislativo 33/2013*, a copy of which is housed and may be viewed at: <http://www.gazzettaufficiale.it/eli/id/2013/04/05/13G00076/sg>

Item 5 **Term of Agreement:** 1 October 2020 to 31 December 2022

Item 6 **Commencement Date:** 1 October 2020

Item 7 **Expiry Date:** 31 December 2022

Item 8 **Termination Fee:** \$1.00

Item 9 **Code of Conduct:** *Ministero degli Affari Esteri e della Cooperazione Internazionale's* a copy of which is housed and may be viewed at:

<https://www.esteri.it/mae/resource/mae/2014/09/codicedicomportamentomaeci.pdf>



Schedule 2

Definitions

- (a) **Agreement** means this agreement;
- (b) **Claims** means any and all actions, claims, demands, loss, damages, death or injury to persons, costs or expenses;
- (c) **Commencement Date** means the commencing date of this Agreement as set out in Item 6 of Schedule 1.
- (d) **Confidential Information** includes, but is not limited to, any information concerning:
 - (a) The Client's database
 - (b) The Client's trade secrets;
 - (c) Other information designated as confidential by the Client, but does not include information which:
 - a. is generally available in the public domain otherwise than as a result of a breach of this agreement by the Service Provider;
 - b. was known by the Service Provider prior to the Client disclosing the information to the Service Provider; or
 - c. the Service Provider is required by law to disclose, including but is not limited to, any information that is marked as confidential or received by the Service Provider during the Term
- (e) **Courses** means the courses of Italian Language and Culture organized by the Client.
- (f) **Expiry Date** means date that this Agreement expires by effluxion of time as set out in Item 7 of Schedule 1.
- (g) **Parties** means the Client and the Service Provider.
- (h) **Premises** means the premises of the Client.
- (i) **Remuneration and Benefits** includes salary, superannuation, annual leave, sick leave, long service leave and any other benefits to a person may be entitled as a contractor or employee as the case may be.
- (j) **Service** means the supply of teachers of Italian Language and Culture by the Service Provider to the Client.
- (k) **Service Fee** means the service fee referred to in Item 6 of Schedule 1 that is payable to the Service Provider by the Client.
- (l) **Term** means the term of this Agreement as set out in Item 5 of Schedule 1.
- (m) **Termination Fee** means the amount specified in Item 8 of Schedule 1.

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Rules of Interpretation

Where the context permits:

- (n) Words importing the singular number includes the plural and vice versa; words importing a gender include every other gender; and words importing persons include bodies corporate and government and semi-government authorities and departments and vice versa.
- (o) All rights and conditions implied by law as they relate to the parties are excluded unless contained within this agreement. This applies unless the rights, terms and conditions cannot be excluded. If that is the case, they are taken to form part of this agreement.
- (p) Reference to the Service Provider includes when an individual, the legal personal representatives of that individual and their assigns and successor and when a company or corporation, its successors and assigns.
- (q) If any provision contained in this Agreement is prohibited by law, otherwise void or invalid at law, that provision is severed from this Agreement which otherwise continues to be valid and operative.
- (r) References to the words including, include or includes will not be limited.
- (s) References to anything are to the whole or any part.
- (t) If this Agreement prohibits the Service Provider from doing something, the Service Provider must not permit or suffer any other person to do the prohibited activity.
- (u) Reference to a Statute includes all regulations subordinate legislation under and amendments to that Statute whether by subsequent Statute or otherwise and a Statute passed in substitution for the Statute referred to or incorporating any of its provisions.
- (v) In the interpretation of this Agreement, no rules of construction shall apply to the disadvantage of one party on the basis that that party put forward this Agreement or any part of this Agreement.
- (w) References to writing shall include typing, telex, facsimile and all other means of reproducing words in a lasting visible form; references to notices shall mean notices in writing. Consents and approvals under this Agreement including the Rules and Regulations shall be sought and given in writing.
- (x) This agreement must comply to the International Law and International Treaties.



Schedule 3 – Assistance

In its absolute discretion, the Client may provide the Service Provider with assistance, which may include:

- (a) making its Premises (or any other place chosen by the Client), available to conduct the Courses;
- (b) granting the Service Provider a royalty free licence to use any necessary Confidential Information;
- (c) making resources available on reasonable notice;
- (d) advertising the Service;
- (e) managing its Confidential Information;
- (f) advertising the Services of the Service Provider;
- (g) supervising the activity being carried out by the Service Provider, in accordance with section 17(2) Legislative Decree (Decreto Ministeriale) 27 April 1995, n. 392, as amended by the Legislative Decree (Decreto Ministeriale) 3 December 2015, n. 211 [available at insert web address];
http://www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto_dataPubblicazioneGazzetta=2015-12-31&atto_codiceRedazionale=15G00233&elenco30giorni=true
and by Law (Legge) 401/1990 [available at insert web address]
<http://www.gazzettaufficiale.it/eli/id/1990/12/29/090G0449/sg>
- (h) providing the Service Provider with information concerning the Service.



