# BCMA CONFIDENTIALITY AND INTELLECTUAL PROPERTY AGREEMENT

Ballarat Centre of Music & the Arts (BCMA)
OSTOHAJI Pty Ltd ITF Heenan Waters Family Trust

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### *1. PURPOSE OF THIS AGREEMENT*

This Confidentiality and Intellectual Property Agreement applies to all employees, staff, contractors and volunteers engaged by Ballarat Centre of Music & the Arts (BCMA).

The purpose of this Agreement is to protect BCMA's confidential information, the privacy and personal information of students and families, BCMA's intellectual property, business information, teaching and production materials, systems and other information obtained through a person's involvement with BCMA.

This Agreement is to be read together with BCMA's:

- Child Safety and Wellbeing Policy and Procedures
- Code of Conduct
- Volunteer Agreement, where applicable
- Independent Contractor Agreement, where applicable
- relevant policies, procedures and operational requirements.

Where another BCMA policy or legal obligation requires information to be reported, disclosed or shared, this Agreement does not prevent that reporting, disclosure or sharing.

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### *2. DEFINITIONS*

For the purposes of this Agreement:

"BCMA" means

Ballarat Centre of Music & the Arts, the trading name of OSTOHAJI Pty Ltd ITF Heenan Waters Family Trust, and includes its owners, directors, management, employees, contractors and authorised representatives.

"Confidential Information" means any information that is confidential, commercially sensitive, private or not generally available to the public and that a person obtains, accesses, creates or becomes aware of through their involvement with BCMA.

Confidential Information includes, but is not limited to:

- student names, contact details and personal information;
- family information and circumstances;
- medical, accessibility, behavioural or other sensitive information;
- child safety concerns, reports, complaints, incidents and investigations;

- information concerning students, families, staff, contractors and volunteers;
- photographs, videos and recordings that are not authorised for public use;
- class lists, enrolment information and attendance information;
- student progress, assessment and audition information;
- audition reports, casting information and production decisions;
- scripts, choreography, lesson plans and teaching resources;
- production plans, rehearsal schedules, backstage information and show materials;
- business plans, financial information and pricing;
- policies, procedures, forms and internal documents;
- marketing plans and unpublished marketing material;
- supplier, sponsor, venue and business contact information;
- passwords, login details, systems and databases;
- BCMA Talent Management Agency (BCMA TMA) information;
- information concerning clients, talent, extras and chaperones;
- contracts and commercial arrangements;
- intellectual property belonging to BCMA or third parties;
- information belonging to another person or organisation that BCMA is required to keep confidential; and
- any other information which a reasonable person would understand to be confidential.

Confidential Information includes information whether it is provided verbally, electronically, in writing, visually, through a BCMA system or database, or by any other means.

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***3. CONFIDENTIALITY OBLIGATIONS***

During and after their engagement with BCMA, each person agrees to:

(a)

keep all Confidential Information confidential;

(b)

not disclose Confidential Information to any third party unless authorised by BCMA or required or permitted by law;

(c)

only access or use Confidential Information where reasonably required for their role or for the purposes of BCMA's business;

(d)

not use Confidential Information for their own personal benefit or for the benefit of another person or organisation;

(e)

not copy, reproduce, download, photograph, record, transmit, distribute or otherwise reproduce Confidential Information except where authorised and reasonably required for their role;

(f)

not remove Confidential Information from BCMA premises, systems or storage locations except where authorised and reasonably required for their role;

(g)

take reasonable steps to protect Confidential Information from loss, unauthorised access, disclosure or misuse;

(h)

not share BCMA passwords, login details or access credentials with another person;

(i)

not store BCMA Confidential Information on a personal device, personal cloud storage account or other personal system unless expressly authorised by BCMA; and

(j)

immediately notify BCMA management if they become aware of any actual or suspected unauthorised access, disclosure, loss, copying or misuse of Confidential Information.

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***4. STUDENT AND FAMILY INFORMATION***

Information concerning BCMA students and families is to be treated with particular care.

A person engaged by BCMA agrees that they will not:

- use student or family information for personal purposes;
- use student or family contact details for unrelated personal contact;
- retain student or family information after it is no longer required for their authorised role;
- copy or transfer student or family information to personal records or systems without authorisation;
- provide student or family information to another person without appropriate authority; or
- use information obtained through BCMA to establish, promote or operate a competing service or business.

Student and family information may only be accessed, used, stored or shared in accordance with the person's role, BCMA policies and applicable legal requirements.

