

## MEMBER AGREEMENT

**THIS AGREEMENT**, which includes the following documentation: (i) this Member Agreement; (ii) the 2023 Blue Devils Financial Agreement attached hereto as **Exhibit A**; (iii) the BDPA Code of Conduct, attached hereto as **Exhibit B**; (iv) the BDPA Emergency Medical Release And Liability Waiver, attached hereto as **Exhibit C**; (v) the BDPA Wealth & Wellness: Consent And Release Waiver, attached hereto as **Exhibit D**; and (vi) the BDPA Member Handbook attached hereto as **Exhibit E** and/or located online at [bluedevils.org/handbook](http://bluedevils.org/handbook) (individually and collectively, the "**Agreement**"), is made by and between BD Performing Arts, 4065 Nelson Ave, Concord, CA 94520 ("**BDPA**"), and \_\_\_\_\_ ("**I**" or "**me**").

**IN CONSIDERATION** of the opportunity to become a performing member of BDPA, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, I agree that:

1. I have no outstanding financial obligations with any other performing arts organization, and I acknowledge that all financial obligations to BDPA, either for the winter or summer program, must be paid in full before I may participate in the winter or summer programs of any other performing arts organization.
2. I am in good standing with all other performing arts organizations that I have participated in prior to applying for membership in BDPA, and I am still eligible to return to my prior organization(s). If I am not eligible to return for any reason, I understand and agree that I must discuss this situation with the Director of The Blue Devils prior to signing this Agreement and prior to participating in any BDPA rehearsal and/or performance.
3. If required, I shall pay BDPA a **non-refundable** deposit immediately upon my acceptance as a performing member of BDPA.
4. I understand and agree that: (a) I will pay the participation fee in the installments defined on the attached payment/fee sheet; (b) I will make every reasonable effort, either by private means or by participation in fundraising programs, to meet my financial commitment to BDPA; and (c) late fees apply to all installments that are paid to BDPA after their due date.
5. I understand and agree that: (a) every BDPA program has a **non-refundable** deadline; (b) the attached payment/fee sheet represents BDPA's refund policy; and (c) by signing this Agreement, I shall be fully bound by BDPA's refund policy.
6. I shall be financially responsible for all necessary repairs and/or replacement of any equipment, apparel and all other BDPA property which results from my careless or negligence use of these items while in my trust.
7. I have read, signed, and agree to abide by the **BDPA Code of Conduct** attached hereto as **Exhibit B**. I understand that illegal drugs (including marijuana, regardless of whether marijuana is legal in California or any other state) and alcohol are not permitted at any BDPA rehearsals, camps, functions, performances, and trips, as detailed in the BDPA Code of Conduct, and I agree to fully abide by the BDPA drug and alcohol policy.
8. I confirm that I have read the **BDPA Member Handbook** attached hereto as **Exhibit E** and/or located online at [bluedevils.org/handbook](http://bluedevils.org/handbook). I agree to abide by all policies and guidelines contained in the BDPA Member handbook.
9. I understand and agree that I will complete all health and wellness documents and other requirements by BDPA's posted deadlines or I will not be allowed to participate in any BDPA rehearsals, performances, and/or travel.
10. I have the requisite visas, work permits, and/or memberships required to fulfill all obligations to BDPA hereunder. Upon BDPA's written request (including email), I shall deliver true and correct copies of such requisite visas, work permits and/or memberships to BDPA within ten (10) business days. I will sign and return all forms required by BDPA including, without limitation, a valid birth certificate or required documentation that verifies my age as required by BDPA.
11. I hereby consent to staff and/or volunteers working for or on behalf of BDPA to transport me by vehicle in a one-on-one environment, for the sole purpose of participating in BDPA sanctioned activities sanctioned. I understand that such volunteer supporters providing such transport are not provided by BDPA, nor pre-screened by BDPA.

**12. RELEASE OF CLAIMS FOR VOLUNTEER AND STAFF HOUSING AND TRANSPORT**

In consideration of this Agreement, I hereby fully and without limitation, release and discharge BDPA, and its agents, representatives, partners, officers, directors, staff members, attorneys, employees, volunteers, affiliates, successors and assigns (collectively, "**BDPA Affiliates**"), both individually and collectively, from any and all rights, claims, demands, liabilities, actions, causes of action, damages, losses, costs, expenses and compensation, of whatever

nature ("**Claims**"), which I may now have or claim to have against, or claim from, BDPA or any BDPA Affiliates, arising out of being housed and/or transported by BDPA staff and/or volunteer(s), to the maximum extent permitted by applicable law. I shall not commence a lawsuit or participate in any legal action whatsoever against BDPA or any BDPA Affiliate as a result of being housed and/or transported by a BDPA staff member and/or volunteer. I accept full responsibility for all arrangements to be housed and/or transported by a staff member and/or volunteer.

