

Community Use of School Facilities **Agreement Form**

between

**on behalf of the Minister for Education and Child Development
and**

Agreement Form

For Community Use of School Facilities

Form version 7, July 2015

1. HIRE of Facilities

I, _____ (name of principal/director) ("Principal"/"Director"),
Principal/Director of _____,
(name of school/preschool) ("School"/"Preschool") on behalf of the Minister for Education and Child Development ("Minister")
agree to allow the Facilities identified in Clause 2 to be used by the following person(s) or organisation* (the "Hirer") (please
include name, address and phone numbers of individuals/organisation*:

[NOTE: If the area/s above do not provide enough room for information please attach a list to this form.]

2. Times and Use of Facilities for Term of Agreement

The Hirer hires the following Facilities during the following hours of use and frequency of use:

Facility to be used	Hours of use	Frequency of use
(eg, Oval or Building, Rooms)	(From – To)	(eg, 1st Tuesday of each month, every Friday during School Terms 1 and 4)

[NOTE: If the area/s above do not provide enough room for information please attach a list to this form.]

The Term of the Agreement shall commence on:

_____ (starting date) and expire on

_____ (finishing date)

or until terminated pursuant to clause 16. [NOTE: Term must not exceed one (1) year]

Footnote

* If the Hirer is not an incorporated association, a company or other body corporate, then the full names of the officers responsible (usually the Hirer's management committee) should be inserted. Each person named must sign as having accepted the terms of the agreement. The address of each should be given. If the Hirer is an incorporated association, which does not have its own premises, the address of its public officer(s) should be given.

3. Hire Charge

The Hirer must pay a hire charge of _____ ** per _____ (night, week, month, term, etc) (plus GST if applicable), the hire charge to be paid to _____ (name of school/preschool) School Council Inc., on or before _____ or _____ (date) (weekly, monthly, etc.).

4. Charges

The Hirer must pay out-of-pocket expenses*** amounting to \$ _____ (plus GST if applicable) per _____ (week, term, etc.) the charge to be paid to the School Council Inc., on or before _____ or _____ (date)(weekly, monthly, etc.).

5. Deposit

The Hirer must pay a bond/deposit of \$ _____ refundable at the expiration of the Term of the Agreement provided that the Hirer has on each occasion of its use of the Facilities left the Facilities in an undamaged, neat and clean condition.

6. Use of Facilities

The Hirer will use the Facilities for (insert activity to be undertaken by the Hirer) ("Hire Purpose"):

7. Access to Facilities

The Hirer must observe the following opening and securing arrangements: *(to be inserted by the School/Preschool)*.

For the purposes of this Agreement, the Hirer must only use that part of the buildings or grounds specified in this Agreement, and the entrances to that part.

Footnotes

** See Hire Fees section of *Community Use of School Facilities: Instructions and Templates for Hire Charges* e.g. no Hire Charge for Ethnic Schools.

*** *Out-of-pocket expenses is defined as an additional, identifiable, direct outlay by the School/Preschool, including the provision of materials, equipment and supplies attributable to the use of the School/Preschool by the Hirer.*

8. Obligations on Hirer in respect of Facilities

8.1 The Hirer must:

- 8.1.1 only use the Facilities for the Hire Purpose and must not use the Facilities for any other purpose without the Principal's/Director's prior written consent
- 8.1.2 ensure that proper care is taken of the Facilities during the Hirer's use
- 8.1.3 comply, and ensure that its servants, agents or invitees comply, with all of the Principal's/Director's directions (whether written or verbal) in respect of the Hirer's use of the Facilities
- 8.1.4 immediately after completing its use of the Facilities on each occasion ensure that the Facilities are left in the condition that they were in at the commencement of the Hirer's use, including by:
 - (a) returning any furniture and equipment moved during the use of the Facilities to the position they were in prior to the Hirer's use
 - (b) ensuring that the Facilities are left in a clean and tidy condition
- 8.1.5 before vacating the Facilities switch off the Facilities' power and lights
- 8.1.6 at its expense promptly repair any damage caused to the Facilities or other property as a result of or in any way connected with the Hirer's use of the Facilities, whether caused by the Hirer, or its servants, agents or invitees.

