

## MEMORANDUM OF AGREEMENT

This Memorandum of Agreement (hereinafter referred to as the "MOA") is made and entered into this 18 day of AUG 2021, 2021, in Pasay City, Philippines, by and between:

The **DEPARTMENT OF FOREIGN AFFAIRS** (hereinafter referred to as "**FIRST PARTY**"), a national government agency of the Philippine Government created by virtue of Commonwealth Act No. 732 dated 03 July 1946, with principal address at 2300 Roxas Boulevard, Pasay City, Metro Manila, Philippines, through its Office of Public and Cultural Diplomacy - Cultural Diplomacy Division (OPCD-CDD) and herein represented by the **Department's Head of Procurement Entity (HOPE) Undersecretary Ernesto C. Abella**;

and

**SINEMATIKA, INC.**, represented by its President, Mr. John Philip Y. Co, (hereinafter referred to collectively as the "**SECOND PARTY**"), hired by the Office of Strategic Communications and Research – Cultural Diplomacy Division for the production and implementation of the online event entitled, "**Move With Malong: An Online Philippine Dance Workshop**," with principal address at GF Coco Center Building, 291 Dansalan St., Brgy. Barangka Ilaya, Mandaluyong, Philippines 1550;

### WITNESSETH:

**WHEREAS**, the *First Party*, through its Office of Public and Cultural Diplomacy – Cultural Diplomacy Division (OPCD-CDD) conceptualized the online event entitled, "Move With Malong: An Online Philippine Dance Workshop," (hereinafter referred to as "**THE PROJECT**") (see "Annex A" for Concept Note) as a way to continue the Department's mandate to promote Philippine culture in the global sphere amid the pandemic;

**WHEREAS**, the *First Party* conceptualized *the Project* to be a two-hour online event that will have a brief discussion on the history of dance in the Philippines and exhibit dances in the Philippines, specifically the Kappa Malong Malong. In addition, the workshop will also engage the viewers through a dance workshop using the malong.

**WHEREAS**, *the Project* will be held on 11 September 2021 and will be executed twice, with one session during the morning for the Foreign Service Posts in the Americas; and another session in the afternoon to accommodate the FSPs in Europe, Middle East, and Africa. The workshop will be participative and interactive in nature and will be marked with a post-event dance activity output;

**WHEREAS**, the *First Party* agrees to hire the services of the *Second Party* to produce and execute *the Project* for 11 September 2021;

**WHEREAS**, the Parties are authorized to enter into this Agreement;

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FEB 15 2022  
REMEDIOS G. ZAFRA  
Signing Officer



**WHEREAS**, the **Second Party** will implement the tasks and submit the deliverables to the **First Party**;

**WHEREAS**, the **First Party** retains the full rights of all materials submitted by the **Second Party**;

**WHEREAS**, the **First Party** will ensure the release of the payment to the **Second Party** in two (2) tranches the total payment price in the amount of **ONE MILLION FIVE HUNDRED EIGHTEEN THOUSAND FIVE HUNDRED SIXTY-THREE PESOS ONLY (PHP 1,518,563.00)** inclusive of all costs, taxes, and expenses not otherwise specifically indicated as being undertaken by the First Party;

**NOW, THEREFORE**, for and in consideration of the foregoing, the Parties hereto have formally agreed and bound themselves to the following terms and covenants:

## **I. SCOPE AND EFFECTIVITY**

**Section 1. Scope and Effectivity.** – The Parties hereby agree to enter into this Agreement upon its signing by both Parties unless earlier terminated;

**Section 2. Undertakings of the First Party.** DFA undertakes the following:

1. To provide guidance and assistance to the **Second Party** in the production and execution of the online events to be held.
2. To review and approve the deliverables of the **Second Party** subject to its compliance of the Guidelines stated herein and as may be advised by the First Party;
3. To provide the full payment in accordance with Section 7 for the services rendered by the **Second Party**;
4. To broadcast and release on the official DFA platforms the online events produced by the **Second Party**.
5. To shoulder the costs and facilitate the shipment via regular pouch of the Move with Malong kits provided by the **Second Party** to the DFA for distribution to the Foreign Service Posts.

**Section 3. Undertakings of the Second Party.** – The **Second Party** undertakes the following:

1. To assume all taxes, fees expenses, and costs arising out of or as a consequence of this Agreement.
2. To immediately report to DFA in writing any problems encountered which may endanger or obstruct the implementation of this Agreement; and
3. Submit all documents required for the processing of the payment including but not limited to pertinent bidding documents such as proof of authority of the representative of the **Second Party**.