I further acknowledge and agree that I expressly waive my rights under § 1542 of the California Civil Code or any similar law of any state or territory of the United States. I acknowledge that such Section 1542 provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

As a result of the foregoing, the above release extends to all of my rights, claims, demands, liabilities, actions, causes of action, damages, losses, costs, expenses and compensation whether known or unknown, foreseen or unforeseen, patent or latent, which I may currently or in the future possess. I understand and acknowledge the significance of such a specific waiver of § 1542 of the California Civil Code. I fully understand and acknowledge that in the event the facts underlying the foregoing release are found to be other than or different from the facts now understood by it to be true, I expressly accept and assume the risks of such possible differences in facts and agrees that the release set forth in this Section 12 shall remain in full force and effect, notwithstanding any such difference in facts.

13. While on BDPA tour and trips, I shall not be allowed to leave the group under any circumstances without the express permission of a member of the BDPA administration. This prohibition includes, without limitation, leaving the group with any family member or friend(s) and/or using ride share companies like Uber and lift.
14. I hereby grant BDPA the worldwide, irrevocable, perpetual, and fully-paid right to make still-photo, video, film, audio and/or other recordings (collectively, the "**Recordings**") of my participation in meetings, rehearsals, performances, travel and other events with BDPA (collectively, the "**Performances**") and to use my name, voice, likeness, image and biographical information in connection with the production and commercial exploitation of such Recordings, and to grant others the right to make and commercially exploit the Recordings. The rights granted to BDPA hereunder shall include the worldwide, irrevocable, perpetual, and fully-paid right to edit, televise, broadcast, record, publish, copy, use, license, print, sell, distribute or otherwise exploit the Recordings in any manner and in any medium, format, form or forum, whether now known or hereafter devised, without any further compensation to me. No casual or inadvertent failure, nor the failure of any third party, to give me the applicable credit in any television program, motion picture or other work produced hereunder, shall constitute a breach of this Agreement by BDPA.
15. I hereby certify that: (a) the results and proceeds of all BDPA rehearsals, performances and Recordings (individually and collectively, the "**Material**") were specifically ordered or commissioned by BDPA and shall constitute a work-made-for-hire as defined in the U.S. Copyright Act; (b) BDPA is and shall be the author of said work-made-for-hire and the owner of all right, title and interest in and to the Material, throughout the universe, in perpetuity and in all languages, for all now known or hereafter existing uses, media, format and forms, including, without limitation, the copyrights therein and thereto, throughout the universe, for the initial term and for all extensions and renewals thereof; and (c) BDPA shall have the right to make such changes therein and uses thereof as it deems necessary or desirable. To the extent necessary to fully transfer all rights to BDPA, alternatively, I hereby assign to BDPA all right, title and interest in and to the Material, and to the extent such assignment is not effective, I hereby grant to BDPA a world-wide, irrevocable, perpetual, exclusive and fully-paid license to use, alter and exploit the Material in any manner and in any medium, format, form or forum, whether now known or hereafter devised, without any further compensation other than as expressly specified herein. I hereby waive all rights of "droit morale" or "moral rights of authors" or any similar rights or principles of law that I may now or later have in the Material. The grant of rights hereunder is irrevocable and without right of termination or rescission by me and shall not be affected by the termination or expiration of this Agreement. BDPA shall not be obligated to actually use the Material or the results and proceeds thereof, or to release or continue the distribution or release of the Material once released.
16. I agree to execute such further documents consistent herewith and to do such other acts as may be required by BDPA or its successors, licensees, or assigns only to evidence or effectuate BDPA' rights hereunder, and if I fail to execute such further documents within five (5) business days after my receipt of BDPA's request, I hereby irrevocably appoint BDPA as my attorney-in-fact with the full power and authority to execute such further documents on my behalf, which power is coupled with an interest.
17. BDPA may freely assign this Agreement or any of its rights hereunder, in whole or in part, to any person, firm or corporation. This Agreement shall inure to the benefit of BDPA' successors, licensees, and assigns. I shall not assign or transfer my rights or obligations hereunder without the prior written consent of BDPA, and any assignment or transfer in derogation of the foregoing shall be null and void.