8.2 The Hirer must not do or permit to be done in or about the Facilities anything:

- 8.2.1 which is illegal
- 8.2.2 which causes or may cause noise pollution
- 8.2.3 which in the reasonable opinion of the Minister:
 - (a) is or is likely to become a nuisance or annoyance to or in any way interfere with the quiet and comfort of other users of the Facilities
 - (b) in any way increases the risk of damage to the Facilities.

8.3 The Hirer must not smoke or permit smoking in the Facilities or anywhere on the school/preschool site.

9. Suitability of persons

9.1 Fundamental Term

Despite any other clause, the parties acknowledge that the rights and obligations under this clause are fundamental to this Agreement.

9.2 Definition of Minister's Sites

In this clause "Minister's Sites" means any site of the Minister at which children are or may be present.

9.3 Definition of Relevant Activity

In this clause "Relevant Activity" means the Hire Purpose (where that term is used in this Agreement) and otherwise the provision of goods, services or other activities at or in relation to the Minister's Sites.

9.4 Definition of Relevant History Information

In this clause "Relevant History Information" means:

- 9.4.1 an assessment of a person's history within the meaning of section 8B of the *Children's Protection Act 1993* by the authorised screening unit established under the *Children's Protection Regulations 2010* or a screening unit otherwise prescribed by regulations made under the *Children's Protection Act 1993* or such other screening unit as the Minister directs
- 9.4.2 consent from the Relevant Personnel to use that assessment for the purposes of this clause
- 9.4.3 any other information reasonably required by the Minister to enable it to establish whether the Relevant Personnel is a suitable person to be involved in the Relevant Activity.

9.5 Definition of Relevant Personnel

In this clause "Relevant Personnel" means in relation to the Hirer the following persons insofar as they are involved in the Relevant Activity:

- 9.5.1 itself (where it is an individual)
- 9.5.2 all its directors, officers, employees, agents, volunteers and invitees
- 9.5.3 all its contractors (where they are individuals)
- 9.5.4 all directors, officers, employees, agents, volunteers and invitees of its contractors.

9.6 Definition of Unsuitable Persons

In this clause "Unsuitable Person" means a person that is the subject of any allegation, arrest, charge or conviction for a sexual offence or an offence of indecency.

9.7 Definition of Risk Assessment

In this clause “Risk Assessment” means a written assessment of the risk of other children being the victim of a sexual offence in relation to the Unsuitable Person that considers at least the following factors:

- 9.7.1 The nature of the alleged or proved offence.
- 9.7.2 The circumstances in which the alleged or proved offence occurred.
- 9.7.3 The place or places where the alleged or proved offence occurred.
- 9.7.4 The age and gender of the alleged or proved victim(s).
- 9.7.5 The age and gender of the alleged or convicted offender.
- 9.7.6 Whether the alleged or convicted offender had regular and frequent contact with other children or a group or groups of children and the nature and circumstances of that contact.
- 9.7.7 The opportunities that were available to the alleged or convicted offender to offend against other children.

9.8 Relevant History Information

9.8.1 The Hirer must:

- (a) prior to its first use of a Minister’s Site
- (b) at such other times as either or both the Hirer and the Minister determine are necessary or desirable for the purpose of establishing or maintaining child safe environments,

Obtain complete and current Relevant History Information in relation to:

- (c) all of its Relevant Personnel appointed to or engaged to act in prescribed positions within the meaning of section 8B of the *Children’s Protection Act 1993* where the Relevant Activity is provided wholly or partly for children
- (d) any of its Relevant Personnel as required by the Minister.

9.8.2 The Minister may (but need not):

- (a) by written notice require the Hirer to provide a copy of any Relevant History Information to the Minister and the Hirer must comply with that notice within 10 business days of the date of that notice
- (b) conduct any investigations it considers necessary in respect of any matter contained in Relevant History Information and the Hirer must ensure that it and its Relevant Personnel cooperate fully with any such investigation.