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***5. CHILD SAFETY AND INFORMATION SHARING***

BCMA is committed to maintaining environments in which children and young people are safe, respected and supported.

Nothing in this Agreement prevents or restricts a person from:

- reporting a child safety concern;
- making a disclosure concerning the safety or wellbeing of a child;
- reporting an allegation, incident or suspected risk;
- providing information to BCMA management or an appropriate authority;
- cooperating with a child safety investigation;
- complying with a legal obligation to disclose or provide information; or
- sharing information where disclosure is authorised or required by law or BCMA's Child Safety and Wellbeing Policy and Procedures.

A person is not required to keep confidential information secret where doing so would prevent or interfere with appropriate child safety reporting or the protection of a child.

Any person who becomes aware of a child safety concern is expected to follow BCMA's Child Safety and Wellbeing Policy and Procedures and applicable reporting requirements.

A person must not conceal, suppress, destroy, alter or withhold information that is required to be reported or provided in relation to a child safety matter.

Where confidentiality applies to information relating to a complaint, concern, incident or investigation, that confidentiality is to be managed in accordance with BCMA policy and applicable law.

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### *6. PHOTOGRAPHS, VIDEO AND RECORDINGS*

Photographs, video recordings, audio recordings and other recordings involving BCMA students, families, staff, contractors or volunteers may contain personal or confidential information.

A person agrees that they will not independently photograph, video, record, publish or distribute images or recordings of BCMA students or productions unless this is authorised as part of their role and is consistent with BCMA's permissions, policies and procedures.

BCMA student photography and recording requirements, including relevant parent or guardian permissions, are to be followed at all times.

Photographs, videos or recordings created for or on behalf of BCMA may constitute BCMA property and/or intellectual property.

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### *7. INTELLECTUAL PROPERTY*

For the purposes of this Agreement, Intellectual Property includes all rights, title and interest in material created, developed, prepared, written, designed, produced or contributed to in connection with a person's role at BCMA.

This may include:

- teaching materials;
- lesson plans;
- course content;
- worksheets;
- exercises;
- training materials;
- choreography;
- scripts and adaptations;
- production materials;
- audition materials and reports;
- rehearsal resources;
- music, arrangements and performance resources where legally capable of being owned or assigned;
- photographs and video;
- marketing material;
- social media content;
- promotional material;
- logos and branding;
- website content;
- digital content;
- forms and templates;
- policies and procedures;
- business documents;
- systems and databases;
- production concepts and materials;
- written material;
- graphics and designs;
- documents created specifically for BCMA;
- materials created specifically for BCMA's students or programs; and
- other material created specifically for BCMA in connection with the person's engagement.

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***8. OWNERSHIP OF INTELLECTUAL PROPERTY***

To the extent permitted by law, Intellectual Property created specifically for BCMA in connection with a person's employment, engagement, contract or volunteer activities will belong to BCMA.

A person agrees to promptly provide BCMA with any documents, files, materials or other items containing Intellectual Property created for BCMA.

A person must not use, reproduce, sell, licence, distribute, publish or provide BCMA Intellectual Property to another person or organisation without BCMA's prior written authorisation.

This clause does not transfer ownership of Intellectual Property that the person owned before their engagement with BCMA, subject to the provisions of this Agreement.

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***9. PRE-EXISTING MATERIALS***

A person retains ownership of Intellectual Property that they can demonstrate they owned or developed independently before commencing their engagement with BCMA.

Where a person brings pre-existing material to BCMA and that material is incorporated into material created specifically for BCMA, the person agrees to notify BCMA of that pre-existing material where reasonably necessary to establish ownership.

Nothing in this Agreement is intended to transfer ownership of genuinely pre-existing Intellectual Property unless separately agreed in writing.

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***10. MORAL RIGHTS***

To the extent permitted by law, including under the Copyright Act 1968 (Cth), a person consents to BCMA doing, or authorising others to do, acts in relation to Intellectual Property created for BCMA that may otherwise infringe the person's moral rights.

This may include adapting, editing, combining, arranging, modifying, reproducing, publishing or otherwise using the material for BCMA's legitimate business, educational, promotional or production purposes.

This clause does not remove any rights that cannot lawfully be waived or consented to.