Schedule 4 - Responsibilities

The Service Provider is responsible for:

- (i) all of its own business expenses and operating costs in connection with providing the Service;
- (j) paying its employees, servants, contractors, and Agents, all remuneration and benefits;
- (k) paying all taxes and duties in respect of such remuneration and benefits;
- (l) compliance at its own cost and expense with all Acts, ordinances, awards, rules, regulations, other delegated legislation, codes and the requirements of any Commonwealth, state and local government departments, bodies, and public authorities or other authority so far as these same may affect or apply to the Service Provider's Business or to the Service;
- (m) payment of all taxes, rates, charges, levies, imposts and assessments issued by any authority which at any time during the Term or renewal thereof are charged upon the Service Provider or in connection with the Service or the Service Provider's Business;
- (n) maintaining any of its own tools, materials or equipment to a standard of good quality, and in good working condition.

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Schedule 5 - Obligations

The Service Provider is obliged to:

- (a) instruct, engage or employ staff, agents, servants and/or independent contractors as may be deemed necessary by the Service Provider for the provision of the Service;
- (b) provide the Service as to have an adequate number of qualified Teachers available to run at least 50 Courses a year, each course with a maximum of 25 hours each Course;
- (c) operate the Service Provider's Business diligently and in a proper and businesslike manner in accordance with sound management practice, and applicable industry standards;
- (d) provide the Service in compliance with any relevant codes of conduct as specified in Item 9 of Schedule 1, and ensure that the employees, agents, servants and/or independent contractors also comply with any relevant codes of conduct;
- (e) provide the Service at its own cost;
- (f) act in good faith in all dealings with the Client;
- (g) not do anything that may be harmful to the reputation or interests of the Client;
- (h) pay all business expenses attributable to the Service Provider's Business;
- (i) ensure that the Service Provider's employees, agents, servants and/or independent contractors are properly trained;
- (j) ensure that all employees, agents, servants and/or independent contractors:
 - i. are competent, efficient, courteous and responsive;
 - ii. are properly dressed;
 - iii. have sufficient command of the English language to perform their work;
 - iv. undergo appropriate training programs.
- (k) exercise all necessary and prudent safety precautions in provision of the Service;
- (l) comply with and observe all laws and requirements of any authority in relation to the Service Provider's Business and the provision of the Service;
- (m) promptly repair and replace all damage caused or contributed by the Service Provider or its employees, agents, servants and/or independent contractors to the Premises;
- (n) observe any, and ensure its employees, agents, servants and/or independent contractors observe any "No Smoking" policy within the Premises;
- (o) ensure that its employees, agents, servants and/or independent contractors comply with the terms of this Agreement.

The Obligations of the Service Provider contained in this Schedule are essential terms of the agreement. Any breach of these Obligations entitles the Service Provider to terminate the agreement according to clause 16.

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Schedule 6 - Warranties

1. The Service Provider warrants:
 - (a) that it is experienced in all aspects of the management and operation of the Service Provider's Business;
 - (b) that it is able to provide the Service to a first class standard;
 - (c) that it has obtained or declined a reasonable opportunity to obtain independent legal, accounting and financial advice in connection with this Agreement;
2. The Service Provider must not at any time act or purport to act on behalf of the Client.
3. The Service Provider acknowledges and agrees that:
 - (d) It will not bind or purport to bind the Client to any contract, or create any liability against the Client in any way or for any purpose;
 - (e) the Client relies on the Service Provider's specialist expertise in the provision of the Service and it is the Service Provider's responsibility to appropriately direct and monitor its employees to ensure that the Service are provided in the manner required by this Agreement.
 - (f) that any employee, agent, servant and/or independent contractor engaged by it for the provision of the service:
 - i. is legally permitted to work in Australia; and
 - ii. does not have a criminal record; and
 - iii. has completed a bachelor degree; and
 - iv. has the Italian language as its mother tongue; and
 - v. has completed a specialisation in teaching the Italian Language to non-Italian speakers, or has previously taught the Italian Language to non-Italian speakers for at least 150 hours.

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