9.9 No Unsuitable Persons

The Hirer must not permit or allow, and must procure that its contractors do not permit or allow, an Unsuitable Person who is a Relevant Personnel to:

- 9.9.1 be involved in the Relevant Activity
- 9.9.2 otherwise be present at any of the Minister’s Sites.

9.10 Steps Required where Unsuitable Person

Without limiting anything else in this clause, if the Hirer is or becomes aware that it or any Relevant Personnel is an Unsuitable Person, it must:

- 9.10.1 procure the immediate removal (where relevant) and ongoing exclusion of the Unsuitable Person from the Minister's Sites
- 9.10.2 procure the immediate and ongoing exclusion of the Unsuitable Person from involvement in the Relevant Activity
- 9.10.3 take all immediate and ongoing steps necessary to protect any children on, or who have been on, the Minister's Sites from harm as a consequence of the presence, removal or ongoing exclusion of the Unsuitable Person, including without limitation:
 - (a) notifying South Australia Police about the Unsuitable Person as necessary
 - (b) making a notification of abuse or neglect in accordance with the *Children's Protection Act 1993* as necessary including by means of the Child Abuse Report Line maintained by Families SA (131 478) or such other report line as the Minister or South Australian Government publicly notifies
 - (c) providing support to children and families as necessary
 - (d) providing supervision of any children for which the Hirer provides the Relevant Activity on the Minister's Sites
 - (e) all other steps otherwise required under this clause
 - (f) any other protective action as necessary
- 9.10.4 immediately notify the Minister in writing of all known facts about the circumstances in which the Unsuitable Person has been in any way involved in the Minister's Sites
- 9.10.5 provide on an ongoing basis full details to the Minister of the circumstances relating to the Unsuitable Person as and when those details become known to the Hirer
- 9.10.6 immediately prepare a Risk Assessment and provide a copy to the Minister
- 9.10.7 where the Unsuitable Person has been arrested, charged or convicted for a sexual offence or an offence of indecency (but not where the Unsuitable Person is merely the subject of an allegation):
 - (a) promptly provide notice in a lawful manner to the parents, guardians and primary carers of all children who were involved in the Relevant Activity ("Relevant Children") about the Unsuitable Person in the manner provided for in this clause ("Notice to Parents")
 - (b) within 24 hours of providing Notice to Parents, provide the Minister with a signed certificate that it has complied with its obligations to provide the Notice to Parents together with a copy of all Notices to Parents
- 9.10.8 comply with any reasonable direction of the Minister with respect to the Unsuitable Person.

9.11 Imposing Obligations on Relevant Personnel

The Hirer must ensure that:

9.11.1 all Relevant Personnel are aware of and act in a manner consistent with the provisions of this clause at all times

9.11.2 all Relevant Personnel (not being the Hirer) immediately inform the Hirer if the Relevant Personnel is the subject of any allegation, arrest, charge or conviction for a sexual offence or an offence of indecency.

9.12 Notice to Parents

In providing Notice to Parents as required where the Unsuitable Person has been arrested, charged or convicted for a sexual offence or an offence of indecency (but not where the Unsuitable Person is merely the subject of an allegation) the Hirer must:

9.12.1 consult with South Australia Police regarding the timing and content of the Notice to Parents and comply with any directions of South Australia Police in this regard

9.12.2 if the Risk Assessment gives rise to a reasonable suspicion that there are no other potential victims, then subject to any contrary directions from South Australia Police, promptly send a letter to the parents, guardians and primary carers of all Relevant Children containing the following:

- (a) a statement that an unnamed Unsuitable Person involved in the Relevant Activity has been arrested, charged or convicted for committing an offence
- (b) a statement of the offence to which the arrest, charge or conviction relates
- (c) a statement that the unnamed Unsuitable Person has been removed from involvement in the Relevant Activity and cannot attend the Minister's Site
- (d) a statement indicating that the Hirer does not believe that there are other victims
- (e) an assurance that the Hirer will keep parents, guardians and primary carers of the Relevant Children informed
- (f) a request to keep the matter confidential in order to protect the victim and the victim's family
- (g) contact numbers of support services for concerned parents, guardians and primary carers
- (h) a statement that parents, guardians and primary carers who have information that might assist police should contact the investigating police officer, giving that police officer's name, rank and telephone number