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***11. PROTECTION OF BCMA INTELLECTUAL PROPERTY***

A person agrees not to:

- copy BCMA Intellectual Property for use outside BCMA;
- reproduce BCMA teaching or production resources for another organisation;
- distribute BCMA documents or materials to third parties;
- sell or commercially exploit BCMA Intellectual Property;
- upload BCMA material to an external platform without authorisation;
- use BCMA branding, logos or materials for another business or organisation without permission; or
- represent BCMA Intellectual Property as their own where ownership belongs to BCMA.

### *12. RETURN AND DELETION OF INFORMATION AND PROPERTY*

At the end of a person's employment, contract, volunteer engagement or other involvement with BCMA, or at any earlier time requested by BCMA, the person agrees to return or securely delete, as directed:

- Confidential Information;
- BCMA documents;
- student and family information;
- passwords and access credentials;
- files and electronic records;
- teaching and production materials;
- photographs, recordings and other media;
- BCMA equipment and property;
- keys, access devices and other BCMA property; and
- other material belonging to or containing information relating to BCMA.

Where requested, the person agrees to confirm that BCMA information has been returned or deleted.

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### *13. USE OF INFORMATION AFTER LEAVING BCMA*

The obligations relating to Confidential Information continue after a person's employment, contract, volunteer engagement or other involvement with BCMA ends.

A person must not use or disclose Confidential Information after leaving BCMA for their own benefit or for the benefit of another person or organisation.

This obligation does not prevent a person from using general knowledge, skills and experience legitimately acquired during their career, provided that doing so does not involve the misuse or disclosure of BCMA Confidential Information or Intellectual Property.

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### *14. BREACH OF THIS AGREEMENT*

A breach of this Agreement may result in action being taken by BCMA, which may include:

- counselling or further training;
- removal from particular duties;
- disciplinary action;
- termination of employment or engagement;
- termination of a volunteer arrangement or contract;
- withdrawal of access to BCMA systems or information;

- recovery of BCMA property or information; and/or
- legal action where appropriate.

Any action taken will be subject to the person's applicable employment, contractual or volunteer arrangements and relevant law.

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***15. AUTHORISATION AND APPROVAL***

Where this Agreement requires written authorisation from BCMA, authorisation may only be provided by an authorised member of BCMA management or another person formally authorised by BCMA.

Informal discussions or assumptions about permission do not constitute written authorisation unless confirmed by an authorised person.

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***16. NO LIMITATION ON LEGAL OBLIGATIONS***

Nothing in this Agreement is intended to prevent a person from complying with any law, court order, regulatory requirement or lawful direction from an appropriate authority.

Where a person believes they are legally required to disclose Confidential Information, they should, where reasonably possible, notify BCMA management before making the disclosure so that BCMA can consider the appropriate response.

This does not apply where notifying BCMA would itself be unlawful, unsafe or inappropriate, including where it could interfere with a child safety matter or reporting obligation.

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***17. CONTINUING OBLIGATIONS***

The obligations in this Agreement concerning:

- confidentiality;
- student and family information;
- child safety information;
- privacy;
- Intellectual Property;
- ownership;
- unauthorised use;
- return and deletion of information; and
- protection of BCMA materials

continue to apply after a person's employment, contract, volunteer engagement or other involvement with BCMA has ended, to the extent permitted by law.

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### *18. ACKNOWLEDGEMENT*

By signing this Agreement, I acknowledge that:

1. I have read and understood this Confidentiality and Intellectual Property Agreement.
2. I understand that I may have access to confidential, private and commercially sensitive information through my involvement with BCMA.
3. I understand my responsibilities regarding the privacy and protection of BCMA students, families, staff, contractors and volunteers.
4. I understand that child safety concerns and other information may need to be reported, disclosed or shared in accordance with BCMA policy and applicable law.
5. I agree to comply with BCMA's confidentiality and Intellectual Property requirements.
6. I understand that BCMA Intellectual Property created specifically for BCMA may belong to BCMA.
7. I agree to protect BCMA's information, property and Intellectual Property during and after my involvement with BCMA.
8. I understand that this Agreement forms part of BCMA's expectations for my engagement with the organisation.
9. I have had the opportunity to ask questions or seek clarification regarding this Agreement before signing it.

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### *19. SIGNATURES*

BCMA AUTHORISED OFFICER

Name: Paula Heenan OR Emma Sbardella
Position: Company Director Business Manager

Signature: _____

Date: _____

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STAFF MEMBER / CONTRACTOR / VOLUNTEER

Full Name: _____

Role / Position: _____

Signature: _____

Date: _____

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