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4. Attend scheduled meetings for updates and consultations with DFA-OPCD-CDD.
5. Develop and submit the creative concept and key visuals for the event based on the Concept Note of the **First Party** for review and approval.
6. Provide the necessary personnel (i.e. key staff, production team, host, resource speakers, etc.) and be responsible for the payment of their professional fees, transportation expenses, food, accommodations, and other costs that will be incurred for the production and execution of the online event.
7. Procure the necessary technical equipment and software to be used in the production and execution of the online event.
8. Write the script for the pre-produced videos and live online event.
9. Facilitate the conduct of the live online events during the actual dance workshop on 11 September 2021.
10. Procure the contents and provide the **First Party** a total of 1000 pcs (500 pcs. for male, 500 pcs. for female) of *Move with Malong* kits for use of the participants for the online events. The contents of the kits shall be approved by the **First Party**.
11. Provide post-event video for the online event conducted for uploading on the platforms of the **First Party**. The post-event video shall be subject to review and approval of the **First Party**.
12. Submit final videos used in the online event (i.e. trailer video, music video, to DFA-OPCD-CDD complete with editing, graphics, and color grading)

**Section 4. Confidentiality.** – The Parties hereto agree to keep all dealings, transactions, communications, correspondences, documents, and records relative to this particular Agreement, whether acquired by either Party prior to, during, or after the consummation of this Agreement, confidential and such shall be considered proprietary information and subject to non-disclosure by both Parties, except when so required in the organization and implementation of the project or as required by law.

**Section 5. Timeline and Deliverables** - The **First Party** will ensure that the **Second Party** will deliver their expected output based on the timeline submitted:

NO.	DELIVERABLES	PROPOSED DEADLINE OF SUBMISSION
1	Pre-production for Move with Malong	19 August 2021
2	Sending of Move with Malong Kits for Event 4	23-27 August 2021
3	Move with Malong: An Online Philippine Dance Workshop	11 September 2021
4	Post-event video for Move with Malong workshop	12 – 15 September 2021

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**Section 6. Guidelines** - The Parties shall be guided by the following guidelines in implementing the project

1. Ensure that all materials used will be faithful to the concept.
2. Provide accurate, well-researched historical information on the video.
3. Make use of modern digital technology in shooting, editing, and transferring copies.
4. Ensure that script, and other artistic creation are original and not plagiarized.
5. Ensure that the final videos submitted is par excellence.

### **Section 7. Payment Procedure**

A. The **First Party** shall:

1. The aforementioned amount shall be released in two (2) tranches to the **Second Party** subject to the provisions of this agreement and the usual government accounting and auditing rules and regulations and upon submission of the following supporting documents:

- a. Approved program/concept complete with the preferred/tentative listing of artists and production crew;
- b. Line item budget showing the breakdown of cost/expenses.
- c. PHILGEPS
- d. BIR
- e. Income Tax Return
- f. Mayor's Permit
- g. Billing Request for each tranche (Original)
- h. Provisional Receipt for each tranche (Original)
- i. Duly Signed and Notarized Contract
- j. Curriculum Vitae of the Proponent/ Company Profile
- k. Bank Details and TIN No.
- l. Notice to Proceed (NTP)

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2. Said amount shall be used by **the Second Party** to pay for any and all expenditures in relation to the production of the four online events including the press conference and implementation of this Agreement, including professional fees, production expenses, administration expenses and other charges, fees, and/or taxes, if any;

3. The payment will be as follows:

- First tranche of 15% - within thirty (30) days upon holding of the event and submission of complete documents for processing of payment;
- Second and final tranche of 85% - within thirty (30) days upon submission of the post-event video and complete documents for processing of payment.

B. **The Second Party** shall:

1. Issue an official receipt to the **First Party** as proof and acknowledgment of receipt of the herein mentioned amount for the herein mentioned purpose.

### **II. CONDUCT AND BEHAVIOR**

The **Second Party** shall be responsible for the conduct, discipline, and compliance with labor related matters of its staff hired (if applicable). The **Second**




**Party** undertakes to ensure that it shall comply with all relevant rules and regulations of the DFA, the Philippine Government, and the terms of this Agreement.

### III. NO EMPLOYEE-EMPLOYER RELATIONSHIP

It is mutually understood that the **Second Party** is an individual contractor. The production crew of the **Second Party** are deemed not employees of the **First Party**. Thus, the **First Party** shall not in any way be liable or responsible for any personal injury, claim, and/or damage during effectivity of this agreement. The **Second Party** holds the **First Party** free and harmless from any such claims and liabilities.

### IV. LIMITATION OF LIABILITY

The **Second Party** shall be solely responsible for any liability that may arise from the execution and implementation of this Agreement, and undertakes to hold the **First Party** free and harmless from any claim arising there from brought about by the **Second Party's** employees, officers, creditors, suppliers, subcontractors or any other claimants of their heirs, administrators and assigns, by reason of non-payment, suits, actions, recoveries, and judgement of every nature and/or kind.