9.12.3 if the Risk Assessment gives rise to a reasonable suspicion that there are or may be other potential victims (“Other Potential Victims”) then subject to any contrary directions from South Australia Police:

- (a) promptly send a letter to the parents, guardians and primary carers of those Other Potential Victims containing the following:
 - i. a statement that an unnamed Unsuitable Person involved in the Relevant Activity has been arrested, charged or convicted for committing an offence
 - ii. a statement of the offence to which the arrest, charge or conviction relates
 - iii. a statement that the unnamed Unsuitable Person has been removed from involvement in the Relevant Activity and cannot attend the Minister’s Site
 - iv. a statement that the Hirer is calling a meeting of parents, guardians and primary carers of children who have been in regular or frequent contact with the Unsuitable Person
 - v. a statement that the child of the parent, guardian or primary carer to whom the letter is addressed might have had regular or frequent contact with the Unsuitable Person
 - vi. a notification to the parents, guardians and primary carers of those Other Potential Victims of the date, time and location of the meeting to be convened by the Hirer
 - vii. an assurance that the Hirer will keep parents, guardians and primary carers informed
 - viii. a request to keep the matter confidential in order to protect the victims and the victim’s family
 - ix. contact numbers of support services for concerned parents, guardians and primary carers
 - x. a statement that parents, guardians and primary carers who have information that might assist police should contact the investigating police officer, giving that police officer’s name, rank and telephone number

- (b) promptly send a letter to the parents, guardians and primary carers of Relevant Children excepting the Other Potential Victims containing the following:
 - i. a statement that an unnamed Unsuitable Person involved in the Relevant Activity has been arrested, charged or convicted for committing an offence
 - ii. a statement of the offence to which the arrest, charge or conviction relates
 - iii. a statement that the unnamed Unsuitable Person has been removed from involvement in the Relevant Activity and cannot attend the Minister’s Site
 - iv. an assurance that the Hirer will keep parents, guardians and primary carers of the Relevant Children informed
 - v. a request to keep the matter confidential in order to protect the victim and the victim’s family
 - vi. contact numbers of support services for concerned parents, guardians and primary carers
 - vii. a statement that parents, guardians and primary carers who have information that might assist police should contact the investigating police officer, giving that police officer’s name, rank and telephone number
 - viii. a statement that a meeting is being called of parents, guardians and primary carers of children who have been in regular or frequent contact with the unnamed Unsuitable Person

9.12.4 nothing in this subclause requires the Hirer to take any actions that would be in breach of law.

9.13 Child Safe Environments

In addition to all other obligations under this Agreement, where the Hirer is an organisation to which section 8C of the *Children’s Protection Act 1993* applies, the Hirer must:

9.13.1 have in place appropriate policies and procedures to ensure that, as required by the *Children’s Protection Act 1993*:

- (a) child safe environments are established and maintained
- (b) appropriate reports of child abuse and neglect are made

9.13.2 lodge the statement required by the *Children’s Protection Act 1993* about the Hirer’s child safe policies and procedures with Families SA, or such other government agency as the Minister or South Australian Government publicly notifies (“Successor Children’s Protection Agency”), within 10 business days after putting in place those policies and procedures

9.13.3 respond, as soon as reasonably practicable (and in any case within 10 business days), to any written request by Families SA, Successor Children’s Protection Agency or the Minister for information relating to the Hirer’s compliance with the requirements of this clause

9.13.4 execute and provide to the Minister prior to the Hirer’s first use of a Minister’s Site a truthful declaration in the following terms:

“I/We declare that the Hirer:

has appropriate policies and procedures in place to:

- *ensure that child safe environments are established and maintained as required by the Children’s Protection Act 1993*
- *ensure that appropriate reports of child abuse and neglect are made as required by the Children’s Protection Act 1993*

has obtained and, if required by the Minister, will provide to the Minister Relevant History Information in relation to:

- *all Relevant Personnel appointed to or engaged to act in prescribed positions within the meaning of section 8B of the Children’s Protection Act 1993 where the Relevant Activity is provided wholly or partly for children*
- *any of its Relevant Personnel as required by the Minister*

has lodged a statement setting out its child safe policies and procedures with Families SA or Successor Children’s Protection Agency

if the Minister has required the provision of a copy of Relevant History Information to the Minister, will notify the Minister of any change in that Relevant History Information in relation to any Relevant Personnel or suitability of any Relevant Personnel.