18. I understand and agree that I shall not have the right to enjoin the exhibition, distribution or exploitation of the Material or any motion picture or other audio-visual work produced by BDPA, or to enjoin, rescind, or terminate any rights granted to BDPA hereunder. In the event of a breach by BDPA of this Agreement, my sole and exclusive remedy shall be an action at law for damages, and I shall have no right to seek or obtain an injunction or other equitable relief. BDPA is not a party to any collective bargaining agreement with any guild or union that may claim jurisdiction over the Recordings or BDPA performances including, without limitation, SAG-AFTRA, and BDPA shall have no obligation with respect to my status as a guild or union member or for any payments that may be required by any such guild or union.
19. I am aware that my material breach of this Agreement shall constitute good cause for my immediate expulsion from BDPA.
20. I understand and agree that BDPA and its affiliates may share my contact information with any other performing arts organizations and/or contact me in the future for recruiting, fundraising, or any other lawful purpose, and that I may prospectively opt-out of any such mailings at any time by written notification to BDPA.
21. I hereby warrant, represent, covenant, and agree that I am free to enter into and perform this Agreement, and that I am not, and will not be, under any disability, restriction or prohibition, contractual or otherwise, with respect to my right to: (a) execute this Agreement; (b) grant all rights granted hereunder; and (c) fully perform this Agreement. I hereby represent and warrant that, **excluding Material created or supplied by BDPA**, that any Material contributed by me to BDPA: (a) is or will be original with me (or, provided I notify BDPA thereof, is in minor part in the public domain); (b) does not infringe upon any third party copyright(s); and (c) to the best of my knowledge (including what I should have known in the exercise of reasonable prudence), shall not constitute a libel or slander of any party, or infringe upon or violate the right of privacy or any other right of any party.
22. I shall indemnify and otherwise hold harmless BDPA, its employees, successors, and assigns, from and against any and all third-party liabilities, claims, demands, charges, expenses and costs (including, without limitation, outside reasonable attorney's fees) arising out of or resulting from any uncured material breach by me of any of my representations, warranties or agreements contained in the Agreement.
23. All disputes arising from or in connection with this Agreement, or the enforcement or construction hereof, shall be governed by and resolved in accordance with the laws of the State of California as such laws are applied to a transaction between residents of that state. I agree that the state or federal courts in Contra Costa County, California, shall have jurisdiction and venue in respect of all disputes in connection with this Agreement.
24. No waiver of any term, provision or condition of this Agreement, the breach or default thereof, by conduct or otherwise, in one or more instances, shall be deemed to be either a continuing waiver or a waiver of a subsequent breach or default of any such term, provision or condition. If any provision of this Agreement, or the application thereof, shall be held by a tribunal of competent jurisdiction to be contrary to law, the remaining provisions of this Agreement shall remain in full force and effect. This Agreement, which includes (i) this Member Agreement; (ii) the 2023 Blue Devils Financial Agreement attached hereto as **Exhibit A**; (iii) the BDPA Code of Conduct, attached hereto as **Exhibit B**; (iv) the BDPA Emergency Medical Release And Liability Waiver, attached hereto as **Exhibit C**; (v) the BDPA Wealth & Wellness: Consent And Release Waiver, attached hereto as **Exhibit D**; and (v) the BDPA Member Handbook attached hereto as **Exhibit E** and/or located online at [bluedevils.org/handbook](http://bluedevils.org/handbook), contains the entire understanding of BDPA and me with respect to its subject matter and shall supersede any prior agreements between us. No modification, variation or amendment of this Agreement shall be effective unless made in writing and signed by BDPA and me.
25. I understand that, without the express prior written consent of BDPA, it is illegal under the U.S. Federal Communications Act: (a) to accept money or other consideration to promote any product or service in any television program produced about BDPA; or (b) to pay or give anything of value to anyone for me to be featured in any television program about BDPA. Without limiting the foregoing, I expressly agree not to accept or to pay any such consideration.
26. I have read and fully understand the contents of this Agreement and/or have had the contents fully explained to my satisfaction. Further, I have either consulted with an attorney regarding any questions I may have or have voluntarily elected not to do so.

**X**

Student Signature	Print Name	Date
Parent/Guardian Signature	Print Name and Relationship	Date

(A parent or legal guardian must sign if the student is under 18 years old.)