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- a. DFA shall in no manner be answerable or accountable for any incident or injury which may occur to any person participating in the implementation of this Agreement, nor for any injury, loss or damage arising from fault, negligence or carelessness of the Proponent or any person or to their property. The **Second Party** agrees to assume, as it does hereby assume, all liabilities for any such injury, loss or damage and to hold DFA free from liability therefrom; and
- b. Dispute Resolution: In the event of any dispute or difference that may arise between the Parties herein in connection with this Agreement or the interpretation and performance of any of its provisions, the Parties shall exert their best efforts to amicably settle such dispute or difference. However, in case such dispute is not amicably settled, the Parties shall submit themselves to the exclusive venue of the appropriate court in Pasay City to the exclusion of any and all other courts and tribunals that may exercise concurrent or coordinate jurisdiction.

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### V. THIRD PARTY CONTRACTS

Any other contract or agreement entered into by the **Second Party** and a third party shall be exclusively between such parties, to the exclusion of the **First Party**. The **Second Party** warrants that it shall hold free and harmless the Department from any and all such suits, and in no event shall it be held liable to such third parties for any special, incidental, indirect, consequential, or punitive damages relating to the conduct or completion of the activity.

### VI. NON-ASSIGNMENT or TRANSFER OF RIGHTS

Neither **Party** may assign, transfer, or convey its rights or obligations to this Agreement in favor of third parties unless the other Party consents to such



assignment. In all cases of approved assignment of rights, however, the assigning Party shall ensure that the assignee respects and abides by all the terms and conditions of this Agreement.

### VII. INTELLECTUAL PROPERTY

All outputs produced and submitted by the **Second Party** are instruments of service, and the originals thereof and the corresponding copyright shall remain the property of the **First Party**. The **First Party** shall have a license to use copies of such outputs in connection with the purpose for which they are prepared and produced, provided that the **Second Party** has been paid all the amounts due under this Agreement.

### VIII. TERMINATION /PRE-TERMINATION

Either Party may terminate this Agreement upon prior written notice at least thirty (30) days. Upon such termination, DFA shall have the right to take immediate possession and intellectual property rights of all data and items pertaining to this Agreement, as far as practicable provided that **the Second Party** shall have been paid for work already rendered, and goods already ordered. In the event that **the Second Party** deliberately, willfully, and capriciously fails to comply with the terms of this Agreement and DFA opts to terminate the agreement by reason of such, the costs shall be at the expense of **the Second Party**.

### IX. VALIDITY OF TERMS AND CONDITIONS

This Agreement shall take effect immediately upon its execution and shall be valid until completion of the parties undertaking herein, unless sooner terminated in accordance hereof.

IN WITNESS WHEREOF, the parties have hereto affixed their signatures on this day of FEB 11 2022, 2021 at \_\_\_\_\_.

  
ERNESTO C. ABELLA  
DEPARTMENT OF FOREIGN AFFAIRS

  
JOHN PHILIP Y. CO  
President, Sinematika Inc.

Signed in the presence of:

  
EDUARDO MARTIN R. MEÑEZ  
Assistant Secretary  
WITNESS, DFA

  
JENIFEER M. ENCABO  
Executive Producer  
Sinematika Inc.

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REMEDIOS G. ZAFRA  
Signing Officer

**ACKNOWLEDGMENT**

Republic of the Philippines )  
City of ~~Pasay~~ **MANILA CITY** ) s.s.

**BEFORE ME**, a Notary Public for and in the City of Pasay, personally appeared the following:

NAME	PASSPORT/ID NUMBER	ISSUED AT	ISSUED ON
ERNESTO C. ABELLA	P3609943A	DFA-MANILA	07 July 2017
JOHN PHILIP Y. CO	P4732113A	DFA- P Prinsesa	15 Oct 2017

known to me to be the same persons who executed the foregoing instruments and acknowledged to me that the same is their own free act and deed and of the entities they represent.

This instrument duly signed by both parties and their instrumental witnesses on each and every page thereof.

**WITNESS MY HAND AND SEAL** this \_\_\_\_\_ day of \_\_\_\_\_ 2021, in ~~Pasay~~ **MANILA CITY**, Philippines.

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Series of 2021

**ATTY. IMELDA A. PANIS**  
Notary Public extended per RA 3795 Until June 22, 2022  
PTR No. 9097589, Jan. 03, 2022  
IRP Lifetime Member No. 08365 Roll No. 52814  
MCLE No. VI-0029365 Nov. 11, 2019 Until 2022  
Commission No. 2019-082  
1091 N. Lopez St., Ermita, Manila  
0927 2774504

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**FEB 15 2022**  
*[Signature]*  
REMEDIOS G. ZAFRA  
Signing Officer