In this declaration capitalised terms have the meaning given in the contract under which this declaration is required.

I/We declare that I/we have full authority to execute this declaration for and on behalf of the Hirer

..... (Signature)

..... (Name and title)

..... (Date)”



9.14 Effect of Non-Compliance

9.14.1 If:

- (a) The Hirer is an Unsuitable Person
- (b) any Relevant Personnel (not being the Hirer) is an Unsuitable Person and the Hirer does not strictly, fully and immediately comply with any or all of its obligations under this clause,

then the Minister may in its absolute discretion and without limiting any other remedy:

- (c) where the Hirer has not complied with its obligation to provide Notice to Parents, at the expense of the Hirer, access the Hirer's premises, books and records and notify the parents of Relevant Children of the arrest, charge or conviction of the Hirer or its Relevant Personnel and in this regard the Hirer must provide its full cooperation
- (d) suspend or terminate this Agreement,

following any such suspension or termination the Hirer must for so long as the Minister directs:

- (e) provide on an ongoing basis full details to the Minister of the circumstances relating to the Unsuitable Person as and when those details become known to the Hirer
- (f) comply with any reasonable direction of the Minister with respect to the Unsuitable Person.

9.14.2 Any exercise by the Minister of its rights under this clause:

- (a) does not limit the Minister's right to pursue any claim against the Hirer arising in respect of a breach by the Hirer of its obligations under this Agreement
- (b) will not give rise to any liability owing to the Hirer or the Relevant Personnel.

9.15 Compliance with Security Practices and Procedures

The Minister may inform the Hirer of any security practices and procedures in relation to child safe environments implemented by the Minister or the South Australian Government and the Hirer must comply with those procedures at all times.

9.16 Disclaimer

The Hirer must include the following statement in its communications provided to users of the Relevant Activity:

"This is not a DECD organised or sponsored activity and DECD accepts no responsibility or liability in relation to this activity. DECD accepts no responsibility or liability for services or activities organised or provided by the Hirer."

9.17 References to Legislation

A reference to any legislation or to any provision of any legislation includes:

- 9.17.1 all legislation, regulations, proclamations, ordinances, by-laws and instruments issued under that legislation or provision
- 9.17.2 any modification, consolidation, amendment, re-enactment or substitution of that legislation or provision.

9.18 No Derogation

Nothing in this clause relieves the Hirer of any obligation under this Agreement.

9.19 Priority

To the extent of any inconsistency between the rights and obligations under this clause and under the provisions of any other clause in this Agreement, including any provisions relating to termination or remedies, this clause prevails.

9A Suitability of Persons (Other Offences)

9A.1 Other Offences

In addition to any other rights of the Minister and obligations of the Hirer under this Agreement, if any Relevant Personnel as defined in this Agreement is the subject of an arrest, charge or conviction for:

9A1.1 any offence of violence or deprivation of liberty (whether indictable or not) or other indictable offence

9A1.2 any other offence that the Minister notifies the Hirer in writing the Minister considers renders the Relevant Personnel unsuitable to be involved in the Relevant Activity

(“**Other Offence**”) that Relevant Personnel will be an Unsuitable Person for the purposes of this Agreement and the Hirer must treat that Relevant Personnel as an Unsuitable Person, subject to clause 9A.2.

9A.2 Additional Matters

In the case of any Relevant Personnel being, and being treated as, an Unsuitable Person by the operation of clause 9A.1:

9A2.1 the Risk Assessment required under clause 9.7 is extended to include a written assessment of the risk of other children being the victim of any Other Offence that considers at least the factors set out in clause 9.7

9A2.2 the obligations in clauses 9.10.7, 9.11.2 and 9.12 are extended to apply in relation to Relevant Personnel who are the subject of any arrest, charge or conviction for an Other Offence.

10. Insurance

The Hirer must at its expense effect and maintain throughout the Term a public risk insurance policy with a reputable insurer in the name of the Hirer in respect of the Hirer’s use of the Facilities to the extent of at least \$10M for any one claim.

[If the Hirer is exempt from the public liability insurance condition, (refer to Public Liability Insurance section of Community Use of School Facilities: Instructions and Templates) this clause must be deleted (by striking out or putting a line through it) and then initialled by each of the parties to the Agreement.]

11. Compliance with Laws / Consents and Approvals

11.1 The Hirer must at its expense:

11.1.1 comply, and ensure compliance by any of its servants agents and invitees, with all Acts of Parliament of the Commonwealth of Australia and of the State of South Australia, and the requirements of all ordinances, regulations, by-laws, orders and proclamations, which may affect the use or occupation of the Facilities by the Hirer

11.1.2 obtain and maintain throughout the Term all approvals, licences, exemptions, permits and consents required to enable it to use the Facilities for the Hire Purpose.

12. Accidents

- 12.1 The Hirer must as soon as practicable give written notice to the Principal/Director of the School/Preschool of any injury incident occurring while using the School/Preschool facilities or in any way connected with the Hire Purpose or the Hirer's use of the School/Preschool premises that result in medical treatment.
- 12.2 The notice must include details of the date, time, place and circumstances of the injury incident and the names and addresses of any person(s) injured and the names and addresses of any person(s) witnessing the incident. The Principal/Director must ensure that notice is effected by completing the Department for Education and Child Development ("DECD") Injury Report Form (ED155). All details must be submitted on IRMS within 12 hours of receiving the notice.

13. Special Conditions

The Hirer must observe the following extra conditions:

(School/Preschool to insert any additional condition(s) considered necessary).

14. Risk

The Hirer uses the Facilities at its own risk in all things and releases to the full extent permitted by law the School/Preschool, DECD, the Minister and the Crown in Right of the State of South Australia and all its officers, employees, agents and contractors, in the absence of any default or neglect on their part, from all claims, demands, actions, costs, losses, damages, expenses or liabilities arising either directly or indirectly from or in relation to the use of the Facilities by the Hirer or its employees, agents and invitees.

15. Indemnity

To the full extent permitted by law, the Hirer indemnifies and will keep indemnified, the School/Preschool, DECD, the Minister and the Crown in right of the State of South Australia and all its officers, employees, agents and contractors against any costs, losses, damages, expenses (including legal expenses), liabilities or other outgoings of whatever kind suffered or incurred by the School/Preschool, DECD, the Minister or the Crown arising either directly or indirectly from or in relation to the use of the Facilities by the Hirer or its employees, agents and invitees, except to the extent that such injury, death, damage or loss is occasioned by the neglect or default of the School/Preschool, DECD, the Minister or the Crown.

16. Termination

- 16.1 This Agreement may be terminated by either party giving to the other party not less than three calendar months' written notice.
- 16.2 Any notice of termination must be signed by a person authorised by the party giving notice of termination and may be served personally or may be sent by prepaid post or by email or fax transmission to the Principal/Director at the School/Preschool or to the address of the Hirer as described in this Agreement or as subsequently notified to the Principal/Director in writing by the Hirer.
- 16.3 This clause does not limit the right of either party to terminate this Agreement for breach of condition by the other party.

17. Modification

Any modification or variation of this Agreement must be in writing and signed by each party.

18. Disclaimer

The Hirer must include the following statement in its communications provided to users of the services or activities that it provides at the Facilities:

"This is not a Department for Education and Child Development ("DECD") organised or sponsored activity and DECD accepts no responsibility or liability in relation to this activity. DECD accepts no responsibility or liability for services or activities organised or provided by [insert Hirer's name]."

EXECUTED AS AN AGREEMENT

PRINCIPAL/DIRECTOR

Signed by the Principal/Director:

(Signature of Principal/Director)

(Date of signing)

HIRER

Signed on behalf of the Hirer by a person authorised to do so :

(Signature of Hirer)

(Print person's name)

(Print person's position where Hirer is a company or incorporated association e.g. Director, authorised officer)

(Date of signing)